



maitland

city council

PLANNING PROPOSAL

AMENDMENT TO THE MAITLAND LEP 2011

Implementation of Maitland Local Housing and Rural Land Strategies 2041

Version 3.0

May 2024



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Version 1.0 - For Council Endorsement and Gateway Request

Version 2.0 - In response to additional information request from the Department

Version 3.0 - In response to Gateway alteration requested by Council

INTRODUCTION

On 27 June 2023, Maitland City Council adopted the Maitland Local Housing Strategy 2041 (LHS) and Maitland Rural Land Strategy 2041 (RLS). Both strategies include specific actions identifying the need for amending the Maitland Local Environmental Plan 2011 (MLEP 2011) and this Planning Proposal includes the first round of implementation of these actions.

This Planning Proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* and the *NSW Local Environmental Plan Making Guide (dated August 2023)* released by the NSW Department of Planning and Environment (the Department).

PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of this Planning Proposal are to amend the Maitland LEP 2011 to:

Item No.	Objectives or Intended Outcome	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
2.	Introduce 'Artisan food and drink industry' as a land use 'Permitted with consent' within RU2 Rural Landscape zone.	RLS Action 4.7
3.	Increase the number of bedrooms allowed for 'bed & breakfast accommodation', under MLEP Clause 5.4.	RLS Action 4.6
4.	Remove 'Mineral Resource Area Map' and related MLEP Clause 7.5 Significant extractive resources	RLS Action 2.8
5.	Remove 'Caravan parks' from 'Permitted with consent' within RU2 Rural Landscape zone.	RLS Action 3.3
6.	Introduce the W2 Recreational Waterways zone over the land containing Hunter & Paterson Rivers.	RLS Action 5.11
7.	Amend the MLEP Clause 4.1A Exceptions to minimum lot sizes in Zone R1 to provide better clarity on permissibility and requirements for development proposals.	General housekeeping amendments to support LHS
8.	Introduce 'Secondary dwellings' as a use 'Permitted with consent' within R5 Large Lot Residential zone.	LHS Action 2.4
9.	Introduce a new LEP clause for 'Essential services'	General housekeeping amendments to support LHS

PART 2: EXPLANATION OF PROVISIONS

The Planning Proposal proposes the following amendments to MLEP 2011 instrument and maps, and the proposed amendments are summarised in the table below.

Item No.	Amendment Applies to MLEP 2011	Explanation of the Provisions
1.	Introduce new LEP clauses for 'Farm stay accommodation' and 'Farm gate premises'.	<p>In 2022, the NSW Government introduced several planning reforms to facilitate various types of agritourism across the State. <i>The RLS</i> supports agritourism as a value addition for primary producers to diversify their income stream, where complimentary to agriculture. Agritourism is now permitted with consent in all RU1 Primary Production and RU2 Rural Landscape zones.</p> <p>In Maitland LGA, this currently allows the 'farm gate premises' and 'farm experience premises' to be considered as types of 'exempt and complying development' under <i>SEPP (Exempt and Complying Development Codes) 2008</i> (Codes SEPP) if they are located in RU1 or RU2 zones and if they meet specified development standards.</p> <p>When an agritourism proposal cannot meet the development standards specified in the Code SEPP, they must be the subject of a Development Application.</p> <p>The Rural Land Strategy identifies the need for introducing these SI LEP optional clauses (i.e. 5.24 Farm stay accommodation and 5.25 Farm gate premises) into the MLEP 2011 to guide the development assessment process to diversify the agritourism opportunities within the rural zoned land in the LGA.</p> <p>Farm stay accommodation means a building or place— (a) on a commercial farm, and (b) ancillary to the farm, and (c) used to provide temporary accommodation to paying guests of the farm, including in buildings or moveable dwellings.</p> <p>5.24 Farm stay accommodation</p> <p>(1) The objectives of this clause are as follows— (a) to diversify the uses of agricultural land without adversely impacting the principal use of the land for primary production, (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.</p> <p>(2) Development consent must not be granted to development for the purposes of farm stay accommodation on a landholding unless the consent authority is satisfied all buildings or manufactured homes used to accommodate guests on the landholding will be— (a) on the same lot as an existing lawful dwelling house, or (b) on a lot of a size not less than the minimum lot size for a dwelling house to be permitted on the lot under an environmental planning instrument applying to the land.</p> <p>(3) Subclause (2) does not apply if the development is a change of use of an existing dwelling to farm stay accommodation.</p> <p>(4) Development consent must not be granted to development for the purposes of farm stay accommodation on land unless the consent authority has considered— (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land— (i) residential accommodation, (ii) primary production operations,</p>

- (iii) other land uses, and
- (b) whether the development will have a significant adverse impact on the following on or near the land—
 - (i) the visual amenity or heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
- (c) whether the development is on bush fire prone land or flood prone land, and
- (d) the suitability of the land for the development, and
- (e) the compatibility of the development with nearby land uses.

Farm gate premises—

means a building or place—
(i) on a commercial farm, and
(ii) ancillary to the farm, and
(iii) used to provide visitors to the farm, on a commercial basis, with agricultural products predominantly from the farm, supplemented by products from other farms in the region, or with services or activities related to the products, including cellar door premises.

5.25 Farm gate premises

- (1) The objectives of this clause are as follows—
- (a) to allow for tourism and related commercial uses on land used principally for primary production at a scale that does not adversely affect the principal use of the land for primary production,
 - (b) to balance the impact of tourism and related commercial uses with the use of land for primary production, the environment, scenic values, infrastructure and adjoining land uses.
- (2) Development consent must not be granted to development for the purposes of farm gate premises on land unless the consent authority has considered—
- (a) whether the development will result in noise or pollution that will have a significant adverse impact on the following on or near the land—
 - (i) residential accommodation,
 - (ii) primary production operations,
 - (iii) other land uses, and
 - (b) whether the development will have a significant adverse impact on the following on or near the land—
 - (i) the visual amenity or heritage or scenic values,
 - (ii) native or significant flora or fauna,
 - (iii) water quality,
 - (iv) traffic,
 - (v) the safety of persons, and
 - (c) whether the development is on bush fire prone land or flood prone land, and
 - (d) the suitability of the land for the proposed development, and
 - (e) the compatibility of the development with nearby land uses.

2. Introduce 'Artisan food and drink industry' as a land use 'Permitted with consent' within RU2 Rural Landscape zone.

Artisan food and drink industry
means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only.

The *RLS* identifies the need for expanding agriculture-based tourism activities on existing rural land within the LGA. One of these options includes permitting Artisan Food & Drink Premises' in RU2 zoned land. Currently, 'Artisan food & drink premises' is a prohibited land use within both RU1 and RU2 zones. Between the two rural zones, RU2 is considered the most appropriate zone to accommodate this use.

3. Increase the number of bedrooms allowed for 'bed & breakfast accommodation', under MLEP Clause 5.4 (1).

The adopted *RLS* supports growth in Maitland's visitor economy and tourist accommodation opportunities, as a key priority. This Strategy recommends increasing the number of bedrooms allowed for 'bed & breakfast accommodation', under MLEP Clause 5.4 (1), to 4 bedrooms.



<p>4. Remove 'Mineral Resource Area Map' and related MLEP Clause 7.5 <i>Significant extractive resources</i></p>	<p>In 2019, Geological Survey of NSW (GSNSW) updated the Mineral Resource Audit (MRA) for Maitland LGA. MRA updates are part of an ongoing mapping program, which assists councils on planning and managing land uses.</p> <p>The recent review of Maitland's clay/shale resources including those located at Metford and Thornton, mapped under the MLEP 2011, GSNSW subsequently decided that preserving access to these sites could no longer be justified and therefore GSNSW has removed them from the Maitland MRA mapping.</p> <p>Accordingly, this amendment proposes to remove 'Mineral Resource Area Map' and related MLEP Clause 7.5 <i>Significant extractive resources</i>.</p> <p>As identified by Map 4 of the RLS, there are additional extractive and mineral resources sites and buffer areas within the LGA. These areas will be managed under the SEPP (Resources & Energy) 2021.</p>
<p>5. Remove 'Caravan parks' from 'Permitted with consent' within RU2 Rural Landscape zone.</p>	<p>In accordance with the future directions outlined in the recently adopted LHS and RLS, the Council aims to prevent the development of new Manufactured Home Estates (MHEs) on rural zoned land through this item.</p> <p>MHEs can only be developed under the provisions of State Environmental Planning Policy (Housing) 2021 (The Housing SEPP), which permits the development of MHEs on land where 'Caravan parks' are permitted. Under MLEP 2011 'Caravan parks' are permitted in the RU2 Rural Landscape zone. Maitland has a significant amount of land that fits these criteria where MHEs could be developed.</p> <p>The permissibility offered by the Housing SEPP precedes the MLEP provisions relating to land use permissibility test. Hence, it eliminates the enforceability of MLEP Clause 2.3 "Zone objectives and Land Use Table" against a proposal for a MHE at the development application stage.</p> <p>As a contemporary form of medium density housing MHEs are inappropriate form of housing on rural zoned land, causing fragmentation of rural land, land use conflicts with agricultural activities on adjoining lands, and interrupting with the scenic landscape and character of rural lands. They also contradict with the objectives of RU2 zone.</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To maintain the rural landscape character of the land.</i> • <i>To provide for a range of compatible land uses, including extensive agriculture.</i>

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- *To provide for a range of non-agricultural uses where infrastructure is adequate to support the uses and conflict between different land uses is minimised.*

The permissibility offered by the above SEPP precedes the MLEP provisions relating to land use permissibility requirements. Hence, it eliminates the enforceability of MLEP Clause 2.3 “Zone objectives and Land Use Table” against a proposal for a MHE at the development application stage. Council has observed a significant increase in development proposals for MHE’s on RU2 zoned land, which relied on the said permissibility to justify non-compliance with MLEP Clause 2.3.

Omitting ‘Caravan Parks’ from the ‘permitted with consent’ list for RU2 zone eliminates the opportunity for developing new MHEs on rural zoned land within Maitland LGA, noting that it will not have an impact on the existing MHEs in operation or those that had been granted approval for by Council.

Caravan Parks on rural zoned land are typically located in close proximity to tourist destinations or areas that offer significant environmental amenity or recreational opportunity, i.e. coastal areas, riverine environments, forest reserves. Maitland LGA offers limited opportunities for such developments. This is evident from the absence of any caravan parks that had either been approved or proposals being made for on rural zoned land. Since MLEP 2011 came into force, Council granted consent to only one caravan park development which is located on a RE1 Public Recreation zoned land. In 2016, Council received one application for a caravan park development on RU2 zoned land which was subsequently withdrawn by the applicant due to the site being unsuitable for the proposal.

PP item 3 of this proposal seeks to introduce ‘Farm Stay Accommodation’ to MLEP which expands the development pathways available to offer accommodation options within rurally zoned land, at more appropriate locations and in appropriate forms and densities, in line with the zone objectives. Omission of Caravan Parks as a permitted use within RU2 zone, therefore, is considered to have minimal impact on development opportunities within RU2 zone in Maitland LGA. This is also consistent with the zone objectives.

The proposed LEP amendment is the only avenue available to achieve the intended outcomes. As outlined above, retaining Caravan Parks as a permitted use within the RU2 zone does not serve a purpose for Maitland LGA. It offers an unintended development pathway for an inappropriate form of housing (i.e. MHEs) on RU2 zoned land in Maitland LGA. The provisions set forth by the Housing SEPP eliminates the enforceability of MLEP

Clause 3.2 and the consent authority's ability to regulate proposals for MHEs.

It is noted that this approach has been implemented in Port Stephens LEP, Cessnock LEP, Lake Macquarie LEP, and Singleton LEP that the proposed amendment will enable MLEP to achieve consistency with the adjoining LEP's for the adjoining LGA's.

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6. Introduce the W2 Recreational Waterways zone over the land containing Hunter & Paterson Rivers.

The land over Hunter and Paterson Rivers within Maitland LGA boundary, are currently zoned either RU1 Primary Production or RU2 Rural Landscape, as an extension to the rural land fronting these waterways. The intent and objectives of these zones do not enable the management of these resources and their aquatic environments holistically.

The *RLS* recommends introducing W2 Recreational Waterway zone for Hunter and Paterson Rivers to establish an appropriate land use framework over these waterways and provide consistency with adjoining LGAs.

Of the two waterway zones available under the standard instrument LEP, W2 zoning has been proposed primarily to achieve consistent zoning over the two river systems, across the LGA boundary with Port Stephens Council. Having the same zone over the two river systems offers the best opportunity manage these resources holistically and achieve consistent land uses.

All land adjoining the Hunter River at the Maitland LGA boundary, is zoned RU1 Primary Production. The same applies to the land adjoining Hunter River on Port Stephens LGA boundary. This further supports the consistency argument put forward by the planning proposal.

Boat launching ramps, boat sheds, jetties and recreation areas - land uses relating to activities associated with waterways are permitted within the RU1 zone under MLEP, which are considered adequate to support the current and foreseeable demand for such activities within Maitland LGA.

Proposed new W2 Recreational Waterways zoning:

Zone W2 Recreational Waterways

1 Objectives of zone

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Boat launching ramps; Boat sheds; Charter and tourism boating facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Jetties; Kiosks; Marinas; Moorings; Recreation areas; Roads; Water recreation structures; Water supply systems; Wharf or boating facilities.

4 Prohibited

Industries; Local distribution premises; Multi dwelling housing; Residential flat buildings; Seniors housing; Warehouse or distribution centres; Any other development not specified in item 2 or 3.

7. Amend the MLEP Clause 4.1A *Exceptions to minimum lot sizes in Zone R1* to provide better clarity on permissibility and requirements for development proposals.

Council has identified that a minor amendment is required to MLEP Clause 4.1A to provide better clarity on the statutory requirements under this clause. The current wording for this clause can be interpreted in numerous ways and lacks clarity on its application on some development proposals.

There is also a need to achieve better consistency between this clause and subdivision design controls of the DCP.

The current MLEP Clause 4.1A is proposed to be amended to the following effect:

- subclauses 4.1 (1) and (2) to remain as is.
- Insert new wording under subclause (3) to clarify that Clause 4.1A applies to a 'single development application' that includes both developments listed under 4.1A (3) (a) and (b).
- Subclause 4.1A (3) (a) to remain as is.
- Remove reference to the "erection of" under subclause 4.1A (3) (b) and insert wording to clarify that 'each lot resulting from the subdivision shall contain a single dwelling in the form of an attached dwelling or semi-detached dwelling or a detached dwelling'.

Insert new subclause, i.e. 4.1A (4) to introduce a new requirement that the development shall be consistent with the relevant development control plan.

8. Introduce 'Secondary dwellings' as a use 'Permitted with consent' within R5 Large Lot Residential zone.

The *LHS* identifies the need for reviewing the MLEP 2011 land use table for residential zones, to provide better clarity, certainty and direction for development on these zones.

Currently, 'Secondary dwellings' is a prohibited use in R5 zone, whilst dual occupancies, detached houses and dwelling houses are permitted with consent. The Housing SEPP 2021 affords permissibility for 'Secondary dwellings' within R5 zone, which overrides the LEP prohibition. Council has received numerous development applications for this purpose, which were approved under this SEPP permissibility pathway. As such, this LEP prohibition does not serve a valid purpose, and needs to be rectified.

The proposed amendment will achieve consistency between MLEP and Housing SEPP provisions and provide better clarity on permissibility for secondary dwellings on R5 zoned land.

9. Introduce a new LEP clause for 'Essential services'

According to MLEP Clause 6.2 *Public utility infrastructure*, Council must not grant consent to developments on land in urban release areas (URA), unless essential utility and infrastructure connections are available or will be made available within a reasonable timeframe. This provision does not apply to the land outside of URA's.

Council has identified that there is a need for similar provisions to be enforced for land outside of the existing URA's, where development for urban purposes is permissible. It is noted adjoining LGA's have this control enforced, as a separate LEP clause under Part 7 *Additional local provision*.

It is therefore proposed to introduce a new MLEP clause to give effect to the following requirements:

- Insert subclause (1) stating: Development consent must not be granted to a development for urban purposes unless the consent authority is satisfied that the services that are essential for the development are readily available or that adequate arrangements have been made to make them available when required.
- Provide a list of essential services, i.e. the supply of water, electricity, disposal and management of sewage, disposal and management of stormwater, suitable vehicle access.
- Insert subclause, i.e. (2) to clarify that this clause does not apply to development for the purpose of providing, extending, augmenting, maintaining or repairing public utility infrastructure that are referred to in this clause.

It is also noted that this provision is currently in force within the LEP's of adjoining LGA's, i.e. Lake Macquarie LEP 2014.

The amendment proposes the inclusion of a savings provision within Clause 1.8a of the Maitland LEP 2011. This savings provision will identify that a development application made but not finally determined before the commencement of this LEP amendment must be determined as if this LEP amendment had not commenced.

PART 3: JUSTIFICATION

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

Section A: Need for the planning proposal.

Section B: Relationship to strategic planning framework.

Section C: Environmental, social, and economic impact; and

Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The Maitland Local Housing Strategy (LHS) and Rural Land Strategy (RLS) set out frameworks to guide the growth and development of both residential and rural land within the LGA. These strategies build on the long-term land use vision established by the Maitland Local Strategic Planning Statement 2040.

Both LHS and RLS include specific actions identifying the need for planning proposal items 1 to 6 and 8, as outlined in table below:

Item No.	The relevant LHS and RLS actions
1	Rural Land Strategy 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	Rural Land Strategy Action 4.7: <i>Amend Maitland LEP 2011 to permit with consent the 'artisan food and drink industry' land use in the RU2 zone and amend Maitland DCP to introduce relevant provisions.</i>
3	Rural Land Strategy 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	Rural Land Strategy 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	Rural Land Strategy Action 3.3: <i>Prohibit the development of manufactured home estates on rural land by prohibiting caravan parks in the RU2 zone.</i>
6	Rural Land Strategy Action 5.11: <i>Amend the Maitland LEP 2011 to introduce the W2 Waterway zone to appropriate sections of the Hunter and Paterson Rivers.</i>
8	Housing Strategy 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>

Planning Proposal items 7 and 9 relates to general housekeeping amendments to the MLEP, identified through the application and enforcement of the instrument at development application stage. These amendments will ensure that the planning controls in the MLEP 2011 are current and consistent with the Standard Instrument LEP and the relevant State Environmental Planning Policies.

The proposed amendments relate to both mapping and policy but are not considered large or significant enough to be completed as a standalone planning proposal; nor are they specific to one or several sites. They apply to the whole of the LGA under the MLEP 2011. Combining multiple amendments into a single planning proposal affords a holistic approach for updating the MLEP in a timely manner.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that an amendment to the MLEP 2011 through the Gateway process and preparation of this planning proposal is the most effective and timely method to achieve the desired outcomes. The implementation and enforcement of the identified planning proposal items can only be achieved by amending the MLEP.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

Hunter Regional Plan 2041

Hunter Regional Plan 2041 (HRP) represents a strategic vision and direction informing how NSW Government will plan for the region's housing, jobs, infrastructure, and environment.

Planning Proposal items 1 to 6 are actions identified by the adopted *RLS*, whilst the *LHS* supports the item 8. These two strategies have demonstrated consistency with and given effect, firstly, to the local strategic planning framework established by Maitland Local Strategic Planning Statement 2040+ (LSPS) and the regional framework established by the HRP 2041.

The *RLS* calls for limiting the impacts of non-agricultural land uses on high value agricultural lands, diversifying the agriculture-based economy, as well as, providing land use certainty for rural activities within the LGA. Balancing the needs between rural dwellings and ensuring viability of rural activities, and ensuring that rural housing is located at appropriate places, are also key objectives of the *RLS*. These are consistent with the following HRP objectives.

- *Objective 1: Diversity the Hunter's mining, energy and industrial capacity.*
- *Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development.*
- *Objective 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments.*
- *Objective 9: Sustain and balance productive rural landscapes.*

Planning proposal items 7 and 9 involves updating MLEP to achieve better consistency with both the local and district level strategies, i.e. *LHS*, *RLS*, *LSPS* and *HRP*. These items are consistent with the following HRP objectives.

- *Objective 3: Create 15-minute neighbourhoods to support mixed, multi-modal, inclusive and vibrant communities.*

- *Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development.*

None of the planning proposal items are site-specific; they apply to the entire Maitland LGA pursuant to the amended MLEP. As such, this planning proposal has no effect on site or precinct specific strategies.

Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan (GNMP) 2036 sets goals and strategies to deliver on the vision of the HRP, but with specific focus on the for the Greater Newcastle Metropolitan Area. The items included in this planning proposal are generally consistent with the outcomes, strategies and actions in the GNMP.

4. Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GCC, or another endorsed local strategy or strategic plan?

Maitland Local Strategic Planning Statement 2040+

The Maitland Local Strategic Planning Statement (LSPS) provides a 20-year land use vision for the LGA reflecting the community's ideas and aspirations for the future. It recognises and responds to evidence about what types of housing will be needed for future populations and where it is best located, considering environmental constraints, avoiding natural hazards, and protecting important environmental and agricultural land and scenic values.

With strong reference to the *RLS*, planning proposal items 1 – 6 give effect to the following local planning priorities identified by Maitland LSPS.

- *Our Economy - Priority 7: Strengthen our local economy through attracting investments, creating jobs and fostering innovation.*
- *Our Environment - Priority 11: Protect our city's rural lands, natural assets and rural landscape.*
- *Our Environment - Priority 12: Plan for resilient city that can adapt to natural hazards and changing climate.*

The proposed LEP will contribute to these priorities by,

- Promoting the expansion and diversification of rural/agriculture-based economy and tourist activities within identified sectors.
- Supporting sustainable rural activities and enterprises at appropriate locations.
- Discouraging rural housing in inappropriate locations
- Contributing to the protection of high-value agricultural land and rural amenity by limiting land use conflicts and providing land use certainty for rural activities.

In contrast, planning proposal items 7 - 9 have a strong focus on urban development and relates to the following priorities of Maitland LSPS:

- *Our people and places – Priority 1: Plan for diverse and affordable housing to meet the needs of our growing and changing community.*
- *Our people and places – Priority 2: Support a place-based planning approach to guide better planning and urban design outcomes for our centres and neighbourhoods.*

With the proposed amendments, the updated MLEP will give effect to the above priorities by providing better clarity, certainty and, where appropriate, the flexibility for urban residential developments within the LGA. They will also contribute to achieving greater housing diversity, in the forms of both within infill and greenfield development.

Maitland Rural Land Strategy 2041

On 27 June 2023, Council adopted the Maitland Rural Land Strategy 2041, and it includes specific actions identifying the need for amending the MLEP 2011 to implement strategic directions identified in this Strategy. The proposed amendment items 1 to 6 are actions identified by this strategy.

Maitland Local Housing Strategy 2041

Planning proposal item 8 is an action recommended by the LHS; as such, it directly relates to this strategy.

Planning proposal items 7 and 9 relate to urban residential development and are consistent with the LHS as they contribute to the following Planning Principles adopted by this Strategy.

- *Provide the right type of housing in the right locations to suit our growing and changing population.*
- *Provide greater housing choice by encouraging a range of different housing types, sizes and tenures in appropriate locations.*
- *Promote resilient and environmentally sustainable outcomes through appropriately located and designed housing development.*

Maitland +10 Community Strategic Plan

The proposal is considered consistent with the vision and objectives of the Maitland +10 Community Strategic Plan as it provides opportunities for attract new industries to rural areas, support to diversify rural economy, protect rural land and waterways, partner across all levels of government to plan our city's future that meets the needs of our current and growing population.

5. Is the planning proposal consistent with any other applicable State and regional studies or strategies?

There are no other State or regional studies or strategies relevant to this planning proposal.

6. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment of the planning proposal against the relevant SEPPs is provided in the table below.

Relevance	Consistency and Implications
<u>SEPP (Housing) 2021</u>	<p>Consistent.</p> <p>The following planning proposal items are relevant to the provisions under this SEPP and consistent with these principles, as explained below.</p> <ul style="list-style-type: none">- Planning proposal item 8 will achieve consistency between this SEPP and MLEP 2011. It will encourage the delivery of alternative housing within the LGA; thereby, promoting increased housing supply, diversity and affordability.

Relevance**Consistency and Implications**

- Planning proposal items 9 and 5 promotes the right type of housing at the right location, which minimises adverse environmental impacts of housing developments and deliver housing in locations that has existing or planned infrastructure and services.

All other items within this planning proposal will not preclude the application of this SEPP.

SEPP (Primary Production)

Consistent.

The following planning proposal items are relevant to and consistent with the provisions under this SEPP, as explained below.

- Planning proposal item 5 seeks to omit a development type that is largely inconsistent with the relevant zone (RU2) objectives and serves no purpose within Maitland LGA. It also removes unintended development outcomes and discourages inappropriate housing development within rural zoned land; thereby, reducing potential land use conflicts and sterilisation of rural land or agricultural productivity of those lands. It also contributes to the orderly use and development of rural land, whilst preserving desirable rural character and amenity.
- Planning proposal items 1 and 2 promote the expansion of sustainable agricultural uses and activities within rural land in the LGA. Development types such as 'farm stay accommodation' and 'farm gate premises' and 'artisan food & drink premises' will also support diversifying Maitland's rural economy.
- Planning proposal item 4 will also reduce land use conflicts between agriculture (extractive industries) and urban uses.

All other items within this planning proposal will not preclude the application of this SEPP.

SEPP (Resilience & Hazards) 2021

Consistent.

Planning proposal item 6 promotes better management and land use planning of a significant aquatic resource within Maitland LGA. The new W2 zoning will establish a holistic approach for land use planning and management of land over Hunter and Paterson River waterways and associated riparian areas, positively contributing to the management of coastal zone within Maitland LGA.

All other items within this planning proposal will not preclude the application of this SEPP.

SEPP (Resources & Energy) 2021

Consistent.

Removing the LEP mapping and clause 7.5 associated with Mineral Resources (Item 4), in accordance with Geological Survey of NSW advice, will

- Remove duplication of legislative requirements applicable for existing clay mine sites within the LGA.
- Achieve consistency with the existing framework for managing land surrounding these sites.

Relevance	Consistency and Implications
	All other items within this planning proposal will not preclude the application of this SEPP.
SEPP (Transport & Infrastructure) 2021	<p>Consistent.</p> <p>Planning proposal item 9 will encourage orderly and efficient development of the right types and scale of development on urban land. it will ensure the existing infrastructure and service networks will not be overburdened by new development. The new clause will also provide a clear framework for infrastructure requirements in urban land, and provide certainty for new urban developments.</p>
	All other items within this planning proposal will not preclude the application of this SEPP.

7. Is the planning proposal consistent with applicable Ministerial Directions?.

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at the table below.

Ministerial Directions	Consistency and Implications
1. Planning Systems	
1.1 Implementation of Regional Plans	<p>Consistent.</p> <p>This planning proposal is consistent with the objectives of the Hunter Regional Plan 2041 and Greater Newcastle Metropolitan Plan as outlined in the Section B.</p>
1.3 Approval and referral requirements	<p>Consistent.</p> <p>The planning proposal does not introduce new concurrence, consultation, or referral requirements. Nor does it propose new forms of designated development.</p>
1.4 Site Specific Provisions	<p>Consistent.</p> <p>None of the items proposed under this planning proposal are site specific; they apply to the whole of Maitland LGA, as such, not subject to any detailed or site specific planning controls.</p>
2. Design and Place	N/A
3. Biodiversity and Conservation	N/A
4. Resilience and Hazards	
4.1 Flooding	<p>Consistent.</p> <p>Planning proposal item 6 proposes to introduce W2 Recreational waterway zone over land that are currently zoned either RU1 or RU2 zone, which is consistent with this direction.</p> <p>The land over Hunter and Paterson River waterways, where the new W2 zoning is proposed, is identified as floodway. However, the land use table differences between W2 and RU1 or RU2 will not have any effect on the flood hazard over this land. Development and the flood risk</p>

Ministerial Directions**Consistency and Implications**

associated with these lands are regulated by MLEP Clause 5.21, irrespective of the applicable zoning.
As such, item 6 will not permit additional development, or allow for intensifying existing or new developments or cause to increase the flood risk of these lands, or the land between the flood planning area and probable maximum flood.

A flood risk assessment for this purpose is not required as the proposed item will apply to the whole of MLEP.

4.2 Coastal Management

Consistent.

As identified before, against the SEPP (Resilience and Hazards) 2021, the proposed item 6 will provide a holistic framework for management and added protection of Maitland's major river systems and their aquatic environments. This will positively contribute to the management of coastal areas in the LGA, in accordance with this direction.

4.4 Remediation of Contaminated Land

Consistent.

None of the items included in this planning proposal are site specific; they apply as a whole to the whole of the LGA and will have no effect on any identified or potentially contaminated land.

4.5 Acid Sulfate Soils

Consistent.

None of the items included in this planning proposal are site specific and will have no effect on land containing acid sulfate soils.

4.6 Mine Subsidence and Unstable Land

Consistent.

None of the items included in this planning proposal are site specific and will have no effect on land impacted or has the potential to be impacted by mine subsidence.

5. Transport and Infrastructure

N/A

6. Housing**6.1 Residential zones**

Consistent.

The following planning proposal items are relevant to and are consistent with this direction, as explained below.

- Item 8 will provide clarity on legislative requirements for secondary dwelling developments; thereby, promoting increased housing supply, diversity and affordability in residentially zoned land.
- Items 9 and 5 promotes the right type of housing at the right location, which minimises adverse environmental impacts of housing developments and deliver housing in locations that has existing or planned infrastructure and services.

6.2 Caravan parks and Manufactured Home Estates

Inconsistent; but, justified through the adopted *RLS*.

Planning proposal item 5 proposes to prohibit 'Caravan Parks', which will consequently prohibit MHE's on RU2 zoned land in Maitland LGA. In principle, this planning proposal item contradicts with direction No. (1)(a).

The intention of planning proposal item 5 is to restrict new developments for MHEs on rural zoned land in Maitland LGA. It will not have any effect on other existing zoning where these developments are

permissible under MLEP. Caravan parks, and therefore MHE's, will continue to be a permissible use on RE1 Public Recreational, RE2 Private Recreational, SP3 Tourist zones, which are appropriately located and serviced to accommodate these development types.

Caravan Parks on rural zoned land are typically located in close proximity to tourist destinations or areas that offers significant environmental amenity or recreational opportunity, i.e. coastal areas, riverine environments, forest reserves. Maitland LGA offers very limited such opportunities which is evident from the absence of any caravan parks that had either been approved or proposals being made for. Since MLEP 2011 came into force, Council granted consent to only one caravan park development which is located on a RE1 Public Recreation zoned land. In 2016, Council received one application for a caravan park development on RU2 zoned land which was subsequently withdrawn by the applicant due to the site being unsuitable for the proposal.

MHE's are a form of medium density housing, requiring high concentration of utilities, services and facilities. When located on peri-urban rural land, they are known to have significant adverse impacts on the agricultural productivity and amenity of those lands, and to significantly burden existing infrastructure networks in these areas. As such, restricting this housing type on rural land is justified based on the considerations listed under Clause 125 of SEPP (Housing) 2021.

In addition, the RU2 zone has not been established for the creation of medium density developments such as MHEs and it is considered that prohibiting caravan parks within this zone will be consistent with the objectives of the RU2 zone.

7. Industry and Employment

8. Resources and Energy

8.1 Mining, Petroleum Production and Energy	Consistent. Planning proposal item 4 will update the MLEP 2011 controls relating to mineral and extractive resources, to align with the GSNSW advice and to reflect the current status of clay and shale-based mines operating within the LGA.
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This will have no effect either on the potential future development of the extractive industries.

9. Primary Production

9.1 Rural Zones	Consistent with direction 9.1 (a) as planning proposal item 6 involve rezoning the land within the boundaries of Hunter and Paterson Rivers, zoned either RU1 or RU2, into W2 zoning.
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9.2 Rural Lands	Consistent. Planning proposal item 6, <i>introducing W2 zoning</i> , will only apply to the land containing the mapped boundaries of Hunter & Paterson River
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waterways. Where applied adjoining a rural zoned land (RU1 or RU2), the proposed land use table for W2 zone will not have an effect on land use permissibility or intensification of non-rural uses within the respective rural zoned land.

The application of W2 zoning over these lands will provide added protection of environmental values of the two river systems and respond positively to the natural and physical constraints associated with these environments.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

9. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal is not likely to directly lead to adverse impact on threatened species, populations or ecological communities or their habitats. The planning proposal includes changes that will be applied LGA wide, where site-specific impacts will be assessed at the development application stage.

10. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Given all proposed planning proposal items apply to the whole of the LGA, they are not considered to have an effect on environmental effects of a particular site or a development type. None of the proposed amendments directly relates to any existing environmental constraints in the LGA, such as flooding, acid sulfate soils, land contamination, bushfire, or has the potential to cause new impacts or hazards.

Any environmental impacts that may potentially arise due to the proposed LEP amendments will be considered at the development application stage for individual sites or proposals.

11. How has the planning proposal adequately addressed any social and economic effects?

Due to the nature of the proposed amendments, this planning proposal is considered to have positive economic and social effects over the LGA. Table below outlines the anticipated economic and social effects focusing on each planning proposal item.

Item No.	Social and Economic Effects
1.	This amendment will allow the expansion of agritourism sector in Maitland, allowing a value add for primary producers to diversify their income stream, where complimentary to agriculture. As such, this will have positive effect on Maitland's rural economy and on social aspects of the rural communities in the LGA.

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2. Due to versatility, creativity and environmental sustainability afforded by this sector, artisan food and drink industries is increasing in popularity within rural and agriculture-based economies. This amendment therefore will encourage agricultural diversity, and have positive economic and social effect on the rural communities, businesses and related trades.

 3. This amendment will encourage expansion of short-term tourist accommodation sector, potentially boosting Maitland's visitor economy.

 4. Updating MLEP in accordance with Geological Survey of NSW advice, current economic and land use trends and issues will allow the proper management of these resource land and the potential land use conflicts associated with them. This will have a positive economic and social effect on both the mining license holders and owners of land adjoining these mining sites.

 5. As identified by the RLS and LHS, this amendment will have positive social effect on Maitland's rural land and rural communities. This will provide better clarity and certainty for developers on the planning requirements for new MHE developments. It will also enable the plan making authority to prevent unplanned economic and social burden on Maitland's rural land, infrastructure and service networks, and rural amenity. As such, this amendment will have a positive social and economic effect.

 6. This amendment will establish an appropriate planning framework for better management and protection of Maitland's major river systems. Subject to planning controls, this will also encourage appropriate recreational activities within these waterways and will have a positive social and economic effect on Maitland.

 7. This amendment will provide a better clarity and certainty on planning requirements for LEP clause 4.1A and will have positive effect on Maitland's housing diversity and supply, with resulting positive economic and social benefits.

 8. This amendment will a better clarity and certainty on planning requirements for secondary dwellings on R5 zoned land and will result positive economic and social benefits.

 9. This amendment will provide better clarity and certainty on planning requirements for new developments and allow Council to better manage infrastructure and service requirements of urban development. This will also encourage new developments to be located on appropriate sites and efficient use of existing service and utility networks.

In summary, no significant adverse social or economic impacts have been identified as likely to result due to this planning proposal.

It is noted that a savings provision will be included within the Maitland LEP 2011 which identifies that a development application made but not finally determined before the commencement of the LEP amendment must be finally determined as if the LEP amendment had not commenced.

SECTION D – INFRASTRUCTURE (LOCAL, STATE AND COMMONWEALTH)

12. Is there adequate public infrastructure for the planning proposal?

The planning proposal does not facilitate additional development to require public infrastructure.

13. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal.

An initial discussion held with the Geological Survey of NSW to confirm their advice (provided for the various DAs and RLS) in relation to removal of 'Mineral Resource Area Map' and related MLEP Clause 7.5 *Significant extractive resources* from MLEP 2011 (i.e. item 4 of this planning proposal)

Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal.

PART 4: MAPS

To achieve the intent of the planning proposal, it is proposed to:

- Remove the Mineral Resource Area Maps
 - Mineral Resource Area Map - 004D
 - Mineral Resource Area Map - 006A

- Amend the following Land Zoning Maps to introduce W2 Recreational Waterway zoning over the Hunter and Paterson River waterways.
 - Land Zoning Map – Sheet LZN_001
 - Land Zoning Map – Sheet LZN_002
 - Land Zoning Map – Sheet LZN_003
 - Land Zoning Map - Sheet LZN_004A
 - Land Zoning Map - Sheet LZN_004C
 - Land Zoning Map - Sheet LZN_004D
 - Land Zoning Map - Sheet LZN_006
 - Land Zoning Map - Sheet LZN_007

PART 5: COMMUNITY CONSULTATION

Council will commence community consultation post Gateway determination. Council considers that a 30-day public exhibition period is appropriate in this instance.

Notification of the exhibited planning proposal will include:

- Notice in the local newspaper.
- Exhibition materials to be made available at all Council's libraries and Administration Centre.
- Consultation documents to be made available on Council's website;

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the planning proposal before proceeding to finalisation of the amendment.

The consultation process, as outlined above, does not prevent any additional consultation measures that may be determined appropriate as part of the Gateway Determination process.

PART 6: PROJECT TIMELINE

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	May 2024
Consultation with the Government agencies & public authorities	May/June 2024
Public exhibition	July/August 2024
Consideration of submissions	September/ October 2024
Post exhibition consideration of planning proposal	December 2024
Submission to the Department for finalisation	December 2024
Gazettal of LEP Amendment	April 2025