



**UNDER SEPARATE COVER
ATTACHMENTS**

**ORDINARY MEETING
27 AUGUST 2024**

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Officers Reports

**DA 2023/433 FOR DEMOLITION, ONE
INTO 109 LOT TORRENS TITLE
RESIDENTIAL SUBDIVISION, TWO
DRAINAGE RESERVES, ONE RESIDUE
LOT, ONE ROAD WIDENING LOT,
CONSTRUCTED IN FIVE STAGES AT 523
RAYMOND TERRACE ROAD,
CHISHOLM (LOT 100 DP847510)**

**Assessment Report (Under Separate
Cover)**

Meeting Date: 27 August 2024

Attachment No: 3

Number of Pages: 51

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Version 1: Comprehensive

| | |
|------------------|---|
| Application No: | DA/2023/433 |
| Proposal: | Demolition, one into 109 Lot Torrens Title Residential Subdivision, two drainage reserves, one residue lot, one road widening lot, constructed in five stages |
| Address: | 523 Raymond Terrace Road, CHISHOLM NSW 2322 |
| Lot & DP No: | Lot 100 DP847510 |
| Property No: | 28866 |
| Applicant: | ACG Clovelly Road Pty Ltd C/o ADW Johnson |
| Owner: | Maria Romanelli |
| Author: | Georgie Williams, Principal Planner |
| Site Inspection: | 2 August 2023 |
| Date of report | 8 August 2024 |
| Site conditions | R1 General Residential Minimum lot size – 450m ² Bush Fire Prone Land Acid Sulfate Soils Class 5 Native Vegetation – Endangered Ecological Community – Lower Hunter Spotted Gum Ironbark Forest and Spotted Gum Ironbark Forest 1 st Order Watercourse - hydroline Road widening Thornton North Urban Release Area |
| Cost of works | \$7,376,500 |

INTRODUCTION

The purpose of this report is to provide a detailed discussion and assessment of Development Application No. DA/2023/433 proposing Demolition, one into 109 Lot Torrens Title Residential Subdivision, two drainage reserves, one residue lot, one road widening lot, constructed in five stages at the above-mentioned site. The assessment will provide consideration of the proposal under the Environmental Planning and Assessment Act 1979 (the Act), the Maitland Local Environmental Plan (MLEP) 2011, the Maitland Development Control Plan (MDCP) 2011 and any other relevant legislation, guidelines and policies of the Council.

Description of Proposed Development

The development application proposes the following works at the above-mentioned site (refer to Figure 1 below):

- Demolition of the existing dwelling house and structures on site.
- One into 109 Lot Torrens Title Residential Subdivision delivered in five stages as follows:
 - Stage 1: 40 Lots (Lots 101 to 141) and 1 drainage reserve (Lot 141);
 - Stage 2: 43 Lots (Lots 201 to 243);
 - Stage 3: 13 Lots (Lots 301 to 313) and 1 drainage reserve (Lot 314) and 1 road widening (Lot 315);
 - Stage 4: 7 Lots (Lots 401 to 407);
 - Stage 5: 6 Lots (Lots 501 to 507) and 1 residue lot (Lot 507).

- Residential lots range in size from 456m² to 844m²;
- One residue lot in two parts (Lot 507) with a total site area of 377m².
- Associated works include:
 - Clearing 10.096 ha of vegetation, which includes 2.837 ha of native vegetation, which is mapped as containing Endangered Ecological Community (EEC) – Lower Hunter Spotted Gum Ironbark Forest and Spotted Gum Ironbark Forest.
 - Retention of 5 trees in perpetuity.
 - Bulk earthworks and lot regrading. Estimated volumes of cut and fill as follows:
 - Cut: 12,095m³;
 - Fill: 6352m³;
 - Balance: 5743m³ (export);
 - Construction / extension of local roads with 1.5m wide footpaths along one side.
 - Construction / extension of a Collector Road with 2.5m wide shared path along one side.
 - Provision of stormwater infrastructure with a bio retention basin including:
 - Lot 141 with an area of 6028m²; and
 - Lot 314 with an area of 1554m².
 - Dedication of a road widening lot adjacent to Raymond Terrace Road being Lot 315 with an area of 3357m².
 - Provision of essential infrastructure including water, sewer, communication (NBN) and electrical services;
 - Creation of temporary and permanent Asset Protection Zones (APZ's);
 - Landscaping including street trees and 10m wide landscape buffer to Raymond Terrace Road.

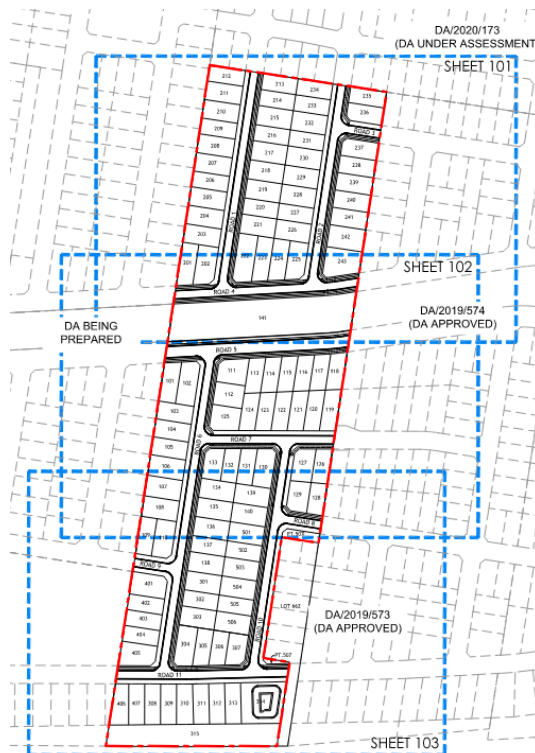


Figure 1 – Overall Site Plan

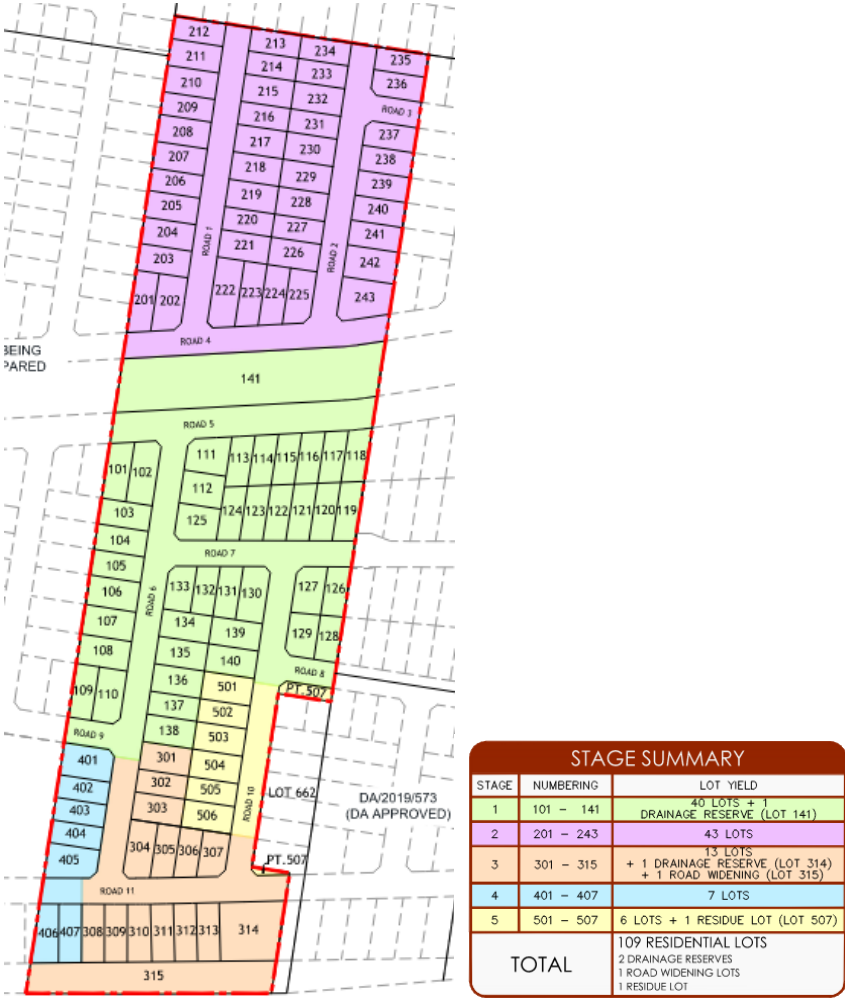


Figure 2 – Staging Plan

Description of the Land

The legal description of the land on which the development is to be carried out is Lot 100 DP847510, known as 523 Raymond Terrace Road, Chisholm.

The subject site is located to the northern side of Raymond Terrace Road, which is a classified road, with a road frontage of 160.8m and total site area of 10.220 ha (refer to Figure 3 and photo 1 below). The entire frontage is mapped as “road widening” with a variable width.

Existing on the site is a single storey detached brick dwelling house with three shed structures. An existing gravel driveway provides vehicular access from Raymond Terrace Road.

The site is zoned R1 General Residential under the MLEP 2011.

Future access to the site will be gained via an approved subdivision road network to the east under DA/2019/563 and DA/2019/574. The adjoining properties to the north and east currently have development applications under assessment (refer to relevant history section of the report).

A first order watercourse and riparian corridor traverses the mid-section of the site. The site generally falls towards the watercourse from the rear boundary at 26m AHD to the watercourse at 18m AHD. The southern section of the site falls towards Raymond Terrace Road at 22m AHD.

The site contains native vegetation including Endangered Ecological Community (EEC) – Lower Hunter Spotted Gum Ironbark Forest and Spotted Gum Ironbark Forest.

The site is mapped as bushfire prone land.

The site is not mapped as contaminated land.

The site is located within the Thornton North Urban Release Area (URA), which comprises a total site area of 900ha of land with an approximate residential yield of 5000 lots. This URA is a regionally significant development area required to achieve the dwelling targets for population growth in the Lower Hunter (refer to Strategic Background discussion below).



Figure 3 – Aerial map



Photo 1 – Drone shot of the subject site looking northwest from Raymond Terrace Road

PREVIOUS DEVELOPMENT HISTORY

Strategic Background

The subject site is located within the Thornton North URA, a strategically positioned residential growth area, which on completion will accommodate approximately 5,000 residential lots or 12,500 residents (refer to Figure 4 below).

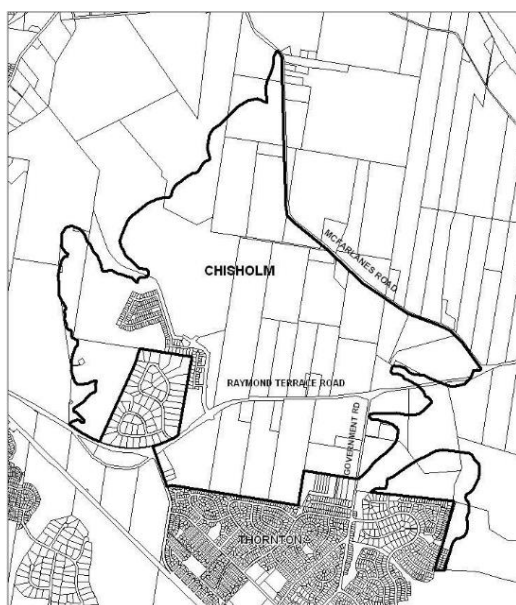


Figure 4 – Thornton North URA Locality Plan

The most recent stage of strategic planning in relation to the subject site is the implementation of the Chisholm Central Precinct Plan, which was adopted by Council on 22 March 2022.

This application is one of multiple development applications which make up Stage 2 of the Thornton North URA within the southern central portion (refer to Figure 5 below). Relevant applications are summarised in the below table:

| DA Number | Address | Proposal | Decision |
|--|---|--|--|
| DA/2016/2377 (subsequent modifications) | 93 McFarlanes Road, Chisholm | One into 85 lot Torrens Title Residential Subdivision with 2 residue lots and 1 drainage reserve lot | Approved by Council 27 April 2018 |
| DA/2019/573 (subsequent modifications) | 547 Raymond Terrace Road, Chisholm | One into 22 lot Torrens Title Residential Subdivision | Approved 26 November 2019 |
| DA/2019/574 (subsequent modifications) | 547 Raymond Terrace Road, Chisholm | One into 102 Lot Torrens Title Residential Subdivision, road widening lot and 1 drainage reserve lot | Approved by Council 26 November 2019 |
| DA/2019/652 (subsequent modifications) | 581 Raymond Terrace Road, Chisholm | One into 132 lot Torrens Title Residential Subdivision | Approved by Council 28 April 2020 |
| DA/2019/653 (subsequent modifications) | 119 McFarlanes Road, Chisholm | One into 143 Lot Torrens Title Residential Subdivision | Approved by Council 12 May 2020 |
| DA/2021/1662 | 2 and 108 Settlers Boulevard and Raymond Terrace Road, Chisholm | One into 190 Lot Torrens Title Subdivision in two stages | Approved by Council 9 May 2023 |
| DA/2021/1702 | 20 Heritage Drive, Chisholm | Mixed use retail/commercial development including supermarket, retail premises, indoor recreational facilities, food and drink premises, childcare centre, car wash and medical centre | Approved by the Hunter & Central Coast Regional Planning Panel 29 September 2022 |
| DA/2020/173 | 165 McFarlanes Road, Chisholm | One into 62 lot Torrens Title Subdivision | Currently under assessment (on hold resolving issues) |
| DA/2023/509 | 173 McFarlanes Road and 507 Raymond Terrace Road, Chisholm | Two into 264 lot Torrens Title Residential Subdivision | Currently under assessment (on hold resolving issues) |
| DA/2023/518 | 507 Raymond Terrace Road, Chisholm | One into two lot Torrens Title Subdivision | Currently under assessment (on hold resolving issues) |

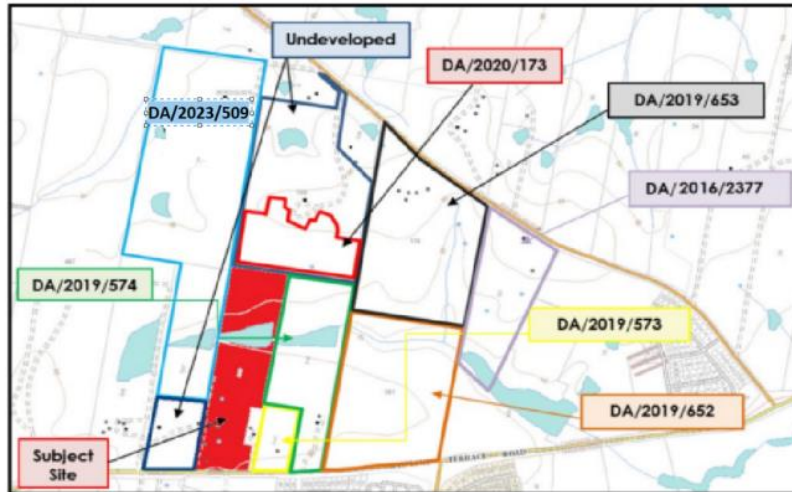


Figure 5 – Aerial Development context (approved and under assessment)

CURRENT DEVELOPMENT HISTORY

The development application was submitted to Council on 2 June 2023.

The application was put on hold on 20 June 2023 pending receipt of a Satisfactory Arrangement Certificate (SAC), which was received from the former Department of Planning and Environment (DPE) on 30 June 2023.

Following a preliminary assessment, the applicant was requested on 28 September 2023 to address the following issues (summary only):

- (a) **Biodiversity:** Issues with plot surveys, boundaries, missing items, identification of species, avoid and minimise (demonstrate that all reasonable avoid and minimise measures have been considered on the land that is subject to the proposal and developable), hollow ratios and species credit exclusions.
- (b) **Bushfire:** Road 4 does not provide the required 8m carriageway width for a perimeter road with parking located outside of this. It is recommended that the bushfire threat assessment give specific consideration to Road 4 to give clarity that NSW RFS are accepting of the reduced clear carriageway width adjacent to the fire source (i.e. acceptance of Road 4 as a non-perimeter road). The report does give consideration to internal local streets (as non-perimeter roads) with parking on both sides of the road. However, the GTA's do not provide acceptance of this approach (instead only requiring compliance with Table 5.3b). Council's acceptance of the internal local streets will be reliant on receipt of appropriate GTAs.
- (c) **Concept engineering plans:** Inconsistencies in plans, no retaining details and vehicle swept path details for the 90 degree bend in Road 1.
- (d) **Stormwater:** Concept engineering plans shall be amended to provide constructed piped drainage within Raymond Terrace Road, downstream of the Southern basin, catering for the minor storm event. Discharge via overland flow is not supported. For the larger central catchment, draining to the proposed riparian / drainage corridor through the site, the stormwater management report relies heavily on approval of a basin on the site to the east

(DA/2019/652) which is yet to be approved under any DA or Subdivision Works Certificate for that site. If some detention capacity is able to be provided on the adjoining site, this along with any proposal to remove detention on the upstream sites would need to be considered under a full revision to the regional drainage strategy. The simple addendum letter dated 25/01/2023 is not supported by Council.

- (e) **Transport:** A plan for bus routes (400m walk distance) is required to be submitted.
- (f) **Access / roads:** The proposed development is reliant upon the completion of adjoining subdivisions to provide access through internal road networks. The NSW RFS have advised that their GTA's are based on the consent authority placing a condition of consent on the development which requires the completion of the proposed public road network associated with DA/2019/652, which provides the sole access to Raymond Terrace Road / Government Road, prior to the commencement of works associated with the subject subdivision. Whilst clearing and bulk earthworks have commenced on 581 Raymond Terrace Road no further Subdivision Works Certificates (SWC) have been issued. Furthermore, no SWC's have been lodged for 547 Raymond Terrace Road.

It is also noted that Road 1 has not been designed in accordance with the Thornton North Urban Release Area due to the adjoining property to the north. Please be advised that the adjoining development (DA/2020/173) to the north at 169 McFarlanes Road is still under assessment and further changes may be made to lot and road layout, which may have ramifications for your development.

- (g) **Street trees:** Elaeocarpus Eumundi and Magnolia Little Gem are not supported and shall be replaced with suitable species at SWC stage. Subject to approval, this can be conditioned. Proposed species shown in the Riparian Corridor are also not supported. Subject to approval, the landscaping plan will be subject to detailed assessment at SWC.

A meeting was held on 2 November 2023 to discuss the above-mentioned issues and following this additional information was submitted to Council on 25 January, 8 and 21 February 2024 under Clause 37 of the Environmental Planning and Assessment Regulations (EP&A Regs) 2021, which included:

1. Amended DA plans which have addressed the need for a connecting local road to the north.
2. Amended Concept Engineering plans addressing stormwater and civil matters.
3. Amended Stormwater Management Plan and report addressing stormwater matters.
4. A revised Bushfire Assessment Report.
5. A revised BDAR.

Following a detailed review of the revised DA package, the applicant was advised on 23 April 2024, that the avoid and minimise strategy was not supported without appropriate mechanisms in place to ensure the long-term protection of retained trees (e.g. tree retention plan, 88B instruments, building envelopes shown on plan), there is little certainty the trees would be retained in the medium to long-term, and this therefore could not be considered as a suitable avoidance measure.

Council's Senior Development Engineer also reviewed the revised scheme and advised the proposed central detention basin could not be supported in its current form due to the reliance on significant retaining at the boundary of road reserve (Road 4 and Road 5) and the drainage reserve. Council does not permit public retaining walls / retaining of the road reserve. Furthermore, plans for the southern basin have not been amended to provide constructed piped drainage within Raymond Terrace Road, downstream of the Southern basin, catering for the minor storm event.

A revised package which forms the basis of this assessment was submitted to Council on 30 July 2024, which addresses the above issues.

REFERRALS

Building

No referral comments - Standard conditions relating to Subdivision (Torrens) Major to apply.

Engineering

Initial issues have now been resolved (refer to development history) and Council's Senior Subdivision and Development Engineer has reviewed the revised development scheme as acceptable subject to the imposition of conditions of consent.

Ecology

Initial issues have now been resolved (refer to development history) and Council's Ecologist has reviewed the revised BDAR, tree retention plan and "avoid and minimise strategy" as acceptable subject to the imposition of conditions of consent.

Environment & Health

Subject to the imposition of conditions of consent, Council's Environmental Health Officer has reviewed the Detailed Site Investigation Report as acceptable.

Waste

Council's Waste Officer has reviewed the proposed development and advised no issues in terms of provision of future kerbside waste services.

PLANNING ASSESSMENT - 4.15(1) matters for consideration

Development Type

- The proposal is categorised as *local development* under the Act.
- The proposal is also *integrated development* under Section 4.46 of the Act as follows:

NSW Rural Fire Service

The site is mapped as Bushfire Prone Land. Accordingly, the application is Integrated Development under Section 4.46 of the Act as an approval is required under Section 100B(1) of the Rural Fire Act 1997. General Terms of Approval (GTA's) have been issued by NSW Rural Fire Service (RFS), dated 3 April 2024. Subject to approval, these GTA's shall be included on any development consent issued for the development. Bushfire is considered in detail under Section 4.15 (1)(b) of the report.

Department of Planning and Environment – Water

As the proposed development occurs within 40 metres of a mapped watercourse (Tributary of Francis Greenway Creek), the application was referred to the Department of Planning and Environment – Water (DPE-W) as integrated development requiring a Controlled Activity approval under the Water

Management Act 2000. DPE-W issued their GTA's on 28 November 2023, which shall be included on any development consent issued for the development.

Development Contributions

The revised development scheme attracts a contribution of \$3,072,917.43 under the Thornton North Development Contributions Plan 2008 and the Maitland City Wide Development Contributions Plan 2016.

Refer to Clause 6.1 of the MLEP 2011 for discussion regarding satisfactory arrangements to contribute to the provision of State public infrastructure.

Section 4.15(1)(a)(i) – Provisions of any environmental planning instrument

Maitland Local Environmental Plan (MLEP) 2011

The following clauses of the MLEP 2011 are relevant to the assessment of the proposal:

Part 2 – Permitted or prohibited development

Defined use

Clearing vegetation
Earthworks
Subdivision
Road

Permissibility

Under the MLEP 2011, the entire site is zoned R1 General Residential (refer to Figure 6 below). The proposed residential subdivision is permitted by virtue of Clause 2.6 of the MLEP 2011 with Council consent. The clearing of vegetation and earthworks is considered ancillary to the proposed subdivision.

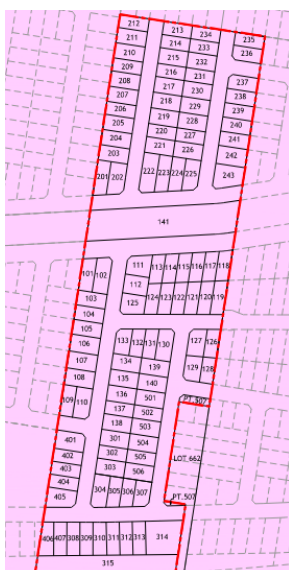


Figure 6 – MLEP 2011 zoning map and subdivision overlay

Zone objectives

The objectives of the R1 zone are to:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposed residential subdivision is considered to be consistent with the above objectives of the R1 zone as the subdivision will provide for the housing needs of the community and create additional residential lots of variable sizes thus allowing for a variety of housing types to be erected in the future.

Clause 2.5 – Additional permitted uses for particular land

The site is not described or referred to in Schedule 1 of the MLEP 2011.

Clause 2.6 – Subdivision – consent requirements

This clause permits subdivision to be carried out with the consent of Council.

Clause 2.7 – Demolition requires development consent

The proposed development includes demolition of the existing dwelling house and structures on site. Subject to approval, appropriate conditions will be included on any development consent issued to ensure demolition in accordance with Australian Standards.

Part 4 – Principal development standards**Clause 4.1 – Minimum subdivision lot size**

The statutory Lot Size Map identifies a minimum lot size of 450m² for the R1 zone.

The proposed residential lots comply with the minimum lot size with the proposed lots ranging in size from 456m² to 844m².

The proposed residue lot in two parts (Lot 507) is non-compliant with a total site area of 377m². The applicant has submitted a Clause 4.6 (Exceptions to development standards) to address this non-compliance (refer to Clause 4.6 of MLEP 2011).

Clause 4.3 – Height of Buildings

The site is not mapped on the Height of Buildings Map. Therefore, there are no statutory height of future building restrictions that are applicable to this proposal.

Clause 4.4 – Floor Space Ratio

The site is not mapped on the Floor Space Ratio Map. Therefore, there are no statutory floor space ratio restrictions of future building restrictions that are applicable to this proposal.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 (Exceptions to development standards) of MLEP 2011 enables variations to development standards.

The applicant has submitted a Clause 4.6 variation seeking to vary the minimum lot size contained within Clause 4.1 of MLEP 2011 of 450m². The proposed residue lot in two parts (Lot 507) is non-compliant with a total site area of 377m² (refer to Figure 7 below). This represents a non-compliance of 72m² or a 16.3% variation.



Figure 7 – Proposed undersized lot 507

The applicant has submitted a Clause 4.6 (Exceptions to development standards) to address this non-compliance. The request to vary a development standard, produced by the Department of Planning, Housing and Infrastructure, has been used to consider the Clause 4.6 variation as follows:

1. Describe the site

Refer to description of the land on page 3 of the report.

2. Describe the proposed development

Refer to description of proposed development on page 1 of the report.

3. What is the EPI you are seeking to vary?

MLEP 2011.

4. What's the site zoning?

R1 General Residential

5. Identify the development standard to be varied

Clause 4.1 (Minimum subdivision lot size) of the MLEP 2011.

6. Identify the type of development standard

Numerical standard

7. What is the numeric value of the development standard in the EPI?

450m² (minimum)

8. What is the difference between the existing and proposed numeric values? What is the percentage variation?

The proposed residue lot in two parts (Lot 507) is non-compliant with a total site area of 377m² (refer to Figure 7 above). This represents a non-compliance of 72m² or a 16.3% variation

9. Visual representation of the proposed variation if relevant

N/A

Justification for the proposed variation

10. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case?

Note: There are 5 common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary (refer to items a to e below). An applicant must satisfy at least one.

a. Are the objectives of the development standard achieved notwithstanding the non-compliance?

The objectives of the minimum lot size standard are:

- (a) *to ensure that lot sizes are able to accommodate development that is suitable for its purpose and consistent with relevant development controls,*
- (b) *to prevent the fragmentation of rural land.*

The applicant has detailed in their SOEE that the proposed residue lot is intended to be part of a land swap arrangement with the adjoining owner of Lot 662 DP733736 at 539 Raymond Terrace Road under a future residential subdivision to ultimately create compliant lot sizes, which will be capable of accommodating future dwellings. For this reason, it is considered that the proposed undersized allotment, when part of the land swap arrangement will comply with the objectives of the lot size standard. The residue lot falls within stage 5, the last stage, to enable time for those negotiations to occur.

b. Are the underlying objectives or purpose of the development standard not relevant to the development?

The underlying objective or purpose of the minimum subdivision lot size is relevant to

this development. Therefore, this item is not applicable.

- c. **Would the underlying objective or purpose be defeated or thwarted if compliance was required?**

The applicant has detailed in their Clause 4.6 variation that there are two ways for the development to comply with the minimum lot size control being:

- (1) A portion of the adjoining road reserve could be included within the lot; or
- (2) the residue lot could be combined with another lot.

The first point would not create a reasonable, rationale or logical road layout prescribed by the Area Plan for Thornton North URA, as the road reserve width would not comply with Council's standards for a local residential street. Furthermore, the second point above would remove land from being able to be developed for an additional residential allotment, thereby "wasting" useable land, which could be consolidated with the adjoining property (subject to negotiations).

- d. **Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?**

Council has not abandoned or destroyed the applicable minimum lot size development standard.

- e. **Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?**

The R1 zoning is considered contextually appropriate within a URA, which is intended to accommodate residential dwellings, and this item is therefore not applicable.

11. **Are there sufficient environmental planning grounds to justify contravening the development standard?**

The proposed residue lot has been created due to the location and configuration of the adjoining lot (Lot 662) and the approved road alignments and widths over the adjoining site to the east. There is no solution to avoid the creation of this lot without impacting the rational arrangement of the subdivision and future public roads and in doing so impacting on the orderly and economic use of land.

12. **Is there any other relevant information relating to justifying a variation of the development standard**

Subject to approval, it is recommended that a condition be imposed to ensure a restriction on the title of Lot 507 is created under Section 88B of the Conveyancing Act 1919 to identify the lot as a residue lot and that separate development consent is required to develop this lot, other than for the purposes of connecting infrastructure to adjoining lots. The developer will also be responsible for the on-going landscape maintenance (mowing).

Clause 4.6 Threshold Test Summary

The objectives of Clause 4.6 of MLEP 2011 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The applicant's Clause 4.6 has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

Clause 4.6(2) of MLEP 2011 enables development consent to be granted for development even though the development would contravene a development standard imposed by the LEP.

Clause 4.6(3) of MLEP 2011 stipulates that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The Clause 4.6 has reasonably argued there are sufficient environmental planning grounds to justify contravening the development standard. Council can therefore use clause 4.6 of MLEP 2011 as a mechanism to vary the development standard, as strict compliance with the control is considered unreasonable and unnecessary given the circumstances of the case.

In regard to clause 4.6(4) of MLEP 2011, Council will keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

Clause 4.6(6) of MLEP 2011 is not applicable to this development.

Clause 4.6(5) and 4.6(7) of MLEP 2011 has been repealed.

Clause 5.9AA Preservation of trees or vegetation

This Clause has been repealed. Refer to Biodiversity Conservation Act 2016 discussion in body of report.

Clause 5.10 - Heritage Conservation

The site is not located within a Heritage Conservation Area and not listed under MLEP 2011 as a local or state heritage item.

In regard to Aboriginal Heritage, an AHIMS search revealed an Aboriginal site within 50m of the site. Accordingly, an Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared which concluded that no Aboriginal sites or Potential Archaeological Deposits (PAD's), were identified over the site. An Aboriginal Heritage Impact Permit (AHIP) is therefore not required to be obtained.

Furthermore, the ACHAR was made available to Registered Aboriginal Parties (RAP's) with no comments received. The application was also referred to Mindaribba Local Aboriginal Land Council on 21 June 2023 with no comments received.

Subject to approval, appropriate conditions will be included on any development consent issued to ensure should any Aboriginal relics be discovered during construction works, all works shall immediately cease, and the NSW Office of Environment and Heritage be informed.

Clause 5.21 – Flood Planning

The site is not mapped as containing flood prone land.

Part 6 – Urban Release Areas

Clause 6.1 – Arrangements for designated state public infrastructure

The site is located within the Thornton North URA.

Clause 6.1 of MLEP 2011 requires satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in a URA is developed intensively for urban purposes.

Certification has been provided to Council from the former DPE, dated 30 June 2023, that satisfactory arrangements have been made to contribute to the provision of designated State Infrastructure.

Note: The Department confirmed in writing on 4 July 2024 that a revised SAC is not required to be re-issued for the increase in lots from 108 to 109 as the changes are minor. The Department takes no issue with minor variations to overall lot numbers, unless State contribution payments collected by the Department are on a per lot basis, which is not the case for this matter.

Clause 6.2 – Public utility infrastructure

Clause 6.2 of MLEP 2011 requires the Council be satisfied that any public utility infrastructure that is essential for the proposed development is available or alternatively that adequate arrangements have been made for the provision of this infrastructure.

The applicant has submitted a revised Hunter Water Stamped Plans, dated 2 August 2024, which indicates no water or sewer available to the site. A Section 50 Application has been submitted to Hunter Water and the Notice of Requirements (NOR) from Hunter Water, dated 2 May 2023, states there is sufficient capacity in the local water network to service the proposed development. In regard to sewer, the NOR states this development site was included in the Wastewater Servicing Strategy Thornton Release Area, dated June 2017, prepared by ADW Johnson Pty Ltd for Allam. The development site is located in Thornton 3 WWPS catchment.

While the strategy is currently with Hunter Water for final endorsement it is clear that the site can be serviced through both sewer and water assets. The sewer strategy has identified a staged approach that Hunter Water can implement in order to ensure capacity of Thornton 3 WWPS is increased at the same rate as development occurs within its catchment.

Subject to approval, a condition will be included on any development consent issued to ensure underground water, sewerage, telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider's requirements prior to the release of a Subdivision Certificate.

Clause 6.3 – Development Control Plan

Clause 6.3 of MLEP 2011 requires that a DCP be adopted for an URA prior to issue of any development consent for subdivision. The Chisholm Central Precinct Plan was adopted by Council on 22 March 2022 and is now incorporated into Part F.7 (TNURA) of the MDCP 2011 (refer to DCP section of the report for discussion).

Part 7 – Additional local provisions

Clause 7.1 – Acid Sulfate Soils

The development site has been identified as “Class 5” within the Acid Sulphate Soils (ASS) Map and is not within 500m of Class 1 – 4 lands. Accordingly, the provisions of this clause do not apply.

Clause 7.2 – Earthworks

The proposed development includes bulk earthworks (refer to Figure 8 below) and lot regrading with estimated volumes of cut and fill as follows:

- Cut: 12,095m³;
- Fill: 6352m³;
- Balance: 5743m³ (export);



Figure 8 – Bulk earthworks plan

Accordingly, the following has been considered as part of the assessment:

(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,

The earthworks have been designed in a wholistic manner in coordination with the stormwater design to ensure there is no disruption or impacts on existing drainage patterns and soil stability. Council's Senior Development Engineer has reviewed this documentation as acceptable subject to appropriate conditions of consent, which will be included on any development consent issued.

(b) the effect of the development on the likely future use or redevelopment of the land,

The earthworks have been designed to facilitate the future development of the proposed lots for residential housing. The proposed subdivision is necessary to facilitate the future development and release of the land for residential purposes within a URA.

(c) the quality of the fill or the soil to be excavated, or both,

It is unlikely that fill will be required given the proposed cut/fill balance (export). However, appropriate conditions will be included on any development consent issued to ensure the quality of any required fill is acceptable.

(d) the effect of the development on the existing and likely amenity of adjoining properties,

Subject to the imposition of conditions of consent during the construction phase, the amenity impacts including noise, dust and traffic on adjoining properties has been assessed as acceptable (refer to further discussion under Section 4.15(1)(b) in the report).

(e) the source of any fill material and the destination of any excavated material,

As discussed in (c) above, it is unlikely that fill will be required. However, in the event fill is required, it is likely to be sourced from other development sites in the Thornton North URA.

(f) the likelihood of disturbing relics,

This issue has been adequately discussed under Clause 5.10 of the MLEP 2011. Appropriate conditions will be included on any development consent issued.

(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

A first order watercourse traverses the mid portion of the site. As the proposed development occurs within 40 metres of a mapped watercourse, the application was referred to the DPE-W as integrated development requiring a Controlled Activity approval under the Water Management Act 2000. DPE-W issued their GTA's on 28 November 2023, which shall be included on any development consent issued for the development. Earthworks have been minimised around five trees to enable retention. A condition shall be imposed to ensure these trees are retained in perpetuity.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Conditions are recommended by various Referral Officers to address potential impacts from the proposed earthworks and will be included on any development consent issued.

In summary, the proposed development is considered to satisfy the requirements contained within Clause 7.2(3) of the MLEP 2011.

Clause 7.4 – Riparian Land and watercourses

Although the site contains a 1st order watercourse, the site is not mapped as containing watercourse land on the Watercourse Map.

Clause 7.5 – Significant extractive resource

The site is not mapped as containing a significant extractive resource.

State Environmental Planning Policies

The following State Environmental Planning Policies (SEPP's) are relevant to the assessment of

State Environmental Planning Policy (Planning Systems) 2021

The proposed development has a capital investment value less than \$30 million (cost of works \$7,376,500) and is therefore not regionally significant development.

State Environmental Planning Policy (Transport and Infrastructure) 2021**Chapter 2 Infrastructure**

The aim of this Chapter is to facilitate the effective delivery of infrastructure across the State by:

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) providing opportunities for infrastructure to demonstrate good design outcomes.*

The proposed development is considered to support the aims of the chapter as follows:

Division 5 – Electricity transmission or distribution

Clause 2.48 – The application was referred to Ausgrid who advised in writing on 3 July 2023 that they require due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development. Ausgrid consent to the development subject to conditions of consent, which will be included on any development consent issued.

Division 17 – Roads and Traffic

Clause 2.119 – The application was referred to TfNSW under CI 2.199 as development with frontage to a classified road. However, TfNSW rejected the referral on 14 June 2023

Clause 2.120 – Impact of road noise or vibration on non-road environment

Clause 2.120 of the SEPP (Transport and Infrastructure) 2021 has been considered given that Lots 308 to 313 and 406 to 407 inclusive, will adjoin Raymond Terrace Road, a classified road.

Clause 2.120(3) stipulates that if the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

The applicant has submitted an Acoustic Assessment, prepared by Spectrum Acoustics, dated March 2023, to address potential traffic noise from Raymond Terrace Road. The report concludes:

“The assessment has shown that the application of relatively common architectural treatments can be employed to achieve an adequate acoustic amenity at any future residences that may be constructed in the area.

The construction of a standard 1.8 (or 2.1m) high acoustic barrier along the Raymond Terrace Road boundary of the site will provide little acoustic benefit.

In conclusion, there is no acoustic reason why the subdivision should not be approved”.

Council's Environmental Health Officer has also considered the proposed development and Acoustic Report as satisfactory subject to the imposition of standard conditions of consent, which will be included on any development consent issued, which includes the recommendations to reduce internal noise levels outlined in the Acoustic Report, being implemented into the design and construction of any future residences that may be constructed in the subdivision.

Clause 2.122 – The application is not Traffic-generating developing under Schedule 3 (Traffic generating development to be referred to Transport for NSW (TfNSW)) of the SEPP as less than 200 lots proposed and not within 90m of any connection to a classified road.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This Policy commenced on 1 March 2022.

Chapter 2 – Vegetation in non rural areas

This Chapter applies to land zoned R1 General Residential. The proposed development includes clearing vegetation to accommodate the future residential subdivision, which exceeds the minimum biodiversity offset scheme (BOS) threshold applying to any part of the land (less than 0.25 ha in this case). The land is not identified on the Biodiversity Values Map. Refer to Biodiversity Conservation Act 2016 for further discussion.

Chapter 3 – Koala habitat protection 2020

This Chapter does not apply to the R1 zone.

Chapter 4 – Koala habitat protection 2021

The aim of this Chapter is *"to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline"*.

SEPP (Koala Habitat Protection) 2021 applies to all LGA's listed in Schedule 1 of the SEPP. Maitland LGA is identified and this Chapter of the SEPP therefore applies.

The SEPP requires that development be consistent with an approved Koala Management Plan (KMP) that applies to the site, or where there is no such plan, make an assessment as to whether it is likely to have any impact on koalas or koala habitat.

An approved KMP does not apply to the site. Accordingly, the submitted Biodiversity Development Assessment Report (BDAR), prepared by AEP, has addressed koala habitat and notes that there was only one (1) record of koalas within 5km of the site with no evidence of this species on site following detailed koala surveys, including SATs, nocturnal surveys, call playback and passive Song Meter recording. The BDAR conducted a Tier 2 Assessment which concluded that the site is not considered to be core koala habitat and it is not anticipated that the proposal will impact koalas in the present or future.

State Environmental Planning Policy (Resilience and Hazards) 2021**Chapter 2 – Coastal Management**

The site is not mapped as containing coastal wetlands or littoral rainforest areas, coastal vulnerability areas, coastal environment areas or coastal use areas. Therefore, this Chapter does not apply.

Chapter 4 – Remediation of Land

This policy requires consideration to be given to previous uses on site and whether the site needs to be remediated for future uses. Clause 4.6(1) of the SEPP (Resilience and Hazards) 2021 requires that where land is contaminated, the determining authority must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

The subject site is not mapped on Council's GIS mapping system as known or potential contaminated land. Furthermore, a Preliminary Site Investigation (PSI) Report, prepared by EP Risk, concluded that the site has previously been used for rural living, and represented a low risk of contamination. In summary, subject to the imposition of standard conditions of consent, the proposed development is considered suited to its intended use as a residential subdivision.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act (BCA) 2016 came into force on 25 August 2016, repealing the Threatened Species Conservation Act 1993. The purpose of this Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

BCA 2016 establishes a hierarchy for dealing with the impact of development on biodiversity values, firstly by way of avoidance of impacts, secondly by minimisation of them and lastly for offsets as the last resort.

In accordance with the provisions of the *BCA 2016 and Biodiversity Conservation Regulation 2017*, there are a number of triggers for an assessment under the Biodiversity Offset Scheme (BOS) and preparation of a BDAR:

- 1. Located on the Biodiversity Values (BV) Map

Comment: The site is not identified on the BV Map.

- 2. Exceeds the area clearing threshold

Comment: The minimum lot size associated with the proposed development (zoned R1) is 450m². The threshold for clearing is as follows:

| Minimum lot size associated with the property | Threshold for clearing, above which the BAM and offsets scheme apply |
|---|--|
| Less than 1 ha | 0.25 ha or more |

The proposed development will directly impact approximately 2.85 ha of native vegetation (refer to Figure 9 below, which depicts the area to be cleared). The BOS therefore applies and accordingly the applicant has prepared a revised BDAR, version 6, prepared by AEP, dated 2 August 2024.

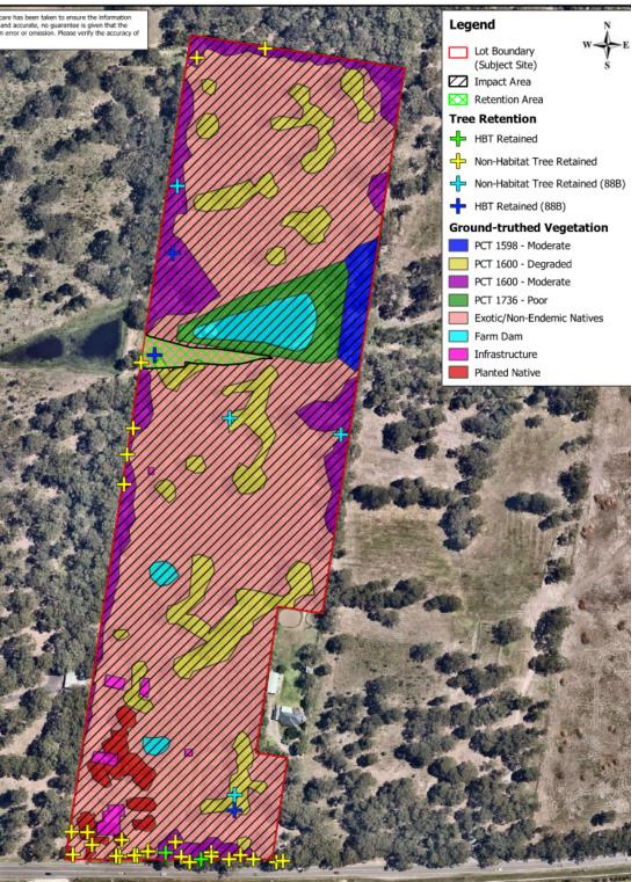


Figure 9 – Development site

3. The impacts are considered significant under the 5 part test

Comment: Council's Ecologist has reviewed the revised BDAR and advised the following:

"The proponent has provided for the proposal a BDAR, finalised BAM-C reports, relevant mapping layers and added Council as a case party in BOAMS. This is considered sufficient information to assess the proposed development against the legislative requirements of the BC Act.

It is understood that with regard to the BC Act, the proposed development:

- Triggers the Biodiversity Offset Scheme due to clearing thresholds being exceeded;
- Will require the removal of 2.85 hectares (ha) of native vegetation;
- Will result in a credit obligation of 58 ecosystem credits for impacts to PCT 1593, PCT 1736, and PCT 1600, and 58 species credits for impacts to southern myotis;
- Has reasonably addressed the avoid and minimise hierarchy through retention of five hollow-bearing trees that are suitable protected through Section 88B restrictions under the *Conveyancing Act 1919*.

Assessment

Vegetation

The proposal will result in the clearing of approximately 2.85 hectares of native vegetation across three Plant Community Types (PCTs) within four vegetation zones.

| Vegetation Zone | PCT | Condition Class | TEC Status | Impact Area (ha) |
|-----------------|---|-----------------|--|------------------|
| 1 | PCT 1598 Forest Red Gum grassy open forest on floodplains of the lower Hunter | Moderate | <i>Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions</i> | 0.18 |
| 2 | PCT 1600 Spotted Gum – Red Ironbark – Narrow-leaved Ironbark – Grey Box shrub-grass open forest of the lower Hunter | Degraded | | 1.20 |
| 3 | | Poor | | 1.10 |
| 4 | PCT 1736 Water Couch - Tall Spike Rush freshwater wetland of the Central Coast and lower Hunter | Poor | | 0.37 |
| Total | | | | 2.85 |

The extent of impacts to native vegetation are considered to have been appropriately assessed in accordance with the Biodiversity Assessment Method (BAM) 2020.

Threatened Species and Habitats

Habitat to be impacted onsite includes native vegetation providing foraging resources, breeding habitat for hollow-dependent fauna, aquatic habitat within the dam, nesting/roosting opportunities and some connectivity suitable for a range of mobile fauna species. Fifteen candidate species were excluded from further assessment based on geographic limitations, degraded habitat or habitat constraints. These are:

- Rough Doubletail – Geographic limitations;
- North Rothbury persoonia - geographic limitations;
- Striped Legless Lizard – Habitat degraded;
- Pale-headed snake – Habitat degraded;
- Swift parrot (breeding) - Habitat constraints not present;
- Brush-tailed rock wallaby – Habitat constraints not present;
- Regent honeyeater (breeding) – Habitat constraints not present;
- Broad-billed sandpiper – Habitat constraints not present;
- Curlew sandpiper - Habitat constraints not present;
- Great knot - Habitat constraints not present;
- Terek sandpiper - Habitat constraints not present;
- Black-tailed godwit - Habitat constraints not present;
- Little Bent-winged bat - Habitat constraints not present;
- Large Bent-winged bat - Habitat constraints not present;
- Large-eared pied bat - Habitat constraints not present.

The exclusion of these species from further assessment is supported based on the justification provided within the BDAR.

The proposal will require a total of 58 southern myotis species credits to be retired to offset residual impacts of the proposal on this species.

Impacts to threatened species and habitats have been appropriately assessed in accordance with the BAM 2020.

Prescribed Impacts

Prescribed impacts are additional biodiversity impacts prescribed for the purposes of assessment under the BC Act that do not require credit retirement to offset the residual impact on biodiversity values of proposed development. Relevant examples of prescribed impacts include impacts of development on non-native vegetation, human made structures, threatened species connectivity and movement, and increased vehicle strikes.

The site does not overlap with a biodiversity corridor identified under Council's Environmental Sustainability Strategy. Human made structures on site have not shown evidence of use by microbats however these will require additional survey prior to clearing and demolition activities. A small amount of non-native vegetation was identified on site. Removal of this vegetation will require additional survey prior to clearing activities to identify any potential fauna habitat.

Prescribed impacts have been assessed and appropriately addressed.

Avoid and Minimise Strategy

Subdivision design avoids direct impacts to five hollow-bearing trees, although two of these will be removed during road widening of Raymond Terrace Road. The three remaining hollow-bearing trees and four non-habitat trees (as shown within Appendix A (2) of the BDAR) will be protected under an 88B instrument to prevent removal after subdivision is completed. The retention of these trees also minimises the initial impact to local fauna, by providing the opportunity to gradually relocate.

This avoid and minimize strategy is considered adequate to address the requirement of the BAM 2020.

Impact summary and credit requirement

The proposal will impact approximately 2.9 ha of native vegetation and 2.9 ha of southern myotis habitat. The impact on threatened entities as a result of the proposal will require the retirement of the following biodiversity credits:

| Ecosystem Credits | | | |
|---|---|--------------------|----------------------------|
| Identified PCT | Conservation Status | Area impacted (ha) | Number of credits required |
| PCT 1598 Forest Red Gum grassy open forest on floodplains of the lower Hunter | <i>Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions EEC</i> | 0.18 | 5 |
| PCT 1600 Spotted Gum – Red Ironbark – Narrow-leaved Ironbark – Grey Box shrub-grass open forest of the lower Hunter | <i>Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions EEC</i> | 2.3 | 44 |
| PCT 1736 Water Couch - Tall Spike Rush freshwater wetland of the Central Coast and lower Hunter | <i>Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions EEC</i> | 0.37 | 9 |
| Species Credits | | | |
| Southern myotis | Vulnerable Species under Schedule 1 of the <i>Biodiversity Conservation Act 2016</i> | 2.9 | 58 |

Water Management Act 2000 - Controlled Activities on Waterfront Land

Three (3) artificial dams and one (1) regionally mapped first-order stream leading from the largest dam are mapped within the project area. The mapped hydroline is not considered to exhibit the features of a defined channel with bed and banks and therefore should not be subject to the WM Act. Confirmation from DPE (Water) on this matter is required prior to proceeding as a Controlled Activities (CAA) may be required.

Impacts to waterfront land have addressed under the WM Act. Confirmation from DPE is required prior to proceeding as a Controlled Activities (CAA) may be required.

Planning comment: GTA's have been issued by DPE-W and a controlled activity approval will be required.

Conclusion

Conclusions of the BDAR are generally supported and biodiversity has been appropriately assessed in accordance with the BAM (2020).

Impacts to waterfront land require confirmation from DPE as a Controlled Activities (CAA) may be required.

No objection is raised with regard to the conclusions of the BDAR providing appropriate conditions in are included as part of any consent.

Planning comment: The recommended biodiversity conditions have been included within the draft conditions of consent contained within Attachment 4 of the Council report.

Section 4.15(1)(a)(ii) - Any draft environmental planning instrument that is or has been placed on public exhibition

No issues are identified relating to the following Draft State Environmental Planning Policies:

- Draft Environment SEPP;
- Draft Remediation of Land SEPP.

Draft Maitland Local Environmental Plan 2011

No issues are identified relating to the Draft Maitland Local Environmental Plan 2011, which was exhibited from 5 June to 18 July 2024. The introduction of a new LEP clause to deal with essential services is adequately satisfied.

Section 4.15(1)(a)(iii) - Any development control plan

Maitland Development Control Plan (MDCP) 2011

The following chapters of the MDCP 2011 are relevant to the assessment of the proposal as detailed in the below table:

Part A – Administration

Part B – Environmental Guidelines

Part C.10 – Subdivision Design Guidelines

Part F.7 – Thornton North Urban Release Area (TNURA) – Chisholm Central Precinct 7

| Part A – Administration |
|--|
| A.4 Community Participation |
| The proposal was publicly notified/advertised for a period of 28 days from 15 June 2023 to 12 July 2023 in accordance with the Act, Council's Community Participation Plan and MDCP 2011. There were no submissions received during the exhibition period. |

| Part B – Environmental Guidelines | |
|--|---|
| Section | Comments |
| B.5 Tree and Vegetation Management | Refer to BCA 2016 discussion in body of report. |
| B.7 Environmentally Sensitive Land | <p>A first order watercourse traverses the mid section of the site. As the proposed development occurs within 40 metres of a mapped watercourse, the application was referred to the DPE-W as integrated development requiring a Controlled Activity approval under the Water Management Act 2000. DPE-W issued their GTA's on 28 November 2023, which shall be included on any development consent issued for the development. The site regard plan shows minimal works within the riparian zone with the retention of a HBT.</p> <p>The proposed development is considered to generally support the controls contained within B.7 of the DCP.</p> |
| Part C – Design Guidelines | |
| C.10 – Subdivision Note: <ul style="list-style-type: none"> Torrens Title Subdivision proposed. The proposed development is considered to support the objections contained of the subdivision chapter. Specific development controls relating to the Thornton North URA are discussed under Chapter F.7 –TNURA. General development controls relating to subdivision (where relevant) are discussed below. | |
| Section | Comments |
| Design Elements | |
| EC.1 Flora and Fauna | Refer to BCA 2016 discussion in body of report. |
| EC.2 Heritage and Archaeology | This issue has been adequately discussed under Clause 5.10 of the MLEP 2011. |
| EC.3 Hazards | <p>Bushfire – The land is mapped as bushfire prone land. Following a RFI from the NSW RFS, a revised bushfire threat assessment was submitted with the revised development scheme. The NSW RFS issued their GTA's on 3 April 2024. This issue is further addressed within the site suitability section of this report.</p> <p>Flood – The site is not mapped as flood prone land.</p> <p>Land slip / geotechnical – A Preliminary Geotechnical Assessment has found the site is not subject to landslip. Other geotechnical characteristics include:</p> |

| | |
|--|---|
| | <ul style="list-style-type: none"> • Groundwater was not encountered during investigation; • Gently sloping grades of around 5 degrees; • No known underground mining and not in mine subsidence district; • Class 5 acid sulphate soils – The class is based on proximity to other classes and no Acid Sulphate soils are expected; • The soil profile on site is typically 300mm of topsoil over 1-2m thick sandy/silty clay, over extremely weathered siltstone; • Existing clays are highly reactive requiring careful management of materials on site for earthworks to avoid Class E lot classifications; • Select material will be required under the road pavements. <p>Contamination – This issue is adequately discussed under the referral section of the report and SEPP (Resilience and Hazards).</p> |
| DC.1 Lot size and dimensions | |
| Objective - All proposed new lots have a size and shape appropriate to their intended residential use, and to allow for the provision of necessary services and other requirements. | |
| Minimum lot size | This has been adequately discussed under Clause 4.1 and 4.6 of the MLEP 2011. |
| Lot boundaries should follow natural features such as watercourses and ridges to minimise the potential for soil erosion | This issue has been adequately discussed under Clause 7.2 of the MLEP 2011. The road pattern and alignment has used the topography of the site, riparian corridor and existing road layout approved to the east and proposed to the north and west. Roads are aligned to provide a regular grid pattern and facilitate orderly development. |
| Lot boundaries should take account of any requirement for screening or buffering from adjoining land uses. | A landscape buffer is proposed to Raymond Terrace Road, the riparian corridor and stormwater basin. |
| Lot size and dimensions are to be suitable for the existing or proposed use, including any requirement for building envelopes, ancillary buildings, farm dams, access, parking, landscaping, solar access, provision of services and/or other requirements. | With the exception of the residue lot, the proposed lot sizes achieve the minimum lot size for the R1 zone, provide for a mix of lot sizes, which promotes lot diversity, and are considered to be suitable for the future use of residential development. |

| | |
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| | <p>The proposed allotments are all generally rectangular in shape and follow a grid, which is rational and intuitive to the future users.</p> <p>The allotments all have adequate frontage to the road (comply with minimum frontage of 12.5m) and depth to accommodate a variety of future dwelling types.</p> <p>The undersized residue lot is considered under Clause 4.6 of MLEP 2011.</p> <p>The proposed tree retention will be protected in perpetuity and given their location, will not impact upon the future placement of dwellings or driveways.</p> |
| In assessing the re-subdivision of an existing lot, Council will have regard to the circumstances and planning rationale that formed the basis for the creation of the parent lot. | N/A |
| Subdivision proposals must not conflict with the requirements of any existing approvals | The proposed subdivision is consistent with the adjoining approvals and developments currently under assessment. |
| When calculating lot size area where battle axe or hatchet shaped allotments are permitted, the area of the access handle is to be excluded from the area calculation. | This control is not applicable as there are no proposed battle-axe allotments. |
| Specific Controls – Residential | |
| Access handles must have a minimum width of 3.5m for single lots. No more than 2 lots may be serviced by a reciprocal RoW | N/A |
| Range of lot sizes | The proposed development provides for a range of lot sizes which will promote housing diversity. |
| A suitable building envelope with minimum dimensions of approximately 15m by 10m shall be provided behind the building line. | All lots are capable of accommodating a building envelope of this dimension. |
| DC.2 Solar access and energy efficiency | |
| 80% of new lots are to have 5 star solar access and the remainder a 3 or 4 star rating. | Overall, the size, orientation, and shape of the lots are sufficient to ensure that future dwellings can receive adequate solar access to future habitable living areas and private open space through the implementation of good design. Sufficient solar access is achievable on the proposed allotments. |
| Lot sizes are to reflect reasonable consideration of the impact of topography, aspect and other constraints so as to maximise solar access. | |
| Where possible lots should be orientated to provide one axis within 30 degrees east and 20 degrees east of true solar north | |
| Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling. | |
| Proposals for street planting are to take account of the potential for shading, provision of adequate | Street planting is dictated by the road design, however they are not expected to create any issues for solar access. |

| | |
|---|--|
| solar access to dwellings, and if necessary, protection from winter winds. | Each lot features a frontage of which can adequately accommodate a street tree and future driveways. |
| DC.3 Drainage, water quality and soil erosion | |
| Comment: The stormwater from the proposed development and upstream catchments will be captured by a pit and pipe network and conveyed to the discharge locations. The site is split into two catchments. Northern catchment will direct its drainage into the existing drainage channel running east west through the site, whereas southern catchment will discharge to the existing table drain in the northern verge of Raymond Terrace Road. The amended stormwater management report is supported by Council's Senior Development Engineer subject to conditions of consent. | |
| All trunk drainage is to be located in publicly owned land, open space land or an appropriate easement. | The basins are to be dedicated as public drainage reserve. |
| Where drainage impacts cannot be limited to pre-development stormwater levels, by retention or other approved methods, drainage easements will be required. | Hydrologic modelling has been undertaken to compare peak site discharges under existing and developed conditions. Modelling has confirmed that the development will not intensify peak flows at either point of discharge, and that peak flows are well correlated to predeveloped magnitudes for both catchments. |
| Where site topography in new residential subdivisions prevents discharge of storm water directly to the street gutter or a Council controlled pipe system, inter allotment drainage should be provided to accept run off from all existing or future parcels of land. | The concept engineering plans show inter-allotment drainage. Appropriate easements will be provided on all rear-draining lots. |
| Where inter-allotment drainage is required, easements having a general width of 1.5m are to be identified on plans submitted. | IAD has been limited before connecting into the street drainage system and 1.5m wide. |
| A soil and water management plan should be prepared by a qualified practitioner with the aim of minimising erosion and maximising the quality of any water leaving the site. | A condition has been recommended for imposition to ensure a Soil and Water Management Plan is submitted to Council for approval prior to issue of a SWC. |
| DC.4 Landscape, streetscape & visual impact | |
| Existing landscape and streetscape character should be maintained and enhanced through retention of existing vegetation, provision of additional landscaping. | <p>The development includes the following landscaping:</p> <ul style="list-style-type: none"> • Street tree plantings; • 10m buffer of landscaping to Raymond Terrace Road; • Landscaping to the two basins including rehabilitation of the riparian corridor. <p>The proposed landscape and streetscape character is consistent with existing development within the Thornton North URA. Furthermore, the site is zoned R1 and is within an URA and as such, the changes are consistent with the future character of the locality.</p> |

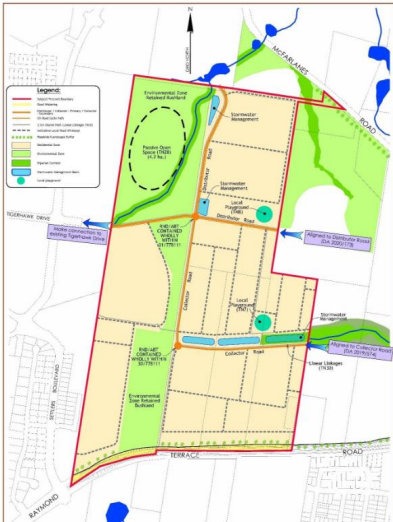
| | |
|--|--|
| Submission of a landscape plan will be required for residential and rural residential subdivisions indicating the location of street trees and any other required landscaping. | Landscape plans have been submitted with the application, which include street tree planting along all proposed roads and a landscape buffer to Raymond Terrace Road. These plans are generally considered acceptable. However, it should be noted that these plans have not been updated to reflect the most recent subdivision / engineering changes. Accordingly, a condition will be imposed to ensure a revised landscape plan set is submitted for approval with the SWC. |
| The developer will also be required to submit a detailed landscape plan for all reserve areas incorporating fencing details. | N/A |
| DC.5 Effluent Disposal | |
| All new residential, industrial and commercial lots are to be connected to a reticulated sewerage system. | All lots will be connected to a reticulated sewer system. Subject to approval, a condition will be imposed to ensure this is the case. |
| DC.6 Roads & access, pedestrian & cycleways – Specific Controls | |
| Public road access is required to all new lots in a Torrens Title subdivision | Complies - All proposed lots have frontage to future proposed public roads. A condition is recommended for imposition to ensure that prior to the issue of a Subdivision Certificate, the development must be connected to the public internal road network to the east of the development site dedicated to Council under DA/2019/652, DA/2019/574 and DA/2019/573 and connected (practical completion) to Raymond Terrace Road through the construction of Traffic Controls Signals (TCS) at the intersection of Raymond Terrace Road / Government Road through DA/2019/652. |
| Street block lengths shall be a maximum length of: <ul style="list-style-type: none"> • 180m desirable - 250m maximum for local streets; • 180m for residential streets running parallel against truck roads • Generally 70m deep for residential | Compliance achieved |
| A network of constructed footpaths and cycleways will be required in all residential subdivisions, located, designed and constructed in accordance with Council's MoES and in view of streets wherever possible. | The proposed engineering plans show a network of constructed footpaths in accordance with the DCP and MOES. |
| Pedestrian links between residential cul-de-sacs or other road layouts should comply with the following criteria.... | N/A |
| Particular attention should be paid to pedestrian links to schools with regard to their width, lighting | N/A |

| | |
|--|---|
| and appropriateness of landscaping and related safety issues. | |
| The road, footpath and cycleway network should facilitate walking and cycling throughout neighbourhoods and provide links to schools, community facilities and other activity centres. | Refer to above comments. |
| Access ways to hatchet shaped or battle axe lots will serve a max of 2 lots. | N/A |
| DC.7 Crime prevention – Safer by Design | <p>The proposed development achieves compliance with the principles of CPTED.</p> <p>All lots have frontage to future public roads. No battle axe allotments or cul-de-sacs are proposed.</p> <p>The proposed grid pattern is regular and provides for good way finding.</p> <p>The development proposes clear sightlines between public and private spaces.</p> <p>The submitted landscape plan will provide for street trees to provide shading, while maintaining opportunities for surveillance.</p> <p>The proposed lot layout provides for lots which will have future development facing outwards towards public areas to provide further natural surveillance.</p> <p>Conditions will be included on any development consent issued to ensure that appropriate street lighting is installed within the development.</p> |
| <p>DC.8 Site Filling</p> <p>The primary objective of the control is to ensure the environmental impact of the site fill is properly assessed.</p> <p>Earthworks require development consent unless exempt or complying development. Earthworks including site filling</p> | <p>The submitted civil plans show minimal lot regrade. Most lots are at existing levels. The proposal does not exceed the maximum fill depth of 2m.</p> <p>This issue has been adequately discussed under Clause 7.2 (Earthworks) of the MLEP 2011.</p> |
| DC.9 Reticulated services | Consistent. Connection to reticulated systems is proposed. Standard conditions requiring the connection will be placed on any consent issued. |
| IC.1 – Entry Features | N/A |
| IC.2 – Street Names | The road naming process can be a condition of consent. |
| IC.3 – House/Lot numbering | Subject to a condition of consent. |
| Part F – Urban Release Areas | |
| F.7 – Thornton North Urban Release Area | |

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| 1.1 Staging Plan | The objectives of the control are satisfied. |
| Staging Plan | Complies – The proposed subdivision is located within Stage 2 of the Thornton North staging plan and corresponds with the sequencing of land identified in Figure 31 to provide for the timely and efficient release of urban land. |
| 1.2 Transport and Movement | The objectives of the control are satisfied. |
| Each Precinct Plan is to include an overall transport movement hierarchy showing the major circulation routes and connections. | This information has been provided and demonstrates compliance with the DCP. |
| The overall movement hierarchy for each Precinct Plan should be generally consistent with the Figure 30. | The revised development scheme is generally consistent with Figure 30. |
| The overall pedestrian and cycleway links should be generally consistent with the Figure 30. | |
| The primary access for residential development in Stage 1 of the Thornton North URA is to be provided off Raymond Terrace Road or Government Road | N/A as this application relates to Stage 2. |
| A perimeter road (with development on one side only) shall be provided around the edge of the Thornton North URA where it adjoins flood prone land. | N/A as the development footprint is not flood affected. |
| Perimeter roads should also be used adjacent to open space, and areas of high bushfire risk and visual significance. | The proposed perimeter road is adjacent to the riparian corridor. |
| No new lot shall have direct vehicular access to Raymond Terrace Road, Government Road or McFarlanes Road. | No new lots have direct access to Raymond Terrace Road. Appropriate conditions will be included on any development condition issued. |
| Subdivisions adjacent to main roads such as Raymond Terrace Road should orientate allotments and dwellings to face the main road, with suitable internal roads providing access, and suitable landscaping separating the allotment boundaries and main road. | The subdivision design / layout with 10 metre wide landscape buffer to Raymond Terrace Road achieves compliance with this control. |
| 1.3 Overall Landscaping Strategy | The objectives of the control are satisfied. |
| Landscaping will be required on land adjacent to major intersections, all collector roads, the main north/south Boulevard, Raymond Terrace Road and Government Road. | Compliance achieved with the provision of a 10 metre wide landscape buffer to Raymond Terrace Road. |
| The overall landscaping strategy shall provide for a minimum of 10 metres of landscape buffering to Raymond Terrace Road, Government Road and McFarlanes Road (see Figure 1) | |
| The overall landscaping strategy shall provide a minimum of 5 metres of landscaping adjoining Timberlane Estate, within the 15 metre 'no development' buffer. | N/A |
| The overall landscaping strategy shall provide extensive tree planting to the wetland edge, with | N/A |

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| visual breaks where streets terminate in views to the wetlands. | |
| Subdivision and housing design is to take advantage of significant and attractive views overlooking the surrounding rural lands by orienting streets and locating public space to capture views. | The lots facing the riparian corridor have been orientated to take advantage of the natural bush setting. |
| 1.4 Passive and Active Recreation Areas | |
| The network of passive and active recreational areas should be provided generally in accordance with Figure 30 and the associated Section 94 Contributions Plan. | The riparian corridor contains a potential passive open space recreation areas consistent with Figure 30, which will be dedicated to Council. |
| 1.5 Stormwater and Water Quality Management | |
| Controls 1 to 19 inclusive | <p>The objectives of the control are satisfied.</p> <p>It is proposed to remove the large dam/basin from the existing drainage line and reconstruct a drainage channel and riparian corridor to convey upstream flows through the site to the downstream receiving waters.</p> <p>The site falls across two (2) catchments. The northern catchment of the site will be conveyed to the reconstructed channel and riparian corridor via stabilised headwalls to a single basin on the downstream site to the east.</p> <p>The southern catchment will be conveyed to a proposed detention basin to limit the peak flows leaving the site to predeveloped flows before discharging to the existing table drain in the northern verge of Raymond Terrace Road via a stabilised headwall.</p> <p>Council's Senior Development Engineer has reviewed the revised Stormwater Management Plan as acceptable subject to the imposition of the following conditions of consent.</p> <ul style="list-style-type: none"> a) In accordance with the approved stormwater drainage plan/report Revision D, dated 14 May 2024, prepared by ADW Johnson. b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state. c) A stormwater detention system to reduce post-developed discharges to pre-developed |

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| | <p>discharges, for the critical storm up to and including the 1% AEP ("100 year") event.</p> <p>d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.</p> <p>A drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:</p> <p>a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.</p> <p>b) The existing dam shall be decommissioned. A geotechnical report and civil engineers design shall be provided for the new basin wall including any required clay core or equivalent.</p> <p>c) Interallotment and/or public drainage provided to adjoining upstream properties.</p> <p>d) Interallotment drainage to internal lots as required.</p> |
| 1.6 Amelioration of Natural and Environmental Hazards | The objectives of the control are satisfied. |
| Subdivision design and lot layout must ensure that any future residential housing will not be adversely affected by noise or vibrations, particularly from quarry operations, the railway line and traffic along Raymond Terrace Road and Government Road. | <p>Noise from Raymond Terrace Road has been adequately discussed under the SEPP (Transport and Infrastructure) 2021.</p> <p>Furthermore, the quarry is no longer in operation.</p> |
| Independent acoustic and vibration reports shall be submitted with Precinct Plans and | This issue has been adequately discussed under the SEPP (Transport and Infrastructure) 2021. |

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| Development Applications for subdivision identifying potential impacts and mitigating measures. | |
| 1.7 Key Development Sites | The objectives of the control are satisfied. |
| Precinct plans are to include detailed urban design controls for key development sites | This site is not identified as a key development site. |
| <ol style="list-style-type: none"> 1. Development or works within, or adjacent to the land zoned E2 Environmental Protection are to ensure clearing of vegetation is minimised to the satisfaction of Council. 2. Mechanisms are to be put in place with development to ensure the integrity and protection of established vegetation and riparian areas zoned E2 Environmental Protection. Details are to be included in all Development Applications affecting the E2 zone. 3. Development within residential zones must be designed and planned to ensure any APZ's and the like are not required or needed in the E2 Environmental Protection zone. | <p>The proposed development does not impact upon C2 zoned land.</p> <p>Proposed trees to be retained shall be protected in perpetuity through the creation of 88B instruments.</p> <p>Proposed APZ's are contained wholly within the R1 zone.</p> |
| Controls 5 to 8 inclusive and 10-11 inclusive | N/A |
| Development adjacent to Raymond Terrace Road and Government Road must be orientated and dimensioned so as to make provision for housing of a high quality architectural appearance. | Lots 308 to 313 inclusive, and 406 to 407, which adjoin Raymond Terrace Road, have been designed as larger size lots to accommodate the 10m wide landscape buffer. The lots will enjoy a north facing orientation. |
| 1.8 Residential Densities | N/A |
| 1.9 Neighbourhood commercial and retail uses | N/A |
| 1.10 Provision of public facilities and services | Refer to Development Contributions section of the report. |
| Chisholm Central Precinct Plan (refer to Figure 10) | |
|  <p>Figure 10 – Central Precinct Plan</p> | |

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| 1.1 Staging Plan | The objectives of the control are satisfied. |
| All development applications for subdivisions shall include a staged construction plan, where the development is intended to be constructed in stages. | The proposed development is to be constructed in five stages. No concerns raised regarding the sequencing of stages. |
| 1.2 Transport and Movement | The objectives of the control are satisfied. |
| The layout, hierarchy and design of major streets within the precinct should be generally consistent with Figure 1. | The proposed development is generally consistent with Figure 1. |
| Pedestrian paths, cycleways and off-road shared pathways are to be provided within the Precinct to link the residential areas to proposed playground and passive open space and to link to adjoining precincts generally as shown on Figure 1. | |
| A distributor road including on road cycleway and off-road shared pathway shall be provided through the site from Tigerhawk Drive through to the approved developments to the east within the Thornton North – Raymond Terrace Road – Eastern Precinct generally in the location identified on Figure 1 (“East/West Distributor Road”). | |
| A distributor road including on road cycleway and off-road shared pathway, but excluding a dedicated on-road parking lane opposite E3 zoned land, shall be provided from the East/West Distributor Road through to the approved development to the north within the Waterford County North Precinct in the location identified on Figure 1 (“North/South Distributor Road”). | |
| A collector road shall be provided through the site from the approved developments to the east within the Thornton North-Raymond Terrace Road– Eastern Precinct through to the distributor road in the location identified on Figure 1. | A collector road / perimeter road has been provided (road 5), which will connect to the approved development to the east. |
| Roundabouts, including concrete islands, are to be provided at the intersections of distributor and/or collector roads as shown on Figure 1. These shall be contained wholly within one development site. | N/A |
| Subdivision design is to provide for lot frontages addressing streets, reserves, open space and drainage areas. Allotments backing onto reserves, open space, environmental land and drainage areas are discouraged. Where this is unavoidable, boundary fencing shall be of an open style and of consistent materials and colour. Fencing shall not form a prominent element in the landscape of this area. | The proposed subdivision design achieves compliance with this requirement. |
| The Distributor and Collector Roads represent the proposed bus route. Bus stops are to be provided to ensure that each allotment is generally within a 400m walking radius. | Subject to a standard condition of consent. |

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| Local streets shall be orientated towards trunk/bus routes to assist walking distances to bus stops and assist wayfinding. | |
| 1.3 Overall Landscaping Strategy | The objectives of the control are satisfied. |
| Landscaping shall be provided in locations generally in accordance with Figure 1. | Landscape design is generally consistent with Figure 1. |
| A detailed landscape strategy is to be provided to address acoustic buffer areas; riparian/drainage corridors; and open space areas generally in accordance with Figure 1. | The submitted landscape design provides a 10m buffer from Raymond Terrace Road. |
| A vegetation management plan is to be developed prior to the issue of a Subdivision Works Certificate for the riparian/drainage corridors detailing management and enhancement of vegetation communities and habitat. | Subject to a standard condition of consent (refer to BCA 2016 discussion in body of report). |
| The vegetation management plan is to specifically address feed tree species associated with the squirrel glider habitat and include a "nest box" program. | |
| 1.4 Passive and Active Recreation Areas | |
| The network of passive and active recreational areas should be provided. | The proposed riparian corridor will provide passive open space. |
| 4.2 hectares of passive open space shall be provided in accordance with the Thornton North Contributions Plan item TN28 within the E3 Management zoned area. Any development application lodged over this land shall be accompanied by information detailing proposed management/improvement measures for this land including (but not limited to); weeding; re-vegetation, treatment of the first order watercourse, walking tracks and passive recreation nodes (i.e. viewing platform/signage) | |
| A passive open space linkage in accordance with the Thornton North Contributions Plan item TN30 shall be provided in the form of a 2.5 metre wide off-road shared pathway meandering along the riparian drainage corridor adjacent to the East/West Collector Road as shown on Figure 1. | Compliance achieved |
| A 2.5m wide off-road shared pathway shall be provided adjacent to the E3 Zone connecting the Distributor Road to Raymond Terrace Road. | N/A |
| Additional linkages, including crossing of the drainage/riparian corridor may also be provided in consultation with Council. | The design allows for informal crossings. |
| A 2.5m wide off-road shared pathway shall be provided along the Distributor Road. | N/A. |
| Neighbourhood playgrounds are to be provided in accordance with the Thornton North Contributions Plan items TN7 & TN8, generally in the locations identified within Figure 1. | N/A |

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| 1.5 Stormwater and Water Quality Management | The objectives of the control are satisfied. |
| Development applications for subdivisions are to be accompanied by a stormwater management strategy identifying both quality and quantity controls in accordance with Council's MOES and to address timing of construction. | A revised stormwater management plan has been submitted with the application. This plan has been reviewed by Council's engineers as satisfactory (refer to previous comments above). |
| Stormwater management facilities are to be provided as necessary within areas designated as drainage land on Figure 1 | |
| All stormwater facilities are to be dedicated to Council as part of the subdivision process. | |
| Stormwater treatment for Lot 4 DP1145348 shall be provided within this land unless it can be accommodate by other approved/proposed basins in accordance with Council's MOES. | |
| The three detention basins are to be designed together to demonstrate the solution achieves discharge requirements for the stormwater catchment at the precinct discharge point on the eastern edge of Lot 100 DP847510. | N/A |
| A coordinated approach to sequencing, design and construction of those basins that relocate the natural watercourse will be required to demonstrate practical and legal implementation of the stormwater management strategies | N/A |
| 1.6 Amelioration of Natural and Environmental Hazards | The objectives of the control are satisfied. |
| Development Applications are to include a detailed assessment of the flora and fauna characteristics of the site prepared by a suitably qualified ecologist. | This issue has been adequately discussed under the BCA 2016 discussion in the body of report. |
| Riparian buffers shall be maintained around identified watercourses, in accordance with relevant NSW Natural Resources Access Regulator guidelines pertaining to minimum vegetated riparian zone widths. | Refer to integrated discussion in the body of the report. |
| Residential subdivision and associated development is to be designed so as to comply with the relevant standards and criteria for noise and vibration. | This issue has been adequately discussed above. |
| Development on bushfire prone land shall be assessed and designed in accordance with the NSW RFS Planning for Bushfire Protection guidelines. | Refer to integrated development and Section 4.15 (1)(b) of the report. |
| To minimise clearing within the E3 Environmental Management Zone, the Distributor Road may be reduced in width to remove on-street parking within the E3 zone portion of the site. | N/A |
| Land within the flood planning area shall address clause 7.3 of the Maitland Local Environmental Plan 2011. | N/A |

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| All development applications shall demonstrate compliance with the requirements of SEPP 55 - Remediation of Land. | Refer to SEPP (Resilience and Hazards) 2021 discussion in the body of the report. |
| 1.7 Key Development Sites. | The objectives of the control are satisfied. |
| Raymond Terrace Road | |
| A 10m wide landscape buffer is to be provided within the rear of properties adjoining Raymond Terrace Road and can include a combination of earth mounding, acoustic fencing and vegetation in accordance with Figure 5 & 6. Details are to be submitted with any DA for subdivision of the land. Covenants are to be placed on affected land ensuring ongoing maintenance of the required landscaping and associated structures. | The submitted landscape plan achieves compliance with this control. A condition will be imposed to ensure a covenant shall be placed on the affected land to ensure the ongoing maintenance of the required landscaping and associated structures. |
| Individual developments adjacent to Raymond Terrace Road will require an acoustic report for the development of the land that identifies detailed requirements for noise attenuation. | Acoustics have been discussed above. |
| E3 Environmental Management Zone Land | This section is not applicable. |
| 1.8 Residential Densities | N/A |

Section 4.15(1)(a)(iia) – Any planning agreement that has been entered under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No VPA required. This issue has been discussed under Clause 6.1 of the MLEP 2011.

Section 4.15 (1)(a)(iv) - The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Clause 61 of the Environmental Planning and Assessment Regulation 2021 – A condition will be imposed upon any development consent issued to ensure demolition occurs in accordance with Australian Standard AS2601-2001: The demolition of structures.

Section 4.15 (1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The following table identifies and discusses the relevant matters for consideration in relation to environmental, social and economic impacts associated with the proposal, which have **not** been discussed elsewhere in the report:

Matters for Consideration**Bushfire**

The subject site is mapped as bushfire prone land – Vegetation Category 1 & 3 and Vegetation Buffer. Accordingly, the application was referred to the NSW RFS as integrated development. The NSW RFS issued their revised GTA's on 3 April 2024. These GTA's will be included on any development consent issued.

In regard to planning for bushfire, the revised development scheme was accompanied by a revised Bushfire Assessment Report (BAR), Version 5, dated 6 February 2024, prepared by Bushfire Planning Australia. The BAR found the site is currently exposed to a high bushfire hazard located to the north, east and west of the subject site. The predominant vegetation surrounding the site in unmanaged conditions is consistent with a forest, specifically Hunter Macleay Dry Sclerophyll Forest vegetation formation as described in the NSW RFS document Planning for Bushfire Protection 2019 (PBP 2019).

The bushfire hazard is likely to reduce over the next 2-5 years as the remaining land surrounding the subject site zoned for residential use is subdivided and the remaining hazardous vegetation removed. The only remaining vegetation presenting a long-term bushfire hazard is the vegetation contained within the riparian corridor that bisects the subject site.

The BAR concludes the bushfire hazard the proposed development is exposed to can be successfully mitigated by applying a combination of bushfire mitigation measures including temporary (refer to Figure 11) and permanent Asset Protection Zones (APZs) (refer to Figure 12).

The following key recommendations have been designed to enable the proposed development to achieve the aims and objectives of PBP 2019:

- At the issue of a subdivision certificate and in perpetuity, the entire site; with the exception of the land within the proposed riparian corridor (Lot 141), shall be managed as an Inner Protection Area (IPA) as outlined within Appendix 4 of PBP 2019 and the RFS document Standards for asset protection zones.
- A Temporary APZ up to:
 - 14m wide shall be established along the northern boundary of the site;
 - 18m wide shall be established along the western boundary;
 - 19m wide shall be established along the eastern boundary;

as shown in Figure 11 and maintained as outlined in Appendix 4 of PBP 2019 and the RFS document Standards for asset protection zones. Where an APZ is indicated on public land (road reserve), the vegetation is not required to be managed as an APZ;

- At the issue of a subdivision certificate, if the land to the north, east and west of proposed lots impacted by the temporary APZs demonstrated in Figure 11 has not been developed for residential purposes, a restriction to the use of the land pursuant to Section 88B of the Conveyancing Act 1919 must be created over the impacted lots to specify that lots cannot be sold until such times the bush fire hazard is removed. The instrument may be lifted upon commencement of any future proposed development on the adjoining land, but only if the bush fire hazard is removed as part of the proposal. The name of authority empowered to release, vary or modify the instrument shall be Maitland City Council.

- A Temporary APZ shall be established within 100m of future stages within the site in accordance with Appendix 4 of PBP 2019 and the RFS document Standards for APZ.
- Access roads shall be constructed in accordance with the Overall Site Plan.
- Perimeter roads (Road 5) comply with the following general requirements of Table 5.3b of PBP 2019 and the following:
 - 8m wide road width measured kerb to kerb;
 - Hydrants are located clear of parking areas;
 - Curves of roads have a minimum inner radius of 6m;
 - The road crossfall does not exceed 3 degrees; and
 - A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.
- Non-perimeter roads (Roads 1, 2, 4, 6 & 7) located within 100m from the permanent bushfire hazard; as depicted on the Road And Access Hierarchy Plan, shall comply with the following general requirements of Table 5.3b of PBP 2019:
 - 5.5m wide road width measured kerb to kerb;
 - Hydrants are located clear of parking areas;
 - Curves of roads have a minimum inner radius of 6m;
 - The road crossfall does not exceed 3 degrees; and
 - A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.
- All remaining roads located greater than 100m from the permanent bushfire hazard as depicted on the Road And Access Hierarchy Plan (Roads 3, 8, 9, 10, 11 and part of roads 1, 2 & 6) shall be designed and constructed in accordance with the relevant Maitland Council engineering specifications.
- Temporary turning heads must be provided to temporary dead end roads incorporating a turning head in accordance Appendix A3.3 of PBP 2019.
- Vegetation within road verges (including swales) to be consistent with a grassland vegetation classification with tree canopy less than 10% at maturity (and considered unmanaged).
- All future dwellings to be constructed on the proposed lots shall have due regard to the specific considerations given in the National Construction Code: Building Code of Australia (BCA) which makes specific reference to Australian Standard AS3959-2018 Construction of buildings in bushfire prone areas (AS3959-2018) and the NASH Standard Steel Framed Construction in Bushfire Prone Areas.
- All new lots are to be connected to a reliable water supply network and that suitable fire hydrants are located throughout the development site that are clearly marked and provided for the purposes of bushfire protection. Fire hydrant spacing, sizing and pressure shall comply with AS2419.1 2005 and section 5.3.3 of PBP 2019.
- Consideration should be given to landscaping and fuel loads on site to decrease potential fire hazards on site.

- The Rural Fire Service endorse the Subdivision BAL Plan.

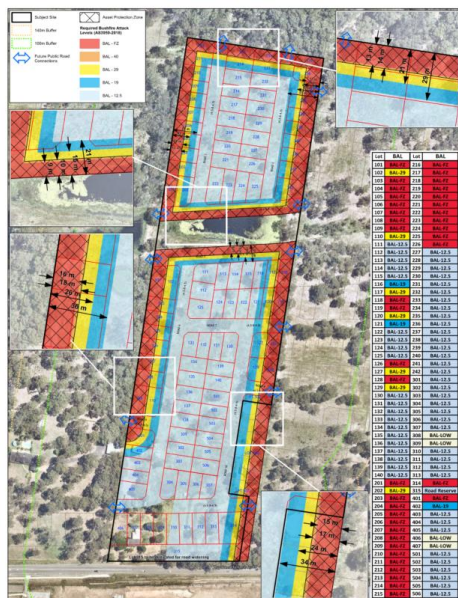


Figure 11 – Temporary subdivision BAL plan

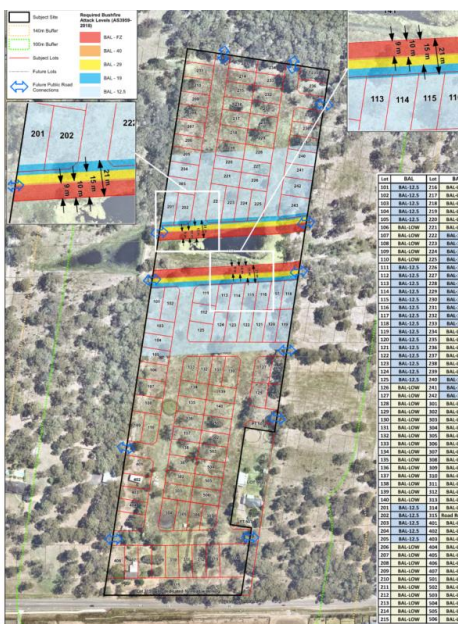


Figure 12 – Permanent subdivision BAL Plan

The recommendations contained within the BAR are generally concurred with and subject to approval, will form an approved document. Furthermore, the NSW RFS have issued their GTA, dated 3 April 2024, supporting the above recommendations which will be included on any development consent issued.

Traffic and Transport

The proposed development is not traffic generating development. However, A Traffic Impact Assessment (TIA) has been prepared by Intersect Traffic, dated 16 March 2023, to support the application.

Access: Access to the site is reliant upon adjoining properties to the east (refer to relevant history of the report). Traffic Control Signals (TCS) are currently under construction at the intersection of Raymond Terrace Road and Government Road, which will provide the northern access leg into the eastern precinct of Chisholm.

Accordingly, a condition is recommended for imposition to ensure that prior to the issue of a Subdivision Certificate, the development must be connected to the public internal road network to the east of the development site dedicated to Council under DA/2019/652, DA/2019/574 and DA/2019/573 and connected (practical completion) to Raymond Terrace Road through the construction of Traffic Controls Signals (TCS) at the intersection of Raymond Terrace Road / Government Road through DA/2019/652.

Internal road design: A number of new internal roads will be constructed as part of the proposed subdivision in accordance with MOES and Planning for Bushfire Protection 2019. Council's Senior Development Engineer has reviewed the revised scheme as acceptable. Road 5 has been designed as the collector / perimeter road in accordance with the adjoining approval to the east.

Traffic: As demonstrated in the submitted TIA, there is adequate capacity available in surrounding road network for traffic generated by the proposed development.

The TIA found that the proposed subdivision would generate an additional 92 vehicle trips per hour (vtp/h) during the AM peak traffic period and 98 vtp/h during the PM peak traffic period. Intersect Traffic have undertaken a growth analysis and SIDRA modelling using a growth rate of 3% up to 2033 and made the following conclusions:

- The local and state road network has capacity to cater for additional traffic associated with new development in the area.
- The local and state road network has sufficient spare capacity to cater for the development traffic generated by this development and other developments in the area without adversely impacting on the levels of service experienced by motorists on the road network through to at least 2033 subject to suitable upgrading of the RTR/Government Road intersection to signalised intersection, which is currently under construction.
- Planned upgrades for other intersections within the catchment will accommodate the proposed development, and contributions towards these as part of the S7.11 contributions will satisfy the developers obligations in this regard.
- The internal road layout proposed will be compliant with MOES.

Public Transport: A bus routes plan has been provided which shows each proposed lot within 400m of a bus stop. A condition has been recommended for imposition to ensure all public bus facilities shall be provided generally at 400m spacings and providing maximum 400m walking distances from surroundings lots. The applicant is to consult with Transport for NSW, the bus service provider and Maitland City Council with regard to location(s) and incorporate recommendations arising from the consultation.

Pedestrian and Cyclist facilities: Adequate pedestrian and cyclist facilities have been accommodated throughout the subdivision to enable connection to the existing infrastructure including:

- 1.5m wide footpaths on one side of all local roads;
- 2.5m wide off-road shared pathways along the collector road.

Construction management

Construction impacts are expected to be short term and limited to the construction program. A Bulk Earthworks Management Plan (BEMP), Construction Management Plan and Construction Dust Management Plan will assist in managing environmental impacts and will be developed by the contractor for approval by Council.

The applicant must implement best practice measures to minimise dust emissions from the site during construction. The site shall be managed to prevent the generation of dust, the measures to be employed.

Noise

Road: Noise from Raymond Terrace Road has been adequately discussed elsewhere in the report (Refer to Transport and Infrastructure SEPP).

Construction: Subject to approval, a standard condition will be imposed to manage noise during the construction phase.

Social and Economic Impact

The proposal will have a positive social and economic impact, both through the promotion of employment and creation of residential land within the TNURA.

The following matters were considered and where applicable have been addressed elsewhere in this report:

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| Context & Setting | Waste |
| Access, transport & traffic | Energy |
| Public domain | Noise & vibration |
| Utilities | Natural hazards |
| Heritage | Technological hazards |
| Other land resources | Safety, security & crime prevention |
| Water | Social impact on the locality |
| Soils | Economic impact on the locality |
| Air & microclimate | Site design & internal design |
| Flora & fauna | Construction |
| Cumulative Impacts | |

Section 4.15 (1)(c) - The suitability of the site for the development

The subject site is located within the Thornton North URA and zoned for residential purposes. The site is identified as bushfire prone land and has been designed in accordance with PBP 2019 to the satisfaction of the NSW RFS. The subdivision footprint is not within a designated mine subsidence district or flood prone area. Issues relating to drainage, stormwater management and erosion and sediment

control have been discussed in this report and will be conditioned accordingly. Discussions in relation to traffic generation and construction management are provided throughout this report, and the proposed road network is considered to be satisfactory. Geotechnical and contamination issues have been addressed and are considered appropriate. The site is considered suitable for the proposed subdivision.

Section 4.15 (1)(d) - Any submissions made in accordance with this Act or the regulations

Public Submissions

The proposal was publicly notified/advertised for a period of 28 days in accordance with the Act and MDCP 2011 with no submissions received.

Government Agency Submissions

General terms of approval (GTA's) have been provided by the following government agencies on the basis that the development is classified as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*. A summary of the requirements of each government agency is provided in the following table:

| Government Agency Submissions (GTA's) | | |
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| Responding Agency | Section/Act under which GTA's are provided | Summary of requirements |
| DPE-W | Water Management Act 2000 | DPE-W have issued their GTA's, dated 28 November 2023, subject to the following conditions, which will be included on any development consent issued: |
| <p>TC-G001 Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.</p> <p>TC-G004 A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA/2023/433 provided by Council to Department of Planning and Environment-Water.</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.</p> <p>TC-G005 A. The application for a controlled activity approval must include the following plan(s):</p> <ul style="list-style-type: none"> • Site plans • Detailed civil construction plans - for works on waterfront land • Construction staging plans • Construction streamworks plans • Soil and water management plan - with the proposed sediment basin relocated off-line • Vegetation management plan • Itemised VMP Costings • Civil and Streamworks Itemised Costings - for watercourse reconstruction <p>B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines</p> <p>TC-G006 A. A security deposit must be provided, if required by Department of Planning and Environment-Water.</p> <p>B. The deposit must be:</p> <ul style="list-style-type: none"> • a bank guarantee, cash deposit or equivalent, and • equal to the amount required by Department of Planning and Environment-Water for that controlled activity approval. | | |

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|--|---------------------------------------|--|
| NSW RFS | Section 100B(1) of the Rural Fire Act | The NSW RFS have issued their revised GTA's, dated 3 April 2024, under Division 4.8 of the Act, and a Bush Fire Safety Authority, under section 100B of the Rural Fires Act 1997, subject to the following conditions, which will be included on any development consent issued: |
| <p>General Conditions</p> <p>Asset Protection Zones</p> <p><i>The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.</i></p> <p>1. At the issue of a subdivision certificate and in perpetuity, the entire site with the exception of the land within the proposed riparian corridor (Lot 141), must be managed as an inner protection area in accordance with the requirements of Appendix 4 of <i>Planning for Bush Fire Protection 2019</i>.</p> <p>When establishing and maintaining an inner protection area, the following requirements apply:</p> <ul style="list-style-type: none"> • tree canopy cover should be less than 15% at maturity; • trees at maturity should not touch or overhang the building; • lower limbs should be removed up to a height of 2 m above the ground; • tree canopies should be separated by 2 to 5 m; • preference should be given to smooth-barked and evergreen trees; • large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings; • shrubs should not be located under trees; • shrubs should not form more than 10% ground cover; • clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation; <ul style="list-style-type: none"> • grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and • leaves and vegetation debris should be removed regularly. <p>2. At the issue of a subdivision certificate, if the land immediately to the north, east and/or west of the subject site has not been developed and the bush fire hazard removed, a suitably worded instrument(s) pursuant to Section 88B of the <i>Conveyancing Act 1919</i> is required to create Asset Protection Zones (APZs) as shown in Figure 20 of the bush fire assessment report prepared by Bushfire Planning Australia (Ref: 22114 - Chisholm, dated 06 February 2024), prohibiting the construction of buildings, other than class 10b structures, within the proposed APZs for a distance of:</p> <ul style="list-style-type: none"> • 14 metres wide along the northern boundary of the subject site; • 18 metres wide along the western boundary of the site; and • 19 metres wide along the eastern boundary of the site; <p>The instrument may be lifted upon commencement of any future proposed development on the adjoining land but only if the bush fire hazard is removed as part of the proposal. The name of the authority empowered to release, vary, or modify the instrument shall be Maitland Council. The APZ must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of <i>Planning for Bush Fire Protection 2019</i>.</p> <p>Note: This APZ includes the entirety of the proposed lots 401, 101-110, 118,119, 126 -129, 201, 203-213, 234-243, and 314 which can be developed once the temporary APZs are extinguished following the removal of the hazard on adjoining land.</p> | | |

Access – Public Roads

The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3. Access roads shall be constructed in accordance with the Overall Site Plan prepared by ADW Johnson (Dwg Ref: 190873-DA-004 Revision C dated 8 December 2023).

4. Access roads must comply with the following general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- subdivisions of three or more allotments have more than one access in and out of the development;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 1 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
- all roads are through roads;
- dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;
- where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
- where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access must be provided to an alternate point on the existing public road system;
- the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes);
- bridges/causeways are to clearly indicate load rating;
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;

- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - *Fire hydrant installations System design, installation and commissioning*; and
- there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.

5. Perimeter roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- Minimum 8m wide road width measured kerb to kerb;
- hydrants are located clear of parking areas;
- curves of roads have a minimum inner radius of 6m;
- the road cross fall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.

6. Non-perimeter roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- Minimum 5.5m wide road width measured kerb to kerb;
- hydrants are located clear of parking areas;
- curves of roads have a minimum inner radius of 6m;
- the road cross fall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.

7. Temporary turning heads must be provided to temporary dead end roads incorporating either a minimum 12 metre radius turning circle or turning heads compliant with A3.3 *Vehicle turning head requirements of Planning for Bush Fire Protection 2019*. The turning areas may be removed upon opening of future proposed through roads.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

8. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in *ISSC3 Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;

- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

9. Landscaping within the site must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- Planting does not provide a continuous canopy (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

- Development applications lodged on lots created within this subdivision may be subject to further assessment under the *Environmental Planning & Assessment Act 1979*. Future dwellings are required to address the requirements of *Planning for Bush Fire Protection 2019*.

| Government Agency Submissions (Comments) | | |
|--|--|---|
| Responding Agency | Section/Act under which comments are required | Summary of Comments |
| Ausgrid | Clause 2.48 of the SEPP (Transport and Infrastructure) 2021 | Refer to SEPP (Transport and Infrastructure) 2021 discussion. |
| TfNSW | Clause 2.119 and 2.120 of the SEPP (Transport and Infrastructure) 2021 | |

Section 4.15(1)(e) - The public interest

The proposed development is considered to be in the public interest.

The proposal is unlikely to impact on any Federal, State and Local Government or community interests.

Hunter Regional Plan 2036/Greater Newcastle Metropolitan Plan 2036

The development is consistent with the goals and outcomes expressed in both documents as they relate to housing supply. The subdivision of land within the Thornton North URA will release land to provide for additional housing opportunities within the Hunter Region.

OTHER APPROVALS

The proposal does not require the Council to grant consent under legislation outside of the Act.

REFERRALS

- Building
- Development Contributions
- Ecology
- Engineering
- Environment Health
- Waste

All referrals are discussed in relevant sections of the report.

ASSESSMENT CONCLUSION

An assessment of the application has been undertaken against Section 4.15(1) of the Act. The proposed development is considered acceptable in terms of the relevant matters for consideration under the Act and the development application is recommended for approval.

RECOMMENDATION AND DETERMINATION

Consent be granted subject to the conditions provided in Attachment 4 – Schedule of conditions.

Officers Reports

**DA 2023/433 FOR DEMOLITION, ONE INTO
109 LOT TORRENS TITLE RESIDENTIAL
SUBDIVISION, TWO DRAINAGE RESERVES,
ONE RESIDUE LOT, ONE ROAD WIDENING
LOT, CONSTRUCTED IN FIVE STAGES AT 523
RAYMOND TERRACE ROAD, CHISHOLM
(LOT 100 DP847510)**

**Conditions of Consent (Under Separate
Cover)**

Meeting Date: 27 August 2024

Attachment No: 4

Number of Pages: 33

Attachment 4 – Schedule of conditions regarding DA/2023/433 at 523 Raymond Terrace Road, Chisholm

SUBDIVISION (TORRENS) - MAJOR

Reason for Conditions

The following conditions are applied to:

- Confirm and clarify the terms of Council's Approval;
- Identify minor modifications and additional requirements that will result in improved compliance, development and environmental outcomes; and
- Draw to the attention of the applicant and owner their responsibility to comply with the requirements of various legislation including but not limited to the Environmental Planning and Assessment Act, 1979, Local Government Act 1993; relevant Regulations; Building Code of Australia, Australian Standards and Local Policies relating to development works, building construction and protection and enhancement of public health and the environment.

APPROVED PLANS AND DOCUMENTATION

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

| Revised Subdivision Plans prepared by: ADW Johnson, project number 190873: | | | |
|--|----------------|-------|--------------|
| Name of Plan | Drawing Number | Issue | Date |
| Cover sheet, index of drawings and locality sketch | DA-001 | D | 30 July 2024 |
| Overall site plan | DA-002 | D | 30 July 2024 |
| Overall master plan | DA-004 | D | 30 July 2024 |
| Staging plan | DA-005 | D | 30 July 2024 |
| Detail plan sheet 1 | DA-006 | D | 30 July 2024 |
| Detail plan sheet 2 | DA-007 | D | 30 July 2024 |
| Detail plan sheet 3 | DA-008 | D | 30 July 2024 |

| Generally in accordance with revised Engineering Plans prepared by: ADW Johnson, project number 190873: | | | |
|---|----------------|-------|--------------|
| Name of Plan | Drawing Number | Issue | Date |
| Cover sheet, index of drawings and locality sketch | CENG-001 | E | 30 July 2024 |
| Overall site plan | CENG-002 | E | 30 July 2024 |
| Staging plan | CENG-003 | E | 30 July 2024 |
| Demolition plan | CENG-004 | E | 30 July 2024 |
| Detail plan – sheet 1 | CENG-101 | E | 30 July 2024 |
| Detail plan – sheet 2 | CENG-102 | E | 30 July 2024 |
| Detail plan – sheet 3 | CENG-103 | E | 30 July 2024 |
| Typical road cross sections and details | CENG-201 | E | 30 July 2024 |
| Road longitudinal section – road | CENG-211 | E | 30 July 2024 |

| | | | |
|--|----------|---|--------------|
| No.1 | | | |
| Road longitudinal section – road No.2 and No.3 | CENG-212 | E | 30 July 2024 |
| Road longitudinal section – road No.4 | CENG-213 | E | 30 July 2024 |
| Road longitudinal section – road No.5 | CENG-214 | E | 30 July 2024 |
| Road longitudinal section – road No.6 | CENG-215 | E | 30 July 2024 |
| Road longitudinal section – road No.7 | CENG-216 | E | 30 July 2024 |
| Road longitudinal section – road No.8 and No.9 | CENG-217 | E | 30 July 2024 |
| Road longitudinal section – road No.10 | CENG-218 | E | 30 July 2024 |
| Road longitudinal section – road No.11 | CENG-219 | E | 30 July 2024 |
| Site regrade plan | ENG-501 | E | 30 July 2024 |
| Site sections – Section A-A-Sheet 1 | ENG-511 | E | 30 July 2024 |
| Site sections – Section A-A-Sheet 2 | ENG-512 | E | 30 July 2024 |
| Site sections – Section B-B-Sheet 1 | ENG-513 | E | 30 July 2024 |
| Site sections – Section B-B-Sheet 2 | ENG-514 | E | 30 July 2024 |
| Site sections – Section C-C | ENG-515 | E | 30 July 2024 |
| Site sections – Section D-D | ENG-516 | E | 30 July 2024 |
| Site sections – Section E-E | ENG-517 | E | 30 July 2024 |
| Erosion and sediment control plan – Sheet 1 | ENG-601 | E | 30 July 2024 |
| Erosion and sediment control details | ENG-611 | E | 30 July 2024 |

| Landscape plan prepared by: ADW Johnson | | | |
|---|----------------|-------|------|
| Name of Plan | Drawing Number | Issue | Date |
| General arrangement plan | LA-101 | - | - |
| Part site plan 1 | LA-102 | - | - |
| Part site plan 2 | LA-103 | - | - |
| Part site plan 3 | LA-104 | - | - |
| Riparian corridor plan | LA-105 | - | - |
| Landscape buffer plan | LA-106 | - | - |
| Detention basin plan | LA-107 | - | - |
| Street sections | LA-200 | - | - |
| Typical details | LA-300 | - | - |
| Street tree imagery and plant schedules | LA-400 | - | - |
| Riparian corridor imagery and | LA-401 | - | - |

| | | | |
|---|--------|---|---|
| plant schedules | | | |
| Landscape buffer imagery and plan schedules | LA-402 | - | - |
| Detention basin imagery and plan schedules | LA-403 | - | - |

| Tree retention plan prepared by: ADW Johnson | | | |
|--|----------------|-------|--------------|
| Name of Plan | Drawing Number | Issue | Date |
| Overall Tree Retention Plan | 190873-ESK-008 | A | 30 July 2024 |

| Document | Reference / Revision | Author | Date |
|--|----------------------|------------------------------------|-----------------|
| Stormwater Management Plan | Revision D | ADW Johnson | 14 May 2024 |
| Preliminary Geotechnical Investigation Report | EP3045.001 | EP Risk | 18 April 2023 |
| Preliminary Site Investigation Report | EP3045.002 | EP Risk | 18 April 2023 |
| Revised Biodiversity Development Assessment Report | 2713 revision 6 | AEP | 2 August 2024 |
| Revised Bushfire Assessment Report | Version 5 | Bushfire Planning Australia | 6 February 2024 |
| Traffic Impact Assessment | 23/029 issue E | Intersect Traffic | 16 March 2023 |
| Noise Assessment Report | 212251R | Spectrum Acoustics | March 2023 |
| Aboriginal Cultural Heritage Assessment | J202312 ACHA | McCardle Cultural Heritage Pty Ltd | 9 May 2023 |

CONTRIBUTIONS & FEES

2. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 the Thornton North Development Contributions Plan 2008 and the Maitland City Wide Development Contributions Plan 2016, a contribution of **\$3,072,917.43** shall be paid to the Council.

The contribution is calculated from Council's adopted Development Contributions Plans in the following manner:

| Facility | Per Lot | Total |
|--|--------------------|-----------------------|
| | 1 | 108 |
| TN Rec & Open Space | \$5,437 | \$587,196 |
| TN Road & Traffic | \$17,068 | \$1,843,344 |
| <i>Less Offset for Land Dedication TN 38</i> | <i>\$1,545.06</i> | <i>\$166,866.57</i> |
| <i>Revised Road & Traffic</i> | <i>\$15,522.94</i> | <i>\$1,676,477.43</i> |
| TN Community Facilities | \$1,724 | \$186,192 |
| TN Cycleways/Shared Paths | \$188 | \$20,304 |
| TN Management/Admin | \$443 | \$47,844 |
| CW Aquatics | \$928 | \$100,224 |
| CW Library Floor Space | \$588 | \$63,504 |
| CW Road & Traffic | \$3,074 | \$331,992 |
| CW Cycleways/Shared Paths | \$548 | \$59,184 |
| TOTAL Less Offsets | \$28,452.94 | \$3,072,917.43 |

The above contributions may be indexed quarterly with reviewed rates to apply following release of CPI indices by the Australian Bureau of Statistics for each quarter. Please refer to Council's web page for the current rates applicable.

Note: At the time of issue the contributions levied in the Thornton North Urban Release Area were capped at \$30,000 per new residential lot. Any legislated cap will be honoured unless legislative changes take place.

Payment of the above amount is required prior to issue of the Subdivision Certificate in each Stage of the development.

Should a Works in Kind Agreement be entered into for the following items, offsets/reimbursements will be provided in accordance with the Thornton North Development Contributions Plan and any such Works in Kind Agreement.

- TN 29 – Part – Passive Open Space
- TN30 – Various Linear Linkages Shared Pathway

This condition has been applied to ensure that:

- Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
 - Council's administration expenses are met with respect to the processing of the application.
3. **Prior to the issue of the Subdivision Certificate**, "house numbering" and "subdivision certificate" fees, in accordance with Council's *Schedule of Fees and Charges*, shall be paid to Council.

STAGING

- The development shall be carried out in five consecutive stages as shown on the approved staging plan as follows:

- Stage 1: 40 Lots (Lots 101 to 141) and 1 drainage reserve (Lot 141);
- Stage 2: 43 Lots (Lots 201 to 243);
- Stage 3: 13 Lots (Lots 301 to 313) and 1 drainage reserve (Lot 314) and 1 road widening (Lot 315);
- Stage 4: 7 Lots (Lots 401 to 407);
- Stage 5: 6 Lots (Lots 501 to 507) and 1 residue lot (Lot 507).

CERTIFICATES & REPORTS

5. **Prior to issue of the Subdivision Certificate**, plans and/or documents of survey/title, shall be submitted to Council.

The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent DA/2023/433 and of compliance with the relevant conditions of consent.

6. **Prior to issue of the Subdivision Certificate**, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:

- classifying each lot in accordance with Australian Standards AS 2870, and
- verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing "level 1" inspection and testing.

7. **Prior to issue of the Subdivision Works Certificate for earthworks or road construction**, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.

UTILITY SERVICES

8. Underground water, sewerage, telecommunications and electrical power services shall be reticulated for each lot in accordance with the service provider's requirements.

9. Street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:

- Generally based on Australian Standard AS 1158 categories PR4,
- providing "cut-off" luminaries (such as "Aeroscreen" or similar)

10. Any necessary alterations to public utility installations being at the developer's expense and to the requirements of both Council and the relevant authority.

11. **Prior to issue of the Subdivision Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.

Note: Where the proponent enters into an interim arrangement with Hunter Water for the provision of temporary sewerage disposal a copy of the agreement between Hunter Water and the proponent shall also be provided to the Council prior to the issue of the Subdivision Certificate.

12. **Prior to issue of the Subdivision Certificate**, documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.
13. **Prior to issue of the Subdivision or Subdivision Works Certificate in connection with a development**, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- i. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- and
- ii. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

VEGETATION & LANDSCAPING

14. **Prior to the issue of the Subdivision Works Certificate for road construction**, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The landscape plan shall include:
- a) Be generally in accordance with the approved plans referenced in condition 1 and designed by a suitably accredited landscape architect.
 - b) The detailed landscape plan shall ensure consistency with the approved subdivision pattern and tree retention plan.
 - c) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.
 - d) Street trees shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planning) include details of the height and spread at maturity (of the approved species).
- Landscaping of any existing or proposed public land shall include:*
- e) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries for boundary maintenance purposes with maximum slope of 5H:1V.
 - f) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
 - g) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.
- Landscaping of water quality systems*
- h) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.
15. **Prior to the issue of the Subdivision Certificate**, the applicant shall provide to the Council either:
- a) A copy of a 'landscape maintenance agreement' with a qualified landscape contractor to secure maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan; or

- b) Provide a landscape maintenance bond to the Council for the maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan.

***Note:** The applicant shall provide three quotations from qualified landscape consultants for the landscape maintenance work and the amount of the bond is to be determined having regard to these quotations.*

- 16. **Prior to the issue of the Subdivision Certificate** all landscaping shall be undertaken in accordance with the approved landscape plans.
- 17. **Prior to the issue of the Subdivision Certificate**, the site shall be cleared of all trees:
 - within the road reserve
 - along proposed lot boundaries
 - within approved building “envelopes”

Note: All trees shall be retained in accordance with the approved tree retention plan.

- 18. **Prior to commencement of works**, an eradication report for noxious and environmental weeds shall be provided to, and approved by Council, by a suitably qualified professional. The report shall include the proposed public reserve, drainage reserve and/or creek waterways.
- 19. **Prior to issue of the Subdivision Certificate**, noxious and environmental weeds shall be destroyed or removed from within the proposed public reserve and/or creek waterways, in accordance with the requirements of an approved eradication report. Certification shall be provided by a suitably qualified professional.

BIODIVERSITY

- 4. Prior to the commencement of any clearing works, a qualified ecologist shall inspect, supervise and report to Council regarding the removal and relocation of any threatened fauna species, which in the professional opinion of the ecologist, require such removal and relocation.
- 21. **Biodiversity Offset Scheme – Ecosystem Credit Retirement**

The class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the commencement of clearing works. The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

| Impact plant community type | No. of ecosystem credits | IBRA sub-region | Plant community type(s) that can be used to offset impacts of development |
|---|--------------------------|--|--|
| 1598-Forest Red Gum grassy open forest on floodplains of the lower Hunter | 5 | Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, | Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions This includes PCT's: 1591, 1598, 1603, 1605, 1691, |

| | | | |
|---|----|---|--|
| | | Upper Hunter, Wyong and Yengo. | 1692, 1749, 3328, 3446, 3634 |
| 1736-Water Couch – Tall Spike Rush freshwater wetland of the Central Coast and lower Hunter | 9 | Or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions. This includes PCT's: 780, 781, 782, 1071, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1911, 3958, 3958, 3962, 3964, 3965, 3967, 3971, 3973, 3975, 3976 |
| 1600-Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box shrub-grass open forest of the lower Hunter | 44 | | Hunter-Macleay Dry Sclerophyll Forests This includes PCT's: 1178, 1589, 1600, 1601, 3431, 3442, 3446 |

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to commencement of clearing works.

22. Biodiversity Offset Scheme – Species Credit Retirement

The class and number of species credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the commencement of works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

| Impacted species credit species | Number of species credits | IBRA sub-region |
|--|---------------------------|-----------------|
| <i>Myotis macropus</i> / Southern Myotis | 58 | Any in NSW |

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the commencement of clearing works.

23. Biodiversity Management Plan Development

Prior to the commencement of any clearing works, a Biodiversity Management Plan (BMP) must be prepared by a suitably qualified person in consultation with Council. The BMP may form part of a Construction Environmental Management Plan. It shall include (but not be limited to) the following minimum detail:

- Clearing Strategy developed in accordance with 'Guide 1: Pre-clearing process', 'Guide 4: Clearing of vegetation and removal of bushrock', and 'Guide 9: Fauna handling' in *Biodiversity*

Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects (Transport for NSW, 2024). At minimum, the Clearing Strategy shall include:

- Proposed pre-clearing and pre-demolition survey actions;
 - Proposed timing of clearing and demolition commencement, and pre-clearing checks;
 - Proposed vegetation clearing methodology;
 - Monitoring and reporting requirements.
- Artificial Hollow Plan, including:
 - The size, type and quantity of natural tree hollows to be removed;
 - Target species and the design of artificial hollows;
 - Maps of existing natural hollows and planned artificial hollow installation locations;
 - Monitoring and reporting requirements.
- Dam Dewatering Strategy, including:
 - Dewatering process;
 - Protection of aquatic fauna and proposed fauna relocation measures.
- Identification of trees/vegetation to be retained and proposed actions to minimise damage such as installation and maintenance of exclusion fencing where adjoining the construction boundary.
- Protection of Retained Trees Plan - Trees that have been identified for retention shall be protected by the establishment of a Tree protection zone (in accordance with Australian Standard AS4970-*Protection of trees in development sites*) prior to the commencement of any site works. A minimum 1.8m high barrier must be installed around the perimeter of the stated Tree Protection Zone prior to commencement of works. The protection zone shall be maintained for the duration of works. No excavation or construction shall be carried out within the stated *Structural Root Zone* distances from the base of the trunk surface.
- Appropriate weed control measures, including:
 - Weed management priorities and objectives.
 - Location of weed-infested areas.
 - Measures to prevent the spread of weeds.
 - Procedures for onsite weed treatment (e.g. composting) and reuse, and/or offsite weed disposal.
 - Communication strategies to improve contractor awareness of weeds and weed management.
- Machinery, plant and equipment hygiene protocol

The BMP shall be submitted to and approved by Council's Manager Environment and Sustainability prior to the issue of any Subdivision Works Certificate.

24. Artificial Hollow Installation

Prior to commencement of works, artificial hollows shall be installed in accordance with the Artificial Hollow Plan (as outlined in the BMP) at a ratio of 2:1 per hollow removed from site. At least 50% shall be salvaged hollows and/or hollow augmentation, except where large hollows are being replaced. All artificial hollows shall be installed at least two weeks prior to vegetation clearing

(except where salvaged hollows from site are being used) and shall be maintained as needed for five years.

Artificial hollows should be installed:

- As close as possible to the location of the removed hollow-bearing tree. Nearby Council-owned land may be used for hollow installation where there is no suitable location remaining on site (requires approval by the Manager Environment and Sustainability).
- With an orientation that considers the target species' needs.
- To avoid trees with existing hollows as the presence of other hollow-dependent fauna may act as a deterrent or may compete for the nest boxes.
- With an attachment method which is appropriate for each artificial hollow type and allows for tree growth.
- Of a type and design to suit the target species in accordance with the Artificial Hollow Plan. If nest boxes are to be used, they should be constructed of a durable material (i.e., marine ply or equivalent), minimum thickness of 19mm.
- Salvaged hollows are to be capped on either end and an entrance hole created if required.

Artificial hollow location and evidence of installation shall be provided to the Manager Environment and Sustainability prior to commencement of clearing works. Where salvaged hollows are to be installed, evidence of installation and location may be provided to the Manager Environment and Sustainability within two weeks after clearing works, unless otherwise agreed by the Manager Environment and Sustainability.

25. Vegetation Management Plan Development

A 5-year Vegetation Management Plan (VMP) must be developed for the areas identified for rehabilitation on the approved plans including the rehabilitation of 20m (plus channel width) vegetated riparian zone of waterway. The VMP must be prepared by a qualified restoration ecologist or bush regenerator in consultation with Council. The VMP shall include (but not be limited to) the following minimum detail:

- Goals, objectives, and completion criteria
- Identification of management zones in text and on a site plan, including:
 - identification of management actions and outcomes for each management zone
 - existing vegetation condition including existing weed density
- Detailed works schedule for a minimum of five (5) years including species list, planting density, timing
- Proposed weed management strategies
- Monitoring and reporting requirements for a period of five years
- Adaptive management actions to be employed if completion criteria are not met within five years. This shall include continuation of VMP management until actions and outcomes are achieved (or a suitable alternative is approved by Council's Manager Environment and Sustainability).

The VMP shall be submitted to and approved by Council's Manager Environment and Sustainability prior to issue of any Subdivision Works Certificate.

Annual monitoring reports are to be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years.

26. Signage for Retained Habitat Trees

Retained hollow-bearing trees (HBTs) and trees with DBH of 80cm and greater which are listed in Appendix A (2) – Overall Tree Retention Plan within the Biodiversity Development Assessment Report V06, dated 2 August 2024, prepared by Anderson Environment and Planning shall have signs indicating the tree has been retained for wildlife habitat, affixed at 2.5m AGL. The sign shall be approximately 150mm x 150mm and shall be constructed from durable, weather-resistant materials such as powder coated steel or aluminium. Fastenings shall be of a type and size that minimise long-term damage to the tree.

Signage design shall be provided by Maitland City Council prior to provision of Subdivision Works Certificate.

Evidence of installed signage shall be submitted to and approved by Council prior to issue of a Subdivision Certificate.

27. Clearing Strategy Implementation

Implementation of the Clearing Strategy (as outlined in the BMP) shall be undertaken by a qualified ecologist and commence prior to clearing of any vegetation or demolition of structures. Removal of trees with habitat features and structures identified during pre-clearance surveys as providing fauna habitat (e.g., microbats) shall be undertaken at a time that minimises impact to fauna.

A staged habitat removal process in accordance with 'Guide 4: Clearing of vegetation and removal of bushrock' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024) shall be used when identified habitat features are to be removed. Soft fall techniques and sectioning of hollow limbs/trunks shall be applied to all hollow-bearing trees.

Once clearing of habitat features has been completed, a report shall be provided to Council's Manager Environment and Sustainability verifying compliance with the Clearing Strategy prior to commencement of works.

28. Vegetation Management Plan Monitoring

Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability for a minimum period of five (5) years verifying compliance with the VMP.

29. Artificial Hollow Monitoring

Artificial hollows shall be monitored by a qualified ecologist to determine their usage and repairs or replacement (as required). Monitoring shall be carried out on an annual basis for a minimum period of five years following installation and/or as otherwise agreed with Maitland City Council. Annual monitoring statements shall be provided to Council's Manager Environment and Sustainability.

30. Prior to issue of the Subdivision Certificate, an Asset Protection Zone (APZ) shall be created in accordance with the requirements of the Rural Fire Service.

RETENTION OF TREES

31. **Prior to issue of the Subdivision Certificate**, trees to be retained in accordance with the approved tree retention plan shall be retained and protected in perpetuity by entering into a suitable instrument pursuant to 88B of the Conveyancing Act 1919 prior to the issue of a Subdivision Certificate.

Evidence shall be submitted to and approved by Council prior to issue of a Subdivision Certificate.

ARCHAEOLOGY

32. Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted to Council.

BATTERS AND RETAINING WALLS

33. No retaining walls are approved within existing or future dedicated public land including road reserves. All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
34. Retaining walls on common boundaries shall be in accordance with the approved retaining plan. No walls shall exceed the maximum height of 1.5m. Engineering certification is required for walls equal to or higher than 1.0m.

TRAFFIC AND TRANSPORT

35. **Prior to the issue of a Subdivision Certificate for Stage 1**, the development must be connected to the public internal road network to the east of the development site dedicated to Council under DA/2019/652, DA/2019/574 and connected (practical completion) to Raymond Terrace Road through the construction of Traffic Controls Signals (TCS) at the intersection of Raymond Terrace Road / Government Road through DA/2019/652.
36. **Prior to the issue of a Subdivision Works Certificate for Stage 1**, the Subdivision Works Certificate for DA/2019/574 must be issued and include construction of Road 5 to full width across both Subdivision Works Certificates.
37. **Prior to the issue of a Subdivision Works Certificate for Stage 2**, the Subdivision Works Certificate for DA/2019/574 must be issued and include construction of Road 4 to full width across both Subdivision Works Certificates.
38. **Prior to the issue of the Subdivision Certificate** the subdivision construction shall be carried out in the numerically consecutive stages as shown on the approved staging plan. Specific works shall be completed by the following thresholds:
- a) Stage 1 shall include construction of Road 5 to the site's western boundary (common boundary with Lot 31 DP778111.
 - b) Stage 1 shall include dedication of drainage reserve Lot 141 including construction of the proposed detention basin.
 - c) Stage 2 shall include construction of Road 4 to the site's western boundary (common boundary with Lot 31 DP778111.

- d) Stage 3 shall include dedication of drainage reserve Lot 314 including construction of the proposed detention basin.

39. **Prior to the issue of the Subdivision Certificate** kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards.
40. **Prior to the issue of the Subdivision Works Certificate** the following road hierarchy shall apply to all roads, (including widths, pavement design and the like) in accordance with Council's Manual of Engineering Standards:

Where a Geotechnical engineer determines high expansive soils with a ($\geq 2.5\%$ swell) or poor CBR ($< 2\%$) are present within 1 metre below design subgrade, a capping layer of homogeneous select material shall be added to the pavement design and construction plans. The swell, pavement design and the select material specification shall be considered and justified against Austroads Guide to Pavement Technology (AGPT) Part 2, 4I, 8 and the RMS Supplement to AGPT2, including a 10 day soak. The adjusted pavement design shall be based on the CBR of the selected subgrade material at 'in-service moisture and density conditions' to stop premature pavement distress and to achieve the design life of the pavement. Note: A minimum, but not limited to, 300mm select material shall be added to the minimum pavement thickness for either swell and/or poor CBR.

| ROAD TYPE | ROAD DESCRIPTION | Comments (shared paths, etc) |
|-----------------------|------------------|------------------------------|
| Local - Primary | All other roads | |
| Collector - Secondary | Road 4, 8, 11 | |
| Collector- Primary | Road 5 | 2.5m shared path |

Note: where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

41. **Prior to the issue of the Subdivision Certificate** public bus facilities shall be provided generally at 400m spacings and providing maximum 400m walking distances from surroundings lots. The applicant is to consult with Transport for NSW, the bus service provider and Maitland City Council with regard to location(s) and in corporate recommendations arising from the consultation. The works shall include:
- a) Opposing bus stops (concrete slabs) generally placed on the departure side of intersections and refuges;
 - b) kerb indents provided for rural roads and narrow urban roads;
 - c) concrete centreline refuge and concrete blisters in the parking lanes;
 - d) connecting footpaths, pram ramps, line marking, signage and associated works;
 - e) street lighting on each vehicle approach side.
 - f) bus shelter(s) shall be provided at (*)
42. **Prior to the issue of the relevant Subdivision Works Certificate or Roads Act Approval**, any required (traffic) Regulatory line marking and signage shall be approved by **Council's Local Traffic Committee**.
Note: Please allow three months from lodgement for the LTC process. All recommendations of the committee shall be incorporated into approvals and works.
43. **Prior to the issue of a Subdivision Certificate** temporary turning heads, relevant signage and markers for all terminating roads shall be provided. Turning heads shall comply with:

- a) 16.0m minimum radius for bush fire route and trunk road systems shall be provided for bush and heavy vehicles on the end of road 5 for stage 1.
- b) 10.0m minimum radius shall be provided on local and minor streets in accordance with Council's Manual of Engineering Standards.

44. **Prior to issue of a Subdivision Works Certificate** any major utilities facilities, (water sewer, telecommunications items larger than individual lot scale provisions) shall be clearly shown on the construction drawings. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.

STORMWATER DRAINAGE

45. A drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:
- a) In accordance with the approved stormwater drainage plan/report Revision D, dated 14 May 2024, prepared by ADW Johnson.
 - b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state.
 - c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event.
 - d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.
46. Specific drainage requirements shall include the provision of:
- a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
 - b) The existing dam shall be decommissioned. A geotechnical report and civil engineers design shall be provided for the new basin wall including any required clay core or equivalent.
 - c) Interallotment and/or public drainage provided to adjoining upstream properties.
 - d) Interallotment drainage to internal lots as required.
47. A suitably qualified geotechnical engineer shall supervise the decommissioning of the existing farm dam to ensure any contamination is identified and actioned appropriately. Where contamination is found during the decommissioning, an action plan is to be provided to, and approved by Council, prior to undertaking the decontamination works.
48. **Prior to issue of the Subdivision Certificate for stage 1**, certification from a suitably qualified geotechnical engineer shall be provided confirming that any contamination at the decommissioned farm dam site has been removed.
49. **Prior to the issue of the Subdivision Works Certificate**, a copy of the controlled activity approval under the Water Management Act 2000 shall be provided to Council for the proposed works within and adjacent to the riparian corridor,
50. **Prior to issue of the Subdivision Certificate**, the detention/water quality system shall be dedicated to Council at Stage 1 and 3 of the development.

EROSION CONTROL AND BULK EARTHWORKS

51. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, *"Managing Urban Stormwater"* shall be submitted as part of the Subdivision Works Certificate application.
52. **Prior to the issue of a Subdivision Works Certificate for subdivision works** a Bulk Earthworks Management Plan (BEMP) is required to be submitted to Council for approval. The BEMP must include a report from a suitably qualified engineer that examines and determines:
- a) the extent of bulk earthworks required for the construction of each stage
 - b) how stockpiles will be managed during construction
 - c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations
 - d) stock pile dimensions and stabilisation measures
 - e) site haulage routes and movement for each stage
 - f) how fill will be managed in the floodway during construction
 - g) any specific requirements relating to the management of Acid Sulfate Soils
53. **Prior to the issue of a Subdivision Works Certificate**, a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and *"Managing Urban Stormwater – Soils & Construction 2004 Manual"*. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

CIVIL WORKS - CERTIFICATION

54. **Prior to issue of the Subdivision Works Certificate** for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.
55. **Prior to commencement of works within an existing public road reserve:**
- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval.
 - b) consent under the Roads Act for the approved works, shall be issued by Council.
 - c) all relevant Council fees shall be paid.
 - d) a traffic control plan in accordance with the RMS publication *"Traffic control at Worksites"* shall be submitted to Council.
56. **Prior to issue of the Subdivision Certificate**, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:
- a) Confirmation that the construction works have been completed.
 - b) Confirmation from the road authority for any Roads Act Approval requirements.
 - c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
 - d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
 - e) Geotech certification of the detention basin works (including any clay core requirements).

FILLING

57. Filling material, shall be limited to the following:
- virgin excavated natural material (VENM); and/or
 - excavated natural material (ENM) certified as such in accordance with Protection of the Environment Operations (Waste) Regulations 2014.
58. Where ENM, is used, the applicant shall ensure that detailed records are kept identifying the source of the material and its composition and chain of custody documentation. Such records are to be provided to the Council within 30 days of the completion of the filling.
59. Within 30 days of the completion of filling the applicant shall submit to the Council a validation report prepared in accordance with EPA requirements by a qualified geotechnical consultant confirming that the completed filling works (addressing both material type, compaction and stabilisation) has been undertaken in accordance with the approved development application documentation and associated consent conditions.

CONSTRUCTION DUST MANAGEMENT

60. The applicant must implement best practice measures to minimise dust emissions from the site during construction. The site shall be managed to prevent the generation of dust, the measures to be employed include:
- The use of a water cart from the public road access point; and
 - Ceasing construction activities (i.e. no vehicles or equipment use) during adverse meteorological conditions (i.e. on windy days).

CONSTRUCTION MANAGEMENT PLAN

61. Prior to the commencement of works on site, a Construction Management Plan (CMP) must be prepared by the applicant and approved by Council.

The plan must include the following matters:

- The location and materials for protective fencing and hoardings on the perimeter of the site;
- Provisions for public safety;
- Pedestrian and vehicular site access points and construction activity zones;
- Details of construction traffic management including:
 - Vehicular site access;
 - Proposed truck movements (haulage routes) to and from the site;
 - Estimated frequency of truck movements; and
 - Measures to ensure pedestrian safety near the site;
 - Traffic management.
- Details of bulk earthworks to be carried out;
- The location of site storage areas, stockpiles and sheds;
- The equipment used to carry out works;
- The location of a garbage container with a tight-fitting lid;
- Dust, noise and vibration control measures;
- The location of temporary toilets;
- The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with:

- i) AS 4970 – Protection of trees on development sites;
- ii) An applicable Development Control Plan;
- iii) The BDAR and BMP approved as part of this consent.

A copy of the CMP must be kept on-site at all times while work is being carried out.

All works on site shall be undertaken in accordance with the approved CMP.

CONSTRUCTION HOURS

62. Unless otherwise approved by Council in writing, all construction activities including earthworks, truck arrivals and the unloading of fill from trucks shall be carried out between the hours of:

- a) 7.00am to 6.00pm Monday to Friday
- b) 7.00am to 5.00pm Saturday

Any work performed on Sunday's or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited.

NOISE

63. The recommendations to reduce internal noise levels outlined in the approved Noise Report, dated March 2023, prepared by Spectrum Acoustics Pty Limited shall be implemented into the design and construction of any future residences that may be constructed in the subdivision.

DEMOLITION

64. Any demolition works authorised by the consent shall be carried out in accordance with AS 2601 - 2001 'The demolition of structures'.
65. Prior to demolition of any structures on site, structures shall be assessed for hazardous materials. If hazardous materials are identified, the materials shall be managed accordingly.

CONTAMINATION

66. All works shall be managed in accordance with the approved Preliminary Site Investigation Report referenced in condition 1 of this consent.
67. In the event of an undisclosed or unidentified contamination being found on-site or any potentially contaminating infrastructure (e.g. underground storage tanks) or soils (e.g. staining, odours, asbestos) being identified during works, a qualified and experienced consultant must inspect, review and advise on remediation or mitigation prior to further construction proceeding. Council must be notified if this occurs and must be provided with any resulting reports and recommendations.

LAND TITLE

(Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.)

68. The proposed public roads and/or road widening shall be dedicated to Council, at no cost to Council.
69. The land containing the proposed stormwater basin and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to Council.

70. The public reserve shall be dedicated to Council, at no cost to Council, and without compensation, works-in-kind, or "section 94 contribution" offset or similar.
71. A restriction on the title of Lot 507 under Section 88B of the Conveyancing Act 1919 shall be created to identify the lot as a residue lot and that separate development consent is required to develop this lot, other than for the purposes of connecting infrastructure to adjoining lots. The developer shall be responsible for the maintenance of this lot including landscape maintenance (mowing).
72. A restriction or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:
- a) A right of access shall be provided over all temporary turning heads.
 - b) The prohibition of vehicular access across the common boundary with Raymond Terrace Road, Chisholm.
 - c) A building line that prohibits any buildings or structures (other than fencing) within 10m from the common boundary of proposed lots and Raymond Terrace Road, Chisholm (after road widening).
 - d) The ongoing preservation and maintenance of approved boundary fencing and landscaping within affected lots adjoining Raymond Terrace Road (after road widening).
 - e) Where public water quality or stormwater detention systems are not dedicate at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve.
 - f) Retaining walls on common boundaries shall have a 900mm easement to prevent excavation and for maintenance access shall be provided on the downhill lot.
 - g) Lots 308 to 313 inclusive and 406 to 407, which front Raymond Terrace Road, shall ensure that any building for residential use shall comply with the following internal noise levels (LAeq):
 - i. In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am
 - ii. Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40 dB(A) at any time.
73. A positive covenant on the title of affected lots under section 88E of the Conveyancing Act 1919 to require the ongoing preservation and maintenance of the approved boundary fence and landscaping on all lots that adjoin Raymond Terrace Road, Chisholm.
74. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.
75. The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".
76. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

BUSHFIRE

77. **Prior to issue of the Subdivision Certificate**, Asset Protection Zones (APZ's) shall be created in accordance with the requirements of the NSW Rural Fire Service.
78. **Prior to issue of Subdivision Certificate**, the applicant shall provide certification from a suitably qualified bushfire consultant that the works comply with the General Terms of Approval issued by the NSW Rural Fire Service, dated 3 April 2024.
79. **NSW Rural Fire Service**

The development shall comply with the General Terms of Approval issued by the NSW Rural Fire Service, dated 3 April 2024. A copy of the General Terms of Approval are attached to this determination notice in schedule 1.

DEPARTMENT OF PLANNING AND ENVIRONMENT - WATER

80. **Department of Planning and Environment - Water**

The development shall comply with the General Terms of Approval issued by the Department of Planning and Environment - Water, dated 28 November 2023. A copy of the General Terms of Approval are attached to this determination notice in schedule 2.

AUSGRID

81. **Ausgrid**

Ausgrid's requirements, dated 3 July 2023, shall be complied with and are attached to this determination notice in schedule 3.

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.
- B You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Subdivision Works Certificate.
- C You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.
- D You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.

- E. You are advised that a Controlled Activity Approval is required under Section 91 of the Water Management Act 2000. This approval shall be sought prior to the commencement of any works within 40 metres from the top of bank of any watercourse.
- F. A Road Occupancy Licence (ROL) may be required for any activity likely to impact on the operational efficiency of the state road network and / or an activity that requires the road to be used in such a way as to affect traffic flow or an off-road activity that affects traffic flow. ROL(s) must be obtained from TfNSW via <https://myrta.com/oplinc2> website before commencement of work.

Schedule 1 – General Terms of Approval issued by the NSW Rural Fire Service, dated 3 April 2024



Maitland City Council
PO Box 220
MAITLAND NSW 2320

Your reference: (CNR-56410) DA/2023/433
Our reference: DA20230614002564-CL55-1

ATTENTION: Georgie Williams

Date: Wednesday 3 April 2024

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Torrens Title Subdivision
523 Raymond Terrace Road Chisholm NSW 2322, 100//DP847510

I refer to your correspondence dated 08/02/2024 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. At the issue of a subdivision certificate and in perpetuity, the entire site with the exception of the land within the proposed riparian corridor (Lot 141), must be managed as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

When establishing and maintaining an inner protection area, the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 m above the ground;
- tree canopies should be separated by 2 to 5 m;
- preference should be given to smooth-barked and evergreen trees;
- large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au





- grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed regularly.

2. At the issue of a subdivision certificate, if the land immediately to the north, east and/or west of the subject site has not been developed and the bush fire hazard removed, a suitably worded instrument(s) pursuant to Section 88B of the *Conveyancing Act 1919* is required to create Asset Protection Zones (APZs) as shown in Figure 20 of the bush fire assessment report prepared by Bushfire Planning Australia (Ref: 22114 - Chisholm, dated 06 February 2024), prohibiting the construction of buildings, other than class 10b structures, within the proposed APZs for a distance of:

- 14 metres wide along the northern boundary of the subject site;
- 18 metres wide along the western boundary of the site; and
- 19 metres wide along the eastern boundary of the site;

The instrument may be lifted upon commencement of any future proposed development on the adjoining land, but only if the bush fire hazard is removed as part of the proposal. The name of the authority empowered to release, vary, or modify the instrument shall be Maitland Council. The APZ must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*.

Note: This APZ includes the entirety of the proposed lots 401, 101-110, 118,119, 126 -129, 201, 203-213, 234-243, and 314 which can be developed once the temporary APZs are extinguished following the removal of the hazard on adjoining land.

Access – Public Roads

The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3. Access roads shall be constructed in accordance with the Overall Site Plan prepared by ADW Johnson (Dwg Ref: 190873-DA-004 Revision C dated 8 December 2023).

4. Access roads must comply with the following general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- subdivisions of three or more allotments have more than one access in and out of the development;
- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
- all roads are through roads;
- dead end roads are not recommended, but if unavoidable, are not more than 200 metres in length, incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;
- where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
- where access/egress can only be achieved through forest, woodland and heath vegetation, secondary access must be provided to an alternate point on the existing public road system;
- the capacity of perimeter and non-perimeter road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes);
- bridges/causeways are to clearly indicate load rating;
- hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression;





- hydrants are provided in accordance with the relevant clauses of AS 2419.1:2005 - *Fire hydrant installations System design, installation and commissioning*; and
- there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available.

5. Perimeter roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- Minimum 8m wide road width measured kerb to kerb;
- hydrants are located clear of parking areas;
- curves of roads have a minimum inner radius of 6m;
- the road cross fall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.

6. Non-perimeter roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- Minimum 5.5m wide road width measured kerb to kerb;
- hydrants are located clear of parking areas;
- curves of roads have a minimum inner radius of 6m;
- the road cross fall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches is provided.

7. Temporary turning heads must be provided to temporary dead end roads incorporating either a minimum 12 metre radius turning circle or turning heads compliant with A3.3 *Vehicle turning head requirements* of *Planning for Bush Fire Protection 2019*. The turning areas may be removed upon opening of future proposed through roads.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

8. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 *Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;





- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

9. Landscaping within the site must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- Planting does not provide a continuous canopy (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

General Advice – Consent Authority to Note

- Development applications lodged on lots created within this subdivision may be subject to further assessment under the *Environmental Planning & Assessment Act 1979*. Future dwellings are required to address the requirements of *Planning for Bush Fire Protection 2019*.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 30/08/2023.

For any queries regarding this correspondence, please contact Elaine Chandler on 1300 NSW RFS.

Yours sincerely,

Nika Fomin
Manager Planning & Environment Services
Built & Natural Environment





BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision
523 Raymond Terrace Road Chisholm NSW 2322, 100//DP847510
RFS Reference: DA20230614002564-CL55-1
Your Reference: (CNR-56410) DA/2023/433

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20230614002564-Original-1 issued on 30/08/2023 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Nika Fomin

Manager Planning & Environment Services
Built & Natural Environment

Wednesday 3 April 2024



Schedule 2 – General Terms of Approval issued by Department of Planning and Environment – Water,
dated 28 November 2023

Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10413
Your ref: DA/2023/433

28 November 2023

The General Manager
MAITLAND CITY COUNCIL
263 HIGH STREET MAITLAND 2320

Attention: Georgie Williams

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10413 - Integrated Development Referral – General Terms of Approval
Dev Ref: DA/2023/433
Description: 108 Torrens Title residential lots; one (1) residue lot; and two (2) drainage reserves delivered in five (5) stages
Location: Lot 100, DP847510, 523 RAYMOND TERRACE ROAD CHISHOLM 2322

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
LOCKED BAG 5022, Parramatta, NSW 2124

www.dpie.nsw.gov.au

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
LOCKED BAG 5022, Parramatta, NSW 2124

www.dpie.nsw.gov.au



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

| | |
|----------------------------|---|
| Reference Number: | IDAS-2023-10413 |
| Issue date of GTA: | 28 November 2023 |
| Type of Approval: | Controlled Activity |
| Location of work/activity: | Lot 100, DP847510, 523 RAYMOND TERRACE ROAD CHISHOLM 2322 |
| Waterfront Land: | Tributary of Francis Greenway Creek |
| DA Number: | DA/2023/433 |
| LGA: | MAITLAND |

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

| Condition Number | Details |
|------------------|---|
| TC-G001 | Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000. |
| TC-G004 | A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application DA/2023/433 provided by Council to Department of Planning and Environment-Water. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required. |
| TC-G005 | A. The application for a controlled activity approval must include the following plan(s): <ul style="list-style-type: none">Site plansDetailed civil construction plans - for works on waterfront landConstruction staging plansConstruction streamworks plansSoil and water management plan - with the proposed sediment basin relocated off-lineVegetation management planItemised VMP CostingsCivil and Streamworks Itemised Costings - for watercourse reconstruction B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines |
| TC-G006 | A. A security deposit must be provided, if required by Department of Planning and Environment-Water. B. The deposit must be: <ul style="list-style-type: none">a bank guarantee, cash deposit or equivalent, and |

- equal to the amount required by Department of Planning and Environment-Water for that controlled activity approval.
-



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2023-10413 as provided by Council:

- Statement of Environmental Effects, Rev. B, prepared by ADW Johnson Pty Ltd, dated 22/05/2023
- Civil Engineering Plans, Ref. 190873-CENG, prepared by ADW Johnson Pty Ltd, dated 03/05/2023
- Stormwater Management Plan Addendum No. 5, Ref. CC:190205E, prepared by ADW Johnson Pty Ltd, dated 19/01/2023
- Landscape Plans prepared by ADW Johnson Pty Ltd, undated

- equal to the amount required by Department of Planning and Environment-Water for that controlled activity approval.
-

Schedule 3 - Ausgrid Referral Comments, dated 3 July 2023



3/07/2023

Georgie Williams
Newcastle City Council
PO Box 489
NEWCASTLE
NSW 2300

145 Newcastle Road
Wollsend NSW 2287
All mail to PO Box 487
Newcastle NSW 2300
T +61 2 131 525
www.ausgrid.com.au

Dear Georgie

Proposed Development at 523 RAYMOND TERRACE ROAD, CHISHOLM 2322
Development Application No. DA/2023/433

I refer to your application CNR-56410 concerning the above development. This letter is Ausgrid's response under clause 45(2) of the *State Environmental planning Policy (Infrastructure) 2007*.

As you would be aware, the assessment and evaluation of environmental impacts for a new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the *Environmental Planning and Assessment Act 1979*. One of the obligations upon consent authorities, such as local councils, is to consider the suitability of the site for the development which can include a consideration of whether the proposal is compatible with the surrounding land uses and the existing environment.

In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid's infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Please note the following information in relation to the construction of the development:

Electricity Supply

Electricity reticulation systems in new residential subdivisions must be installed underground in accordance with Ausgrid's Network Standard NS110. The developer is responsible for the design, supply of materials and construction of electricity reticulation systems in new residential subdivisions.

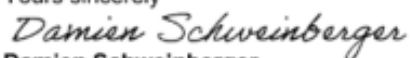
These works are classified as Contestable Works and funded by the Developer. Before each stage commences, we recommend [engaging an electrical professional](#) who knows how to design your connection and the type of connection to apply for. To apply for a connection the developer will need to visit Ausgrid's website <https://www.ausgrid.com.au/Connections/Get-connected>.

It is a requirement that Notification of Arrangements for the Provision of Electricity Supply letter be issued by Ausgrid for each stage before council release the plan of subdivision for registration at Land and Property Information.

Ausgrid will only issue the Notice of Arrangement after the connection assets have been installed and, if applicable, satisfactory arrangements have been made for Ausgrid to be granted registered easements or leases for any network infrastructure installed on private land.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely



Damien Schweinberger

Engineering Officer

Newcastle Design & Planning Portfolio

☎: 49101443

✉: dschweinberger@ausgrid.com.au

☎: (02) 4951 9459

🌐: www.ausgrid.com.au

Ausgrid Reference: 1900122326

Officers Reports

DEVELOPMENT APPLICATION 2022/912 PROPOSING TWO HUNDRED AND TWENTY FOUR (224) LOT TORRENS TITLE SUBDIVISION AT 464 CESSNOCK ROAD GILLIESTON HEIGHTS

Assessment Report (Under Separate Cover)

Meeting Date: 27 August 2024

Attachment No: 3

Number of Pages: 40



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Version 1: Comprehensive

| | |
|-------------------------|--|
| Application No: | DA/2022/912 |
| Proposal: | Two Hundred and Twenty Four (224) Lot Torrens Title Subdivision (14 Stages) |
| Address: | Cessnock Road GILLIESTON HEIGHTS NSW 2321 |
| Lot & DP No: | 1/1206034, 54/975994, 71/975994, 69/975994, 70/975994, 55/975994, 2/456946, 8/456946, 5/456946, 9/456946, 7/456946, 3/456946, 4/456946, 1/976895, 2/976895, 4/998274 |
| Applicant: | Loxford Project Management Pty Ltd |
| Owner: | Hydro Aluminium Kurri Kurri Pty Ltd |
| Author: | Kristen Wells |
| Site Inspection: | 8 November 2023 |

INTRODUCTION

The purpose of this report is to provide a detailed discussion and assessment of Development Application No. DA/2022/912 proposing Two Hundred and Twenty-Four (224) Lot Torrens Title Subdivision (14 Stages). The assessment will provide consideration of the proposal under the Environmental Planning and Assessment Act 1979, the Maitland Local Environmental Plan 2011, the Maitland Development Control Plan 2011 and any other relevant legislation, guidelines and policies of the Council.

Description of Proposed Development

The proposal relates to Precinct 1B of the site subdivision (Figure 1) and the development application seeks consent for Torrens title subdivision of this land. Specifics of the proposed subdivision are outlined below:

- The creation of 224 residential allotments varying lot sizes of 450sqm – 1,029sqm.
- Two (2) allotments featuring RU2 zoning.
- One (1) residual lot 40.32ha zoned RU2 – Rural Landscape.
- Drainage works within the rail corridor.
- Full road construction of the following:
 - Extension of Road MC01, MC11, MC06, MC05, MC08, MC07;
 - Construction of new road MC17, MC20, MC18, MC21;
 - MC01 as a primary collector road with a divided carriageway;
- Construction of three permanent basin reserves, dedicated to Council;
 - Lot 914, 8227sqm, Central West,
 - Lot 424, 2857sqm, North,
 - Lot 124, 5033sqm, East.
- Construction of one temporary basin, which will be decommissioned upon a permanent solution being provided within any future subdivision works in the adjoining Cessnock LGA;



- Lot 1419, 5780sqm.
- Construction of pipe outlet and the creation of an easement for stormwater disposal over land to the north-west (South Maitland Railway Corridor).
- Associated infrastructure and landscape works including bulk earthworks, retaining walls, shared pathway, services, stormwater management facilities.
- Identification of additional necessary tree removal of small clusters in the northern and central portion of the site, relevant to this subdivision. Vegetation clearing has been assessed as part of DA2022/193, and therefore additional clearing needs to be dealt with under this consent.
- Acoustic attenuation along rail corridor, by implementation of building envelopes and construction restrictions.
- Provision of easements.



Figure 1: Proposed subdivision layout.

Description of the Land on which the proposal is to be carried out.

The land on which the development is to be carried out is legally described as Lots 54, 55, 69, 70, 71 DP 975994, Lots 1 DP 1206034, Lots 2, 3, 4, 5, 7, 8, 9 DP 456946, Lot 4 DP 998274 and Lots 1 and 2 DP 976895. The site is located to the west of Cessnock Road, beyond the previously approved Precinct 1A Loxford land (approved via DA2022/193), adjoining the road. The subject land is bound by Loxford Precinct 1A (approved via DA2022/193) to the east and the South Maitland rail corridor on the west. The land is within the Regrowth-Kurri Kurri Masterplan area. The masterplan includes land holdings of the former Hydro Aluminium Smelter.



The watercourse located in the southern/central portion of the site runs east to west towards the South Maitland Railway. The watercourse is lined by extensive native vegetation, with additional vegetation scattered throughout the site. Locally, drainage is towards Swamp Creek, which is located west and north-west of the site.

The site is identified within the Maitland Urban Settlement Strategy 2012 (MUSS 2012) for future urban development consistent with the sequencing and release of urban land in Gillieston Heights. A large portion of site has been rezoned in part from RU2 Rural Landscape to R1 General Residential. The Planning Proposal was finalised and gazetted on 30 May 2022. As part of the Planning Proposal a site-specific development control plan was prepared and is included in Chapter F of the Maitland Development Control Plan 2011 (DCP). This development application is a result of the planning proposal and responds to the provisions of the DCP.

South of the site in the Cessnock local government area (LGA) the area adjoins further residentially zoned land being the remainder of the Hydro Aluminium Smelter and buffer lands.



Figure 2: Aerial Imagery of the land applicable to this subdivision. (Nearmap 2024)

PREVIOUS DEVELOPMENT HISTORY

The table below provides a consent history and background context that is a relevant consideration in the assessment of the application.

| Previous Consent History | | | | |
|--------------------------|---|-----------------|---------------------------|---|
| DA No. | Description of Development | Date Determined | Decision Approved/Refused | Key Issues |
| 2022/193 | Torrens Title Subdivision to Create Three Hundred and Fifty-Four (354) Residential Lots, Three (3) Residue Lots and Five (5) Public Reserve Lots And Upgrade to Existing Infrastructure | 13/06/2023 | Approved | <p>This is the first approval for the combined 'Loxford' subdivision. No subdivision works certificate has yet been issued.</p> <p>This consent was modified via 2022/193:2, approved 2nd August 2024. The modification of this consent has no implication to the proposed 1(b) Loxford subdivision.</p> |



Figure 3: The proposed subdivision is to be situated on the residue land created under the first 'Loxford' subdivision site (i.e. residue Lots 1 and 2).

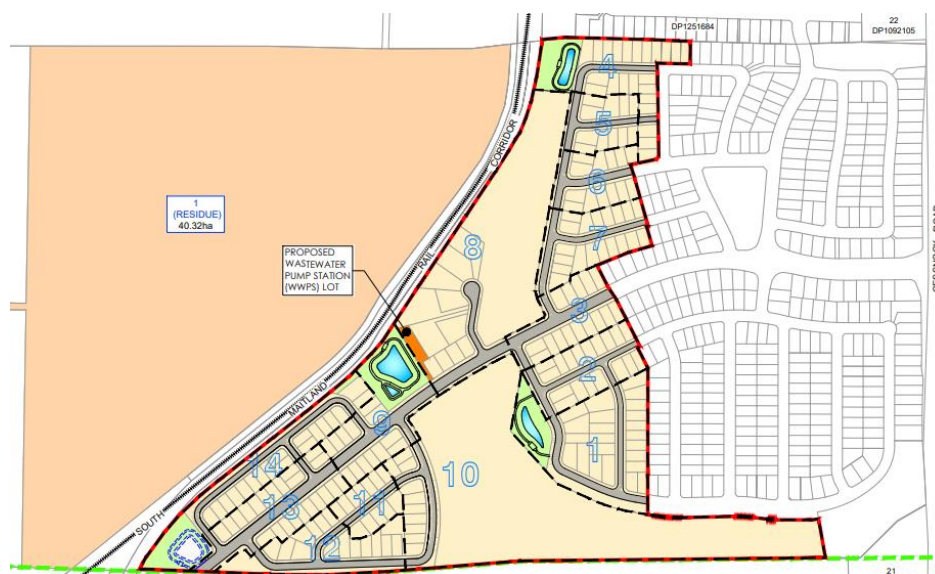


Figure 4: The proposed lot layout for the 1(b) Loxford subdivision.



Figure 5: The combined subdivision layout of Loxford 1(a) and 1(b).

PLANNING ASSESSMENT - 4.15(1) matters for consideration

Development Type

The proposal is categorised as *local development*, under the *Environmental Planning and Assessment Act 1979* (EPA Act). The proposal is also *integrated development* under Section 4.46 of the EPA Act. Referral to the following agencies has been required:

- **Subsidence Advisory NSW** under s22 of the *Coal Mine Subsidence Compensation Act 2017* to subdivide land, within a mine subsidence district (15/09/2022).
- **NSW Rural Fire Service (RFS)** for authorisation under section 100B of the *Rural Fires Act 1997* in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes (14/04/2023).
- **Department of Planning and Environment (Water)** under s91 of the *Water Management Act 2000* for a controlled activity (23/12/2022 and as revised 09/05/2024).
- **Transport for NSW (TfNSW)** under s 138 of the *Roads Act 1993* to connect a road (whether public or private) to a classified road (05/09/2022).

Contributions

- The proposal involves the subdivision of land within an identified 'urban release area'. A certificate issued by the Director-General Department of Planning and Infrastructure in accordance with clause 6.1(2) of the Maitland LEP 2011 confirming that the proponent has made the necessary arrangements for contributions towards designated State public infrastructure must be received prior to the Council determining the development application. In this regard, the DG's certificate was received by Council on 30th May 2023.
- Pursuant to section 7.7(3) of the *Environmental Planning and Assessment Act 1979*, the Voluntary Planning Agreement entered into between Maitland City Council, Dowmery Pty Ltd, McCloy Loxford Land Pty Ltd and Hydro Aluminium Kurri Kurri Pty Ltd, dated 12 December 2022, applies to the development the subject of this consent. The applicant is to fulfill its obligations under the planning agreement in connection with the carrying out of the development to the extent to which doing so would not breach this consent.

Consideration of Threatened Species

Council is required under Section 4.15 of the EP&A Act to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the *NSW Biodiversity Conservation Act 2016* or under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The removal of vegetation was assessed and determined under a separate consent, being DA2022/193 (approved 13th June 2023). Minor changes to the extent of permitted clearing is required in order to facilitate this subdivision. The additional clearing has been assessed by review of a submitted addendum document ("*Modification to regrowth Kurri Kurri BDAR*", GHD, 04 August 2022). Councils Biodiversity and Resilience Officer has reviewed this information and does not object to the minor changes, noting that no significant and irreversible impact is anticipated to threatened species as a result of this. However, a condition of consent is to be imposed requiring that a modification to DA2022/193 is conducted to update the Biodiversity Assessment Method (BAM) Calculator credits applied to the original Biodiversity Development Assessment report (BDAR), which have been amended in line with the revised extent of clearing needed.

Section 4.15(1)(a)(i) - Provisions of any environmental planning instrument

State Environmental Planning Policies

The following State Environmental Planning Policies (SEPP's) are relevant to the assessment of the proposal:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 Koala Habitat Protection 2020

This chapter applies to all lands within Maitland LGA except for lands zoned *RU1 Primary Production*, *RU2 Rural Landscape* or *RU3 Forestry*. As above, clearing of vegetation to facilitate the subdivision has been approved via DA2022/193. This consent is required to be updated to acknowledge the minor increase in clearing that has been identified to enable the subdivision. The additional clearing must be dealt with under DA2022/193. An updated Koala Assessment Report may be required as part of this modification.

Notwithstanding this, the land subject of the development application is not considered to be core koala habitat and Clause 4.9 of the Biodiversity and Conservation SEPP can be satisfied.

Chapter 2 Vegetation in Non-rural areas

As discussed, updated BDAR credits are required as part of DA2022/193. A condition of consent has been imposed to require this modification to be approved prior to the release of any Subdivision Works Certificate associated with this consent.

State Environmental Planning Policy (Resilience and Hazards) 2021

Clause 4.6 in this SEPP requires Council to consider whether the land is contaminated before it can issue development consent. A Site Audit Statement (SAS) and subsequent letter was submitted with the application for Loxford 1(a), also applying to Loxford 1(b). This is discussed in Section 4.15 (1)(c) of this report. The SAS confirms that following remediation, the site will be suitable for its proposed use, subject to the imposition of relevant conditions. The applicant confirmed that the SAS applies to both the rezoning and the residential land uses to be provided upon the land.

As such, the consent authority can be satisfied that the site can be made suitable for future residential development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The DA proposes the creation of more than 200 allotments and therefore referral to TfNSW as traffic generating development in accordance with Section 1.121 / Schedule 3 of SEPP Transport and Infrastructure was initiated. It is noted that Cessnock Road (MR195) is a classified State Road. Council is the roads authority for Cessnock Road and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*. The proposed development will rely on the Cessnock Road intersection for access, via Loxford 1(a).

A Voluntary Planning Agreement was approved between the applicant and TfNSW which requires the provision of a signalised intersection and upgrading of Cessnock Road. In correspondence received 5 September 2022 by TfNSW states: *"The signalised intersection required as part of the VPA must be operational prior to issue of any Subdivision Certificate for Stage 1. The internal collector road will be delivered progressively in line with the development of land."*

The requirements of the TfNSW correspondence have been detailed within a recommended condition of consent.

Maitland Local Environmental Plan 2011

The site is zoned part *R1 General Residential* and part *RU2 Rural Landscape* under the Maitland Local Environmental Plan 2011 (MLEP 2011). The proposed development is defined as *Torrens Title Subdivision*

R1 General Residential

RU2 Rural Landscape

[illegible]

The following clauses of the Maitland LEP 2011 are relevant to the assessment of the proposal:

This clause permits the subdivision of land, to which the MLEP 2011 applies, with consent.

The minimum lot size within the R1 General Residential zone is 450m². All proposed residential lots are above the minimum lot size.

P95

Clause 4.2A Minimum Subdivision Lot Sizes for Certain Split Zones

The land contains split zoning, being R1 *General Residential* and RU2 *Rural Landscape* zoned land as depicted in the Figure 5 zoning map above. The provision of this clause therefore applies. All proposed lots in residential zoned portions of the site exceed the minimum lot size prescribed for the land. This complies with Clause 4.2C(3)(a)(i) of the Maitland LEP.

Two proposed lots (Pt Lot 1010 and 801) contain land in both the RU2 *Rural Landscape* zone and the R1 *General Residential* zone. Both lots contain portions of land situated within R1 zoned land, with each portions exceeding the minimum 450sqm requirement. For Pt 1010, this lot contains all the RU2 zoned land that is currently situated within existing lots 69 and 70. For Lot 801, this proposed lot contains all the land that is zoned RU2 and that currently sits within Lot 5, Lot 55 and Lot 1. For the purpose of this clause, these lots comply with Clause 4.2A in that all the land currently zoned RU2 will remain within a lot continuing to be zoned RU2.

Clause 5.10 – Heritage Conservation

There are no European heritage items to consider in relation to the proposed development. Aboriginal archaeology is discussed in section 4.15(1)(b) in this report. Based on the assessment appropriate conditions of consent have been included, the clause has therefore been satisfied.

PART 6 – URBAN RELEASE AREAS

The site is located within the Regrowth-Kurri Kurri Urban Release Area (URA). Part 6 of the MLEP 2011 applies and is discussed below.

Clause 6.1 Arrangements for designated State public infrastructure

This clause requires Council to be in receipt of a Satisfactory Arrangement Certificate issued by the NSW Department of Planning and Environment before development consent can be issued. Satisfactory Arrangements Certificate – DA/2022/912– SVPA2022-31. The Certificate has been issued by the Department dated 30 May 2023 and requires the developer to pay a monetary contribution towards State infrastructure prior to the issue of a Subdivision Certificate.

Clause 6.2 Public utility infrastructure

This clause requires Council to be satisfied that necessary public infrastructure is available to the development when required, to service proposed residential lots.

A district park is to be delivered as part of the subdivision works within Loxford 1(a), which also has implications for Loxford 1(b). The district park was included in a VPA (dated 12 December 2022), which offsets a portion of the required contributions that would otherwise be levied against the development. It is considered that the park will not only cater for residents of both stages of this subdivision, but those outside the local catchment providing a broader benefit to Council and the community. The district park will be dedicated to Council at the completion of its construction.

The terms of the VPA must be adhered to, with a condition of consent being imposed as part of this consent.

In addition to this, Council requested the preparation of a servicing strategy, to ensure adequate arrangements have been made for sewerage and water. This is still under preparation; however Hunter Water have provided confirmation that a compliant level of servicing will be available to the subdivision. A Section 50 compliance certificate can be issued for each stage within the subdivision.

The application was referred to Ausgrid and comments were provided regarding electrical infrastructure.

As such, the proposed subdivision can be connected from all relevant infrastructure and utility services. The consent authority can be satisfied that any public utility infrastructure that is essential for the proposed development is available and adequate arrangements have been made to make that infrastructure available when it is require.

Clause 6.3 – Development control plan

This clause requires a Development Control Plan (DCP) to be in force that addresses the relevant matters for consideration under clause 6.3(3) before development consent can be issued. Chapter F – Gillieston Heights Urban release Area DCP is in force.

Clause 7.1 – Acid Sulfate Soils

The site is identified as containing Class 5 ASS on the Acid Sulfate Soil Map but is not located near any higher order acid soil classifications. The Geotechnical Report confirms the site is located in an area with no known occurrence of acid sulfate soils. As such, the clause is not triggered by the proposed development.

Clause 7.2 – Earthworks

Separate development consent is not specifically required under this clause as the proposed earthworks are ancillary to the proposed subdivision and will be considered in this assessment. The matters for consideration outlined in subclause (3) are addressed in the discussion of section 4.15(1)(b) of the EP&A Act in this assessment report.

Subclause (3) requires a consent authority to consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

Comment: This matter has been addressed in section 4.15(1)(b) in this report respectively and considered to be satisfactory.

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

Comment: The subdivision is necessary to facilitate the future development of the land for residential purposes.

(c) the quality of the fill or the soil to be excavated, or both,

Comment: The submitted earthworks plan indicates that a relatively balanced extent of cut and fill is provided across the site. A condition of consent will be imposed requiring the use of good quality, certified soil.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

Comment: Earthworks form part of the development of the subdivision and does not, in itself, impact on the existing and likely amenity of adjoining properties.

(e) the source of any fill material and the destination of any excavated material,

Comment: The submitted earthworks plan demonstrates that the site provides for a balanced cut/fill arrangement.

(f) the likelihood of disturbing relics,

Comment: This matter has been addressed elsewhere in this assessment report under Aboriginal archaeology.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Comment: This matter has been addressed elsewhere in this report under Stormwater Management.

Clause 7.3 – Flood planning

Portion of the residue land, west of the rail corridor is mapped as flood prone, but this does not impact the proposed residential allotments and no further action is required.

Clause 7.4 – Riparian land and watercourses

The watercourse in the south of the site runs from east to west and under the South Maitland Rail Corridor. The watercourse in the south is to be maintained as a drainage corridor. The watercourse is unlikely to have adverse impact associated with water quality, flows and stability of the banks and this clause is complied with.

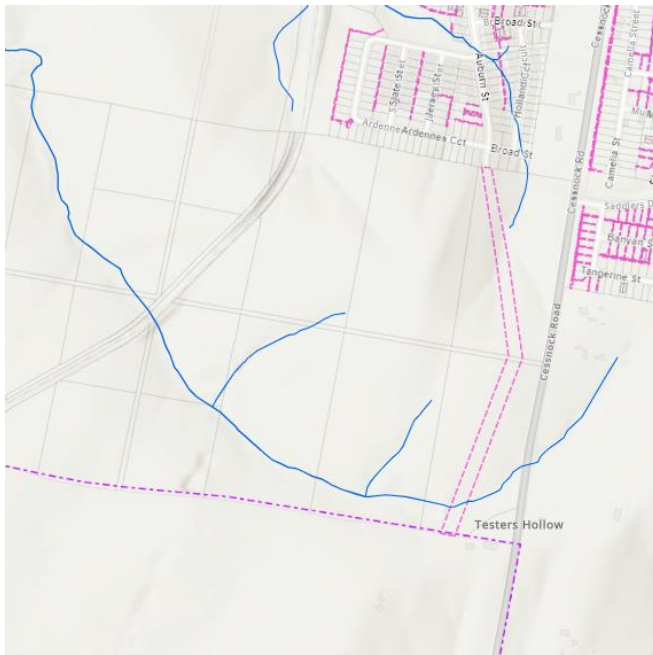


Figure 7: Watercourse Mapping, ArcGIS 2024

A basin is proposed within the north-west of the subdivision site, where stormwater will be discharged under the South Maitland Railway Corridor (SMRC) and released into a mapped watercourse on Lot 1 DP 1149176. Whilst the pre-development flows will be generally similar to the post-development flows leaving the site, it is noted that current stormwater discharges in a northern direction along the east side of the railway line. At a distance of approximately 400m north of the proposed discharge point, the water travels under a culvert and flows into an existing watercourse further north of the site. Under the proposed arrangement the stormwater will be directed under new culverts at the SMRC, before discharging at the commencement of the mapped watercourse within land owned by the SMRC. This point of discharge has the potential to concentrate greater velocity of flows into a watercourse that has not taken such levels of water before.

Concern has been raised by Council technical staff with the potential for scouring and general 'nuisance' that may impact downstream property owners. Council is required to consider the following with regard to Clause 7.4 of the Maitland LEP 2011.

(3) Before determining a development application to carry out development on land to which this clause applies, the consent authority must consider whether or not the development,

(a) is likely to have any adverse impact on the following-

- (i) the water quality and flows within the watercourse,*
- (ii) aquatic and riparian species, habitats and ecosystems of the watercourse,*
- (iii) the stability of the bed, shore and banks of the watercourse,*
- (iv) the free passage of fish and other aquatic organisms within or along the watercourse, (v) any future rehabilitation of the watercourse and its riparian areas, and*

Council technical staff have advised that there is a potential for scouring of Lot 1 DP 1149176 (private allotment). This lot is the downstream lot that will accept the water after it is discharged at the commencement of the mapped watercourse upon Lot 4 DP 998284 (SMRC land). A farm dam is noted to sit within the line of the mapped watercourse line. The applicant had originally proposed to reconstruct the existing farm dam on Lot 1 DP 1149176 to ensure that the velocity of flows would not scour away the bank of an existing dam and cause it to fail. Upon receiving notice from Council that an easement would be required over Lot 1 DP 1149176 for the benefit of the developer, all plans to conduct work on Lot 1 DP 1149176 were withdrawn from consideration (Sparke Helmore letter, 5 August 2024, and amended Stormwater Strategy Rev F lodged August 12, 2024).

The risk of scouring of the farm dam and consequent impact to the stability of the watercourse [Clause 7.4(3)(a)(iii)] has been presented to Council's Executive Leadership team. It has been determined by the ELT that the risk is sufficiently low to enable the discharge of stormwater to a mapped watercourse without improvement works on Lot 1 DP 1149176. This decision indicates the Council position that Clause 7.4 is adequately complied with.

Hunter Regional Plan 2036/Greater Newcastle Metropolitan Plan 2036

The development is consistent with the goals and outcomes expressed in both documents as they relate to housing supply. The subdivision of the site within the URA will release land to provide for additional housing opportunities within the Hunter Region.

Section 4.15(1)(a)(ii) - Any draft environmental planning instrument that is or has been placed on public exhibition

There are no draft environmental planning instruments applicable to this proposal.

Section 4.15(1)(a)(iii) - Any development control plan

Maitland Development Control Plan 2011 (DCP)

The following chapters of the Maitland DCP 2011 are relevant to the assessment of the proposal:

Part A – Administration

Part B – Environmental Guidelines

Part C.10 – Design Guidelines

Part F.5 – Gillieston Heights Urban Release Areas

Part A – Administration

A.4.1 Notification

The application was notified in accordance with Council's Community Participation Plan from 31 August 2022 to 27 September 2022 with no submissions received.

Part B – Environmental Guidelines

B.7 – Riparian Land and Waterways

The site contains a waterway within the southern / central portion of the site, which is known as Swamp Creek. The development does propose alterations to the existing riparian zone. The provision of services including stormwater, water and sewer infrastructure within riparian areas has been limited.

Soil disturbance within riparian areas will be limited to the purposes of providing critical infrastructure.

The proposed stormwater detention areas and infrastructure will ensure that all stormwater is treated prior to entering riparian waterways, whilst ensuring that the location of stormwater devices, including siltation fences does not compromise the connectivity and functioning of riparian vegetation, habitat and waterways.

The development does not propose the removal of any vegetation within the riparian area, and it is considered that the development will not compromise the connectivity of riparian vegetation and habitat. The BDAR (provided under DA2022/193) confirms that no endangered aquatic communities, aquatic fauna or marine vegetation listed under the *Fisheries Management Act* or *Environment Protection Biodiversity Conservation Act* occur in or adjacent to the footprint and no significant impacts on riparian vegetation or habitats downstream of the development footprint are anticipated as a result of the proposal.

Additionally, the development was referred to Department of Planning and Environmental (Water) as nominated integrated development, with General Terms of Approval being issued for the proposal which will be included as conditions of consent.

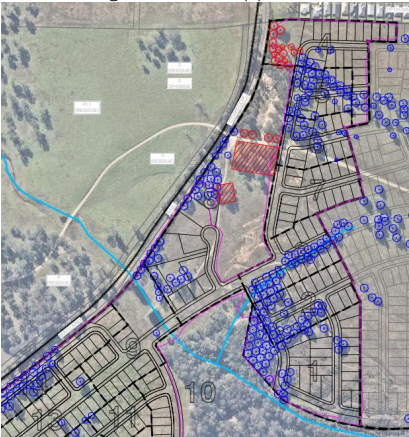
Part C – Design Guidelines

C.10 - Subdivision

Specific development controls relating to the site are discussed under Chapter F – Gillieston Heights (URA). General development controls relating to subdivision (where relevant) are discussed below.

Table 1 Development Control Plan Provisions

| <i>Performance Criteria:</i> | | Complies |
|--|---|-----------------|
| EC.1 Flora and Fauna | | |
| Areas of significant habitat must be protected. | This matter was considered via DA2022/193, approved 13/06/2023, which permitted the selective clearing of existing vegetation across the Loxford 1(a) and 1(b) sites. | Yes |
| Design subdivision layout to avoid significant stands of vegetation. Where the subdivision proposal affects significant stands of vegetation, lot layout and lot size must take into account the need to retain the vegetation and the impact of likely future development on the lots, including building envelopes, parking, access and other development requirements such as Asset Protection Zones. | As noted above, the select clearing of this land for the purpose of facilitating a future subdivision is permitted to occur under DA2022/193. Minor changes to the BDAR are necessary to facilitate this subdivision. The applicant has provided addendum tree clearing information which has been reviewed and generally considered acceptable. Liaison with Councils | Yes |


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| | <p>Environmental Team has indicated that the additional clearing must be considered via an updated version BAM-C credit summary. A condition of consent to modify Condition 30 of DA2022/193 will therefore be applied to this consent.</p> <p>This additional vegetation nominated for clearing is shown in red via the plan below. Given the relatively low scale of this clearing, it can be supported.</p>  <p><i>Figure 8: Plan showing additional vegetation clearing required under this subdivision. Note: blue depicts the previously approved extent of clearing and red denotes the newly identified additional clearing.</i></p> <p>It is important to note that a portion of Road MC017 has encroached into RU2 zoned land. There was concern that this would necessitate the requirement for additional vegetation clearing within the vegetated portion of the residue RU2 land. Upon clarification from the applicant, it was determined that the road and associated batters would not encroach into the treed area and no further consideration is required under this item. The plan depicting this has been included within the approved plan list.</p> | |
| Retain existing natural drainage lines and watercourses where practicable | The natural drainage line in the south / central portion of the site is retained. | Yes |
| Link existing vegetation corridors through open space provision and appropriate planting. | Vegetation linkages have been achieved via the retention of the land where strands of vegetation (within the RU2 zoned portions of the site) lie. | Yes |
| EC.2 Heritage and Archaeology | | |
| Preparation of an Archaeological Assessment may be required where there is no previous investigative study | An Aboriginal Cultural Heritage Assessment Report (ACHA) has been prepared as part of the DA2022/193. The ACHAR | Yes |

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| | concluded that there is little to no potential for in situ cultural materials to be present through the majority of the site. The exceptions are the creeks in the south which appear to remain relatively undisturbed and consist of relatively flat landforms, and have been identified as Potential Aboriginal Deposits (PADs). The PADs have been identified as completely within the Loxford 1(a) subdivision. Precautionary conditions relating to disturbance of unidentified artefacts have been imposed. | |
| EC.3 Hazards | | |
| A bushfire threat assessment must form part of all development applications for subdivision where the land is identified as 'bush fire prone land' on Council's map. | A Bushfire Assessment Report has been prepared for the proposed development. | Yes |
| Asset Protection Zones must be contained wholly within the subject site, and may incorporate fire trails, perimeter roads, cleared road verges and fixed building lines. | Asset Protection Zones (APZ) are fully contained within the site. The perimeter roads lining the south boundary serves as the buffer point between residential land and the bushfire threat, being wooded areas of the RU2 zoned land and land within Cessnock LGA. The railway corridor to the west also acts a buffer between residential allotments and adjoining bushfire threats. | Yes |
| The subdivision design must provide adequate emergency vehicle access to those parts of the site fronting a potential bushfires source. | Adequate emergency vehicle access has been provided and has been reviewed by Rural Fire Service. GTAs will be included in the consent conditions. | Yes |
| Contamination The provisions in SEPP55 will be used by Council to determine if and how land must be remediated. Comments will be sought from the Environment Protection Authority. | A Site Audit Report and Statement was prepared and reviewed by Hunter JO who have accepted the findings subject to conditions. This was conducted as part of the assessment of Loxford 1(a) but has been applied to this site as well. The site can be made suitable for the future residential development | Yes |
| <i>Other hazards</i> Development applications for subdivision must include relevant assessment and geotechnical investigation regarding the potential for the presence of salinity and acid sulfate soils to determine if any specific measures are required. | The geotechnical conditions of this site have been considered. There are localized portions of cut in the order of 2m maximum and fill also of 2m. A geotechnical report is required to be provided prior to the release of the SWC to determine the quality of the fill and the methods for addressing settlement. The geotechnical report will be required to outline inspections and testing to | Yes |

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| | <p>be performed during earthworks with reference to AS3798.</p> <p>Level 1 inspections and testing requires that geotechnical testing authority is on site whenever fill is being placed and compacted. Testing requirements are outlined in AS3798. At the completion of earthworks, the geotechnical testing authority will issue a Level 1 report that provides an opinion as to whether the earthworks comply with the adopted fill specifications.</p> <p>Council also requires that, at the completion of earthworks, and prior to subdivision certificate, the lots within a residential subdivision are classified to with reference to AS2870 – Residential Slab and Footings Classification.</p> | |
| DC.1 – Lot Size and Dimension | | |
| <i>Performance Criteria:</i> | | |
| <u>General</u> | | |
| Lot boundaries should follow natural features such as water courses and ridges (rather than cut across them) to minimise the potential for soil erosion. | The proposed 224 residential lots are designed appropriately with the detention basin and drainage reserves utilizing the natural contours and existing watercourse. The road network follows the contours of the existing ground level. | Yes |
| Lot boundaries should take account of any requirement for screening or buffering from adjoining land uses. | It is not considered necessary for any screening or buffering from adjoining land uses to the south and north to be provided. given the size of the surrounding lots and their future development potential. | Yes |
| Lot size and dimensions are to be suitable for the existing or proposed use, including any requirement for building envelopes, ancillary buildings, farm dams, access, parking, landscaping, solar access, provision of services and/or other requirement of any existing Council development consent. | The proposed lot sizes achieve the minimum lot size for the R1 General Residential zone and are suitable for the future use of residential development. | Yes |
| <i>Specific Controls:</i> | | |
| <u>Residential</u> | | |
| A suitable building envelope with minimum dimensions of approximately 15 metres by 10 metres shall be provided behind the building line. | All lots can accommodate a building envelope of these dimensions. | Yes |
| DC.2 – Solar Access and Energy Efficiency | | |
| <i>Performance Criteria:</i> | | |

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| 80% of new lots are to have 5 star solar access, as defined by an analysis determined from the "Possible Design Solutions – Solar Access" booklet, and the remainder a 3 or 4 star rating. | Most of the residential lots are within the preferred orientation as presented in Figure 1 in DC.2. This was confirmed within the Urban Design report. | Yes |
| Lot sizes are to reflect reasonable consideration of the impact of topography, aspect and other constraints so as to maximize solar access. | Lot sizes range predominately between 450m ² – 3010m ² , with lot widths generally exceeding 15m. The site has a slope in various directions which warrants the construction of retaining walls of up to 1.5 m height. Nevertheless, lot sizes and configuration have followed the contours of the site to minimize the potential for soil erosion. | Yes |
| Where possible lots should be oriented to provide one axis within 30 degrees east and 20 degrees west of true solar north. | Where possible, the subdivision has been designed to comply with this control, however, the road layout is dictated by topography, contours and drainage design, consistent with the master plan and site specific DCP. | Yes |
| Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling. | All residential lots within the proposed subdivision have sufficiently wide frontages to provide for solar access opportunities to the north. | Yes |
| Proposals for street planting or open space planting are to take account of the potential for shading, provision of adequate solar access to dwellings and, if necessary, protection from winter winds. | Street tree planting has been designed with consideration to future driveway locations with trees to be in the center of each lot. | Yes |
| DC.3 – Drainage, Water Quality & Soil Erosion | | |
| <i>Performance Criteria:</i> | | |
| a) Existing topography and natural drainage lines should be incorporated into drainage designs for larger proposals, and enhanced through provision of additional landscaping, detention areas, artificial wetlands and the like. | Existing drainage lines have been incorporated into the subdivision layout design. As detailed in the stormwater management plan gross pollutant traps (GPTs) will be incorporated at the end of the street networks. GPTs are designed to capture and retain gross pollutants, litter, grit and sediments from stormwater. Bioretention basins allow infiltration of stormwater through suitable vegetation. | Yes |
| b) Drainage from proposed lots should be consistent with the predevelopment stormwater patterns. An analysis of the downstream drainage system, to the receiving area or waters, may be required. | Based on modelling information provided by the applicant, pre to post development flows can be matched throughout the development, with the potential exception of the north-west basin. With regard to the north-west basin, while the pre to post development flows remain at similar levels when leaving the | No -variation recommended for support by the ELT at their 07/08/2024 meeting. |

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| | <p>site, the current amount of stormwater that reaches the applicable mapped watercourse will be increased in velocity and flow. Specifically, concern is raised with a downstream private property, Lot 1 DP 1149176.</p> <p>Stormwater flows currently reach Lot 1 DP 1149176, however under current scenarios, this water travels north, along the eastern side of the railway line, before entering Lot 1 DP 1149176 approximately 400m north from the proposed location.</p> <p>The mapped watercourse (where the proposed stormwater will discharge to), does not currently accept the volume or velocity of stormwater that is proposed to be accepted at the point of discharge.</p> <p>Council technical staff have raised concern with this arrangement. There is a potential inability to comply with the pre to post development flows at the specific point of discharge. At the Executive Leadership Team meeting on 7th August 2024, it was determined that the proposed method of stormwater disposal from the subdivision is acceptable. This decision was made on the basis that pre and post development flows would be similar upon Lot 1 DP 1149176, notwithstanding that the point of discharge for the flows to the site will be changed.</p> <p>It has been acknowledged by Engineering Management that the change in stormwater discharge location may have an improved impact on Lot 1 DP 1149176. Some stormwater leaving the Loxford site currently travels north along the eastern side of the railway corridor before travelling west under an existing culvert and into Lot 1 DP 1149176. There have been reports of flooding in the northern portion of this site in the event of major rainfall. This is supported by flood mapping, including the Flood Planning Layer of the Maitland LEP 2011 shown in Figure 8 below. The flooding has previously inundated an existing</p> | |
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| | <p>driveway on this property. By directing stormwater that would otherwise travel to the northern point of discharge to a lower/southern location on the property, it may enable stormwater to have less of an impact at the northern section of this site.</p>  <p><i>Figure 9: Draft Wallis Creek/Swamp-Fishery Creek Flood Study, Waterride 2024</i></p> | |
| <p>c) Best management practices should be implemented to control runoff and soil erosion and to trap sediment on the subject land to ensure there is no net impact on down stream water quality. The quality of runoff water from the subject land should be the same or better than the quality of water prior to the subdivision taking place.</p> | <p>Erosion and sedimentation control measures need to be implemented during any construction activities on the proposed subdivision to minimise the risk of erosion to disturbed areas and limit the transport of sediments from the construction site to downstream drainage. A sediment and erosion control plan has been prepared and will be appropriately conditioned.</p> | Yes |
| <p>d) Where possible, design multiple use drainage and treatment systems incorporating gross pollutant traps, constructed wetlands and detention basins.</p> | <p>Gross Pollutant Traps will be utilised in the development to treat stormwater runoff and reduce pollutant loads being directed towards the downstream stormwater system.</p> <p>Ponds/Sediment Basins will be utilised in the development as the downstream water quality treatment device. The ponds will also act as detention basins to allow post-development flows to be reduced to pre-development flows as stormwater runoff is discharged from the site towards the existing downstream stormwater system.</p> | Yes |

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| | Bioretention basins will be utilised in the development as the downstream water quality treatment device. The bioretention basins will also act as detention basins to allow post-development flows to be reduced to pre-development flows. | |
| e) The subdivision should be designed so as to minimise disturbance of the subject land especially in circumstances where there are topographical constraints. | The proposed development maintains the riparian corridor to the central/south portion of the site. The proposed road network and lot design minimize cut and fill where possible following the topography of the land. | Yes |
| f) Adequate provision should be made for implementation of measures during subdivision construction to ensure that the landform is stabilized and erosion controlled. | The Soil and Water Management Plan (SWMP) recommends Erosion and Sedimentation Control Plan is implemented throughout the entire construction period to minimise the quantity of sediments being conveyed to the temporary sediment basin. A concept erosion and sediment control plan has been prepared and will be appropriately conditioned. | |
| <i>Specific Controls:</i> | | |
| Where the drainage impacts of the subdivision proposal cannot be limited to pre-development stormwater levels by retention or other approved methods, drainage easements will be required over all necessary properties and watercourses. In such circumstances, the easement must be the subject of a signed agreement prior to issue of development consent. Such easements shall be created with, or prior to issue of the Subdivision Certificate. | The southern and central basins will connect to appropriate points of discharge. Discussion on the north-west basin discharge point is discussed further within this report. | No |
| A soil and water management plan (SWMP) should be prepared by a properly qualified practitioner with the aim of minimising erosion and maximising the quality of any water leaving the site. Applicants should refer to Council's Manual of Engineering Standards. | A SWMP has been prepared and is included in the application. Erosion and Sediment control plans have also been prepared and will be appropriately conditioned. | Yes |
| DC.4 – Landscape, Streetscape & Visual Impact | | |
| Existing landscape and streetscape character should be maintained and enhanced through retention of existing vegetation, provision of additional landscaping and selection of other streetscape items including surface treatments and street furniture. | A landscape plan has been submitted with the application, which demonstrates street tree plantings to soften the proposed subdivision, and to create an emerging character within the subdivision. The application has also been supported by Urban Design Report. | Yes |

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| Submission of a Landscape Plan will be required for residential and rural residential subdivisions, indicating the location of street trees and any other required landscaping | Changes in topography and existing built form reduce visual impacts. While the development will visually result in changes to the locality, it is recognized that the site is zoned R1 and is within an URA and as such, the changes to views are consistent with the emerging character of the locality. | |
| DC.5 – Effluent Disposal | | |
| <i>Specific Controls:</i> | | |
| All new residential, industrial and commercial lots are to be connected to a reticulated sewerage system supplied by the Hunter Water Corporation or other approved supplier. | The development will require a connection to reticulated sewerage system. Hunter Water notice of formal requirements, including stamped plan has been submitted with the development application. All residential lots will be provided with reticulated sewer connections. | Yes |
| DC.6 – Roads & Access, Pedestrians & Cycleways | | |
| <i>Specific Controls:</i> | | |
| Public road access is required to all new lots in Torrens Title subdivision. | All proposed lots will have suitable vehicular access to a public road. | Yes |
| Residential Subdivisions | | |
| A network of constructed (i.e. not grass) footpaths and cycleways will be required in all residential subdivisions, located, designed and constructed in accordance with Council's Manual of Engineering Standards, and in view of streets wherever possible to allow surveillance. | <p>The proposal includes standard residential design consistent with hierarchy established under the design with the site specific DCP.</p> <p>Internal pathways have been provided to provide connectivity to the Loxford 1(a) subdivision east of this site. This shared pathway layout is consistent with the Development Control Plan – F.5 Gillieston Heights.</p> <p>All internal access roads will be constructed with a minimum 8m pavement and 4.5 m road reserve to provide for footpaths and cycleways (each side) in accordance with Council Manual of Engineering Standards (MOES). Main roads include Road MC01 as a divided carriageway. Further, the development benefits from the signalized intersection required under Loxford 1(a). This will enable direct access to this subdivision via the Cessnock Road intersection.</p> | Yes |
| Pedestrian links between residential cul-de-sacs or other road layouts. | The proposed subdivision includes a footpath network to connect the subdivision internally to Loxford precinct | Yes |

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| | 1(a). The footpath network is generally consistent with site specific DCP (Chapter F - URA) which is discussed further in this report. A single cul de sac is proposed (Road MC21). This cul de sac enables access for Lots 801 – 807. These are large lots (1245sqm – 34601sqm) and pedestrian access is not considered necessary. | |
| Particular attention should be paid to pedestrian links to schools, with regard to their width, lighting (to Australian Standard) and the appropriateness of landscaping and related safety issues. | The proposed road network within the subdivision does not have direct access to schools. However, the subdivision provides connectivity to Cessnock Road where the existing road network can be utilised for this purpose. | Yes |
| The road, footpath and cycleway network should facilitate walking and cycling throughout neighbourhoods and provide links to schools, community facilities and other activity centres. | Complies. The development proposes a footpath and cycleway network within the subdivision, which is connected to external pedestrian networks on Cessnock Road and subdivision beyond this point. | Yes |
| DC.7 Crime Prevention – Safer By Design To ensure that Council does not approve subdivisions that create or exacerbate crime risk or community fear. | <p>The development proposes clear sightlines between public and private spaces. Lots 905, 96, 1417, 1418 back onto a detention basin. Concern has been raised regarding the ability for these lots to provide passive surveillance to the basin (noting that no road adjoins the reserve. A condition is to be imposed requiring the NE (rear fencing of these lots to be semitransparent to allow for visual security to the basin. It is further note that road MC01 (i.e. the main carriageway to the subdivision and beyond) runs past this basin, which allows for regular surveillance of the basin.</p> <p>The landscape plans propose street trees at regular intervals to make the proposed development attractive while maintaining site lines. Conditions will be included in the consent to ensure that appropriate lighting, fencing and landscaping is included within the development.</p> | Yes |
| DC.8 Site Filling | Bulk earthworks will occur over the site to create level residential allotments. A preliminary earthworks plan indicates that bulk earthworks will include excavations in the order of up to 2m | Yes |

| | | |
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| | and fill of up to 2m. This is generally compliant with the DCP. A key consideration in earthworks relates to the importation of fill brought into a site. In this instance, the applicant has anticipated that material cut from excavations will be used in the areas of fill; maintaining a balanced extent of cut and fill across the site. Noting that no importation of fill is required to create this subdivision, this item can be supported for variation. | |
| DC.9 Reticulated Services (Water/Sewer/Electricity/ Telecommunications) | Evidence of satisfactory arrangements being agreed will be required to be provided to Council prior to issue of subdivision certificate. | Yes |
| IC.1 Entry Features Entry features for residential subdivisions shall be limited to a size of 20m sq with a maximum height of 2 metres. | N/A | N/A |

Part F – Urban Release Areas

DCP requirements are detailed in the following table:

Table 2 URA DCP Provisions

| 1.2 Precinct Plan | | Complies |
|--|---|-----------------|
| <i>Development Controls:</i> | | |
| Any Development Application prepared for subdivision will provide consideration (e.g., interconnecting roads) to the development of the overall precinct in which the subdivision is located as shown. | The submitted plans are generally in accordance with the overall precinct layout contained within the DCP. The subdivision will provide an important linkage between the Loxford 1(a) subdivision and continuing residential release south-west from the site towards the Cessnock LGA. | Yes |
| 2.1 Transport and Movement | | |
| 1The street network is generally provided in accordance with the Development Circulation Map and the Road Sections, which is not covered by the Maitland Council Manual of Engineering Standards. | The submitted plans are generally in accordance with the street network and road sections contained within the DCP. | Yes |
| 2. Alternative street designs for local streets and accessways may be permitted on a case-by case basis to accommodate local features if they preserve the function objectives and requirements of the design standards. | This subdivision provides regular street design. | Yes |

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| 3. No future lot will have direct access to Cessnock Road (MR195). | No lots have direct access to Cessnock Road. | Yes |
| 4. Except where otherwise provided for in this Chapter, all streets and intersections are to be design and constructed in accordance with the Maitland City Council Manual of Engineering Standards. | All internal access roads will be constructed with a minimum 8m pavement and 4.5m road reserve to provide for footpaths and cycleways (each side) in accordance with Council Manual of Engineering Standards (MOES). Main roads include Road MC01 as a divided carriageway. Further, the development benefits from an upgrade to the Cessnock Road intersection (via signaled intersection) which will provide direct access via the Loxford 1(a) subdivision to Cessnock Road. The road designs are generally in accordance with the concept plan included in the site specific DCP previously prepared. | Yes |
| 2.2 Overall Landscaping Strategy | | |
| 1. An Overall Landscaping Strategy is required to accompany any Development Application for subdivision | Landscape Plans have been prepared and are submitted with the application. This includes: <ul style="list-style-type: none"> o Asset protection zones, o Plant species and sizes, which includes consideration of street trees o Utilities and services, o Soft and hard landscaping, o Any other embellishment. | Yes |
| 2.3 Passive and Active Recreation Areas | | |
| Open space is generally accordance with Council's Maitland Recreation & Open Space Strategy and generally located in accordance with FIGURE 3 | No additional play space is proposed under this subdivision, noting that this subdivision has direct connectivity to the district park approved within Loxford 1(a). This district park is within walking distance to the subdivision and is accessed via road system and pathways. | Yes |
| 2.4 Stormwater and Water Quality Management Controls | | |
| There are no specific requirements as stormwater and water quality management controls are controlled by other provisions of the Maitland Development Control Plan. | The other provisions within the DCP have been considered above. | Yes |
| 2.5 Amelioration of Natural and Environmental Hazards | | |
| Development Applications for subdivision provide consideration to the general provisions of the Maitland Development Control Plan for flooding. | The site is not identified as flood prone. It is additionally noted that at the completion of the subdivision and further stages, an alternative flood free access road will be provided between the Cessnock LGA and Maitland LGA. | Yes |
| The Bushfire Assessment Report (BAR) that accompanies the Development Application for subdivision | The BAR has been prepared and submitted with the application. The application was referred to RFS who | Yes |

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| is to be in accordance with the document titled Planning for Bushfire Protection, prepared by the NSW Rural Fire Service. | <p>provided general terms of approval on 13 April 2023.</p> <p>A perimeter road should be provided to separate bush land from residential areas, allowing more efficient use of firefighting resources.</p> <p>The BAR identifies a bushland interface:</p> <ul style="list-style-type: none"> • west of Road MC08, • west of Road MC11, • west of Road MC18, and • south and east of Road MC17. <p>All these roads have 10.5m wide carriageways with the exception of MC18. A wider carriageway has not been provided here because the bushland is already separated by the rail corridor, which means that it does not adjoin the bushland interface. This increased separation distance that is provided by the rail corridor results in proposed lots 1401 to 1416 receiving the second lowest Bushfire Attack Level (BAL) of 12.5.</p> <p>The engineering plans have been updated to propose 'No Parking Signs' on the western (hazard) side of MC18, which means the 8m wide carriageway allows for a parked car on the eastern (residential) side and then for two vehicles to pass one another consistent with the Planning for Bushfire Protection Guidelines 2019.</p> <p>Road MC21 is not considered a perimeter road due to the adjoining land to the east, which is zoned RU2 – Rural Landscape and will remain an Asset Protection Zone through an 88B Restriction being place on the Land Title under the Conveyancing Act 1919.</p> | |
| All Development Applications are to demonstrate compliance with State Environmental Planning Policy No.55 – Remediation of Land | A Site Audit Statement has been prepared and was submitted with the development application and assessed via DA2022/193, with reference to this site. The report was referred to Hunter JO for peer review and was considered acceptable subject to conditions. | Yes |
| 2.6 Key Development Sites | | |
| 2.6.1 Land fronting Cessnock Road and South Maitland Railway | | |
| 1. An acoustic assessment is required to accompany the Development Application | An Acoustic Assessment accompanies the development application. The subdivision | Yes |

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| for subdivision to demonstrate if any mitigation measures will be required for those lots in proximity to the South Maitland Railway Line. The assessment should be undertaken by a suitability qualified acoustic consultant to ensure that the properties are designed and constructed in accordance with NSW document titled 'Development near Rail Corridors and Busy Roads – Interim Guideline' to achieve acceptable internal noise amenity, regarding the external noise exposure levels. | (subject of this DA) is removed from Cessnock Road, but it does adjoin the rail corridor to the west. A 20m buffer is applied to all lots adjoining the corridor, including separation achieved by a road reserve (MC18). The recommendations of the acoustic report have been reviewed by Council's environmental health team who concur with the recommendations and have imposed conditions of consent to ensure compliance. | |
| 2. Any proposed fencing shall be located on private land and not on public land. | This requirement will be appropriately conditioned. | Yes |
| 3. Subdivision in proximity to the South Maitland Railway Line may result in the need for the construction of security fencing to restrict access and improve safety. | Security fencing is conditioned to all lots adjoining the rail corridor. | Yes |
| 2.6.2 Mine Subsidence – Old Mine Workings | | |
| Prior to any Development Application for Subdivision within the mine workings or mine zone with limitations, the applicant will undertake further geotechnical assessment to assess the suitability of this land for the development that is proposed (e.g., roads, services, etc.). | A Mine Subsidence Report has been prepared and recommendations provided. General Terms of Approval have been received for this development. | Yes |
| 2.6.3 Archaeological Significance | | |
| An Aboriginal Heritage Impact Permit (AHIP) issued under Part 6 of the National Parks and Wildlife Act 1974 (NPW Act 197) is required for any works which affect these sites. | An Aboriginal Cultural Heritage Assessment (ACHA) has been prepared, covering both Loxford 1(a), and Loxford 1(b) [i.e. this site]. The ACHA confirms no sites have been identified in the project area, an AHIP is not required at this time. | Yes |
| Areas of high archaeological sensitivity, warrant a full Aboriginal Cultural Heritage Assessment prior to any development works. If impacts to any Aboriginal objects identified through these assessments cannot be avoided, an AHIP issued under Part 6 of the National Parks and Wildlife Act 1974 (NPW Act 1974) will be required. | An ACHA has been prepared. | Yes |
| If any Aboriginal objects are encountered during development, and impacts cannot be avoided, an AHIP issued under Part 6 of the NPW Act 1974 will be required. | This will be conditioned. | Yes |
| 2.7 Residential Densities | | |
| There are no specific requirements as residential densities are already controlled by the minimum lot size map | The proposed subdivision is compliant with the minimum lot size controls. | Yes |

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| contained within the Maitland Local Environmental Plan 2011. | | |
| 2.8 Neighbourhood Commercial and Retail Uses | | |
| There are no specific requirements because there are no lands zoned for commercial or retail purposes within the part of the Urban Release Area, which is within the Maitland Local Government Area. | Noted. | Yes |
| 2.9 Provision of Public Facilities and Services | | |
| There are no specific requirements as provision of public facilities and services is already controlled by other provisions within the Maitland Local Environmental Plan and Maitland Development Control Plan. | Noted. | Yes |

Section 4.15(1)(a)(iia) – Any planning agreement that has been entered under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

A Planning Agreement has been entered into between the TfNSW and the developer for the payment of a monetary contribution towards State infrastructure, as required under clause 6.1 in the MLEP 2011 when land is subdivided within an urban release area (Planning Agreement SVPA2022-31). Relevant matters for consideration are addressed under discussion in this report relating to clause 6.1 of the MELP 2011.

The obligations for the developer regarding the timing for the payment of the contribution are embedded in the Agreement. Council is required to ensure that the obligations in the Agreement have been complied with before it can issue the related Subdivision Certificate and this requirement is included in the recommended schedule of conditions.

Additionally, consistent with Clause 6.2 Public utility infrastructure, a VPA has been entered between Council and the applicant for the dedication of the District Park [to be delivered as part of Loxford 1(a)]. The VPA detailed the following:

- Delivery of a district park on land which forms part of the Gillieston Heights South Urban Release Area. The park comprises an area of 8828sqm and features play equipment, amenities and parking.
- It is intended that the VPA will replace the requirement for monetary contributions which would ordinarily be levied on the development. It is considered that the park will not only cater for residents of the estate, but those outside the local catchment providing a broader benefit to Council and the community.

Section 4.15 (1)(a)(iv) - The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no regulations prescribed under Section 92 of the Environmental Planning and Assessment Regulation 2000 which apply to this proposal.

Section 4.15 (1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The following table identifies and discusses the relevant matters for consideration in relation to environmental, social and economic impacts associated with the proposal.

Table 3 Assessment of Impacts


| Matters for Consideration | Comments |
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| <i>Aboriginal Archaeology</i> | <p>An Aboriginal Cultural Heritage Assessment (ACHA) prepared by McCardle Cultural Heritage (MCH) dated 25 February 2022 was provided for the subdivision approved via DA2022/193. This report covered the consideration of Aboriginal archaeology for both the Loxford 1(a) and the Loxford 1(b) subdivision stages.</p> <p>A search of the AHIMS register by MCH demonstrated that 27 known Aboriginal sites are recorded within two kilometres of the project area (as defined with ACHA) and include 16 artefact sites (AFT), 7 PADs, two AFT and PAD sites, one scar tree (TRE) and one Aboriginal resource and gathering site (ARG). Although not registered on AHIMS, a previous assessment that included the land identified an isolated artefact in the project area known as 1A03-14, adjacent to an erosion control bank. Located approximately 55 metres from the 2nd order creek, there was no potential for additional artefacts and the archaeological site was assessed by MCH as being of low scientific significance. Additionally, two locations of potential archaeological sensitivity within the project area were also identified (along water sources) based on landforms.</p> <p>Based on archaeological sites registered in the region and the results of past archaeological studies, two site types are likely to occur throughout the project area: <i>Artefact scatters</i> and <i>Isolated finds</i>.</p> <p>MCH surveyed the project area. The survey included transects at approximately 10 metres apart walked in an east/west direction across the project area and focused on areas of high ground surface visibility and exposures. No sites were found in the project area during the survey by MCH. The survey identified a disturbed landscape that had evidence of long-term clearing and agricultural /pastoral purposes. These land uses have affected any cultural heritage that may have been present. MCH confirmed that this was consistent with the predictive model and there is minimal potential for in situ cultural materials to be present through the majority of the project area.</p> <p>Nevertheless, the ACHA identified two Potential Archaeological Deposits (PADs). The report stated that PAD1 extends from the western boundary (commencing further west outside the project area) and continues east to the convergence of two 1st order creeks. The creek line will remain largely unencumbered by the subdivision; this land is set aside for vegetation retention and as a residue lot. PAD2 includes the two 1st order creeks that join to form the 2nd order creek. The convergence of the two streams was identified in report as being suitable for past Aboriginal land uses. Portions of the northern stream will contain residential lots and road. The report notes that the stream is only identified as suitable for containing deposits and no such deposits have been located to date.</p> |

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| | <p>As a result of the PADs being identified, the following recommendations were provided and will be appropriately conditioned:</p> <p><i>The persons responsible for the management of onsite works will ensure that all staff, contractors and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance. Of particular importance is the National Parks and Wildlife Amendment (Aboriginal Objects and Aboriginal Places) Regulation 2010, under the National Parks and Wildlife Act 1974;</i></p> <p><i>Works may proceed in the project area (excluding the PAD area) and should any Aboriginal objects be uncovered during works, all work will cease in that location immediately and the Environmental Line contacted; and.. If the identified PAD will be impacted upon by any future development an archaeological subsurface investigation will be required in accordance with the Code of Practice for Archaeological Investigations of Aboriginal Objects in NSW.</i></p> |
| Biodiversity | <p>The proponent has sought consent for the clearing of land within Stage 1(a), (i.e. this application) and Stage 1(b) (i.e. DA2022/193). A Biodiversity Development Assessment Report (BDAR) covering both development applications was prepared by GHD dated 2 February 2022 and supported via consent issued 13th June 2023 - DA2022/193 with conditions of consent. The original BDAR gained consent to offset approximately 770 ha of the Hydro Lands to be secured within a biodiversity stewardship site (BSS) as part of their overall masterplan.</p> <p>This BDAR credit requirements shall be updated to incorporate minor amendments required under this subdivision. The changes are summarised:</p> <ul style="list-style-type: none"> • Requirement for an additional stormwater basin, proposed to be constructed in north-western corner of the site. • Slight change to road design along the western boundary of RU2 land located along drainage line located to south of proposal site. The works encroach into mapped ecology land; however no trees are required to be removed to facilitate this road. • Allowance for access road to land on western side of Maitland rail line. • Requirements for bushfire protection within RU2 land located in the northwest of the site (resulting in partial impacts due to inner protection area (IPA) management requirements). • Detailed survey of the site which has adjusted western boundary of the site (along rail line), resulting in reduction in vegetation removal. |



Bushfire

The applicant has sought a performance-based approach to this matter. The performance-based solution relies on parking and traffic studies concluding that an acceptable travel carriageway can be provided to the non-perimeter roads. The

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| | <p>performance solution also makes reference to the low risk posed by bushfire at this site. The RFS reviewed the documentation and provided General Terms of Approval on 13 April 2023. It is noted that no parking restrictions have been imposed on non-perimeter roads and the General Terms of Approval have been included as conditions of consent.</p> |
| Traffic and Transport | <p>The site benefits from the Loxford 1(a) approved traffic arrangement where a signalised intersection will provide vehicular to the site via Cessnock Road. Road MC01 is a divided carriageway serving as the main thoroughfare into this subdivision from the traffic light intersection. It is additionally noted that this subdivision will facilitate a new road access into further 'Hydro' stages, providing an alternative flood access linking the suburbs of Cliftleigh / Heddon Greta (Cessnock City Council) in the south to Gillieston Heights (Maitland City Council) in the north.</p> |
| Acoustics | <p>An Acoustic Report was prepared by <i>Vipac Engineers and Scientists Limited</i>, dated 13 February 2023.</p> <p>The site is bound by the South Maitland rail corridor to the west. The freight line is not currently in use however it may be recommissioned in future and as such the potential for freight noise impacts has been considered.</p> <p>The acoustic report states that: <i>"a single train pass-by event is expected to be compliant with the particle vibration velocity criteria at a worst case receiver distance of 20 metres. External noise levels due to ground borne noise at most exposed lots are predicted to be in the range of 37 to 53 dB(A). As such, internal noise level are expected to be compliant with the criteria."</i></p> <p>The report identified that the proposed lots are impacted by three zones of affectation, being zone 1, zone 2 and zone 3. Zone 1 has the potential to be most impacted by rail noise. The zone mapping is shown in the figure below.</p>  <p><i>Figure 11: Zones for architectural upgrades for a freight train travelling at maximum 30km/hr.</i></p> |

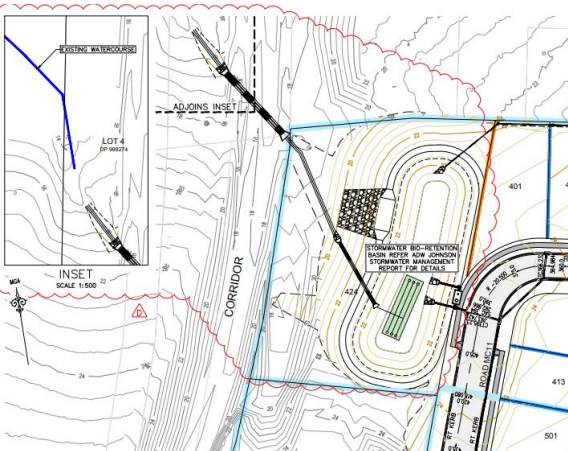
| Zone | Receiver Lot | Receiver Height | Freight train traveling at 30km/hr | |
|---------------------|--------------------|-----------------------|------------------------------------|-------------------|
| | | | Predicted Noise Level dB(A) | |
| | | | L _{Aeq} | L _{Amax} |
| Zone 1 ¹ | Lot 801 to Lot 805 | Ground Floor | 54 | 80 |
| | | 1 st Floor | 57 | 82 |
| Zone 2 | Lot 401 | Ground Floor | 47 | 73 |
| | | 1 st Floor | 50 | 76 |
| | Lot 1322 | Ground Floor | 42 | 68 |
| | | 1 st Floor | 44 | 70 |
| | Lot 809 | Ground Floor | 44 | 70 |
| | | 1 st Floor | 46 | 72 |
| | Lot 349 | Ground Floor | 38 | 64 |
| | | 1 st Floor | 43 | 69 |
| Zone 3 | Lot 1101 | Ground Floor | 37 | 63 |
| | | 1 st Floor | 40 | 66 |
| | Lot 1208 | Ground Floor | 36 | 62 |
| | | 1 st Floor | 38 | 64 |
| | Lot 1314 | Ground Floor | 39 | 65 |
| | | 1 st Floor | 36 | 62 |
| | Lot 305 | Ground Floor | 38 | 64 |
| | | 1 st Floor | 39 | 65 |

Figure 12: Zone table and impact to lots.

The report included recommendations for future residential treatments and mitigation measures. The recommendations are generally applicable to the western facades of future dwellings within the Zone 1 and 2 affected areas shown in the figure below. The recommendations include construction measures and avoiding sensitive rooms within affected areas for these lots as well. The specific recommendations are outlined:

- Dwellings in zone 1 are recommended not to have noise sensitive rooms (i.e. bedrooms) facing the rail corridor. The designs are recommended to utilise less noise sensitive spaces (e.g. non-habitable rooms) as a noise buffer between the noise source and noise sensitive rooms, however if a sensitive room is facing the rail corridor, then architectural treatments should be considered and assessed during the design phase.*
- Where possible, all dwelling designs in zone 1 should minimise the surface area of glazing and doors (which are sound insulation "weak points") facing towards freight rail corridor. Windows/glazing systems would require acoustic seals because standard seals offer negligible to nil sound insulation performance. All dwellings in zones 1 and 2 require detailed lot specific acoustic reviews, and therefor concept drawings should be assessed by a suitably qualified acoustics consultant for review to ensure that design internal noise levels are satisfied and acoustic amenity is maintained.*

An 88b restriction is to be placed on these lots to ensure construction for future dwellings are in accordance with the approved acoustic report.

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| | Relevant conditions of consent have been incorporated, including compliance with recommendations of the acoustic report. |
| Stormwater Management and Flooding | <p><u>Stormwater discharge</u></p> <p>The site represents the highest point in the Regrowth Kurri Kurri Development and therefore the village precincts naturally drain to the north, west and south boundaries. The proposed stormwater network includes;</p> <ul style="list-style-type: none">o Construction of three permanent basin reserves,<ul style="list-style-type: none">o (Lot 914, 8227sqm, Central West),o (Lot 424, 2857sqm, North),o (Lot 124, 5033sqm, East) ando One temporary basin (Lot 1419, 5780sqm, South, Temporary Basin) which will be decommissioned in accordance with future subdivision works planned for land to the south within the Cessnock LGA. <p><u>History of stormwater consideration</u></p> <p>During the assessment of this subdivision there have been extensive negotiations between Council staff and the applicant in relation to the impact of the development on the north-west adjoining land (Lot 1 DP 1149176) and the railway corridor located to the west of the site.</p> <p>As part of this assessment, the applicant had originally proposed to discharge stormwater from the north-western basin in a northern direction to a 'natural depression', running east of the railway corridor line. Council advised the applicant that owner's consent is needed for this arrangement and the applicant then opted to re-design their method for stormwater discharge.</p>  <p><i>Figure 13: Engineering plan showing the easement works over SMR corridor.</i></p> <p>The north-western basin was redesigned to require the discharge of stormwater in a north-westerly direction, through the South Maitland Railway Corridor (SMRC) land and into a mapped watercourse on this land, before it continues to Lot 1 DP 1149176 (an allotment in separate and private ownership). Early discussion was held as to whether the mapped watercourse comprised the legal definition of a watercourse and whether the discharge of stormwater could be legally established to this point.</p> |

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| <p>The applicant responded by providing a Geomorphological Watercourse Assessment (GHD, 15 December 2023), confirming that the depression in the land shared the characteristics which define a watercourse. A site inspection was also conducted with Management Staff from the Engineering and Planning teams, confirming that the depression had the visual characteristics of a watercourse. It was further noted that an existing farm dam sits within the path of the mapped watercourse and concern was raised around the potential for scouring and damage to the dam because of the changed flows likely to enter Lot 1 DP 1149176.</p> <p>Following further discussion relating to Council's concern with the potential for a 'nuisance' effect to Lot 1 DP 1149176, the applicant provided owners consent for Lot 1 DP 1149176 as well as amended plans showing the construction of artificial spillway works associated with the dam. Council staff assessed this information and provided recommended conditions to support this proposal. Based on legal advice obtained by Council, the stormwater flow path on Lot 1 DP 1149176 would be required to sit within an easement. The creation of the easement would reduce the risk of Council being responsible for any downstream impact to this land.</p> <p>Upon receiving the advice that an easement would be required Lot 1 DP 1149176, the applicant opted to withdraw the proposed works to the artificial spillway, and consequently withdraw the creation of an easement over this land. This results in the proposal seeking consent to discharge stormwater into a mapped watercourse, without works on Lot 1 DP 1149176. The proposed works commence within the South Maitland Railway Corridor land, via the construction of 3 x 525mm culvert pipes under the railway line, within Lots 1 and 2 DP 976895. The pipes then reach an outlet point on Lot 4 DP 998274 (also SMRC land) which disperses water into the mapped watercourse, commencing within the boundary of Lot 4 DP 998274. The watercourse travels a short distance within Lot 4 DP 998274, before reaching the downstream allotment: Lot 1 DP 1149176.</p> <p>The matter was referred to Councils Executive Leadership Team (ELT) on 7th August 2024 to review the potential options regarding stormwater discharge. Two options were recommended at this meeting, being:</p> <p>Option 1:</p> <p><i>Council condition the consent to require a tail out drain and stabilisation works to the existing farm dam on Gollan Land (creating an artificial 'spillway') with an easement covering the area of these works to indemnify Council and mitigate any potential future risk.</i></p> <p>OR</p> <p>Option 2:</p> <p><i>Council note the risk as being minor / moderate, and elect to take on the risk of any future action by the owner of Gollan land for damage to, or 'nuisance' effect on the land.</i></p> <p>The ELT determined to progress the application as per Option 2. In forming this decision, the ELT notes that the pre and post development flows entering the site will remain relatively equal, the catchment only serves 34 proposed lots, the potential for impact is located on partially flood affected rural lands, and confirmation that many developments discharge stormwater directly into mapped</p> |
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| | <p>watercourses, with legal advice confirming that this is lawfully acceptable. Council technical staff remain concerned that there is a risk of scouring and impact to Lot 1 DP 1149176. The ELT has established that the level of risk is acceptable in this instance given the above.</p> <p>Technical staff have also raised the issue of ensuring that the landowner of Lot 1 DP 1149176 is suitably informed of the changed circumstance of the proposal. While owner consent may no longer be required for the land (noting that no works are now requested upon their land), they have only supported the proposed subdivision based on the reconstruction of the farm dam within their land. Furthermore, the original version of the subdivision was exhibited showing stormwater dispersing in a northerly direction, not at the currently proposed point of discharge. The owner of Lot 1 DP 1149176 did not object to this exhibited version of the subdivision; however, the path of stormwater dispersal has changed. The changed scenario may have implications to their land (i.e. changed velocity and flows of stormwater to their land). A letter has thereby been sent to the landowner informing them of the changed proposal. The landowner is invited to address the Council meeting of 27th August 2024 if they wish to raise concern.</p> <p><u>Engineering comment</u></p> <p>While the pre to post development flows retain similar levels when leaving the site, the current amount of stormwater that reaches the mapped watercourse will be increased in terms of velocity and flow. It is noted that the stormwater <i>does</i> currently reach Lot 1 DP 1149176, however under current scenarios, this water travels north from the subdivision site, along the eastern side of the railway line, before entering Lot 1 DP 1149176 approximately 400m from the currently proposed location. The mapped watercourse (where the proposed stormwater will discharge to), does not currently accept the volume or velocity of stormwater that is proposed to be accepted under this proposal.</p> <p>Council's Development Engineer has stated that: <i>"If the spillway and scour protection is not proposed on the farm dam, the embankment will scour away over time and potentially fail."</i></p> <p>As stated previously in this report, Council's Executive Leadership Team determined on 7th August 2024 that there is only a low/moderate risk in accepting the no works option on Lot 1 DP 1149176 as part of this subdivision proposal. They also acknowledge that there is a lawful ability to discharge stormwater to a recognised blue line. This application is being recommended in accordance with this directive.</p> |
| Utilities | <p><u>Ausgrid</u></p> <p>The application was referred to Ausgrid and comments were provided regarding electrical infrastructure.</p> <p>A notation was made with reference to the existing 33000V overhead powerlines which traverse the Loxford 1(a) subdivision site. The subject subdivision is not impacted by these powerlines, therefore no further consideration is necessary under this proposal.</p> <p><u>Sewer / Water</u></p> <p>The Notice of Arrangements issued by Hunter Water Corporation on 23rd August 2022 is sufficient information for development consent to be issued based</p> |

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| | <p>on ensuring the availability of water and sewer. The servicing strategy will form the basis for assessment of the section 50 compliance certificate at the subdivision certificate stage. A Hunter Water Corporation (HWC) pump station is required on proposed Lot 813.</p> <p>Access to the HWC pad on Lot 813 is required from MC01. This has been acknowledged as undesirable by Council development engineers, however the applicant has noted that sufficient internal turning area is provided for the allotment and the access road is no different to a number of residential allotments that also gain their access from road MC01. This has been deemed acceptable.</p> |
| Earthworks & Geotechnical | <p>Bulk earthworks are proposed which will result in excavations of up to 2.0m depth and fill of up to 2.0 m in other parts of the site. A cut and fill plan is included as part the Concept Engineering Plans. Material collected during the bulk excavations will be re-used as fill where required on the site. The plan indicates that a <i>balanced extent</i> of earthworks is likely to be achieved across the site.</p> <p>Recommended conditions of consent will be imposed requiring that earthworks are conducted in accordance with AS3798/2007.</p> |
| Contamination | <p>A Site Audit Report and Statement was prepared by AECOM dated 14 September 2020 in conjunction with the assessment of Loxford 1(a) - DA2022/193. The information and recommendations of this report also apply to this site. The SAR was referred to Hunter Joint Organisation for review, with the Hunter JO recommending that a Construction Environmental Management Plan be included as a condition of consent.</p> <p>A further letter from the applicant was provided on 12 April 2022 as part of DA2022/193 to confirm the site was suitable for residential purposes. The Site Auditor outlined <i>"site works undertaken at Site, as documented in the SAR, were sufficient to render the site suitable for residential purposes"</i>.</p> <p>Based on the site history, field observations, and laboratory results, it is considered that the site can be made suitable for the proposed residential subdivision, if the following recommendations are implemented:</p> <ul style="list-style-type: none"> • <i>An unexpected finds protocol should be developed to address any potential contamination during construction phase.</i> • <i>If potential contamination is encountered, site works will be ceased, and suitable environmental consultant will be engaged for assessment.</i> |
| CPTED | <p>It is not anticipated that the development will result in adverse impacts in regard to safety and crime prevention within the locality. This has been further demonstrated in the DA's compliance with CPTED provisions within the DCP.</p> |
| Social and Economic Impact | <p>The proposal will have a positive social and economic impact, both through the promotion of employment during construction and creation of residential land within the URA.</p> |
| Construction | <p>Construction impacts are expected to be short term and limited to the construction program. A CEMP will assist in managing identified impacts and will be developed by the contractor.</p> |

Section 4.15 (1)(c) - The suitability of the site for the development

The subject site is located within the Gillieston Heights Western Urban Release Area and zoned for residential purposes. The development application is consistent with the DCP for the site. The site is identified as bushfire prone land and within designated mine subsidence district and these matters have been appropriately addressed, noting that General Terms of Approval from external agencies have been provided. Issues relating to stormwater and drainage have been discussed in this report. Discussions in relation to traffic generation and distributions are provided throughout this report, and the proposed road network is considered to be satisfactory. The site is considered suitable for the proposal.

Section 4.15 (1)(d) - Any submissions made in accordance with this Act or the regulations

Public Submissions

The proposal was placed on public exhibition for a period of 28 days in accordance with the Environmental Planning and Assessment Act 1979 and the Maitland Development Control Plan 2011.

No submissions have been received.

Government Agency Submissions

General terms of approval (GTA's) have been provided by the following government agencies on the basis that the development is classified as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*. A summary of the requirements of each government agency is provided in the following table:

| Government Agency Submissions (GTA's) | | |
|--|---|---|
| <i>Responding Agency</i> | <i>Section/Act under which GTA's are provided</i> | <i>Summary of requirements</i> |
| Department of Planning and Environment - Water | S91 of the <i>Water Management Act 2000</i> | Controlled activities carried out in, on or under waterfront land are regulated by the <i>Water Management Act 2000</i> . The requirements of the <i>Water Management Act 2000</i> are triggered by the proximity of works to tributaries of Swamp Creek, in the south-east of the site, as well as the potential for disturbance and discharge to a watercourse north of the site. DPE-Water provided concurrence subject to GTA's 23 December 2022. A request to review the GTA's, ensuring that impact to watercourses in the north of the site was requested. The DPE-Water provided revised concurrence on 9 th May 2024, requiring no change to the previously issued GTA's. |
| Rural Fire Services | Rural Fires Act - S.100B | The proposed development is classified as residential subdivision within a bushfire prone area and required referral to the NSW Rural Fire Service (RFS) in accordance with section 100B of the <i>Rural Fires Act 1997</i> . |

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| | | RFS reviewed the documentation, including Bushfire Assessment Report and provided General Terms of Approval on 13 April 2023. These have been included as conditions of consent. |
| Subsidence Advisory NSW | Coal Mine Subsidence Compensation Act 2017 | The DA was referred to the Subsidence Advisory NSW who provided General Terms of Approval (GTA). This satisfies the approval of Subsidence Advisory NSW under section 22 of the <i>Coal Mine Subsidence Compensation Act 2017</i> , subject to satisfying the relevant conditions. |

Comments with respect to the proposal have been provided by the following government agencies as summarised in the following table:

| Government Agency Submissions (Comments) | | |
|--|---|---|
| <i>Responding Agency</i> | <i>Section/Act under which comments are required</i> | <i>Summary of Comments</i> |
| Transport for New South Wales | SEPP (Transport & Infrastructure) – cl 2.122 traffic generating | <p>Cessnock Road (MR195) is a classified State Road. Council is the roads authority for Cessnock Road and all other public roads in the area, in accordance with Section 7 of the Roads Act 1993.</p> <p>TfNSW reviewed the referred information and provided the following comments to aid in the determination:</p> <ul style="list-style-type: none"> It is understood that the subject development will access the State road network (Cessnock Road) via an adjoining development to the east – DA/2022/193. This will be delivered through a Voluntary Planning Agreement (VPA). The signalised intersection required as part of the VPA must be operational prior to issue of any Subdivision Certificate for Stage 1. The internal collector road will be delivered progressively in line with the development of land. <p>These requirements are included as a recommended condition of consent.</p> |

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| Ausgrid | SEPP (Infrastructure) - cl 45 | Comments have been provided to the applicant and conditions of consent included accordingly. |
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Section 4.15(1)(e) - The public interest

The proposal is unlikely to impact on any Federal, State and Local Government or community interests. The proposal is in the public interest on the basis that:

The subject site is located within an Urban Release Area (URA). Additional residential allotments are to be created in accordance with the sequencing of the URA. As such, it is considered that the development is in the public interest.

REFERRALS

The application was referred to the following internal referrals for comment.

Development Engineering

The subject application was referred to Council's Senior Subdivision and Development Engineer. Several revisions were requested by the Development Engineer to ensure that Council had the required information to adequately assess the proposal.

The final revision of the submitted documents, as supported by the Executive Leadership Team, was reviewed by the engineering staff. The engineering referral maintains that stabilisation works should be constructed within downstream property (Lot 1 DP1149176); however recommended conditions of consent have been imposed according to the position of ELT.

Biodiversity

The application was referred to Council's Ecologist who was employed at the time of referral. No issue was raised with the addendum information provided in support of the minor increase in vegetation clearing.

Upon re-review of the addendum information, Council's current Biodiversity and Resilience Officer noted that the approved (DA2022/193) BAM Credit's would need to be updated to reflect the change in vegetation clearing. It was agreed that a condition can be imposed requiring the relevant condition (#30 of DA2022/193) to be amended accordingly. No further action from an ecology perspective is required.

Acoustic

The proposal was referred to Council's Environmental Health officer. Initial comments were provided to the applicant regarding guidelines within *SEPP (Transport and Infrastructure) 2021* and appropriate acoustic attenuation near the railway corridor.

Development Contribution Administrator

A planning agreement in lieu of monetary contributions has been agreed to via a Planning Agreement outlined previously within this report. The condition of consent recommended by Council's Contribution Development Contribution Administrator has been incorporated into the recommended conditions of consent.

Waste

Road widths are adequate. No issues identified relation to turning circles for collection vehicles.

ASSESSMENT CONCLUSION

An assessment of the application has been undertaken against Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979 as amended*. The proposed development is considered acceptable in terms of the relevant matters for consideration under the Act and the development application is recommended for approval.

RECOMMENDATION AND DETERMINATION

Consent be granted subject to the conditions provided in the attached schedule.

Officers Reports

DEVELOPMENT APPLICATION 2022/912 PROPOSING TWO HUNDRED AND TWENTY FOUR (224) LOT TORRENS TITLE SUBDIVISION AT 464 CESSNOCK ROAD GILLIESTON HEIGHTS

Conditions of Consent (Under Separate Cover)

Meeting Date: 27 August 2024

Attachment No: 4

Number of Pages: 17

Schedule of Conditions DA/2022/912

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

| Plan Ref No. | Sheet No. | Revn No. | Revision Date | Prepared by: (consultant) |
|---|---------------------|----------|---------------|---------------------------|
| Cover Sheet and Drawing Index | DA-001 | D | 07.03.23 | ADW Johnson |
| Existing Site Natural Surface Plan | DA-003 | D | 07.03.2023 | ADW Johnson |
| LEP Zoning | DA-004 | D | 07.03.2023 | ADW Johnson |
| LEP Minimum Lot Size | DA-005 | D | 07.0.2023 | ADW Johnson |
| Overall Stage Master Plan | DA-006 | D | 07.03.2023 | ADW Johnson |
| Detail Sheet of Stages 1, 2 and 3 | DA-007 | D | 07.03.2023 | ADW Johnson |
| Detail Sheet of Stages 4, 5 and 6 | DA-008 | D | 07.03.2023 | ADW Johnson |
| Detail Sheet of Stages 7 and 8 | DA-009 | D | 07.03.2023 | ADW Johnson |
| Detail Sheet of Stages 9, 10 and 11 | DA-010 | D | 07.03.2023 | ADW Johnson |
| Detail Sheet of Stages 12, 13 and 14 | DA-011 | D | 07.03.2023 | ADW Johnson |
| Lot Diversity Plan | DA-012 | D | 07.03.2023 | ADW Johnson |
| Mobility Plan (Pathways, Cycleways, Shared Paths) | DA-013 | D | 07.03.2023 | ADW Johnson |
| Vegetation Removal / Retention Plan | DA-014 | D | 07.03.2023 | ADW Johnson |
| Concept Engineering Plans | (Project 240289-1B) | D | 13/11/23 | ADW Johnson |
| Stormwater Management Report | | F | August 2024 | ADW Johnson |
| Staging Plan | (Project 240289-1B) | Revisio | 07/03/23 | ADW Johnson |

2. The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

1. NSW Department of Planning and Environment – Water (IDAS-2022-10557), Dated 9 May 2024
2. NSW Rural Fire Service, (DA20220824010181-CL55-1), date 13 April 2023
3. NSW Subsidence Advisory (TSUB22-00313), 15 September 2022

A copy of the Requirements is attached to this determination notice.

3. The advice from the following agencies must be complied with prior to, during, and at the completion of the development. The advice correspondence is:

1. Transport for NSW (NTH22/00190/04), 5 September 2022,
2. Ausgrid, (1900123026), Date 3 August 2024
3. Hunter Water Corporation, (2023-984), 14 July 2024

A copy of the correspondence is attached to this determination notice.

CONTRIBUTIONS & FEES

4. Pursuant to section 7.7(3) of the *Environmental Planning and Assessment Act 1979*, the Voluntary Planning Agreement entered into between Maitland City Council, Downmere Pty Ltd, McCloy Loxford Land Pty Ltd and Hydro Aluminium Kurri Kurri Pty Ltd, dated 12 December 2022, applies to the development the subject of this consent. The applicant is to fulfill its obligations under the planning agreement in connection with the carrying out of the development to the extent to which doing so would not breach this consent.

5. Prior to the issue of the Subdivision Certificate, "house numbering" and "subdivision certificate" fees, in accordance with Council's *Schedule of Fees and Charges*, shall be paid to Council.

CERTIFICATES & REPORTS

6. Prior to issue of the Subdivision Certificate, original plans and/or documents of survey/title shall be submitted to Council.

7. Prior to issue of the Subdivision Certificate, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:

- o classifying each lot in accordance with Australian Standards AS 2870, and
- o verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing "level 1" inspection and testing.

8. Prior to the issue of a Subdivision Works Certificate, the development is to be completed in numerical stages in accordance with the approved *Staging Plan* by ADW Johnson (Project 240289 (1B), Rev D, dated 07/03/23).

9. Prior to the issue of a Subdivision Works Certificate for each relevant stage, a subdivision certificate shall be issued for the corresponding stage enabling access to that stage from the east pursuant to DA2022/193.

10. No Subdivision Works Certificate shall be released until such time as a signalized traffic intersection is constructed at Cessnock Road, as required under DA2022/193.

11. Prior to issue of the Subdivision Works Certificate for earthworks or road construction, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.

12. Prior to issue of the Subdivision Certificate, a report prepared by the Geotechnical Inspection and Testing Authority (GITA) shall be submitted to Council that:

- classifies each lot in accordance with Australian Standards AS 2870, and
- certifies and verifies that all earthworks and filling have been completed in accordance with the requirements of this consent, Council's Manual of Engineering Standards and AS 3798-2007 (or as revised) employing "level 1" inspection and testing, and
- contains a plan showing the location, depth and classification of all filling in relation to the proposed new lot boundaries.

UTILITY SERVICES

13. Prior to issue of a Subdivision Works Certificate, any major utilities facilities (water, sewer, electrical, telecommunication items larger than individual lot scale provisions) shall be located wholly within private lots and clearly shown on the construction drawings. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.

14. Water, sewerage, telecommunications, and underground electrical power services shall be reticulated for each lot in accordance with the service provider's requirements. Services shall be installed in conduits for the length of the 'handle' for Battleaxe lots.

15. Documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.

16. Conduits for domestic water, sewerage, communication, and gas connections are to be provided under all roads. A layout showing the locations of the conduits is to be submitted as soon as the water and gas mains designs are available and prior to the issue of the Subdivision Works Certificate.

17. No electrical easement shall be required on Council land. Any electrical kiosks shall be located on the proposed development lots and not within land that will be dedicated to Council.

VEGETATION & LANDSCAPING

18. Prior to the issue of the Subdivision Works Certificate for road construction, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The plan shall include:

- a) Be in accordance with the approved plan as referenced in condition 1 and designed by a suitably accredited landscape architect.
- b) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.

- c) Street trees shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planning) include details of the height and spread at maturity (of the approved species).

Landscaping of any existing or proposed public land shall include:

- d) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries for boundary maintenance purposes with maximum slope of 5H:1V.
- e) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
- f) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.

Landscaping of water quality systems

- g) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.

19. Prior to the issue of the Subdivision Certificate the applicant shall provide to the Council either:

- a) A copy of a 'landscape maintenance agreement' with a qualified landscape contractor to secure maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan; or
- b) Provide a landscape maintenance bond to the Council for the maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan.

Note: *The applicant shall provide three quotations from qualified landscape consultants for the landscape maintenance work and the amount of the bond is to be determined having regard to these quotations.*

20. Prior to the issue of the Subdivision Certificate all landscaping shall be undertaken in accordance with the approved landscape plan(s).

21. A Modification under Section 4.55 of the *Environmental Planning and Assessment Act 1979* is to be submitted and approved against condition 30 of DA 2022/193. The modification must be approved **prior to the release of any Subdivision Works Certificate** associated with this consent. The finalized credits associated with the BAM Credit Calculator in Condition 30 (DA 2022/193) is to be updated in accordance with the "Modification to Regrowth Kurri Kurri BDAR" letter, provided by GHD, Ref: 12527690, date 04 August 2022.

22. Prior to commencement of works an eradication report for noxious and environmental weeds shall be provided to, and approved by Council, by a suitably qualified professional. The report shall include the proposed public reserve, drainage reserve and/or creek waterways.

23. Prior to issue of the Subdivision Certificate noxious and environmental weeds shall be destroyed or removed from within the proposed public reserve and/or creek waterways, in accordance with the requirements of an approved eradication report. Certification shall be provided by a suitably qualified professional.

DAM DECOMMISSIONING

24. The existing dams shall be decommissioned as follows:

- Breaching and draining of any ponded water within the existing dams as soon as practical to allow any sediment to dry as much as possible prior to removal;
- Removal of any existing fill (dam wall), stockpiles, topsoil, slop-wash / colluvium, over-wet, organic or deleterious materials from the areas where fill is to be placed;
- Stripping within the existing dam footprints. It should be noted that the removal of all sediment as well as dam walls from the development area is required.
- Inspection of all stripped surfaces should be undertaken by an experienced geotechnical consultant to confirm removal of all deleterious material and suitable foundation materials prior to placement of fill. Filling is to be undertaken as detailed above.
- A qualified ecologist to be on site prior to and during the works to breach and drain any ponded water within the dams. Any aquatic fauna to be relocated during works.

BOUNDARY FENCING

25. Prior to the issue of the relevant Subdivision Certificate, new fencing, that is visually permeable to ensure passive surveillance shall be erected along the following boundaries:

- a) South-western boundaries of Lot 808 and 809,
- b) North-eastern boundaries of Lots 905, 906, 1417 and 1418,
- c) Western boundary of Lots 809 and 1418, and
- d) Northern boundary of Lot 907.

An 88b restriction is to be provided ensuring that relevant lot owners retain and maintain the required fencing in perpetuity. Evidence of this is to be provided **prior to the release of the Subdivision Certificate** for the relevant stage.

26. Security fencing shall be provided along the entire boundary shared between the subdivision and the eastern side of the South Maitland Rail Corridor. The full design details are to be submitted to the Manager of Development and Compliance for approval prior to the release of the Subdivision Works Certificate for any stage. The fence is to be erected prior to the issue of the Subdivision Certificate for the first stage of the development.

ARCHAEOLOGY

27. Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted to Council.

28. The persons responsible for the management of onsite works will ensure that all staff, contractors and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance. Of particular importance is the National Parks and Wildlife Amendment (Aboriginal Objects and Aboriginal Places) Regulation 2010, under the National Parks and Wildlife Act 1974;

TRAFFIC AND TRANSPORT

29. The driveway within the access corridor of proposed lot 802, 805, 808 and 1215 shall be constructed along the full length of the corridor as a concrete slab 3m wide minimum to "commercial" standard in accordance with Council's Development Control Plan and Council's Manual of Engineering Standards.

30. **Prior to the issue of the Subdivision Certificate** public bus facilities shall be provided generally at 400m spacings and providing maximum 400m walking distances from surroundings lots. The applicant is to consult with Transport for NSW, the bus service providers, and Maitland City Council with regard to location(s) and corporate recommendations arising from the consultation. The works shall include:

- a. Bus stops (concrete slabs) located generally in accordance with concept engineering plans by *ADW Johnson* (Project 240289(1B), Rev.D, dated 13/11/23), being on Road MC01 in proximity to the intersection with MC08.
- b. concrete centreline refuge and concrete blisters in the parking lanes.
- c. connecting footpaths, pram ramps, line marking, signage and associated works
- d. street lighting on each vehicle approach side.

31. **Prior to the issue of the Subdivision Works Certificate**, detailed design plans for bus stops and associated infrastructure prepared in accordance with Council's Manual of Engineering Standards are to be submitted to Council as the Roads Authority for approval. Details demonstrating compliance must be provided to the PCA.

32. **Prior to the issue of a Subdivision Works Certificate**, engineering plans in accordance with Council's Manual of Engineering Standards detailing the new public roads and any necessary adjustments due to road widening as proposed for dedication shall be submitted to and approved by Council.

33. **Prior to issue of the Subdivision Works Certificate** for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.

34. **Prior to the issue of the relevant Subdivision Works Certificate** or Roads Act Approval, all (traffic) Regulatory line marking, and signage shall be approved by Council's Local Traffic Committee. Note: Please allow three months from lodgement for the LTC process. All recommendations of the committee shall be incorporated into approvals and works. The works to be approved include:

- a. "Four-way" cross intersections shall identify priority requirements.
- b. All regulatory line marking and regulatory signage.
- c. Pedestrian refuges.
- d. 'BB' linemarking around sharp bends and intersections with kerb extensions/blisters

35. **Prior to the issue of the Subdivision Works Certificate** the following road hierarchy shall apply to all roads, (including widths, pavement design and the like) in accordance with council's Manual of Engineering Standards: Where a Geotechnical engineer determines high expansive soils with a $\geq 2.5\%$ swell (10-day soak) or poor CBR ($< 2\%$) are present within 1 metre below the design subgrade, a capping layer of homogeneous select material shall be added to the pavement design and construction plans. The swell, pavement design and the select material specification shall be considered and justified against Austroads Guide to Pavement Technology (AGPT) Part 2, 4I, 8 and the RMS Supplement to AGPT2, including a 10-day soak. The adjusted pavement design shall be based on the CBR of the selected subgrade material at 'inservice moisture and density conditions' to stop premature pavement distress and to achieve the design life of the pavement.

Note: A minimum, but not limited to, 300mm select material shall be added to the minimum pavement thickness for either swell and/or poor CBR.

| Road Type | Description | Comments |
|--|---|---|
| Local Secondary (ESA 2 x 10 ⁵) | Road MC06, MC07, MC16, MC19, MC20, MC21 | Footpath and road width as per concept engineering plans. |
| Local Primary (ESA 5 x 10 ⁵) | Road MC17, MC18 | Footpath and road width as per concept engineering plans. |
| Collector Primary (ESA 1.5 x 10 ⁶) | Road MC05, MC08, MC11 | Footpath and road width as per concept engineering plans. |
| Sub Arterial (ESA 1 x 10 ⁷) | Road MC01 | Footpath and road width as per concept engineering plans. |

Note: where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

36. Prior to the issue of the Subdivision Certificate kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards.

37. Prior to the issue of a Subdivision Certificate temporary turning heads, relevant signage and markers for all terminating roads shall be provided where a continuous road loop does not exist. Turning heads shall be 16.0m minimum radius for firefighting and heavy vehicles at the end of each road.

38. Street and pathway lighting design by a suitability qualified consultant shall be provided in accordance with Council's requirements and the power supply authority. Additional lightning is required at the following locations:

- a) Major road intersections
- b) Pedestrian crossings/refuges
- c) Bus stops
- d) Pedestrian/Cycle path linkages not associated with roads
- e) Parks

STORMWATER DRAINAGE

39. Prior to issue of a Subdivision Works Certificate a drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards and Australian Rainfall and Runoff 2019 (or as revised). The major system requirements shall include, but not limited to, the following:

- a) In accordance with the approved concept engineering plans project No. 240289(1B), revision D, dated 13/11/23 by ADW Johnson and Stormwater Management Report by ADW Johnson, Revision F, dated August 2024.
- b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state.
- c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100

- year") event.
- d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state

40. Prior to the issue of the Subdivision Certificate the subdivision construction shall be carried out in the numerically consecutive stages as shown on the approved plan by ADW Johnson (Project 240289 (1B), Rev D, dated 07/03/23). Specific works shall be completed by the following thresholds:

- a) Culvert structure under railway and associated works completed by Stage 4.
- b) Completion and dedication of drainage reserve and basin on lot 124 with Stage 3.
- c) Completion and dedication of drainage reserve and basin on lot 424 with Stage 6.
- d) Completion and dedication of drainage reserves and basins on lots 914 and 1419 with Stage 14.
- e) A minimum 3m wide all-weather access from road MC11 to existing rail overpass bridge by release of Stage 6.

41. Prior to issue of the Subdivision Certificate, the detention/water quality systems shall be dedicated to Council at Stage 3 for basin on lot 124, Stage 6 for basin on lot 424, Stage 14 for basins on lots 914 and 1419 (or unless otherwise agreed by Council). Until dedication of the basins the following requirements include:

- a) An easement to drain water shall be placed over the drainage corridor/system benefiting Council and any adjoining upstream lots.
- b) A positive covenant shall be placed over the detention/water quality system requiring the lot owner to maintain the detention and water quality system until the basin is dedicated as drainage reserve.
- c) A positive covenant shall require the lot owner to hold \$10 million public liability for the drainage and detention system until it is dedicated as drainage reserve.
- d) The authority to release vary or modify the easements/covenants above shall be nominated as 'the lots burdened and benefited only with the written consent of Maitland City Council'.
- e) Prior to the dedication of the drainage reserve to Council as proposed to be dedicated, the lot owner shall request a handover inspection and undertake any works to provide an 'as new system' to the satisfaction of the PCA (council).

42. Prior to issue of the Subdivision Certificate, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:

- a) Confirmation that the construction works have been completed.
- b) Confirmation from the road authority for any Roads Act Approval requirements.
- c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
- d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
- e) Geotechnical certification of the detention basin works (including any clay core requirements).

43. Prior to issue of a Subdivision Works Certificate the following works shall be carried out including specific drainage requirements for the following:

- a) Provision of 1%AEP (Q100) flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.

- b) The existing dams shall be decommissioned. A geotechnical report and civil engineers design shall be provided for the new basin walls including any required clay core or equivalent.
- c) Interallotment drainage to internal lots as required.
- d) Catch drain/swale to Council's requirements to capture and convey the 1%AEP stormwater flows from the upstream catchment away from lot 802, Road MC21 and MC01.
- e) Provide gross pollutant trap maintenance access pads as per Council's requirements for service vehicles outside of the roadway to enable safe access.
- f) Provided a Structural engineers assessment of the existing culvert structure under railway to determine it is structurally adequate and fit for purpose to accept additional flows/impact from the proposed development upstream, for storm events up to and including the PMF.
- g) Earth bund and swale along Northern side of spillway from North-Western basin to railway line headwall. The bund and swale shall be designed to convey the 1%AEP stormwater event flows from the basin and contributing catchment to headwall.
- h) Post & cable fencing to prevent vehicles entering public lands.
- i) Floodway signage near basins in accordance with Council's standard drawing SD038.

44. Prior to issue of the Subdivision Certificate a Maintenance Management Plan for the stormwater detention/retention systems shall be prepared by a suitably qualified and experienced person, shall be submitted to, and accepted as satisfactory by Council

EROSION CONTROL AND BULK EARTHWORKS

45. Prior to the issue of a Subdivision Works Certificate for subdivision works, a Bulk Earthworks Management Plan (BEMP) is required to be submitted to and approved by Council. The BEMP must include a report from a suitably qualified engineer that examines and determines:

- a) the extent of bulk earthworks require for the construction of each stage
- b) how stockpiles will be managed during construction
- c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations
- d) stock pile dimensions and stabilisation measures
- e) site haulage routes and movement for each stage
- f) how fill will be managed in the floodway during construction
- g) any specific requirements relating to the management of Acid Sulfate Soils

46. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "*Managing Urban Stormwater*" shall be submitted as part of the Subdivision Works Certificate application.

47. Filling material shall be limited to the following:

- a) virgin excavated natural material (VENM);
- b) excavated natural material (ENM) certified as such in accordance with Protection of the Environment Operations (Waste) Regulations 2014.
- c) material subject to a Waste exemption under Clauses 91 and 92 Protection of the Environment Operations (Waste) Regulations 2014 and recognised by the NSW Environment Protection Authority as being 'fit for purpose' with respect to the development subject of this application.

Note: Under no circumstances shall contaminated fill material including but not limited to putrescible wastes, (such as timber, paper, green waste, food etc), oil products (including petrol, bitumen, asphaltic

concrete etc), plastic, and the like, be deposited on the land unless expressly authorised by this development consent.

48. While subdivision work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- a) All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier.
- b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA.

49. The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

50. Fill material shall not obstruct any local watercourse, flow path or drain, that is within or that enters the site, without provision for conveyance, within the site, of stormwater flows through or around the proposed fill area, including adequate protection against erosion.

51. Any retaining walls within the development shall comply with the following:

- a) Any retaining walls for lot benching shall be provided on the common boundary of privates lots, and
- b) Located within the uphill lot with the face of the wall on the boundary. An easement minimum 0.9m wide within the downhill lot, to prevent excavation and for access for maintenance shall be created, and
- c) Engineering certification is required for walls equal to or higher than 1.0m, and
- d) All side boundary retaining walls shall be tapered to 0.0m in height towards the front boundary and terminate 0.5m adjoining the public road reserve with a maximum of 1m within the first 5m from the boundary perpendicular to the public road reserve, and
- e) Cut retaining walls (walls adjacent to the neighbouring properties and/or roads) up to 0.6m in height require a minimum of 0.6m clearance from the exposed face of wall to the common boundary. Cut retaining walls exceed 0.6m in height are to be offset by the zone of influence at 1:1 slope from the exposed face of wall to the boundary or a minimum of 1m whichever is greater.
- f) All retaining walls within 1m of a boundary and/or exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer and have a minimum design surcharge load of 5kPa.

52. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).

53. The site shall be managed during construction so as to prevent (e.g., by water spray, dust suppression, surface sealants, soil binders and/or dust retardants) the generation of dust by moving vehicles within the site, from the public road access point.

54. Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- a) diverting uncontaminated run-off around cleared or disturbed areas, and
- b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- c) preventing the tracking of sediment by vehicles onto roads, and
- d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot. Run-off and erosion control measures must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties, and roads,
- e) **During works and prior to the issue of the Subdivision Certificate**, soil erosion and sediment control measures shall be installed, monitored, maintained throughout the course of construction, and modified as necessary until the disturbed areas have been revegetated and the soil stabilised. Bulk earthworks shall not have more than three (3) hectares of earthworks exposed, un-stabilised to wind and rain at any point in time. Progressively rehabilitate and stabilise the disturbed areas after 30 days of starting the earthworks.

55. For sites with the disturbed area more than 2,500m², a suitably qualified professional in Erosion and Sediment Control shall provide to Council a monthly audit certifying that the implemented control measures are suitable (Note: Additional report will be required following any reasonable rainfall event). The report shall include the recommendation(s) from the qualified professional, and details of works carried out by the contractor to action and/or install the recommendation(s).

56. During construction:

- a) all vehicles entering or leaving the site must have their loads covered, and
- b) all vehicles, before leaving the site, must be cleaned of dirt, sand, and other materials, to avoid tracking these materials onto public roads

57. Soil and Water Management Plan (SWMP) in accordance with Managing Urban Stormwater Soils and Construction, also known as the Blue Book, must be developed by a suitably qualified professional in Erosion and Sediment Control, a copy of which shall be submitted to and approved by Council for sites with the disturbed area more than 2,500m².

58. **Prior to issue of the Subdivision Works Certificate**, a Geotechnical report shall be submitted with the engineering design, that includes (but not limited to); field work and testing, earthworks specifications and methodology, preliminary site classification, basin embankment design and pavement design. All recommendations contained within the Geotechnical Report shall be incorporated into the engineering design for the subdivision. All works proposed to be undertaken shall embody the relevant recommendations of the Geotechnical Report. All engineering plans shall be endorsed by a suitably qualified Geotechnical Engineer. The endorsement shall state that the proposed works are in accordance with the recommendations of the aforementioned Geotechnical Report.

59. All earthworks shall be undertaken in accordance with AS3798-2007 (or as revised) and Maitland City Council's Manual of Engineering Standards. A Geotechnical Inspection and Testing Authority (GITA) shall be engaged to undertake inspection and testing of all fill areas. Filling inspection and testing shall be undertaken as 'Lot' testing under "Level 1" Supervision in accordance with AS 3798-2007 (or as revised). Compaction testing frequency to be undertaken in accordance with Table 8.1 of AS3798-2007 based on the nominated lot size. Fill shall be placed in layers not greater than specified by Council

or the GITA and shall be compacted to achieve a minimum 98% standard compaction at Optimum Moisture Content (+ or - 2%) in accordance with Dry density ratio as per AS1289.5.4.1 or HILF density ratio as per AS1289.5.7.1.

60. A suitably qualified geotechnical engineer shall supervise the decommissioning of the existing farm dam to ensure any contamination is identified and actioned appropriately. Where contamination is found during the decommissioning, an action plan is to be provided to, and approved by Council, prior to undertaking the decontamination works.

61. **Prior to issue of the Subdivision Certificate** for Stage 1, certification from a suitably qualified geotechnical engineer shall be provided confirming that any contamination at the decommissioned farm dam site has been removed.

DURING WORKS

62. Unless otherwise approved by Council in writing, all general building work shall be carried out between the hours of:

- a. 7.00am to 6.00pm Monday to Friday
- b. 7.00am to 5.00pm Saturday

Any work performed on Sundays or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited. Minor works (such as hand sanding, painting, digging and the like) is permitted between the hours of 9.00am to 5.00pm. Power operated tools are not permitted to be used.

63. All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

64. Waste materials (including excavation, demolition, and construction waste materials) must be managed on the site and then disposed of at a waste management facility

65. **Before the issue of a subdivision certificate**, the applicant must ensure any public infrastructure damaged as a result of the carrying out of subdivision works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council. Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work

66. While work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

67. Any necessary alterations to public utility installations being at the developer's expense and to the requirements of both Council and the relevant authority.

68. If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out

69. At the completion of the works, the work site must be left clear of waste and debris.

70. **Before the issue of a subdivision works certificate**, a suitably qualified engineer must prepare a

dilapidation report detailing: the structural condition of adjoining buildings, structures or works, and public land/roads, to the satisfaction of the Principal Certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties. The road haulage route shall be agreed with the PCA for each construction phase prior to undertaking the dilapidation report.

71. Before the issue of a subdivision certificate, a suitably qualified engineer must prepare a postconstruction dilapidation report, to the satisfaction of the principal certifier, detailing whether:

- a. after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings, adjoining public lands or roads; and
- b. where there has been structural damage to any adjoining buildings, adjoining public lands and/or roads that it is a result of the subdivision works approved under this development consent. Before the issue of a subdivision certificate, a copy of the post-construction dilapidation report is to be provided to Council and to the relevant adjoining property owner(s). Any rectification works identified by either the engineer, or the principal certifier shall be rectified within the required process, and to the satisfaction of the principal certifier.

72. Documentary evidence from Council's Subdivision and Development Engineering Section, confirming that satisfactory completion of civil works has been achieved for the Roads Act Approval associated with this Development Consent, shall be submitted to the relevant certifier.

73. Prior to commencement of works within an existing public road reserve:

- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval
- b) consent under the Roads Act for the approved works, shall be issued by Council
- c) all relevant Council fees shall be paid
- d) A Traffic Management Plan and/or Traffic Guidance Scheme in accordance with the Transport for New South Wales publication "Traffic control at Worksites" shall be submitted to Council.

74. Prior to the issue of the Subdivision Certificate the following subdivision works within the private property shall be provided in accordance with Council's Manual of Engineering Standards:

- a) Internal roads, drainage and pathways.
- b) Drainage basins.
- c) Parks.
- d) Ancillary roadside furniture and safety devices including fencing, signage, guideposts, chevrons, directional arrows and guard rail.
- e) "Battle-axe" lots shall construct a concrete driveway to industrial concrete thickness requirements within the lot "handle".

75. Before the issue of a subdivision works certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety

- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.
- Date, hours and duration of construction works
- Temporary parking arrangement
- Proposed Road closure / Road works.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction

76. All construction traffic management procedures and systems identified in the approved Construction Traffic Management Plan must be introduced during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems

CIVIL WORKS - CERTIFICATION

77. Prior to commencement of works within an existing public road reserve:

- a) an engineering design, in accordance with Council's Manual of Engineering Standards, shall be submitted to Council for approval
- b) consent under the Roads Act for the approved works, shall be issued by Council
- c) all relevant Council fees shall be paid
- d) a traffic control plan in accordance with the RMS publication "Traffic control at Worksites" shall be submitted to Council.

78. Prior to issue of the Subdivision Certificate, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:

- a) Confirmation that the construction works have been completed.
- b) Confirmation from the road authority for any Roads Act Approval requirements.
- c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
- d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
- e) Geotech certification of the detention basin works (including any clay core requirements).

CONTAMINATION

79. An unexpected finds protocol should be developed prior to the commencement of any works a copy provided to Council and the Certifier to address any potential contamination during construction phase. If potential contamination is encountered, site works will be ceased and suitable environmental

consultant will be engaged for assessment.

LAND TITLE

(Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.)

80. Under Section 88B Conveyancing Act 1919 a positive covenant is to be created in accordance with the recommendations to reduce internal noise levels outlined in Section five (5) of the *Railway Noise Assessment Report* prepared by *Vipac Engineers and Scientists Limited* (ref 20E-21-0264-TRP-30399-6, 13/02/2023) prior to the relevant **Subdivision Certificate** and registered on the relevant allotments.

81. An easement over lot 801 shall be created giving effect to a Right of Access and services 21m wide in favour of each benefiting lot as nominated on the subdivision plans by ADW Johnson (Project 240289(1B), Revision D, dated 07/03/23).

82. The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.

83. A restriction and/or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:

- a) A right of access shall be provided over all temporary turning heads.
- b) Where public water quality or stormwater detention systems are not dedicated at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve.
- c) Retaining walls on common boundaries shall have a minimum 900mm easement to prevent excavation and for maintenance access shall be provided on the downhill lot.
- d) Asset Protection Zones in accordance with NSW Rural Fire Service requirements.

84. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.

85. Prior to the issue of a **Subdivision Works Certificate** for either: Stage 4; or the north western basin; or any works on Lots 1 & 2 DP976895, Lot 4 DP998274 (whichever occurs first), Easements to drain water under Section 88B of the Conveyancing Act shall be provided from the North Western boundary of Lot 55 DP 975994, through Lot 1 & 2 DP 976895 and extend through to the western boundary of Lot 4 DP 998274. The nominated area and width of the easement (within South Maitland Railway Corridor land) must be determined by a suitability qualified engineer and is to cover the extent of the 1%AEP storm event, including over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land. The terms of the easement are to indemnify Maitland City Council for any nuisance flows and/or ongoing maintenance of the area covered by the easement.

86. The authority empowered to release, vary, or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".

87. The authority empowered to release, vary, or modify restrictions and covenants on the use of the

land required by this consent, shall be nominated as "Maitland City Council".

88. The applicant shall provide documentary evidence from Energy Australia that satisfactory arrangements have been made for:-

- i. The provision of easements in favour of Energy Australia over private land for existing and proposed power lines and where the development requires the relocation of power lines or other assets of Energy Australia.
- ii. The provision of a grid based (underground/overhead) electricity supply to each of the resultant lots of the subdivision.
- iii. The provision of a satisfactory street lighting system to all roads, cycleways and pathways within the subdivision to Council's requirements. iv) Where applicable an appropriate standard of street lighting to Council's requirements is to be provided to all traffic facilities and intersections within the subdivision and where the subdivision street system adjoins surrounding road networks.

89. The proposed public roads and/or road widening shall be dedicated to Council, at no cost to Council.

90. The land containing the proposed stormwater basin and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to Council.

91. The public reserve shall be dedicated to Council, at no cost to Council, and without compensation, works-in-kind, or "section 94 contribution" offset or similar.

92. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.

93. The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".

94. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.
- B You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Subdivision Works Certificate.
- C You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this

consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.

- D You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.

Officers Reports

DEVELOPMENT APPLICATION 2022/1260 FOR 1 INTO 28 LOTS TORREN TITLE SUBDIVISION (INCLUDING 1 DRAINAGE RESERVE) AT 82 COLLAROY PARADE, LOUTH PARK

Assessment Report (Under Separate Cover)

Meeting Date: 27 August 2024

Attachment No: 3

Number of Pages: 27



DEVELOPMENT APPLICATION ASSESSMENT REPORT

Version 1: Comprehensive

| | |
|------------------|---|
| Application No: | DA/2022/1260 |
| Proposal: | 1 into 28 Lots Torren Title Subdivision |
| Address: | 82 Collaroy Parade LOUTH PARK NSW 2320 |
| Lot & DP No: | 2/1286289 |
| Property No: | 103148 |
| Applicant: | Perception Planning Pty Ltd |
| Owner: | Newpro 25 Pty Ltd |
| Author: | Kristen Wells |
| Site Inspection: | June 2023, July 2024 |

INTRODUCTION

The purpose of this report is to provide a detailed discussion and assessment of Development Application No. DA/2022/1260 proposing 1 into 28 Lots Torren Title Subdivision (including 27 Residential and 1 Lot dedicated to drainage reserve). The assessment will provide consideration of the proposal under the Environmental Planning and Assessment Act 1979, the Maitland Local Environmental Plan 2011, the Maitland Development Control Plan 2011 and any other relevant legislation, guidelines and policies of the Council.

Description of Proposed Development

The proposal involves the subdivision of one lot into twenty-eight lots for residential purposes (see Figure 1). Specifics of the proposed subdivision are outlined below:

- Torrens Title subdivision of the site from one into 28 lots, including a lot dedicated to drainage reserve.
- Proposed 27 residential lots will range in size from 1508m² to 4040m².
- Decommissioning of an existing farm dam and construction of a drainage basin in its place.
- Construction of three roads, being;
 - Extension of Collaroy Pde,
 - Eldon Drive, and
 - Road 10.
 - Note: Collaroy Pde will connect through to future development to the south of the site (DA2018/1967).
- Onsite detention and water quality control basin at the northern portion of the site.
- Emergency overflow path and grassed table drain construction within an existing drainage easement.
- Earthworks to level the site and construct the road reserve.
- Associated infrastructure and landscaping works including installation of 3 poles at the north-eastern boundary of the site, as well as intentional tree retention for establishment of a squirrel glider corridor.

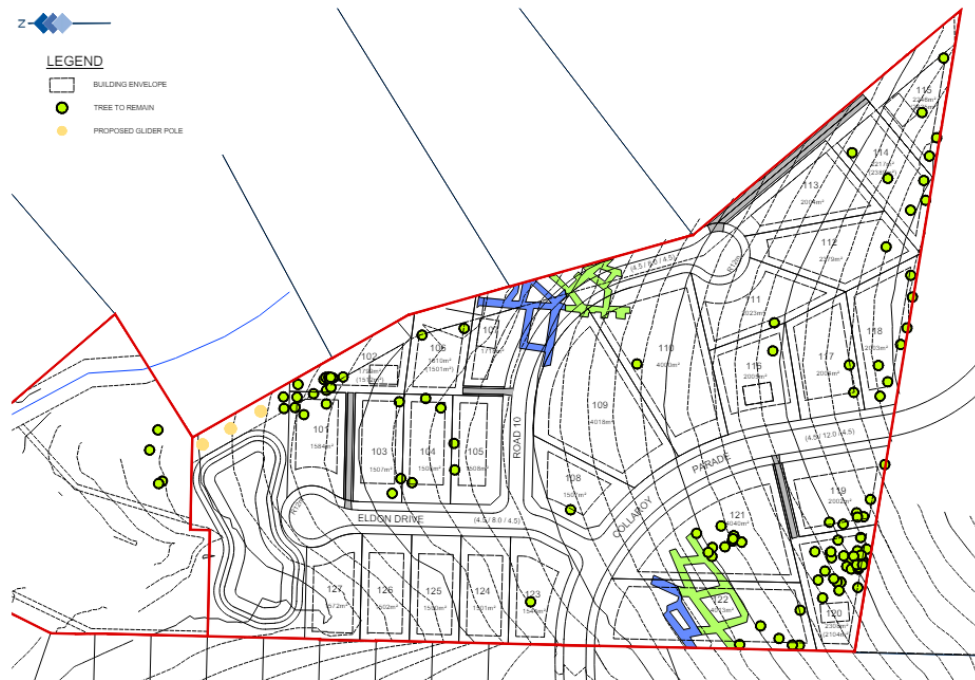


Figure 1: Proposed Subdivision Layout

Description of the Land on which the proposal is to be carried out.

The land on which the development is to be carried out is legally described as Lot 2 DP 1286289 and is commonly referred to as 82 Collaroy Parade Louth Park.

The site is located within the Louth Park Urban Release Area ("URA"). The subject site is accessed via Collaroy Parade, which extends through a previously approved portion of the Louth Park URA. The site is bound by the Louth Park URA residential properties on the western boundary, and larger residential lots on the north, and east boundary. To the south currently sits a large, vacant lot, upon which a recent residential subdivision has been approved (DA 2018/1967). Work has not yet commenced on this subdivision, however a connecting road (i.e. the extension of Collaroy Parade through this subject application) will be made.

The subject site is irregular in shape and is comprised predominately of managed grasslands and relatively dense vegetation in the central and north portions of the site. This vegetation generally comprises Lower Hunter Spotted Gum Ironbark Forest community and is consistent with the surrounding vegetated areas. The site contains an existing farm dam, but no other structures are observed onsite. The land has an area of 7.625ha. The subject site is located on the western side of Louth Park Road and sits at the lower, southern extremity of the Maitland LGA, near the border with Cessnock City Council.



The land is zoned *R5 Large Lot Residential*. The site is constrained by Mines Subsidence District mapping (Guidelines 7), with affectation concerning the entire site. The site is additionally mapped as bushfire prone land (Vegetation Category 1 and 3, with a small portion as buffer). The site has three relevant minimum lot sizes, with the northern section allowing a minimum lot size of 1500sqm, the central portion 4000sqm and the southern portion 2000sqm, as shown in Figure 3.

Existing site surface levels range from approximately RL44m (in the south), with a gradual fall northwards towards the northern boundary, sitting at RL21m.



Figure 2: Aerial map of the site (Nearmap 2024)

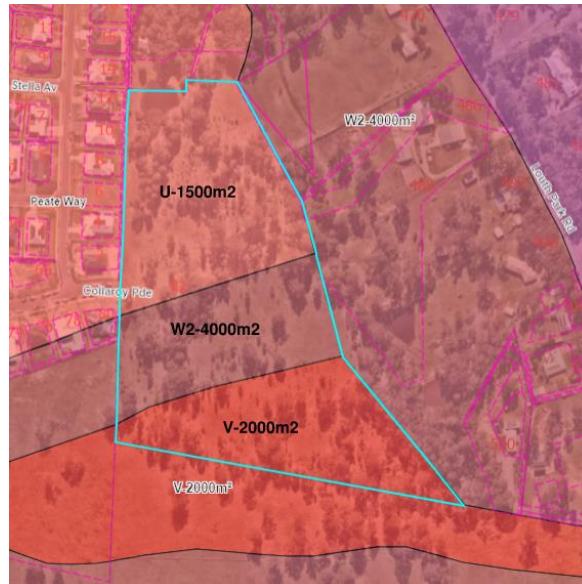


Figure 3: Minimum Lot Size map of the site

PREVIOUS DEVELOPMENT HISTORY

The site is currently vacant, with evidence of past low scale farm grazing. The site is readily serviced by reticulated water, electricity, and sewer availability.

The subject application was lodged with Council on 25 November 2022.

Amended plans and supporting documentation were received May 2023, August 2023, May 2024, July 2024 and again in August 2024. These amendments were made in response to Council's concerns regarding site drainage, road design, tree retention and bushfire. The amended plans included the following key changes:

- Decreased yield of residential lots from 31 to 27, which includes the addition of a dedicated drainage reserve on the northern boundary.
- Amended Biodiversity Development Assessment Report and tree retention plan.
- Amended Bushfire Threat Assessment Report.
- Emergency overflow spillway.

The following assessment is based on this amended documentation.

PLANNING ASSESSMENT - 4.15(1) matters for consideration

Development Type -

Under *Environmental Planning and Assessment Act 1979* ("EP&A Act") the development is classified as Integrated Development. Section 4.46 of the EP&A Act requires that approval be obtained from another public authority prior to the granting of consent. The following approvals are required:

NSW Rural Fire Service

The subject site is mapped as bushfire prone land and as such, is integrated development and was referred to NSW Rural Fire Service ("RFS") under section 100B of the *Rural Fires Act 1997*. NSW RFS issued General Terms of Approval ("GTAs") for the subdivision on 24th March 2023, and then provided revised

GTA's on 1st July 2024 in support of an alternative solution required for access requirements. The GTAs will form part of the development consent.

An issue arose whereby the GTA's require the applicant to maintain all residential lots as Inner Protection Areas (IPA). A potential conflict between the need for IPA's and the necessary tree retention across the site was identified. The applicant provided a detailed letter of response from an accredited bushfire consultant (Bushfire Planning Australia, 14 July 2024), as well as a letter from the consulting ecologist (Habitat Environmental Services, 12 July 2024) confirming that the terms of the GTA's and the need to retain vegetation can be adhered to without conflicting each other.

Specifically, the following items were raised as areas of concern:

- *The need to revegetate beneath the proposed glider poles and whether this comprises the need to create an IPA.*
- *The requirement to establish and maintain an IPA across all residential allotments, and whether canopy cover and canopy spread of retained trees is comprised.*

The bushfire letter of response stated that the vegetation to be planted beneath the glider poles will not contradict the terms of the GTA's. The vegetation will be adequately separated from other clusters of vegetation across the site. Furthermore, plant varieties can be selected that include smooth barked trees and evergreen species to reduce the fuel load in the event of a fire. A condition of consent ensuring that the priorities of creating a suitably revegetated portion of the land beneath the glider poles, as well as complying with the requirements of the IPA has been imposed to ensure that both priorities are met.

It has been acknowledged that the IPA requirement to limit the canopy cover of trees to 15% applies to the *'entirety of the residential allotments'*. While some individual lots may not comply with the 15% canopy cover limitation, the collective canopy cover across all twenty-seven (27) allotments are able to be complied with. In addition to this, the GTA's stipulate that trees within an IPA should be separated by 2m – 5m. Many of the tree canopies that have been identified for retention are not separated by distances of 2m – 5m. However, as per the bushfire letter of response, if clusters of trees do not form continuous canopies to enable the spread of bushfire, isolated clusters can be accepted within an IPA.

Compliance with the GTA's have been imposed as a condition of consent. An additional condition ensuring that the terms of the Biodiversity Development Assessment Report (BDAR) and submitted tree retention plan will be adhered to will also be imposed.

Subsidence Advisory NSW

The site is located within a mine subsidence district and as such, is integrated development and was referred to Subsidence Advisory NSW under section 22 of the *Coal Mine Subsidence Compensation Act 2017*. GTAs were issued by the Mine Subsidence Advisory and will form part of the consent.

NSW Planning & Environment (Water)

The proposed subdivision is located within 40m of a natural drainage line, being the farm dam on site. As such, the works require a controlled activity approval under the *Water Management Act 2000*. The applicant declined to initiate this process; therefore an advice will be placed on the consent requiring the applicant to seek a controlled activity approval prior to works commencing.

Development Contributions

The proposal attracts a contribution of \$457,678.00 under Council's current adopted Section 7.11 Plan.

The proposal involves the subdivision of land within an identified URA. A Satisfactory Arrangements Certificate ("SAC") issued by the Director General of Department Planning and Environment confirming

that necessary arrangements for contributions towards designated State public infrastructure must be received prior to determination of the development application. This is in accordance with clause 6.1(2) of Maitland Local Environmental Plan 2011. The SAC was received by Council 22 February 2024.

Section 4.15(1)(a)(i) - Provisions of any environmental planning instrument

Maitland Local Environmental Plan 2011

The subject land is zoned R5 Large Lot Residential under the Maitland Local Environmental Plan 2011 ("LEP"). The proposed development is defined as Torrens Title Subdivision - 28 Lots under the LEP which is a type of development permitted with consent in the R5 zone.

The proposal is consistent with the zone objectives for the R5 zone as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*

The proposal will provide large lots for future residential dwellings, while aiming to maintain the current rural landscape setting of the immediate area and allow large lots that capitalise on the scenic quality of the locality.

- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*

The proposal is in accordance with the URA and facilitates the proper and orderly development of urban land in the LGA in the long term.

- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*

The proposal is in accordance with the URA intentions and will involve the upgrade of utilities and services for each of the lots. The increase in lot density is not anticipated to increase the demand unreasonably on public facilities, services or infrastructure for the local and wider area. The applicant has also provided evidence of Satisfactory Arrangements, by means of a payment to the State Government for designated public services and infrastructure.

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The site is to be developed to permit permissible use of the land for large lot residential and is not intended to be developed for a land use not appropriate for the location, setting or land use zone. It is also in context with majority of the existing surrounding developments and is not predicted to cause any future land use conflict.

The following clauses of the Maitland LEP 2011 are also relevant to the assessment of the proposal:

Part 2 Permitted or Prohibited Development

The proposal is permissible with consent under Clause 2.6 Subdivision.

Part 3 Exempt and complying development

The proposal is not exempt or complying development.

Part 4 Principal development standards

Clause 4.1 Minimum Subdivision Lot Size

The site has three minimum lot sizes, with the northern section allowing a minimum lot size of 1500m², the central portion 4000sqm and the southern section allowing 2,000m². The proposal is consistent with the objectives of this Clause and will permit twenty-seven (27) large residential lots and one (1) drainage

reserve. The residential lots range from 1508m² to 4040m² and are above the minimum lot size defined by the LEP.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The site is not:

- *heritage item of State significance*
- *heritage item of Local significance*
- *within a heritage conservation area*
- *identified archaeological site*
- *within an Aboriginal place of heritage significance*
- *within the vicinity of a heritage item*

An Aboriginal Due Diligence Assessment (Niche Environment and Heritage, 17 June 2022) was submitted with the application. This assessment has determined the available environmental and archaeological information for the site, the land condition and the nature of the proposal to develop a residential subdivision. The results of the AHIMS and AHD searches and visual inspection revealed no Aboriginal sites within the site. Standard conditions will be included outlining procedures for unexpected finds of aboriginal objects.

Part 6 Urban release areas

The subject lots are wholly located within the Louth Park Urban Release Area.

Clause 6.1 Arrangements for designated state public infrastructure

The proposed one into twenty-eight (28) lot subdivision is in accordance with the relevant provisions of Clause 6.1(1) and 6.1(2) and a Satisfactory Arrangement Certificate ("SAC") for the provision of designated state public infrastructure is required before the subdivision of land for intensification purposes. The SAC has been provided for the development application from the Director General accordingly.

6.2 Public utility infrastructure

Clause 6.2(1) Public utility infrastructure requires that development consent must not be granted on land in a URA unless satisfactory public utility infrastructure is available or adequate arrangement has been made. Notice of Requirements ("NOR") from Hunter Water Corporation ("HWC") for the development was provided to Council on 14 December 2022. The NOR confirms that connection is available, or can be made available, to reticulated systems. A Section 50 Certificate issued by HWC will be required prior to release of any Subdivision Certificate, confirming that all lots are connected to a reticulated system.

Other public infrastructure (electricity, telecommunications) will be extended into the subdivision and confirmation that all services are available to individual lots is also required prior to the release of a Subdivision Certificate

Clause 6.3 Development Control Plan

This clause requires that development consent must not be granted unless a Development Control Plan ("DCP") that provides the logical and strategic development of the land has been prepared. The Maitland DCP 2011, Chapter F.10 - Louth Park Area Plan has been prepared for the land subject of this application. Council considers the development proposal will result in the logical and cost-effective development and is generally in accordance with the DCP, Chapter F.10 intentions.

Part 7 Additional local provisions

Clause 7.1 Acid Sulfate Soils

The land is identified as Class 5 land. Given the scale of earthworks and site features at the RL its unlikely that acid sulfate soils ("ASS") will be disturbed, exposed or drain acid sulfate soils and is not considered to be at risk of causing environmental damage and an ASS Management Plan is not required in this instance.

Clause 7.2 Earthworks

Development consent is not required under this clause as the earthworks are ancillary to the proposed subdivision and will be considered as part of the overall assessment. Extensive earthworks associated with completion of the proposed new roads and associated drainage works will be undertaken onsite given the topographic nature of the site. All the earthworks will be conditioned to comply and tested as per AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments. Conditions of consent will also be included to ensure sedimentation and erosion controls measures are implemented during the construction phase and best practice measures are implemented. As such, minimal impacts are likely to occur onto the surrounding environment.

State Environmental Planning Policies*State Environmental Planning Policy (Biodiversity and Conservation) 2021****Chapter 2 Vegetation in Non-rural areas***

Chapter 2 of the SEPP works with the *Biodiversity Conservation Act 2016* (BC Act) and the *Local Land Services Act 2013* (LLS Act) to create a regulatory framework for the clearing of native vegetation in NSW.

The SEPP regulates clearing that is not linked to development requiring consent. Clearing that is ancillary to development requiring consent will be assessed as part of the development assessment process. As the clearing of vegetation is ancillary to the proposed subdivision, Council as the consent authority, has assessed the Biodiversity Development Assessment Report (BDAR) submitted which is further discussed in this report.

*State Environmental Planning Policy (Resilience and Hazards) 2021****Chapter 4 Remediation of Land***

Clause 4.6 in this SEPP requires Council to consider whether the land is contaminated before it can issue development consent.

A Preliminary Site Investigation (PSI) prepared by Stantec (10 November 2022) was reviewed by Councils Senior Contamination Officer. The PSI concludes that based on site history and inspection, no indication of gross contamination was identified. Given the lack of observation of contamination associated with the site, the risk of contamination of the remainder of the site is considered low risk. Any risk of contamination at the site including those not observed could be dealt with by the conditions of consent relating to unexpected finds.

As such, the consent authority can be satisfied that the site can be made suitable for future residential development.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The DA proposes the creation of less than 200 allotments and therefore the subdivision is not identified as traffic generating development in accordance with Section 1.122 / Schedule 3 of SEPP Transport and Infrastructure. No referral to TfNSW has been required.

Section 4.15(1)(a)(ii) - Any draft environmental planning instrument that is or has been placed on public exhibition

Amendment to the Maitland LEP 2011 - Implementation of Maitland Local Housing and Rural Land Strategies 2041 has been on public exhibition. There are no provisions specifically relevant to this development proposal.

Section 4.15(1)(a)(iii) - Any development control plan

Maitland Development Control Plan 2011 (DCP)

Maitland Development Control Plan 2011 ("DCP")

The following chapters of the Maitland DCP are relevant to the assessment of the proposal:

- Part A – A.4 Notification
- Part B – B.5 Tree Management, B.6 Waste Not – Site Waste Minimisation & Management
- Part C – C.10 Subdivision
- Part F – F.10 Louth Park Area Plan.

Part A.4 – Notification

The application was notified and advertised in accordance with Council's policy from 8 December 2022 to 12 January 2023. Three submissions were received by Council during the notification period and is discussed under Section 4.15(1)(d) below.

Part B.5 – Tree and Vegetation Management

The removal of the existing trees on site is discussed in detail under Section 4.15(1)(d) below.

Part B.6 – Waste Not – Site Waste Minimisation & Management

The lots resulting from the subdivision will be serviced by Council's waste collection services upon occupation.

Part C.10 – Subdivision

Specific development controls relating to the Louth Park URA are discussed under Chapter F.10 – Louth Park URA. General development controls relating to subdivision (where relevant) are discussed below.

| Controls | Comments |
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| EC.1 – Flora and Fauna | |
| Areas of significant habitat must be protected. | The retention of one hundred and four (104) healthy trees in key locations are proposed as an avoidance measure to reduce the potential for impacts to biodiversity values. Most of the trees earmarked for retention are large, mature trees with large canopies. Trees have been selected in areas adjacent to the southern boundary and at the edges of proposed lots where building envelopes are less likely to encroach into the critical root zones of the trees. The retention of tall, large trees and hollow-bearing trees was prioritised given their high ecological value, particularly to hollow-dependent fauna such as arboreal mammals, cockatoos and owls. The trees also provide opportunity for continued Squirrel Glider movement throughout the site as |

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| | <p>well as enabling connectivity between the northern and southern pockets of land.</p> <p>A condition of consent is included requiring the preparation and implementation of a Squirrel Glider Management Plan, including the installation of poles, glider-specific nest boxes, revegetation actions, and ongoing monitoring of glider pole usage.</p> <p>The proposed tree clearing is unlikely to have a significant impact on threatened species, as measures are in place to strengthen movement corridors for squirrel gliders and mitigate potential risks.</p> |
| Design subdivision layout to avoid significant stands of vegetation. Where the subdivision proposal affects significant stands of vegetation, lot layout and lot size must take into account the need to retain the vegetation and the impact of likely future development on the lots, including building envelopes, parking, access and other development requirements such as Asset Protection Zones. | <p>The proposal has been redesigned to minimise the impact of direct vegetation clearing. The tree retention across the site has been significantly increased to that as originally proposed.</p> <p>A condition of consent has been included to ensure retention of the trees specified on the tree retention plan to be replicated on the title of relevant lots.</p> <p>The proposed vegetation retention will have the additional benefit of providing some visual consistency with the rural / large lot residential character of the surrounding Louth Park locality.</p> |
| Retain existing natural drainage lines and watercourses where practicable, revegetate where necessary and incorporate into open space areas (including pedestrian and/or cycleway corridors) or include in common property. | <p>A single farm dam is situated on the site and will be decommissioned and replaced with a detention basin as part of the subdivision.</p> <p>It is noted that the subdivision is not of a yield to warrant open space areas (ie. Public Park). However, pedestrian pathways and connectivity to established open space areas surrounding the subject site are incorporated within the subdivision design.</p> |
| Link existing vegetation corridors through open space provision and appropriate planting. | <p>There are no existing vegetation corridors or common areas proposed. As noted above, a corridor for squirrel glider movement is proposed to ensure connectivity is retained to the vegetation to the north and south of the subject site.</p> |
| Lot boundaries should be located to incorporate the whole of any significant stand of vegetation that is not included in common areas. | <p>The subdivision has been designed to retain vegetation within proposed lot boundaries and outside building envelopes in accordance with this control.</p> |

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| EC.2 – Heritage and Archaeology | |
| Clause 5.10 in the Maitland LEP 2011 and Parts C.4: Heritage Conservation and E.3: Heritage Conservation Areas in this DCP contain provisions which require investigation and protection of heritage items in certain circumstances. These provisions apply in some cases to subdivision and must be complied with. | The proposal is consistent with the provisions of clause 5.10 of MLEP 2011. The subject site is not anticipated to contain items of aboriginal or heritage significance. Standard 'stop works' conditions will be applied as a precautionary measure, should any unexpected finds be encountered. |
| EC.3 – Hazards | |
| <u>Bushfire prone land</u> | |
| All development applications for subdivision must comply with the NSW <i>Planning for Bushfire Protection Guidelines</i> . A bushfire threat assessment must form part of all development applications with consultation with the NSW Rural Fire Service. Fire protection measures and Asset Protection Zones ("APZ") must be contained wholly within the site, capable of maintenance by owners and located outside areas of ecological value. | The land is identified as containing bushfire prone land. A bushfire threat assessment (<i>Bushfire Planning Australia</i>) was provided and included a series of addendums addressing requests for information. |
| <u>Land contamination</u> | |
| All development applications for subdivision must provide documentation to satisfy the requirements of <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> . The provisions in this SEPP will be used by Council to determine if and how land must be remediated. | Refer to assessment against SEPP (Resilience and Hazards) 2021, above. A PSI has been provided for the site which recommends the site is suitable for residential development from a contamination perspective. |
| <u>Geotechnical</u> | |
| Development applications for subdivision must include relevant assessment and geotechnical investigation regarding the potential for the presence of salinity and acid sulfate soils to determine if any specific measures are required. (Note: The Maitland LEP 2011 includes specific requirements with regard to acid sulfate soils). | The subject site is mapped as containing ASS Class 5. Standard conditions will be applied to ensure appropriate geotechnical and soil classification assessments are undertaken per the Australian Standards. |
| DC.1 – Lot Size and Dimension | |
| Proposed lots must comply with the minimum lot size standards provided by Part 4 of MLEP 2011. | The site has three minimum lot sizes, with the northern section allowing a minimum lot size of 1500m ² , the central section 4000sqm and the southern section allowing 2000m ² . The residential lots range from 1500m ² to 4040m ² to meet compliance with the minimum lot size defined by the LEP. |
| Lot boundaries should follow natural features such as water courses and ridges (rather than cut across them) to minimize the potential for soil erosion. | An extent cut and fill are restricted to proposed road reserves. The proposed residential lots are designed appropriately following the natural topography of the site with minimal cut and fill proposed. |

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| Lot boundaries should take account of any requirement for screening or buffering from adjoining land uses. | The subject site is surrounded by R5 zoned land in all directions; the proposed subdivision will be compatible with the surrounding land uses and no obstruction to view lines is anticipated. |
| Lot size and dimensions are to be suitable for the existing or proposed use, including any requirement for building envelopes, ancillary buildings, farm dams, access, parking, landscaping, solar access, provision of services and/or other requirement of any existing Council development consent. Lots should be rectangular in shape. | The proposed lot sizes achieve the minimum lot size for the R5 zone and are suitable for the future use of residential development. Whilst the proposal includes irregular shaped allotments, the lots generally follow the natural topography of the site and are consistent with the adjoining large lot residential land to the south, east and west. The irregular lots provide adequate building envelopes and setbacks. |
| Subdivisions are to be designed to maintain and enhance the rural character and scenic attraction of the Maitland local government area, particularly in low lying areas and valleys which may be viewed from above. | The proposal is consistent with adjoining developments by providing larger residential lots to soften the transition from rural land to residential development. |
| <u>Specific Controls: Rural and Conservation zones (including land zoned R5 Large Lot Residential)</u> | |
| Each new lot shall contain a building envelope with a minimum area of 2000 square metres and a minimum dimension of 20 metres. The building envelope is to contain any dwelling, outbuildings, landscaping and on-site effluent treatment and disposal areas. | All lots provide adequate building envelopes allowing for future residential development. Whilst it is noted that not all lots can achieve the required 2,000m ² building envelope, the intent of this control was to account for additional land supporting on-site effluent disposal. A notice of formal requirements from HWC has been submitted with the application demonstrating ability for the site to connect to HWC's reticulated system. Furthermore, restriction in the size of building envelopes within certain lots supports tree retention. Tree retention is important to the desired future character of the rural-residential transitional area of the Louth Park URA. The building envelopes provided can adequately contain a dwelling, outbuildings, and landscaping and are considered acceptable. It is also noted that the minimum lot size to the northern section of the site is 2,000m ² making it difficult to achieve a building envelope of 2,000m ² . |
| DC.2 – Solar Access and Energy Efficiency | |
| 80% of new lots are to have 5-star solar access, as defined by an analysis determined from the "Possible Design Solutions – Solar Access" booklet, and the remainder a 3 or 4 star rating. | The majority of lots are within the preferred orientation as presented in Figure 1 in this chapter. |
| Lot sizes are to reflect reasonable consideration of the impact of topography, aspect and other constraints so as to maximize solar access. | Lot sizes range predominately between 1500m ² to 4045m ² , with lot widths generally exceeding 18m. |
| Where possible lots should be oriented to provide one axis within 30 degrees east and 20 degrees west of true solar north. | Where possible, the subdivision has been designed to comply with this control, however, |

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| | the lot layout is dictated by topography, road and drainage design. |
| Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling. | All lots within the proposed subdivision have sufficiently wide frontages to provide for solar access opportunities to the north. |
| Proposals for street planting or open space planting are to take account of the potential for shading, provision of adequate solar access to dwellings and, if necessary, protection from winter winds. | Street tree planting is to be designed with consideration to future driveway locations. A revised landscape/street tree planting plan will be required prior to the issue of the Subdivision Works Certificate. |
| DC.3 – Drainage, Water Quality & Soil Erosion | |
| <p>Existing topography and natural drainage lines should be incorporated into drainage designs.</p> <p>Drainage from proposed lots should be consistent with the pre- development stormwater patterns.</p> <p>Best management practices should be implemented to control runoff and soil erosion and to trap sediment on the subject land to ensure there is no net impact on downstream water quality. The quality of runoff water from the subject land should be the same or better than the quality of water prior to the subdivision taking place.</p> <p>All trunk drainage is to be located in publicly owned land, (reserves), in open space land or in an appropriate easement.</p> | <p>The site falls to the north. Some cut and fill works are proposed to cater for proposed road network including road reserves. Civil engineering plans and supporting drainage reports have been submitted with the application demonstrating that the water quality and quantity for the proposal will be managed by the combination of a new on-site detention basin at the northern portion of the site. The proposal is considered to meet the requirements and environmental targets for the Louth Park URA and complies with engineering requirements. See further comments under Stormwater Management in section 4.15(1)(b) below.</p> |
| DC.4 – Landscape, Streetscape & Visual Impact | |
| <p>Existing landscape and streetscape character should be maintained and enhanced through retention of existing vegetation, provision of additional landscaping and selection of other streetscape items.</p> <p>Submission of a Landscape Plan will be required for residential and rural residential subdivisions, indicating the location of street trees and any other required landscaping including fencing details.</p> | <p>A tree retention plan has been provided which maintains vegetation in key locations compatible to the movement of Squirrel Gliders throughout the site, with a focus on retaining hollow bearing trees.</p> <p>Retained trees are located in the south-west, southern boundary and north-east sections of the subdivision, as well as sporadic sections throughout the site.</p> <p>The internal amenity of the subdivision and street frontages will be supplemented with street tree plantings with species that are consistent with the existing local degraded vegetation community onsite, being the Lower Hunter Spotted Gum – Iron Bark Forest Community. Relevant conditions have been included in the development consent.</p> |

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| | Whilst the development will result in visual changes to the locality, it is recognized that the site is zoned R5 and is within a URA. The proposal extends upon an existing residential subdivision, and as such, the changes to views are consistent with the emerging character of the area. |
| DC.5 – Effluent Disposal | |
| All new residential, industrial and commercial lots are to be connected to a reticulated sewerage system supplied by the Hunter Water Corporation or other approved supplier, unless there are unavoidable constraints. | The development will require a connection to reticulated sewerage system which will be a condition of consent. A notice of formal requirements from HWC has been submitted with the application. |
| DC.6 – Roads & Access, Pedestrians & Cycleways | |
| <u>Specific Controls:</u> | |
| Public road access is required to all new lots in Torrens Title subdivision. | All proposed lots will have suitable vehicular access to a public road. |
| <u>Residential Subdivisions</u> | |
| <p>A network of constructed (i.e. not grass) footpaths and cycleways will be required in all residential subdivisions, located, designed and constructed in accordance with Council's Manual of Engineering Standards, and in view of streets wherever possible to allow surveillance.</p> <p>Particular attention should be paid to pedestrian links to schools, with regard to their width, lighting (to Australian Standard) and the appropriateness of landscaping and related safety issues.</p> <p>The road, footpath and cycleway network should facilitate walking and cycling throughout neighbourhoods and provide links to schools, community facilities and other activity centres.</p> | <p>The proposed road design is generally consistent with hierarchy established under Chapter F10 – Louth Park Urban Release Area. All internal access roads will be constructed with a minimum 8m pavement width and 4.5m road verge to provide for footpaths and shared pathways in accordance with Council's Manual of Engineering Standards ("MOES"). The development has been aligned to connect with a subdivision approved on the southern boundary; DA2018/1967.</p> <p>The proposal does not have direct access to schools. It is noted that the subdivision is supported with footpaths and pedestrian links to existing road network and transport routes, providing connectivity to adjoining residential land.</p> <p>As addressed above, the development proposes a footpath network within the subdivision, and connected to external pedestrian networks.</p> |
| DC.7 Crime Prevention – Safer By Design | The development proposes clear sightlines between public and private spaces. The landscape plan will provide for street trees to provide shading, while maintaining opportunities for surveillance. The proposed lot layout provides for lots which will have future development facing outwards towards public areas to provide further natural surveillance. Conditions will be included in the consent to ensure that appropriate lighting is installed within the development. |

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| DC.8 Site Filling | <p>The proposal includes earthworks and filling in some portions of the site to cater for the road and drainage network. A maximum fill amount of approximately 3m is proposed to support the construction of the basin in the north-eastern portion of the site. This equates to a variation of 50% to the maximum prescribed fill (2m); however, it is supported, noting that an existing farm dam is being filled and the banks of the basin are required to be constructed.</p> <p>The primary objective of the control is to ensure the environmental impact of the site fill is properly assessed. The proposal has a generally balanced extent of cut and fill across the site. Conditions will be included in the consent to ensure that fill compaction is within relevant residential thresholds. All the earthworks will be conditioned to comply and tested as per <i>AS3798-2007 Guidelines on Earthworks for Commercial and Residential Developments</i>.</p> |
| DC.9 Reticulated Services (Water/Sewer/Electricity/Telecommunications) | Evidence of satisfactory arrangements will be required to be provided to Council prior to issue of subdivision certificate. |
| IC.1 Entry Features | No entry feature is proposed. |

Chapter F.10 – Louth Park Urban Release Area

| Louth Park – Development Requirements | |
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| Control | Comment |
| 1.1 Staging Plan & 1.2 Precinct Plans Staging of development should generally accord with the Staging Plan as shown in Figure 66. The Staging Plan provides for the timely and efficient release of urban land and aligns with the precinct plans as shown in Figure 67. | The subject site is located in the southern precinct and is one of the last sites to be developed within the area. The site is in keeping with the established precinct plan. |
| 1.3 Transport and Movement Each Precinct Plan is to include an overall transport movement hierarchy showing the major circulation routes and connections. The overall pedestrian and cycleway links should be generally consistent with the Figure 66. | The proposal is consistent with the southern precinct transport hierarchy. Pedestrian linkages to key road and footpath networks are provided within the subdivision design. Bus stops have also been provided within the proposed development. |
| 1.4 Overall Landscaping Strategy Each Precinct Plan includes an overall landscaping strategy for the protection and enhancement of any significant vegetation to protect the scenic values of the surrounding environment. | The loss of vegetation within the site will be supplemented with street tree plantings and glider pole revegetation with species that are consistent with the existing local EEC onsite, being the Lower Hunter Spotted Gum – Iron Bark Forest Community. |

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| 1.6 Stormwater and Water Quality Management Each Precinct Plan includes stormwater and water quality management controls to protect and enhance water quality and quantity. | The proposal has been assessed by Council's engineering team and is considered to demonstrate consistency with the southern precinct plan and water sensitive urban design requirements. |
| 1.7 Amelioration of Natural and Environmental Hazards Precinct Plans provide for the amelioration of any significant natural and environmental hazards. | The site contains bushfire prone land and land affected by mines subsidence. Relevant reports and assessments have been provided and are discussed in detail elsewhere in this report. The proposal is also supported by relevant contamination and geotechnical reports which is satisfactory. |
| 1.8 Key Development Sites There are parts of Louth Park URA that require specific design considerations to address site specific constraints. | The proposal is consistent with requirements of NSW Rural Fire Services and NSW Subsidence Advisory. |
| Precinct Plan – Southern Precinct | |
| Control | Comment |
| 1. Staging Plan All development applications for subdivisions shall include a staged construction plan, where the development is intended to be constructed in stages. | Yes, a staging plan has been provided. |
| 2. Transport and Movement The main access to the Southern Precinct will be via a new intersection at a suitable location with adequate sight distance on Louth Park Road. That access road shall connect with the main circulation route in the Central Precinct. The layout, hierarchy and design of streets within the Precinct should be generally consistent with Figure 76. No direct vehicular access is to be provided onto Louth Park Road from lots adjoining these roads. | DA2018/1967, approved 13 June 2023, provides connectivity for this subdivision to an alternative Louth Park Road intersection. The development adheres to the road and footpath layout and hierarchy established under the precinct plan (Figure 76). No direct vehicular access from any new residential lot is proposed onto Louth Park Road in association with this subdivision. |
| 3. Overall Landscape Strategy A 5-metre wide landscaped buffer is required along Louth Park Road to soften the visual impact of all built elements. Existing trees not affected by proposed new roads, infrastructure or buildings are to be retained where possible, particularly adjacent to Louth Park Road and Mount Vincent Road reserves. Development Applications for subdivision will include detailed landscaping plans identifying appropriate street tree species that support the | This subdivision does not have direct frontage to Louth Park Road. Existing vegetation across the site has been proposed to be retained in an attempt to minimise the impact of vegetation loss. Trees at the very south-west, southern boundary and north-east have been retained where possible. A focus on retaining hollow bearing trees has been made. A revised landscape plan will be conditioned, ensuring that tree species to be used are consistent with the existing local EEC onsite, being |

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| <p>EEC and consistent fencing treatments of post and rail timber.</p> <p>A Visual and Scenic Impact Assessment is to accompany development applications for subdivision development within the precinct.</p> <p>Building envelopes are to be positioned to retain existing vegetation and hollow bearing trees where practical. No new dwellings, garages or outbuildings are to be located within 15-metres of Louth Park Road.</p> | <p>the Lower Hunter Spotted Gum – Iron Bark Forest Community. Timber post and rail fencing treatments are required where fencing is proposed and will form part of the land title conditions for future residential development.</p> <p>Considering the low-scale density of the proposed subdivision with lot sizes ranging from 1500m² to 4045m², a Visual and Scenic Impact Assessment is not required. The assessment of development on individual lots will consider any visual impacts.</p> <p>Building envelopes have been provided to maximise tree retention. Revised building envelopes, ensuring that no works are permitted alongside retained trees will be conditioned.</p> |
| <p>5. Stormwater and Water Quality Management</p> <p>Applications for subdivision must include a stormwater management strategy consistent with the principles for Water Sensitive Urban Design ("WSUD").</p> <p>To protect and enhance water quality, water quantity and habitat value of downstream waterways and environment.</p> <p>To prevent erosion and run-off during site preparation and construction.</p> <p>Wherever possible, exiting natural drainage gullies should form part of a stormwater and runoff drainage system incorporation detention basins.</p> | <p>Stormwater modelling (utilising the DRAINS software) was undertaken by a suitably qualified engineer and has been assessed by Council's Subdivision and Development Engineering team. Relevant conditions have been included in the consent as recommended by Council's Subdivision and Development Engineering team. This modelling demonstrates the development will not increase the flows and pre-development flow rates are maintained and, in some instances, reduced.</p> <p>An emergency overflow path has been provided to the basin, capable of directing worst case stormwater events to an existing easement on the northern adjoining property. The works proposed on this land comprise installing a sub-surface pipe to convey stormwater discharge from the basin to a mapped watercourse, as well as the formation of a grassed lined table drain within the drainage easement.</p> <p>The applicant was required to demonstrate that the works within the easement would be compatible with the terms of Section 88b and Part 3 of the Conveyancing Act 1919, which states:</p> <p><i>Full and free right for the body in whose favour this easement is created, and every person authorised by it, from time to time and at all times to drain water (whether rain, storm, spring, soakage, or seepage water) in any quantities across and through the land herein indicated as the servient tenement, together with the right to use, for the</i></p> |

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| | <p><i>purposes of the easement, any line of pipes already laid within the servient tenement for the purpose of draining water or any pipe or pipes in replacement or in substitution therefor and where no such line of pipes exists, to lay, place and maintain a line of pipes of sufficient internal diameter beneath or upon the surface of the servient tenement and together with the right for the body in whose favour this easement is created and every person authorised by it, with any tools, implements, or machinery, necessary for the purpose, to enter upon the servient tenement and to remain there for any reasonable time for the purpose of laying, inspecting, cleansing, repairing, maintaining, or renewing such pipe line or any part thereof and for any of the aforesaid purposes to open the soil of the servient tenement to such extent as may be necessary provided that the body in whose favour this easement is created and the persons authorised by it will take all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will restore that surface as nearly as practicable to its original condition.</i></p> <p>This part confers the ability of a dominant tenement to drain via an easement. The easement burdening Lot 1 has been registered. This allows for the pipes works to be installed within the easement, while the applicant also seeks consent for the establishment of a grassed line table drain. The establishment of the table drain is supported by "(the) <i>Full and free right for the body in whose favour this easement is created, and every person authorised by it, from time to time and at all times to drain water (whether rain, storm, spring, soakage, or seepage water) in any quantities across and through the land.</i>" The table drain was initially submitted as a rock lined table drain, however Council identified that this Part also requires that: "<i>all reasonable precautions to ensure as little disturbance as possible to the surface of the servient tenement and will restore that surface as nearly as practicable to its original condition</i>", meaning that the ground should be returned as practical to the original condition.</p> <p>For this reason, the grassed line table drain was pursued. While some concern has been raised that this may exceed what is allowable, it was</p> |
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| | <p>determined that the works could be supported under the provisions of the easement.</p> <p>Water quality has also been analysed using the Model for Urban Stormwater Improvement Conceptualisation ("MUSIC") software. The results of the model show that the reduction targets have been met in accordance with Council requirements.</p> |
| <p>6. Amelioration of Natural and Environmental Hazards</p> <p>All development applications in bushfire prone areas shall submit a bushfire assessment report and requires approval from the NSW Rural Fire Service. No building envelopes are to encroach upon the 40m bushfire protection area.</p> <p>The Southern Precinct is partly affected by shallow mine workings. Any development application in the affected areas will require approval of the Mines Subsidence Board.</p> | <p>Potential hazards including bushfire protection, mines subsidence and land contamination are discussed within other sections of this report and are considered acceptable for the proposed subdivision. GTAs have been issued from NSW Subsidence Advisory and NSW RFS.</p> |
| <p>7. Key Development Sites</p> <p>A Visual and Scenic Impact Assessment is required to help inform the subdivision design and layout and include landscaping measures to protect views.</p> <p>The development shall retain existing vegetation to screen visual impacts.</p> <p>Larger allotments are to be provided along the southern ridgeline.</p> | <p>The development has incorporated tree retention measures to protect the visual and scenic values of the site including retention of existing vegetation. The proposed development is likely to have a low visual impact on the existing surrounding environment in terms of landscape and scenic values. The proposed development is in keeping with the existing and desired future visual character of the Louth Park URA.</p> |
| <p>9. Archaeological Heritage</p> | <p>An Aboriginal Objects Due Diligence Assessment (<i>Niche Environment and Heritage</i>, 17 June 2022) has been completed for the site. The results of this assessment are outlined within a following section of the report and should any objects be found during works then an aboriginal heritage permit may be required. This will be conditioned accordingly.</p> |

Section 4.15(1)(a)(iia) – Any planning agreement that has been entered under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

A Planning Agreement has been entered into between the Minister for Planning and the developer for the payment of a monetary contribution towards State infrastructure, as required under clause 6.1 in the MLEP 2011 when land is subdivided within an urban release area (Planning Agreement SVPA2022-172). Relevant matters for consideration are addressed under discussion in this report relating to clause 6.1 of the MELP 2011.

The obligations for the developer regarding the timing for the payment of the contribution are embedded in the Agreement. Council is required to ensure that the obligations in the Agreement have been complied with before it can issue the related Subdivision Certificate and this requirement is included in the recommended schedule of conditions.

Section 4.15 (1)(a)(iv) - The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no regulations prescribed under Section 61 of the Environmental Planning and Assessment Regulation 2021 which apply to this proposal.

Section 4.15 (1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The following table identifies and discusses the relevant matters for consideration in relation to environmental, social and economic impacts associated with the proposal.

| Matters for Consideration | Comments |
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| Character and Amenity | The subject site is located within an existing rural/residential precinct of Louth Park. The proposed subdivision has been designed to create larger lots on the low side of the ridge line. Building envelopes have been designated for all lots, however some modifications are necessary to achieve appropriate tree retention. |
| Construction Management | Standard conditions have been included in the development consent to manage the impact of sediment and erosion during site preparation and construction works. A condition of consent has also been included requiring a dilapidation report be submitted to Council prior to works commencing covering all properties and public land that adjoin the development. |
| Earthworks and Geotechnical | Earthworks including cut, fill and batters are required to facilitate the proposed road network and fill the existing dam. Detailed engineering designs and standard earthworks requirements, including provisions for importation and exportation of fill, have been conditioned for accordingly. |
| Mines Subsidence | The site is affected by mines subsidence. The application was subsequently referred to NSW Subsidence Advisory who have recommended conditions to be included in any development consent. It is noted that remediation work for mine workings is required, including grouting. A remediation report is required to be provided to Subsidence Advisory for acceptance. These GTAs from NSW Subsidence Advisory have also been attached to the development consent. |
| Bushfire | As detailed previously within the integrated referral section of this report, extensive discussion relating to compliance with the GTA's have been held throughout the assessment process. It is concluded that the proposed subdivision is able to comply with requirements stipulated by the RFS. A brief summary of key items is provided: |

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| | <p><u>Secondary Access</u></p> <p>The Bushfire Assessment Report Report (BAR) specifies that the development to the south (DA20178/1967) will create a second point of access to and from the site, noting that the primary point of access is Collaroy Parade.</p> <p>The NSW RFS ordinarily requires a secondary access with subdivisions of two (2) or more lots. It is expected that a secondary point of access will be created with Collaroy Parade to the south with the expansion of the URA. RFS GTA's have been provided and this matter is deemed to have been addressed.</p> <p><u>Roads</u></p> <p>The applicant has sought a performance solution to enable parking within the 8m road carriageway of non-perimeter roads. This has been supported noting that the impacted road (Eldon Drive) serves larger sized allotments each with very broad frontage to facilitate some parking, and the movement of passing vehicles and fire trucks in the event of an emergency. Road 10 is less encumbered with allotments, featuring three allotments on the southern side of the road and only one allotment on the northern side. This road is able to support some on street parking, as well as allowing for passing vehicles; therefore achieving the access requirements of Planning for Bushfire Protection Guidelines 2019. This performance solution has been endorsed by the RFS.</p> <p>The applicant has also sought for no-parking restrictions within the two cul-de-sacs proposed on site. While Council is generally reluctant to support parking restrictions in residential areas, this specific situation can be supported. The reasoning for this includes:</p> <ul style="list-style-type: none">o The site comprises a mix of larger lot sizes, varying between 1500sqm – 4000sqm.o The Road 10 bulb will mostly comprise driveways providing access to allotments, meaning that opportunity for parking will not be compromised. There is an additional section of the road that does not front lots (i.e. the eastern boundary of the subdivision), and compensatory parking is thereby available along this portion of the road, outside of the bulb.o Eldon Drive cul-de-sac fronts a drainage basin and other sections of the bulb will have residential driveways. <p>A condition of consent requiring that 'no parking' signage be shown on cul-de-sac bulbs will be imposed.</p> <p>Compliance with PFBG 2019 with regard to access can be achieved.</p> |
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| | <p><u>Access Handles</u></p> <p>The access handles for Lots 114 and 115 have been specifically referenced in the GTA's. The access roads are required to comply with Table 5.3b of the PfbG2019, including a minimum 4m wide carriageway and a passing bay.</p> <p>A condition will be imposed requiring that an accredited bushfire consultant is to certify that internal lots and internal lot access comply with requirements of RFS GTAs.</p> |
| Stormwater Management | <p>Due to the topographic characteristics of the site, the land drains primarily to the north. As discussed previously, civil engineering plans and supporting documentation (GCA, August 2024) have been submitted with the application and have been assessed by Council's Subdivision and Development Engineering team. The proposed stormwater network includes:</p> <ul style="list-style-type: none"> A stormwater basin within a dedicated drainage reserve to provide both water quality and quantity treatment for the catchment draining to the north. This stormwater strategy utilises conventional pit and pipe conveyance adjacent to the proposed road network. The site water quality is improved through treatment gross pollutant traps and a bio-retention basin before discharging into a legal point of discharge at the north of the site. An emergency overflow spillway has been provided by the applicant, allowing for the emergency discharge of stormwater to an existing easement on the northern adjoining property. <p>Stormwater modelling (utilising the DRAINS software) submitted by the applicant demonstrates the development will not increase the flows and pre-development flow rates will be maintained. Water quality has also been analysed using the Model for Urban Stormwater Improvement Conceptualisation ("MUSIC") software. The results of the model show that the reduction targets have been met in accordance with Council requirements. Relevant conditions have been included in the consent as recommended by Council's Subdivision and Development Engineering team.</p> |
| Vehicle access and traffic | <p>The proposal is located within the Southern Precinct of the Louth Park URA, and access to a secondary connection at Louth park Road will be facilitated via the recent approval of a subdivision consent to the south of this site, DA2018/1967.</p> |
| Vegetation | <p>It is understood that with regard to the BC Act, the proposed development:</p> <ul style="list-style-type: none"> Triggers the Biodiversity Offset Scheme due to clearing thresholds being exceeded. Will require the removal and modification of 7.54 hectares of native vegetation. |

| | |
|--|--|
| | <ul style="list-style-type: none"> • Will result in a credit obligation of 144 ecosystem credits for impacts to PCTs 1598 and 1600, and 287 species credits for impacts to Southern Myotis and Squirrel Glider. • Has largely avoided and minimised impacts to biodiversity values including hollow-bearing trees (HBTs), connectivity for threatened species, and foraging resources for a range of fauna species. <p>The proposal will result in the disturbance of approximately 7.54 hectares of native vegetation across two Plant Community Types (PCTs) within three vegetation zones.</p> <ul style="list-style-type: none"> • 1600 - Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box shrub-grass open forest of the lower Hunter. • 1598 - Forest Red Gum grassy open forest on floodplains of the lower Hunter <p>A threatened species, Squirrel Glider (<i>Petaurus norfolcensis</i>) was detected at the site.</p> <p><u>Avoid and Minimize Strategy</u></p> <p>The retention of 104 healthy trees in key locations are proposed as an avoidance measure to reduce the potential for impacts to biodiversity values. Most of the trees earmarked for retention are large, mature trees with large canopies. Trees have been selected in areas adjacent to the southern boundary and at the edges of proposed lots where building envelopes are less likely to encroach into the critical root zones of the trees. The retention of tall, large trees and hollow-bearing trees was prioritised given their high ecological value, particularly to hollow-dependent fauna such as arboreal mammals, cockatoos and owls.</p> <p>Conclusions of the BDAR are generally supported. Impacts to flora and fauna have been appropriately assessed in accordance with the BAM (2020) and relevant legislative requirements. No objection is raised with regard to flora and fauna providing conditions</p> |
|--|--|

Section 4.15 (1)(c) - The suitability of the site for the development

The development proposal allows for the subdivision of one large lot for large lot residential purposes including ancillary works within an urban release area that is consistent with Maitland LEP 2011 provisions. The proposal is generally consistent with the subdivision requirements of Maitland DCP 2011, although some variations are necessary and supportable in terms of lot layouts, building envelope, and fill. The subject site is considered suitable for the proposed development.

Section 4.15 (1)(d) - Any submissions made in accordance with this Act or the regulations

Public Submissions

- The proposal was publically notified/advertised for a period of 35 days (inclusive of public holidays) in accordance with the Environmental Planning and Assessment Act 1979 and the Maitland Development Control Plan 2011.
- A total of 3 submissions were received during the exhibition period. A summary of the submissions is provided in the following table:

| Review of Submissions | | |
|-----------------------|---|---|
| Submission No. | Issue | Comment |
| 1 | <i>Loss of dam; ducks, birds and kangaroos drink from the dam. This waterway symbolises the semi-rural vibe.</i> | While the loss of the dam is undesirable, aerial imagery indicates a number of other farm dams within reasonable proximity to this. The dam is to be decommissioned; however it will be replaced with a formed detention basin, which will be able to provide habitat and watering to native fauna once it is constructed. The short-lived loss of the aesthetic ambience of the dam will be restored once the considerably larger basin is constructed. |
| 2 | <i>Excessive battle axe blocks.</i> | Previous versions of the plan had a considerable number of lots accessed via battle axe handle arrangement. Whilst four battle-axe handles are required under the final version of the plan, this has been required to limit tree removal across the site. A maximum of two lots are accessed per handle, and the lots are considered compliant with Council policy. |
| 1, 3 | <p><i>Lot size map applicable to the development site inconsistent with the intention of the R5 Large Lot Residential zoning.</i></p> <p><i>Many small blocks, where is infrastructure, including bus stops, cycle paths, footpaths, street lighting, stormwater, local shops.</i></p> <p><i>Inconsistent with R5 zoning of the locality.</i></p> | <p>As discussed previously, the subject site is mapped as containing three minimum lot sizes, with the northern section allowing a minimum lot size of 1500m² the central section allowing 4,000m² and the southern section 2,000 m². The proposal is consistent with the objectives of this clause by providing residential lots ranging from 1,500m² to 4,045m² and equal to or above the minimum lot size defined by the LEP.</p> <p>Furthermore, the development is located within the Louth Park URA which has been appropriately zoned for R5 Large Lot Residential under the MLEP 2011. The Louth Park URA does not have any further requirements regarding lot size where transitioning with larger lots. As such, it is considered that the proposed development is consistent with the</p> |

| | | |
|---|---|--|
| | | <p>emerging character of the Louth Park URA.</p> <p>The proposal is considered compatible with the objectives of the R5 zone in that housing is provided within a semi-rural setting. The semi-rural setting is achieved via the creation of complaint lot sizes and incorporation of design features, such a tree retention and timber, rural fencing to uphold the rural characteristics of the area.</p> <p>All relevant infrastructure, including footpaths, street lighting, street planting and bus stops have been provided.</p> |
| 2 | <p><i>Speeding vehicles on Louth Park Road.</i></p> <p><i>Combined with DA2018/1967 this equates to an increase in vehicles.</i></p> <p><i>Additional vehicles utilising Louth Park Road which already experiences speeding and congestion at the Mount Vincent intersection. Additional traffic impact on proposed 'road 1' as residents in adjoining developments to the north will utilise this intersection.</i></p> <p><i>Traffic impacts with connection through to Louth Park (via southern adjoining subdivision).</i></p> <p><i>What is the speed limit?</i></p> | <p>The speed zone of Louth Park Road is a matter for the NSW Police to enforce. This proposed subdivision has no direct connection to Louth Park Road; however it is noted that with the recent approval of DA2018/1697, an additional connection to Louth Park Road will be established in the future.</p> <p>The proposed road layout is consistent with the road and footpath layout and hierarchy established under the precinct plan (Figure 76) within F10 – Louth Park Urban Release Area of Maitland DCP 2011.</p> <p>Considering the scale of the residential subdivision it is unlikely the proposal will create a significant adverse impact on the local road network.</p> |
| 3 | <p><i>Impact of development on water quality of adjoining water courses and dams.</i></p> | <p>The engineering assessment provides an analysis of post-development water quality utilising MUSIC software. The results of the model show that the reduction targets have been met in accordance with Council requirements. Gross pollutant traps adjacent to the bio-retention basin are also proposed which will collect sediments and gross pollutants prior to water being discharged into the basin. This meets Council's requirements and therefore no adverse impact to water quality is anticipated. Requirements regarding water quality are conditioned.</p> |
| 2 | <p><i>Loss of trees and impacts to wildlife.</i></p> | <p>While some impact to existing vegetation will be experienced, the subdivision seeks to retain one-hundred and four (104)</p> |

| | | |
|--|--|---|
| | | <p>large, healthy and established native trees across the site.</p> <p>There will be some disturbance to existing vegetation (i.e. the trees that are not able to be retained), however conditions of consent will be imposed ensuring that the clearing is conducted in accordance with best practice methods recommended by ecologists.</p> |
|--|--|---|

Government Agency Submissions

General terms of approval (GTA's) have been provided by the following government agencies on the basis that the development is classified as integrated development under Section 4.46 of the *Environmental Planning and Assessment Act 1979*. A summary of the requirements of each government agency is provided in the following table:

| Government Agency Submissions (GTA's) | | |
|---------------------------------------|---|--|
| Responding Agency | Section/Act under which GTA's are provided | Summary of requirements |
| NSW Rural Fire Service | Section 100b of <i>Rural Fires Act 1997</i> . | <p>NSW Rural Fire Services have issued GTAs recommending the following:</p> <ul style="list-style-type: none"> All residential lots to be maintained as Inner Protection Areas in accordance with relevant provisions of the <i>Planning for Bushfire Protection 2019</i>. Specific access requirements for both public roads and fire trails. Specific water and utility service provisions. |
| NSW Subsidence Advisory | Section 22 of <i>Coal Mining Subsidence Compensation Act 2017</i> . | <p>NSW Subsidence Advisory have issued GTAs recommending the following:</p> <ul style="list-style-type: none"> Remediation works (grouting) of impacted areas in accordance with provided report. |

Comments with respect to the proposal have been provided by the following government agencies as summarised in the following table:

| Government Agency Submissions (Comments) | | |
|--|--|---|
| Responding Agency | Section/Act under which comments are required | Summary of Comments |
| Ausgrid | Section 2.48 of <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> . | Comments from Ausgrid provide advice regarding to NSW Safework practices for works in proximity to existing network assets. |

Section 4.15(1)(e) - The public interest

The proposal satisfies the provisions of Maitland LEP 2011 and is generally consistent with the provisions of Part C10 – Subdivision and Part F10 – Louth Park Area Plan of Maitland DCP 2011 as demonstrated

within previous sections of this report. Whilst some variations are sought, after a detailed assessment of the subdivision, appropriate subdivision outcomes for this locality will be achieved. The development is in the public interest and will allow for the orderly and economic development of the site.

OTHER APPROVALS

The proposal does not require the Council to grant consent under legislation outside of the Environmental Planning and Assessment Act, 1979.

REFERRALS

- The application was referred internally to Council's Subdivision and Development Engineering officer. Several revisions were requested by the Development Engineer, to ensure that Council had the required information to adequately assess the proposal. The final revision of the submitted documents was reviewed by the engineer and determined to be satisfactory, subject to the imposition of recommended conditions of consent.
- The application was also referred internally to Council's Biodiversity and Resilience Officer. Following a series of amendments, the finalised version of the BDAR (v7) has been supported. Recommended conditions of consent with regards to biodiversity impacts have been imposed.

ASSESSMENT CONCLUSION

- An assessment of the application has been undertaken against Section 4.15(1) of the *Environmental Planning and Assessment Act, 1979 as amended*. The proposed development is considered acceptable in terms of the relevant matters for consideration under the Act and the development application is recommended for approval.

RECOMMENDATION AND DETERMINATION

- Consent be granted subject to the conditions provided in the attached schedule.

Officers Reports

**DEVELOPMENT APPLICATION 2022/1260
FOR 1 INTO 28 LOTS TORREN TITLE
SUBDIVISION (INCLUDING 1 DRAINAGE
RESERVE) AT 82 COLLAROY PARADE,
LOUTH PARK**

**Conditions of Consent (Under Separate
Cover)**

Meeting Date: 27 August 2024

Attachment No: 4

Number of Pages: 18

Schedule of Conditions DA/2022/1260

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions of this consent or as shown in red colour on the plans:

| Plan Ref No. | Sheet No. | Rev'n No. | Revision Date | Prepared by: (consultant) |
|--|-----------------------|---------------------------------|------------------|--------------------------------|
| Proposed Subdivision Plan / 21360L Hillview Louth Park | L106 | 26 | 27 June 2024 | - |
| Tree Plan Set | TP01 | 9 | 27.06.24 | GCA Engineering Solutions |
| Engineering Plan Set, Project No. 21360 | C00 – C26 C28 - 34 | As specified on C00 Cover Sheet | July 2024 | GCA Engineering Solutions |
| Bioretention Basin Plan | C27 | 12 | 12.08.2024 | GCA Engineering Solutions |
| Basin Outlet Pipe Drainage Line | C35 | 11 | 05.08.2024 | GCA Engineering Solutions |
| Emergency Table Drain Long and Cros Sections | C36 | 12 | 12.08.2024 | GCA Engineering Solutions |
| Biodiversity Development Assessment Report HBT0019_BDAR_V7.1 | - | V7.1 | 24/04/2024 | Habitat Environmental Services |
| Asset Protection Zone Compliance | - | - | 14 July 2024 | Bushfire Planning Australia |
| Request for Information – Biodiversity Development Assessment Report | - | - | 12 July 2024 | Habitat Environmental Services |
| NSW Rural Fire Service Request of Information | - | - | 13 June 2024 | Bushfire Planning Australia |
| Bushfire Assessment Report | - | 3 | 5 March 2024 | Bushfire Planning Australia |
| Report on Preliminary Site Investigation (PSI) | - | 1 | 10 November 2022 | Stantec |

WORKS TO BE AMENDED

2. **Prior to the issue of the Subdivision Works Certificate**, the development must be amended as follows:
- Building envelopes shall be identified on all allotments, at least 3m clear from any tree shown on the tree retention plan. Building envelopes are to have minimum dimensions of 15m x 10m.
 - Revegetation of glider poles shall be shown on plans as per page 52 of the Biodiversity Development Assessment Report HBT0019_BDAR_V7.1, date 24/04/2024, Habitat Environmental Services. The planting schedule must also be

shown on plans.

Full details must be submitted to and approved by the *Manager Development & Compliance*, prior to the release of a Subdivision Works Certificate.

CONTRIBUTIONS & FEES

3. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Maitland City Wide Development Contributions Plan 2016, a contribution of \$457,678 shall be paid to the Council.

The contribution is calculated from Council's adopted Development Contributions Plan in the following manner:

| Facility | Per Lot | Total |
|---|-----------------|---------------------|
| | 1 | 26 |
| City Wide Aquatics | \$1,195 | \$31,070.00 |
| Citywide Competition Netball Courts | \$277 | \$7,202.00 |
| City Wide Recreation & Open Space | \$999 | \$25,974.00 |
| City Wide Multipurpose Centre Floor Space | \$783 | \$20,358.00 |
| City Wide Library Floor Space | \$757 | \$19,682.00 |
| City Wide Road & Traffic Facilities | \$3,958 | \$102,908.00 |
| City Wide Cycleways/Shared Paths | \$706 | \$18,356.00 |
| Louth Park Recreation & Open Space | \$3,516 | \$91,416.00 |
| Louth Park Road & Traffic | \$4,983 | \$129,558.00 |
| Plan Management | \$429 | \$11,154.00 |
| Total | \$17,603 | \$457,678.00 |

Any outstanding component of the contribution will be indexed quarterly in accordance with the provisions of the abovementioned Development Contributions Plan. Reviewed rates will apply following release of CPI indices by the Australian Bureau of Statistics for each quarter. Please refer to Council's web page for the current rates applicable.

Payment of the above amount is required prior to issue of any Subdivision Certificate for the development.

The above condition has been applied to ensure that:

- a) Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979.
 - b) Council's administration expenses are met with respect to the processing of the application.
4. **Prior to the issue of a Subdivision Certificate**, all the requirements of the State Voluntary Planning Agreement (SVPA-2022-172) for 82 Collaroy Parade, Louth Park are to be complied with. Documentation is to be provided to Council with the application for the Subdivision

Certificate.

Note: Section 6.15(1)(d) in the Environmental Planning and Assessment Act 1979 places a restriction on the issue of a Subdivision Certificate relating to this matter.

CERTIFICATES & REPORTS

5. **Prior to the issue of the Subdivision Certificate**, "house numbering" and "subdivision certificate" fees, in accordance with Council's *Schedule of Fees and Charges*, shall be paid to Council.
6. **Prior to issue of the Subdivision Certificate**, a copy of a report prepared by a geotechnical engineer shall be submitted to Council:
 - classifying each lot in accordance with Australian Standards AS 2870, and
 - verifying that compaction of any approved fill-material on the lots is in accordance with AS3798 employing "level 1" inspection and testing.
7. **Prior to issue of the Subdivision Works Certificate** for earthworks or road construction, application (together with a plan) shall be made, and submitted to Council, for road names. The suggested names shall offer options, which shall be supported with reasons (historical or otherwise) for the chosen names.
8. A Dilapidation Report shall be submitted to Council and the Certifying Authority prior to any works, including demolition works, commencing. The report shall be prepared by an engineer or other suitably qualified person. The report shall cover all properties and public land that adjoin the development or that could be potentially damaged by the works. The report shall include a description of the location and nature of any existing observable defects to the properties and existing public infrastructure, including a photographic record.
9. A certification report from a BPAD Level 3 accredited Bushfire Consultant must be provided **prior to the release of the Subdivision Certificate** confirming that compliance with bushfire measures outlined in the General Terms of Approval by the RFS (Condition 10), have been met.
10. All trees shown on the tree retention plan (*Tree Plan Set, TP01, Rev 9, 27.06.2024, GCA Engineering Solutions*) and outlined within the Biodiversity Development Assessment Report (*HBT0019_BDAR_V7.1, 24.04.2024, Habitat Environmental Services*) must be retained on site. Construction works must not impede the retention of these trees.
11. This consent does not infer permission for tree clearing on Lot 1 DP 1286289. Full and separate consent must be obtained in the instance that clearing is required to facilitate any work associated with this subdivision.
12. A survey report, prepared by a suitably qualified surveyor, must be provided **prior to the release of the Subdivision Certificate** confirming that all works (including earthwork batters) are wholly contained within the boundary of Lot 2 DP 1286289.

GENERAL TERMS OF APPROVAL

13. The General Terms of Approval from state authorities must be complied with prior to, during, and at completion of the development.

The General Terms of Approval are:

- Subsidence Advisory NSW Reference No: TSUB24-00086, 1 FN21-02375 dated 22 April 2024.
- NSW Rural Fire Services Reference No: DA-202212606012109-CL55-2 dated 1 July 2024

Copies of the General Terms of Approvals are attached to this determination under Schedule 2 and Schedule 3.

WATER MANAGEMENT ACT

14. A Controlled Activity Approval under Section 91 of the *Water Management Act 2000* is required **prior to the issue of a Subdivision Works Certificate**.

UTILITY SERVICES

15. Water, sewerage, telecommunications, and underground electrical power services shall be reticulated for each lot in accordance with the service provider's requirements.
16. Street and pathway lighting shall be provided in accordance with the requirements of Council and the power supply authority:
- a) Generally based on Australian Standard AS 1158 Figure 2.1 categories to council requirements,
 - b) Providing "cut-off" luminaries (such as "Aeroscreen" or similar),
 - c) Provide lighting for all public roads (Collaroy Parade, Road 10 and Road 11/Eldon Drive) and cul de sac bulbs
17. Any necessary alterations to public utility installations being at the developer's expense and to the requirements of both Council and the relevant authority.
18. **Prior to issue of the Subdivision Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development shall be submitted to Council.

Note: Where the proponent enters into an interim arrangement with Hunter Water for the provision of temporary sewerage disposal a copy of the agreement between Hunter Water and the proponent shall also be provided to the Council prior to the issue of the Subdivision Certificate.

19. **Prior to issue of the Subdivision Certificate**, documentary evidence from the suppliers of electrical power, and communications (and including gas if applicable), confirming that satisfactory arrangements have been made for the installation of infrastructure services, shall be submitted to Council.
20. **Prior to issue of the Subdivision or Construction Certificate in connection with a development**, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:
- a. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to

- any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.
- b. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

VEGETATION & LANDSCAPING

21. The class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the commencement of clearing works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

| Impact plant community type | No. of ecosystem credits | HBT Presence | IBRA sub-region | Plant community type(s) that can be used to offset impacts of development |
|---|--------------------------|--------------|---|---|
| 1598-Forest Red Gum grassy open forest on floodplains of the lower Hunter | 11 | No | Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. Or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site. | Hunter Lowland Redgum Forest in the Sydney Basin and New South Wales North Coast Bioregions This includes PCT's: 1591, 1598, 1603, 1605, 1691, 1692, 1749, 3328, 3446, 3634 |
| 1600-Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box shrub-grass open forest of the lower Hunter | 133 | No | | Hunter-Macleay Dry Sclerophyll Forests This includes PCT's: 1178, 1589, 1600, 1601, 3431, 3442, 3446 |

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to commencement of clearing works.

22. The class and number of species credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the commencement of works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

| Impacted species credit species | Number of species credits | IBRA sub-region |
|--|---------------------------|-----------------|
| <i>Myotis macropus</i> / Southern Myotis | 143 | Any in NSW |
| <i>Petaurus norfolcensis</i> / Squirrel Glider | 144 | |

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the commencement of clearing works.

23. Prior to the commencement of clearing works, a Biodiversity Management Plan (BMP) must be prepared by a suitably qualified person in consultation with Council. The BMP may form part of a Construction Environmental Management Plan. It shall include (but not be limited to) the following minimum detail:

- Clearing Strategy developed in accordance with 'Guide 1: Pre-clearing process', 'Guide 4: Clearing of vegetation and removal of bushrock', and 'Guide 9: Fauna handling' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024). At minimum, the Clearing Strategy shall include:
 - Proposed pre-clearing and pre-demolition survey actions
 - Proposed timing of clearing and demolition commencement, and pre-clearing checks
 - Proposed vegetation clearing methodology
 - Monitoring and reporting requirements
- Artificial Hollow Plan, including:
 - The size, type and quantity of natural tree hollows to be removed
 - Target species and the design of artificial hollows
 - Maps of existing natural hollows and planned artificial hollow installation locations
 - Monitoring and reporting requirements
- Dam Dewatering Strategy, including:
 - Dewatering process
 - Protection of aquatic fauna and proposed fauna relocation measures
- Protection of Retained Trees Plan - Trees that have been identified for retention shall be protected by the establishment of a **Tree Protection Zone** (in accordance with Australian Standard AS4970-*Protection of trees in development sites*) prior to the commencement of any site works. A minimum 1.8m high barrier must be installed around the perimeter of the stated **Tree Protection Zone** prior to commencement of works. The protection zone shall be maintained for the duration of works. No excavation or construction shall be carried out within the stated *Structural Root Zone* distances from the base of the trunk surface.
- Appropriate weed control measures, including:
 - Weed management priorities and objectives.
 - Location of weed-infested areas.
 - Measures to prevent the spread of weeds.
 - Procedures for onsite weed treatment (e.g. composting) and reuse, and/or offsite weed disposal.
 - Communication strategies to improve contractor awareness of weeds and weed management.

- Machinery, plant and equipment hygiene protocol

The BMP shall be submitted to and approved by *Council's Manager Environment and Sustainability* prior to the issue of any Subdivision Works Certificate.

24. All hollows removed must be offset with either nest boxes (artificial hollows) or reinstallation of salvaged hollows (see table below detailing the hollows to be removed). Hollow replacement must be a 2:1 ratio, such that six (6) nest boxes are installed, and six (6) salvage hollows are reinstalled in accordance with the Artificial Hollow Plan (as outlined in the BMP). All nest boxes must be installed two weeks prior to commencement of works, while salvage hollows are to be installed within two (2) weeks following vegetation clearing. All artificial hollows shall be monitored annually and maintained as needed for five years.

Table 1 Hollow-bearing trees to be removed and size of hollows

| Tree No. | Tree Species | DBH (cm) | Hollow Size Class | | |
|----------|---------------------------|----------|-------------------|-----------------|--------------|
| | | | Large (>20cm) | Medium (5-20cm) | Small (<5cm) |
| 2 | Dead Tree (Stag) | 40 | - | 1 | - |
| 4 | <i>Eucalyptus fibrosa</i> | 90 | - | - | 1 |
| 8 | Dead Tree (Stag) | 70 | - | 1 | 1 |
| 9 | Dead Tree (Stag) | 120 | - | - | 1 |
| 11 | Dead Tree (Stag) | 40 | - | - | 1 |
| 12 | <i>Corymbia maculata</i> | 60 | - | - | 1 |

Artificial hollows should be installed:

- As close as possible to the location of the removed hollow-bearing tree. Nearby Council-owned land may be used for hollow installation where there is no suitable location remaining on site (requires approval by the *Manager Environment and Sustainability*).
- With an orientation that considers the target species' needs.
- To avoid trees with existing hollows as the presence of other hollow-dependent fauna may act as a deterrent or may compete for the nest boxes.
- With an attachment method which is appropriate for each artificial hollow type and allows for tree growth.
- Of a type and design to suit the target species in accordance with the Artificial Hollow Plan. If nest boxes are to be used, they should be constructed of a durable material (i.e., marine ply or equivalent), minimum thickness of 19mm.
- Salvaged hollows are to be capped on either end and an entrance hole created if required.

Artificial hollow location and evidence of installation shall be provided to and approved by the *Manager Environment and Sustainability* prior to commencement of clearing works. Where salvaged hollows are to be installed, evidence of installation and location is to be provided to the *Manager Environment and Sustainability* within two weeks after clearing works, unless otherwise agreed by the *Manager Environment and Sustainability*.

25. A qualified ecologist with relevant experience in squirrel glider ecology and fauna crossings shall prepare a Squirrel Glider Management Plan (SGMP) in consultation with Council's *Manager Environment and Sustainability*. The SGMP shall be prepared in accordance with the

Habitat Connectivity Strategy and Figure 13 within the *Biodiversity Development Assessment Report V7.1, dated April 2024 prepared by Habitat Environmental*, and include the following minimum detail:

- a. Installation of three (3) glider poles located along the northeastern boundary as shown in Figure 13 within the Biodiversity Development Assessment Report (Habitat Environmental).
- b. Glider pole design including the following:
 - Minimum 15 m above ground height for standard launch poles
 - Installation of glider-specific nest box and predator guard on each pole
 - One horizontal glide beam pointing to the opposing glide pole and one glide beam perpendicular to it.
- c. Proposed revegetation actions and maintenance schedule in accordance with native tree planting proposed in the Habitat Connectivity Study within the Biodiversity Development Assessment Report (Habitat Environmental).
- d. Minimum five (5) years of monitoring undertaken by suitably qualified personnel to determine fauna usage.
- e. Detailed works schedule for pole installation, revegetation works, and maintenance of vegetation for five (5) years following planting.

The SGMP shall be submitted to, and approved, by Council's *Manager Environment and Sustainability* prior to issue of the Subdivision Certificate.

Annual monitoring reports are to be provided to Council's *Manager Environment and Sustainability* for a minimum period of five (5) years.

Implementation of the SGMP shall commence immediately upon any construction work commencing and shall be carried out in accordance with the SGMP approved schedule of works.

26. Retained hollow-bearing trees (HBTs) and trees with DBH of 80cm and greater which are listed in Appendix F – Tree Retention Plan within the *Biodiversity Development Assessment Report V7.1, dated April 2024 prepared by Habitat Environmental* shall have signs indicating the tree has been retained for wildlife habitat, affixed at 2.5m AGL. The sign shall be approximately 150mm x 150mm and shall be constructed from durable, weather-resistant materials such as powder coated steel or aluminium. Fastenings shall be of a type and size that minimise long-term damage to the tree.

Signage design shall be approved by the *Manager of Environment and Sustainability* **prior to issue of Subdivision Works Certificate.**

Evidence of installed signage shall be submitted to and approved by *Manager of Environment and Sustainability* **prior to issue of a Subdivision Certificate.**

27. **Prior to the issue of the Subdivision Certificate** the applicant shall provide to the Council either:

- a) A copy of a 'maintenance agreement' with a qualified contractor to secure maintenance of the glider poles and associated landscape plantings for a period of not less than 5 years in accordance with the Squirrel Glider Plan Management Plan; or

- b) Provide a maintenance bond to the Council for the maintenance of the glider poles and associated landscape plantings for a period of not less than 5 years in accordance with the Squirrel Glider Plan Management Plan.

28. Implementation of the Clearing Strategy (as outlined in the BMP) shall be undertaken by a qualified ecologist and commence **prior to clearing of any vegetation or demolition of structures.**

Removal of trees with habitat features and structures identified during pre-clearance surveys as providing fauna habitat (e.g., microbats) shall be undertaken at a time that minimises impact to fauna.

A staged habitat removal process in accordance with 'Guide 4: Clearing of vegetation and removal of bushrock' in *Biodiversity Management Guidelines: Protecting and managing biodiversity on Transport for NSW projects* (Transport for NSW, 2024) shall be used when identified habitat features are to be removed. Soft fall techniques and sectioning of hollow limbs/trunks shall be applied to all hollow-bearing trees.

Once clearing of habitat features has been completed, a report shall be provided to *Council's Manager Environment and Sustainability* verifying compliance with the Clearing Strategy.

29. Artificial hollows shall be monitored by a qualified ecologist to determine their usage and repairs or replacement (as required). Monitoring shall be carried out on an annual basis for a minimum period of five years following installation and/or as otherwise agreed with Maitland City Council. Annual monitoring statements shall be provided to *Council's Manager Environment and Sustainability*.
30. Glider poles shall be monitored by a qualified ecologist to determine fauna usage and repairs or replacement (as required). Monitoring shall be carried out on an annual basis for a minimum period of five years following installation and/or as otherwise agreed with Maitland City Council. At minimum, monitoring for fauna usage shall include four (4) weeks remote camera monitoring with two (2) cameras affixed to each pole. Cameras should be fixed to each glider pole pointing along the cross-beams to capture potential use by glider species.

Annual monitoring statements shall be provided to *Council's Manager Environment and Sustainability*.

31. **Prior to the issue of a Subdivision Works Certificate**, a Construction Environmental Management Plan (CEMP) must be prepared for the clearing and construction phase of the development works to the satisfaction of the consent authority. The CEMP is to include, but not limited to, the following documentation and procedures:
- Identification of building envelopes and retained trees as per the approved plans under Condition 1 and 2 of this consent.
 - Construction impacts must be restricted to the development site and must not encroach into the Tree Protection Zones of any retained trees. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located outside of the TPZ of retained trees.
 - A weed and hygiene protocol must be developed to minimise the spread of weeds and pathogens such as *Phytophthora cinnamomi* (Root-rot fungus), *Puccinia psidii* (Myrtle Rust) and others during clearing and construction.
 - Vehicles, machinery, and equipment must be free from weed material (including seeds) before entering and exiting the construction corridor. All stockpiles of soil onsite must be maintained by regular spraying of herbicide to stay free of weed propagules during the duration of the works.

- e. A pre-clearing survey must be conducted by a qualified ecologist to identify all resident fauna using the site. Especially, all hollows present onsite shall be inspected during the survey to assess occupation by native fauna.
 - f. A qualified ecologist or fauna handler must inspect all dams prior to dewatering and be present during the process to relocate any aquatic fauna present.
 - g. All hollow-bearing trees within the clearing footprint shall be clearly marked (with flagging tape and fluoro spray-paint).
 - h. Timing of clearing must consider the life cycle of all resident fauna and must occur outside of breeding season (preferably late summer and autumn) of species identified onsite.
 - i. Vegetation removal (in particular, removal of hollow-bearing trees) to be supervised by a qualified ecologist or fauna handler.
 - j. Clearing of habitat trees must be undertaken using best practices in the industry including using fauna sensitive techniques such as sectioning, and soft felling.
 - k. Hunter Wildlife Rescue must be contacted prior to habitat tree removal to ensure they have capacity to care for any wildlife potentially injured during clearing activities.
 - l. Cleared vegetation will be mulched and stockpiled for later use in any vegetation restoration/landscaping activities and must be cleared of weed propagules. Exotic species present shall be chipped separately.
32. **Prior to the issue of the Subdivision Works Certificate for road construction**, a detailed "landscape plan", in accordance with Council's tree planting guidelines and Manual of Engineering Standards shall be submitted to Council for approval. The plan shall include:
- a) Be in accordance with the approved plan as referenced in condition 1 and designed by a suitably accredited landscape architect.
 - b) Be consistent with RFS requirements as outlined within this consent.
 - c) Not provide trees within basin fill walls, within basin access tracks and be consistent with the civil infrastructure.
 - d) Be of a design and construction standard that minimises ongoing maintenance costs to Council and is maintainable by the Council 72 inch wide ride-on machinery.
 - e) Street trees shall have a minimum pot size of 45 Litres (desirably minimum height of 1.5m at time of planning) include details of the height and spread at maturity (of the approved species).
- Landscaping of any existing or proposed public land shall include:*
- f) A minimum 3.0m wide couch turfed strip provided along adjoining private property boundaries for boundary maintenance purposes with maximum slope of 5H:1V.
 - g) Show construction details of any fencing/bollards/barriers/lighting items approved in the landscape concept plan.
 - h) Where landscaping adjoins pedestrian paths/corridors, the plants shall be positioned at least 1.0m offset to the edge of path.
- Landscaping of water quality systems*
- i) A robust and resilient design that can withstand the potential flooding impacts within the drainage reserve/corridors.
33. **Prior to the issue of the Subdivision Certificate** the applicant shall provide to the Council either:
- a. A copy of a 'landscape maintenance agreement' with a qualified landscape contractor to secure maintenance of the landscape plantings for a period of not less than 2 years in accordance with the approved landscape plan; or
 - b. Provide a landscape maintenance bond to the Council for the maintenance of the landscape plantings for a period of not less than 2 years in accordance with the

approved landscape plan.

Note: The applicant shall provide three quotations from qualified landscape consultants for the landscape maintenance work and the amount of the bond is to be determined having regard to these quotations.

34. **Prior to the issue of the Subdivision Certificate** all landscaping shall be undertaken in accordance with the approved landscape plans.
35. **Prior to commencement of works** an eradication report for noxious and environmental weeds shall be provided to, and approved by Council, by a suitably qualified professional. The report shall include the proposed public reserve, drainage reserve and/or creek waterways.
36. **Prior to issue of the Subdivision Certificate**, noxious and environmental weeds shall be destroyed or removed from within the proposed public reserve and/or creek waterways, in accordance with the requirements of an approved eradication report. Certification shall be provided by a suitably qualified professional.
37. **Prior to the issue of the Subdivision Certificate** the applicant shall provide to the Council either:
 - a) A copy of a 'maintenance agreement' with a qualified contractor to secure maintenance of the glider poles and associated landscape plantings for a period of not less than 5 years in accordance with the Squirrel Glider Plan Management Plan; or
 - b) Provide a maintenance bond to the Council for the maintenance of the glider poles and associated landscape plantings for a period of not less than 5 years in accordance with the Squirrel Glider Plan Management Plan.

Note: The applicant shall provide three quotations from qualified consultants for the maintenance work and the amount of the bond is to be determined having regard to these quotations (Generally this is calculated as a minimum 200%).

CONTAMINATION

38. In the event of an undisclosed or unidentified contamination being found on-site or any potentially contaminating infrastructure (e.g. underground storage tanks) or soils (e.g. staining, odours, asbestos) being identified during works, a qualified and experienced consultant must inspect, review and advise on remediation or mitigation prior to further construction proceeding. Council must be notified if this occurs and must be provided with any resulting report and recommendations.
39. Where any asbestos or products containing asbestos are found on-site then the materials encountered shall be managed in accordance with the provisions of the NSW Work Cover Authority.

ARCHAEOLOGY

40. Prior to, or during construction, identification of any potential archaeological deposit likely to contain Aboriginal artefacts, shall cause construction works to cease. Application shall be made by a suitably qualified Archaeologist to the National Parks and Wildlife Service (NPWS) for an excavation permit for Aboriginal relics. A copy of such a permit, shall be submitted

to Council.

BATTERS AND RETAINING WALLS

41. No retaining walls are approved within existing or future dedicated public land including road reserves. All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
42. Retaining walls on common boundaries shall be in accordance with the approved retaining plan. No walls shall exceed the maximum height of 1.5m.

TRAFFIC AND TRANSPORT

43. **Prior to the issue of the Subdivision Works Certificate**, a staging plan must be provided, indicating the specific works below. All specified works must be completed prior to the release of the Subdivision Certificate for:

Stage 1

- a) All works as outlined within this consent with a temporary turning head fronting lots 118 and 119 as shown on the civil plans by GCA Engineering Solutions, drawing C02, ref 2130C, revision 10. Lots 118 and 119 shall not be released with Stage 1.
- b) Full dedication of the complete 21m wide road reserve for Collaroy Parade to the southern boundary of Lot 2 DP 1286289, adjacent to Lot 1/DP1302802.

Stage 2

- a) Once the extension of Collaroy Parade has been completed from Louth Park Road to the site over Lot 1 DP1302802 (DA2018/1967) the temporary turning head shall be replaced with full depth pavement, kerb & gutter, footpath and associated works as shown on the civil plans by GCA Engineering Solutions, drawing C02, ref 2130C, revision 10. Lots 118 and 119 to be released with Stage 2.
44. **Prior to the issue of the Subdivision Certificate** kerb and gutter and road construction with an asphaltic concrete wearing surface of all proposed roads, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards.
 45. **Prior to the issue of the Subdivision Works Certificate** the following road hierarchy shall apply to all roads, (including widths, pavement design and the like) in accordance with council's Manual of Engineering Standards:

Where a Geotechnical engineer determines high expansive soils with a $\geq 2.5\%$ swell (10-day soak) or poor CBR ($< 2\%$) are present within 1 metre below the design subgrade, a capping layer of homogeneous select material shall be added to the pavement design and construction plans. The swell, pavement design and the select material specification shall be considered and justified against Austroads Guide to Pavement Technology (AGPT) Part 2, 4I, 8 and the RMS Supplement to AGPT2, including a 10-day soak. The adjusted pavement design shall be based on the CBR of the selected subgrade material at 'in-service moisture and density conditions' to stop premature pavement distress and to achieve the design life of the pavement.

Note: A minimum, but not limited to, 300mm select material shall be added to the minimum pavement thickness for either swell and/or poor CBR.

| ROAD TYPE | ROAD DESCRIPTION | ESA | Comments |
|-----------------------|---------------------|-------------------------|---|
| Local – Access | Road 10 | ESA= 1x10 ⁵ | Minimum 8m pavement, 2x4.5m verges with footpath one side |
| Collector - Secondary | Road 11/Eldon Drive | ESA=2x10 ⁵ | Minimum 8m pavement, 2x4.5m verges with footpath one side |
| Collector- Primary | Collaroy Parade | ESA=1.5x10 ⁶ | Minimum 12m pavement, 2x4.5m verges with footpath one sides |

Note: where other conditions of consent require larger criteria (such as shared paths and verge) the larger provision takes precedence.

- 46. Prior to the issue of the Subdivision Certificate** public bus facilities shall be provided generally at 400m spacings and providing maximum 400m walking distances from surroundings lots. The applicant is to consult with Transport for NSW, the bus service provider and Maitland City Council with regard to location(s) and in corporate recommendations arising from the consultation. The works shall include:
- Opposing bus stops (concrete slabs) generally adjacent to lots 3 and 23, and generally placed on the departure side of intersections and refuges (subject to consultation with the bus service provider)
 - connecting footpaths, pram ramps, line marking, signage and associated works
 - street lighting on each vehicle approach side
- 47. Prior to the issue of the Subdivision Certificate** the following subdivision works within the private property shall be provided in accordance with Council's Manual of Engineering Standards:
- Internal roads, drainage and pathways as outlined within MOES and this consent.
 - Ancillary roadside furniture and safety devices including fencing, signage, guide posts, chevrons, directional arrows and guard rail.
 - "Battle-axe" lots shall construct a concrete driveway to industrial thickness requirements within the lot "handle" and be in accordance with AS2890.1.
- 48. Prior to the issue of the relevant Subdivision Works Certificate or Roads Act Approval**, all (traffic) Regulatory line marking and signage shall be approved by **Council's Local Traffic Committee**. *Note: Please allow three months from lodgement for the LTC process.* All recommendations of the committee shall be incorporated into approvals and works. The works to be approved include:
- "Four-way" cross intersections shall identify priority requirements.
 - All regulator line marking and regulatory signage.
 - 14m wide roads, or wider, require line marking.
 - Roundabouts and signals.
 - No parking for the cul de sac bulbs for Road 10 and Road 11/Eldon Drive- generally as shown on the Linemarking and signage plan by GCA Engineering solutions, reference 21360C, drawing C29, dated 06/07/202. Note: this is required for compliance with NSW RFS requirements.

49. **Prior to the issue of a Subdivision Certificate** temporary turning heads, relevant signage and markers for all terminating roads shall be provided. Turning heads shall comply with:

- a) 12.0m minimum radius shall be provided on local and minor streets in accordance with Council's Manual of Engineering Standards and RFS GTAs (dated 1 July 2024).

50. **Prior to issue of a Subdivision Works Certificate** any major utilities facilities, (water sewer, telecommunications items larger than individual lot scale provisions) shall be clearly shown on the construction drawings. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items clear-zone requirements.

STORMWATER DRAINAGE

51. A drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:

- a) Generally, in accordance with the Stormwater Drainage Letter prepared by *GCA Engineering Solutions dated 06/08/2024*, inclusive of the approved drainage plan *21306C sheets No.C02, C27, C36 & C36 Revision 11, dated 06/08/2024*.
- b) A major stormwater drainage system catering for discharge form contributing catchment areas in their ultimate developed state.
- c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event.
- d) A stormwater water quality system toPost collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.
- e) Site discharge to the downstream easement to drain water through private property in accordance with MOES Section 3.2, incorporating piped drainage to cater for the 100 year event and an emergency overland flow path.

52. Specific drainage requirements shall include the provision of:

- a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
- b) The existing dam shall be decommissioned. A geotechnical report and civil engineers design shall be provided for the new basin wall including any required clay core or equivalent.
- c) The pit/pipe network shall be designed to capture and convey the 1%AEP flows (including blockages as per MOES) for Collaroy Road south side (CH11390-CH1580 as per civil plans by GCA Engineering Solutions, ref 21360C dated 04.07/2024) including all lots that drain to this section of road. This 1% AEP flow shall be piped to the detention basin.
- d) The private IAD line under Collaroy Parade (between lots 122 and 123) shall adopt an inspection pit within verge (located behind the kerb) on both sides. The pits shall have a sealed lid/grate.
- e) A splitter pit shall be adopted prior to the GPT. The pit shall convey minor flows to the GPT unit with major flows bypassing the unit to the basin directly.

- f) Interallotment drainage to internal lots as required.
 - g) *Provide the following fencing for the drainage basin:*
 - i. *Post and cable fronting the Road 11/ Eldon Drive cul de sac bulb*
 - ii. *Post and cable fencing along the boundary of Lot 101 and the basin. Fencing for lots 101 and 129 and basin....*
 - iii. *Post and cable, or timber rail fencing for eastern side of Lot 101.*
 - iv. *Five strand rural fencing for the northern boundary of basin.*
 - v. *Post and cable or timber rail fencing western boundary of basin.*
53. A suitably qualified geotechnical engineer shall supervise the decommissioning of the existing farm dam to ensure any contamination is identified and actioned appropriately. Where contamination is found during the decommissioning, an action plan is to be provided to, and approved by Council, prior to undertaking the decontamination works.
54. **Prior to issue of the Subdivision Certificate for stage 1**, certification from a suitably qualified geotechnical engineer shall be provided confirming that any contamination at the decommissioned farm dam site has been removed.
55. **Prior to issue of the Subdivision Work Certificate** both the Remediation Output Report and Certification of works as outlined in points 5 and 6 of the Subsidence Advisory NSW GTAs (reference TSUB24-00086, dated 22 April 2024) shall be submitted to council, confirming that the remediation has been undertaken to the satisfaction of SA NSW.
56. **Prior to issue of the Subdivision Certificate**, the detention/water quality system shall be dedicated to Council at Stage 1 of the development.
57. **Prior to the issue of the Subdivision Works Certificate**, a letter shall be provided from a suitably qualified geotechnical engineer certifying that the SWC plans are consistent with the requirements of approved geotechnical reports.
58. **Prior to issue of the Subdivision Works Certificate for the detention/water quality basin**, confirmation from the NSW Dam Safety Committee shall be obtained demonstrating that the dam is not classified as a 'prescribed dam'. Any requirements of the Dam Safety Committee shall be adhered to and submitted in the Subdivision Works Certificate documentation.
59. **Prior to issue of the Subdivision Certificate** a Maintenance Management Plan for the stormwater detention/retention systems shall be prepared by a suitably qualified and experienced person, shall be submitted to, and accepted as satisfactory by Council's *Manager Assets & Engineering*.

EROSION CONTROL AND BULK EARTHWORKS

60. The site and its surrounding environs shall be protected from the effects of erosion (as water and wind borne particles) and off-site "vehicle tracking", by the application of adequate controls. Details in accordance with Council's Manual of Engineering Standards and the manual, "*Managing Urban Stormwater*" shall be submitted as part of the Subdivision Works Certificate application.
61. **Prior to the issue of a Subdivision Works Certificate for subdivision works** a Bulk Earthworks

Management Plan (BEMP) is required to be submitted to Council for approval. The BEMP must include a report from a suitably qualified engineer that examines and determines:

- a. the extent of bulk earthworks required for the construction of each stage
- b. how stockpiles will be managed during construction
- c. where stockpiles will be located for each stage and what requirements are necessary to manage the locations
- d. stock pile dimensions and stabilisation measures
- e. site haulage routes and movement for each stage
- f. how fill will be managed in the floodway during construction
- g. any specific requirements relating to the management of Acid Sulfate Soils

62. **Prior to the issue of a Subdivision Works Certificate**, a Soil and Water Management Plan shall be submitted to Council for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater – Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.

CIVIL WORKS – CERTIFICATION

63. **Prior to issue of the Subdivision Works Certificate** for the road, drainage, public landscaping and civil works an engineering design shall be prepared by a suitably qualified and practising engineer, in accordance with Council's Manual of Engineering Standards (MOES), and this consent.
64. **Prior to issue of the Subdivision Certificate**, all necessary works required for compliance with this consent and the Subdivision Works Certificate shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:
- a. Confirmation that the construction works have been completed.
 - b. Confirmation from the road authority for any Roads Act Approval requirements.
 - c. Work-as-executed drawings, utilities plans, electronic files are provided to Council.
 - d. Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.
 - e. Geotech certification of the detention basin works (including any clay core requirements).
65. **Prior to issue of the Subdivision Work Certificate** a suitably qualified geotechnical engineer shall certify that the Subdivision Works Certificate is consistent with the recommendations within the geotechnical report by Stantec reference 81022027-002.2, dated 23 March 2023. Note: in addition to the advice within the geotechnical report, the pavement design for the Subdivision Works Certificate shall include the requirements as outlined within this consent.

LAND TITLE

(Note: Lot numbers quoted in "Land Title" conditions refer to the approved plan. Any requirements for specified lots within nominated reports must be cross-referenced with the approved plan.)

66. The proposed public roads and/or road widening shall be dedicated to Council, at no cost to Council.

67. The land containing the proposed stormwater basin and associated overland flow paths shall be dedicated to Council as drainage reserve, at no cost to Council.
68. A restriction or covenant on the title of affected lots (generally Section 88b) under the Conveyancing Act, shall be created to give effect to:
- a) A right of access shall be provided over all temporary turning heads and battle axe driveways as required.
 - b) Where public water quality or stormwater detention systems are not dedicated at the time of commissioning, a positive covenant shall be created, burdening the lot, to maintain the system in accordance with the maintenance management plan until the land is dedicated as drainage reserve.
69. Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the *Conveyancing Act 1919*, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land. *Note: Any stormwater pipes conveying public road water shall have a 3m easement for drainage benefitting council over the pipeline*
70. A restriction on the title of all lots under Section 88b of the *Conveyancing Act 1919*, shall be created which restricts the location of all buildings and works, being confined to approved building envelopes, and in accordance with the approved plan pursuant to Condition 2.
71. A restriction on the title of all lots under Section 88b of the *Conveyancing Act 1919*, shall be created to give effect to the provision that boundary fencing be of post and wire or timber rail construction.
72. A restriction on the title of all affected lots under Section 88b of the *Conveyancing Act 1919*, shall be placed requiring the lot owner to protect and preserve the retained trees in perpetuity. Affected lots in accordance with the Tree Plan Sheet, 21360C, Revision 9, prepared by GCA, 27/06/2024.
73. An easement for the benefit of Maitland City Council over the relevant lots in perpetuity for the purpose of monitoring and maintaining glider poles, nest boxes and planted vegetation.
74. Access required to glider poles within Lot 101 (three in total) will be granted to Maitland City Council in perpetuity for the purpose of monitoring and maintaining glider poles, nest boxes, and planted vegetation. Evidence of the registration of the 88b must be provided to Council **prior to the release of the Subdivision Certificate.**
75. The authority empowered to release, vary or modify inter-allotment drainage easements shall be nominated as "the lots burdened and benefitted, only with the consent of Maitland City Council".
76. The authority empowered to release, vary or modify restrictions and covenants on the use of the land required by this consent, shall be nominated as "Maitland City Council".

ADVICES

The following advices are limited in scope and should not be understood to encompass all areas of

responsibility of the consent holder, relating to the development.

A You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.

B You are advised that, in accordance with the EP&A Act, (sec.109F) payment of the building industry Long Service Leave levy, where applicable, must be paid prior to issue of any Subdivision Works Certificate.

C You are advised to record and notify Council in writing, of any existing damage to the street infrastructure (including landscaping) in the vicinity of proposed works associated with this consent, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the development property shall be held liable for the cost of those repairs.

D You are advised that the issue of this development consent does not negate the responsibility of the land owner in respect to any restriction, covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.