

## Planning and Assessment

**IRF22/1067**

### Gateway determination report

<b>LGA</b>	Maitland City Council
<b>PPA</b>	Maitland City Council
<b>NAME</b>	Brickworks Road Thornton (0 homes, 650 jobs)
<b>NUMBER</b>	PP-2022-1187
<b>LEP TO BE AMENDED</b>	Maitland Local Environmental Plan 2011
<b>ADDRESS</b>	Brickworks Road, Thornton
<b>DESCRIPTION</b>	Lot 161 DP136183, Lot 15 DP10419, Lot 14 DP 1078459, Lot 462 DP870019, Lot 282 DP852771, and Lots 1 – 4 DP1145348
<b>RECEIVED</b>	4 April 2022
<b>FILE NO.</b>	IRF22/1067
<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. INTRODUCTION

### 1.1 Site description

The site comprises three lots, including an exhausted clay extraction and brickworks at Thornton, known as the 'Brickworks site', and two other sites (mineral resource land) that have exhausted quarries and remnant vegetation (refer to Figure 1).

The Brickworks site is an irregular shaped parcel of land bounded by Raymond Terrace Road to the north, Haussman Drive to the east, the Great Northern Railway corridor to the south and rural, flood prone land to the west. The site has a total area of approximately 48ha, of which 14ha is disturbed vegetation and 12ha is mature native forest. The remainder is disturbed having been used previously for clay extraction and brickworks.

The mineral resource lands include exhausted quarries and remnant vegetation with an area of 58ha. The planning proposal only affects these lands to the extent of removing the '*Identified resource*' identification from the Mineral Resource Area Map under *Maitland Local Environmental Plan 2011*.

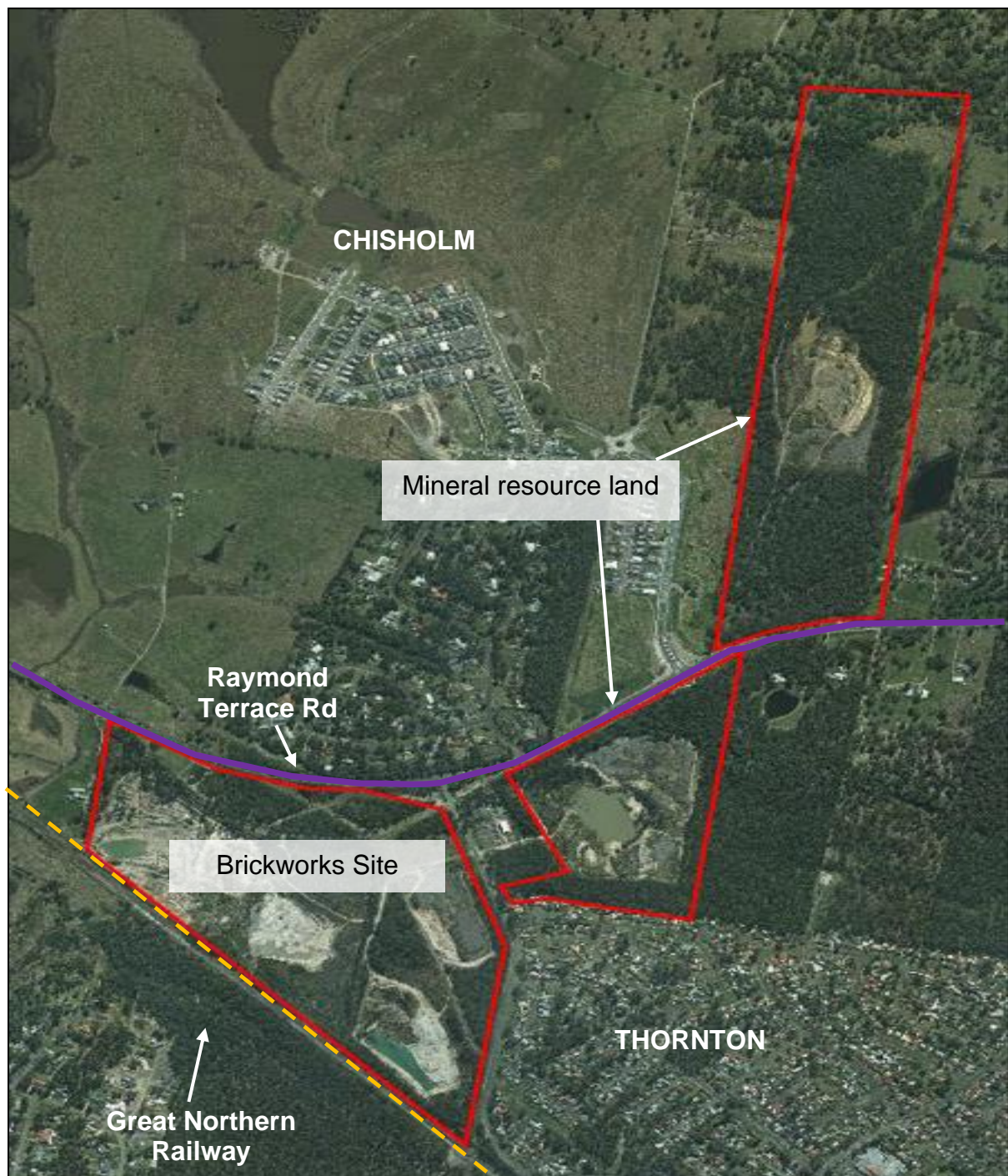


Figure 1 Site and surrounding area

## 1.2 Existing planning controls

The following planning controls apply to the sites:

- Zoning - RU2 Rural Landscape, R1 General Residential and E3 Environmental Management (refer to Figure 2)

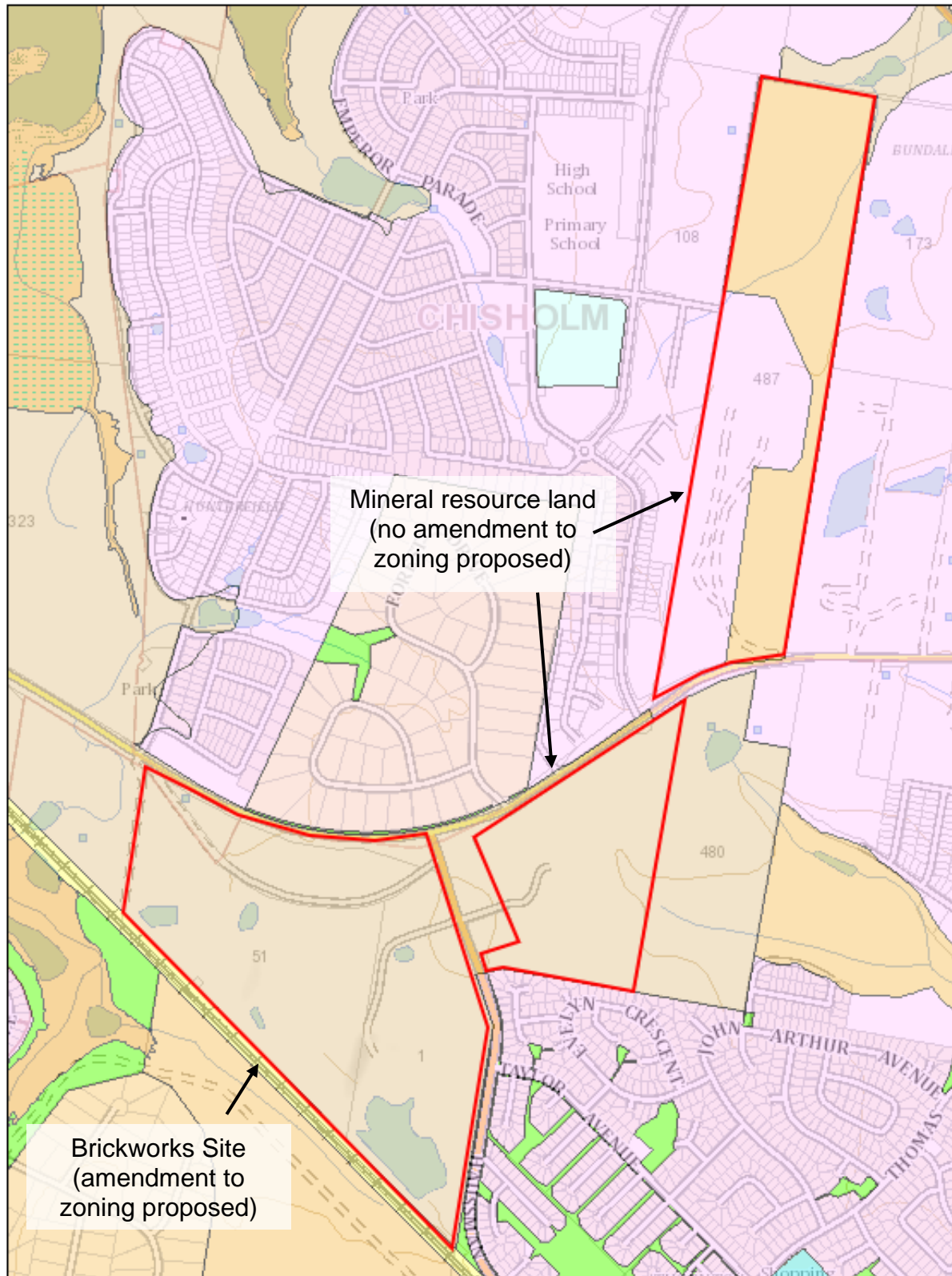


Figure 2 Existing Land Zoning (sites outlined red)

- The Brickworks site has a 40ha minimum lot size (refer to Figure 3)

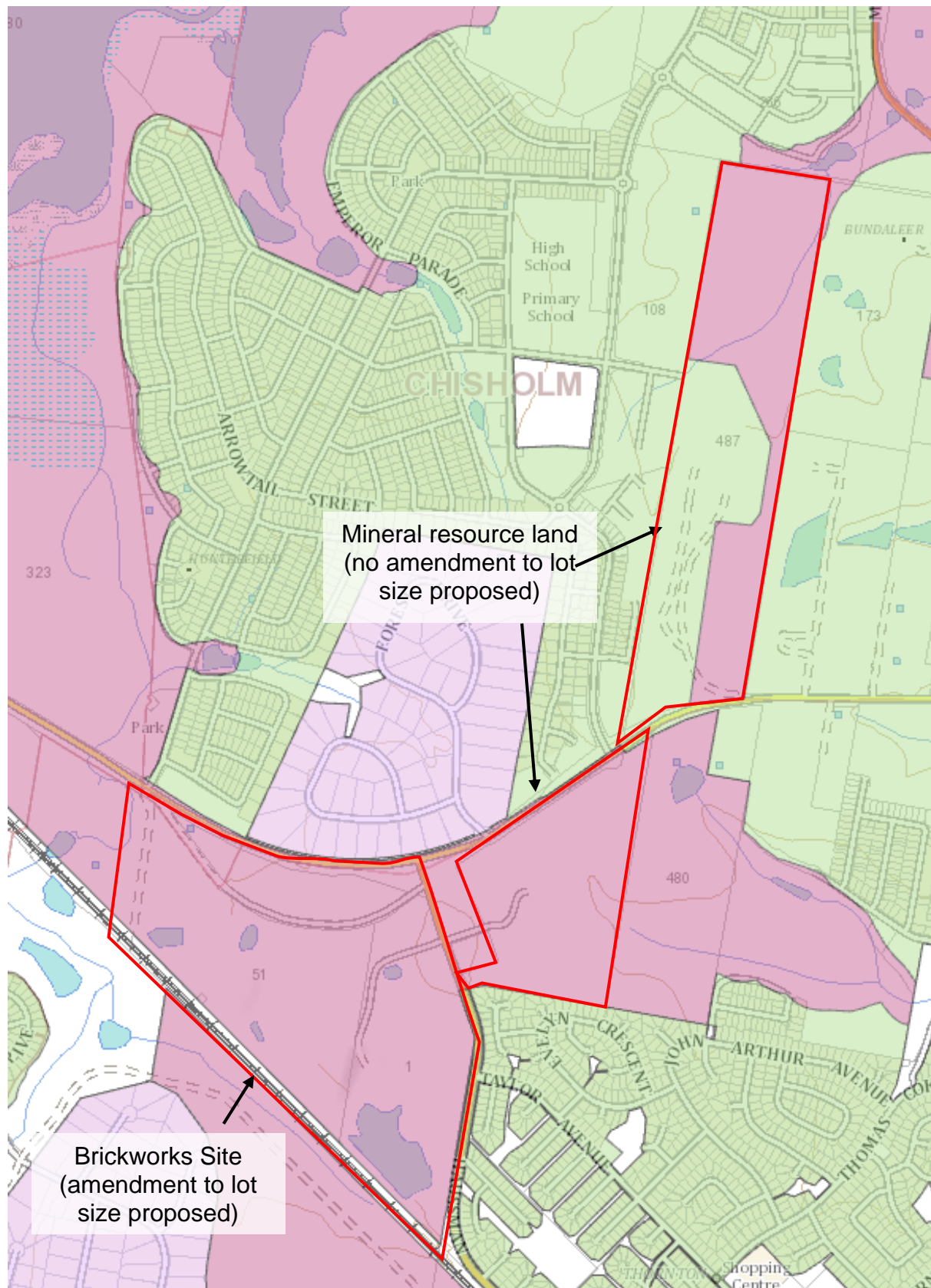


Figure 3 Existing Minimum Lot Size

- The eastern part of the Brickworks site and the two other sites (not subject to the planning proposal) are mapped as a Mineral Resource Areas (refer to Figure 4).

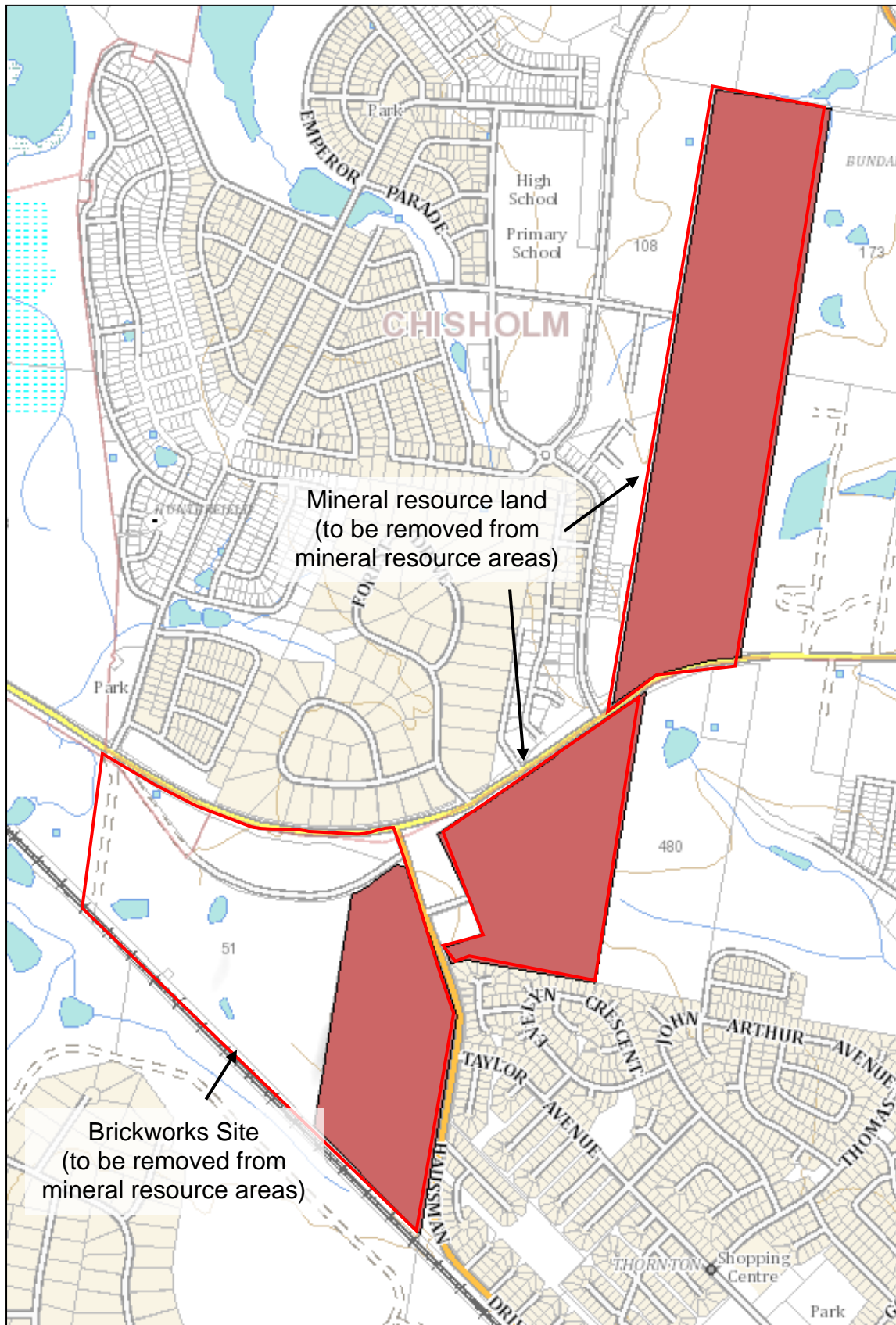


Figure 4 Existing Mineral Resource Areas (coloured brown)

### 1.3 Surrounding area

The site is surrounded and separated from developed, zoned or planned residential land (see Figure 1). It is separated from residential land by Raymond Terrace Road to the north, Haussman Drive to the east, and the Great Northern Railway to the south, beyond which there is forested land zoned E3 Environmental Management and large-lot residential development. To the west is flood prone rural land (refer to Figure 1).

## 2. PROPOSAL

---

### 2.1 Description of planning proposal

The planning proposal seeks to enable business development and protect an important biodiversity corridor.

The planning proposal is a consolidation of three separate rezoning applications from the three landowners of the Brickworks site. Council considered it more strategic to prepare one planning proposal applying to the entire Brickworks site to provide a holistic approach to the constraints, potential cumulative impacts, mitigating measures and its overall development.

### 2.2 Objectives or intended outcomes

The objectives are to:

- rezone the Brickworks site to enable future business development by enabling a mix of business and warehouse uses as well as large floor plate retail premises;
- protect existing vegetation on the Brickworks site to maintain and enhance a strategically important biodiversity corridor link; and
- remove the Mineral Resource Area classification from two other sites where they have been exhausted or rendered impractical by subsequent and planned development.

### 2.3 Explanation of provisions

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

- rezoning the Brickworks Road land from RU2 Rural Landscape to a mix of B5 Business Development and C3 Environmental Management (Note changes to the Standard Instrument Local Environmental Plan has renamed environmental zones to conservation zones);
- applying no minimum lot size to the B5 Business Development zoned land and retaining a 40ha minimum lot size for the C3 Environmental Management zoned land;
- identifying the Brickworks Road land as an 'Urban Release Area'; and
- removing the '*Identified resource*' identification on the Mineral Resource Area Map from the Brickworks site and other adjoining sites where resources have been exhausted or extraction made impractical due to planned land use changes. The planning proposal boundary currently does not include all this land.

Council will need to amend the planning proposal to clarify the extent of the proposed provisions, including:

- identifying the full extent of the removal of the '*Identified resource*' to cover the two additional sites on Raymond Terrace Road.

The planning proposal includes an additional permitted use on the B5 Business Development zoned land (Lot 161 DP 136183) being "food and drink premises" to activate the site, support other economic uses and provide a place for locals and visitors to socialise.

## 2.4 Mapping

The following Map sheets will be amended:

- Land Zoning Map sheets – LZN\_004D and LZN\_006A
- Minimum Lot Size Map sheets – LSZ\_004D and LSZ\_006A
- Urban Release Area Map sheets – URA\_004D and URA\_006A
- Mineral Resource Area Map sheet – MRA\_006A

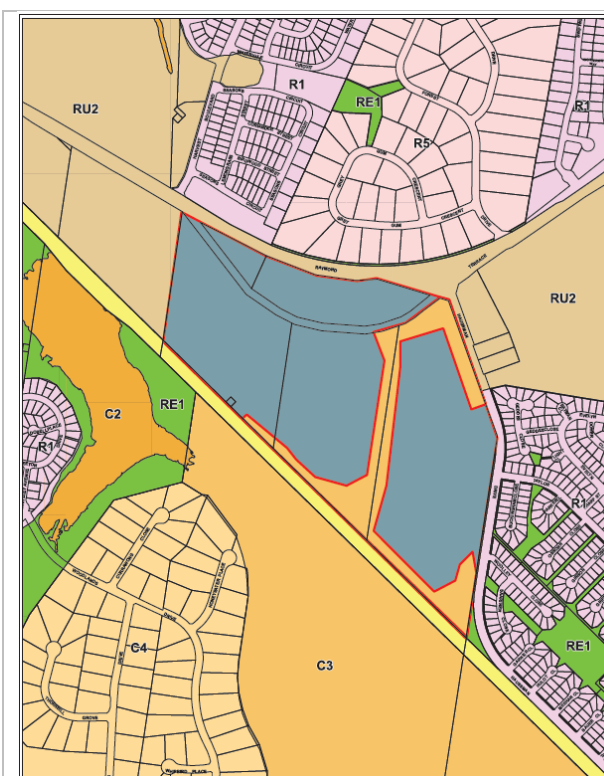


Figure 5 Proposed Land Zoning

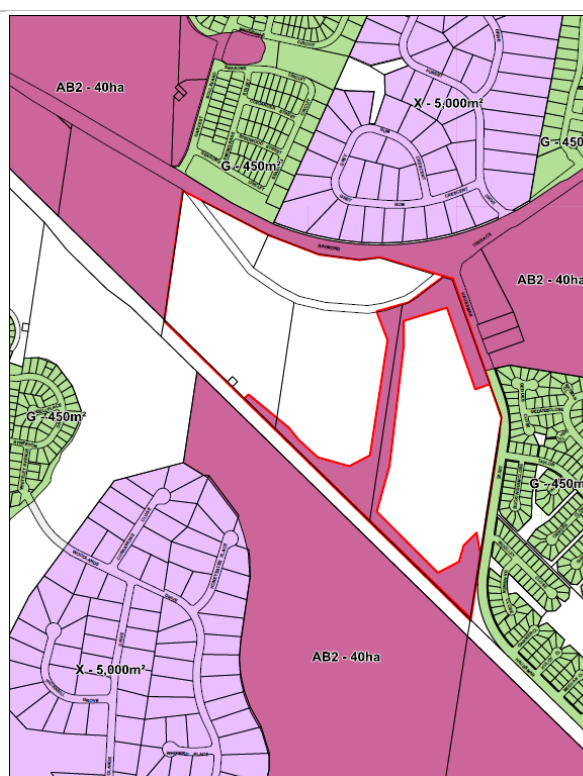


Figure 6 Proposed Minimum Lot Size

## 3. NEED FOR THE PLANNING PROPOSAL

The planning proposal responds to the expiration of extractive resources and associated brickworks on the site. It also responds to identification of the site as Employment Land Category 1 in the *Maitland Urban Settlement Strategy 2012* and Planned Investigation Area – Employment in the *Maitland Local Strategic Planning Statement 2040*.

There is a need to identify new employment lands near urban development and transport.

There are no other means of achieving the proposed land use change. A planning proposal is also the only means of amending the 'Mineral Resource Area Map'.

## **4. STRATEGIC ASSESSMENT**

---

### **4.1 Regional**

#### Hunter Regional Plan 2036

The vision of the *Hunter Regional Plan 2036* is to create a leading regional economy in Australia, with a vibrant metropolitan city at its heart. This vision will be achieved through four goals:

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

The planning proposal states it is consistent with these goals.

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

- Action 14.4 – Protect biodiversity by maintaining and where possible, enhancing the existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas.
- Action 24.1 – Locate new employment land so that it does not conflict with surrounding residential uses.
- The Maitland Local Government Narrative states for East Maitland – Diversify the economy and employment opportunities in the area.

The planning proposal is consistent with the *Hunter Regional Plan 2036*.

#### Draft Hunter Regional Plan 2041

This planning proposal will help achieve Objective 3 of developing 15-minute neighbourhoods by locating jobs, retail and services close to developed urban areas.

#### Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* sets out the strategies and actions to drive sustainable growth across five local government areas, including Maitland.

The planning proposal notes consistency with Outcome 1, which focuses on creating a workforce skilled and ready for the new economy. This requires an adequate supply of employment land to cater to demand for urban services in accessible locations. The site is well located to provide access to jobs and services for the expanding population in the area.

The planning proposal supports and achieves the following actions and imperatives in the *Greater Newcastle Metropolitan Plan 2036*:

- Action 7.1 – Greater Newcastle councils will align local plans to:
  - to ensure an adequate supply of employment land, including industrial zoned land, to cater for demand for urban services in accessible locations.
- Action 12.2 – Greater Newcastle councils will identify local blue and green corridors and continue the rehabilitation of waterways.
- Make better use of Greater Newcastle’s 30 railway stations.
- The proposal is close to the ‘East Maitland Catalyst Area’ and supports increased use of Metford Railway Station.

The planning proposal supports the implementation of the *Greater Newcastle Metropolitan Plan 2036*.

## 4.2 Local

### Community Strategic Plan Maitland +10

The planning proposal is consistent with the vision and objectives of the *Community Strategic Plan Maitland +10* as it provides opportunities for urban growth to meet the needs of a rapidly growing population.

### Maitland Local Strategic Planning Statement 2040+ (LSPS)

The planning proposal states that the Brickworks site is identified as a ‘Planned Investigation Area – Employment’ in the LSPS. The site is strategically located close to surrounding residential areas with access to transport, infrastructure, and services.

### Maitland Urban Settlement Strategy 2012 (MUSS)

The Brickworks site is identified in the MUSS as ‘Category 1 Investigation Area for Employment’ noting that the site is significantly constrained for the purposes of residential development and highlights an opportunity to provide employment land for a growing population in the locality (Figure 5).



Figure 7 Thornton (Brickworks Road) Category 1 Employment Lands

The MUSS recognises that while there are employment opportunities, all three of the sites have native vegetation linkages identified as either wildlife corridor, drainage line corridor and/or riparian corridor in the *Maitland City Council Greening Plan 2002* (Figure 6).

The MUSS also identifies the need for a local catchment analysis and potential impacts on water quality and quantity as well as salinity and acid sulfate soils.

In September 2009, the Department conditionally endorsed the MUSS.

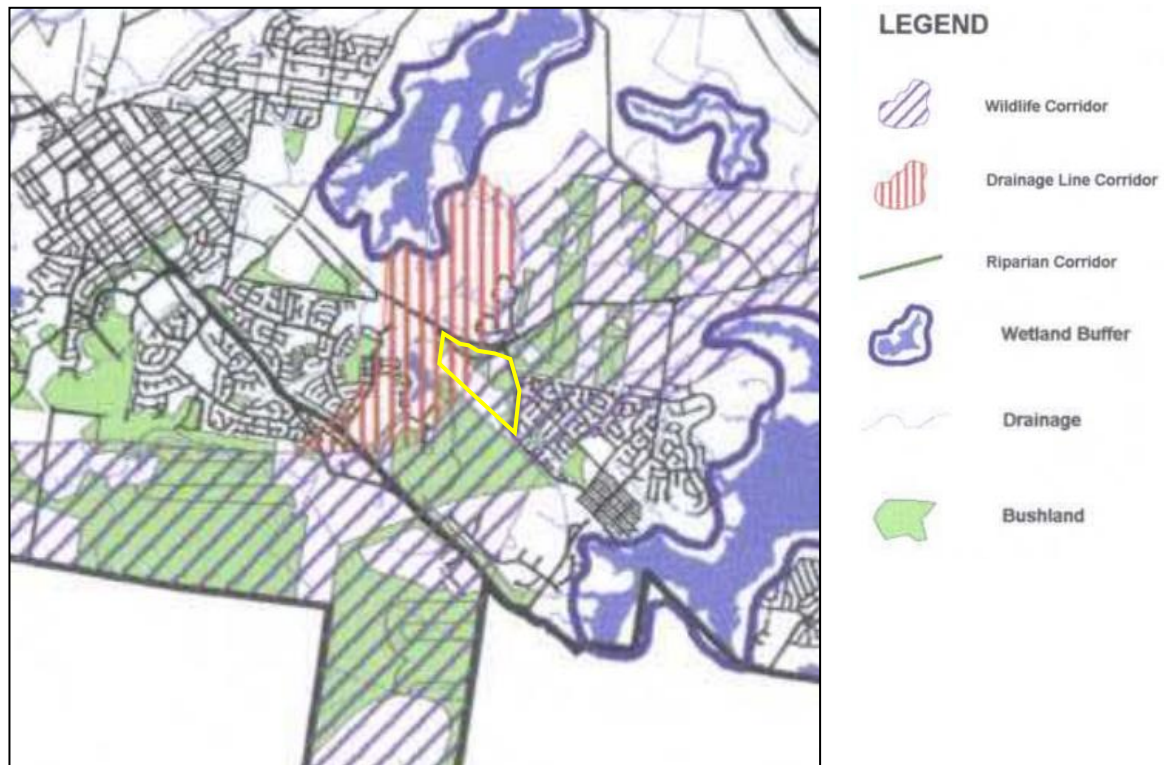


Figure 8 Opportunity Corridors extract map (rezoning site outlined yellow)

### Activity Centres and Employment Cluster Strategy (ACECS)

The *Activity Centres and Employment Cluster Strategy (ACECS)*, adopted by Council in January 2010, sets out key principles to encourage the growth of all activity centres and employment clusters within the Maitland LGA and to support the growing residential community with adequate services, facilities, and employment opportunities.

The proposed B5 Business Development zone and associated land uses, in this location, are consistent with the vision and objectives of the strategy. The planning proposal will contribute to providing employment and services to the surrounding growing population in accordance with the hierarchy of centres identified in the strategy.

The Economic Impact Assessment by Hill PDA in October 2021 demonstrates that the additional permitted use of 'food and drink premises' on the site will have an insignificant or low impact on nearby centres and service clubs. It will provide additional advantages including:

- Improved amenity for the Thornton North Employment Precinct,

- Activation of the local area and encouraging community social cohesion, and
- Increased visitor expenditure in Maitland due to the proposed motel.

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

##### SEPP (Biodiversity and Conservation) 2021 - Chapter 3 Koala habitat protection 2021

The planning proposal identifies SEPP (Koala Habitat Protection) 2021 as applying to the site, however, that SEPP now forms part of the above SEPP. The new SEPP came into force on 1 March 2022.

The site is not considered “Potential Koala Habitat” because koala feed trees found in the study area make up less than 15% of all native trees on the site. The area is not considered “Core Koala Habitat” as no evidence of koalas has been found on or near the site.

The planning proposal is consistent with the SEPP.

##### SEPP (Housing) 2021 – Part 5 Housing for seniors or people with a disability

The planning proposal identifies SEPP (Housing for Seniors or People with a Disability) 2004 as applying to the site, however, that SEPP now forms part of the above SEPP. The new SEPP came into force on 26 November 2021.

The SEPP permits seniors housing development within the B5 Business Development zone.

The current masterplan for the Brickworks site does not propose any seniors housing development and any future proposals would be considered under the provisions of the SEPP.

The planning proposal is consistent with the SEPP.

##### SEPP (Resources and Energy) 2021 – Chapter 2 Mining, petroleum production and extractive industries

The planning proposal identifies SEPP (Mining, Petroleum Production and Extractive Industries) 2007 as applying to the site, however, that SEPP now forms part of the above SEPP. The new SEPP came into force on 1 March 2022.

The SEPP enables mining development wherever development for the purposes of agriculture may be carried out. The Brickworks site is zoned RU2 Rural Landscape which permits agriculture, and the land is identified as an ‘Identified resource’ on the Mineral Resource Area Map in *Maitland Local Environmental Plan 2011*.

The clay resource on the site has been exhausted, like other land in the area or they have been zoned and/or approvals granted for land uses that would preclude extractive industries.

Title searches and consultation with NSW Department of Mining Exploration and Geosciences and accessing Regional NSW information resource MinView has confirmed no active mining leases applicable over the sites.

The planning proposal is consistent with the SEPP.

#### **4.4 Section 9.1 Ministerial Directions**

##### **1.1 Implementation of Regional Plans**

The planning proposal has identified that it is consistent with the *Hunter Regional Plan 2036* and the *Greater Newcastle Metropolitan Plan 2036*.

The planning proposal is consistent with the direction.

In addition, the planning proposal is consistent with the draft Hunter Regional Plan 2041 by:

- Implementing and supporting the development of 15-minute neighbourhoods through providing jobs and services close to homes;
- Promoting the reuse of exhausted quarry lands to provide employment;
- Retaining biodiversity corridors; and
- Supporting the development of East Maitland as a strategic centre.

##### **1.4 Site Specific Provisions**

The planning proposal includes the additional permitted use of *Food and drink premises* on Lot 161 DP136183 which would not otherwise be permitted in the zone. It does not, however, set any development standards.

Any inconsistency with the direction is of minor significance and justified by an economic study that demonstrates there is no impact on surrounding centres or services to any significant degree.

##### **3.1 Conservation Zones**

The planning proposal states it is consistent with this direction as it will zone part of the land to C3 Environmental Management to protect an identified endangered ecological community and maintain and enhance a habitat corridor.

Consultation will be undertaken with the Biodiversity Conservation Division on the final zone boundaries. This should be undertaken prior to considering consistency with the direction.

##### **3.2 Heritage Conservation**

An Aboriginal Cultural Heritage assessment and European Heritage assessment were undertaken. No Aboriginal sites, artefacts or objects were found.

The remnants of a brickworks stack are not listed as a heritage item in *Maitland Local Environmental Plan 2011* but may have some significance. The adjoining Great Northern Railway (State heritage listed) and the brickworks stack can be screened by retained vegetation on the site.

The *Maitland Local Environmental Plan 2011* contains standard heritage provisions to consider any items affected during the development application stage.

The planning proposal is consistent with the direction.

##### **4.3 Planning for Bushfire Protection**

The planning proposal identifies the site as bushfire prone land. There is ample scope to introduce Asset Protection Zones around and within the development area.

Maitland City Council will need to consult with the NSW Rural Fire Service and consider its advice to demonstrate consistency with the direction.

#### 4.4 Remediation of Contaminated Land

The planning proposal indicates that any inconsistency is justified as a detailed investigation report found:

- all soil samples tested below the adopted detection levels and relevant guideline criteria for contaminants;
- no asbestos was detected;
- the land is suitable for the proposed development; and
- should there be an unexpected find then works should cease and a suitable qualified consultant contacted to examine the site.

The planning proposal is consistent with the direction.

#### 4.5 Acid Sulfate Soils

The planning proposal states it is consistent with the direction. It has identified the presence of Class 5 Acid Sulfate Soils and that remediation studies and works will be required. *Maitland Local Environmental Plan 2011* contains standard acid sulfate soils provisions to manage the development application process.

The planning proposal is consistent with the direction.

#### 4.6 Mine Subsidence and Unstable Land

The planning proposal notes the land is not within a Mine Subsidence District and geotechnical reports confirm there are no underground workings.

Management of uncontrolled fill that has occurred on the site can be considered through the development application process.

The planning proposal is consistent with the direction.

#### 5.1 Integrating Land Use and Transport

The planning proposal states that it is consistent with this direction as it proposes an employment area with local and regional connectivity through the design and location of the road network.

The location of the employment lands helps achieve the goal of reducing car dependency as it is located approximately 536m from Metford Railway Station (refer to Figure 6) and pedestrian and cycle connections could be provided. It is also 1.2km from Thornton Railway Station to the south east. The site is also surrounded by residential development, much of it within walking distance.

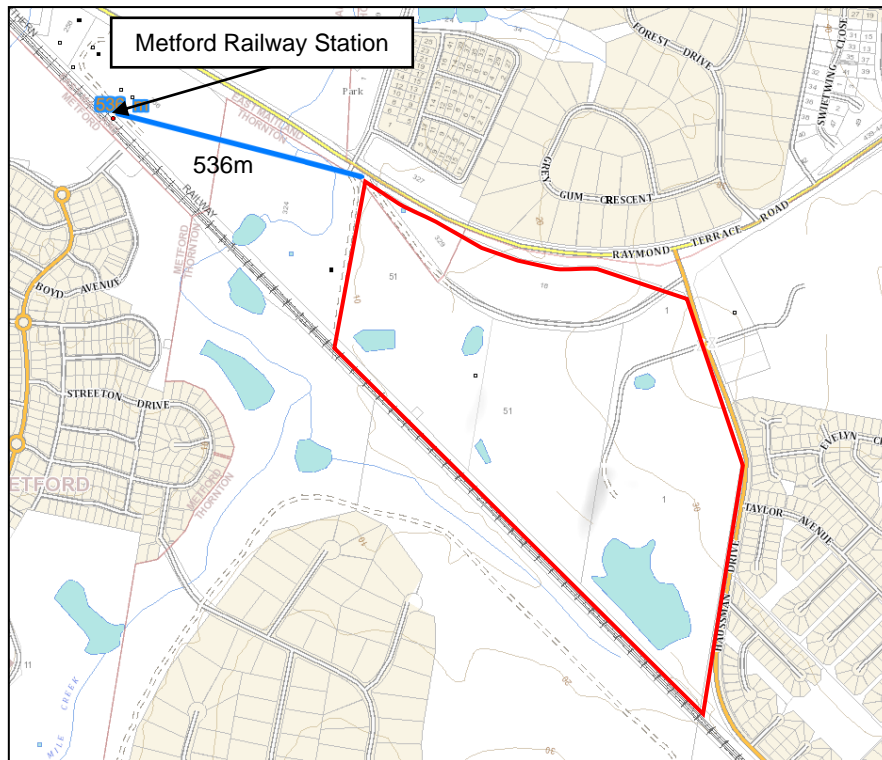


Figure 9 Distance to Metford Railway Station

A second road access is proposed to the junction of Raymond Terrace Road and Harvest Boulevard, across adjoining land not part of this planning proposal. Landowner's consent has been provided to enable necessary investigations to proceed for construction of this road. Consultation will be undertaken with Transport for NSW on the final road access to the site. This should be undertaken prior to determining consistency with the direction.

### 7.1 Business and Industrial Zones

The planning proposal states it is consistent with this direction in that it promotes business and employment related uses. It is also consistent with the *Maitland Urban Settlement Strategy 2012* (MUSS) which identifies the land as a 'Category 1 Investigation Area for Employment'.

The planning proposal is consistent with the direction.

### 8.1 Mining, Petroleum Production and Extractive Industries

The planning proposal states that it is consistent with this direction because:

- clay resources have been exhausted on the Brickworks site;
- associated brick making infrastructure has been removed; and
- clay resources have been exhausted on nearby land and/or it has been zoned or approval given to land uses that render future extraction impractical on that land.

However, the planning proposal introduces zones that will prohibit or allow development that will significantly restrict mining or extraction. Therefore, the planning proposal is inconsistent with the direction.

Title searches and consultation with NSW Department of Mining Exploration and Geosciences and accessing Regional NSW information resource MinView has confirmed no active mining leases applicable over the sites.

The planning proposal is justifiably inconsistent with the direction.

#### 9.1 Rural Zones

The planning proposal is inconsistent with this direction as it proposes to rezone the site from RU2 Rural Landscape to B5 Business Development. However, this inconsistency is justified by identification of the Brickworks site as a 'Category 1 Investigation Area for Employment' in the MUSS.

The planning proposal is justifiably inconsistent with the direction.

#### 9.2 Rural Lands

The planning proposal is inconsistent with this direction as it proposes to rezone RU2 Rural Landscape to B5 Business Development. However, this inconsistency is justified by identification of the Brickworks site as a 'Category 1 Investigation Area for Employment' in the MUSS.

The planning proposal is justifiably inconsistent with the direction.

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

---

#### **5.1 Social**

The site is close to large residential neighbourhoods and will be able to provide services, retail and potentially a meeting place near a growing population.

The site is close to Metford and Thornton Railway Stations, Maitland TAFE, Greenhills, Chisholm and Thornton Centres and the new Maitland Hospital Precinct.

#### **5.2 Environmental**

A Biodiversity Values Assessment Report identified 14ha of disturbed vegetation and 12ha of mature vegetation on site. It is comprised of the Endangered Ecological Communities – Lower Hunter Spotted Gum Ironbark and Lower Hunter Forest Red Gum. There are 39 hollow bearing trees with 70 hollows.

Fauna surveys identified 14 threatened species on site.

It was concluded there is suitable habitat for continued viability of the site and corridor function if there are no increases in fragmentation and remnant vegetation is enhanced and managed.

Council has provided a draft concept masterplan for the site identifying an indicative road layout and application of potential land uses (Figure 6). Council has identified the C3 Environmental Management and B5 Business Development zone boundaries to preserve EECs and ensure the planning proposal maintains a viable habitat and corridor function.

A detailed site investigation report for contamination of the site found no contaminants that would preclude the proposed land uses.

Council has recommended additional geotechnical studies prior to finalising the planning proposal. Any soils and uncontrolled fill on the site that needs to be removed will be carried out in accordance with the *NSW Environment Protection Authority's Waste Classification Guidelines 2014*.



Figure 10 Draft concept master plan

### 5.3 Economic

The development of approximately 21ha for business, retail and employment purposes on the Brickworks site could provide a significant number of construction and on-going jobs.

Landcom's 'Workspace Ratios' estimates that warehousing generates one job per 150sqm of floor space. Assuming a yield of 100,000sqm of floorspace from the site, it could yield at least 650 jobs within walking distance of residential areas and Metford Railway Station.

### 5.4 Infrastructure

The site has connections to existing services and infrastructure. Adjoining established and growing residential areas have all essential services which can be extended including telecommunications, electricity, gas, reticulated water, and sewer.

The site will be identified as an 'Urban Release Area' and as such it will be subject to the satisfactory arrangement provisions in *Maitland Local Environmental Plan 2011* for State and local infrastructure.

Road access is proposed from each end of the Brickworks site from the Haussman Drive/Taylor Avenue intersection to the east through the site to the Raymond Terrace Road/Harvest Boulevard intersection to the north west. Studies to date have not addressed the feasibility of the Raymond Terrace Road access. However, the adjoining landowner has given consent to carry out investigations on that land and Transport for NSW will be consulted.

## 6. CONSULTATION

---

### 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 Conservation Division;
- Transport for NSW;
- Hunter Water Corporation;
- NSW Rural Fire Service;
- NSW Environment Protection Authority; and
- Mindaribba Local Aboriginal Land Council.

## 7. TIME FRAME

---

Council has proposed 8 months to complete this planning proposal.

However, given the investigations still to be undertaken it is considered appropriate to allow 12 months for completion of the planning proposal.

## 8. LOCAL PLAN-MAKING AUTHORITY

---

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 framework for the area.

## 9. RECOMMENDATION



---

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Ministerial directions 1.1 Implementation of Regional Plans; 1.4 Site Specific Provisions; 3.2 Heritage Conservation; 4.4 Remediation of Contaminated Land; 4.5 Acid Sulfate Soils; 4.6 Mine Subsidence and Unstable Lands; 8.1 Mining, Petroleum Production and Extractive Industries; 9.1 Rural Zones; and 9.2 Rural Lands are minor or justified by the *Maitland Urban Settlement Strategy 2012*; *Hunter Regional Plan 2036*; *Greater Newcastle Metropolitan Plan 2036*; or studies and investigations; and
2. note that the consistency with section 9.1 Ministerial directions 3.1 Conservation Zones; 5.1 Integrated Land Use and Transport; and 4.3 Planning for Bushfire Protection will be achieved when consultation is undertaken with relevant 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:
  - Biodiversity Conservation Division;
  - Transport for NSW;
  - Hunter Water Corporation;
  - Environment Protection Authority;
  - Mimaribba Local Aboriginal Land Council; and
  - NSW Rural Fire Service.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Maitland City Council should be the local plan-making authority.
5. The following investigations are to be completed prior to public exhibition:
  - (a) geotechnical studies into the removal of uncontrolled fill material from the site.
6. The planning proposal is to be updated to:
  - (a) amend the planning proposal boundary to include all the land which is to be removed from the Mineral Resources Area Map; and
  - (b) reflect the findings of the additional studies listed in Condition 5(a).

	
<b>Dan Starreveld</b> <b>Manager, Local and Regional</b> <b>Planning</b>	<b>William Oxley</b> <b>A/ Director, Central Coast and Hunter</b> <b>Planning and Land Use Strategy</b>

Assessment officer: Mark Parker  
Principal Planning Officer,  
Central Coast and Hunter Region  
Phone: 9995 5286