



maitland

city council

Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

PART LOT 144 DP 1064493, DENTON PARK DRIVE, ABERGLASSLYN

Version 1.0
7 February 2019



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INTRODUCTION

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979*. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 (MLEP 2011) to rezone part of Lot 144 DP 1064493, Denton Park Drive, Aberglasslyn from R5 Large Lot Residential to R1 General Residential.

The proposal also seeks an amendment to the LEP minimum lot size map to facilitate development of the subject land for urban residential purposes, consistent with the proposed subdivision pattern for the remainder of the site.

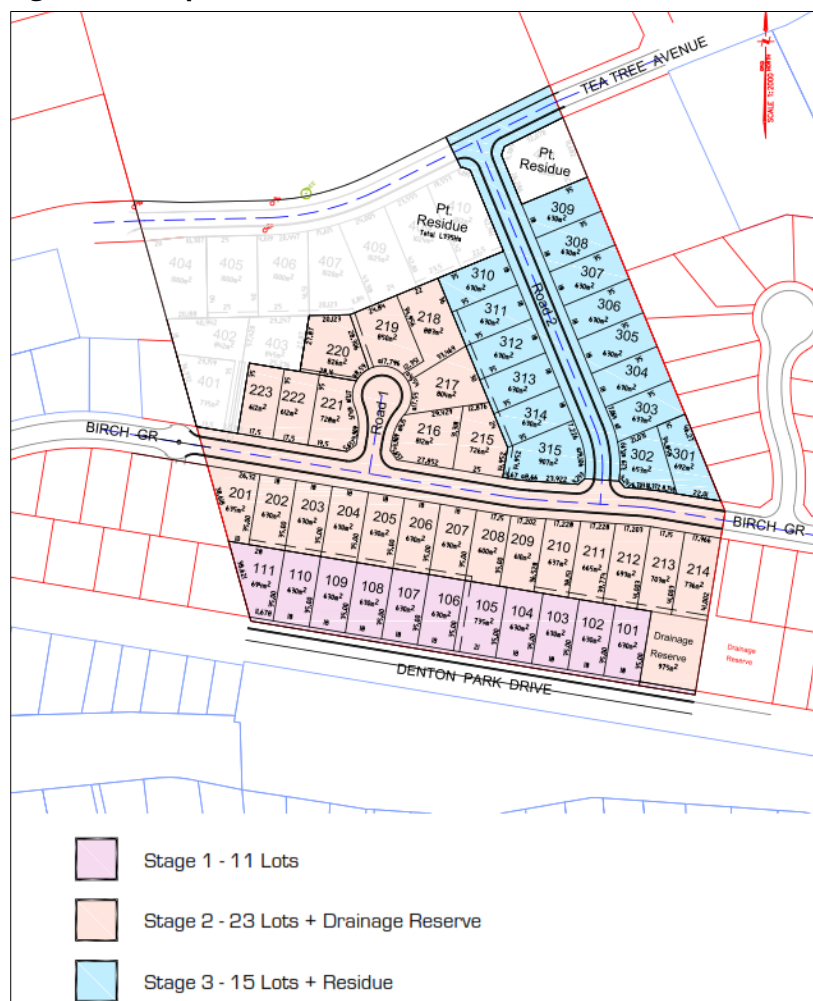
Lot 144 DP 1064493 lies between the Hunter River and Denton Park Drive, and is an irregular shaped parcel with a total area of 20.86 hectares. The zoning of the land transitions from RU1 Rural Production in the north to R1 General Residential in the south, with an area of R5 Large Lot Residential in between. Denton Park Projects Pty Ltd are in the process of purchasing the front 5.7 hectares of Lot 144 (hereafter referred to as the 'Development Lot') and two (2) separate development applications (DAs) have already been lodged with Council in regard to the development of this land.

A locality plan is included as **Attachment A** and a plan showing the existing zoning of the site and surrounding land is included as **Attachment B**.

The first application (DA 2018/1823) was lodged on 4th October 2018 seeking approval to excise the Development Lot from the remainder of the property, with the northern boundary of the Development Lot coinciding with the proposed alignment of Tea Tree Avenue. A subsequent DA (DA 2018/1972) seeking approval to subdivide the Development Lot to create 49 residential allotments was submitted to Council on 22nd November 2018. The northern portion of the Development Lot could not, however, be included in the proposed subdivision because of an irregularity in the R1/R5 zone boundary and had to be retained as a residue lot (i.e. the Maitland LEP does not make any provision for the subdivision of land affected by a split zoning).

A planning proposal has therefore been drafted which seeks to amend the MLEP 2011 to realign the boundary between the R1 and R5 zones to coincide with the proposed alignment of Tea Tree Avenue. The amendment will facilitate residential development across the entire Development Lot and achieve a consistent and more efficient subdivision pattern.

Figure 1 – Proposed Subdivision Plan (DA 2018/1972)



PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of the planning proposal is to amend the Maitland LEP 2011 to enable development of the subject land for urban residential purposes, consistent with the proposed subdivision pattern for the remainder of the site.

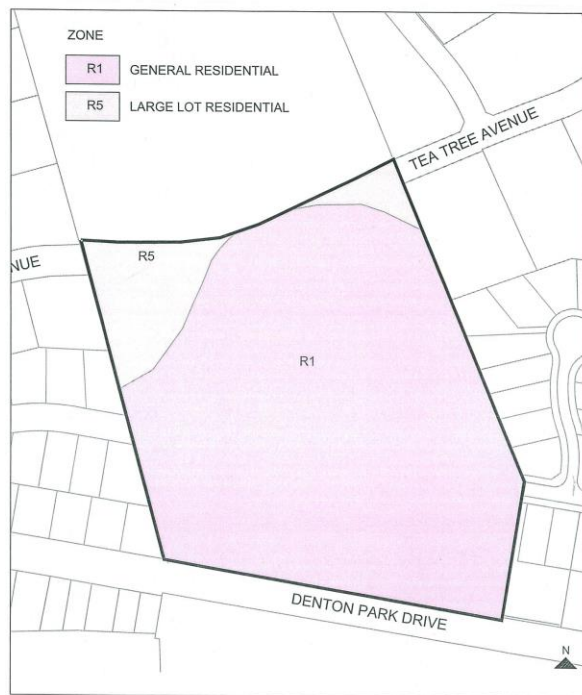
PART 2: EXPLANATION OF PROVISIONS

The intended outcome will be achieved by a minor adjustment to the boundary between the R5 Large Lot Residential and R1 General Residential zones within the site. This will involve amendments to the following LEP maps:

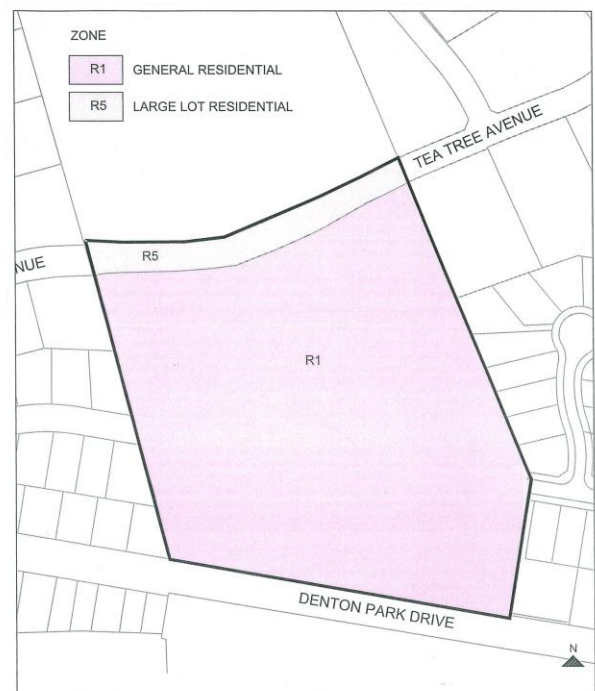
- Land Zoning Map (Sheet LZN_004A); and
- Lot Size Map (Sheet LSZ_004A).

Figures 2 and 3 below show the existing and proposed zoning and development controls for the site.

Figure 2 – Existing and Proposed Zoning of Subject Land



Existing Zoning



Proposed Zoning

Figure 3 – Existing and Proposed Minimum Lot Sizes



Existing Minimum Lot Size map



Proposed Minimum Lot Size Map

PART 3: JUSTIFICATION FOR PROPOSED REZONING

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

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. It has been submitted on behalf of the proponents, Denton Park Projects Pty Ltd, to rectify an anomaly in the existing R5/R1 zone boundary and enable the subject site to be subdivided for urban residential purposes, in a manner consistent with the development of the remainder of the site.

The location of the existing R5/R1 zone boundary within the site was informed by the position of the original landowner's dwelling, the topography of the site and existing development in the locality and was finalised through an amendment to the *Maitland Local Environmental Plan 1993*. Since that time, however, the adjoining land to the east and west of the site has been developed for urban residential purposes, with a mix of large lot residential and standard residential lots.

The proposed realignment of the R5/R1 zone boundary has merit and will facilitate the development of the subject land for urban residential purposes in a manner consistent with the surrounding subdivision pattern and local road network.

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

Maitland LEP 2011 does not make any provision for the subdivision of land affected by a split zoning. As a result, the northern portion of the site had to be excluded from the current subdivision application (DA 2018/1972) and remain as an underutilised residue lot. Realigning the existing boundary between the R5 Large Lot Residential and R1 General Residential zones will unlock the development potential of the land and allow it to be subdivided for urban residential purposes, in a manner consistent with the surrounding subdivision pattern and local road network. The planning proposal will therefore facilitate the most efficient and economical use of the subject land and is considered to be the best means of achieving the intended outcome for the site.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

3. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies?)

Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* is a 20 year blueprint for the future of the Hunter.

The vision is to create a leading regional economy in Australia, with a vibrant metropolitan city at the heart. This vision will be delivered through four goals, as follows:

- a leading regional economy in Australia
- a biodiversity-rich natural environment
- thriving communities
- greater housing choice and jobs.

It is estimated that an additional 12,550 dwellings will be needed in Maitland by 2036. The plan focuses on providing land and infrastructure to meet this requirement through infill developments in established areas and Greenfield sites. Directions for housing opportunities in locations with established services and infrastructure close to existing towns and villages form an integral plan of this plan.

The proposal intends to develop an urban infill site which is adjacent to existing residential development. All services required for the development are available to the site and it has the potential to deliver fully serviced lots in the near future without any major infrastructural upgrade works. The proposal is therefore responsive to the identified demand for housing and the strategies and actions for meeting this demand, as set out in the plan.

Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) sets out the strategies and actions that will drive sustainable growth across the five (5) Local Government Areas of Cessnock, Lake Macquarie, Newcastle City, Port Stephens and Maitland, which make up Greater Newcastle. The Plan aims to achieve the vision set out in the *Hunter Regional Plan 2036* – for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

Outcome 3 of the GNMP focuses on delivering housing close to jobs and services. The plan projects 12,550 new dwellings in Maitland LGA by 2036 with infill development constituting 60% of this estimate. The proposal is consistent with the strategies and actions in the GNMP, as it will provide additional infill housing opportunities (approximately 11 additional lots) within an existing urban area, in close proximity to jobs and services.

4. Is the planning proposal consistent with Council's Community Strategic Plan or other local strategic plan?

Maitland +10 (Community Strategic Plan)

Maitland City Council has adopted a Community Strategic Plan (Maitland +10) in line with the State's Integrated Planning and Reporting legislation and guidelines. The planning proposal is considered consistent with the vision and objectives of the Maitland +10 Community Strategic

Plan as it provides opportunities for urban growth within the city to meet the needs of a rapidly growing population.

Maitland Urban Settlement Strategy (MUSS) 2012

The subject land is zoned part R5 Large Lot Residential and part R1 General Residential and is located within an existing urban area. The land to the east and west of the site has already been developed for urban residential purposes, with a mix of large lot residential and standard residential lots. The proposal will enable the whole of the subject land to be developed for residential purposes, as it was always intended and in a manner consistent with the surrounding subdivision pattern and existing road network.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Council has undertaken an assessment of the planning proposal against all relevant State Environmental Planning Policies (SEPPs) and a summary is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007	CONSISTENT
Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal impacts upon the aims or provisions of this SEPP. Future subdivision of the site will not exceed the traffic generation thresholds in the SEPP due to the low lot yield.
STATE ENVIRONMENTAL PLANNING POLICY NO. 44 – KOALA HABITAT PROTECTION (SEPP 44)	CONSISTENT
<p>This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:</p> <ul style="list-style-type: none"> a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and b) by encouraging the identification of areas of core koala habitat, and c) by encouraging the inclusion of areas of core koala habitat in environment protection zones. 	Maitland LGA is listed in Schedule 1 of the SEPP. A Flora and Fauna Assessment was carried out by General Flora and Fauna in October 2018. The subject land is not considered “Potential Koala Habitat” because the number of koala feed trees found in the study area comprise less than 15% of all native trees on the site. Further, the land is not considered to be “Core Koala Habitat” as no evidence of koalas was found on or near the site.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND (SEPP 55)	CONSISTENT
This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	The subject land is not known to have been used for any purpose in the past which would be likely to result in significant contamination. Preliminary investigations by Douglas Partners did not identify any potential areas of contamination. As such, the site is considered suitable for residential development.

6. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Council has undertaken an assessment of the planning proposal against all relevant Section 9.1 Directions and found that it is generally consistent with the following applicable Directions:

Table 2: Relevant Section 9.1 Directions.

DIRECTION	CONSISTENCY AND IMPLICATIONS
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.1 Residential Zones	Consistent
When this Direction applies:	The direction applies as the planning proposal proposes to alter an existing residential zone boundary.
This direction applies when a relevant planning authority (Council) prepares a planning proposal that will affect land within:	The proposal will:
a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),	<ul style="list-style-type: none"> facilitate the development of the site for urban residential purposes in a manner consistent with the surrounding subdivision pattern and existing road network;
b) any other zone in which significant residential development is permitted or proposed to be permitted.	<ul style="list-style-type: none"> make more efficient use of existing infrastructure and services in the locality;
What a relevant planning authority (Council) must do if this Direction applies:	<ul style="list-style-type: none"> enable an infill site adjacent to established urban development to be used to a higher capacity, thereby reducing the consumption of land for housing; and
A planning proposal must include provisions that encourage provision of housing that will:	<ul style="list-style-type: none"> enable the subject land to be subdivided for residential purposes, as it was always intended, in accordance with the principles of the MUSS.
a) broaden the choice of building types and locations available in the housing market, and	
b) make more efficient use of existing infrastructure and services, and	
c) reduce the consumption of land for housing and associated urban development on the	

DIRECTION	CONSISTENCY AND IMPLICATIONS
<p>urban fringe, and</p> <p>d) be of good design.</p> <p>A planning proposal must, in relation to land to which this direction applies:</p> <p>a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</p> <p>b) not contain provisions which will reduce the permissible residential density of land.</p>	<p>The planning proposal is therefore consistent with this direction.</p>

3.4 Integrating Land Use and Transport	Consistent
<p>When this Direction applies:</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>What a relevant planning authority (Council) must do if this Direction applies:</p> <p>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:</p> <p>a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and</p> <p>b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</p>	<p>This direction applies as the planning proposal relates to urban land.</p> <p>The planning proposal, through providing housing in close proximity to existing services and facilities, will reduce car dependency for the residents and facilitate the use of alternative modes of transport such as cycling, walking and public transport. In addition, the proposal will improve connectivity by facilitating the future connection of two existing local roads in the area i.e. Tea Tree Avenue and Birch Grove.</p> <p>The planning proposal is therefore consistent with this direction.</p>

4. HAZARD and RISK

4.1 Acid Sulfate Soils	Consistent
<p>When this Direction applies:</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.</p>	<p>This direction applies as the whole of the subject land is mapped as 'Class 5 land' on the Acid Sulfate Soils Map. This is the lowest risk classification and the application of this direction is of limited relevance. The land is already zoned for urban residential development.</p>

DIRECTION	CONSISTENCY AND IMPLICATIONS
<p>What a relevant planning authority (Council) must do if this Direction applies:</p> <p>The relevant planning authority must consider the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning when preparing a planning proposal that applies to any land identified on the Acid Sulfate Soils Planning Maps as having a probability of acid sulfate soils being present.</p> <p>A relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. The relevant planning authority must provide a copy of any such study to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the Act.</p>	<p>The planning proposal is therefore consistent with this direction.</p>

5. REGIONAL PLANNING

5.10 Implementation of Regional Plans	Consistent
<p>When this Direction applies:</p> <p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>What a relevant planning authority (Council) must do if this Direction applies:</p> <p>Planning proposals must be consistent with a Regional Plan released by the Minister for Planning.</p>	<p>This direction applies as the <i>Hunter Regional Plan 2036</i> applies to the Maitland LGA.</p> <p>As the proposal will provide additional 'infill' housing supply for the region within an existing urban residential area, it is considered to be consistent with the goals, directions and actions of the <i>Hunter Regional Plan 2036</i>.</p>

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

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

The area affected by the proposed rezoning has been investigated for potential impacts on flora and fauna as part of the subdivision application (DA 2018/1972) currently under assessment by Council. *General Flora and Fauna* carried out a detailed flora and fauna assessment including an Assessment of Significance (the 7 Part Test) under s5A of the EP&A Act 1979 in October 2018.

The assessment found that most of the southern portion of the site is already completely cleared to low open pasture grassland. A number of remnant trees on the north-east and south-east edge of the study site represent the original Spotted Gum Ironbark Forest vegetation of the area. These trees are a remnant of an EEC identified as "*Lower Hunter Spotted Gum-Ironbark Forest in the Sydney Basin Bioregion*". However, there is no natural native understorey or groundcover vegetation beneath these remnant trees.

The proposed extension of Tea Tree Avenue along the north edge of the site will remove most of the north-east cluster of remnant trees. The extension of Birch Grove will cut through and divide the elongated south-east remnant of native trees. It is recommended that as many as possible of these remnant native trees be retained on the site.

The only threatened flora or fauna species recorded on the site were four (4) species of insectivorous bats. Two (2) of these, the Eastern Freetail Bat and the Greater Broad-nosed Bat roost and breed in tree hollows and could potentially be using hollows in trees on the site. Therefore it is recommended that as many as possible of the hollow-bearing trees on site be retained.

According to the Assessment of Significance, the proposed development of the site is unlikely to cause a significant effect on threatened species, populations or ecological communities or their habitats.

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

Several studies, including a preliminary contamination assessment and geotechnical assessment of the site have been undertaken and submitted in conjunction with the current Subdivision application (DA 2018/1972).

Contamination

Douglas Partners completed a preliminary assessment of contamination of the site in November, 2018, which included a desktop review, a review of available site history information and a site inspection. The following sources of potential contamination were identified:

- Structures present at the site, some of which were in poor condition, which may contain hazardous building materials (including asbestos). Construction materials may be a source of heavy metals, pesticides and asbestos, depending on the source;
- Site use for agricultural purposes, including the housing/agistment of animals on the site. These activities may be a source of hydrocarbons, pesticides, herbicides, and heavy metals depending on the activities undertaken; and

- Imported fill materials (source unknown) which were observed in the driveway and may be present elsewhere on the site, based on historical aerial photograph review. Fill materials can be a source of a range of potential contaminants depending on the source of materials.

On the basis of site observations and site history, the potential for gross contamination from the above potential contaminant sources was considered to be low. In addition, the risk of gross contamination from adjoining properties was considered to be low.

Based on the results of the above investigations, the site is considered to be generally suitable for the proposed residential development with respect to site contamination.

Geotechnical

Douglas Partners also carried out a preliminary geotechnical investigation of the site in November, 2018. No issues were identified and the subject land was deemed fit for residential development.

Archaeology and Heritage

A search of the Aboriginal Heritage Information Management System (AHIMS) did not reveal any aboriginal sites or places on the subject site. There are no listed items of European Heritage on or in the vicinity of the subject site.

The subject land is not mapped as bushfire prone land, nor is it subject to flooding.

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

The planning proposal is unlikely to have any significant adverse social or economic impacts. The proposed rezoning will maximise the development potential of the land and provide additional infill housing opportunities (approximately 11 additional lots) within an existing urban area, thereby reducing the consumption of land for housing. Improved linkages in the local road network and additional contributions towards the provision of community facilities are some of the likely positive social and economic effects of the proposal.

SECTION D – STATE AND COMMONWEALTH INTERESTS

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

Access, Transport and Traffic

The subject land has frontage to Denton Park Drive, which provides direct connection to the New England Highway at its western end. Aberglasslyn Road to the east also provides a connection to New England Highway (towards Maitland). Development of the site will facilitate a more permeable road network by facilitating the future connection of two existing local roads in the area i.e. Tea Tree Avenue and Birch Grove.

Infrastructure Services

The subject site is located within an established residential area. All essential services including telecommunications, electricity, gas, reticulated water and sewer services can be readily extended to service all future lots within the development.

Other Public Infrastructure

Council provides a regular waste/recycling collection service in the area. Local shopping and sporting facilities are available in Aberglasslyn. All other essential services such as health, education and emergency services are available in the nearby centres of Rutherford and Maitland.

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

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal. Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal. It is anticipated that the NSW Office of Environment and Heritage (OEH), NSW Roads and Maritime Services (RMS), Hunter Water Corporation (HWC) and Mindaribba Local Aboriginal Land Council (LALC) would be consulted in relation to this planning proposal.

PART 4: MAPPING

The proposal will involve amendments to the following LEP maps:

- Land Zoning Map (Sheet LZN_004A) – refer to Figure 2; and
- Lot Size Map (Sheet LSZ_004A) – refer to Figure 3.

PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the *Environmental Planning and Assessment Act 1979*, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

Whilst the Gateway Determination will confirm the community consultation requirements, it is likely that if this planning proposal is supported, it would be classed as a “low impact” proposal in accordance with Section 5.5.2 of “*A Guide to Preparing LEPs*” that would require exhibition for a period of not less than 14 days.

A “low impact” proposal is defined as a “planning proposal that in the opinion of the person making the Gateway determination is:

- consistent with the pattern of surrounding land use zones and/or land uses;
- consistent with the strategic planning framework;
- presents no issues with regard to infrastructure servicing;
- not a principal LEP; and
- does not reclassify public land.

In accordance with Council’s adopted Citizen Engagement Strategy (2016), consultation on the proposed rezoning will be undertaken to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- a public exhibition period of 14 days;
- a notice in the Lower Hunter Star newspaper;
- exhibition material and relevant consultation documents to be made available at all Council Libraries and Council’s Administration Building;
- consultation documents to be made available on Council’s website; and
- notices published on Council’s social media applications, for public comment.

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

PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	Mid April 2019
Anticipated timeframe for the completion of required studies	
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	Mid May 2019
Commencement and completion dates for public exhibition period	June 2019
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	July 2019
Timeframe for the consideration of a proposal post exhibition	July 2019
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	N/A
Anticipated date RPA will make the plan (if delegated)	End August 2019
Anticipated date RPA will forward to the department for notification (if delegated)	September 2019