



Chapter 1: Introduction and Administration

maitland
CITY COUNCIL

1.1. Adoption and Commencement

The *Maitland Development Control Plan 2025* was adopted by Council on XXXXX and came into effect on XXXXX.

1.2. Disclaimer

The contents of this DCP are subject to periodic review and change. Applicants must ensure that they have obtained the latest version. The DCP is not necessarily an exhaustive list of requirements for a particular development application. Pre-application discussion with Council staff is essential to ensure all matters are considered.

Council will accept no responsibility for reader interpretation of this DCP. Applicants should consult with Council staff to ensure the relevant parts of the DCP have been addressed and are understood.

1.3. Interpretation

This DCP adopts the terms and definitions of the *Standard Instrument – Principal Environmental Plan*, unless otherwise defined in the DCP.

A reference to any Australian Standard, legislation, or supporting documentation includes a reference to any amendment or replacement as made.

1.4. Status of this Plan

This Development Control Plan (DCP) was prepared in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and associated Environmental Planning and Assessment Regulation. In the event of any inconsistency between this DCP and an Environmental Planning Instrument (EPI), the *EP&A Act 1979* states that the EPI prevails to the extent of the inconsistency.

A consent authority is required to consider this DCP when determining Development Applications (DAs) under Section 4.15 of the EP&A Act 1979 in its assessment of a Development Application. However, compliance with the provisions of this DCP does not necessarily imply that a consent authority will consent to the application.

1.5. Purpose of this Plan

The purpose of this DCP is to provide more detailed guidelines for future development within the Maitland Local Government Area (LGA) to:

- Give effect to the aims, objectives and other provisions of the Maitland Local Environmental Plan 2011 (MLEP 2011).

- Ensure that development is economically, socially and environmentally sustainable.
- Ensure that development positively responds and contributes to the site and its context.
- Facilitate development consistent with the established vision, adopted plans, strategies and policies including Council's Local Strategic Planning Statement (LSPS).

1.6. Land Application

This DCP applies to land and development within the Maitland LGA, unless excluded in whole or part by an Environmental Planning Instrument.

1.7. How to use this DCP

This DCP applies to all development that may be carried out with development consent in the Maitland LGA. Any development application within the Maitland LGA will need to address the relevant provisions contained in this DCP.

The DCP contains objectives and two forms of controls to guide development outcomes. These serve the following purposes:

Objectives are the broad metrics that the proposed development is to achieve. These are located at the start of each section and sub-section of a DCP Chapter, appearing under the title 'Objectives'. Objectives communicate what outcomes Council is seeking to achieve from each section and sub-section of the DCP.

If an alternative is proposed to an Acceptable Solution (defined below), then the Objectives must be adequately addressed to the satisfaction of Council.

Prescriptive Controls (PC) are requirements that an Applicant is to address in order to achieve an outcome that is consistent with the relevant objectives for each Section. Prescriptive Controls are identified by the code '**PC**', which appears to the left of each control. Prescriptive Controls generally use language such as 'must', 'will', 'is to', 'are to', and 'shall'.

Acceptable Solutions (AS) are controls that have language more in line with that of the Objectives. Alternatively, they have content that provide a method to meeting the Objectives while communicating that Council is open to other solutions that may be proposed. Acceptable Solutions are identified by the code '**AS**', which appears to the left of each solution. These Acceptable Solutions generally use language such as 'should', 'may', 'encourage', and 'possible'.

Note: Boxes that appear like this are used for the following purposes:

- Providing additional information,
- Application of a section to different land zonings defined under the MLEP 2011,
- References to other relevant DCP Chapters/Sections, EPIs, or relevant Council documents, or
- Background context for why a Prescriptive Control/Acceptable Solution functions in the manner it does.

1.8. DCP Structure

The structure of this DCP is as follows:

Chapter 1: Introduction and Administration

This Chapter contains general matters that relate to the commencement, status, application, and function of the DCP. It also provides information relating to the preparation of a Development Application, public notification, and post determination matters.

Chapter 2: Environmental Considerations

This Chapter provides detailed controls relating to biodiversity and vegetation, and management of natural hazards including flooding, bushfire, and contamination. It captures a wide range of considerations that are present throughout the Maitland LGA.

Chapter 3: Site Requirements

The Site Requirements Chapter provides a broad range of controls relating to the construction and operational elements of a development within the Maitland LGA. It broadly captures controls and acceptable solutions that relate to matters such as earthworks, retaining walls, stormwater, parking, vehicle access, waste, sustainability, and social impact.

Chapter 4: Heritage

This Chapter provides comprehensive controls around the treatment of heritage within the Maitland LGA. Broadly, the Heritage Chapter covers Aboriginal heritage, State and locally listed heritage items, and Heritage Conservation Areas, in relation to their preservation, restoration and sensitive urban design.

Chapter 5: Subdivision

The Subdivision Chapter gives Applicants a detailed set of controls and acceptable solutions to work to in realising effective subdivision outcomes within the Maitland LGA. It provides provisions relating to a vast range of matters, including utilities, landscaping, context-specific lot types, street layout, size and dimensions in relation to Residential, Rural, Industrial and Commercial Subdivisions.

Chapter 6: Residential Uses

The Residential Uses Chapter provides the requirements around the design and interface of residential accommodation. It covers a series of housing typologies, including dwelling houses, dual occupancies, multi-dwelling housing, and residential flat buildings.

Chapter 7: Commercial Uses

This Chapter contains detailed controls and acceptable solutions surrounding the design of commercial premises and their intrinsic interactions with the public domain in many commercial centres throughout the Maitland LGA. The provisions of this Chapter relate to scale and bulk, built form, place activation, servicing and architectural design.

Chapter 8: Industrial Uses

The Industrial Uses Chapter provides a set of controls and acceptable solutions around matters to be addressed when undertaking industrial development in the Maitland LGA. This includes in relation to aspects of development including building design, landscaping, setbacks, fencing, signage, impervious area, and waste management.

Chapter 9: Rural and Other Land Uses

The Rural and Other Land Uses Chapter covers a wide range of different land uses throughout the LGA. With a primary focus on the rural aspect of development, including agricultural and agritourism, and a series of land uses not otherwise identified in other Chapters, such as animal boarding establishments, cemeteries, and places of public worship.

Chapter 10: Precincts, Locality Plans, and Urban Release Areas

This Chapter contains three key elements of the DCP that provide a series of site-specific controls and acceptable solutions to particular areas of the Maitland LGA. These take a variety of forms, including:

- Special Precincts around certain commercial and infrastructure assets that require additional environmental or design considerations,
- Locality Plans associated with particular urban areas that require a degree of localised place planning, and
- Urban Release Areas that address development provisions required under Section 6.3 of the MLEP 2011.

1.9. Variations to this DCP

Council may consent to an application that departs from the provisions of this DCP. Any variation from the provisions of this DCP should be discussed with Council staff at a pre-lodgement meeting.

Any variation or departure will only be considered where it can be demonstrated, to Council's satisfaction, that there is a clear case for variation of the provisions, and that there are no detrimental environmental impacts, with the overall zone objectives and any specific provisions of MLEP 2011 and Maitland DCP are satisfied. Council will only consider variations or departures that result in a demonstrable improved environmental or urban outcome over compliance with the provisions of this DCP.

The request must be in writing (either as part of the Statement of Environmental Effects, or a separate submission), identifying the specific control to be varied, and justifying the reasons and benefits for the departure. Such justification may necessitate the submission of additional plans, diagrams, photomontages and additional technical studies.

1.10. Relationship to Other Plans, Policies and Legislation

This plan was prepared in accordance with the provision of the EP&A Act 1979 and the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021).

This DCP is to be read and applied in conjunction with the MLEP 2011 and the following:

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2021*
- Any relevant SEPP
- *Local Government Act 1993*
- National Construction Code (NCC)
- Relevant Australian Standards
- Land and Environment Court Planning Principles
- Maitland City Council's Manual of Engineering Standards (MOES)
- Any other relevant documents endorsed by MCC such as strategies, guidelines, plans, technical manuals, studies, standard drawings, or the like.

1.11. Preparing a Development Application

1.11.1. Before you begin

Initial discussion/s with relevant Council staff prior to the preparation of detailed plans is highly recommended to ensure that the development proposal is permissible under the MLEP 2011, to ensure that all relevant matters are addressed in the application, and that adequate supporting documentation is submitted.

As part of determining what assessments and information may be required for your application, it is recommended to consult the Appendices and Technical Guidelines to this DCP that are available on Council's website. Notably, Appendix A: Application Requirements – Other Development and Appendix B: Application Requirements – Minor Development provide common application requirements for development lodged with Council.

For larger or more complex proposals, it is recommended that applicants meet with Council's staff including specialist Council staff responsible for the assessment of development, subdivision and construction certificate proposals. This allows Council staff to provide advice aimed at avoiding delays during application processing and maintaining effective communication. Attendance at a formal Pre-Development Application meeting does not infer an approval from Council.

1.11.2. Preparing a Development Application

A Development Application must be accompanied by a Statement of Environmental Effects and other relevant documentation as prescribed under the EP&A Regulation 2021. The supporting documentation required with an application will vary with the nature of the proposal, its size and complexity, the other agencies from which comment or approval is required and the environmental characteristics of the land to be developed. Additional detail regarding issues to be addressed, and the resulting documentation requirements, can be found throughout this DCP and its associated Appendices and Technical Guidelines.

1.11.3. Section 4.15 of the Environmental Planning & Assessment Act 1979

This section of the EP&A Act 1979 specifies matters that a consent authority needs to consider in the assessment of development applications. These heads of consideration also provide an applicant with a checklist to ensure that all aspects of a development have been addressed in the preparation of an application. This section includes matters for consideration in determining a development application including:

- EPIs: this section requires consideration of whether the application is consistent with any applicable EPIs (e.g. State Environmental Planning Policies and Local Environmental Plans),
- Any DCP that applies to the land,
- Matters prescribed by the Regulation associated with the Act – these include such matters as fire safety considerations,
- Environmental, historical, social and economic impacts,
- Whether the site is suitable for the development,
- Any submissions made in relation to the development, and
- Public interest matters.

Consideration of matters specified in the EP&A Act 1979 may require the applicant to prepare site-specific specialist reports or studies and/or broader studies where the proposed development will have greater impacts on the wider community.

1.11.4. Integrated Development

In addition to any consent issued under the EP&A Act 1979, some proposals will also require approvals (or licences) from other statutory authorities or agencies before commencing work or undertaking the activity.

The EP&A Act 1979 lists the approvals that trigger the ‘integrated development’ provisions in the Act. The responsibility is on the applicant to identify whether their proposal is an integrated development, and pay the associated referral and administration fee to the relevant authority.

It is the responsibility of the applicant/owner to obtain the relevant approval necessary, either through Council at DA stage or alternatively post approval and prior to the commencement of any works on site. This alternative process may require amendments to be sought to the development consent granted.

Council staff can provide advice about other approvals required. Additional information may be necessary for referral to other authorities, such as a bushfire threat assessment report.

1.12. Public Notification

Formal notification of certain development applications is a requirement of legislation and there are different requirements for different development types. This section identifies which development types require notification and the form of the notification. It also defines if and how modifications to development approvals are notified.

For the purposes of this section, an adjoining landowner/s is the registered person/s or company/s or representative/s who own land which:

- shares a common boundary with the land subject to the application; or
- is directly opposite the subject land and is only separated by a pathway, laneway or public road; or
- is only separated from the subject land by land held in the same ownership as that being developed.
- if the adjoining land is strata or community title, the body corporate is notified.

Objectives

- O.1 To ensure that Development Applications are notified locally.
- O.2 To ensure reasonable time is given for the public to assess applications and prepare submissions.
- O.3 To ensure that applications and supporting material are easily accessible.
- O.4 To ensure that adequate information is provided to the adjoining landowners so that they can understand what is proposed and how they can participate.
- O.5 To ensure that any adjoining owner, for the purpose of notification, is clearly defined.
- O.6 To ensure that parties that are likely to be affected by larger or more intrusive impacts are notified of development.
- O.7 To ensure that Development Applications that are amended before they are determined are advertised where changes are considered significant, and notification is in the public interest.
- O.8 To ensure Development Applications that are modified after the application was determined are advertised where changes are considered significant, and notification is in the public interest.

O.9 To ensure Development Applications modified under Sections 4.56 of the EP&A Act 1979 are advertised as required.

O.10 To ensure Council will notify and/or advertise an application under Section 4.56 of the EP&A Act 1979 in accordance with the requirements of the original application.

PRESCRIPTIVE CONTROLS AND ACCEPTABLE SOLUTIONS	
AS.1 <ul style="list-style-type: none"> • O.1 • O.4 • O.5 	Where the development is likely to result in impacts over a large area, Council may, at its discretion, expand the notification area.
PC.1 <ul style="list-style-type: none"> • O.1 • O.2 • O.3 • O.4 • O.5 • O.6 	Where a development application is to be advertised, advertising will occur in accordance with Council's Community Participation Plan.
PC.2 <ul style="list-style-type: none"> • O.3 • O.4 • O.6 	<p>Any of the following development requires advertising:</p> <ol style="list-style-type: none"> a. All development and/or demolition proposed affecting a heritage item identified under MLEP 2011 (except private swimming pools). b. Major works, including any proposal for second-storey additions in a Heritage Conservation Area. c. Major council projects (excluding utility services with a value exceeding \$100,000 or likely to be of significant community interest). d. Multi-dwelling housing, group homes, boarding houses, hostel, residential flat buildings, seniors housing or similar type of developments. e. Non-residential uses in or adjacent to a residential zone. f. Subdivision of land zoned R5 Large Lot Residential or C4 Environmental Living. g. Subdivision of residential land into more than 2 allotments. h. Development for the purpose of hotel or motel accommodation, pubs, hospitals, places of worship and sex services premises in any zone.
AS.2 <ul style="list-style-type: none"> • O.1 	Where Council is of the opinion that the proposed development is minor in nature and its location, size, height, bulk and proposed use will not adversely affect the amenity of the adjoining land, advertising of the development may not be required.
PC.3 <ul style="list-style-type: none"> • O.1 • O.2 • O.3 • O.4 • O.5 	<p>Any development application that involves alteration to the external configuration of a building or the erection of a new building requires notification except the following:</p> <ul style="list-style-type: none"> • New residential dwelling houses, additions and alterations up to and including two-storeys with a maximum height of 8.5 metres measured from the existing ground level. • Dual occupancies up to and including two-storeys with a maximum height of 8.5 metres measured from existing ground level, provided they meet the privacy, setbacks and overshadowing provisions of the Residential Uses chapter of this DCP. • Open carport, pergola, verandah or similar development.

PRESCRIPTIVE CONTROLS AND ACCEPTABLE SOLUTIONS

	<ul style="list-style-type: none"> • Enclosure of an existing patio or verandah within the existing roofed area. • Private swimming pool. • Detached garage or shed enclosed by walls and associated with a dwelling. • Any building on a property in a rural zone which has an area of 2 hectares or more. • Industrial development in an industrial zone. • Subdivision of R1 General Residential land resulting in not more than two (2) lots. • Commercial development in a commercial zone. • Development in a Heritage Conservation Area for: <ul style="list-style-type: none"> ◦ Internal and external alterations, ◦ Single storey car ports, ◦ Single storey garages, ◦ Single storey additions, or ◦ Minor demolition of ancillary, non- contributory elements. • A change of use in commercial areas. <p>Despite the exceptions above, Council may notify the development if it considers that notification is in the public interest.</p>
PC.4 <ul style="list-style-type: none"> • O.6 • O.7 	<p>Development applications that are amended before they are determined are advertised where changes are considered significant, and notification is in the public interest.</p>
AS.3 <ul style="list-style-type: none"> • O.7 	<p>If a development application is amended prior to determination; and</p> <ul style="list-style-type: none"> • Council has notified/advertised the original application, and • Council is of the opinion that the amended application differs only in minor respects from the original application, and • The application does not result in a greater environmental impact, <p>Council may decide to dispense with further notification/advertising in relation to the application.</p>
PC.5 <ul style="list-style-type: none"> • O.7 	<p>Where Council considers that amended plans or additional information submitted prior to determination is likely to have a greater or different, detrimental effect on adjoining properties, Council will re-notify those persons originally notified and those who made a formal written submission.</p>
PC.6 <ul style="list-style-type: none"> • O.7 • O.9 • O.10 	<p>Modifications to approvals under Section 4.55(1) of the EP&A Act 1979 do not require notification.</p>
AS.4 <ul style="list-style-type: none"> • O.7 • O.8 • O.9 • O.10 	<p>Modification to approvals under Section 4.55(1A) and 4.55(2) of the EP&A Act 1979 will only be notified where Council is of the opinion that the use or enjoyment of adjoining land may be detrimentally affected by the proposed modification.</p>

PC.7

Where modification applications under Section 4.55(2) or 4.56 of the EP&A Act 1979 are for designated development or other advertised development, notification requirements will be as required under the EP&A Act 1979 and EP&A Regulation 2021.

- O.7
- O.8
- O.9
- O.10

1.13. Post Determination Matters

1.13.1. Subdivision

If the development consent requires the carrying out of any works associated with the subdivision of land, a Subdivision Works Certificate (SWC) is required prior to any work being undertaken. Detailed Engineering Plans will be required for approval. In the majority of cases, Council is the sole entity authorised to be the Principal Certifier (PC) able to oversee the SWC process.

A Subdivision Certificate is required prior to release of the final plan for survey, so that the plan of subdivision can be registered under the *Conveyancing Act 1919*. All required work must be completed, and consent conditions satisfied prior to issue of a Subdivision Certificate. Details of requirements for Subdivision Works Certificates and Engineering Plans are contained in Council's Manual of Engineering Standards (MoES).

1.13.2. Modifications of Consents

Sections 4.55 and 4.57 of the EP&A Act 1979 set out the procedure for modification of development consents. An application for modification must be made to the consent authority, and fees paid, in accordance with the EP&A Regulation 2021.

Minor errors, misdescriptions or miscalculations may be modified without further referral or notification. However, more significant modifications may require re-advertising and referrals to government authorities. In all cases, the consent authority must be satisfied that the development to which consent as modified relates, is substantially the same development. For significant modifications, lodgement of a new development application will be required.

1.13.3. Lapsing of Consents

A development consent generally lapses five years after the date from when it starts to operate, as set out within the provisions of the EP&A Act 1979. However, this does not mean that the development covered by the consent must be completed within the five-year period to stop the consent from lapsing.

A development consent for the erection of a building, the carrying out of works or the subdivision of land doesn't lapse if building, engineering, or construction work related to the consent is physically commenced on the land before the date on which the consent would otherwise have lapsed.

1.13.4. Review of Applications and Rights of Appeal

Should an applicant be dissatisfied with the determination of a development application where Council is the consent authority, a Review of Determination may be requested under the EP&A Act 1979. This request must be made within 28 days of the determination of the application, accompanied by the prescribed fee. The Rights of Appeal also exist to the Land and Environment Court of NSW. These rights are set out in the EP&A Act 1979.

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