



IRF22/2059

## Gateway determination report – PP-2021-2820

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107 Haussman Drive, Thornton NSW 2322

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Draft Planning Proposal, 24 February 2022
Site Compatibility Certification, 4 October 2017
Preliminary Ecological Assessment, 23 March 2021 and 22 May 2021
Bushfire Threat Assessment, 11 September 2020
Traffic and Parking Impact Assessment, 8 <sup>th</sup> October 2020
Aboriginal Due Diligence, 2 October 2020
Preliminary Contamination Assessment, 29 June 2017
Surface Water and Sediment Assessment, 12 May 2021
Council report and Minutes, 8 March 2022

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	Maitland City Council
<b>PPA</b>	Maitland City Council
<b>NAME</b>	107 Haussman Drive, Thornton (160 Homes)
<b>NUMBER</b>	PP-2021-2820
<b>LEP TO BE AMENDED</b>	<i>Maitland Local Environmental Plan 2011</i>
<b>ADDRESS</b>	107 Haussman Drive, Thornton
<b>DESCRIPTION</b>	2/DP1145348
<b>RECEIVED</b>	24/05/2022
<b>FILE NO.</b>	IRF22/2059
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The objective of the planning proposal is to enable a diversity of future residential development outcomes and the protection of environmentally significant areas.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the *Maitland Local Environmental Plan 2011* per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	RU2 Rural Landscape	Part C3 Environmental Management and part R1 General Residential
Minimum lot size	40ha	Part 40ha and part 450m <sup>2</sup>

Control	Current	Proposed
Number of dwellings	0	160
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

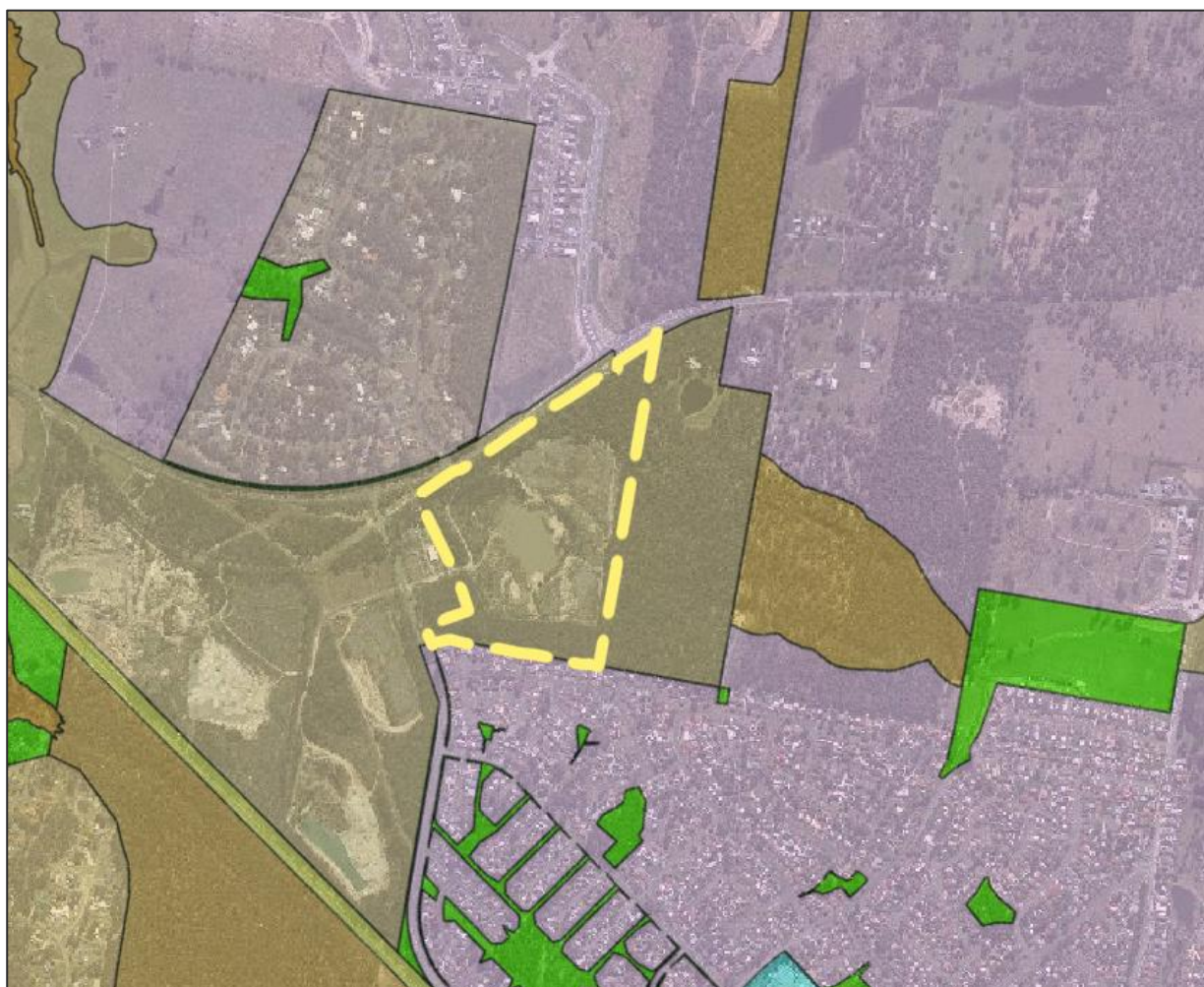
It is noted the planning proposal states the determination of zone boundaries will be finalised through the Gateway determination and as further information is provided and discussions with government agency consultation.

## 1.4 Site description and surrounding area

The site is identified as 107 Haussman Drive, Thornton; Lot 2 on DP1145348 (**Figure 1**). The site is 18.96ha in size and is in the Local Government Area of Maitland and within the Thornton Urban Release Area.

The site is accessed from Haussman Drive, and also fronts Raymond Terrace Road, a state-controlled road.

The site is currently zoned RU2 Rural Landscape.



**Figure 1 Subject site and site context (Source: Planning Portal)**



## 1.5 Mapping

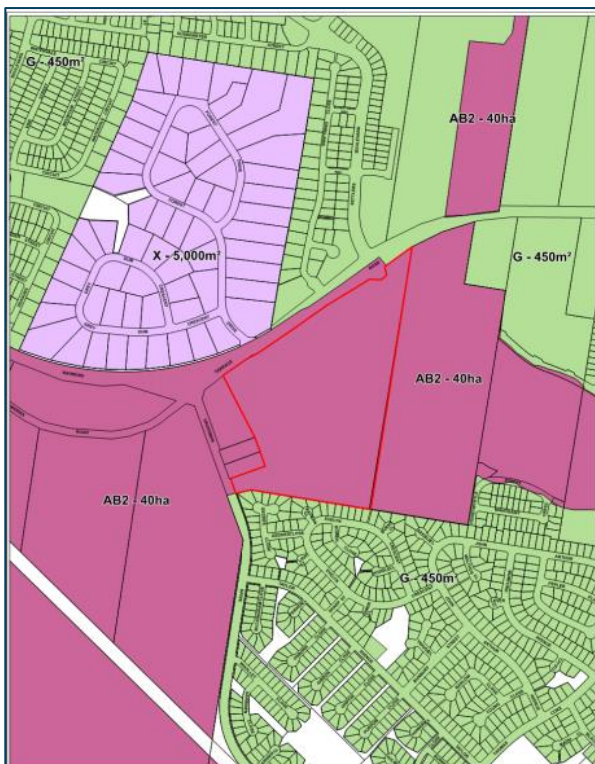
The planning proposal includes mapping showing the proposed changes to the Land Zoning and Minimum Lot Size maps (**Figures 3-6**), which are suitable for community consultation.



**Figure 2 Current zoning map (Source: Planning Proposal)**



**Figure 4 Proposed zoning map (Source: Planning Proposal)**



**Figure 5 Current minimum lot size map (Source: Planning Proposal)**



**Figure 6 Proposed minimum lot size map (Source: Planning Proposal)**

## 1.6 Background

The site has an existing development consent (DA 17-2593) for the construction of 156 independent living seniors' units granted under a previous site compatibility certificate. The works for the existing development consent had begun and resulted in clearing of vegetation for part of the site.

The planning proposal was endorsed by Maitland City Council at its ordinary meeting on 8 March 2022 seeking a Gateway determination and approval to consult the community and relevant agencies. The Council resolution also recommended that prior to a development application being determined, a precinct plan is required to be prepared that addresses traffic movement, potential connection to Settlers Boulevard and impact on the Haussman Drive intersection.

## 2 Need for the planning proposal

The planning proposal seeks to re-zone the site from RU2 Rural Landscape to part R1 General Residential and part C3 Environmental Management to enable 160 homes and the protection of environmental matters. The only means to achieve this intent is through a planning proposal. Assessment of strategic and site-specific merit has been undertaken throughout this report.

## 3 Strategic assessment

### 3.1 State Environmental Planning Policies

The planning proposal's consistency with relevant State Environmental Planning Policies (SEPP) is discussed below:

**Table 4 9.1 SEPP assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Koala Habitat Protection) 2021	To be confirmed	<p>A preliminary environmental assessment report found seven tree species listed under the SEPP. While the report concluded these comprised 'highly suitable habitat', there were no Koalas recorded within 2.5km of the site in the last 18 years.</p> <p>This does not seem unreasonable due to the surrounding urban form. However, the site is identified as part of a biodiversity corridor and further consultation is required with Biodiversity Conservation Division (BCD) on the conservation zones to be applied to the site.</p> <p>Consistency with the SEPP should be determined following consultation with BCD.</p>
SEPP (Primary Production and Rural Development) 2019	Consistent	<p>The site is not identified as State Significant Farmland and is likely to have minimal agricultural use due to existing constraints on site associated with resource activities and the proximity to residential areas.</p>



Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Mining, Petroleum Production and Extractive Industries)	Consistent	<p>The site is currently identified on the Minerals Resources Area Map under the <i>Maitland Local Environmental Plan 2011</i>.</p> <p>The site is subject to another planning proposal (PP-2022-1187) that seeks to remove the mineral resources area classification from the land where the resource has been exhausted or rendered impractical by subsequent and planned development.</p>

## 3.2 Hunter Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the *Hunter Regional Plan 2036* and the draft Hunter Regional Plan 2041.

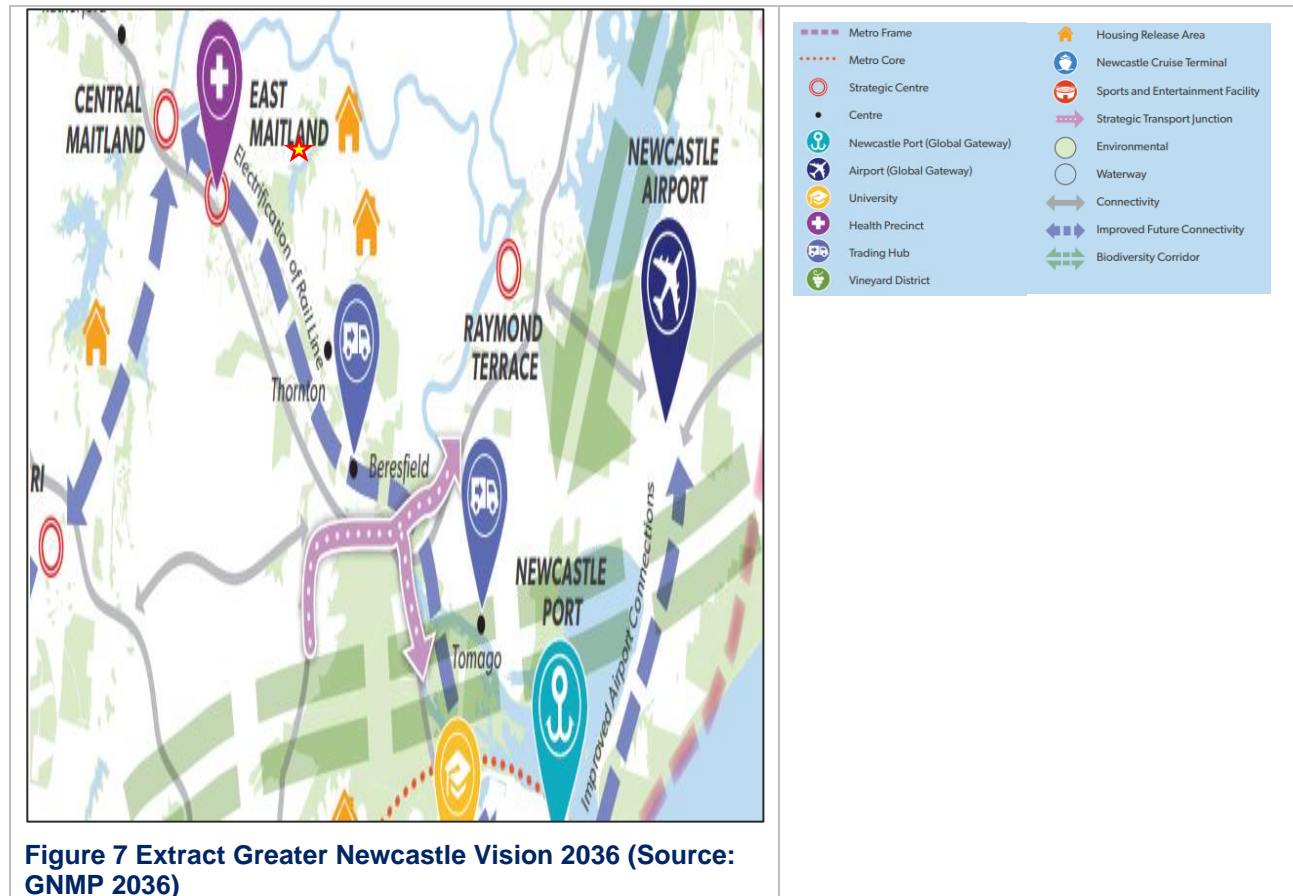
**Table 5 HRP 2036 and Draft HRP 2041 assessment**

Regional Plan Objectives/ Directions	Justification
<b>Hunter Regional Plan 2036</b>	
Direction 14 – Protect and connect natural areas	As discussed in Section 3.4 of this report, further evidence is required to determine whether the planning proposal protects and connects natural areas through an updated biodiversity assessment report.
Direction 16 – Increase resilience to hazards and climate change	Consultation with the NSW Rural Fire Service is required to demonstrate the adequacy of the supporting bushfire report to determine whether the proposed resolution of bushfire hazards is considered appropriate on the site.
Direction 21 – Create a Compact Settlement	The planning proposal seeks to re-zone land to enable additional housing in proximity to the Thornton Railway station and nearby commercial, employment and retail services. The site is in a predominantly urban location with potential access to infrastructure and other services.
Direction 22 Promote Housing Diversity	The planning proposal will promote housing diversity and the creation of a compact settlement given the proposed R1 General Residential zone supports a range of differing land uses and the minimum lot size will support up to 160 new homes over the site. Maitland Council will provide a significant proportion of Greater Newcastle's greenfield development in a focused area of Thornton.
Direction 23 Grow Centres and Renewal Corridors	

Regional Plan Objectives/ Directions	Justification
<b>Draft Hunter Regional Plan 2041</b>	
Objective 3: Create a 15-minute region	<p>According to Google maps, the site is approximately:</p> <ul style="list-style-type: none"> <li>• 1.2km (16 to 18-minute walk) from Thornton local centre comprising a supermarket, specialty stores, library, community centre, Thornton Oval and playground,</li> <li>• 1.8km (23 to 25-minute walk) from Thornton railway station and light industrial employment uses, and</li> <li>• 3.5km km from Maitland hospital, which is a 4-minute drive.</li> </ul> <p>The site is well-positioned to a range of day-to-day needs and services, however, there may be scope to promote active transport alternatives for incidental or recreational trips through improvements to footpaths and cycleways. These can be further implemented at the development application stage.</p> <p>Furthermore, it is noted there is an active planning proposal (PP-2022-1187) opposite the site to the west for the old Brickworks site which seeks a range of employment uses. This will further reinforce accessibility for future residents to local employment opportunities without the need to commute by private vehicle.</p> <p>The planning proposal is consistent with the objective.</p>
Objective 4: Nimble neighbourhoods	<p>The draft regional plan recognises that in order to achieve the many public interest intentions of the draft plan, new developments will have to be different. There needs to be greater diversity of housing to improve affordability.</p> <p>Given the proposed minimum lot size of 450m<sup>2</sup> is the same as the adjoining R1 General Residential zoned areas, it is not consistent with this strategy or objective.</p> <p>Given the proposed opportunities for a 15-minute neighbourhood outlined above, a density of only 8 dwellings/ha will be a significant missed opportunity and substantially below an optimum density for the site.</p> <p>Despite the minimum lot size proposed, Clause 4.1A of the <i>Maitland Local Environment Plan 2011</i> allows for increased diversity and density of residential development to enable attached dwellings, and semi-detached dwellings on sites equal to or greater than 300m<sup>2</sup>. This will enable increased density to be provided over the site. The draft plan includes a strategy 4.2 that new housing release areas should include a mix of lot sizes that shall not limit small-scale residential dwellings on 200m<sup>2</sup> lots.</p> <p>The planning proposal is not consistent with the objective. In this case, the <i>Hunter Regional Plan 2036</i> prevails over the inconsistency.</p>

### 3.3 Greater Newcastle Metropolitan Plan 2036

The site is in the Metro Frame of the *Greater Newcastle Metropolitan Plan 2036* (Figure 7).



The planning proposal is consistent with the *Greater Newcastle Metropolitan Plan 2036* as outlined below.


**Table 6 GNMP assessment**

Plan Priorities	Justification
Outcome 3: Deliver Housing close to jobs and services	The planning proposal seeks to re-zone land to enable additional housing in proximity to Thornton Railway station and nearby commercial, employment and retail services. The site is in a predominantly urban / urban release location with access to infrastructure and other services.
Local Government Narratives	The planning proposal seeks to re-zone land that enables additional housing which aligns with the local government narrative of Maitland. Maitland will provide a significant proportion of Greater Newcastle's greenfield development, focused around the Thornton area.

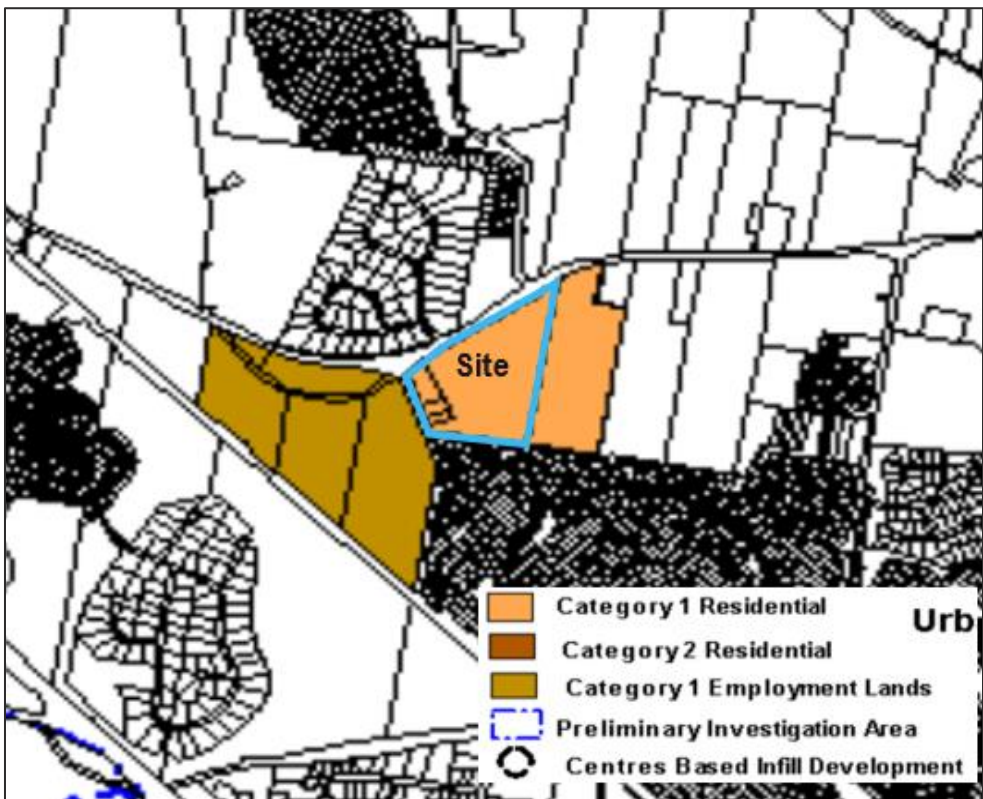

### 3.4 Local

The planning proposal states it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as identified in the table below:

**Table 7 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>The site is identified as a planned residential investigation area and located within the Eastern Precinct of Maitland (Figure 8).</p>  <p><b>Figure 8 Extract LSPS Structure Plan (Source: Maitland LSPS)</b></p> <p>The precinct is projected to grow by an additional 6,100 residents by 2040. The planning proposal supports housing provision to meet the needs of the community.</p> <p>The planning proposal is consistent with the Maitland LSPS.</p>



Local Strategies	Justification
<p>Maitland Urban Settlement Strategy 2012</p> <p>Maitland Greening Plan 2002</p>	<p>The site is identified as Category 1 Residential land in the Maitland Urban Settlement Strategy (MUSS) and in the Maitland Greening Plan 2002 as a future opportunity corridor for biodiversity and connectivity (Figures 9 and 10).</p>  <p><b>Figure 9 Extract Eastern Sector Map (Source: MUSS)</b></p>  <p><b>Figure 10 Extract Opportunities Corridors (Source: Maitland Greening Plan)</b></p> <p>Council identifies the site is strategically located to existing residential growth and has access to a range of existing services and commercial centres.</p> <p>Council identifies the planning proposal process provides for additional investigation and agency consultation required to justify the amendments to the planning controls and determine the appropriate land use configurations for the site.</p>



### 3.5 Section 9.1 Ministerial directions

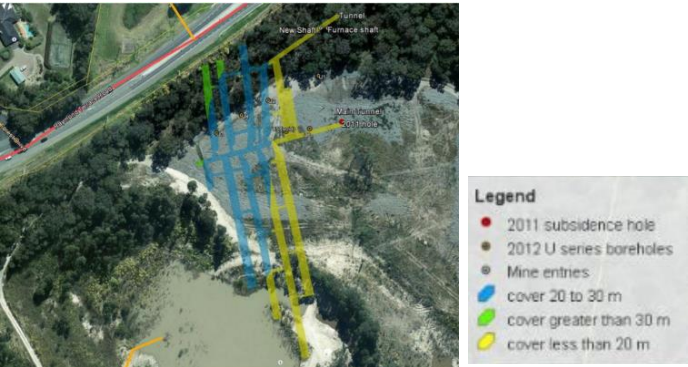
The planning proposal's consistency with relevant section 9.1 Ministerial directions is discussed below:

**Table 8 9.1 Ministerial direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1. Implementation of Regional Plans	Consistent	Detailed assessment of the proposal's consistency with regional plans is identified in Section 3.1 of this report.
3.1 Conservation Zones	Inconsistent	<p>The objective of Direction 3.1 is to protect and conserve environmentally sensitive areas.</p> <p>The planning proposal seeks to re-zone land to part R1 General Residential and C3 Environmental Management. The proposed area of R1 General Residential contains sections of environmental significance around the edges of the cleared area of the site.</p> <p>In this regard, the proposal has not demonstrated how the boundary of the R1 General Residential Zone avoids or minimise the impacts to vegetation or environmental values such as the Lower Hunter Spotted Gum.</p> <p>This is particularly important as the site has been identified in relevant strategies as having potential for biodiversity corridors.</p> <p>The Biodiversity Assessment Method (BAM) is the pathway to determine if land should be avoided or conserved. The BAM must be applied by an accredited assessor and is required to determine consistency with Ministerial Direction 3.1. The outcome of the BAM assessment will determine the zone boundaries for the R1 General Residential and C3 Environmental Management zones.</p> <p>Early consultation with the Biodiversity Conservation Division identified the preliminary environmental assessment supporting the planning proposal had been prepared prior to the release of the BAM.</p> <p>The BAM includes set processes on identifying items of significance and survey methodologies which may take several months to complete. The outcome of the surveys may result in changes to the proposed zoning boundaries.</p> <p>It is recommended that planning proposal be resubmitted following completion of a BAM assessment.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
3.2 Heritage Conservation	Consistent	<p>Direction 3.2 requires a planning proposal to conserve items, areas, objects, and places of environmental and indigenous heritage significance.</p> <p>The planning proposal is supported by an aboriginal due diligence report, which does not identify any items of significance in the proposed urban footprint. The location of significance is identified in the C3 Environmental Management zone which does not facilitate additional intensification of the site.</p> <p>Given the site was previously used as a quarry and has undergone recent vegetation clearing, the identification of potential indigenous heritage value is unlikely. Nevertheless, prior to the granting of development consent and in the event of earthworks identifying additional artifacts, protocols are in place to stop work and assess any potential objects.</p> <p>Given the proposed urban footprint does not contain items of significance, the planning proposal is considered consistent with Direction 3.2.</p>
4.1 Flooding	Consistent	<p>The planning proposal is not affected by flooding as identified by the <i>Maitland Local Environmental Plan 2011</i>.</p>
4.3 Planning for Bushfire Protection	Inconsistent	<p>The planning proposal is supported by a bushfire report having regard to <i>Planning for Bushfire Protection 2019</i>. The report recommends mitigation measures including asset protection zones and limiting the extent of development to avoid placing development in hazardous areas.</p> <p>However, the NSW Rural Fire Service (RFS) has not been consulted on the adequacy of the bushfire report and therefore the planning proposal is inconsistent with the Direction.</p> <p>It is recommended that NSW RFS be consulted to determine consistency with Direction 4.3 and the adequacy of the bushfire report. Consideration of the need for additional access points for evacuation in the event of a bushfire is also recommended during consultation with RFS.</p> <p>It is noted that NSW RFS advice may have implications for the scope and outcome of the BAM assessment (refer to Direction 3.1) which need to be considered concurrently to ensure the best possible conservation and bushfire risk outcome. Therefore, the planning proposal should be resubmitted following confirmation from NSW RFS regarding bushfire risk and proposed mitigation measures.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.4 Remediation of Contamination Land	Consistent	<p>The planning proposal is supported by a preliminary contamination assessment. Additional ground water monitoring was also undertaken, which is further discussed in the surface water and sediment assessment summary.</p> <p>The preliminary contamination assessment identified the site is likely to be suitable for development.</p> <p>The surface water assessment identified the water on-site contained concentrations of metals however, they were unlikely to have an environmental impact on the nearby creek and therefore do not warrant remediation. The surface water is also suitable for on-site irrigation.</p> <p>Despite the findings of the study, consultation is recommended with the NSW Environment Protection Authority (EPA) to confirm the adequacy of the reports and suitability of the site for development before the LEP is finalised.</p>
4.5 Acid Sulfate Soils	Consistency is of minor significance	<p>The preliminary contamination assessment did not identify the site as containing acid sulfate soils; however, the site is identified in the <i>Maitland Local Environmental Plan 2011</i> as potentially containing class 5 acid sulfate soils.</p> <p>However, Clause 7.1 – Acid Sulfate Soils of <i>Maitland Local Environmental Plan 2011</i> requires that prior to granting development consent consideration of acid sulfate soils must be undertaken.</p> <p>Any inconsistency with Direction 4.5 is considered of minor significance.</p>
4.6 Mine Subsidence and Unstable Land	Inconsistent	<p>The planning proposal is not within a declared mine subsidence district. However, the site could be located on land that is considered unstable and no assessment of the stability of the land has been undertaken.</p> <p>The planning proposal notes that importation of fill is being undertaken to remediate the quarry void, and further validation of the fill material will be required to determine the compatibility with future residential uses.</p> <p>Consultation with the Subsidence Advisory NSW is recommended to determine consistency with Direction 4.6 and whether additional studies or measures, including grouting, are required to support future residential uses.</p> <p>The planning proposal notes that previous consultation with Subsidence Advisory NSW indicates that fully grouting the area of affectation will be required to support future residential uses.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
5.1 Integrating land use and transport	Consistency to be determined	<p>The planning proposal is supported by a traffic assessment that considers the efficiency of the nearby and proposed road intersections.</p> <p>Preliminary consultation with Transport for NSW identified detailed transport investigations were underway in the area and the transport assessment would need to be updated to factor in the detailed investigations underway.</p> <p>The site is in proximity to alternative transport modes including rail, bus, and walking services as outlined in Section 3.1.</p> <p>Further consultation is recommended with Transport for NSW on the adequacy of the supporting traffic assessment before consistency with Direction 5.1 can be resolved.</p>
6.1 Residential Zones	Consistency to be determined	<p>The proposal seeks to re-zone the site to R1 General Residential which enables a range of housing typologies as permissible with consent.</p> <p>The site is in a predominantly urban environment with reasonable access to infrastructure and services.</p> <p>Consultation with Hunter Water Corporation is recommended to confirm whether there is adequate water and waste-water capacity to support the development before consistency with Ministerial Direction 6.1 can be resolved.</p>
8.1 Mining, Petroleum Production and Extractive Industries	Inconsistency is of minor significance	<p>The site is identified on the Minerals Resource Areas Map in <i>Maitland Local Environmental Plan 2011</i>. The planning proposal notes the site has historically been used as a clay quarry and has also been identified as having undermined coal workings towards its northern boundary (Figure 11).</p>  <p><b>Figure 11 – Preliminary plan of mine workings</b></p> <p>The site is subject to another planning proposal (PP-2022-1187) that seeks to remove the mineral resources area classification from the land where the resource has been</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>exhausted or rendered impractical by subsequent and planned development.</p> <p>Furthermore, the planning proposal the site is subject to a site compatibility certificate that support seniors housing.</p> <p>The site is also located in a predominantly urban location which would limit the future development potential of an extractive resource operation and therefore the proposal's inconsistency with Direction 8.1 is considered of minor significance.</p>
9.2 Rural Lands	Inconsistency is of minor significance	<p>The site is identified in Maitland's Local Strategic Planning Statement and Urban Settlement Strategy as an area for potential residential development. The site contains an approval for seniors living and is surrounded by existing residential and urban development. The site does not impact on the value of productive agricultural land and does not impact on the orderly uses of rural lands or rural activities.</p> <p>Inconsistency with the Direction is of minor significance.</p>

## 4 Site-specific assessment

### 4.1 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

**Table 9 Infrastructure assessment**

Infrastructure	Assessment
Sewer and Water	<p>The planning proposal identifies sewer and water are available either at or in the immediate vicinity of the site. Consultation with Hunter Water Corporation is recommended to confirm the location of the infrastructure services and their capacity to support increased development prior to the planning proposal being re-submitted.</p>
Transport	<p>The planning proposal is supported by a traffic assessment which demonstrates potential impacts and queuing at the intersection of Haussman Drive and Raymond Terrace Road.</p> <p>Consultation during the Gateway assessment stage of the planning proposal indicated that TfNSW has undertaken updated transport counts and detailed transport modelling for the area.</p> <p>It is recommended the proponent and Council consult TfNSW prior to the planning proposal being resubmitted to determine the adequacy of the supporting transport report and the detailed modelling undertaken for the area.</p>



Infrastructure	Assessment
Other	The site is identified as an Urban Release Area meaning that prior to development consent being granted, the state infrastructure needs for the development are required to be considered.

## 5 Consultation

### 5.1 Community

The recommendation is for the planning proposal to be resubmitted.

### 5.2 Agencies

The recommendation is for the planning proposal to be resubmitted.

## 6 Timeframe

The recommendation is for the planning proposal to be resubmitted.

## 7 Local plan-making authority

The recommendation is for the planning proposal to be resubmitted.

## 8 Assessment summary

The planning proposal has demonstrated strategic merit as it aligns with Hunter Regional Plan 2036, Greater Newcastle Metropolitan Plan 2036, Council's LSPS, and the Maitland Urban Settlement Strategy however, the site-specific merit can't be determined until the following matters are resolved.

As discussed in this report, prior to the planning proposal obtaining a Gateway determination to proceed, the planning proposal should be updated to include:

- a biodiversity assessment report prepared in accordance with the NSW Biodiversity Assessment Method.
- advice from Subsidence Advisory NSW regarding proposed grouting to resolve stability issues and whether these can be resolved at the development application stage.
- advice from Rural Fire Services on the need for a secondary access to the site to manage evacuation in the event of a bushfire. Should a secondary access be located on land outside of the planning proposal, confirmation and/or support from adjoining landowners is recommended.

While not required to be updated prior to being resubmitted, the following could be considered as part of the resubmitted planning proposal as it will need to be addressed prior to public exhibition if the matter proceeds:

- a revised transport assessment that considers Transport for NSW's road and intersection planning for the area.
- advice from Hunter Water Corporation on the location and capacity of sewer and water in relation to the site.

- an assessment against section 9.1 Ministerial directions and policies applicable at the time of re-lodgement.

## 9 Recommendation

It is recommended the delegate of the Minister determine the planning proposal should be resubmitted, subject to the following conditions:

1. The resubmitted planning proposal should be updated to include:
  - a biodiversity assessment report prepared in accordance with the NSW Biodiversity Assessment Method.
  - advice from Subsidence Advisory NSW regarding proposed grouting to resolve stability issues and whether these can be resolved at the development application stage.
  - advice from NSW Rural Fire Services on the need for a secondary access to the site to manage evacuation in the event of a bushfire. Should a secondary access be located on land outside of the planning proposal, confirmation and/or support from adjoining landowners is required.
2. The following will likely be required to be addressed prior to public exhibition of any resubmitted planning proposal (unless address beforehand):
  - a revised transport assessment that considers Transport for NSW's road and intersection planning for the area.
  - advice from Hunter Water on the location and capacity of sewer and water in relation to the site.
  - an assessment against section 9.1 Ministerial directions and policies applicable at the time of re-lodgement.
3. The timeframe to re-submit the planning proposal is by 26 August 2023.



8 August 2022

Daniel Starreveld

Manager, Local and Regional Planning



26/08/2022

\_\_\_\_\_  
(Signature)

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