

# Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

**Gillieston Heights South - Eastern Precinct**

Version 1.0

18/11/2020

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Version 1.0 – 18/11/2020 (For Section 3.3 Council Report)

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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) with regard to land in the Gillieston Heights South area, referred to as the “Eastern Precinct”, as detailed below.

| Lot            | Area          | Owner                |
|----------------|---------------|----------------------|
| Lot 1 DP302745 | 2.4ha         | M Sewell             |
| Lot 2 DP302745 | 2.5ha         | R & VS Reynolds      |
| Lot 1 DP601226 | 2.1ha         | CA Warby             |
| Lot 2 DP601226 | 35.7ha        | VC Warby             |
| Lot 1 DP311179 | 0.85ha        | M Curtis & I Roesler |
|                | TOTAL 43.55ha |                      |

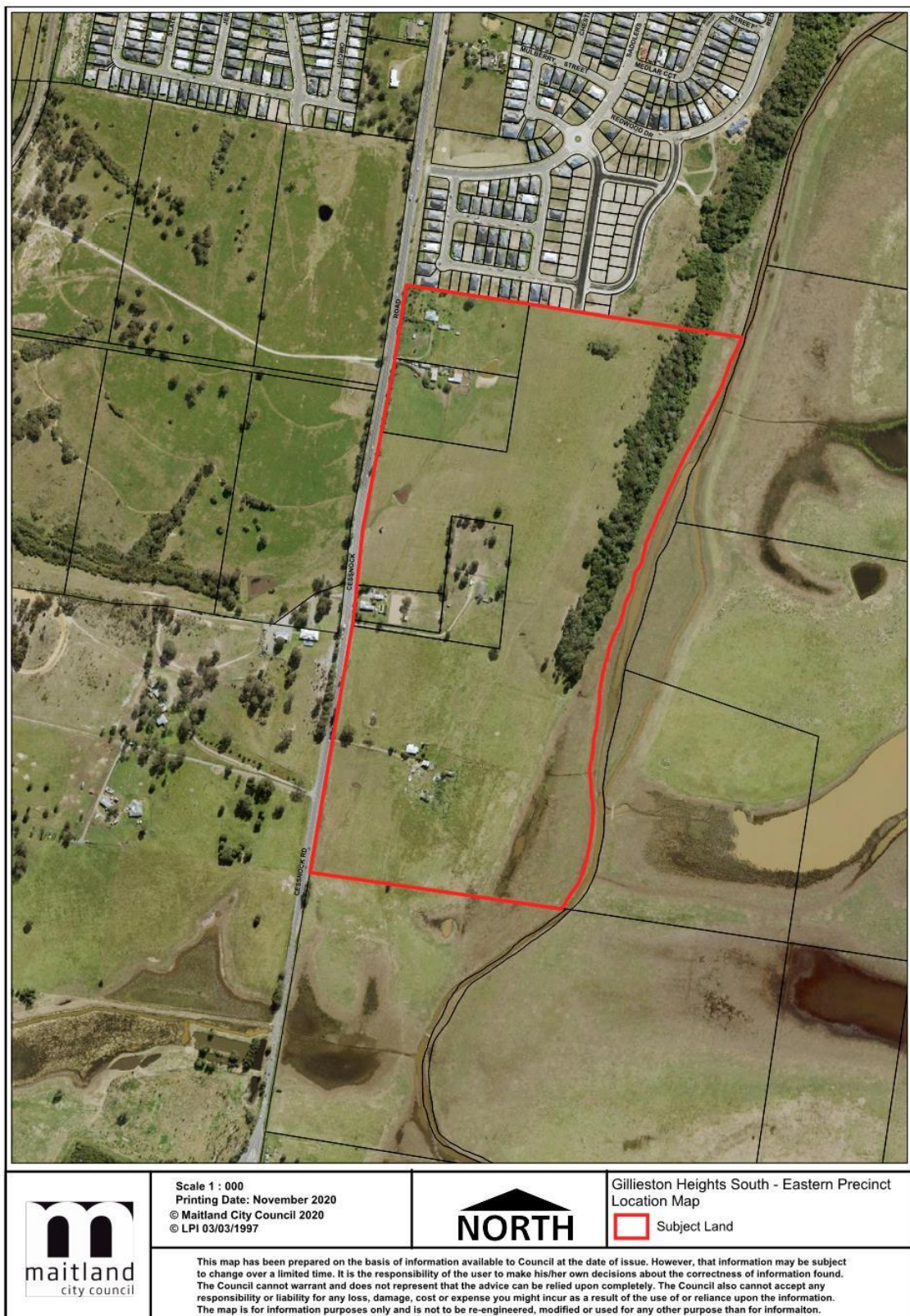
The purpose of the planning proposal is to amend the Maitland LEP 2011 to provide for development of the subject land for residential purposes. The subject lands are identified with the *Maitland Urban Settlement Strategy 2012* (MUSS 2012) for future urban development consistent with the sequencing and release of urban land in Gillieston Heights. A locality plan identifying the subject land is provided in **Figure 1**.

At its meeting of 24 November 2015 Council considered a report for the Gillieston Heights southern area. Council resolved to prepare a planning proposal (the current planning proposal) and seek a Gateway determination for an extended area that included Hydro owned land to the west of Cessnock Rd and the remaining developable land (various landowners) east of Cessnock Rd (Eastern Precinct). A Gateway determination was issued by the Department of Planning, Industry and Environment (the Department) on 23 March 2016. It includes the agency consultation and exhibition requirements for the current planning proposal (refer to **Appendix A**).

In September 2017, site studies for the eastern precinct were received from consultants, Pulver Cooper & Blackley (PCB), which address a proposed zone and subdivision outcome for the site. The submission requested an amendment to the Maitland LEP 2011 to rezone the site from RU2 Rural Landscape to part E3 Environmental Management and part R1 General Residential, to enable residential lots to be developed on the developable portion of the site consistent with the draft subdivision plan (refer to **figure 2**). The existing E2 – Environmental Conservation zone will remain unchanged. The existing and proposed zoning is detailed within Part 4 of this report (**refer to Maps 1 & 2**)



Figure 1 – Locality Plan



**Figure 2 - Conceptual Subdivision Layout**



Progression of the draft LEP will allow for the completion of the urban area for the Gillieston Heights urban release area. A review has been undertaken of the proponents rezoning submission and supporting preliminary site studies which address site characteristics and their suitability for urban development. In addition, a preliminary desktop review has also been conducted for the subject lands.

The preliminary review has identified there is no impediment to progress with the preparation of a draft local environmental plan. In accordance with the Department's guidelines, additional detailed studies will be required following the issue of a Gateway determination and prior to public exhibition of the planning proposal.

Council received correspondence from the Department, on 2 October 2020, advising of a focused work program to finalise planning proposals that have been under consideration for four (4) or more years. This is part of the recently announced Planning System Acceleration Program. The current planning proposal is identified as one of these proposals and as such, is required to be finalised by 31 December 2020, consistent with the Department's advice.

In order to finalise the current planning proposal there are outstanding matters to address, including public exhibition. It is not possible to finalise the planning proposal by 31 December 2020 due to the outstanding matters. The Department has advised Council to submit a revised planning proposal to the Department, seeking a new Gateway determination. The Department has assured Council that the new Gateway determination will recognise the work undertaken to address the conditions of the original and altered Gateway determination and enable the revised planning proposals to proceed to public exhibition. The Department has indicated to Council that the Minister will only discontinue the current

planning proposal once new Gateway determinations have been issued. This is anticipated to occur before 31 December 2020.

## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are to:

1. Identify a new urban release area (the Gillieston Heights South URA) to encompass the subject lands;
2. Enable residential development;
3. Protect and manage areas with environmental constraints; and
4. Ensure that future residents have access to adequate local and regional infrastructure.

## 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 the subject land for urban and environmental purposes.

It is anticipated that subject land will incorporate a mix of R1 – General Residential, E2 – Environmental Conservation and E3 – Environmental Management zones. It is anticipated that the rezoning will involve changes to the following map series.

|                                |                           |
|--------------------------------|---------------------------|
| <i>Land Zone Maps</i>          | <i>LZN 004B &amp; 005</i> |
| <i>Minimum Lot Size Maps</i>   | <i>LSZ 004B &amp; 005</i> |
| <i>Urban Release Area Maps</i> | <i>URA 004B &amp; 005</i> |

The proposed zoning map and minimum lot size map amendments are detailed in Part 4 of this planning proposal (**refer to Maps 2 and 4**). The proposed URA map is detailed in Part 4 of this planning proposal (**refer to Map 5**).

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 subject site.



## PART 3: JUSTIFICATION FOR PROPOSED REZONING

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

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

### SECTION A – NEED FOR THE PLANNING PROPOSAL

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

Yes. The subject lands are identified within a local endorsed strategy (MUSS 2012) suitable for consideration for urban purposes, consistent with the sequencing and release of land as identified in the endorsed MUSS 2012.

#### 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 through the Gateway process and preparation of this planning proposal is the most effective and timely method to achieve the vision and objectives of the *Hunter Regional Plan 2036* (HRP), *Greater Newcastle Metropolitan Plan 2036* (GNMP), Council's adopted Local Strategic Planning Statement (LSPS) and MUSS 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 a Section 7.11 Contributions Plan and Development Control Plan to achieve the objectives outlined in this planning proposal.

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

No net community benefit test has been undertaken as part of this proposal. However, Council envisages that this planning proposal will result in a net community benefit.

Specifically, the subject lands are considered as part of the adopted policy position for urban investigation sites identified within Council's MUSS 2012.

The rezoning of the subject site would enable 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 CBD. 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 subject lands will support the growing residential population within the central sector of the Maitland LGA;
- The land has largely exhausted its historical agricultural use and the proposal to develop the land for urban purposes will result in an improved outcome and a higher order use of the land;

- Existing environmentally sensitive areas on the site will be protected and enhanced;
- The end urban environment may include community and public facilities for the growing population of the Gillieston Heights area including adjoining and surrounding residential areas.

The implications of not proceeding with the planning proposal include:

- The availability of urban land for population growth addressed in the HRP 2036 and GNMP 2036 will not be achieved;
- The desired future outcomes of Council's long-term strategic plans (LSPS and MUSS 2012) for this area will not be achieved;
- The potential for a higher order land use within the subject lands would be lost, as the land is not large enough to support sustainable agricultural practices;
- The potential for improvements to the existing public infrastructure would be limited;
- Opportunities to improve and enhance the linkages between established and developing residential areas of Gillieston Heights, Cliftleigh, and Hydro's proposed Central Residential Precinct will be denied if the proposal is not supported.

## **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 (NSW Department of Planning and Environment) 2036

The Hunter Regional Plan 2036 (HRP 2036) 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.

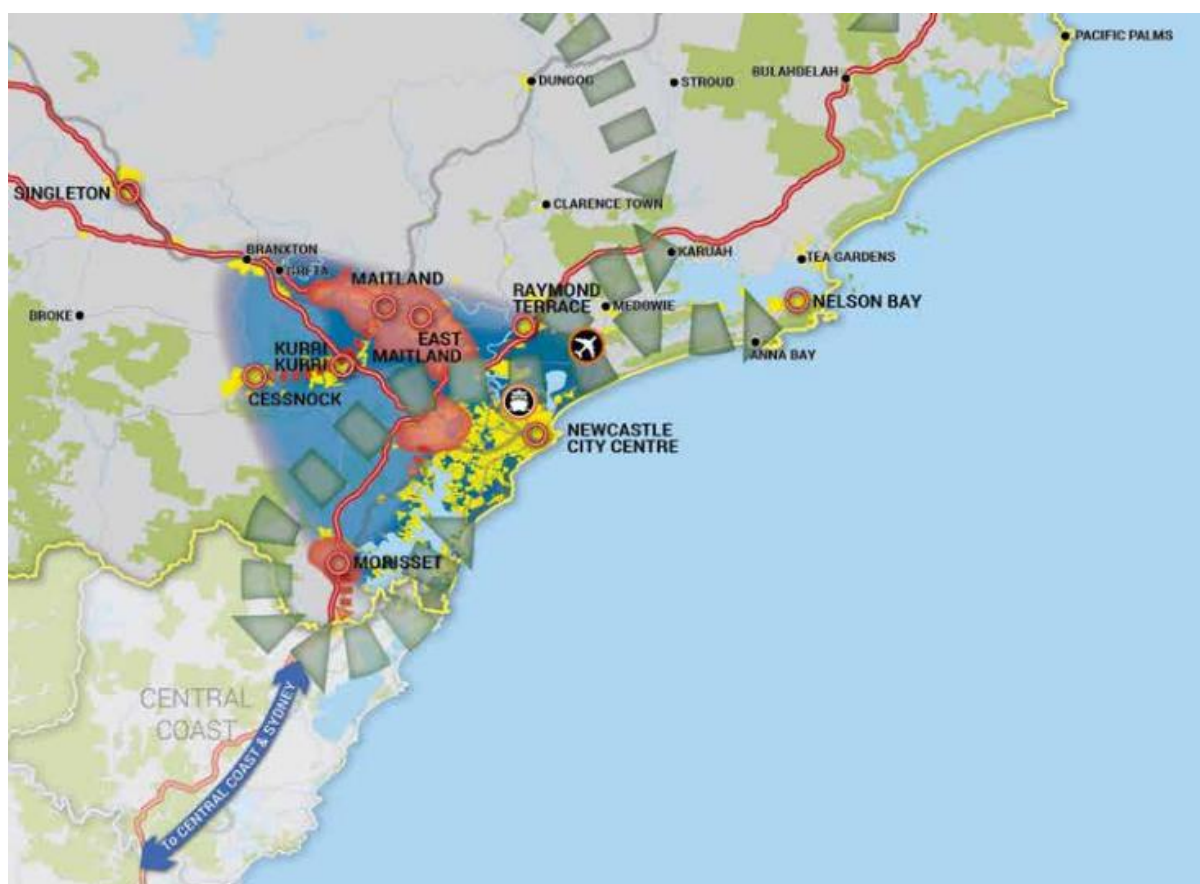
It is estimated that an additional 12,550 residential dwellings will be needed in Maitland by 2036. The plan focuses on providing land and infrastructure to meet this requirement and by supporting infill development opportunity in established areas and greenfield sites. The plan provides directions for housing opportunities to be located in areas with established services and infrastructure and which are close to existing towns and villages. The planning proposal will provide approximately 29.3 hectares of residentially zoned, potentially contributing around 300 new dwellings land towards the implied demand of 12,550 dwellings by 2036.

The subject site is identified by the HRP 2036 as part of a growth corridor demarked for both residential and employment uses.

The proposal assists in meeting the objectives of the HRP 2036, as it proposes to provide additional housing opportunity located close to existing services and infrastructure and is proximate to local employment centres.



**Figure 3 – Extract from Hunter Regional Plan 2036**



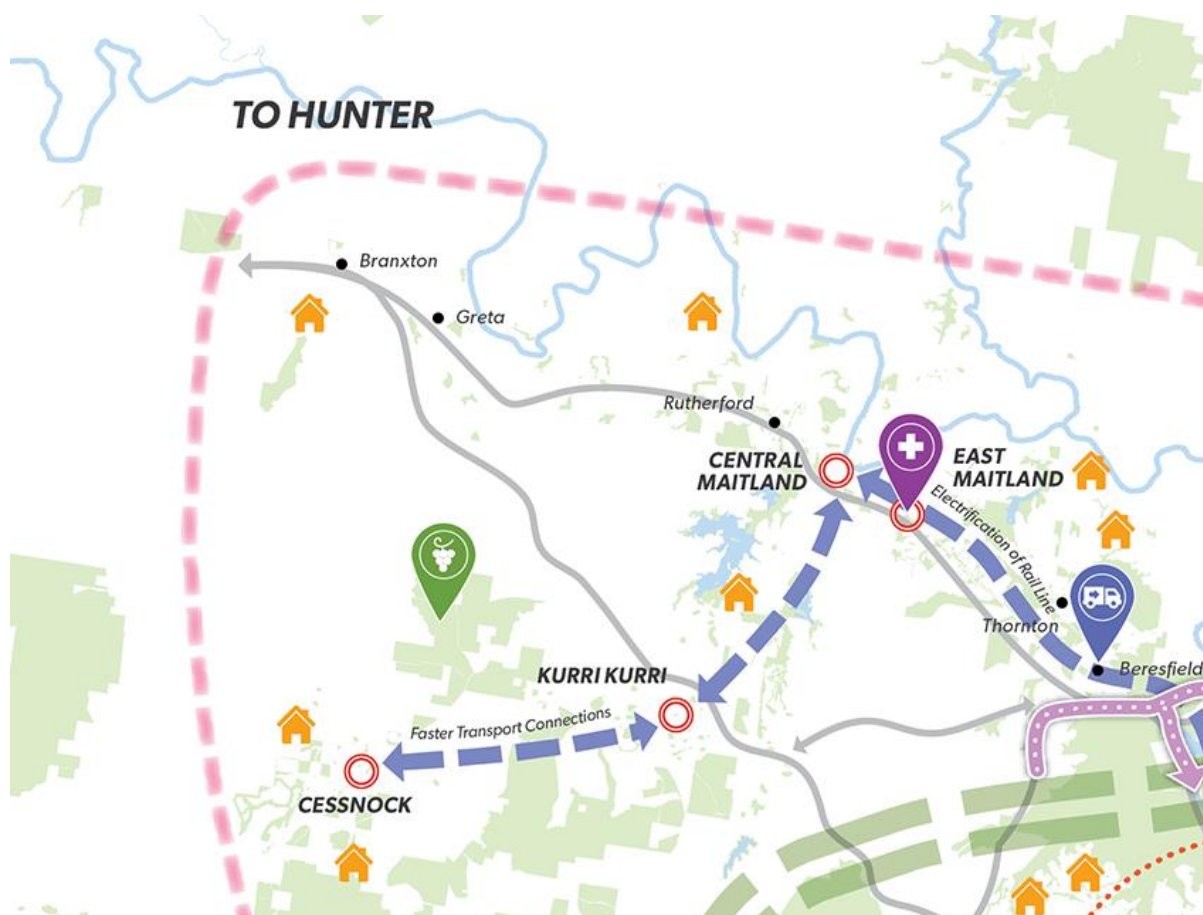
Greater Newcastle Metropolitan Plan (NSW Department of Planning and Environment) 2036

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

The subject land is identified by the GNMP 2036 as a housing release area, adjacent to the existing Gillieston Heights urban release area.

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

**Figure 4 – Extract from Greater Newcastle Metropolitan Plan 2036**



**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 (CSP) in line with the Integrated Planning and Reporting legislation and guidelines. The CSP was last reviewed in 2018. The planning proposal is considered consistent with the vision and objectives of the CSP 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 (LSPS) as it will provide additional housing to support the LGA'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 (MUSS) 2012

The subject land is currently zoned *RU2 - Rural Landscape* in the Maitland LEP 2011 and is identified in the HRP 2036 as an area of investigation for urban purposes. The land occupies approximately 43.5ha

and is identified in the MUSS 2012 for urban expansion consistent with the sequencing and release of urban land for the Gillieston Heights locality. The subject land forms part of the remaining developable land in the Gillieston Heights locality.

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

An assessment of the planning proposal against the relevant SEPPs is provided in the table below.

**Table 1: Relevant State Environmental Planning Policies.**

| RELEVANCE  | CONSISTENCY AND IMPLICATIONS   |
|--|--|
| <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.   | The site is not identified as State significant agricultural land and is considered average quality grazing land only.   |
| <b>SEPP (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 SEPP 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 SEPP. The proposal considers future development adjacent to Main Road 195 (Cessnock Road).                   |
| <b>SEPP – (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.   | The area supporting trees on the site is proposed to be zoned E3 – Environmental Management. The remainder of the subject land does not support vegetation suitable for Koala habitat. |
| <b>SEPP (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007</b>  | <b>Consistent</b>  |
| The SEPP aims to provide for the proper management of mineral, petroleum and extractive material resources and ESD.  | Nothing in this Planning Proposal affects the aims and provisions of this SEPP.  |
| <b>SEPP NO. 55 - REMEDIATION OF LAND</b>   | <b>N/A</b>   |
| 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,  | This SEPP no longer applies at the planning proposal stage. Rather the requirements of the SEPP are to be considered at the Development Application (DA) stage.                        |

| RELEVANCE   | CONSISTENCY AND IMPLICATIONS  |
|---|---|
| remediation must take place before the land is developed. | <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. |

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

**Table 2: Section 9.1 Directions.**

| S9.1 DIRECTIONS  | CONSISTENCY AND IMPLICATIONS  |
|--|---|
| <b>1. EMPLOYMENT AND RESOURCES</b>   |   |
| <b>1.1 Business and Industrial Zones</b>   | <b>N/A</b>  |
| <b>1.2 Rural Zones</b>   | <b>Inconsistent</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 subject land proposed for urban purposes is identified within a local (MUSS) and regional (GNMP) 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 coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development. | The Planning Proposal does not cover any areas known to have existing resources.  |
| <b>1.4 Oyster Aquaculture</b>  | <b>Not Applicable</b>   |
| <b>1.5 Rural Lands</b>   | <b>Inconsistent</b>   |
| 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 subject land proposed for urban purposes is identified within a local (MUSS) and regional (GNMP) growth strategy and is therefore considered appropriate for investigation for urban development. |



**2. ENVIRONMENT AND HERITAGE****2.1 Environment Protection Zones****Consistent**

The objective of this direction is to protect and conserve environmentally sensitive areas.

According to the direction, a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

The planning proposal is consistent with the objectives of this direction as it proposes to maintain the existing E2 – Environmental Conservation zone on the subject land, and extend the existing E3 – Environmental Management zone south from the northern boundary.

**2.2 Coastal Protection****N/A****2.3 Heritage Conservation****Consistent**

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

An Aboriginal Cultural Heritage Due Diligence Assessment has been undertaken for the subject lands. A search of the AHIMS identified no aboriginal objects or places are within the project area.

Heritage NSW has advised that a Due Diligence Report is not sufficient to assess the impacts on Aboriginal cultural heritage of Planning Proposals and is not consistent with Direction 2.3. Heritage NSW request that an Aboriginal Cultural Heritage Assessment Report be prepared for the subject lands in consultation with relevant Aboriginal parties, in accordance with:

- Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (DECCW,2011)
- Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW,2010)
- Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW (OEH,2010)

An Aboriginal Cultural Heritage Assessment Report is to be prepared prior to exhibition of the planning proposal.

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

## S9.1 DIRECTIONS

## CONSISTENCY AND IMPLICATIONS

### 2.6 Remediation of Contaminated Land

### Inconsistent

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

A Preliminary Contamination Investigation has been conducted over the site. The investigations identified six (6) Areas of Environmental Concern (AEC) and relate to former commercial poultry farm and potential burial pits; weathering of hazardous materials in former and current buildings; septic tanks and associated trenches; storage of waste materials and farm materials; fill of unknown quality and origin; and potential storage of mine material. Further contamination investigations will need to occur for sites identified as having potential contamination. This may result in the need for a Phase 2 contamination report and a subsequent remediation action plan (RAP).

## 3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

### 3.1 Residential Zones

### Consistent

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.

The proposed rezoning will result in a change of land use to enable future residential development of the site. The land proposed for urban purposes is identified as Category 1 Residential in the MUSS 2012. The proposal is therefore considered consistent with the objectives of this direction.

### 3.2 Caravan Parks & Manufactured Home Estates

### N/A

### 3.3 Home Occupations

### Consistent

To encourage the carrying out of low-impact small businesses in dwelling houses.

The proposed R1 General Residential zone will permit home occupations without consent. The proposal is therefore consistent with this direction.

### 3.4 Integrating Land Use and Transport

### Consistent

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.

The planning proposal proposes to establish an urban environment with local and regional connectivity through design and location of road networks including provision for public transport services. The planning proposal is considered consistent with the objectives of this direction.

### 3.5 Development Near Licensed Aerodromes

### N/A

| S9.1 DIRECTIONS  | CONSISTENCY AND IMPLICATIONS  |
|--|---|
| <b>3.6 Shooting Ranges</b>   | N/A   |
| <b>3.7 Reduction in non-hosted short-term rental accommodation period</b>  | N/A   |
| <b>4. HAZARD and RISK</b>  |   |
| <b>4.1 Acid Sulfate Soils</b>  | <b>Consistent</b>   |
| 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.  | The Maitland LEP 2011 indicates a potential Class 1, 2, and 5 Acid Sulphate Soils risk affecting the subject land. It is not proposed to rezone land for urban purposes which contain Classes 1 and 2 Acid Sulfate Soils. These classes have been identified on flood-affected land and adjoining slopes. The proposal is consistent with this direction.   |
| <b>4.2 Mine Subsidence and Unstable Land</b>   | <b>Consistent</b>   |
| 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.   | The subject land is not identified within a Mines Subsidence District. The subject land does not support known shallow mine workings in the area.   |
| <b>4.3 Flood Prone Land</b>  | <b>Consistent</b>   |
| <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(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.</li> </ul> | <p>A small area of land in the east and south portion of the subject land is affected by inundation during a 1:100 ARI flood event. It is not proposed to zone flood affected land for urban purposes.</p> <p>Development of the proposed urban area in conjunction with the development of Hydro's Central Residential Precinct, to the west of Cessnock Rd, will facilitate access for Gillieston Heights that is above the 1:100 ARI flood event.</p> <p>The planning proposal is considered consistent with the objectives of this direction.</p> |
| <b>4.4 Planning for Bushfire Protection</b>  | <b>Consistent</b>   |
| <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) to encourage sound management of bush fire prone areas.</li> </ul>  | <p>This direction applies as part of the subject site is identified as bushfire prone. No bushfire threat assessment has been carried out for the subject lands. A desktop review of Council's Bushfire Map identifies a small portion of the subject land to the east as being bushfire prone. It is not proposed to zone this portion of land for urban purposes.</p>   |

## S9.1 DIRECTIONS

## CONSISTENCY AND IMPLICATIONS

According to this direction, in preparing a planning proposal, Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made.

It is also a requirement of the direction that a planning proposal must have regard to *Planning for Bushfire Protection 2019*.

The site is considered suitable for urban development and measures to mitigate bushfire threat can be achieved and addressed through the subdivision development assessment (DA) process, where approval from the RFS will be required.

## 5. REGIONAL PLANNING

|  |            |
|--|------------|
| <b>5.1 Implementation of Regional Strategies</b> | <b>N/A</b> |
|--|------------|

|  |            |
|--|------------|
| <b>5.2 Sydney Drinking Water Catchment</b> | <b>N/A</b> |
|--|------------|

|   |            |
|---|------------|
| <b>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</b> | <b>N/A</b> |
|---|------------|

|   |            |
|---|------------|
| <b>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</b> | <b>N/A</b> |
|---|------------|

|   |            |
|---|------------|
| <b>5.8 Second Sydney Airport: Badgery's Creek</b> | <b>N/A</b> |
|---|------------|

|   |            |
|---|------------|
| <b>5.9 North West Rail Link Corridor Strategy</b> | <b>N/A</b> |
|---|------------|

|  |                   |
|--|-------------------|
| <b>5.10 Implementation of Regional Plans</b> | <b>Consistent</b> |
|--|-------------------|

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

The proposal is consistent with the HRP 2036 and GNMP 2036 and implements key goals and directions of these strategies.

|   |            |
|---|------------|
| <b>5.11 Development of Aboriginal Land Council Land</b> | <b>N/A</b> |
|---|------------|

## 6. LOCAL PLAN MAKING

|                                  |                   |
|----------------------------------|-------------------|
| <b>6.1 Approval and Referral</b> | <b>Consistent</b> |
|----------------------------------|-------------------|

The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.

The planning proposal does not affect the objectives of this direction and will be consistent with this requirement.

|   |  |
|---|--|
| <b>6.2 Reserving Land for Public Purposes</b> |  |
|---|--|

The direction aims to facilitate (i) the provision of public services and facilities by reserving land for public purposes; and (ii) removal of reservations of land for public purposes where land is no longer required for acquisition.

The planning proposal does not propose to reserve any land, or remove any reservations of land, for public purposes and is considered consistent with this direction.



## S9.1 DIRECTIONS

## CONSISTENCY AND IMPLICATIONS

### 6.3 Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.

The proposal does not include any site-specific planning controls and is considered consistent with this direction.

## 7. METROPOLITAN PLANNING

### 7.1 Implementation of the Metropolitan Plan for Sydney 2036

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?

An Ecological Assessment report has been submitted outlining key biodiversity findings for the subject lands.

The report identified remnant vegetation on site commensurate with the State listed Vulnerable Ecological Community *Lower Hunter Valley Dry Rainforest*. The planning proposal identifies the area

containing this vegetation community to be zoned E3-Environmental Management. There were no threatened flora or fauna species identified within the boundaries of the subject land.

Assessment under SEPP – Koala Habitat Protection revealed that the site does not constitute “Potential Koala Habitat”.

Consideration of the EPBC Act revealed that Impacts on Matters of National Environmental Significance are considered unlikely to occur.

The report recommended that a Vegetation Management Plan should be prepared to guide vegetation management works within the environmental zone and any retained vegetation within the development area. The VMP should also include installation of nest boxes.

**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 has been undertaken by the proponent to justify the preparation of an amendment to the Maitland LEP 2011. The matters that are specifically addressed include:

- Archaeological Due Diligence Report
- Ecological Flora/Fauna Report
- Preliminary Contamination Assessment
- Preliminary Geotechnical Assessment
- Acoustic Assessment Report
- Concept Subdivision Design
- Traffic Assessment Report

In addition to the proponent’s submission, a preliminary desktop analysis has been undertaken for the subject lands; with further detailed studies to be conducted after the gateway determination. Further studies will include any additional issues raised by Council during the initial assessment of the rezoning proposal. A summary of the site studies and issues raised for the subject land are addressed below.

Traffic and Transport

The proponent has undertaken a Traffic Impact Assessment for the subject land dated 2017. It provides an analysis for a key access point, estimated traffic generation, and an examination of road and intersection upgrades to support future development thresholds.

TfNSW have identified that a Corridor Strategy is being prepared for MR 195 (Cessnock/Main Road), the purpose of which is to:

- Identify the timing for duplication of MR 195; and
- Assess location points for future connections and / or restrictions or upgrades to existing intersections, including identifying the type of intersection controls to meet the needs of residential growth within the corridor over the next twenty (20) years.

Therefore, the proponent will need to undertake a detailed Traffic Impact Assessment (TIA) that considers the impact of the development on the local road network and responds to the need to consolidate access points along the length of Cessnock/Main Road and identify preferred intersection locations, consistent with TfNSW Corridor Strategy for this section of MR 195, including up to date traffic counts.

#### Subdivision Design

The proponent has submitted a subdivision design plan which includes a proposed subdivision design, road hierarchy and access point, consistent with the proposed residential zone boundaries and site attributes conducive to residential development.

#### Flooding and stormwater impact Assessment

The subject land is situated east of Cessnock Road and is framed by the Wallis Creek catchment and Testers Hollow. A small area of land in the eastern and southern portion of the site is affected by flooding during a 1:100 ARI flood event. It is not proposed to zone flood affected land for urban purposes. The recently completed Wallis Creek Flood study has confirmed that the regional flood event (Hunter River), representing the 1%AEP flood level, should be used to inform the extent of urban development on site.

Development of the proposed urban area in conjunction with the development of Hydro's Central Residential Precinct, to the west of Cessnock Rd, will facilitate vehicular access for Gillieston Heights that is above the 1:100 ARI flood event.

In addition to the matters above, a flooding and stormwater impact assessment will be required, following the Gateway determination, for subject land.

#### Contamination Assessment

A Preliminary Contamination Investigation has been conducted over the site. The investigations identified six Areas of Environmental Concern (AEC) and relate to former commercial poultry farm and potential burial pits; weathering of hazardous materials in former and current buildings; septic tanks and associated soak-aways and trenches; storage of waste materials and farm materials; fill of unknown quality and origin; and potential storage of mine material. Further contamination investigations, in the form of a Phase 2 contamination assessment, will need to occur post-Gateway for sites identified as having potential contamination. Depending on the findings of the Phase 2 assessment, a remedial action plan (RAP) may also be required prior to finalisation of the planning proposal.

#### Acoustic

An acoustic impact assessment has been undertaken that provides an assessment of noise impacts for the site associated with road noise from Cessnock Rd. The report identifies that the locality experiences ambient noise levels of 55 Leq dB(A) during the day and 51 Leq dB(A) during the night. The NSW Environmental Noise Management Manual specifies that standard window glazing of a building will typically attenuate the external noise levels by at least 20dB(A) with the windows closed and 10 dB(A) with the windows open.

The acoustic assessment concludes that any dwellings developed on the subject land could comply with the internal noise criteria for daytime (40dB(A)), and night time (35dB(A)) given standard window glazing attenuates external noise levels by 20dB(A).

The report further recommends that additional acoustic assessment be undertaken for residences fronting Cessnock Rd during the development application stage of the proposal, and that building layout options be considered to minimise the risk of potential noise impact.

#### Bushfire

No bushfire threat assessment has been carried out for the subject lands. A desktop review of Council's Bushfire Map identifies a small portion of the subject land to the east as being bushfire prone. It is not proposed to zone this portion of land for urban purposes.

The site is considered suitable for urban development and measures to mitigate bushfire threat in accordance with *Planning for Bushfire Protection 2019* can be achieved and addressed through the subdivision development assessment (DA) process, where approval from the RFS will be required.

#### Geotechnical

A preliminary geotechnical assessment has been submitted for the subject land. The preliminary geotechnical assessment indicates that the site is generally suitable for the proposed residential development, subject to a more detailed investigation being undertaken during detailed design phase including site classification to AS 2870-2011 and pavement design as required.

#### Aboriginal and Cultural Heritage Assessment

An Aboriginal Cultural Heritage Due Diligence Assessment has been undertaken for the subject lands. A search of the AHIMS identified no aboriginal objects or places are within the project area. A visual inspection of the project area was undertaken with no objects or sites being identified.

Heritage NSW has advised that a Due Diligence Report is not sufficient to assess the impacts on Aboriginal cultural heritage of Planning Proposals and is not consistent with *Ministerial Direction 2.3 – Heritage Conservation*. Heritage NSW request that an Aboriginal Cultural Heritage Assessment Report (ACHAR) be prepared for the subject lands in consultation with relevant Aboriginal parties, in accordance with:

- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (DECCW,2011)*
- *Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW,2010)*
- *Code of Practice for the Archaeological Investigation of Aboriginal Objects in NSW (OEH,2010)*

An ACHAR is to be prepared prior to exhibition of the planning proposal.



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

The planning proposal provides increased housing opportunities within the central sector of the Maitland LGA, including the possibility for a diverse range of housing choice. Any increase in supply of housing will increase the need for the provision of open space and recreational services including community facilities, passive and active open space areas, either within or utilising existing facilities in the immediate areas. This will be considered in the preparation of the Section 7.11 Contributions Plan.

The proposal identifies a range of relevant issues for the local community, including the need for quality public transport, and the need to encourage connectivity and access to surrounding residential and employment areas. The proposal identifies that additional demand generated by the new community on existing community facilities may generate the need for new community infrastructure. It should be noted that these issues will be addressed in the preparation of a Section 7.11 Contributions Plan.

In addition, it is noted that employment opportunities will be generated by the proposed industrial and commercial precincts that form the southern extent of the Hydro planning proposal, to the south-west of the subject land.

### Stakeholder Engagement

The new Gateway determination will outline the consultation and stakeholder engagement requirements, including public exhibition timing and timeframe for completion.

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

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

The provision of public infrastructure is an important issue in the Gillieston Heights area, and indeed, in the wider context of Maitland's longer-term urban growth. This planning proposal is considered to place additional demands on the public infrastructure and the general infrastructure needs of the locality.

The subject land immediately adjoins developing residential land to the north. Sewer, water and electrical infrastructure services this area and can be efficiently extended to service the subject land.

A servicing strategy for the subject land will be required following the issue of a Gateway determination.

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

Council undertook preliminary consultation with relevant Government agencies in June 2020. The issues raised by the agencies are summarised in Table 3.

**Table 3: Government Agency Comments – Eastern Precinct**

| <b>Agency</b>                    | <b>Response</b>   | <b>Council's Comment</b>  |
|----------------------------------|---|---|
| NSW Rural Fire Service           | No comments relating specifically to the proposed rezoning. However, future development of the site will be required to comply with <i>Planning for Bushfire Protection 2019</i> .  | Compliance with PFBP 2019 will need to be demonstrated at subdivision DA stage.   |
| BCD - Biodiversity               | BCD will review the planning proposal once Council has completed further changes to the proposal and preferably in conjunction with a BCAR submitted as part of a Biodiversity Certification application.   | The proponents are not intending to lodge a Biodiversity Certification application with BCD. A detailed Flora & Fauna assessment report has been submitted with the rezoning application and is considered adequate for the purposes of the planning proposal.<br><br>BCD will have another opportunity to comment on the planning proposal during the 2nd round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination. |
| BCD – Water, Floodplains & Coast | BCD is satisfied that the issues raised relating to flooding and flood risk have been addressed.  | No comment.   |
| Transport for NSW                | No comments received.   | TfNSW will have another opportunity to comment on the planning proposal during the 2 <sup>nd</sup> round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination.   |
| DPI - NSW Agriculture            | No issues raised.   | No comment.   |
| Heritage NSW                     | The Due Diligence assessment is not sufficient to assess the impacts of the proposal on Aboriginal Cultural Heritage.<br><br>An Aboriginal cultural heritage assessment report (ACHAR) should be undertaken, in consultation with relevant Aboriginal parties, to identify all potential areas, objects, places or landscapes of significance to Aboriginal culture and people. The outcomes of this assessment should inform the planning proposal to ensure consistency | An ACHAR for the Eastern Precinct will need to be submitted prior to public exhibition of the planning proposal.  |

|                                 |  |  |
|---------------------------------|--|--|
|                                 | with <i>Ministerial Direction 2.3 – Heritage Conservation</i> .  |  |
| Mindaribba LALC                 | The land forms part of a known highly significant Aboriginal Cultural Landscape. For Mindaribba LALC to be able to assess all potential places, objects and areas within this landscape, an Aboriginal cultural heritage assessment should be undertaken, in consultation with recognised Aboriginal knowledge holders. The assessment should identify all potential areas, objects, places or landscapes of significance to Aboriginal culture and people and identify any future land use constraints consistent with <i>Ministerial Direction 2.3 – Heritage Conservation</i> . | An ACHAR for the Eastern Precinct will need to be submitted prior to public exhibition of the planning proposal.   |
| Subsidence Advisory             | The land is not within a mine subsidence district. SA NSW has no authority over development or subdivision applications that are not within a proclaimed mine subsidence district. SA NSW records indicate the land is not undermined by coal workings.  | No comment.  |
| Hunter Water Corporation        | No response.   | Hunter Water will have another opportunity to comment on the planning proposal during the 2 <sup>nd</sup> round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination. |
| South Maitland Railways Pty Ltd | No response.   | SMR will have another opportunity to comment on the planning proposal during the 2 <sup>nd</sup> round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination.          |
| Cessnock City Council           | Council raises no objection to the planning proposal.  | No comment.  |
| NSW State Emergency Service     | No response.   | SES will have another opportunity to comment on the planning proposal during the 2 <sup>nd</sup> round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination.          |

|                               |              |   |
|-------------------------------|--------------|---|
| DPIE – Resources & Geoscience | No response. | DPIE – Resources & Geoscience will have another opportunity to comment on the planning proposal during the 2 <sup>nd</sup> round of agency consultation, which it is assumed, will be a requirement of the new Gateway determination. |
|-------------------------------|--------------|---|



## **PART 4: MAPS**

The following maps support the proposal:

MAP 1 – EXISTING ZONING MAP

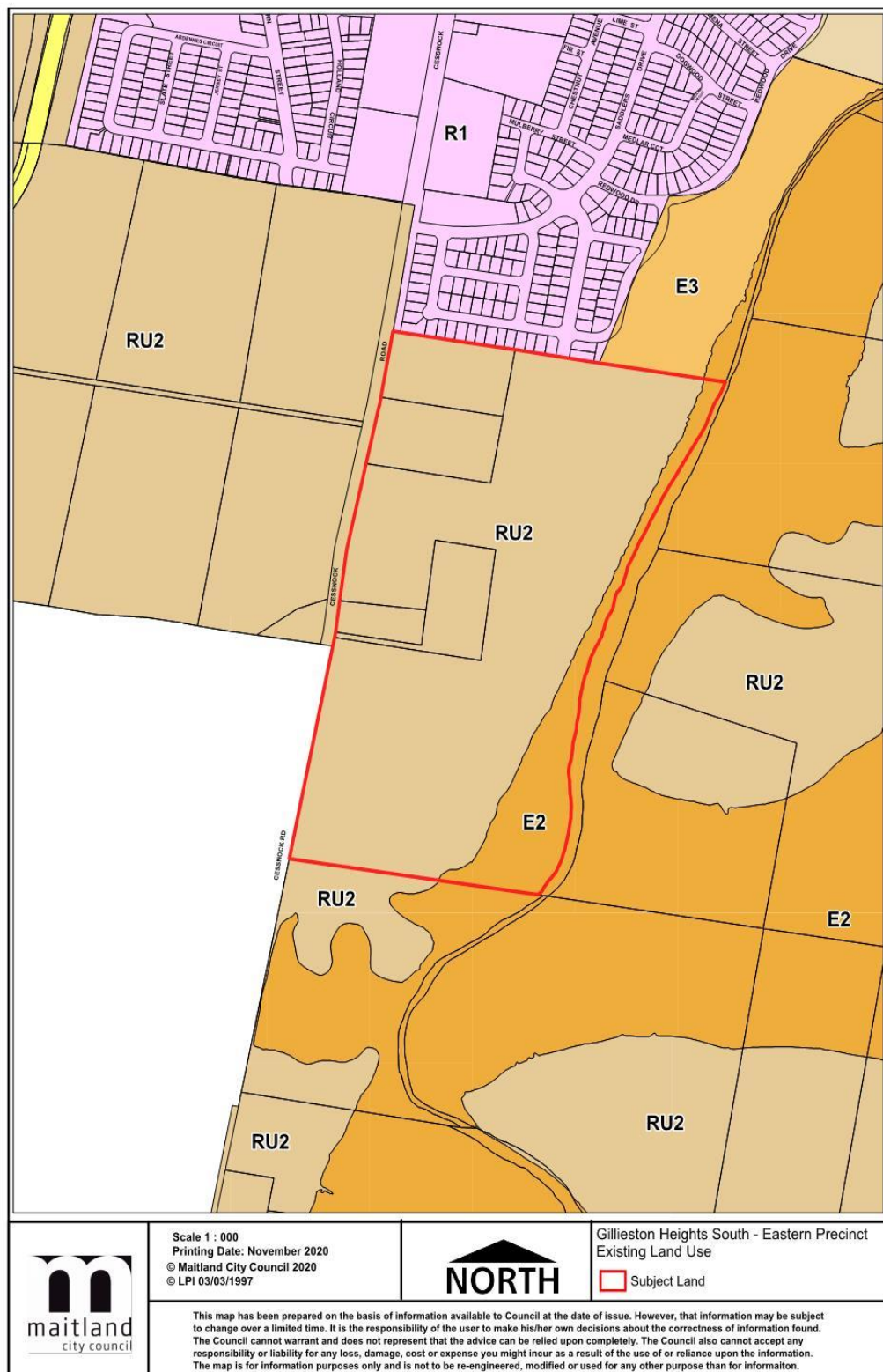
MAP 2 – PROPOSED ZONING MAP

MAP 3 – EXISTING MINIMUM LOT SIZE MAP

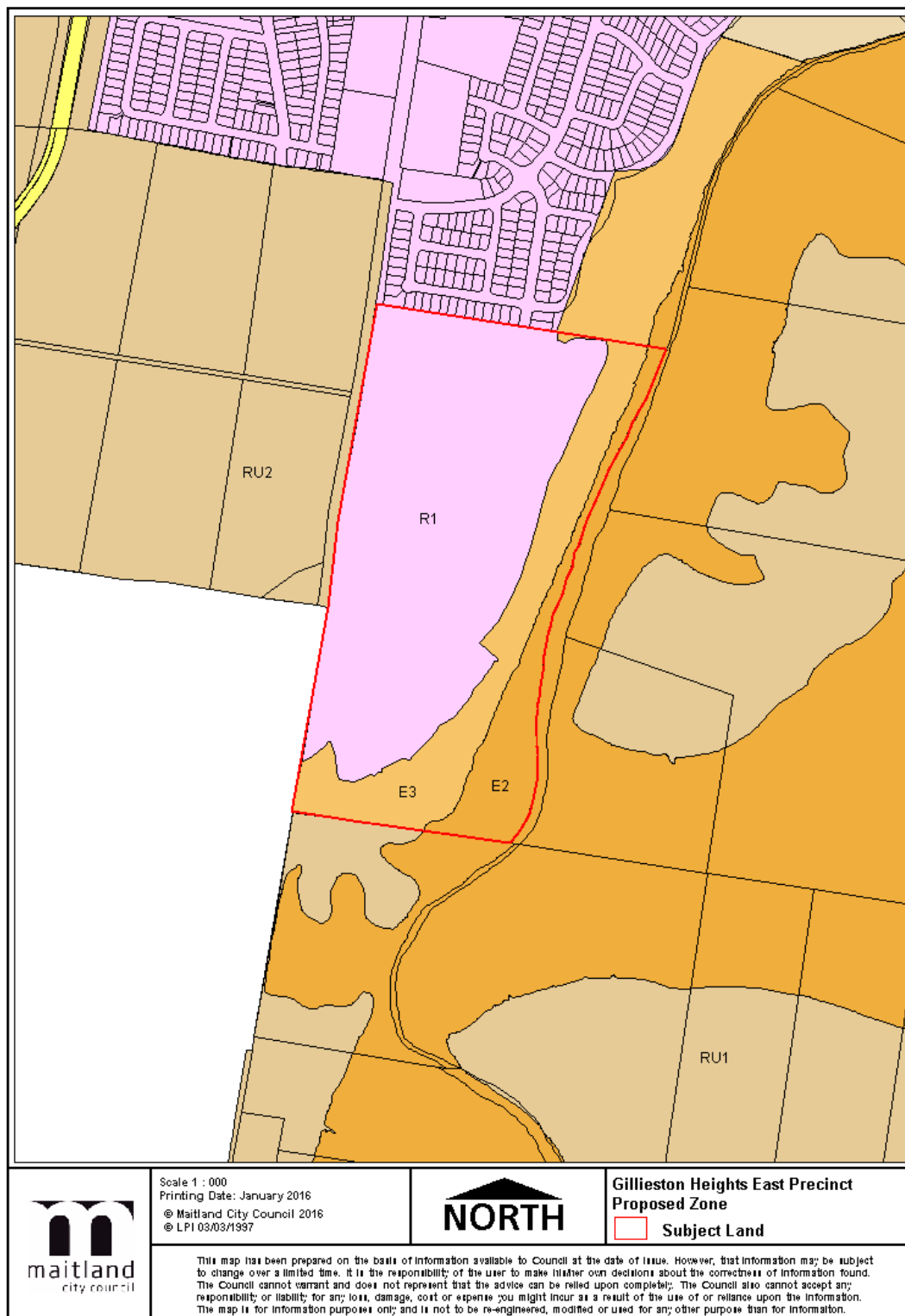
MAP 4 – PROPOSED MINIMUM LOT SIZE MAP

MAP 5 – PROPOSED URBAN RELEASE AREA MAP

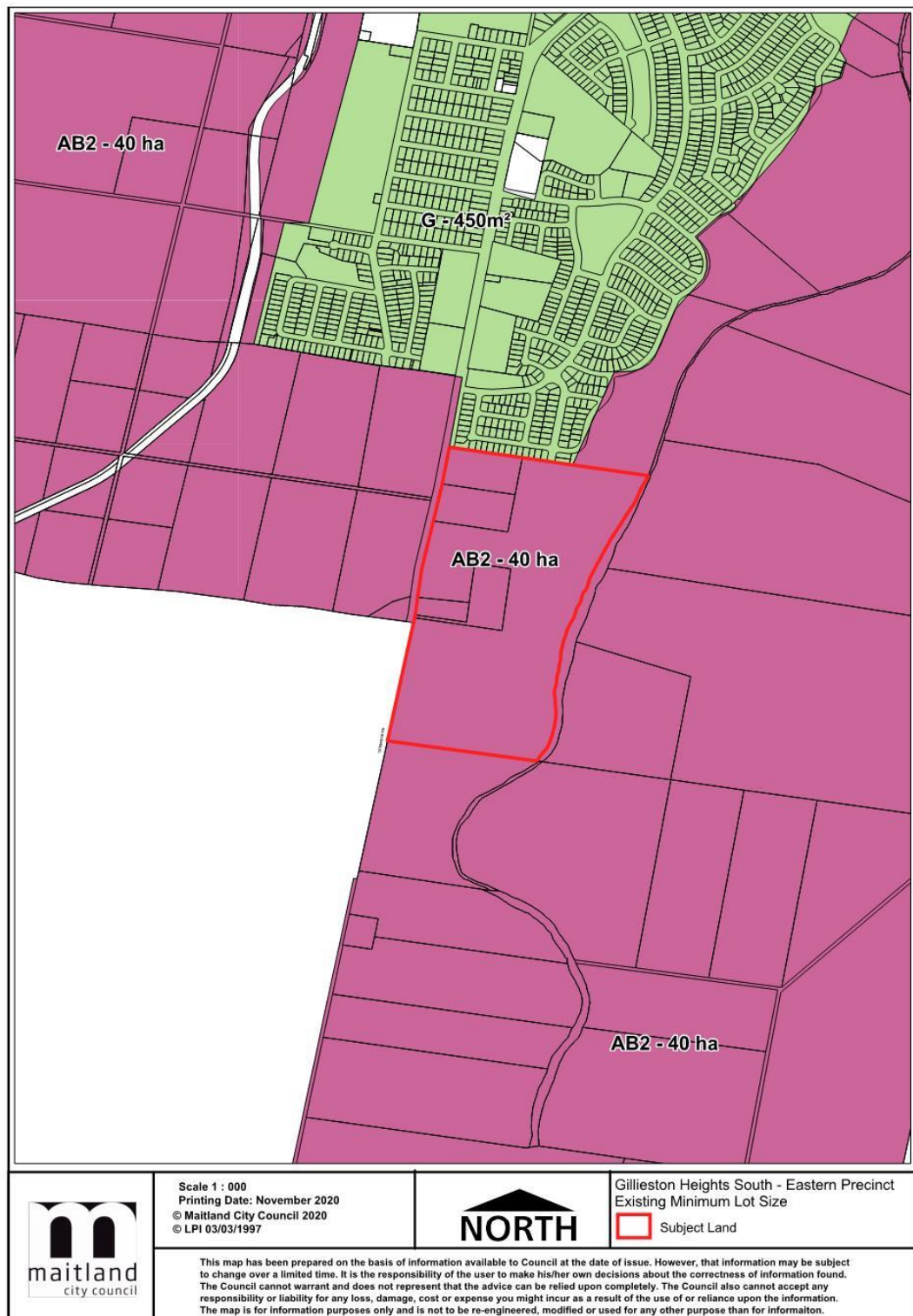
## MAP 1 – Existing Zoning Map



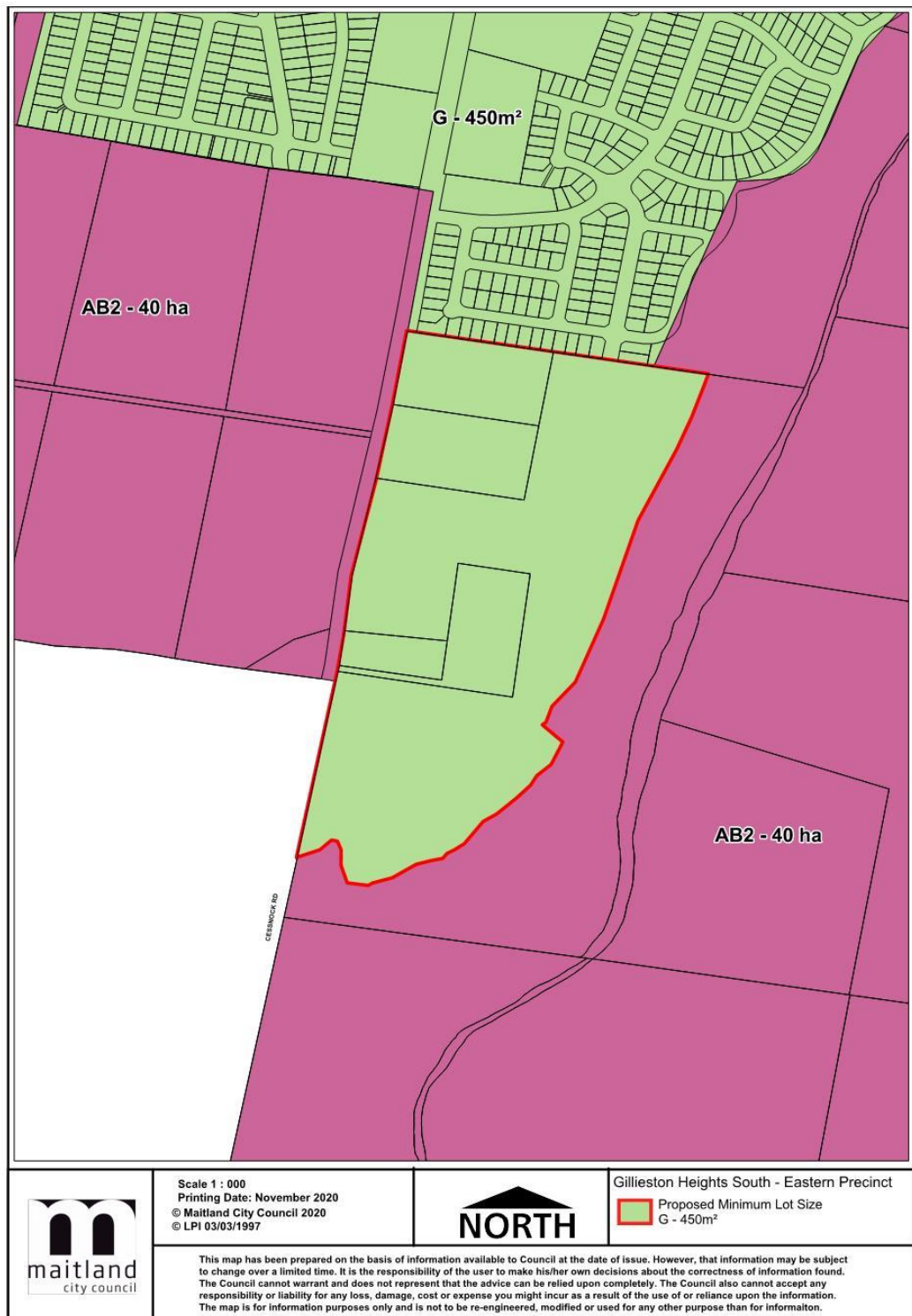
## Map 2 – Proposed Zoning Map



## Map 3 – Existing Minimum Lot Size Map

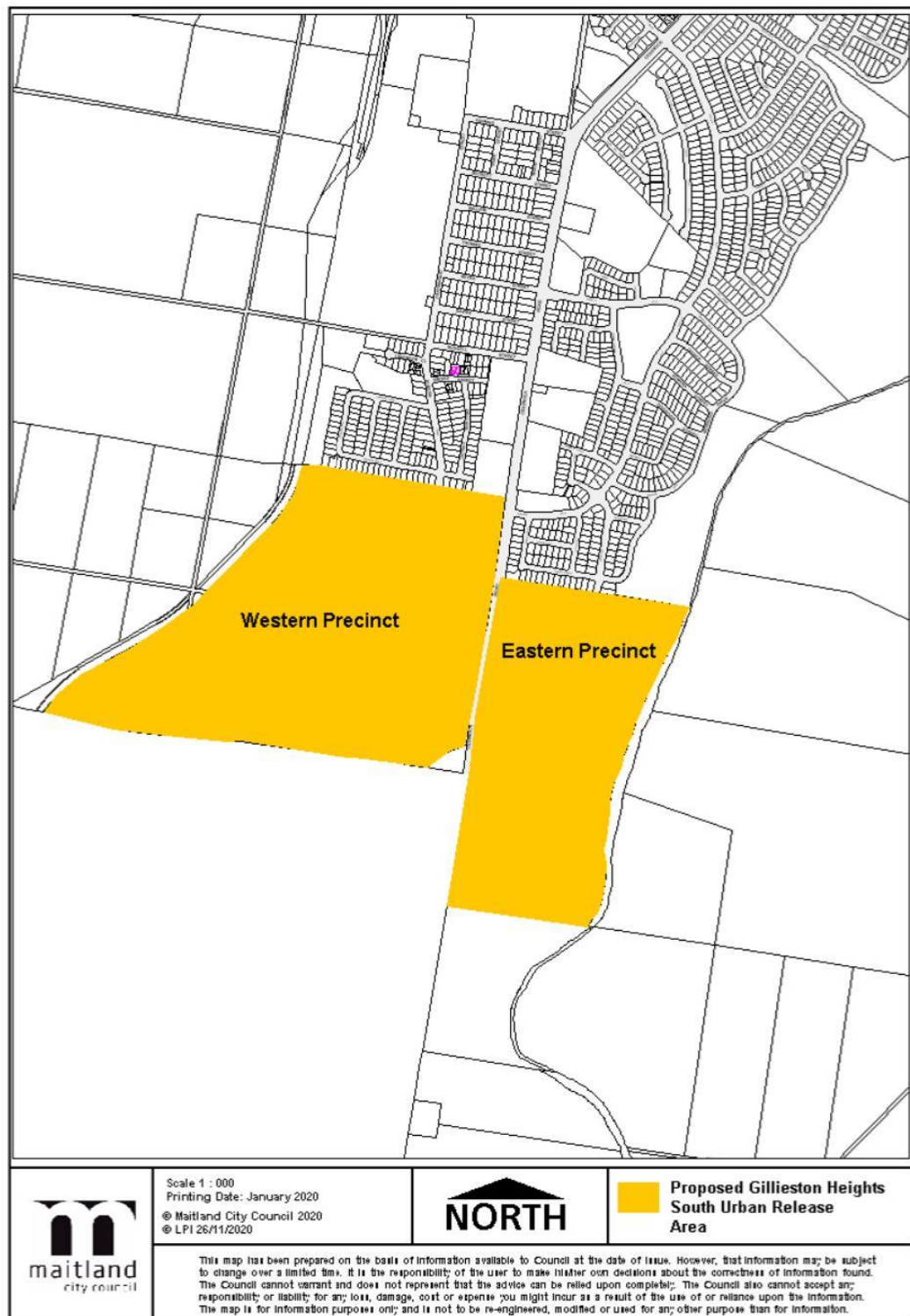


## Map 4 – Proposed Minimum Lot Size Map





**Map 5 – Proposed Urban Release Area**



## **PART 5: COMMUNITY CONSULTATION**

In accordance with Schedule 1, Clause 4 of the EP&A Act, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

In accordance with Council's adopted Community Engagement Strategy (March 2009), consultation on the proposed rezoning will be undertaken to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- A public exhibition period of 28 days;
- 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 for their endorsement of the planning proposal before proceeding to finalisation of the amendment.

The consultation process, as outlined above, does not prevent any additional consultation measures that may be determined appropriate as part of the Gateway Determination process.

## PART 6: PROJECT TIMELINE

| PROJECT TIMELINE  | DATE           |
|---|----------------|
| Anticipated commencement date (date of Gateway determination)   | December 2020  |
| Anticipated timeframe for the completion of required studies  | June 2021      |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days) | July 2021      |
| Commencement and completion dates for public exhibition period  | August 2021    |
| Dates for public hearing (if required)  | N/A            |
| Timeframe for consideration of submissions  | September 2021 |
| Timeframe for the consideration of a proposal post exhibition   | October 2021   |
| Anticipated date RPA will forward the plan to the department to be made (if not delegated)                            | November 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 A:**

## **Gateway Determination**

To be inserted

# **Appendix B-**

## **Alteration of Gateway Determination**

To be inserted