

10.11 PLANNING PROPOSAL - AMENDMENT TO THE MAITLAND LEP 2011 (IMPLEMENTATION OF MAITLAND LOCAL HOUSING AND RURAL LAND STRATEGIES 2041)

FILE NO:	RZ23002
ATTACHMENTS:	1. Planning Proposal (November 2023) (Under Separate Cover)
RESPONSIBLE OFFICER:	Matthew Prendergast - Group Manager Planning & Environment Brett Gardiner - Manager Strategic Planning Adam Ovenden - Coordinator City Planning
AUTHOR:	Pathum Gunasekara - Principal Strategic Planner Kanishka Guluwita - Town Planner
MAITLAND +10	Outcome 7 To afford the house we want in the neighbourhood we like
COUNCIL OBJECTIVE:	7.2.3 Review the city's Development Control Plan and Local Environmental Plan

EXECUTIVE SUMMARY

On 27 June 2023, Council adopted the Maitland Rural Land Strategy 2041 (RLS) and Local Housing Strategy 2041 (LHS). Both the RLS and LHS included specific actions identifying the need for amendments to the Maitland Local Environmental Plan 2011 (MLEP 2011). The purpose of this report is to seek Council's support to commence implementation of actions from the RLS and LHS through a planning proposal.

This planning proposal includes the first round of RLS and LHS implementation actions, including:

- 1. Introduce new LEP clauses for 'Farm stay accommodation' and 'Farm gate premises'.*
- 2. Introduce 'Artisan food and drink industry' as a land use 'Permitted with consent' within RU2 Rural Landscape zone.*
- 3. Increase the number of bedrooms allowed for 'bed & breakfast accommodation'.*
- 4. Remove MLEP Clause 7.5 Significant extractive and 'Mineral Resource Area Map'.*
- 5. Remove 'Caravan parks' from 'Permitted with consent' within RU2 Rural Landscape zone.*
- 6. Introduce the W2 Recreational Waterways zone over the land containing Hunter and Paterson Rivers.*
- 7. Amend the Clause 4.1A Exceptions to minimum lot sizes in Zone R1 General Residential to provide better clarity on permissibility and requirements for development proposals.*
- 8. Introduce 'Secondary dwellings' as a use 'Permitted with consent' within R5 Large Lot Residential zone.*
- 9. Introduce a new LEP clause for 'Essential services' to MLEP 2011.*

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This report recommends that Council submit the planning proposal to the Department of Planning seeking a Gateway determination. A copy of the planning proposal is provided under Attachment 1 to this report for Council consideration.

OFFICER'S RECOMMENDATION

THAT

1. Pursuant to Section 3.34(1) of the *Environmental Planning and Assessment Act 1979*, Council submits the Planning Proposal, to the Department of Planning and Environment requesting a Gateway Determination.
2. Council requests the Minister for Planning and Public Spaces to delegate plan making functions to Council under Section 3.36 of the *Environmental Planning and Assessment Act 1979*.
3. Following issue of a Gateway Determination, Council undertake consultation with the community and relevant government agencies in accordance with the conditions of the Gateway Determination.
4. A further report be presented to Council following the public exhibition period, including compliance with the conditions of the Gateway Determination and outcomes of the public exhibition and government agency consultation.

REPORT

On 27 June 2023, Council adopted the Maitland Local Housing Strategy 2041 (LHS) and Maitland Rural Land Strategy 2041 (RLS). Both strategies include specific actions identifying the need to amend the *Maitland Local Environmental Plan 2011 (MLEP 2011)* to facilitate the principles of the strategies.

Below is a summary of the individual items being proposed in this planning proposal and corresponding LHS or RLS action. *Attachment 1 – Planning Proposal* provides specific details of the proposed amendments to *MLEP 2011*.

PLANNING PROPOSAL - AMENDMENT TO THE MAITLAND LEP 2011 (IMPLEMENTATION OF MAITLAND LOCAL HOUSING AND RURAL LAND STRATEGIES 2041) (Cont.)

Item No.	Proposed amendment to MLEP 2011	Relevance to LHS/RLS Action
1.	Introduce new LEP clauses for 'Farm stay accommodation' and 'Farm gate premises' to support and guide agritourism within the Maitland LGA.	RLS Action 4.5: <i>Amend Maitland LEP 2011 to include 'Optional Standard LEP clauses' 5.24 Farm stay accommodation and 5.25 Farm gate premises</i>
2.	Introduce 'Artisan food and drink industry' as a land use 'Permitted with consent' within RU2 Rural Landscape zone to promote sustainable agricultural practices and diversification of agricultural economy.	RLS Action 4.7 <i>Amend Maitland LEP 2011 to permit with consent the 'artisan food and drink industry' land use in the RU2 zone.</i>
3.	Increase the number of bedrooms allowed for 'bed & breakfast accommodation', under MLEP 2011 <i>Clause 5.4 Controls relating to miscellaneous permissible uses</i> , up to 4 bedrooms to support the expansion of Maitland's visitor economy.	RLS Action 4.6 <i>Investigate amending Clause 5.4 of the Maitland LEP 2011 to increase the permitted size of bed and breakfast accommodation from 3 to 4 bedrooms based on recent demand.</i>
4.	Remove MLEP 2011 <i>Clause 7.5 Significant extractive resources</i> and related LEP mapping for 'Mineral Resource Area', in accordance with the Geological Surveys of NSW advice.	RLS Action 2.8 <i>Update Maitland LEP/DCP 2011 to protect areas around extractive industries; in particular to review the 'Mineral Resource Area' mapping and clause, in consultation with Geological Survey of NSW.</i>
5.	Remove 'Caravan parks' use from 'Permitted with consent' list within RU2 Rural Landscape zone to prohibit new developments for Manufactured Home Estates on rural land.	RLS Action 3.3 <i>Prohibit the development of manufactured home estates on rural land by prohibiting caravan parks in the RU2 zone.</i>
6.	Introduce the W2 Recreational Waterways zone over the land containing Hunter & Paterson Rivers for the better protection and management of these environments and resources.	RLS Action 5.11 <i>Amend the Maitland LEP 2011 to introduce the W2 Recreational Waterway zone to appropriate sections of the Hunter and Paterson Rivers.</i>
7.	Amend the MLEP Clause 4.1A <i>Exceptions to minimum lot sizes in Zone R1</i> to provide better clarity on permissibility and application.	General housekeeping amendments to support implementation of the LHS.

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8.	Introduce 'Secondary dwellings' as a use 'Permitted with consent' within R5 Large Lot Residential zone.	LHS Action 2.4 <i>Review and amend residential land use zones and their permissibility to reflect intended land use outcomes within the city to provide clarity, certainty, and directions for development.</i>
9.	Introduce a new LEP Clause for <i>Essential services</i> to ensure essential utility and infrastructure connections are available or will be made available within a reasonable timeframe.	General housekeeping amendments to support LHS.

Subject to a Gateway Determination being issued by the Department of Planning and Environment, community and stakeholder engagement will occur in accordance with the Maitland Community Participation Plan. The outcome of this consultation period will be considered by Council at a future date.

CONCLUSION

This is a Council-led planning proposal to implement various amendments to *MLEP 2011*, identified within the recently adopted LHS and RLS.

A total of nine (9) amendments to MLEP 2011 are proposed, including two mapping changes. The proposed amendments apply to the whole of the LGA under the *MLEP 2011* and are not specific to one or several sites.

It is recommended that the planning proposal be submitted to the Department of Planning and Environment seeking a Gateway Determination.

FINANCIAL IMPLICATIONS

This matter has no direct financial impact upon Council's adopted budget or forward estimates.

POLICY IMPLICATIONS

The proposed amendments to the Maitland LEP have been identified in Council's adopted RLS and LHS.

STATUTORY IMPLICATIONS

This report has regard to the provisions of the *Environmental Planning & Assessment Act 1979* and the *Environmental Planning & Assessment Regulation 2021*.

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OFFICER'S RECOMMENDATION

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COUNCIL RESOLUTION

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Moved Cr R Aitchison, Seconded Cr S Halliday

CARRIED

For:

Cr R Aitchison
Cr L Baker
Cr S Fisher
Cr K Flannery
Cr P Garnham
Cr M Griffin
Cr B Hackney
Cr S Halliday
Cr B Mitchell
Mayor P Penfold
Cr K Ranadive
Cr B Whiting
Cr M Yarrington

Against: