



# maitland

city council

## **Planning Proposal**

### **AMENDMENT TO THE MAITLAND LEP 2011**

**Mount Vincent Road, East Maitland  
Rezoning  
(Lot 141 DP 1225076)**

Version 3.0  
08 June 2021



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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* (Maitland LEP 2011) to amend planning controls and rezone land at Mount Vincent Road, East Maitland (the site). The purpose of the planning proposal is to enable development of the land for residential purposes and protection of environmentally significant areas. The site includes the following land:

LAND	AREA	OWNER
62 Mount Vincent Road, East Maitland Lot 141 DP 1125076	21.29ha (total)	Dennis Wilton

The amendment to Maitland LEP is proposed as follows:

- amend the land zone LEP map LZN (Sheet 004D), to rezone part of the land that is currently RU2 Rural Landscape to a land use configuration including R1 General Residential and E3 Environmental Management. The location of zone boundaries are shown in **Appendix 3**.
- amend the minimum lot size LEP map LSZ (Sheet 004D) to amend the minimum lot size controls for the site, a 450sqm minimum lot size will apply to the proposed R1 zoned land and a 40ha minimum lot size will remain applicable to the proposed E3 zoned land. The location of minimum lot size boundaries are shown in **Appendix 4**, and
- amend the urban release area LEP map (Sheet 004D) to identify the site as an urban release area. Refer to **Appendix 5**.

The site is identified within the *Maitland Urban Settlement Strategy 2012* for future urban development consistent with the sequencing and release of urban land in East Maitland. A locality plan of the site is provided as **Figure 1**.

At its meeting of 28 March 2017 Council resolved to seek a Gateway determination from the Department of Planning, Industry and Environment (the Department) for the rezoning of part of Lot 42 DP 846326 (now Lot 141 DP 1225076) identified as Category 1 Residential Land in the Maitland Urban Settlement Strategy.

The Department determined that the proposal should proceed and issued a Gateway Determination subject to conditions on 1 September 2017. The conditions specified that further works relating to visual impact, bushfire threat, traffic and access, biodiversity impact, Aboriginal cultural heritage impact and geotechnical (mine subsidence and contamination) would be required.

Further to these additional studies, the Department sought a greater balance of residential yield and biodiversity conservation outcomes for the site, and confirmation on what attributes have been used as criteria for the proposed zones and development standards.



Consultation with public authorities identified matters for resolution to determine a final land zone configuration on the site. A summary of this consultation can be found at **Appendix 1**. This planning proposal responds to these matters and the conditions of the Gateway Determination.

Between October 2019 and April 2021 additional site studies were received from the proponent which address a proposed residential zone outcome in the predominantly cleared western portion of the site and an environmental outcome to the east of the site which contains high value vegetation.

The area in the central portion of the site (refer to **Figure 2**) has been found to contain disturbed ecological values, through historic agricultural use and land management. This area has not been investigated sufficiently under this proposal to demonstrate if the land is suitable for more intensive uses, compatible with the remaining environmental qualities of the site.

A further planning proposal and site assessment will be required to examine the future potential of this land. It is understood that a further planning proposal will be submitted to investigate the merits of an E4 – Environmental Living zone in this area. Any future proposal on the site would need to demonstrate a land use configuration consistent with the context of the surrounding locality and addresses a balance of residential and ecological outcomes.

**Figure 1:** Locality Plan







**Figure 2:** Approximate Area for Further Investigation E4 – Environmental Living

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are to:

1. Enable residential development on the site,
2. Ensure any development would respond sensitively to the density and scale of existing adjoining residential settlements,
3. Ensure that future residents have access to adequate local and regional public infrastructure,
4. Protect and manage areas with environmental values, and
5. Achieve a balance of residential yield and biodiversity conservation outcomes.

## PART 2: EXPLANATION OF PROVISIONS

The objectives of this planning proposal are intended to be achieved through amending the Maitland LEP 2011 to provide for the development of part of the site for residential purposes and for the protection of environmentally sensitive areas. A summary of the proposed amendment is provided in the table below. The proposed map amendments are detailed in **Part 4** of this planning proposal.

Applicable Land	Lot 141 DP 1225076
Landowner	Dennis Wilton
Land Size	21.29ha (total)
Current Zone	RU2 Rural Landscape
Proposed Zone	R1 General Residential and E3 Environmental Management
Applicable Minimum Lot Size	R1 General Residential – 450m <sup>2</sup> E3 Environmental Management – 40 ha
Map Amendments	LZN Map 004D amended to identify R1 General Residential land and E3 Environmental Management land LSZ Map 004D amended to amend the minimum lot size for the residential portion of land to 450m <sup>2</sup> URA Map 004D amended to identify part of the site as an urban release area

As the site is to be identified as an urban release area, it will be captured under the provisions of Part 6 of the Maitland LEP 2011. Subsequently, and consistent with other green field urban release areas, this ensures that satisfactory arrangements for the provision of designated state public infrastructure are met prior to the development of the site.

A site-specific development control plan will be prepared to guide future residential development on the site.

Refer to **Appendix 3, 4 & 5** for reference maps.

## **PART 3: JUSTIFICATION FOR PROPOSED REZONING**

### **SECTION A – NEED FOR THE PLANNING PROPOSAL**

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

The site is identified as part of the East Maitland Investigation Area within the Department endorsed Maitland Urban Settlement Strategy 2012 for potential future urban growth. Within the Maitland Urban Settlement Strategy 2012, part of the site is identified as 'Category 1 – Residential' resulting in the short term (0-5 years) delivery of urban land in the locality. The remaining land is identified as Category 2 – Residential, potentially providing for urban growth in the locality over the next 5-10 years (medium term).

The proposal seeks a residential outcome on 6.2 hectares of the site that is identified as Category 1 in the Maitland Urban Settlement Strategy. The proposal also seeks an environmental outcome on the remaining portion of the site. This portion of land is approximately 15 hectares and is in part identified as Category 1 and Category 2 in the MUSS and incorporates land identified as Flood Planning Area. Refer to **Figure 3** for category boundaries.

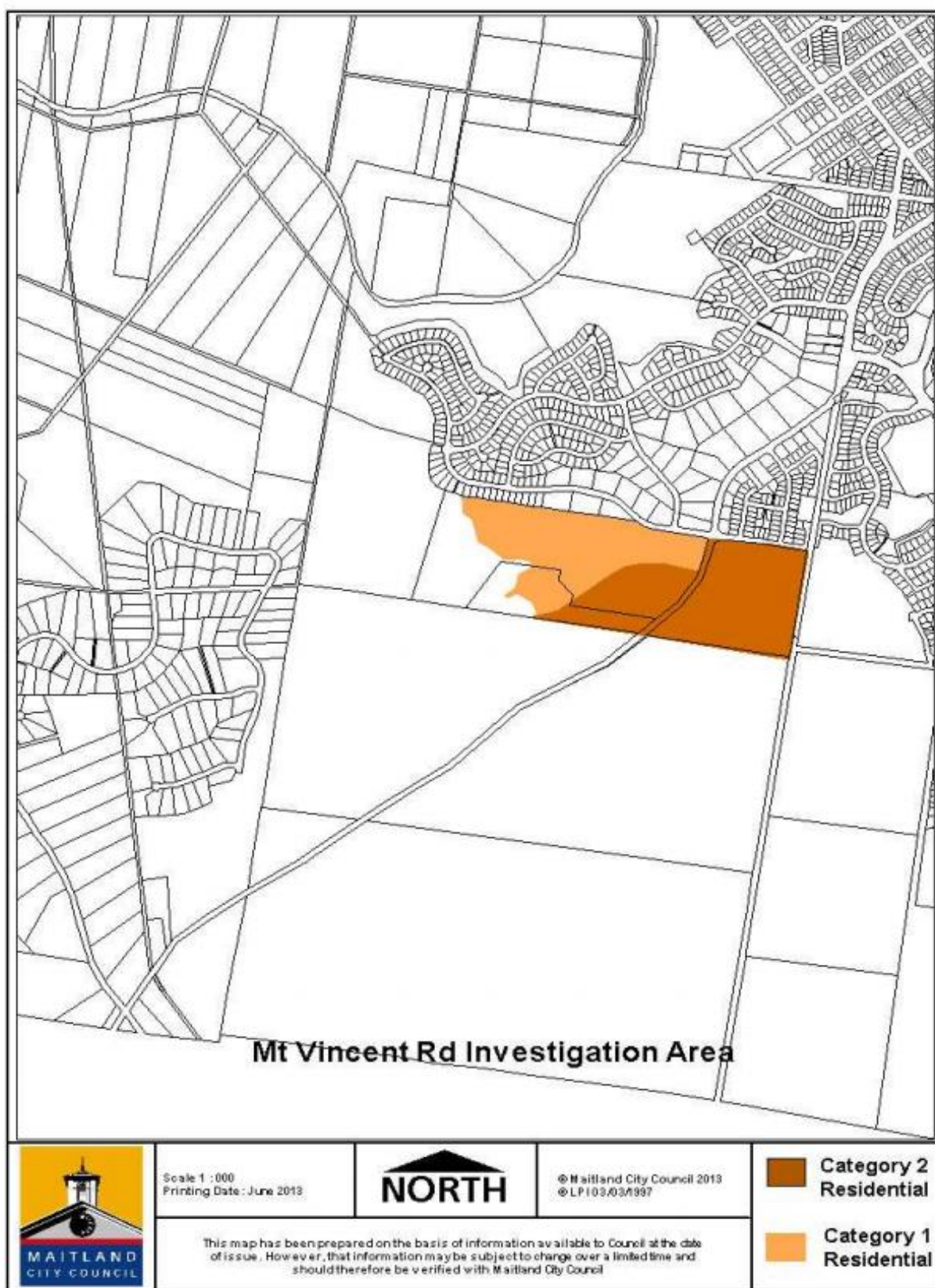
The site is also identified by Maitland's Local Strategic Planning Statement 2040+ as a planned residential investigation area. The Local Strategic Planning Statement is Maitland's most contemporary long-term planning strategy providing a vision for how growth will be managed for the Local Government Area.

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

It is considered that an amendment to the Maitland LEP 2011 is the most effective and timely method to achieve the vision and objectives of the Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Maitland's Local Strategic Planning Statement 2040+ and the Maitland Urban Settlement Strategy 2012.

The current land zoning does not permit residential development or supporting community and public infrastructure for the development of a future urban area. The rezoning will be supported by an infrastructure funding strategy and development control plan to achieve the objectives outlined in this planning proposal.





**Figure 3:** Excerpt from Maitland Urban Settlement Strategy 2012

### **3. Is there a net community benefit?**

A net community benefit test has not been undertaken as part of this proposal. However, Council envisages that this planning proposal will result in a net community benefit.

Specifically, the site is considered as part of the adopted policy position for urban investigation sites identified within the Maitland Urban Settlement Strategy.

The rezoning of the site would enable logical residential development, contributing to the local economy given that a high proportion of residents within the subject area will be able to readily commute to the Maitland Central Business District, East Maitland, and surrounding employment districts. Additionally, this will assist in providing a local supply of labour for local businesses.

The public interest reasons for preparing this draft plan include:

- The development of the site will support the growing residential population within the eastern sector of the Maitland Local Government Area,
- The site has largely exhausted its historical agricultural use. The proposal to develop the site for urban purposes will result in an improved outcome and a higher order use of the land,
- The site provides for a logical add-on to an existing serviced residential area, and
- Existing environmentally sensitive areas on the site will be protected and enhanced.

The implications of not proceeding with the planning proposal include:

- The availability of suitable urban land for population growth addressed in the Greater Newcastle Metropolitan Plan 2036 and Hunter Regional Plan 2036 will not be achieved,
- The desired future outcomes of Council's long-term strategic plans in this area will not be achieved,
- The potential for a higher order land use within the site would be lost, as the land is not large enough to support sustainable agricultural practices at scale, and
- An environmental outcome would not be secured for the environmentally sensitive areas on the site.

## **SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK**

### **4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?**

Hunter Regional Plan 2036 (NSW Department of Planning and Environment)

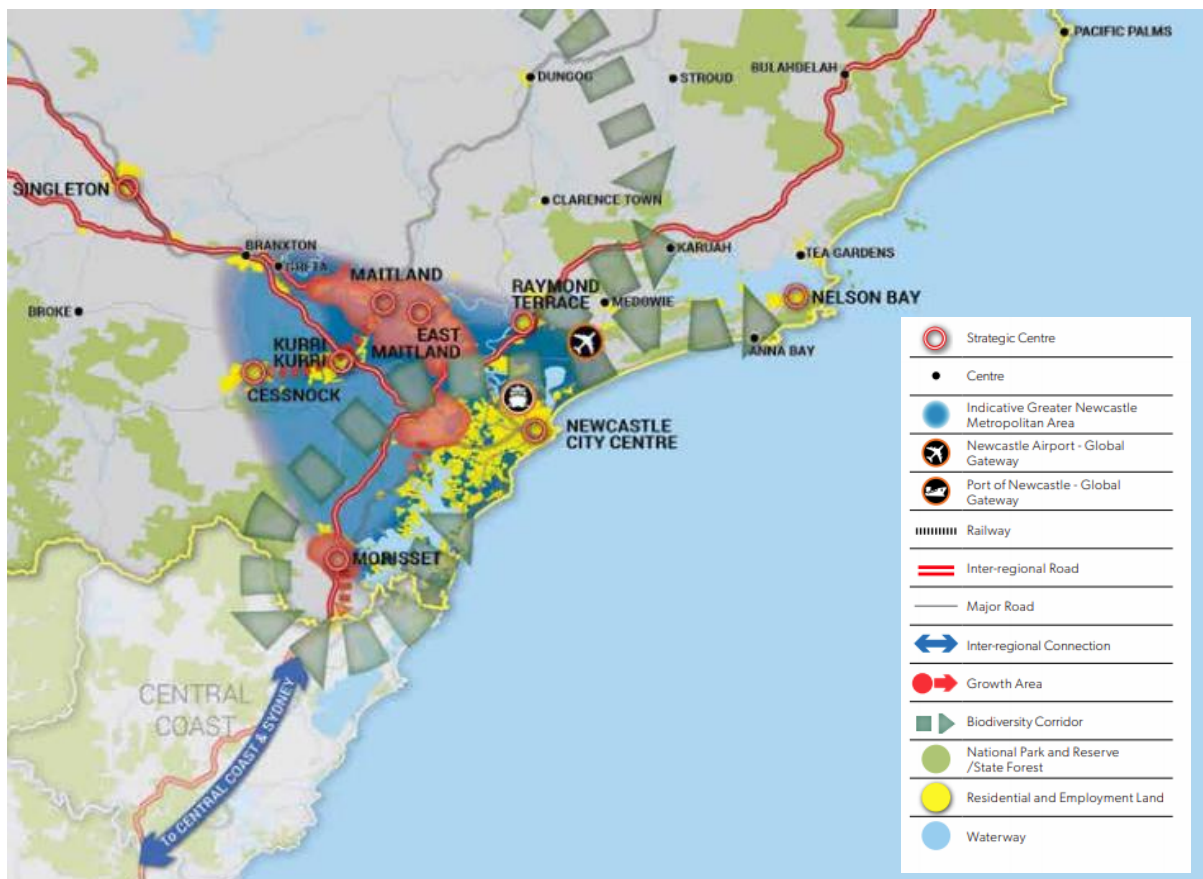
The Hunter Regional Plan 2036 (the Regional Plan) is a 20-year blueprint for the future of the Hunter. Its vision is to create a leading regional economy in Australia, with a vibrant metropolitan city at the heart. This vision will be delivered through four goals, as follows:

- A leading regional economy in Australia;
- A biodiversity-rich natural environment;

- Thriving communities; and
- Greater housing choice and jobs.

It is estimated that an additional 12,550 dwellings will be needed in Maitland by the year 2036. The Regional Plan focuses on providing land and infrastructure to meet this requirement and by supporting infill development opportunity in established areas and greenfield sites. The plan provides directions for housing opportunities to be located in areas with established services and infrastructure and which are close to existing towns and villages.

The site is identified as being within the East Maitland Growth area in the Regional Plan. The proposal assists in meeting the objectives of the Regional Plan as it proposes to provide additional housing opportunity located close to existing services and infrastructure and is proximate to local employment centres. The proposal also assists to support a biodiversity-rich natural environment through protecting onsite vegetation and endangered ecological communities which contribute to wider biodiversity corridors in the region.



**Figure 4:** Hunter Regional Plan 2036 Excerpt

Greater Newcastle Metropolitan Plan 2036 (NSW Department of Planning and Environment)

The Greater Newcastle Metropolitan Plan 2036 (the Metropolitan Plan) 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 Metropolitan 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.

This proposal will assist in meeting the objectives of the Metropolitan Plan. The proposal is consistent with the strategies and actions in the Metropolitan Plan, as it will provide additional housing opportunities within an existing urban area, and near existing jobs and services.

The proposal will result in the yield of approximately 85 -100 additional residential allotments, which will assist to meet the implied dwelling demand of the Metropolitan Plan.

## **5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

### Maitland +10 (Community Strategic Plan)

Council has prepared and adopted the Maitland +10 Community Strategic Plan (the Community Strategic Plan) in line with the Integrated Planning and Reporting legislation and guidelines. The Community Strategic Plan was last reviewed in 2018. The planning proposal is considered consistent with the vision and objectives of the Community Strategic Plan as it provides opportunities for urban growth within the city to meet the needs of a growing population.

### Maitland Local Strategic Planning Statement 2040+

The proposal aligns with the planning priorities of Maitland's Local Strategic Planning Statement as it will provide additional housing to support the Local Government Area's growing population within an existing urban area. It will be an efficient use of land and will support greater accessibility to jobs and services. The land is identified as an area for planned residential investigation.

### Maitland Urban Settlement Strategy 2012

The site is identified in the Maitland Urban Settlement Strategy as Category 1 and Category 2 Residential land. The strategy recognises the site's constraints and characteristics including flooding, endangered ecological communities, mine subsidence and proximity to the East Maitland Waste Disposal Management Facility, and the need for a land use outcome which responds to these conditions.

### Strategic and Site-Specific Merit

The planning proposal will deliver social, economic and environmental benefits to the locality and wider Maitland area. The proposal will provide for housing opportunity in a well serviced and growing area balanced with environmental management outcomes for the identified biodiversity values of the site.

Notwithstanding the need for certain issues to be resolved through the development assessment process, there is sufficient strategic and site-specific merit for the proposal to proceed as:

- The site is identified as a planned investigation area for residential housing.

- The proposal is consistent with the local and state strategic planning framework.
- The site is strategically located in an area with surrounding population growth and has accessibility to transport routes for commuters and residents.
- The site has connection to existing infrastructure and services.
- The planning proposal process has provided opportunity to consider additional investigations and agency consultation required to justify the amendments to planning controls and land use zone configurations to achieve the intended outcomes for the site. There are no outstanding matters for resolution and agency comments have been addressed.

It is intended that future development will be managed through a development control plan, which will provide more detailed development and subdivision controls to manage future staging and respond to development constraints on the site.

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

An assessment of the planning proposal against the relevant State Environmental Planning Policies is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
<b>STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007</b>	<b>CONSISTENT</b>
Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The State Environmental Planning Policy supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.	Nothing in this planning proposal affects the aims and provisions of this State Environmental Planning Policy.
<b>SEPP (PRIMARY PRODUCTION AND RURAL DEVELOPMENT) 2019</b>	<b>CONSISTENT</b>
The aim of this policy is to facilitate the orderly, economic use and development of rural lands, reduce land use conflicts and to identify and protect State significant agricultural land.	<p>The site is not identified as State significant agricultural land. The site is identified for future urban uses including in the Maitland Urban Settlement Strategy. The relatively small size of the site precludes viable intensive agricultural uses.</p> <p>The proposal is therefore consistent with the aims of this policy as it is enabling the orderly and economic use of the land.</p>
<b>STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND (SEPP 55)</b>	<b>CONSISTENT</b>

RELEVANCE	CONSISTENCY AND IMPLICATIONS
Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	<p>No longer applicable to Planning Proposals. The State Environmental Planning Policy no longer applies at the planning proposal stage. Rather the requirements of the State Environmental Planning Policy are to be considered at the Development Application stage.</p> <p><i>Ministerial Direction 2.6 – Remediation of Contaminated Land</i> applies to planning proposals and is discussed in the next section of this planning proposal.</p>
<b>STATE ENVIRONMENTAL PLANNING POLICY - KOALA HABITAT PROTECTION 2019</b>	<b>CONSISTENT</b>
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>During ecological assessment of the site two 'Koala Feed Tree' species were identified. Their presence did not constitute greater than 15% of the total number of trees on the site and would therefore not be considered as potential Koala Habitat.</p> <p>Despite targeted searches no Koalas were observed within the site, nor was evidence of past Koala usage recorded. No scats or scratches were found around Koala Habitat Trees.</p> <p>The site was determined to not contain habitat critical to the survival of the Koala.</p>
<b>STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004</b>	<b>CONSISTENT</b>
<p>This Policy applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:</p> <ul style="list-style-type: none"> <li>a) development for the purpose of any of the following is permitted on the land: <ul style="list-style-type: none"> <li>i. dwelling houses</li> <li>ii. residential flat buildings</li> <li>iii. hospitals</li> <li>iv. development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or</li> </ul> </li> <li>b) the land is being used for the purposes of an existing registered club.</li> </ul>	<p>The proposal will result in an area of land zoned primarily for urban purposes.</p> <p>This State Environmental Planning Policy will apply for development on the site for the purposes of Housing for Seniors or People with a Disability.</p> <p>This planning proposal will support the aims and provisions of the State Environmental Planning Policy.</p>



RELEVANCE	CONSISTENCY AND IMPLICATIONS
<b>STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007</b>	<b>CONSISTENT</b>
The State Environmental Planning Policy aims to provide for the proper management of mineral, petroleum and extractive material resources.	<p>Under this State Environmental Planning Policy, mining development may be carried out with development consent on land where development for the purposes of agriculture may be carried out. The current zone therefore enables this to occur only with development consent.</p> <p>The site is not identified on the Mineral Resource area map.</p>

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

Table 2: Relevant s9.1 Directions.

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
<b>1. EMPLOYMENT AND RESOURCES</b>	
<b>1.2 Rural Zones</b>	<b>INCONSISTENT (JUSTIFIED)</b>
The objective of this direction is to protect the agricultural production value of rural land.	The planning proposal is inconsistent with the objectives of this direction as it proposes for RU2 Rural Landscape zoned land to be rezoned for urban purposes. However, the inconsistency is considered justified as the site proposed for urban purposes is identified within a local (Maitland Urban Settlement Strategy) and regional (Metropolitan Plan) growth strategy and is therefore considered appropriate for investigation for urban development.
<b>1.3 Mining, Petroleum Production and Extractive Industries</b>	<b>CONSISTENT</b>
The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	<p>The site is located within the East Maitland Mine Subsidence District and has previously been subject to shallow mine workings.</p> <p>The area has not been identified as containing any regionally significant coal, mineral, petroleum or other extractive material reserves.</p>

S9.1 DIRECTIONS		CONSISTENCY AND IMPLICATIONS
		Further extraction at this site would not be considered suitable given its location proximate to existing urban areas.
1.4 Oyster Aquaculture		N/A
1.5 Rural Lands		INCONSISTENT (JUSTIFIED)
The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.		The planning proposal is inconsistent with the objectives of this direction as it proposes for RU2 Rural Landscape zoned land to be rezoned for urban purposes. However, the inconsistency is considered justified as the area proposed for urban purposes is identified within a local (Maitland Urban Settlement Strategy) and regional (Metropolitan Plan) growth strategy and is therefore considered appropriate for investigation for urban development.
2. ENVIRONMENT AND HERITAGE		
2.1 Environment Protection Zones		CONSISTENT
<p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>According to the direction, a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p>		<p>The Planning Proposal is consistent with the objectives of this direction as it facilitates the protection and conservation of environmentally sensitive areas. Land containing high quality vegetation and Endangered Ecological Communities is proposed to be zoned E3 – Environmental Management to protect the environmental values for that portion of the site.</p> <p>Any impact to the remaining vegetation will need to be quantified, assessed, and avoided, minimised, or offset in accordance with the <i>Biodiversity Conservation Act 2016</i>, prior to development assessment.</p> <p>It is anticipated that a future proposal may consider the merits of an E4 – Environmental Living zone in the central portion of the site where ecological values have been disturbed through rural land uses.</p> <p>If this investigation does not occur the land will remain E3 Environmental Management.</p> <p>The Planning Proposal does not include lands subject to flooding for future residential use.</p>

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
2.2 Coastal Management	N/A
2.3 Heritage Conservation	<b>CONSISTENT</b>
<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>In accordance with the conditions of Gateway a revised Aboriginal Heritage Impact Assessment was undertaken.</p> <p>Consultation was attempted in accordance with the Aboriginal Cultural heritage Consultation Requirements for Proponents 2010. This consultation resulted in no registered Aboriginal parties.</p> <p>Test excavations revealed isolated finds and one (1) potential archaeological deposit (PAD), containing scattered artefacts manufactured from mudstone and silcrete.</p> <p>It is noted that pit testing was limited to the south-western portion of the site only.</p> <p>The assessment concluded that, given the highly disturbed nature of the site and its environmental context, the PAD was considered of low scientific significance and high cultural significance. Disturbance of the PAD site is considered to have relatively limited cumulative impact to local Aboriginal heritage. The identified site is located wholly within the anticipated development footprint, and as such will be impacted by the proposed residential land uses.</p> <p>A project based Aboriginal Heritage Impact Permit is required prior to development works commencing.</p> <p>It is noted that a supporting Ecological report documented an unqualified observation of a potential Aboriginal grinding groove site. This site, located within the site's central gully, was both photographed and georeferenced.</p> <p>Given that this location had not been adequately assessed, Council requested that further investigation and direct consultation with Mindaribba Local Aboriginal Land</p>



**S9.1 DIRECTIONS****CONSISTENCY AND IMPLICATIONS**

Council and the Wonnarua Nation Aboriginal Corporation be undertaken.

The proponent provided further written advice from their consulting archaeologist, who concluded the site was not a relevant find.

The site and advice were not referred to local Aboriginal stakeholders.

Feedback from Wonnarua Nation Aboriginal Corporation, Mindaribba Local Aboriginal Land Council and Heritage NSW were sought as part of the agency consultation process.

As a result of this consultation the Mindaribba Local Aboriginal Land Council requested further direct consultation be undertaken to adequately assess the validity of the potential find.

The proponent has not undertaken this direct consultation and there remains uncertainty around the presence and validity of the find.

Notwithstanding this, the constraints of the site including an existing 1<sup>st</sup> order stream, associated gully and overhead powerlines have assisted to determine the proposed land use boundaries. The potential find is sited outside of the proposed residential land use boundary and impact area.

Any further investigation or development impact in this area will trigger the requirement for assessment and consultation under the *National Parks and Wildlife Act 1974*.

**2.4 Recreation Vehicle Areas****N/A****2.5 Application of E2 & E3 Zones and Environmental Overlays in Far North coast LEPs****N/A****2.6 Remediation of Contaminated Land****CONSISTENT**

The objective of this direction is to reduce the risk of harm to human health and the

A Preliminary Contamination Assessment was undertaken for the site in 2012. The

## S9.1 DIRECTIONS

## CONSISTENCY AND IMPLICATIONS

environment by ensuring that contamination and remediation are considered by planning proposal authorities.

limited testing conducted as part of this assessment identified contaminants on site which required further investigations and testing, namely asbestos containing material and imported fill material with elevated total recoverable hydrocarbons (TRH).

A preliminary site investigation (2017) and further contamination assessment (2019) were undertaken to ascertain whether the site would be suitable for its proposed residential use.

Testing of dam sediments found arsenic and zinc in between the low- and high-level screening criteria for sediment quality guidelines. The dam waters were also found to exceed the freshwater criteria for copper, nickel, naphthalene and faecal coliforms/E. Coli. Asbestos and faecal coliforms exceeded health-based criteria in the water.

Further information provided by the proponent concluded that TRH levels were within investigation guidelines and the asbestos and minor heavy sediments in the onsite dams are capable of being removed and validated prior to development.

It is understood that the fill material containing TRH has been removed, and the proponent has provided waste receipts as evidence of this. However, no further validation or sampling has been conducted. The following actions to confirm the suitability of the site are required prior to residential development.

- Additional sampling in the former gully area will be required to validate the removal of TRH and confirm suitability of remaining material for residential development in that area;
- Confirmation of the removal and appropriate disposal of the ACM telecommunication infrastructure and known ACM material found on the site;

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
	<ul style="list-style-type: none"> <li>Decommissioning of the onsite dams and validation that they have been appropriately remediated once dewatering has occurred;</li> <li>Preparation of an unexpected finds protocol to address any further findings within the site; and</li> <li>Preparation of a Remedial Action Plan should identification of any material that would pose a potential risk to a residential land use be found.</li> </ul>
<b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>	
<b>3.1 Residential Zones</b>	<b>CONSISTENT</b>
Encourage a variety and choice of housing, minimise the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services.	<p>The planning proposal is applicable to this direction as it is proposing an amendment to the Maitland LEP 2011 for rezoning of lands for urban purposes.</p> <p>The proposed rezoning will result in a change of land use to enable future residential development of the site making use of existing infrastructure and services in the immediate locality.</p> <p>It is anticipated that the urban outcome of this land can potentially allow for a variety of housing choices for end users.</p> <p>The exclusion of flood affected land from the proposal will minimise the impact of the development on the environment.</p>
<b>3.2 Caravan Parks &amp; Manufactured Home Estates</b>	N/A
<b>3.4 Integrating Land Use and Transport</b>	<b>CONSISTENT</b>
The objectives relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, employment and services by methods other than private vehicles.	<p>The planning proposal seeks to establish an urban environment with local and regional connectivity through design and location of road networks.</p> <p>East Maitland is an established urban area with existing public transportation services. There is the potential to relocate the most proximate existing bus stop on Wilton Drive, closer to the site, to better service the</p>



S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
	<p>additional population resulting from the proposal.</p> <p>Initial discussions between the proponent and local service providers indicate this would be achievable and that this approach is supported in principle.</p> <p>The proposal demonstrates the ability to integrate with public transport services.</p> <p>It is noted that pedestrian access and movement, particularly to local public transport networks, will need to be suitable and respond to the gradient of the site.</p> <p>The planning proposal is considered consistent with the objectives of this direction.</p>
3.5 Development Near Regulated Airports and Defence Airfields	N/A
3.6 Shooting Ranges	N/A
3.7 Reduction in non-hosted short-term rental accommodation period	N/A
<b>4. HAZARD and RISK</b>	
<b>4.1 Acid Sulfate Soils</b>	<b>CONSISTENT</b>
<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>Preliminary geotechnical investigations included testing for Acid Sulfate Soils.</p> <p>The findings drawn from these testings indicate the probability for Acid Sulfate Soils and recommend that management will be required for soil disturbance &gt;1,000t.</p> <p>Management requirements are to be confirmed at detailed design phase, when total soil disturbance can be quantified.</p>
<b>4.2 Mine Subsidence and Unstable Land</b>	<b>CONSISTENT</b>
<p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	<p>The site is within a Proclaimed Mine Subsidence District. The land has been identified as containing shallow underground mine workings by the Mine Subsidence Board.</p>

**S9.1 DIRECTIONS****CONSISTENCY AND IMPLICATIONS**

Grouting is proposed as a form of remediation for the land subject to shallow mine workings with depths of cover <20m, and has previously been considered as an acceptable remediation method for the site by Subsidence Advisory NSW.

A staged release of land is recommended to allow for the orderly development and concurrent investigations into appropriate remediation measures for areas with depths of cover >20m and for those areas which require further investigation.

There remains a risk for pillar instability in areas that are not proposed to be grouted. As such ongoing consultation with Subsidence Advisory NSW will be required at each proposed stage of surface development.

**4.3 Flood Prone Land****CONSISTENT**

The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The south western portion of the site is affected by the 1:100 Average Recurrence Interval (ARI) flood event.

Only that area above the 1% Annual Exceedance Probability (AEP) flood level is considered for residential purposes. The site has flood free access to Mt Vincent Road to East Maitland in a Probable Maximum Flood Event demonstrated in **Figure 5**.

The planning proposal is considered consistent with the objectives of this direction.



**Figure 5:** Probable Maximum Flood Levels and Egress to Mt Vincent Road to East Maitland.  
Source: Maitland City Council Geographic Information Systems Database.

#### 4.4 Planning for Bushfire Protection

#### CONSISTENT

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- (b) to encourage sound management of bush fire prone areas.

This direction applies as part of the site is identified as bushfire prone. Environmental studies for the site have assessed bushfire risk and outlined the environmental hazards from bushfire threat on the proposed R1 land for the purposes of future urban development.

The supporting reports conclude that it would be possible to provide appropriate Asset Protection Zone's (APZ) and adequate emergency access to the proposed R1 Land.

The land immediately adjoining the site to the north (6 Wilton Drive) has been nominated as a secondary access point for the site.

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
	<p>6 Wilton Drive has recently been granted approved for a 12-unit seniors living development (DA/2019/128). If realised, this development would not provide for unfettered access to the proposed residential land, and therefore secondary emergency access to the site would not be possible from this location.</p> <p>It is recommended that an amendment to DA/2019/128, or a surrender of the approval, be undertaken at development application stage to achieve the secondary access requirements of the Rural Fire Service.</p> <p>It is considered that the planning proposal can achieve consistency with the objectives of this direction.</p>
<b>5. REGIONAL PLANNING</b>	
5.1 Implementation of Regional Strategies	N/A
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial & Retail Development along the Pacific Highway, North Coast	N/A
5.9 North West Rail Link Corridor Strategy	N/A
<b>5.10 Implementation of Regional Plans</b>	<b>CONSISTENT</b>
<p>This direction requires a draft amendment to be consistent with relevant Regional Plans that apply to the Local Government Area.</p>	<p>The Proposal is consistent with the objectives of the Regional Plan as it proposes compact urban development in an area with established services and infrastructure and is located close to existing centres and services.</p> <p>The site is identified in the Maitland Urban Settlement Strategy 2012 as Category 1 Residential.</p> <p>The proposal is consistent with the objectives of the Metropolitan Plan as it will provide additional housing opportunities (within an existing urban area, in close proximity to existing jobs and services.</p>



S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
	Therefore, the planning proposal is considered consistent with the aims of this direction.
5.11 Development of Aboriginal Land Council Land	N/A
<b>6. LOCAL PLAN MAKING</b>	
<b>6.1 Approval and Referral</b>	<b>Consistent</b>
The direction aims to ensure that Local Environmental Plan provisions encourage the efficient and appropriate assessment of development.	The planning proposal does not propose to include provisions in the Local Environmental Plan that require concurrence, consultation, or referral of development applications to a Minister or public authority and does not identify development as designated development.
6.2 Reserving Land for Public Purposes	N/A
6.3 Site Specific Provisions	N/A
<b>7 METROPOLITAN PLANNING</b>	
7.1 Implementation of a Plan for Growing Sydney	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A
7.8 Implementation of the Western Sydney Aerotropolis Plan	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	N/A
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	N/A
7.12 Implementation of Greater Macarthur 2040	N/A

## SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

### 8. 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?

In accordance with the Gateway Conditions an updated Biodiversity Assessment Report has been prepared to assess the impacts to biodiversity on the site.

Two Plant Community Types (PCT) were determined to be present within the area proposed for residential uses. These were:

- PCT1600 – Spotted Gum – Red Ironbark – Narrow-leaved Ironbark – Grey Box shrub-grass open forest of the lower Hunter; and
- PCT 1590 – Forest Red Gum grassy open forest on floodplains of the lower Hunter.

During field surveys six (6) ecosystem credit species were found on the site:

- *Petroica phoenicea* (Flame Robin)
- *Daphoenositta chrysoptera* (Varied Sittella)
- *Micronomus norfolkensis* (Eastern Freetail Bat)
- *Falsistrellus tasmaniensis* (Eastern Falsistrelle)
- *Miniopterus australis* (Little Bentwing-bat) and
- *Miniopterus orianae oceanensis* (Eastern Bentwing-bat)

One Species Credit Species was recorded within the impact area during targeted surveys:

- *Myotis Macropus* (Southern Myotis)

Two Species Credit Species were assumed present as targeted seasonal surveys were not undertaken. These include:

- *Grevillea parviflora subsp. parviflora* (Small Flowered Grevillea)
- *Pterostylis chaetophora* (Tall Rustyhood)

The report identifies that the area proposed for urban purposes will result in the impact of up to:

- The removal of PCT1600\_Moderate (0.55ha)
- The removal of PCT 1600\_Derived Grassland (0.25ha)
- The removal of PCT 1600\_Low (1.81ha)
- The removal of PCT 1598\_Moderate (0.03ha)
- The removal of PCT 1598\_Low (0.19ha)
- Removal of 0.58ha of potential roosting habitat for the Species Credit Species *Myotis macropus* (Southern Myotis)
- Removal of 0.58ha of potential habitat for *Pterostylis chaetophora* (Tall Rustyhood)
- *Grevillea parviflora subsp. parviflora* (Small-flower Grevillea)
- The removal of 8 hollow-bearing trees

- The removal of up to 13 Koala Feed Tree Species.

Two Serious and Irreversible Impact (SAIL) species were considered for the site – the Regent Honeyeater and Swift Parrot. Impact evaluation determined there was no serious and irreversible impact on these species as a result of this proposal.

Koala Feed Tree Species on the site were determined to not constitute 'Potential Koala Habitat'. No evidence of Koala presence was found during site surveys.

In accordance with Biodiversity Conservation Division feedback and recommendations provided during agency consultation (**Appendix 1**), it is considered that the impact area has been adequately assessed in terms of targeted surveys. Further, the residual land is to be zoned E3 – Environmental Management to reflect the known environmental qualities of this land.

The conditions of Gateway sought for the proposal to avoid impacts on native vegetation. It is considered that the land zoning configuration meets this objective through the avoidance and minimisation of potential impacts resulting from the project.

The proponent will have the option to either offset the remaining impacts through the establishment of a Biodiversity Stewardship Site in the vegetated area to the east of the site, or by paying directly into the Biodiversity Conservation Trust. It is considered that either option would be viable and would satisfy the offsetting requirements of the residual impacts.

*Council's recommendation:*

*Final offsetting obligations are to be sought and finalised prior to the development of the site for urban purposes.*

*Further assessment will be required to investigate the potential of an E4 Environmental Living outcome in the central portion of the site. It is recommended that any future proposed dwellings be sited and have their impact foot prints (including required APZ's) quantified.*

*It is recommended that the area of Forest Red Gum located to the south-west of the gully, and identified in the Biodiversity Assessment Report (Refer to **Figure 6** below), be identified in the DCP and be retained for the purposes of open space.*



Plate 6: Forest Red Gum grassy open forest to be retained within a park landscape of the impact area.

**Figure 6:** Area identified for vegetation retention in the impact footprint (Wildthing 2021).

#### Koalas

Two preferred Koala feed tree species were identified within the site. The ecological assessment explained that the *Eucalyptus tereticornis* and *Eucalyptus punctate* species exist as scattered trees and comprise less than 15% of the total number of trees in the upper and lower strata of the tree component within the site. No scats or claw marks were observed during field surveys undertaken as part of the site's flora and fauna study, indicating a low likelihood that Koalas frequent the site.

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

A suite of studies was undertaken by the proponent to justify the preparation of an amendment to the Maitland LEP 2011.

#### Report on Mine Subsidence Investigations

Geotechnical investigations undertaken in September 2015 for the site identified that the land supported past underground mine workings and that the extent of these workings was unknown. Significant field investigations were undertaken to inform the report and included:

- Site inspection and walkover,
- One cored bore,
- 34 non-cored bores,
- CCTV inspection of selected voids,



- Sonar inspection of selected voids, and
- Survey of bores.

Grouting for areas with depths of cover of <25m has been proposed as a method to remediate the site to a condition suitable of supporting residential development.

Further investigations would be needed to confirm development suitability of uncharted working locations and to provide remediation options for areas with depths of cover >25m and areas with potential pillar instability.

There also remains a low risk for pillar instability in areas which are not proposed to be grouted (i.e. the eastern portion of the development site). As such ongoing consultation with Subsidence Advisory NSW will be required at each proposed stage of surface development.

*Council's recommendation:*

*A staged release of land is recommended to allow for orderly development and concurrent assessment of appropriate remediation measures.*

*Any future investigation for an E4 – Environmental Living zone in the central portion of the site should identify proposed dwelling footprints and demonstrate that siting can be achieved through appropriate remediation of subsidence prone areas.*

#### Contamination Assessment

A Preliminary Contamination Assessment comprising of a desktop review, site inspection and targeted intrusive sampling and testing was undertaken for the site. The assessment was undertaken to determine the current site status in relation to potential contamination to support the proposed future urban environment.

The contamination assessment identified possible areas of concern associated with:

- Areas of filling/stockpiling and the stored items around the rural shed,
- The potential fill/CWR/overburden related to the adjacent mine infrastructure,
- Observed minor amounts of fibrous cement sheeting which may contain asbestos, and
- Possible contamination due to previous rural practices for which the land was generally used.

In accordance with the conditions of Gateway, further testing was undertaken to determine the extent of the contaminants described above and to ascertain whether the site would be suitable for its proposed residential use. This assessment found that:

- The fill in the gully line was found to contain total recoverable hydrocarbons (TRH), limited testing has not fully quantified its extent,
- Asbestos containing material (ACM) remains on the site in the form of a telecommunication pit and minor stockpiling,
- Arsenic and zinc were found in onsite dam sediments. Levels were between the low- and high-level screening criteria for sediment quality guidelines, and

- The dam waters also exceeded freshwater criteria for copper, nickel, naphthalene, faecal coliforms/e-coli.

The findings of the contamination assessment concluded that TRH levels were within investigation guidelines and that the asbestos containing material and minor heavy sediments found in the onsite dams are capable of being remediated and validated prior to development.

*Council's recommendation:*

*The following actions to confirm the suitability of the site would be required prior to residential development.*

- *Additional sampling in the former gully area will be required to validate the removal of TRH and confirm suitability of remaining material for residential development in that area,*
- *Confirmation of the removal and appropriate disposal of the ACM telecommunication infrastructure and known ACM material found on the site,*
- *Decommissioning of the onsite dams and validation that they have been appropriately remediated once dewatering has occurred,*
- *Preparation of an unexpected finds protocol to address any further findings within the site, and*
- *Preparation of a Remedial Action Plan should identification of any material that would pose a potential risk to a residential land use be found.*

#### Traffic Impact Assessment

A traffic impact assessment was undertaken reflecting the proposed residential traffic generation at the site. In accordance with the conditions of Gateway, the study was updated to reflect contemporary traffic counts and network scenarios.

The report concludes that the local road network currently has capacity to accommodate traffic generated by the development without adversely impacting on current levels of service experienced by motorists in the locality. This is based off an assessment of up to 100 new residential allotments provided in the proposed R1 General Residential land.

The subdivision access intersections with Wilton Drive will operate with uninterrupted flow conditions and can be constructed as normal intersection standards. The report notes that the Wilton Drive intersection with Mt Vincent Rd may need to be upgraded to enable the future development of the site.

During Agency consultation, Transport for NSW (TfNSW) identified that the Traffic Impact Assessment provided had not assessed the suitability of the existing intersection layout at Mount Vincent Road and Wilton Drive. The current auxiliary right turn (AUR) intersection is no longer supported as an intersection treatment in NSW (TfNSW Austroads Guide Supplement No.17.335, version 2.1). TfNSW has advised that the intersection will warrant an upgrade to a channelised right turn (CHR) intersection as a minimum.

TfNSW recommend that, if the Planning Proposal is approved resulting in the intensification of traffic at the intersection, it should be upgraded to provide a CHR.

#### *Council's Recommendation:*

*Part of the site is to be identified as an urban release area, ensuring that satisfactory arrangements for the provision of designated state public infrastructure are met prior to urban development. A Development Control Plan (DCP) will be prepared prior to subdivision of the land to ensure that adequate infrastructure is provided to service the needs of the new residential area. This is to include the upgrade to the intersection at Mount Vincent Road and Wilton Drive.*

#### Pedestrian Connectivity and Public Transport

The site currently lacks local pedestrian network linkages along Wilton Drive and across Mount Vincent Road to connect to the shared path network. In addressing the Mount Vincent Intersection, it will be required to provide a pedestrian refuge with concrete medians into the design and provide concrete path connection between the development and the shared path on Mount Vincent Road.

It is also acknowledged that the existing bus route on Wilton Drive will not adequately service the proposed residential area (as the nearest stop is located beyond a reasonable walking distance of 400m). The local bus service company (Hunter Valley Buses) have provided in principle support to relocate the existing bus stop closer to the proposed residential area. Additional bus stops may also need to be considered to optimise 400m walking distances for the development.

#### *Council's recommendation:*

*It is recommended that to provide satisfactory connections to public transport, the existing bus stop be relocated closer to or within the proposed residential area and appropriate pedestrian linkages created. Bus servicing should be provided via a circuit through the new urban area as a first preference with pedestrian linkages provided to the existing footpath located on the eastern side of Mount Vincent Road, which provides local connectivity to Green Hills. Pedestrian/bicycle connectivity is to be considered during the preparation of the DCP for the site.*

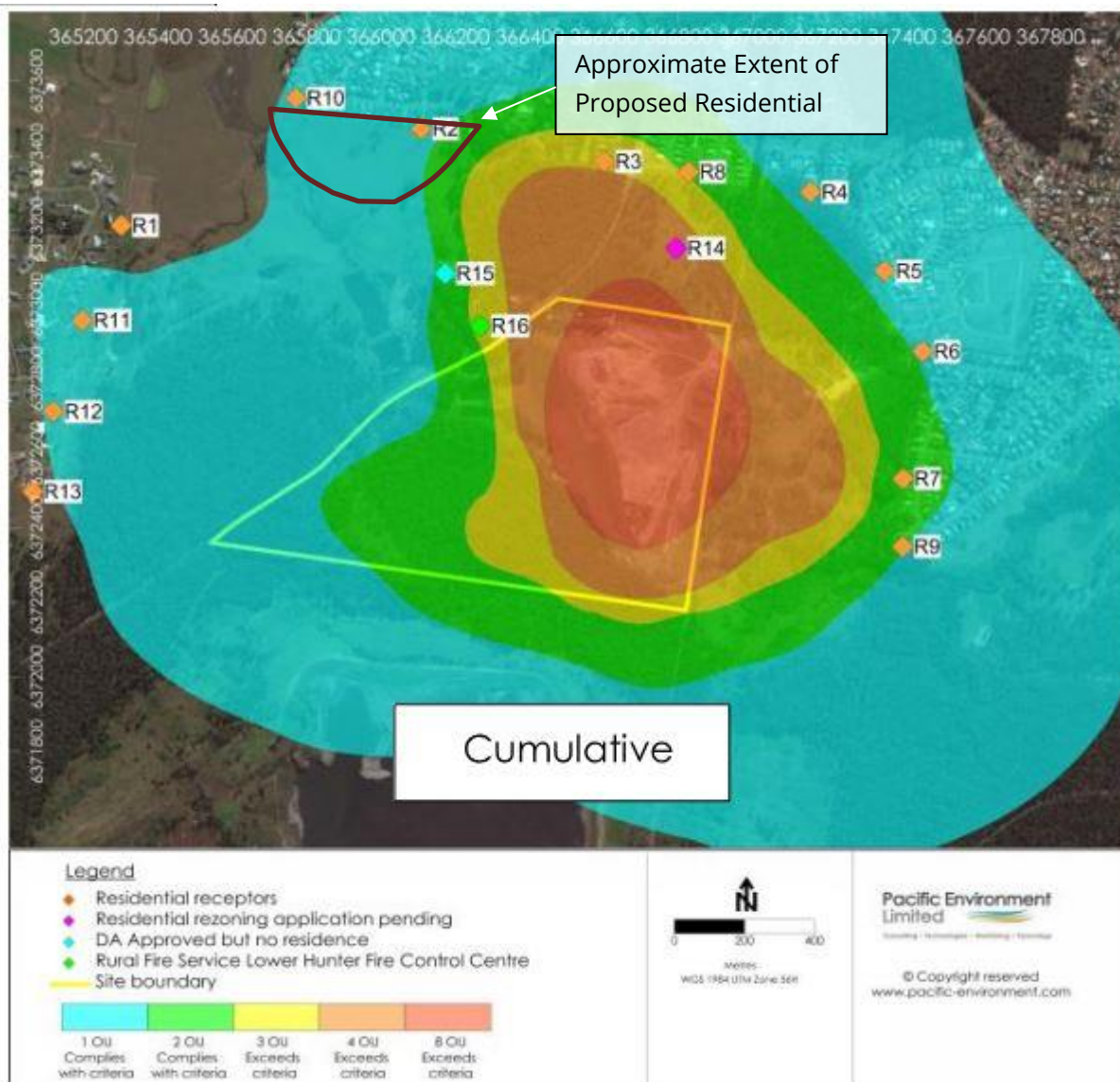
#### Mount Vincent Road Waste Management Centre

The site is in close proximity to the Mount Vincent Road Waste Management Centre (MVWMC) which is located on the allotment to the south east. In November 2019 the Hunter and Central Coast Joint Regional Planning Panel (JRPP) approved an application for a Waste Transfer Facility to be developed on the site to assist in resource recovery for the Local Government Area as landfill operations near maximum capacity.

As part of the Environmental Assessment for the Waste Transfer Facility, an 'Air Quality and Odour Impact Assessment' was prepared by Pacific Environment Ltd (2016). The report conservatively considered the likely odour impact, assuming a scenario where both landfill operations and a waste transfer facility were operational at the (MVWMC).

The report found that potential odour impact from concurrent activities on the site would be within odour level criterion for the area proposed for residential uses.

Air quality issues relative to dust were also considered in this report. It was found that no sensitive receptors are predicted to experience dust deposition above the assessment criteria due to emissions from the future Waste Transfer project or cumulatively with existing operations at the MVWMC.



**Figure 7:** Excerpt from Air Quality and Odour Impact Assessment prepared by Pacific Environment Ltd (2016).

The Environmental Protection Authority (EPA) provides guidelines for appropriate separation distances from landfill sites. The guidelines are based on the NSW Department of Planning and Environment's EIS Practice Guideline: Landfilling Table 1. For residential uses, this separation distance is 250m.

The boundary of the proposed residential land is located approximately 330m from the lot boundary of the Waste Management Centre. The proposal is therefore consistent with the EPA's guidelines.



*Council's recommendation:*

*Noise, Waste Management and Water Quality Impacts during construction and operation of future urban uses should be considered at development application stage.*

#### Aboriginal Archaeology and Heritage

A desk top analysis and limited site walk over (undertaken November 2012) formed the basis of the initial Historic and Indigenous Archaeological Assessment conducted for the site and proposed rezoning. A representative from Mindaribba Aboriginal Land Council conducted a site inspection with the heritage consultant.

The report concluded that the field assessment did not identify any objects or relics of indigenous or historic heritage significance. One sensitive landform was identified adjacent to the wetland. Considering the study area's environmental context, it has high potential for containing subsurface Indigenous archaeological deposits.

In accordance with the conditions of gateway, further investigations were undertaken in the form of an Aboriginal Cultural Heritage Assessment (2018 & revised in 2019).

One sensitive landform, adjacent to the wetland was identified as having a high potential for Indigenous archaeological deposits. Investigation of this landform consisted of 62 test pits limited to the southern and western portions of the development site.

The sample pit excavation identified a site containing artefact scatter, consisting of artefacts manufactured from mudstone and silcrete (AHIMS site 38-4-1969).

With consideration of environmental contexts and the highly disturbed nature of the area, the site was assessed as being of low scientific significance and high cultural significance, with relatively limited cumulative impact to local Aboriginal heritage.

Consultation with Aboriginal stakeholders in accordance with *Code of Practice – Archaeological Investigation of Aboriginal Objects in NSW* was undertaken. No parties register interest in this process.

It is noted that an Ecological report, prepared in support of the proposal, made an unqualified observation of a potential Aboriginal grinding groove site. This site, located within the site's central gully, was both photographed and georeferenced.

Given that this location had not been adequately assessed, Council requested that further investigation and direct consultation with Mindaribba Local Aboriginal Land Council and the Wonnarua Nation Aboriginal Corporation be undertaken.

The proponent provided further written advice from their consulting archaeologist, who made the conclusion that the site was not relevant. The site and advice were not referred to the relevant local Aboriginal stakeholders.

Feedback from Wonnarua Nation Aboriginal Corporation, Mindaribba Local Aboriginal Land Council and Heritage NSW were sought as part of the agency consultation process. As a result of

this consultation the Mindaribba Local Aboriginal Land Council requested further direct consultation be undertaken to adequately assess the validity of the potential find. The proponent has not undertaken this direct consultation and there remains uncertainty around the presence of the find.

Notwithstanding this, the constraints of the site including an existing 1st order stream, gully and overhead powerlines preclude this area from being suitable for residential uses and is therefore sited outside of the proposed residential land use boundary.

*Council's recommendation:*

*Management of Aboriginal Heritage Impact is to be undertaken in accordance with the recommendations of the Aboriginal Cultural Heritage Assessment report being:*

- 1) 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;*
- 2) Should any Aboriginal objects be uncovered during works, all work will cease in that location immediately and the Environmental Line contacted; and*
- 3) A project based AHIP that includes site 38-4-1969 will be required prior to works commencing within the potential archaeological deposit.*

*Any further investigation or development impact on the site will trigger the requirement for assessment and consultation under the National Parks and Wildlife Act 1974.*

### European Heritage

The Historical Assessment for the site did not identify any items of historical heritage significance. The site does support old underground mine workings with remnant pit top facilities being located on adjoining land to the south.

### Visual Impact

In accordance with the conditions of Gateway, further consideration of visual impact has been undertaken. The supporting Visual Impact Assessment finds that the proposed residential use can be compatible with the surrounding and existing land uses of the area.

The report demonstrates that the proposed low-density residential use is not anticipated to have unreasonable impact on any critical view corridors.

*Council's recommendation:*

*Further amelioration of localised visual impacts is recommended. Specifically, the proposal will need to demonstrate mitigation of visual impacts to existing residential dwellings on Wilton Drive through design, landscaping, colour palette, bulk and form, and materiality. The same measures of impact mitigation are to be used to soften the visual interface between the proposed residential area, existing residential areas and rural zones - to be confirmed in the detailed design phase.*

### Bushfire Threat

In accordance with the conditions of Gateway, further investigation into Bushfire threat has been undertaken.

The supplementary Bushfire Rezoning Report provided, finds that the proposal and future residential uses of the site are capable of mitigating bushfire risk. The majority of the land proposed for residential use is cleared and adequate asset protection zones can be provided.

The proposal includes an indicative road layout, demonstrating two separate ingress/egress points for emergency evacuation and servicing in the instance of bushfire risk, one perpendicular to Mt Vincent Road, from Wilton Drive and the other from 6 Wilton Drive (Lot 8 DP 855275) to the north of the site.

Lot 8 currently benefits from a development approval for the construction of 12 self-care seniors living units approved under DA/2019/128. The current road design of this approved DA is not compatible with Rural Fire Service's requirements.

*Council's recommendation:*

*It is recommended that the approval on the land be withdrawn or amended to enable residential development on the site. The proponent will be required to provide evidence that the northern access point can provide unfettered legal public access prior to subdivision of the land.*

### **10. How has the planning proposal adequately addressed any social and economic effects?**

The following social and economic effects are relevant to the proposal.

The planning proposal will deliver significant social, economic and environmental benefit to the locality and wider Maitland area. The strong growth experienced in the Maitland Local Government Area and particularly the eastern sector over the last 10 years is well documented. The provision of additional housing to support the growing population in proximity to existing utilities is appropriate.

The protection and preservation of the identified Endangered Ecological Communities on site will ensure continued connective habitat through the site and achieve a balance of outcomes with urban growth in the area.

## **SECTION D – STATE AND COMMONWEALTH INTERESTS**

### **11. Is there adequate public infrastructure for the planning proposal?**

#### Provision of Local and State Infrastructure

The site is proposed to be identified as an Urban Release Area and as such would be subject to the provisions of the Maitland LEP 2011 that relate to satisfactory arrangements being made for the provision of designated State public infrastructure and adequate arrangements for public utility infrastructure.

### Access, Transport and Traffic

The site has good access opportunities with frontages to Wilton Drive to the north and Mount Vincent Road to the east. As outlined in **Part 3: Section C** of this proposal, the site has the capacity to respond to and connect with wider public and active transportation networks in the East Maitland area and to deliver an improved intersection design outcome at Mount Vincent Road.

### Infrastructure Services

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

Council's Citywide Section 7.11 Contributions Plan stipulates the requirements for local infrastructure resulting from development within the Maitland Local Government Area. This plan would apply to development undertaken upon the site.

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

In accordance with the conditions outlined in the Gateway Determination, the following agencies were consulted in relation to this proposal:

- NSW Rural Fire Service;
- Subsidence Advisory NSW;
- Office of Environment and Heritage (now Heritage NSW and The Department of Planning, Industry and Environment's Biodiversity and Conservation Division);
- Environmental Protection Authority;
- Mindaribba Local Aboriginal Land Council;
- Wonnarua Nation Aboriginal Corporation;
- Transport for NSW;
- Hunter Water; and
- Ausgrid.

This proposal has been amended to reflect comments provided through agency consultation. A summary of this consultation is provided at **Appendix 1**.

In accordance with Council's resolution during its ordinary meeting of 28<sup>th</sup> March 2018 a further report will be presented to Council following public exhibition, demonstrating the proposals compliance with the Gateway Determination and providing details of any submissions received, and how they have been addressed, as a result of the consultation process.



## PART 4: DRAFT LEP MAPS

The proposal seeks to amend the land use map (LZN), the minimum lot size map (LSZ) and the urban release area map (URA). A copy of a locality map and the proposed (LZN), (LSZ) and (URA) maps are attached at **Appendix 2, 3, 4** and **5**.

## 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.

In accordance with Council's adopted Community Engagement Policy (April 2020), this report has been prepared for the purposes of public exhibition. To engage the local community the following will be undertaken:

- A public exhibition period of 28 days;
- Notice in The Lower Hunter Star;
- 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;
- Notices published on Council's social media applications, for public comment; and
- Consultation with any relevant committee or reference groups.

At the close of the consultation process, Council Officers will consider all submissions received and present a report to Council before proceeding to finalisation of the amendment.

## PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Gateway determination and conditions issued	September 2017
Completion of required studies and request for information	August 2020
Timeframe for government agency consultation (28 days)	November 2020
Commencement and completion dates for public exhibition period (28 days)	June - July 2021
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	June – July 2021
Timeframe for the consideration of a proposal post exhibition (Council endorsement)	July 2021
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	August 2021
Anticipated date RPA will make the plan (if delegated)	N/A
Anticipated date RPA will forward to the department for notification (if delegated)	N/A

## APPENDIX 1 – Agency Consultation Summary

Agency	Response	Council's Comment
<b>AusGrid</b>	<p>Preliminary investigations conclude that there is currently adequate network capacity in the area to supply a residential development.</p> <p>An electrical consultant should be engaged to provide a preliminary enquiry to Ausgrid to obtain advice on the existing networks capacity to support the expected electrical load of development and if a substation is required and to confirm site conditions or other issues that may impact on the method of supply.</p> <p>If relocation is required Ausgrid prefers overhead construction this would generally be at the cost of the developer.</p>	<p>The proponent is to address and comply with AusGrid's advice at detailed development application stage.</p> <p>This includes ensuring that there is sufficient clearance to overhead mains from all vehicles entering and leaving the site and that all minimum clearances are met as per the Ausgrid Network Standard, NS220 Overhead Design manual.</p>
<b>Department of Planning Industry and Environment - Biodiversity Conservation Division (BCD)</b>	<p><b>Biodiversity</b></p> <p>BCD is satisfied that the rezoning is not inconsistent with direction 2.1 Environmental Protection Zones.</p> <p>BCD recommends that the land to be retained as RU2 be zoned to E3, given there is no justification for the retention of rural land and that the area contains vegetation attributed to an endangered ecological community.</p> <p>BCD recommends that all 14 targeted surveys be undertaken for threatened species on the land.</p>	<p>An internal referral to Council's environmental team in February 2020 identified the lack of seasonal sampling events and the incompleteness of the Stage 1 BDAR assessment. Significant and irreversible impacts were unable to be determined as a result of this assessment</p> <p>It is noted that survey work was undertaken in 2015 and 2016 by Wildthing Consultants, however this work was undertaken to the standards of the previous Threatened Species Act.</p> <p>It was decided to move the proposal to agency consultation to seek further feedback on the outstanding biodiversity matters.</p>

Agency	Response	Council's Comment
		<p>14 Species remain unsurveyed or surveys are considered insufficient as they were undertaken out of season and have not been conducted in the BAM calculator. These include:</p> <p> Netted Bottle Brush – Sept-March (Habitat in Vegetated Area Only)  Gang-gang Cockatoo – Oct-Jan  Glossy Black Cockatoo – Oct-March  Eastern Pygmy Possum – Oct-March  Leafless Tongue Orchid – Nov-Feb  Small-flower Grevillea – Anytime of year (Habitat in Vegetated Area Only)  Pale-headed Snake – Nov-March (Habitat in Moderate-High Veg Only)  Green and Golden Bell Frog – Nov-March  Green-thighed Frog – Oct-March  Square-tailed Kite – Sept-Jan  Grey-headed Flying-Fox – Oct-Dec  Southern Myotis – Nov-March  Black-eyed Susan – July-Dec  Heath Wrinklewort - Anytime </p> <p>BCD have recommended that these surveys be undertaken at strategic planning stage in order to understand the ecological constraints of the site. For example Serious and Irreversible Impacts which must be avoided in accordance with the BAM.</p>



Agency	Response	Council's Comment
		<p>The proponent has since revised the Stage 1 – BDAR to include all target surveys appropriate to the area of impact.</p> <p>In recognition that the central portion of the site contains some biodiversity value, the boundary of the proposed E3 – Environmental Zone is to be applied up to the proposed R1 – General Residential boundary.</p> <p>Future investigations may support an E4 – Environmental Living outcome in the central area of the site, which is disturbed and has lesser ecological value, however this is to be determined through a further Planning Proposal.</p>
	<p><b>Flooding</b>  Insufficient information has been provided to determine if the planning proposal is consistent with Ministerial Direction No.4.3.5. BCD sought clarification that the flood level used in the assessment included 1% AEP and 500m freeboard.</p> <p>Probable maximum flood layers should also be considered to confirm that emergency access is available to the site</p>	<p>Flood planning level, reference in the planning proposal, refers to the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard (Maitland LEP). The proposal has been amended to clarify this.</p> <p>A map of the Probable Maximum Flood (PMF) event for the area is provided in the revised Planning Proposal at <b>Figure 5</b>.</p> <p>The map demonstrates that during a PMF event Mt Vincent Road would be compromised to the south. Notwithstanding,</p>

Agency	Response	Council's Comment
		access to the north on to the New England Highway remains uncompromised and allows for emergency evacuation.
<b>Environmental Protection Authority (EPA)</b>	<p>EPA raised concerns on the proximity of the proposal to the Mt Vincent Road Waste Disposal Management Facility and recommended that appropriate separation distances and a gradation of less sensitive land uses be applied between proposed highly sensitive ones (i.e. residential receptors) to prevent odour nuisance.</p> <p>The EPA also raised issues on increased traffic noise, waste management and water quality for the proposal.</p>	<p>An Odour and Air Quality Assessment was undertaken in 2016 to support the then proposed waste transfer and recycling centre.</p> <p>The assessment considered impacts for the proposed project and the cumulative impact from the existing operations at the Mount Vincent Waste Disposal Management Facility. The land proposed for residential purposes is shown as complying with odour and air quality criteria.</p> <p>Noise impacts, waste and water management as a result of construction and future urban uses will be assessed at detailed design.</p>
<b>Heritage NSW</b>	No comment.	Nil.
<b>Hunter Water</b>	Hunter Water has no objection to the proposed rezoning, based on modelling for 85 dwellings.	Further consultation with Hunter Water will be required at detailed design stage to confirm service capacity.
<b>Mindaribba Local Aboriginal Land Council (MLALC)</b>	<p>Mindaribba LALC raised concern over the previous walkover assessment of the site, having been undertaken in 2012. This walkover was attended by Mindaribba and was used to inform subsequent archaeological investigation in 2018 and 2019.</p> <p>The limited extend of this investigation is noted. Since that time Mindaribba understand that site conditions have changed significantly</p>	<p>In 2018 a site inspection by an ecologist noted a potential Aboriginal grinding groove site find within the central portion of the site.</p> <p>With knowledge of the potential site, Council requested direct consultation between the proponent and the Mindaribba LALC on</p>

Agency	Response	Council's Comment
	<p>which would allow for a more thorough investigation of the site for surface relics.</p> <p>Mindaribba has requested the opportunity to re-assess the site, and particularly the area of a potential grinding groove find. Mindaribba have requested that an archaeologist of their choosing and a representative of Heritage NSW accompany the investigation.</p>	<p>numerous occasions throughout the assessment process.</p> <p>A detailed request for comment containing the assessment history and identification of the potential find was issued to Wonnarua Nation Aboriginal Corporation, Heritage NSW and Mindarriba LALC as key stakeholders identified at Gateway.</p> <p>As a result of Agency consultation, the Mindaribba LALC specifically requested a re-assessment of the site.</p> <p>The proponent did not engage directly with Mindarriba LALC to confirm the presence of the potential find.</p> <p>The proponent engaged their archaeological consultant to respond to the potential find.</p> <p>The consultant explained that no Aboriginal groups registered as an interested party therefore no further engagement would be required.</p> <p>The location of the site is within an existing gully. The NRAR identify this gully as a first order stream. And Vegetated Riparian Zones would be required. (10m from top of bank). The presence of the stream, overhead power lines and steep terrain of the gully render this</p>

Agency	Response	Council's Comment
		area unsuitable for residential intensification and has been excluded from the proposed R1 zone.
<b>Rural Fire Service (RFS)</b>	RFS raised no objection to the proposal subject to the secondary access being formalised to provide unrestricted public access and future subdivision complying with Planning for Bush Fire Protection 2019.	<p>RFS raised no objection to the proposal subject to the secondary access being formalised to provide unrestricted public access and future subdivision complying with Planning for Bush Fire Protection 2019.</p> <p>The land to the north of the site is currently in the same ownership as the site. An amendment to DA 19-128 may be required. Alternatively, a relinquishment of the approval and a whole of precinct development outcome be considered. This would be best achieved during the preparation of a DCP for the site.</p> <p>These recommendations have been included in the Planning Proposal.</p>
<b>Subsidence Advisory</b>	<p>The site is in the East Maitland Mine Subsidence District. Records indicate that the site is undermined by historic mine workings in the Rathluba Seam with depths of cover ranging from 5m – 65m. Additional geotechnical investigations will be required to confirm the mine subsidence risk for future subdivision applications.</p> <p>Known risks that require addressing prior to subdivision include: Pothole risk – requiring a condition of approval to eliminate risk via grouting of mine workings.</p>	<p>Subsidence Advisory raise no specific objection to the proposal, however, advise further investigation is to be undertaken at detailed design stage and prior to subdivision.</p> <p>Council has recommended a staged approach to subdivision to allow for adequate mine subsidence investigation and sequencing of land release in the URA.</p>



Agency	Response	Council's Comment
<b>Transport for NSW (TfNSW)</b>	<p>TfNSW raised no specific objections to the planning proposal, however provided general advice for Council's consideration.</p> <p>TfNSW noted that the Traffic Impact Assessment provided did not assess the suitability of the intersection layout, and therefore the safety side of assessment.</p> <p>TfNSW considers the existing intersection not appropriate and that the existing type is no longer supported as an intersection treatment in the Austroads guide.</p> <p>The intersection warrants an upgrade to a channelised right turn intersection as a minimum.</p>	<p>As the site is to be identified as an urban release area, it will be captured under the provisions of Part 6 of the Maitland LEP 2011. Subsequently, and consistent with other green field urban release areas, this ensures that satisfactory arrangements for the provision of designated state public infrastructure are met prior to the development of the site.</p>
<b>Wonnarua Nation Aboriginal Corporation</b>	No Response.	Nil.

## APPENDIX 2 – Locality Map



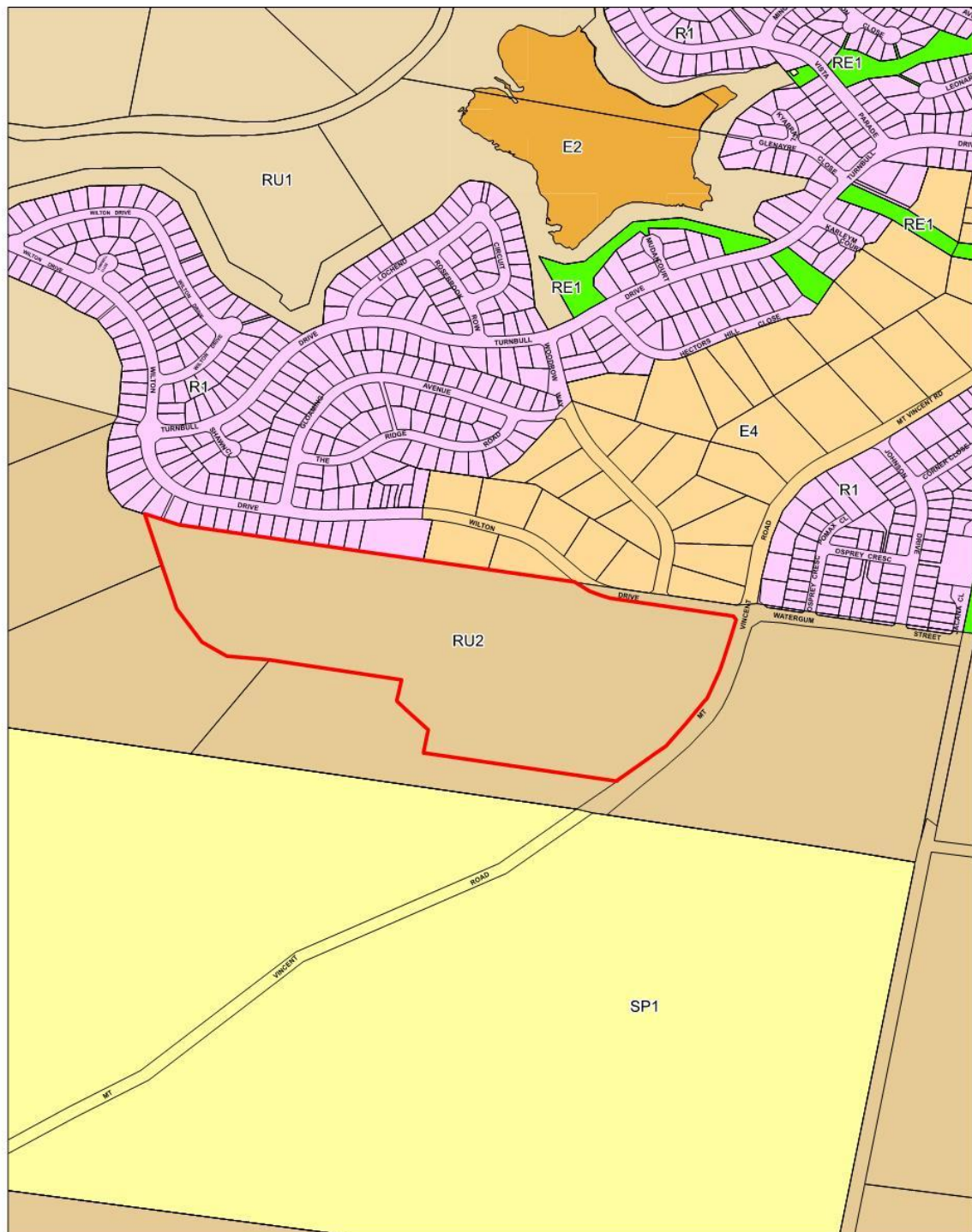
Scale 1 : 000  
 Printing Date: May 2021  
 © Maitland City Council 2021  
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## APPENDIX 3 – Existing Zone Map



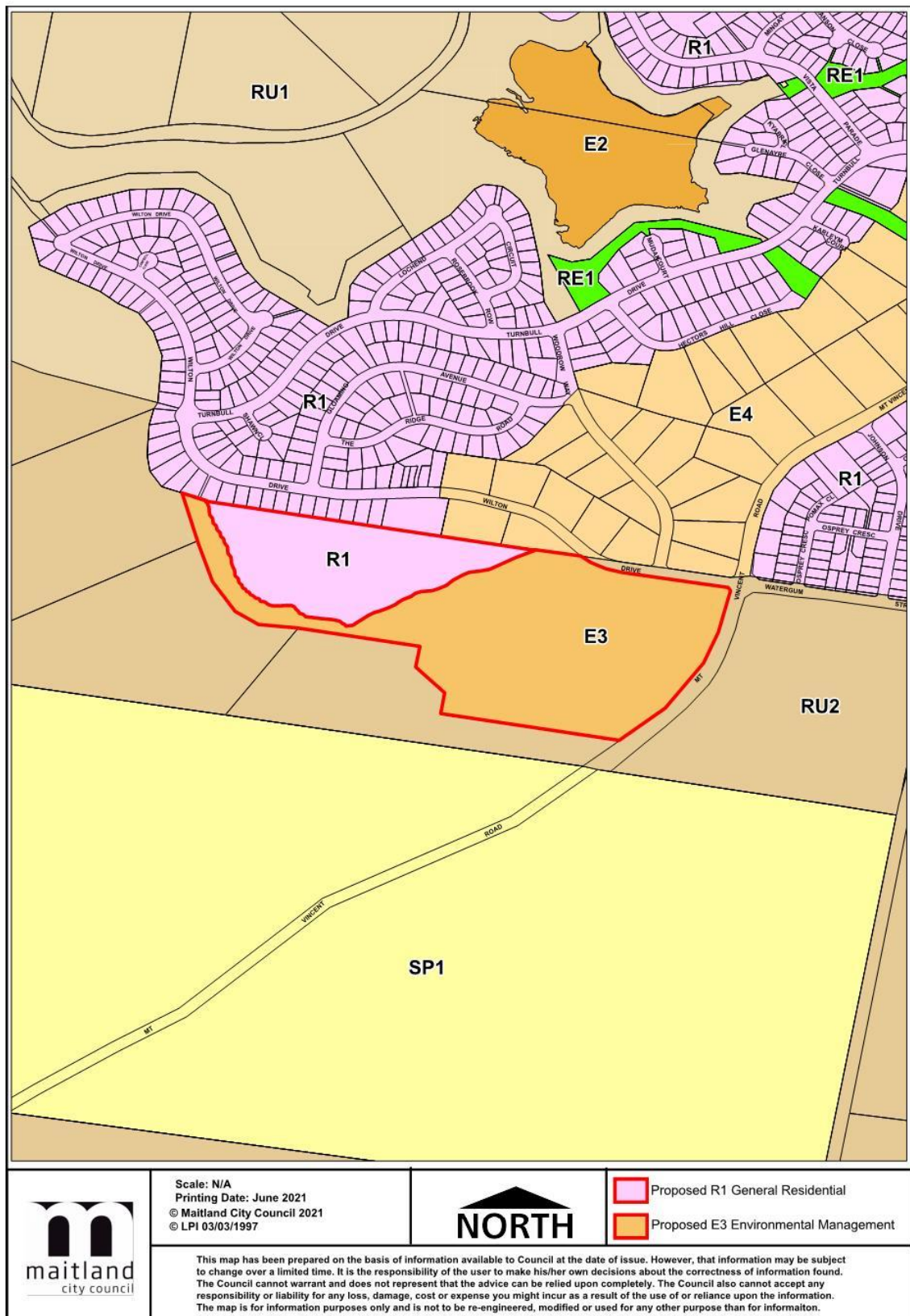
Scale: N/A  
 Printing Date: May 2021  
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Existing Zone Map  
 Subject Site

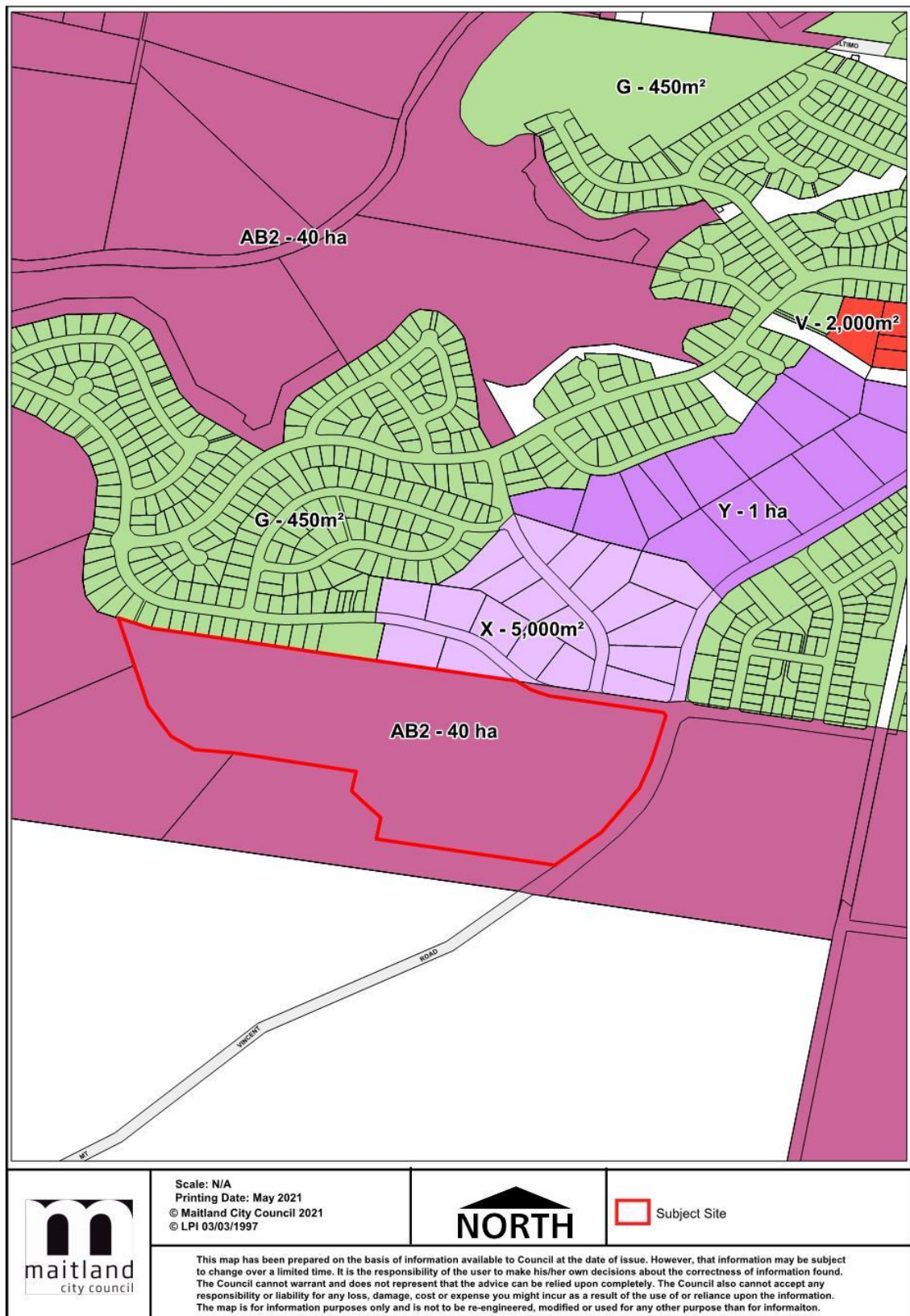
This map has been prepared on the basis of information available to Council at the date of issue. However, that information may be subject to change over a limited time. It is the responsibility of the user to make his/her own decisions about the correctness of information found. The Council cannot warrant and does not represent that the advice can be relied upon completely. The Council also cannot accept any responsibility or liability for any loss, damage, cost or expense you might incur as a result of the use of or reliance upon the information. The map is for information purposes only and is not to be re-engineered, modified or used for any other purpose than for information.

## Proposed Zone Map



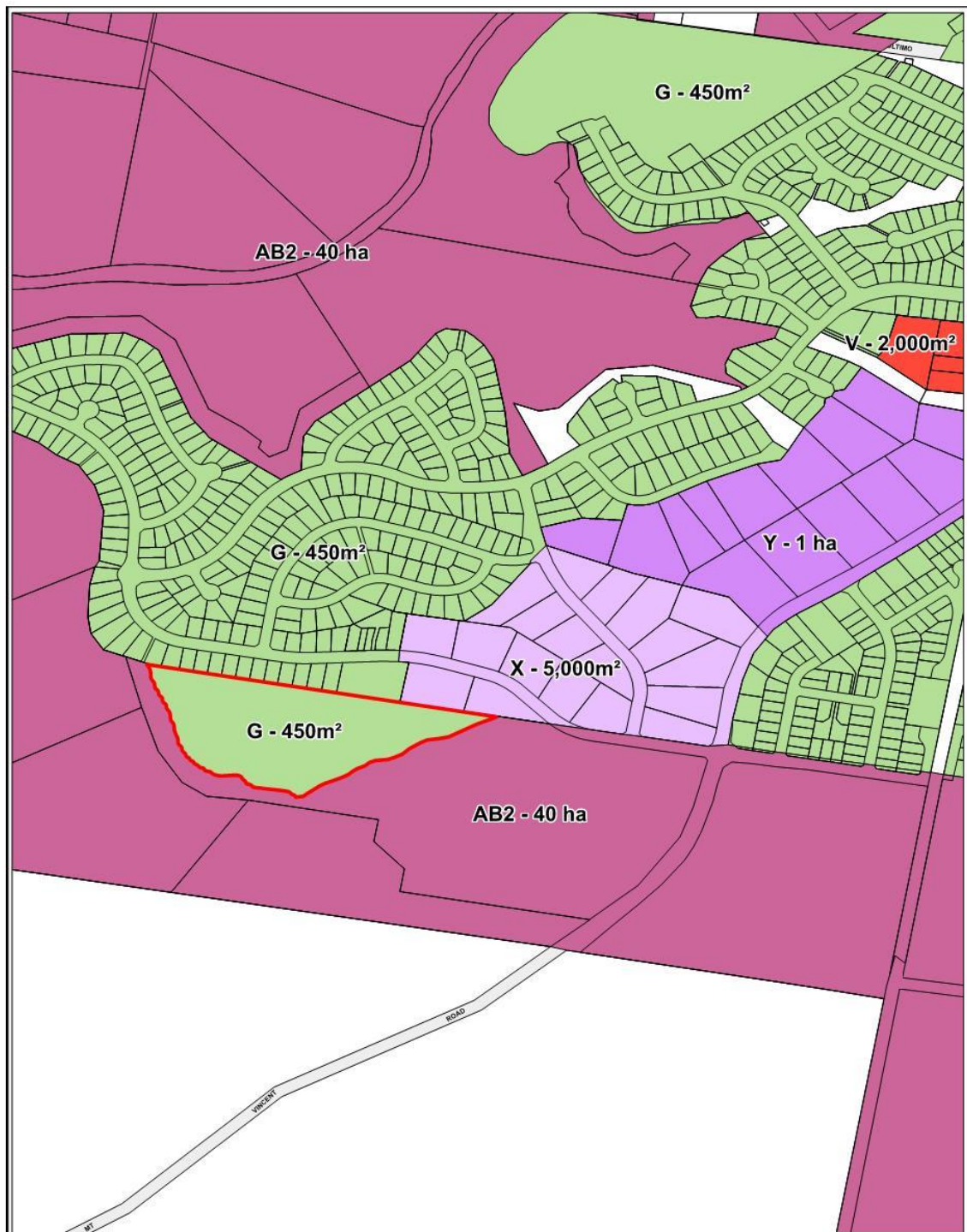


## APPENDIX 4 –Existing Lot Size Map





## Proposed Lot Size Map



Scale: N/A  
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 Proposed Minimum Lot Size  
 G - 450m<sup>2</sup>

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## APPENDIX 5 – Proposed Urban Release Area Map

