

Planning Services

Gateway Determination Report

LGA	Maitland
RPA	Maitland City Council
NAME	Rezone land at Anambah Road, Anambah, from RU2 Rural Landscape to part R1 Residential and part E4 Environmental Living (approximately 25 dwellings)
NUMBER	PP_2017_MAITL_004_00
LEP TO BE AMENDED	Maitland Local Environmental Plan 2011
ADDRESS	Anambah Road, Anambah
DESCRIPTION	Lot 90, DP 785244
RECEIVED	06 July 2017
FILE NO.	17/094444
QA NUMBER	qA416006
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

The Proposal seeks to rezone 22.8ha of land at Anambah Road, Anambah from RU2 Rural Landscape to part R1 Residential and part E4 Environmental Living, with associated development controls and amended maps. It is proposed that the land will provide approximately 25 lots, ranging in size from 0.0542ha to approximately 7ha and associated roadways.

The proposed E4 portion of the land is subject to flooding but can support dwelling envelopes above the flood level, yielding approximately two large lots retaining a rural amenity outlook. Proposed Lot 1, in the west of the site, will accommodate the current residential dwelling, livestock yards and machinery shed.

Site Description

The subject site is located on the eastern side of Anambah Road, Anambah. It adjoins to Anambah Road from the south-west boundary of the site.

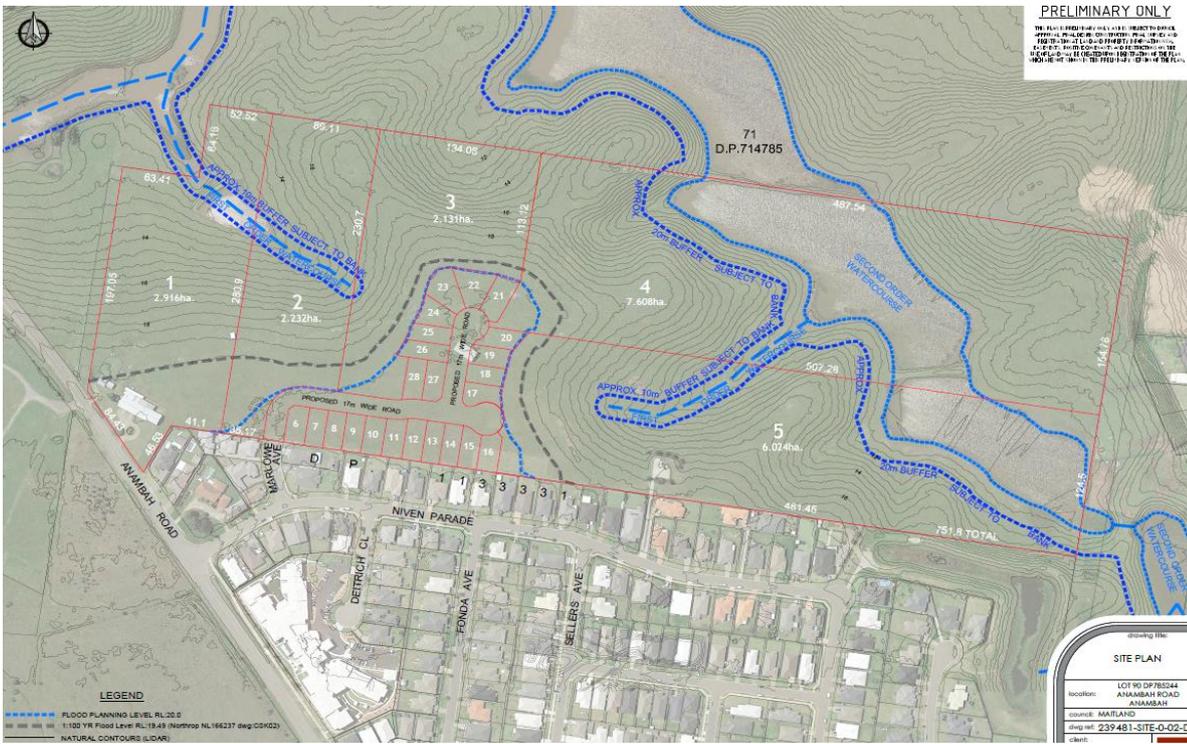
The site consists of rolling low hills and has two large water bodies in the north-eastern portion of the site.

The site has been historically developed for agriculture and grazing, resulting in the removal of all original native woodland vegetation. The site now primarily consists of grassland.

Several structures exist on the site, including a residential dwelling, machinery shed, hay shed, fencing, livestock watering troughs and associated pipework.



Subject Site



Proposed Subdivision Plan – subject to change to reflect 7ha minimum lot size for E4 Environmental Living portion of site

Surrounding Area

The subject site is north-east of Rutherford and Maitland.

It is bounded by relatively recent residential development to the south and east and cleared farmland to the north and west.

The large water bodies on the site are associated with part of a lagoon to the north of the site, which is connected to the Hunter River approximately 500m to the north-east of the site. The lagoon is part of a wider network totalling approximately 13.6ha, including 3ha identified on the subject site.

Anambah House is located approximately one kilometre north of the subject site. It is listed on the State Heritage Register (#00275) and Maitland LEP 2011 Heritage Schedule (13).

Summary of Recommendation

The Planning Proposal should proceed with conditions.

PROPOSAL

Objectives or Intended Outcomes

The Planning Proposal seeks to rezone land from RU2 Rural Landscape to part R1 and part E4 Environmental Living to enable the future residential development of the land.

The objectives of the proposal are:

- To rezone the subject site to permit residential development
- To protect public views to the rural land surrounding the site
- To respond to the heritage and flooding constraints affecting the site

Explanation of Provisions

The Planning Proposal seeks to amend the Maitland LEP 2011 to rezone the subject land from RU2 Rural Landscape to R1 General Residential and E4 Environmental Living. It also seeks to amend the relevant Lot Size map so that a minimum lot size of 450sqm applies to the R1 General Residential portion of the site and a 7ha minimum lot size applies to the E4 Environmental Living portion of the site.

Mapping

The Planning Proposal seeks to amend the Land Zoning Map (LZN_004A_020) and the Lot Size Map (LSZ_004A_020).

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal will provide for additional residential land in an existing residential area, where demand for residential land has been consistently high. The Planning Proposal is required to meet this demand and is the result of the Maitland Urban Settlement Strategy 2012 (MUSS), which is the principal strategic land use plan for the area.

The MUSS recognises the need to develop a staged Settlement Strategy, to guide new urban development in an ecologically and economically sustainable manner. In the MUSS, the Anambah Road site is identified as a Category 1 'Urban Extension' area, as it is adjacent to an existing serviced urban area, is readily developable, has limited constraints and is easily serviceable.

The Planning Proposal is consistent with the MUSS and will achieve its intended outcomes by rezoning an urban extension area to permit residential development.

It is considered that an amendment to the Maitland LEP 2011 is the most effective and timely method to achieve the visions and objectives of the MUSS and the Proposal.

STRATEGIC ASSESSMENT

Regional / District

Hunter Regional Plan 2036

The Hunter Regional Plan 2036 supports the predicted growth outcomes of the Lower Hunter Regional Strategy and maintains the development principles of compact urban environments with efficient and sustainable use of service infrastructure. The proposed urban extension site is consistent with these principles.

The Hunter Regional Plan 2036 identifies the Anambah area as an Urban Release Area and provides for its delivery. It supports growth in housing that balances the natural constraints of flooding and residential development that addresses flood risk.

Local

Maitland +10 (Community Strategic Plan)

The Proposal supports the following objectives of Council's Community Strategic Plan:

- Our infrastructure is well-planned, integrated and timely, meeting community needs now and into the future.
- Our unique built heritage is maintained and enhanced, coupled with sustainable new developments to meet the needs of our growing community.
- The potential impacts of our growing community on the environment and our natural resources are actively managed.

Maitland Urban Settlement Strategy 2012 (MUSS)

The MUSS identifies various sites that have the potential to be utilised for sustainable urban development. By applying growth scenarios as an indication of planning horizons to determine the necessary extent of investigation areas, Council categorised land according to its development potential.

The MUSS is conditionally endorsed, and this site is not part of the endorsement.

The Anambah area is identified as a Category 1 Urban Release Area in Table 3: Sequencing of Land Releases (MUSS 2012). This indicates that from date of publication, the area was to have a sequencing timeframe of 0-5 years.

The subject site is identified in Table 12: Urban Infill & Extension Sites. The site's inclusion occurred as a result of a comprehensive, city wide review of suitable sites for investigation for urban extension.

Under the MUSS, Urban Extension sites must demonstrate consistency with Council policies/strategies and a clear need for development of the site, predicated by future population growth, need for additional land and net community and economic benefits. Additionally, proposals for extension sites must identify:

- Opportunities – for urban consolidation and sustainable use of infrastructure
- Constraints – including flooding and heritage
- Location context – including relationship to surrounding land uses
- Potential impacts – on heritage, environment, surrounding properties, economy

This is to ensure consistency in approach for identifying Urban Extension sites and assessing potential future development. Council submits that the subject site at Anambah is consistent with the MUSS and its assessment criteria.

Section 117(2) Ministerial Directions

The Planning Proposal is consistent with all applicable s117 Directions. Further consideration of the relevant Directions is provided below:

1.2 Rural Zones and 1.5 Rural Lands

The Planning Proposal seeks to rezone rural land to residential land. The objectives of these Directions are to protect the agricultural production value of rural land. In this regard, the Planning Proposal is inconsistent with these Directions. Inconsistency can however, be justified on the basis that:

- The Hunter Regional Plan 2036 identifies the land as being future urban;
- The subject site is unlikely to support viable agricultural enterprise due to its proximity to an existing residential area and the likelihood of impacting on adjoining residences.
- The use of the site for agricultural purposes is constrained by the presence of a lagoon/wetland system to the north east of the site. This is an environmentally sensitive area, incompatible with economically viable agricultural enterprise. The residue area of the site, below the 1% AEP flood, is considered too constrained by drainage catchments and limited in size to sustain agriculture. Consequently, an E4 Environmental Living zone and a 7ha minimum lot size is considered appropriate for this portion of the site.

2.1 Environmental Protection Zones

The Proposal is considered consistent with this Direction as it includes provisions to facilitate the conservation and protection of the environmentally sensitive lagoon/wetland portion of the site. The wetland system supports a range of flora/fauna, including migratory birds. The proposed E4 Environmental Living zone, rather than an RU2 Rural Landscape zone, will ensure the aquatic environment is protected from erosion and eutrophication by stock.

2.3 Heritage Protection

Heritage

The subject site is located approximately one kilometre south of the State Heritage listed Anambah House, a 19th Century graziers homestead. Anambah House is also identified as heritage item No. 13 in the Maitland LEP 2011 (Heritage Map – Sheet HER_004A). The Planning Proposal will not affect the heritage status or curtilage of Anambah House and is therefore consistent with this Direction. The Heritage Impact Assessment recommends that impacts on views be reduced at the DA stage through appropriate roofing and fencing colours and materials, landscaping and vegetation screening. Like residential development approved north of the subject site, vegetation screening would need to occur between the development and Anambah House. The creation and management of such landscaped areas would further reduce the ability to conduct viable cattle grazing activities on the portion of the site below the 1% AEP flood.

Indigenous Heritage

The Planning Proposal is consistent with Direction 2.3 in regards to Aboriginal cultural heritage. However, based on a Preliminary Aboriginal Cultural Heritage Assessment, prior to the proposed subdivision works being undertaken it is recommended that further archaeological investigation and Aboriginal community consultation occur, due to the cultural significance of the Anambah Lagoon and the subject site's proximity to it.

3.1 Residential Zones

The Planning Proposal is consistent with this Direction as it will make efficient use of existing infrastructure and services in the location. The provision of varying lot sizes will provide a diverse choice in housing in the area whilst managing flood liable land.

3.4 Integrating Land Use and Transport

The Proposal is consistent with this Direction, as the Traffic Assessment Report indicates the subject site is well located to support residential development and to provide high levels of accessibility to existing roads and transport networks.

4.1 Acid Sulphate Soils

The site is mapped as containing Class 5 acid sulphate soils. A Preliminary Geotechnical Investigation undertaken for the developable area of the subject land concludes that the results of the acid sulphate soil and salinity testing shows the soils are non-saline and do not indicate a risk of potential acid sulphate soils. A large portion of the affected land is inundated during the 1:100 year flood event. The land below this level will not be rezoned for residential purposes. The Planning Proposal is consistent with this Direction.

4.3 Flood Prone Land

The Planning Proposal is inconsistent with this Direction, as it seeks to rezone land within a flood planning area from rural to residential. A significant portion of the site is mapped as flood prone in the Maitland LEP 2011 (Flood Planning Map – Sheet HER_004A). Inconsistency with this Direction is justified on the basis that the proposed developable portion of the site is located above the 1% AEP flood level. No development will occur in the flood-affected portion of the site, which is proposed to be zoned E4 Environmental Living. Flood free vehicular access is provided to the site via Anambah Road and Marlowe Avenue. Council has also indicated a comprehensive drainage strategy for the site will be required at DA stage, when the subdivision is considered.

5.1 Implementation of Regional Strategies

The Planning Proposal identifies this Direction as being relevant, however amended Section 117 Directions were published on the Department's website on 13 January 2017. The amendment removes the need for the Planning Proposal to consider Direction 5.1. Instead, the Proposal should consider consistency against Direction 5.10 (below).

5.10 Implementation of Regional Plans

The Proposal is consistent with the Hunter Regional Plan 2036 as it identifies the Anambah area as an Urban Release Area and provides for its delivery, encouraging housing growth in areas that balance rural land values and flooding constraints.

State Environmental Planning Policies (SEPPS)

SEPP (Infrastructure) 2007

The Planning Proposal is consistent with the aims and provisions of this SEPP. It supports the greater efficiency of infrastructure and service facilities by proposing development in a serviceable Urban Release Area. The Traffic Assessment Report considers the requirements of the SEPP, particularly regarding access and impact on the State Road (New England Highway) approximately one kilometre south of the site. It concludes the Proposal will not detrimentally affect traffic.

SEPP (Rural Lands) 2008

This SEPP applies because the site is currently zoned RU2 Rural Landscape under the Maitland LEP 2011. The Proposal is consistent with the SEPP because it facilitates the orderly and economic use and development of rural land in line with the Rural Subdivision Principles. The Proposal considers the nature of existing agricultural holdings in the Anambah area, the existing and planned future supply of rural residential land and the appropriate lot sizes for the subject site based on the constraints of the land.

The flood free portion of the site is a logical extension to the existing urban development south and south-east of the subject site. Flood affected areas of the subject site will be managed by an E4 Environmental Living zone with large allotments comprising 7ha or more. This is consistent with the planning principles of the SEPP, as it provides for protection of natural resources having regard to maintaining biodiversity, the protection of native vegetation and the importance of water resources.

SEPP No. 55 Remediation of Land

The Proposal adequately addresses this SEPP. Contaminated land must not be developed if it is unsuitable for a proposed use. If unsuitable, remediation must take place before development. A Preliminary Site Investigation of the land was undertaken in accordance with SEPP 55. It concludes that the developable portion of the site (the proposed Residential zone) is considered to contain a low risk of contamination associated with historical agricultural land use.

SITE SPECIFIC ASSESSMENT

Social

Aboriginal Archaeology

The Preliminary Aboriginal Cultural Heritage Assessment recommends that further archaeological investigation and Aboriginal community consultation be undertaken prior to proceeding with the proposed subdivision works. This is due to members of the Aboriginal community identifying the Anambah Lagoon as having cultural and social value and that considerable ground disturbance in the locality of the lagoon, caused by cutting and levelling the southwestern portion of the site, may involve disturbance to underlying deposits considered to have moderate – high archaeological potential. Whilst the report concludes that 'it is unlikely that substantial or highly significant cultural deposits would be present in the subject area', the relevant Local Aboriginal Land Council should be consulted regarding the Planning Proposal and any further investigation of Aboriginal cultural heritage on the site.

European Heritage and Visual Impact

A Heritage Impact Assessment has been prepared for the Planning Proposal, which considers the Proposal's potential impact on views from the heritage listed Anambah House and on the homestead's heritage curtilage. The assessment concludes that the Proposal will not impact on primary views from the house. It is not likely to substantially impact views to the south from the house and within the gardens due to mature screening vegetation. The Proposal will however, be in sight from outside the garden perimeter. Given this is not a primary view, is largely screened from the house and gardens and that the view has already been impacted by modern residential development, the Proposal's impact on Anambah's views will be minor.

Environmental

Ecology

An Ecological Assessment Report has been undertaken for the proposed residential development of the site. It finds that past agricultural activities on the site have resulted in the removal of all native woodland vegetation, high disturbance to ecological communities

through grazing and livestock trampling, weed invasion and changes to the natural movement of water.

The report finds that three vegetation communities are present on the site:

- Open Grassland/Pasture
- Freshwater Wetland
- Small Constructed Dam – Aquatic Vegetation

Two threatened species of bat were recorded on site but the site has no roosting habitat and the bats were using the site for foraging only. No nationally listed communities or threatened species were recorded on site. Two nationally listed migratory species, the Cattle Egret and Latham's Snipe were recorded on site. Three non-threatened species of frog were identified on site and whilst the site contains potential Green and Golden Bell Frog habitat, target surveys did not record this frog on site.

The report concludes that the proposed residential development will not have any direct impact on lower areas of ground containing the Freshwater Wetland Community and that the Proposal is not likely to have a significant impact on the life cycle of the recorded flora or fauna species on the site. It recommends the following measures to protect the wetland and associated habitat:

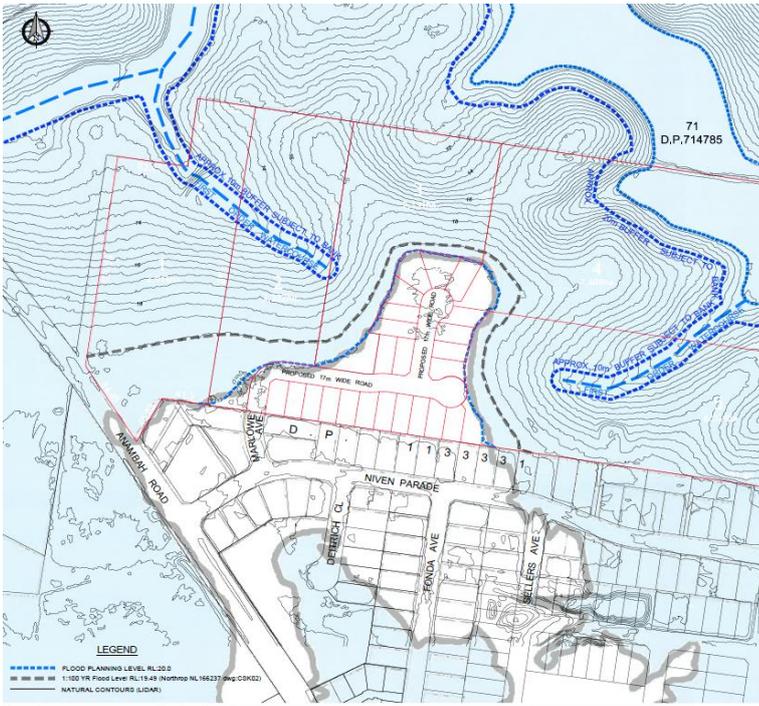
- Sediment control during construction
- Manage stormwater runoff after construction
- Management of noxious weeds

Traffic

Access to the site is proposed via Anambah Road, Niven Parade and Marlowe Avenue. Traffic analysis for the intersection with Anambah Road and the New England Highway concludes the Proposal will not detrimentally affect the traffic flows at these locations.

Geotechnical and Flooding

The Preliminary Geotechnical Investigation concludes that based on the site history and the results from analytical testing, the developable portion of the site is considered to contain a low risk of contamination. The site is affected by Class 5 Acid Sulphate Soils and the proposed non-residential portion of the site is flood affected in a 1% AEP. The Site Plan (below) shows the proposed subdivision in relation to the 1:100 year flood level and topographical contours. Drainage is expected to follow the topography of the site. Based on the findings of the Preliminary Geotechnical Investigation no further assessment is required at this stage.



Flood Lines and Drainage Contours

Economic

Servicing and Infrastructure

The Anambah precinct is adequately serviced by existing sewer and water infrastructure.

CONSULTATION

Community

Council proposes a public exhibition period of 14 days in accordance with Council's guidelines, as it considers the Proposal to be of low impact. A 14 day exhibition period is supported.

A 14 day public exhibition period is recommended, as the Proposal is considered 'low impact' as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

Agencies

Council is to consult with the following agencies and public authorities:

- The relevant Local Aboriginal Land Council – regarding potential Aboriginal cultural heritage issues associated with the subject site.

TIMEFRAME

Council requests a 12 month completion timeframe for the Proposal. A 12 month timeframe is considered appropriate.

DELEGATION

Council does not request delegation for the Proposal.

CONCLUSION

The Planning Proposal is supported to proceed with conditions.

The Proposal it is consistent with the strategic framework and will facilitate the provision of approximately 25 dwellings in an area of high demand.

The subject site is in an area that is relatively unconstrained by social, environmental and economic factors.

The Proposal supports the objectives of the Hunter Regional Plan 2036, as it provides diverse housing in an identified Urban Release Area and proposes to deliver it through the efficient and sustainable use of service infrastructure.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 4.3 Flood Prone Land are justified.

It is recommended that the delegate of the Minister for Planning, determine that the Planning Proposal should proceed subject to the following conditions:

1. The Planning Proposal should be amended prior to exhibition to reflect the changes to the minimum lot size from 6ha to 7ha for the proposed E4 Environmental Living zoned portion of the site.
2. The Proposal and relevant s117 Directions should also be updated to reflect the additional information provided to the Department in regards to the proposed land use zones.
3. Consideration of s117 Direction 5.1 Implementation of Regional Strategies should be removed from the Proposal and replaced with consideration of Direction 5.10 Implementation of Regional Plans.
4. The Planning Proposal should be made available for community consultation for a minimum period of 14 days.
5. Consultation is required with the relevant Local Aboriginal Land Council in regards to Aboriginal cultural heritage.
6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

7. Given the nature of the Planning Proposal, Council should not be authorised to exercise delegation to make this plan.



17/8/2017

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