

## Planning and Assessment

IRF21/47

### Gateway determination report

<b>LGA</b>	Maitland City Council
<b>PPA</b>	Maitland City Council
<b>NAME</b>	Anambah House (72 homes, 0 jobs)
<b>NUMBER</b>	PP_2021_MAITL_001_00
<b>LEP TO BE AMENDED</b>	Maitland Local Environmental Plan 2011
<b>ADDRESS</b>	Anambah House, Anambah Road, Anambah
<b>DESCRIPTION</b>	Lot 712 DP1233410, Lots 721 and 722 DP1191240
<b>RECEIVED</b>	11/01/2021
<b>FILE NO.</b>	IRF21/47
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists.

## 1. INTRODUCTION

### 1.1 Site description

Anambah House is located on Anambah Road, Anambah and is approximately 6.7km north west of Maitland (see Figure 1). It is a rural grazing property, including Anambah House constructed in 1889. Anambah House is a heritage item of State significance including gardens, outbuildings and surrounds.

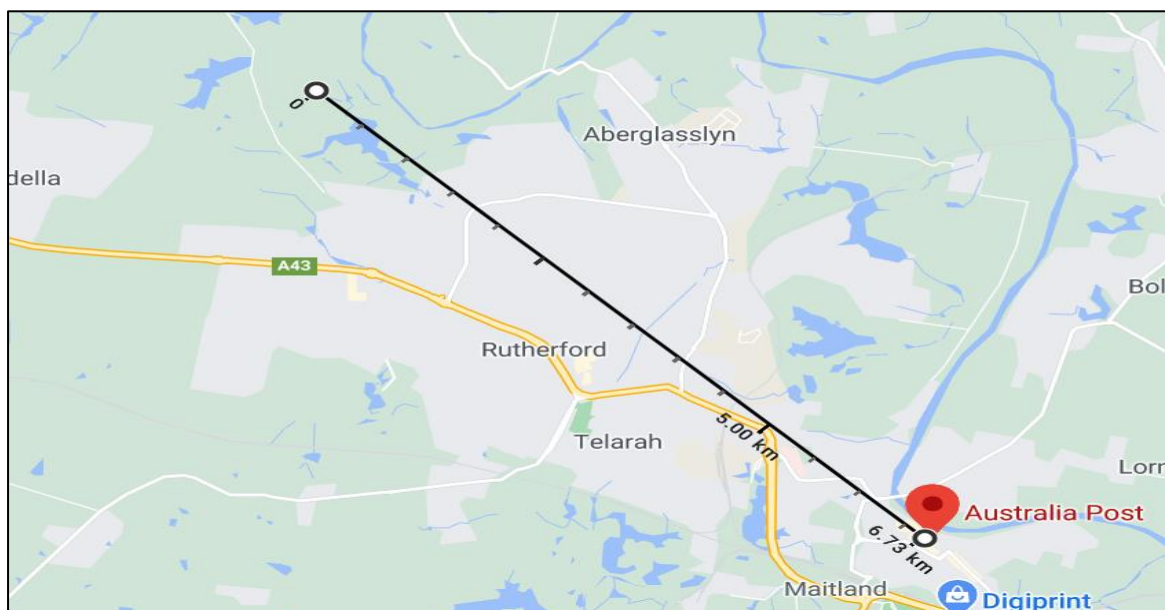


Figure 1: Anambah House location

Anambah House has a frontage to the Hunter River and significant areas of the property are flood prone land. The site includes wetland areas in the northern and southern areas of the property (see Figure 2).



Figure 2: Anambah property boundaries

## 1.2 Existing planning controls

The site is predominantly zoned RU2 Rural Landscape, with a wetland in the south zoned E2 Environmental Conservation (see Figure 3).

The minimum lot size is 40ha (see Figure 4).

Anambah House and its curtilage is identified on the State Heritage Register. It is also identified as an item of State significance in Schedule 5 and the Heritage map of the *Maitland Local Environmental Plan 2011*.

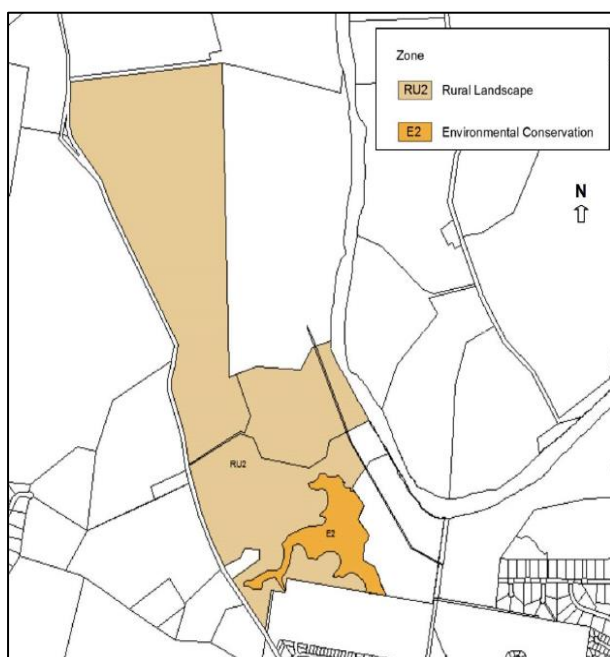


Figure 3: Land Zoning

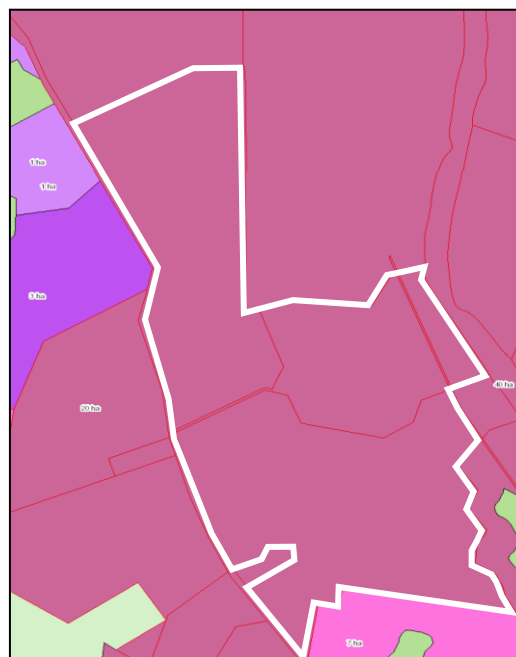


Figure 4: Minimum Lot Size (site outlined white)

### 1.3 Surrounding area

The site is on the western bank of the Hunter River. To the west across Anambah Road is Rutherford Aerodrome. The land immediately to the west of Anambah Road and adjoining the aerodrome is identified as future employment lands and large lot residential.

The Anambah Road Urban Release Area is to the south east of the property. Across Anambah Road to the north west is the Anambah Urban Release Area identified in the *Maitland Urban Settlement Strategy 2012* and rezoned at the end of 2020 for residential purposes (see Figure 5).

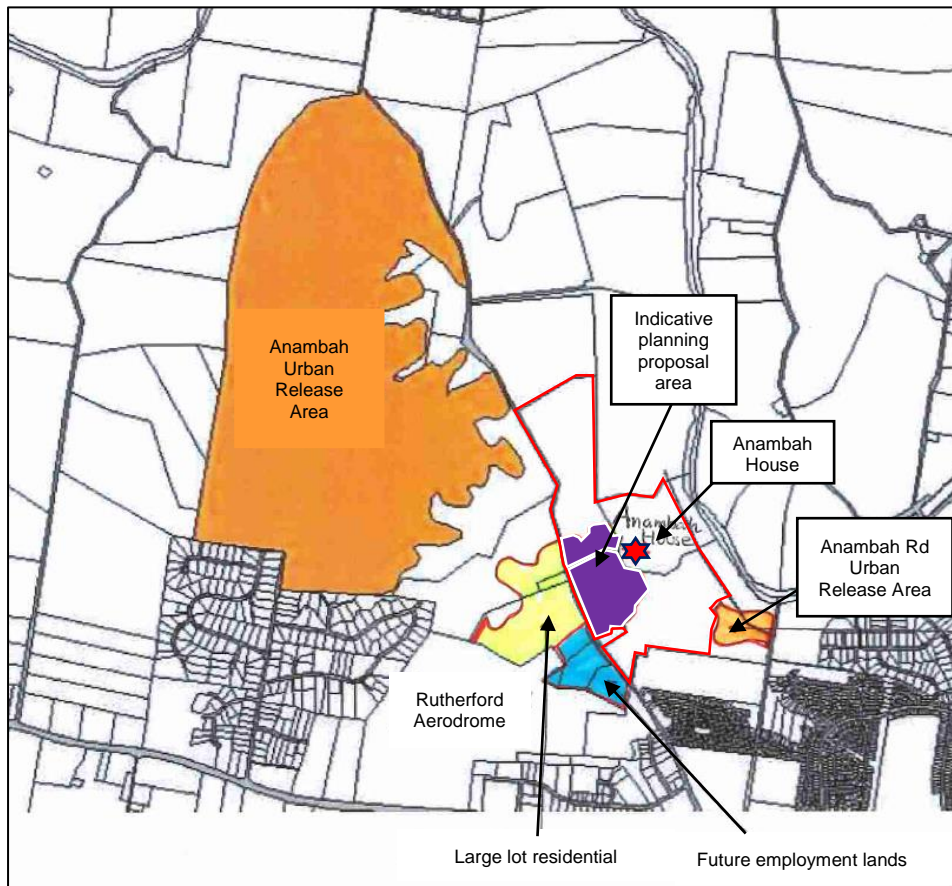


Figure 5: Surrounding area (site outlined red)

## 2. PROPOSAL

### 2.1 Description of planning proposal

The planning proposal seeks to rezone part of the property to the south west of Anambah House and either side of its access road from RU2 Rural Landscape to R5 Large Lot Residential.

### 2.2 Objectives or intended outcomes

The objectives of the planning proposal are to enable rural residential development, which is identified in the *Maitland Urban Settlement Strategy 2012*. It also intends to protect areas with environmental constraints and ensure future residents have access to local and regional infrastructure.

The planning proposal has been initiated by the owners of Anambah House to fund restoration and conservation of the State listed heritage item.



## 2.3 Explanation of provisions

The planning proposal seeks the following *changes to the Maitland Local Environmental Plan 2011*:

- rezone 18Ha of the site from RU2 Rural Living to R5 Large Lot Residential;
- amend the minimum lot size to accommodate a range of sizes (to be determined);
- amend the heritage map to accurately reflect the heritage item and its amended curtilage; and
- amend the height of buildings map to establish a height of 8.5m to ensure development achieves the Obstacle Limitation Surface for the nearby Rutherford Aerodrome.

*Maitland Development Control Plan 2011* will also need to be amended to include provisions for the protection of Anambah House, its curtilage and view lines.

## 2.4 Mapping

The planning proposal includes maps showing the current zones for the property and the proposed change of zone to part of the property to R5 Large Lot Residential (see Figure 6).

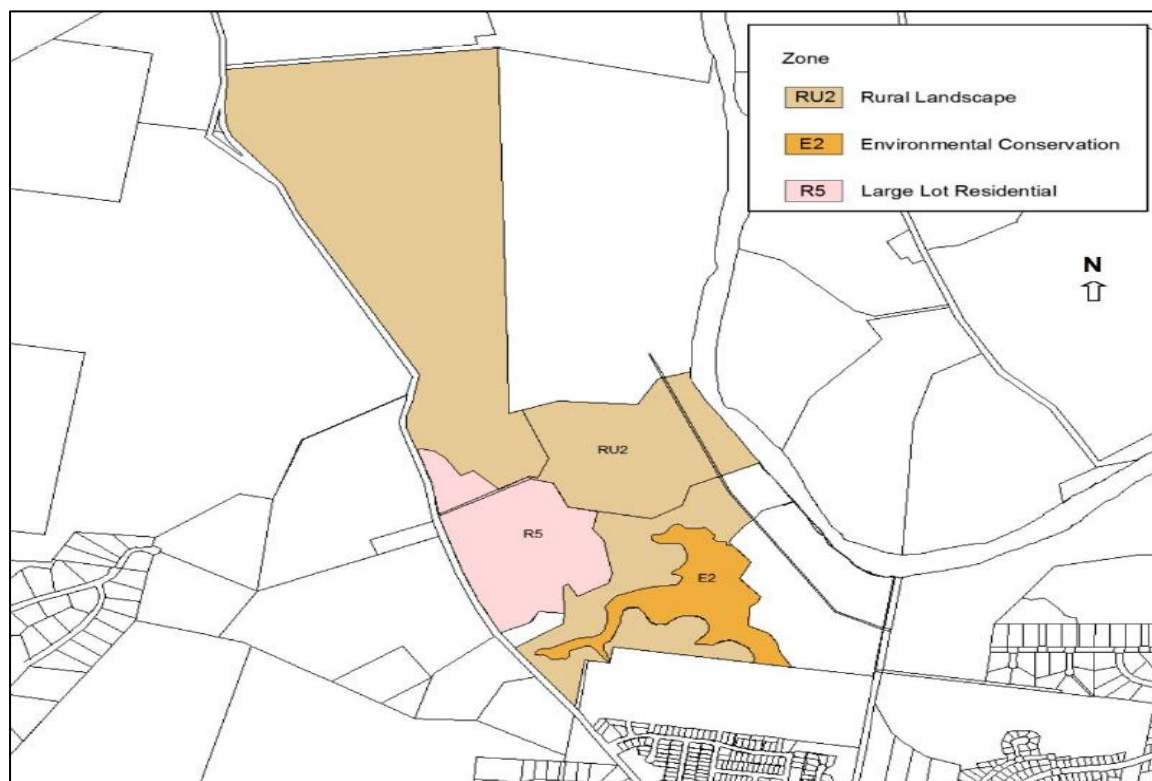


Figure 6: Proposed zoning (site coloured pink and annotated R5)

The planning proposal needs to be updated to include maps showing the:

- current and proposed minimum lot sizes;
- current mapped heritage item;
- proposed change to the mapped curtilage of Anambah House; and
- proposed height of building of 8.5m.

### 3. NEED FOR THE PLANNING PROPOSAL

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The *Maitland Urban Settlement Strategy 2012* (MUSS) identifies the site as suitable for consideration for urban purposes.

A change in zone and minimum lot size is required as well as clear identification of the heritage curtilage of Anambah House. In addition, controls need to be put in place to limit building height near Rutherford Aerodrome. These changes can only be achieved through a planning proposal that amends *Maitland Local Environmental Plan 2011*.

There will also be several other site-specific controls that will be included within the *Maitland Development Control Plan 2011*.

### 4. STRATEGIC ASSESSMENT

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#### 4.1 Regional

##### Hunter Regional Plan 2036

The planning proposal will provide diverse housing opportunities on 18Ha of land to help achieve the 12,550 homes needed by 2036 for Maitland. This site is close to established services and infrastructure, Maitland town centre and employment opportunities.

The planning proposal achieves the following actions in the *Hunter Regional Plan 2036*:

- Action 21.1 – Promoting development that respects the landscape attributes;
- Action 21.2 – Focuses development to create compact settlements in locations with established services and infrastructure;
- Action 21.6 – Provides greater housing choice by delivering diverse housing, lot types and sizes;
- Action 22.5 – Delivers rural residential development in accordance with a local strategy that:
  - will not impact on important agricultural land, energy, mineral or extractive resource viability or biodiversity values; and
  - occurs on land not needed for urban development.

The development will also help to protect and restore an item of State heritage significance.

##### Greater Newcastle Metropolitan Plan 2036

The planning proposal notes the site is not identified in the *Greater Newcastle Metropolitan Plan 2036* as a housing release area. However, it is consistent with the strategies and actions within the Plan in providing additional housing within existing developing areas close to existing jobs and services.

The planning proposal specifically achieves Action 18.1, which requires rural residential development to be supported by a local planning strategy and in locations where:

- the land is unlikely to be required for more intensive urban purposes;

- less intensive development will result in better management of the land; and
- delivery of infrastructure required to service the development is physically and economically feasible.

The planning proposal is in an area not proposed or suitable for intensive urban development, is close to services and will help protect the heritage integrity of Anambah House. The planning proposal demonstrates consistency with Regional Plans and Strategies.

## 4.2 Local

### Maitland +10 (Community Strategic Plan)

The planning proposal states it is consistent with the Maitland +10 Community Strategic Plan's vision and objectives in that it is providing opportunity for urban growth for the needs of a growing population.

### Maitland Local Strategic Planning Statement 2040+

The Maitland Local Strategic Planning Statement 2040+ (LSPS) supports rural residential development in locations that cannot be considered for more intensive urban development and as a buffer to rural lands. It also calls for more diverse housing supply.

The LSPS identifies the site as an area for 'Future Investigation' (Figure 7 – black hatching), which is defined as:

*The 'future investigation' category included land that has been identified in the Maitland Urban Settlement Strategy as 'category 2' investigation areas where detailed studies and investigations are required to confirm their suitability for future development and this land would logically be developed after 'category 1' lands.*

Additional studies will be required to confirm suitability of the site for future development of the site. The required studies are discussed in other sections of this report and will be included as conditions on the Gateway determination.



Figure 7: Extract Maitland LSPS map (site identified by red star)

### Maitland Urban Settlement Strategy 2012 (MUSS)

The MUSS categorises investigation areas as Category 1 (0-5 years), Category 2 (5-10 years) or Preliminary Investigation Areas (10+ years) to indicate a general sequence for development. The MUSS notes that “Category 1 land is connected with existing urban areas and is expected to be more easily serviced. Category 2 lands would logically be developed after Category 1 land”.

In September 2009, the Department conditionally endorsed the MUSS.

The site is identified as ‘Category 2 Large Lot Residential’ and is out of sequence with intended land release. As indicated above, this would generally be developed in sequence. However, the current MUSS was adopted in 2012 and is approaching the anticipated timeframe for development of this area. Furthermore, Anambah House is a heritage listed item of State significance and the planning proposal would enable the restoration and conservation of the heritage item.

The planning proposal is generally consistent with the MUSS. Any inconsistency with the sequencing of development is reasonable as the MUSS anticipated development of this area within 5-10 years from its adoption and the planning proposal will deliver heritage benefits through the restoration and conservation of Anambah House.

### **4.3 State environmental planning policies (SEPPs)**

#### SEPP (Primary Production and Rural Development) 2019

The planning proposal states that it is inconsistent with SEPP (Rural Lands) 2008. However, this SEPP has been repealed and the planning proposal is consistent with SEPP (Primary Production and Rural Development) 2019. The planning proposal will need to be updated to reference the current SEPP.

#### SEPP 55 - Remediation of Land

This SEPP will apply when a development application is lodged.

A preliminary site investigation report has been prepared in accordance with section 9.1 Ministerial direction 2.6 Remediation of Contaminated Land. The preliminary investigation found that the site was not subject to contamination.

Additional contamination investigations will need to be conducted in support of any future development application for the site.

#### SEPP (Koala Habitat Protection) 2021

The SEPP was made and commenced on 17 March 2021. Under the SEPP, the SEPP does not apply to land zoned RU2 Rural Landscape in the Maitland Local Government Area. Instead, the Koala SEPP 2020 continues to apply and this largely reinstated SEPP 44.

The planning proposal states an ecological assessment undertaken in November 2017 under the SEPP 44 concluded the site and/or surroundings did not constitute Koala habitat. It also states the proposed development site and adjoining lands contains no canopy trees or vegetation that may potentially support Koala habitat.

### **4.4 Section 9.1 Ministerial directions**

#### 1.2 Rural Zones

The planning proposal is inconsistent with this direction as it seeks to rezone a rural zone (RU2 Rural Landscape) to a residential zone (R5 Large Lot Residential).

The inconsistency is justified by its identification as a Category 2 investigation area in the *Maitland Urban Settlement Strategy 2012*.

### 1.5 Rural Lands

The planning proposal is inconsistent with this direction as it seeks to rezone a rural zone (RU2 Rural Landscape) to a residential zone (R5 Large Lot Residential) and potentially cause fragmentation of rural lands.

The inconsistency is justified by its identification as a Category 2 investigation area in the *Maitland Urban Settlement Strategy 2012*, along with consistency with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*.

### 2.3 Heritage Conservation

The planning proposal applies to land adjoining Anambah House, a heritage item of State significance. *Maitland Local Environmental Plan 2011* identifies Anambah House as an item of State heritage significance and is listed on the State Heritage Register.

An 'Aboriginal Cultural Heritage Due Diligence Assessment' has been undertaken and a search of the Aboriginal Heritage Information Management System (AHIMS) of Heritage NSW did not identify any objects or places on the site.

A review of the Anambah House curtilage has been undertaken identifying important view lines. The curtilage assessment undertaken in line with Heritage NSW guidelines concluded that a reduced curtilage was most appropriate than that identified in the then Office of Environment and Heritage conservation order.

The planning proposal also states the impacts are exacerbated by proposed lot layout of 2,000sqm lots, which is not considered appropriate.

Further heritage assessment is proposed to be undertaken to accurately define the curtilage and inform a proposed lot layout to protect Anambah House and its setting.

Consideration of consistency with the direction will need to occur once this further heritage assessment is completed and consultation with Heritage NSW is undertaken.

### 2.6 Remediation of Contaminated Land

A preliminary site investigation report has been prepared in accordance with the direction. It found the site was not subject to contamination. Additional contamination investigations will need to be conducted in support of any future development application for the site.

The planning proposal is consistent with the direction.

### 3.1 Residential Zones

The planning proposal states that a revised servicing strategy will be required following issue of a Gateway determination.

Section 5(a) of the direction states that a planning proposal must contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).



It appears this requirement of the direction is outstanding. Consideration of consistency with the direction will occur once the revised servicing strategy is prepared and consultation with Hunter Water is undertaken.

### 3.2 Caravan Parks and Manufactured Home Estates

The planning proposal is inconsistent with the direction as the proposed change of zone to R5 Large Lot Residential will prohibit caravan parks and manufactured home estates on the site.

The proximity to Anambah House would make the land inappropriate for a caravan park or manufactured home estate.

The inconsistency is justified by the *Maitland Urban Settlement Strategy 2012*, which identifies the site for future large lot residential development, along with consistency with the *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*.

### 3.4 Integrating Land Use and Transport

The planning proposal is inconsistent with this direction as it locates residential development over 6km from Maitland and relies on the private vehicle for transport.

A traffic impact assessment was prepared. However, it considered the site in isolation and did not consider the impacts of traffic from the Anambah Urban Release Area. The planning proposal states a revised traffic impact assessment is likely to be required.

Modelling undertaken for the Anambah Urban Release Area concluded the existing Anambah/New England Highway roundabout has limited capacity and can accommodate the release of up to 200 to 300 allotments in the Anambah Urban Release Area.

Consideration of consistency with the direction will need to occur once this further heritage assessment is completed and consultation with Transport for NSW is undertaken.

### 3.5 Development Near Licensed Aerodromes

The flight paths of the Rutherford Aerodrome impact on the site. Studies, monitoring and modelling have been undertaken which recommend a maximum building height of 8.5m, satisfying the requirements of the direction for development in operational airspace.

Studies, monitoring and modelling demonstrate that aircraft noise emissions will be within acceptable limits to enable residential development. All land to be developed for housing is below 20 ANEF (Australian Noise Exposure Forecast).

Consultation will be required with the lessee/operator of the Rutherford Aerodrome. This is the Royal Newcastle Aero Club and once this has occurred the planning proposal will be consistent with the direction.

### 4.3 Flood Prone Land

*Maitland Local Environmental Plan 2011* includes flood prone land provisions.

The area of the site proposed for rezoning and development is above the flood planning level. However, Anambah Road is affected by flooding. Flood free access will need to be negotiated across adjoining land until such time that Anambah Road is upgraded to enable access during floods.

Consideration of consistency with the direction will need to occur once consultation with the Biodiversity Conservation Division is undertaken.

#### 4.4 Planning for Bushfire Protection

The site is not bush fire prone land, nor does it adjoin bush fire prone land.

#### 5.10 Implementation of Regional Plans

The planning proposal is consistent with the *Greater Newcastle Metropolitan Plan 2036*, *Hunter Regional Plan 2036* and the

The planning proposal is consistent with the direction.

### **5. SITE-SPECIFIC ASSESSMENT**

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#### **5.1 Social**

The planning proposal will increase the demand for open space, recreation, community facilities in the immediate area.

The area is affected by aircraft noise however, the potential impacts are within acceptable standards for residential development. Building design and dwelling location will need to ensure residents' amenity is maintained.

There will be few opportunities for public transport. However, the site is approximately 6.7km from Maitland and travel distances are relatively short.

#### **5.2 Environmental**

The site has been cleared for agriculture and it is unlikely there will be any impacts on threatened species or their habitats. There are some hollow bearing trees on the site which will require supervision by a qualified ecologist during their removal and water sensitive urban design will be required to protect the wetland on the Hunter River floodplain.

Investigations have not identified any aboriginal objects or places that will be affected by the planning proposal.

The development area is not flood prone. However, Anambah Road is affected during floods. An alternative flood free access is proposed to be secured to the west of the site until such time that Anambah Road is upgraded.

#### **5.3 Economic**

The planning proposal seeks a residential outcome. However, the subdivision and development of housing will generate construction jobs in the short to medium term.

#### **5.4 Infrastructure**

The planning proposal will place additional demands on service provision. Electrical services can be extended to the site.

Traffic generation from the proposed 70 dwellings will need to be factored into the upgrade of Anambah Road and its intersection with the New England Highway.

### **6. CONSULTATION**

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#### **6.1 Community**

Maitland City Council has proposed a 28 day consultation period which is considered adequate.

## 6.2 Agencies

Maitland City Council has proposed to consult with the following agencies:

- Biodiversity and Conservation Division;
- Transport for NSW;
- Hunter Water Corporation; and
- Mindaribba Local Aboriginal Land Council.

Given the issues that need to be addressed for this planning proposal and as identified in section 9.1 Ministerial directions it is considered that the following organisations should also be consulted:

- Heritage NSW; and
- Lessee/operator of the Rutherford Aerodrome – Royal Newcastle Aero Club.

## 7. TIME FRAME

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Council has proposed 12 months for the finalisation of this planning proposal.

However, given the issues yet to be resolved prior to public exhibition, it is considered appropriate to allow 15 months for finalisation of the planning proposal.

In addition, to ensure the planning proposal does not get delayed by unforeseen delays in the preparation and Council agreement of the additional heritage assessment required, it is proposed to include a condition that the planning proposal is placed on public exhibition within 4 months of the date of the Gateway determination.

## 8. LOCAL PLAN-MAKING AUTHORITY

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Maitland City Council has requested authorisation to use its delegated functions under section 3.36 of the Act to make the plan.

It is appropriate that Council be authorised to be the local plan-making authority as the planning proposal is consistent with regional and local strategic planning for the area and outstanding issues will be resolved prior to public exhibition.

## 9. RECOMMENDATION

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It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Ministerial directions: 1.2 Rural Zones; 1.5 Rural Lands; 2.6 Remediation of Contaminated Land; 3.2 Caravan Parks and Manufactured Home Estates;; 4.3 Flood Prone Land; 5.10 Implementation of Regional Plans are minor or justified by the *Maitland Urban Settlement Strategy 2012*, *Hunter Regional Plan 2036* and *Greater Newcastle Metropolitan Plan 2036*; and
2. note that consistency with section 9.1 Ministerial directions: 2.3 Heritage Conservation; 3.1 Residential Zones; 3.4 Integrated Land Use and Transport; and 3.5 Development Near Licensed Aerodromes will be achieved relevant technical studies are completed and consultation undertaken with relevant public authorities.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities/groups:
  - Biodiversity and Conservation Division;
  - Transport for NSW;
  - Hunter Water Corporation;
  - Heritage NSW;
  - Mindaribba Local Aboriginal Land Council; and
  - Owner of Rutherford Aerodrome – Royal Newcastle Aero Club.
3. The time frame for completing the Local Environmental Plan is to be 15 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. Prior to exhibition, a visual impact assessment for Anambah House is to be undertaken that addresses the following issues:
  - (a) Clearly define the curtilage for Anambah House;
  - (b) Impact of proposed development on significant view lines to and from Anambah House;
  - (c) Subdivision layout and lot sizes; and
  - (d) Identify dwelling envelopes where required.
6. The planning proposal is to include a Height of Buildings Map which identifies the maximum building height of 8.5m;
7. Draft heritage provisions for *Maitland Development Control Plan 2011* are to be prepared and concurrently exhibited with the planning proposal; and
8. The planning proposal is to be placed on public exhibition by 1 October 2021.



10/05/2021  
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