



IRF24/69

Gateway determination report – PP-2023-2554

APU - Educational Establishment - 24 Hunter
St, Horseshoe Bend

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Acknowledgment of Country

The Department of Planning, Housing & Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Maitland
PPA	Maitland City Council
NAME	APU – Educational Establishment – 24 Hunter St, Horseshoe Bend
NUMBER	PP-2023-2554
LEP TO BE AMENDED	Maitland Local Environmental Plan 2011
ADDRESS	24 Hunter St, Horseshoe Bend
DESCRIPTION	Part Lot 1 DP 1261532
RECEIVED	16/11/2023
FILE NO.	IRF24/69
POLITICAL DONATIONS	There are no donations or gifts to disclose, and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to enable an educational establishment to be permitted with consent in the RE2 – Private Recreation zone area of the site. The objective of the planning proposal is clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Maitland Local Environmental Plan (LEP) 2011 through an amendment to Schedule 1 to permit educational establishments as an additional permitted use (APU) with consent on the site in the area zoned RE2 – Private Recreation. It is noted that Parliamentary Counsel in the drafting process may elect to implement the proposal through a local clause rather than an APU. The intent of the proposal is however clear and considered to be satisfactory.

The explanation of provisions makes reference to permitting an ‘educational establishment for the purpose of a multi-purpose facility’. This is to be amended prior to consultation as ‘multi-purpose facility’ is not a Standard Instrument LEP definition and is not required in this instance and can be dealt with appropriately at the development application stage if required.

1.4 Site description and surrounding area

The site is known as Part Lot 1, DP1261532, 24 Hunter Street, Horseshoe Bend. The land is approximately 1.04 hectares in area and includes access to both Hunter St and Carrington St (Figure 1).

The site is predominantly cleared and was previously used by the Maitland Ex-Services citizens bowling and sports club until acquired by the Catholic Diocese of Maitland-Newcastle. The Catholic Diocese currently operate an early learning childcare centre within the buildings previously used by the sports club on the northern portion of the site.

The site is located within an established residential area, within close proximity to the town centre and recreational facilities. The site is affiliated with All Saints College located directly to the west and St Paul's Hall which is located on an adjoining lot at 22 Hunter Street.

The land is zoned part R1 General Residential and part RE2 Private Recreation under the Maitland LEP 2011 (Figure 2). The site has no current LEP minimum lot size, height or floor space ratio development standards and no change is proposed. The site is located with the Maitland City Centre Heritage Conservation Area and adjoins a number of heritage items including a State Heritage Register item located at the adjacent All Saints College (Figure 3). The site is also located on flood prone land (Figure 4).

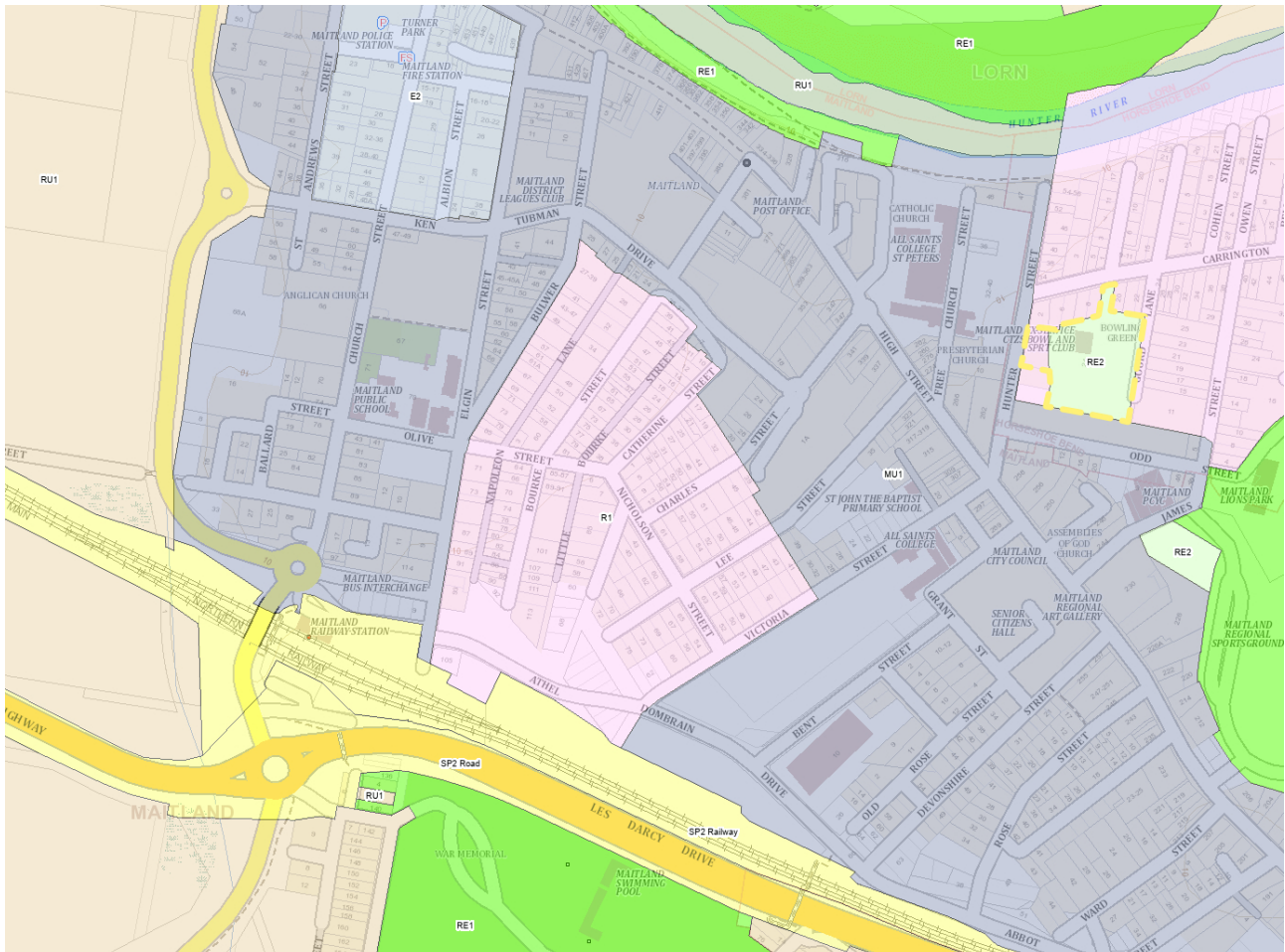


Figure 1 – Locality Plan



Figure 2 – Zoning Plan

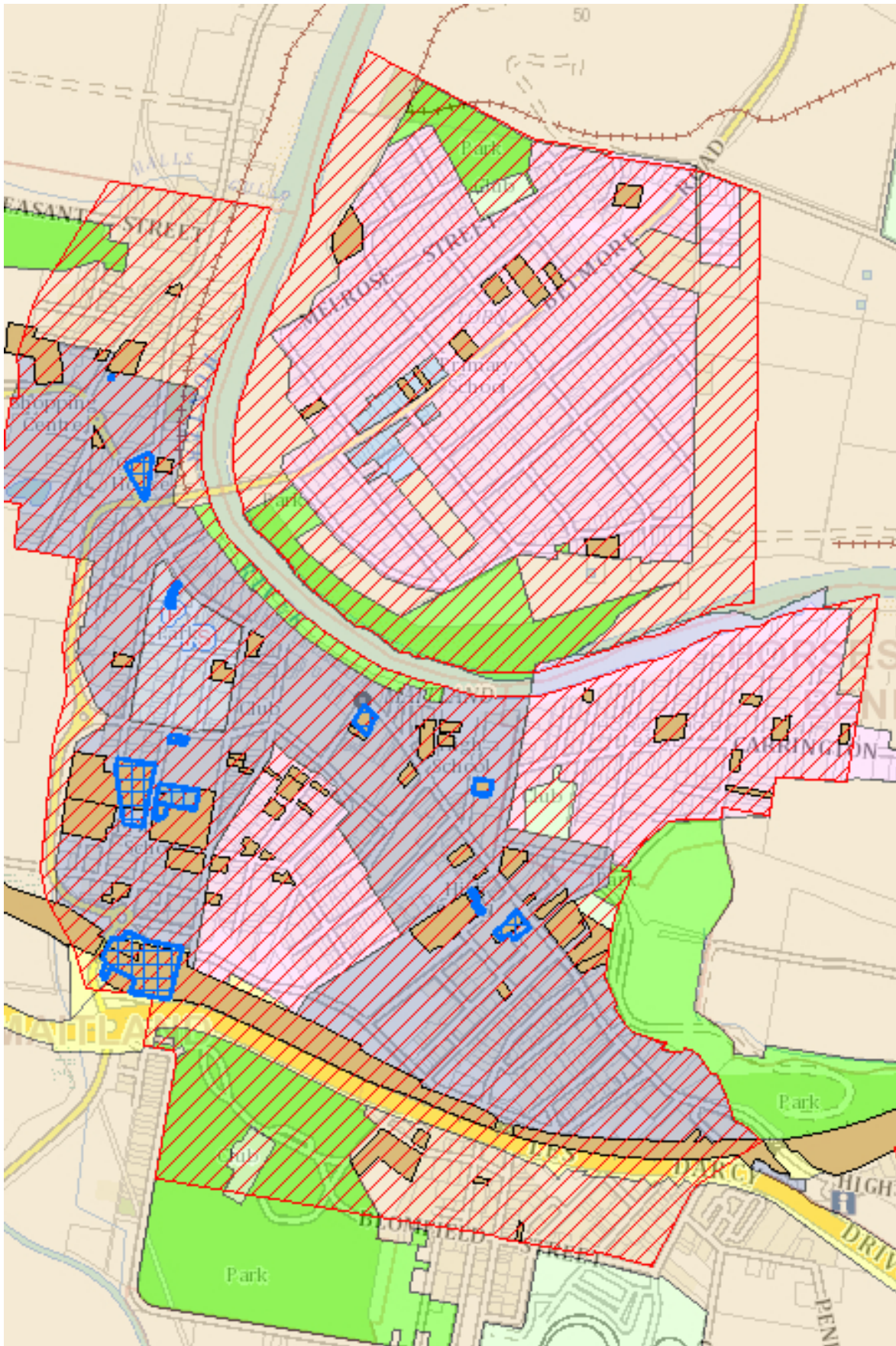


Figure 3 – Heritage (Conservation Area – Red Hatch, State Heritage Register Items – Blue, Local Heritage Items – Brown)

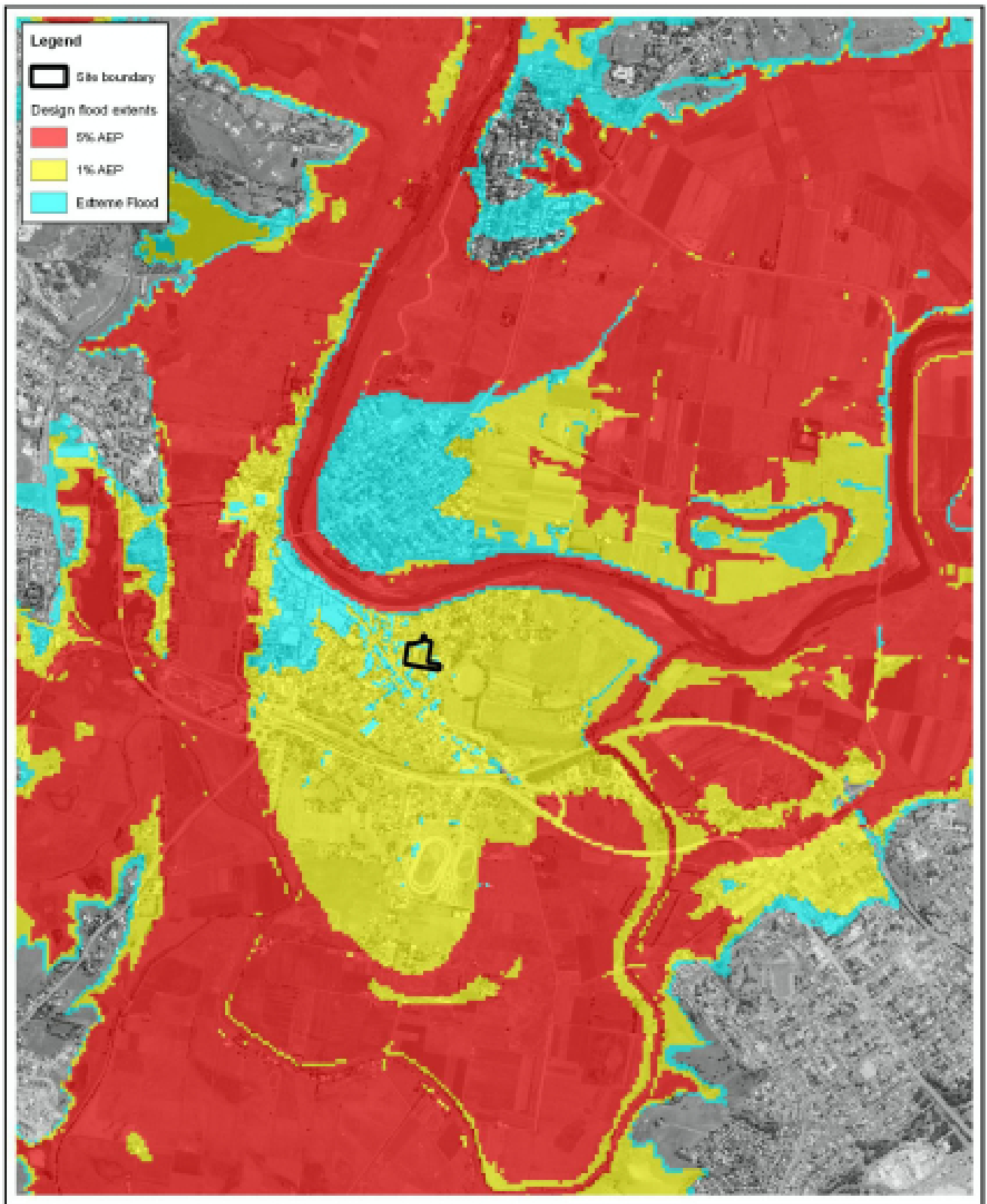


Figure 4 – Design Flood Extents

1.5 Mapping

The planning proposal does not include any mapping amendments.

2 Need for the planning proposal

The planning proposal is not the result of a strategic study or report.

The proposal is required to facilitate an educational establishment (additional general learning areas on the southern part of the site) to supplement and support the adjacent All Saints College. Educational facilities are permitted within the area of the site zoned R1 General Residential but are prohibited in the area zoned RE2 Private Recreation.

Council considered:

- the rezoning of the site to a land use zone which already permits educational establishments (ie, the adjoining zones of MU1 – Mixed Use or R1 – General Residential); and
- to include educational establishments as a permitted with consent land use in the RE2 – Private Recreation zone.

Council however determined that both of these options were not appropriate as they would either permit other unacceptable uses on the site (noting the flood prone nature of the land) or affect other lots which have not been considered as part of this proposal. The planning proposal and the application of an APU for an educational establishment is therefore the best way of achieving the intended outcomes of the proposal whilst minimising the unintended outcomes on other sites or surrounding land uses.

3 Strategic assessment

3.1 Hunter Regional Plan 2041

The *Hunter Regional Plan 2041* acknowledges the importance of creating 15-minute neighbourhoods that allows people to access local centres and shops for everyday needs. The plan also recognises the importance of planning for businesses and services to create healthy, prosperous and innovative communities. The provision of diverse employment, educational and entertainment facilities and services as proposed on the site strengthens the function and vitality of the Maitland centre and is consistent with the plan.

Objective 7 of the Hunter Regional Plan encourages future development and infrastructure to be resilient to natural hazards. While the site, and the entire central area of Maitland is flood prone, the proposal is supported by appropriate flood studies for both Hunter River flooding and local catchment flooding that demonstrate the proposed development and its impacts are negligible and manageable, and that proposal is appropriate noting the existing developed nature of the area. The studies note that:

- the proposed development has a negligible impact to the modelled peak flood levels, but a minor impact to the peak flood velocities. The modelled increase in velocities is to be expected, given the reduction in available flow width and resultant localised redistribution. However, the impact is localised in extent, with most contained within the Site and the duration of peak velocities is also relatively short;
- The management of risk to property from flooding requires the proposed development to be constructed and fitted out using flood-compatible materials below the FPL, which is 0.5 m above the proposed level of the FPL;
- The future buildings will require structural certification for exposure to hydraulic forces from flooding; and
- The management of risk to life from flooding is consistent with that of the existing area, with the SES evacuating Maitland in advance of a Hunter River flood event.

Planning Priority 4 of the plan also recognises that the historic Central Maitland precinct will

continue to service its surrounding areas and that urban renewal will be undertaken while being mindful of heritage and flood mitigation issues. Consultation with the NSW Biodiversity and Conservation Division – Flooding and NSW Heritage is therefore recommended to confirm that proposal is satisfactory in regard to these issues.

The planning proposal is considered to be consistent with the Hunter Regional Plan.

3.2 Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 sets out strategies and actions to drive sustainable growth across Maitland, Cessnock, Lake Macquarie, Newcastle and Port Stephens communities. The Metropolitan Plan contains planning priorities and actions to guide the growth of the region while improving its social, economic and environmental assets.

The planning proposal confirms that it is consistent with the key elements of the plan.

3.3 Local

The planning proposal is considered to be satisfactory in relation to the local planning framework and not inconsistent with:

- Maitland +10 (Community Strategic Plan)
- Maitland LSPS 2040+
- Maitland Urban Settlement Strategy

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant Ministerial Directions except as discussed below.

Table 7 9.1 Ministerial Direction assessment

Direction	Consistent/Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Justified	The proposal is inconsistent with this direction as the subject site is located within a heritage conservation area and is adjacent to State and local heritage items and does not contain provisions that facilitate the conservation of heritage items. This inconsistency is considered to be of minor significance as the proposal is supported by a Statement of Heritage Impact that concludes the proposal is satisfactory. Maitland LEP 2011 also already contains suitable heritage provisions that will be considered at the development application stage. Consultation with Heritage NSW is however recommended
4.1 Flooding	Unresolved	The land is identified as flood prone within the Hunter River Branxton to Green Rocks Flood Study and the Hunter River Flood Risk Management Study and Plan. Site specific flood studies have been prepared for the site that confirm that the development and its impacts are negligible and

		<p>manageable.</p> <p>It is noted that the site is not located within a floodway and the development on the land will be subject to the flood-related development controls in Maitland Council's Development Control Plan. As such, any development application will need to consider the Flood Aware Design Requirements. It is also noted that the development will only provide additional learning areas for existing students at the adjacent All Saints College and will not increase the number of students already needing to be evacuated in flood times.</p> <p>However, as the land is identified as being on flood prone land, it is recommended Council should consult with BCD – Flooding and NSW SES.</p> <p>The consistency of the proposal with this direction will remain unresolved until this consultation is undertaken.</p>
4.2 Coastal Management	Unresolved	<p>The proposal is inconsistent with this direction as the site is located within the coastal environmental and use areas and does not contain provisions that give effect and are consistent with the NSW coastal planning framework and is not accompanied by the required planning checklist. The checklist is to be completed prior to consultation and included in the consultation package. Until this checklist is completed and submitted for review to the Department, the proposal's consistency with this direction remains unresolved.</p>
4.4 Remediation of Contaminated Land	Yes	<p>The planning proposal includes a Remediation Action Plan (RAP) that indicates the presence of potentially contaminating materials in some areas of fill on the site. The RAP concludes that the site is suitable for its intended use as an educational establishment subject to a combination of soil capping and / or removal.</p> <p>The proposal is therefore consistent with the requirements of the direction noting that Council has considered the RAP and determined that it is not necessary to include any specific provisions into the proposed amendment concerning this matter. As the future educational establishment on the site will be subject to a development assessment process that will also consider and address potential contamination issues, it is considered that contamination issues have been satisfactorily addressed.</p> <p>Consultation with the NSW Environment Protection Authority (EPA) is also recommended.</p>

4.5 Acid Sulfate Soils	Justified	The proposal is inconsistent with this direction as it permits an intensification of development on the site and is not supported by an acid sulfate study. This inconsistency is considered to be of minor significance as Maitland LEP 2011 already contains acid sulfate soil provisions that will ensure that this matter can be adequately considered and addressed at the development application stage.
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3.5 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the planning proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	The planning proposal is accompanied by an ecological assessment which concludes that there are no threatened or endangered flora or fauna species within the study area.

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the planning proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Traffic/Transport	The planning proposal is accompanied by a traffic impact assessment which concludes that there will be no net increase to student or staff numbers and therefore no increase in vehicle movements during school times. There are expected to be some increases in after-hours traffic, however this is manageable in the existing road network.
Acoustic impacts	The planning proposal is accompanied by an acoustic assessment which concludes that there will be some increase in noise production during any construction works, which can be mitigated through industry standard noise mitigation practices.

4.3 Infrastructure

No additional infrastructure is identified as necessary or needed to service the site.

5 Consultation

5.1 Community

Council proposes a community consultation period, however, is silent on the length of the consultation period. A 28-day exhibition period is considered appropriate.

5.2 Agencies

The planning proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Biodiversity Conservation Division – Flooding
- NSW Heritage
- NSW State Emergency Service
- Environment Protection Authority.

6 Timeframe

Council proposes a 9 month timeframe to complete the LEP.

Due to the relative minor nature of the proposal, a timeframe of 6 months is recommended to ensure it is completed in line with the Department's commitment to reduce processing times.

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the planning proposal is of low risk, the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

7 Recommendation

It is recommended the delegate of the Secretary:

- agree the proposal's inconsistency with section 9.1 Directions 3.2 Heritage Conservation and 4.5 Acid Sulfate Soils are justified; and
- note that the consistency with section 9.1 Directions 4.1 Flooding and 4.2 Coastal Management are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to exhibition, the planning proposal is amended to:
 - Remove reference to a multi-purpose facility in the explanation of provisions; and
 - Include a completed NSW Coastal Design Guidelines 2023 assessment checklist for planning proposals.
2. Consultation is to be undertaken with the following public authorities:
 - Biodiversity and Conservation Division – Flooding
 - NSW Heritage
 - NSW State Emergency Service

- Environment Protection Authority.
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
 4. The timeframe for completing the LEP is to be 6 months from the date of the Gateway determination.
 5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



3/4/24

Craig Diss

Manager, Local & Regional Planning



5/4/2024

Jeremy Gray

Director, Northern

Assessment officer

Clay Logan

Senior Planning Officer

6650 7158