

# city council

## **Brickworks Employment Precinct**

### **Planning Proposal**

PROPOSED AMENDMENT TO  
*MAITLAND LOCAL ENVIRONMENTAL PLAN 2011*

LOT 161 in DP 136183, LOT 15 in DP 10419, LOT 14 in DP 1078459  
LOT 462 in DP 870019, LOT 282 in DP 852771  
BRICKWORKS ROAD, THORNTON

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## Attachments

1. Flora and Fauna Reports
2. Hydrogeological Reports
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4. Concept Master Plan
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7. Title Documents – Mining Lease Status'
8. Proposed Land Use Zone Map
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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 (EP&A Act)*. It explains the intended effect of, and justification for, the proposed amendment to *Maitland Local Environmental Plan 2011 (MLEP 2011)* to amend planning controls and rezone land at Brickworks Road, Thornton. The purpose of the planning proposal is to enable future business park development and protection of environmentally significant areas. The site includes the following land:

LAND	AREA	OWNER
1 Brickworks Rd, Lot 161 in DP 136183	18.91ha	North Thornton Group Pty Ltd
15 Brickworks Rd, Lot 15 in DP 10419	11.97ha	Nouredeen Abdul-Rahman and Marie Elford
51 Brickworks Rd, Lot 14 in DP 1078459	10.18ha	Nouredeen Abdul-Rahman and Marie Elford
329 Raymond Terrace Rd, Lot 462 in DP 870019	9358m2	Mr B and Mrs C Swan
18 Brickworks Rd, Lot282 DP in 852771	4.63ha	Mr B and Mrs C Swan

The following lands are identified as Mineral Resource Area but do not form part of the Thornton (Brickworks Road) Employment Lands yet are subject to this planning proposal:

LAND	AREA	OWNER
Lot 1 in DP 1145348	0.22ha	Maitland City Council MCC
Lot 2 in DP 1145348	18.96 ha	McCloy Thornton Pty Ltd
Lot 3 in DP 1145348	0.31ha	Unknown (appears to be road reserve)
Lot 4 in DP 1145348	38.55 ha	Avid Residential Estates Pty Ltd

The amendment to *MLEP 2011* is proposed as described below:

- amend the Mineral Resource Area LEP Map (Sheet MRA\_006A), as the site and additional lots will no longer be used for extractive industries and therefore is no longer an 'identified resource',
- amend the land zone LEP map (sheet LZN\_004D and sheet LZN\_006A) to rezone land that is currently RU2 Rural Landscape to a land use configuration including B5 Business Development and C3 Environmental Management.
- amend the minimum lot size LEP map (sheet LSZ\_004D and sheet LSZ\_006A) to amend the minimum lot size controls for the site, a 40ha minimum lot size will be applied to land zoned C3,
- amend Schedule 1 to include an additional permitted use of a *Food and Drink* Premise on Lot 161 in DP 136183, and
- amend the urban release area LEP map (sheet URA\_004D and sheet URA\_006A) to identify the site as an urban release area.

The proposed amendments to *MLEP 2011* will enable the site to be developed for a mix of business and warehouse uses, food and drink premises, and specialised retail premises that require a large floor area. It will also protect existing vegetation on site, maintaining strategically important and identified biodiversity corridor linkages, and remove land no longer require for mining purposes from the Mineral Resource Area map.

The proposed land use zone configuration is intended to be a mix of B5 Business Development and C3 Environmental Management across the site. It is proposed to zone approximately 38 hectares of the site B5 Business Development, and 10 hectares C3 Environmental Management.

The area of the Planning Proposal subject to the rezoning is identified in the *Maitland Urban Settlement Strategy 2012* (MUSS 2012) as Employment Land Category 1 and in the *Maitland Local Strategic Planning Statement 2040+* (LSPS) as Planned Investigation Area – Employment. This area is also identified in the Maitland Greening Plan 2002 as a future opportunity corridor for biodiversity connectivity and drainage. The land is currently zoned RU2 – Rural Landscape under *MLEP 2011*.

The site forms an irregular shaped parcel bound 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 48 hectares.

A locality plan is included as **Figure 1** below.

**Figure 1 – Locality Plan Brickworks Road Planning Proposal**



## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of the planning proposal is to amend existing planning controls and rezone land to enable future business development outcomes and protection of environmentally significant areas. The proposed amendment to *MLEP 2011* will enable the site to be developed for a mix of business and warehouse uses, food and drink premises, as well as specialised retail premises that require a large floor area. It will also protect existing high value vegetation on site, maintaining strategically important and identified biodiversity corridor linkages.

In addition, the Mineral Resource Area is applicable to Lots 1,2,3 and 4 in DP 114538. The intent of the planning proposal is also to remove the applicability of the Mineral Resource Area Map from these sites. These sites have exhausted the resource, and do not have any active leases over to the property titles (Attachment 7). Consultation undertaken by the proponent with the NSW Department of Mining Exploration and Geosciences (Assessment and System Group), and the Regional NSW information resource MinView has confirmed that no active mining leases are applicable over the sites.

Importantly, these sites are partially zoned for residential purposes or have development approvals for residential purposes. With the increased urban development in the locality, the likelihood of these sites being utilised for further mining or extractive industry in the future is precluded.

## PART 2: EXPLANATION OF PROVISIONS

The intended objectives will be achieved by amendments to the planning controls and land use zones in the *MLEP 2011*, specifically the MLEP 2011 maps including:

- Land Zoning Map (Sheet LZN\_004D, Sheet LZN\_006A),
- Mineral Resources Area Map (Sheet MRA\_006A),
- Minimum Lot Size Map (Sheet LSZ\_004D, Sheet LSZ\_006A),
- Urban Release Area Map (Sheet URA\_004D, Sheet URA\_006A).

A summary of the proposed amendment is provided in the table below.

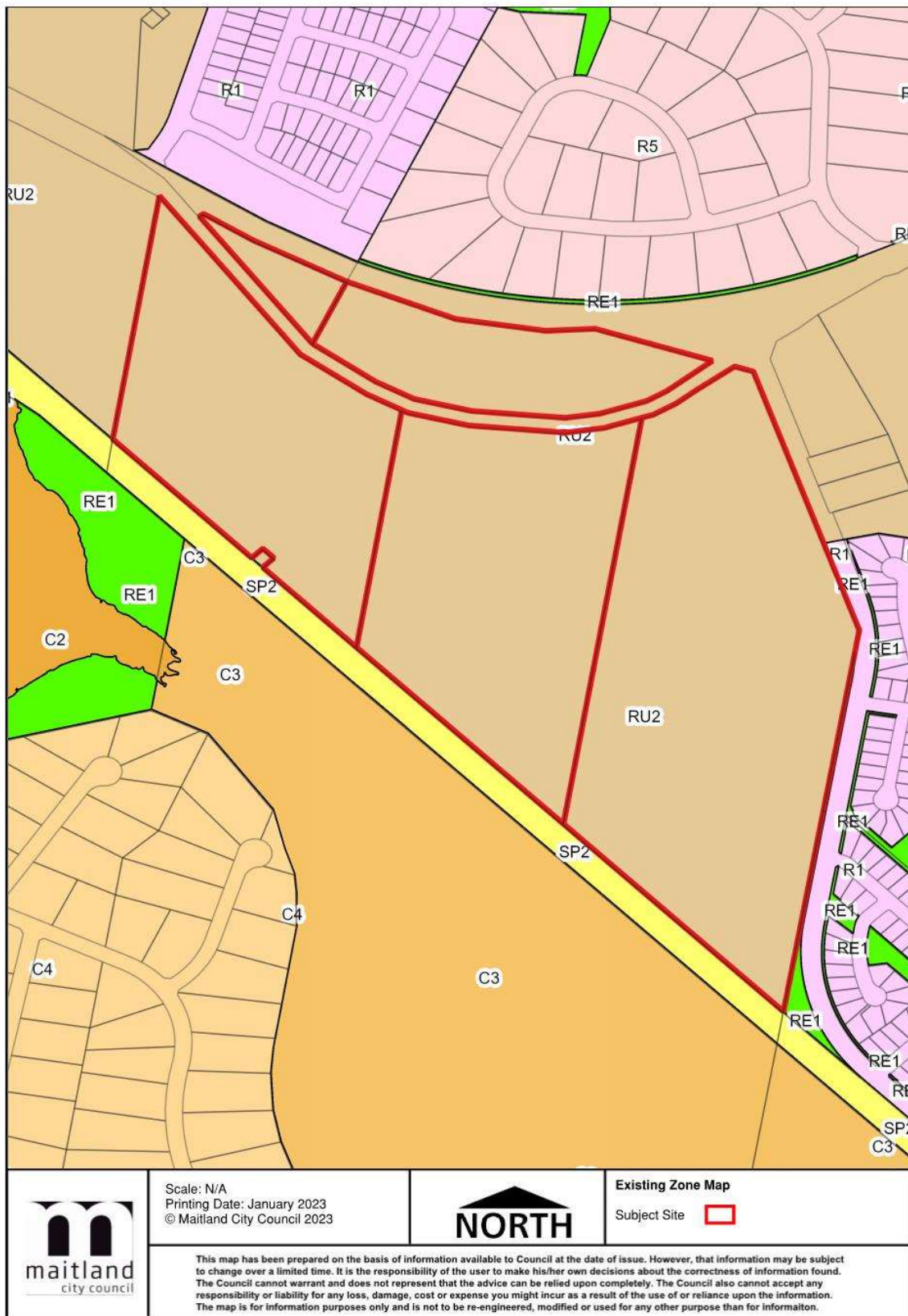
Applicable land	Thornton (Brickworks Road) Employment Lands Lot 161 in DP 136183 Lot 15 in DP 10419 Lot 14 in DP 1078459 Lot 462 in DP 870019 Lot 282 in DP 852771  Additional sites identified as Mineral Resource Area Lot 1 in DP 1145348 Lot 2 in DP 1145348 Lot 3 in DP 1145348 Lot 4 in DP 1145348
Landowner	Various landowners

Land size	Approximately 48 hectares
Current zone & planning controls	<p>Thornton (Brickworks Road) Employment Land: RU2 Rural Landscape with a minimum lot size of 40ha. Lot 161 DP 136183 is identified as Mineral Resource Area.</p> <p>Additional sites identified as Mineral Resource Area: Lot 1 DP 1145348R1 General Residential () Lot 2 DP 1145348 RU2 Rural Landscape Lot 3 DP 1145348 R1 General Residential Lot 4 DP 1145348 R1 General Residential and C3 Environmental Management</p>
Proposed zone	<p>Land use configuration including a mix of: B5 Business Development and C3 Environmental Management as per Attachment 8.</p> <p>(Applicable to Thornton (Brickworks Road) Employment Lands only)</p>
Proposed minimum lot size	<p>No minimum lot size will be applied to any land zoned for B5 Business Development and a 40ha minimum lot size will be applied to any land zoned for C3 Environmental Management as per Attachment 9.</p> <p>(Applicable to Thornton (Brickworks Road) Employment Lands only)</p>
Proposed planning controls	<p>Remove the identification of a Mineral Resources Area</p> <p>Identify the Thornton (Brickworks Road) Employment Lands as an Urban Release Area</p>
Map amendments	<p>Land Zoning Map - Sheet LZN_004D and Sheet LZN_006A Mineral Resources Area Map - Sheet MRA_006A Minimum Lot Size Map - Sheet LSZ_004D and Sheet LSZ_006A - Urban Release Area Map - Sheet URA_004D and Sheet URA_006A</p>
Schedule 1	Amend Schedule 1 of <i>MLEP 2011</i> to permit the development of a <i>Food and Drink Premise</i> with development consent over Lot 161 in DP 136183.

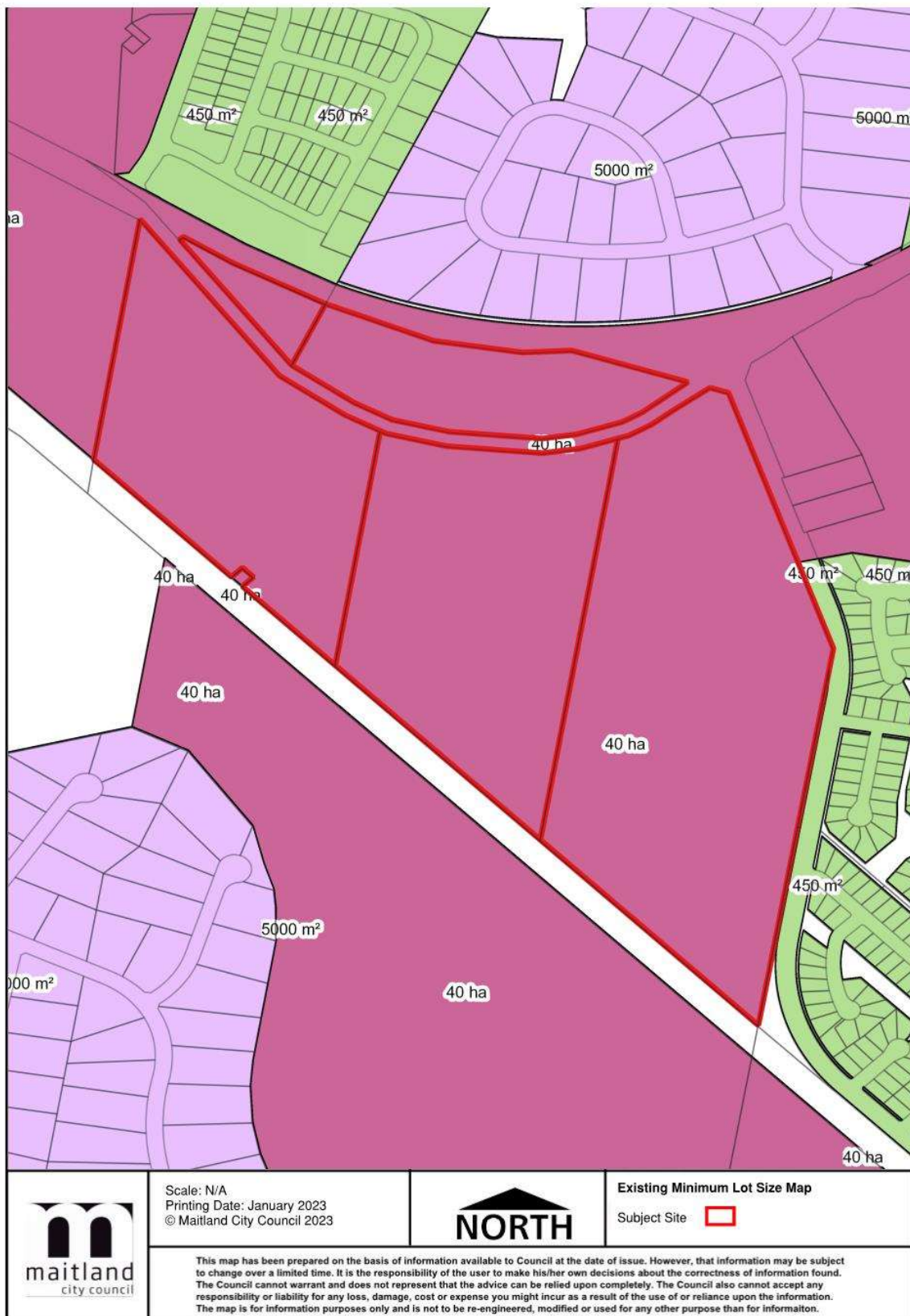
The following Figures show the existing planning controls and land use zones.

Proposed planning controls are also identified in the figures below. The proposed land use zone is intended to be a mix of B5 Business Development and C3 Environmental Management across the site. Additional copies of the zoning and lot size maps are provided as Attachments 8 and 9.

**Figure 2 – Existing Land Use Zone**



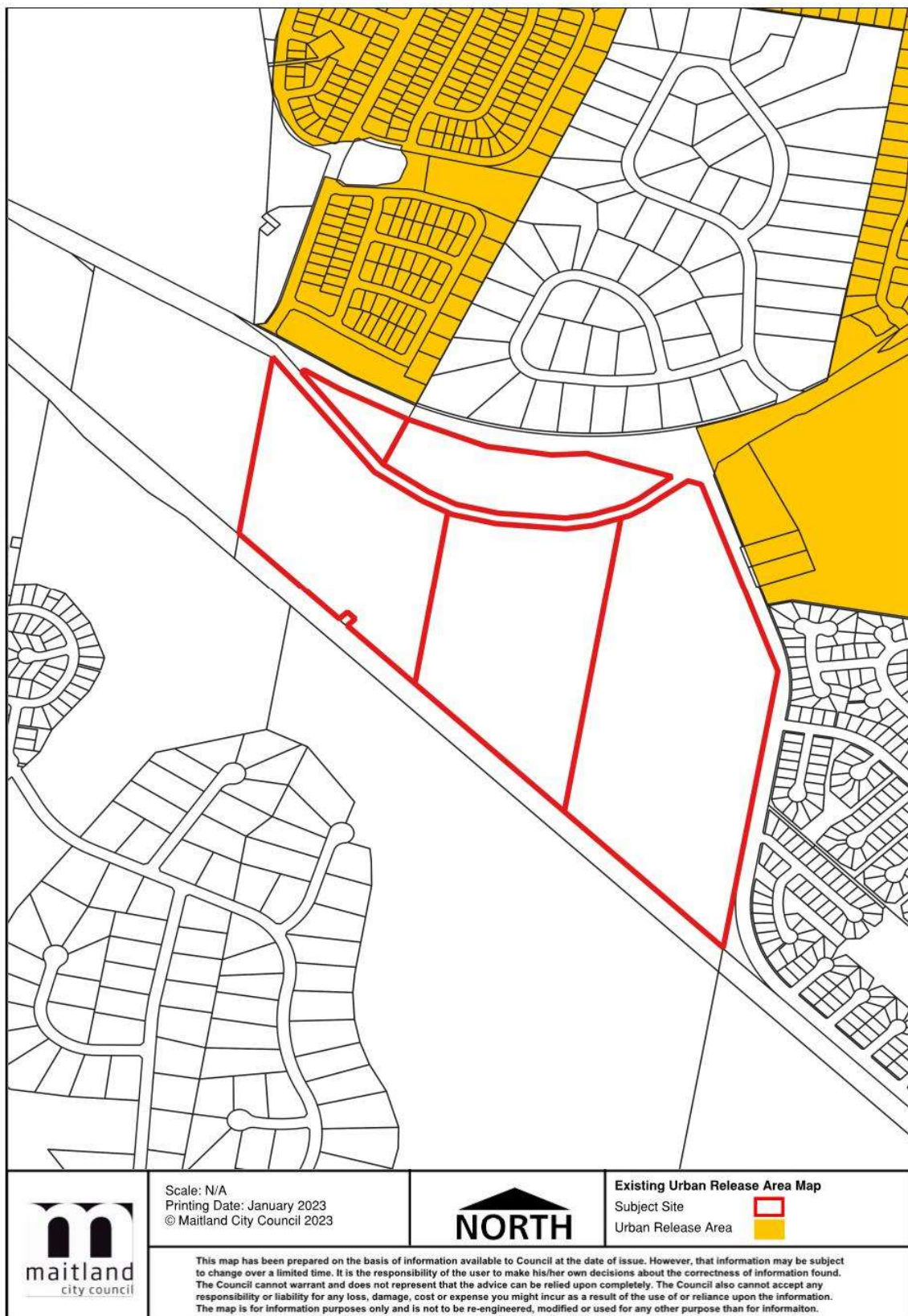
**Figure 3 – Existing Planning Controls - Minimum Lot Size**



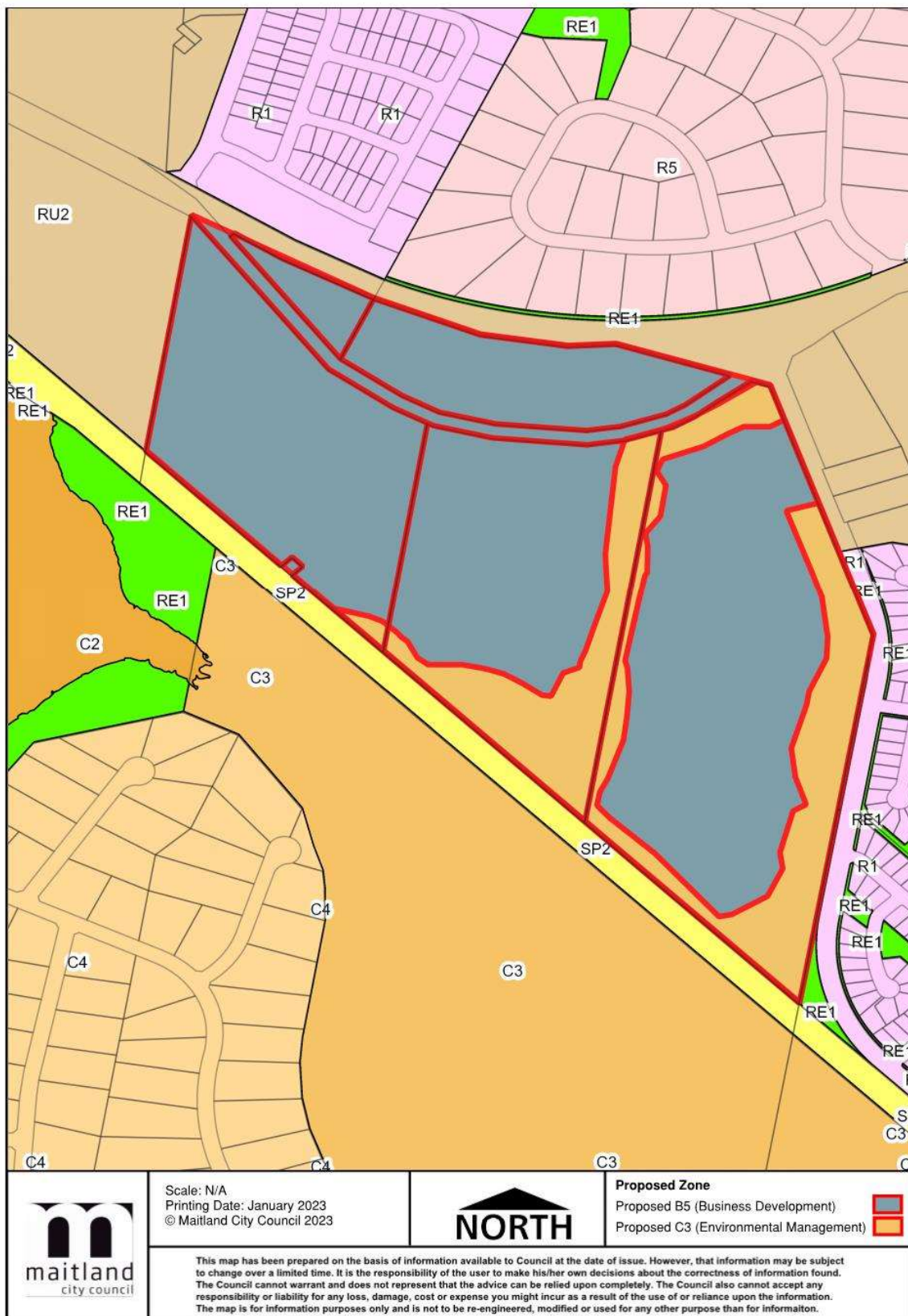
**Figure 4 – Existing Planning Controls - Mineral Resources Area**



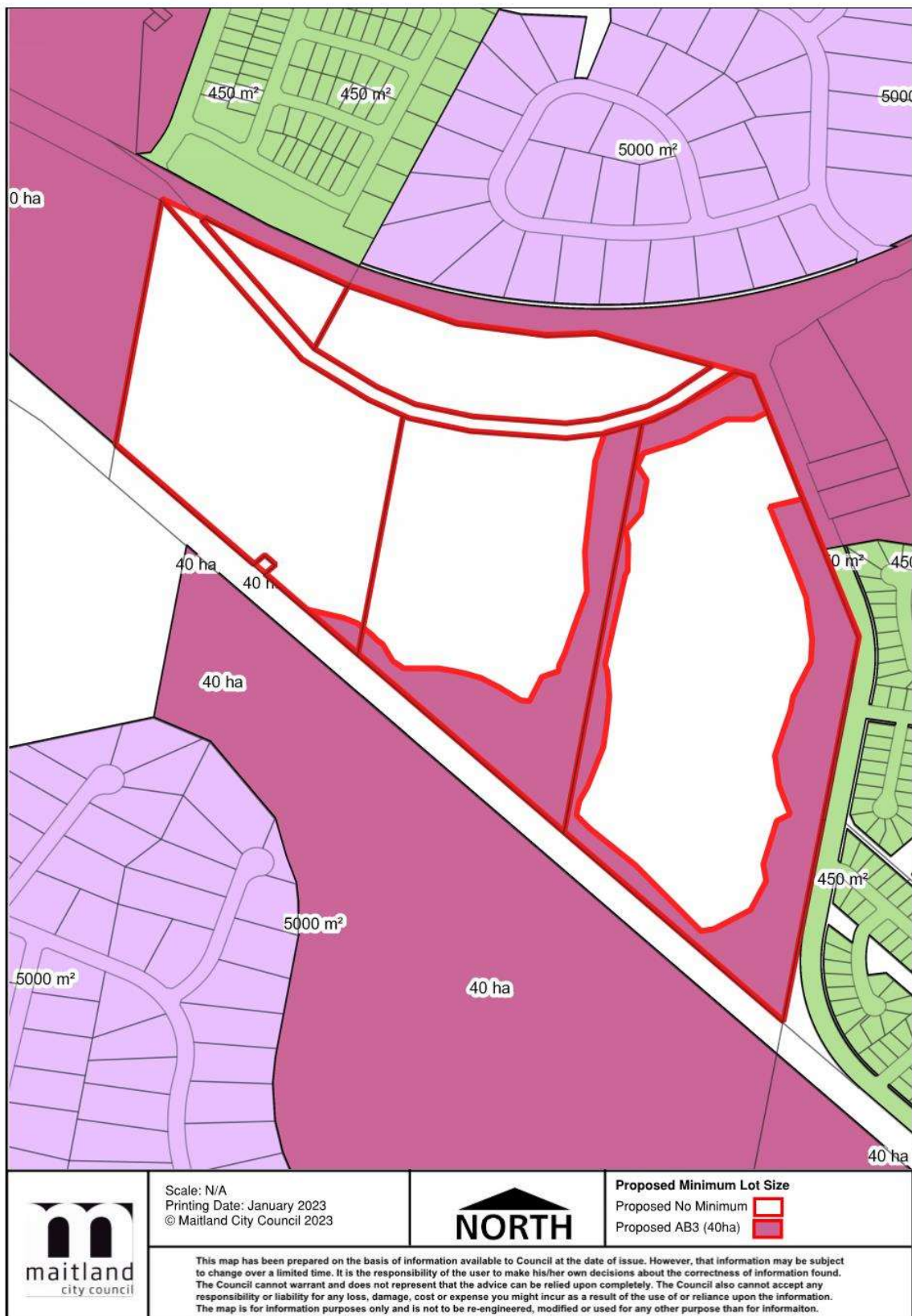
**Figure 5 – Existing Planning Controls – Urban Release Area**



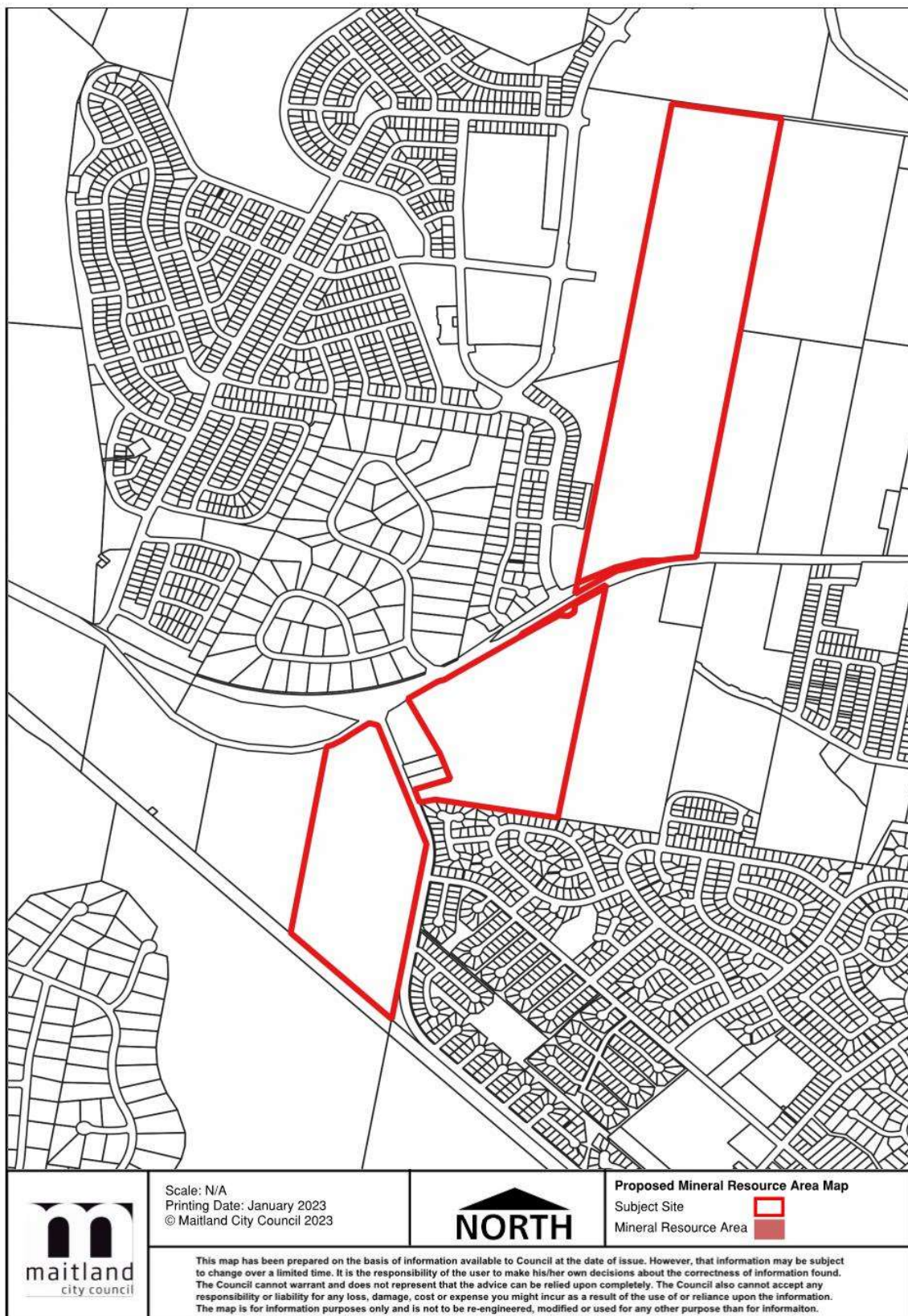
**Figure 6 - Proposed Land Use Zone Map**



### Figure 7 - Proposed Lot Size Map



**Figure 8 - Proposed Planning Controls - Mineral Resources Area**



**Figure 9 – Proposed Planning Controls – Urban Release Area**



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

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

#### **1. Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?**

The site is identified as Planned Investigation – Employment in the Maitland LSPS 2040, as Category 1 Future Employment Land in the MUSS 2012 and is consistent with the NSW Government's Greater Newcastle Metropolitan Plan as it will provide additional employment land adjoining a growing and existing urban area.

The planning proposal is consistent with the MUSS 2012 intended outcomes of providing additional land for employment. The proposed B5 Business Development zone responds to Council's centres hierarchy by supporting and not competing with nearby established retail and commercial centres of Maitland City Centre, Greenhills and the B2 Local Centre and B1 Neighbourhood Centre of Thornton and Chisholm respectively.

The MUSS identifies the need for future investigations to determine the suitability of the area for development, including consideration of land characteristics, amenity, environmental, and traffic constraints. Site investigations have identified the key characteristics, constraints, and opportunities of the land. These investigations have formed the basis of a detailed site analysis and the preparation of this planning proposal.

The site is strategically located in an area with surrounding population growth and has accessibility to transport routes to facilitate movement of goods and services. In addition, the site has connection to existing infrastructure and services.

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

The planning proposal is the best approach to achieve the intended outcomes. It is the most efficient and timely approach to amend the planning controls and rezone the land to enable future development of the site for business park development and protect the environmentally significant vegetation on the site.

The proposed amendments are consistent with regional planning framework, and Council's Local Strategic Planning Statement 2040+, Maitland Urban Settlement Strategy 2012, and Activity Centres and Employment Cluster Strategy as discussed below.

The proposed planning proposal is the best and most efficient means to achieving the critical employment outcomes within the fastest growing regional area in NSW.

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

Council envisages that this planning proposal will result in a net community benefit.

The site is identified in the MUSS for consideration as future employment area. Therefore, the proposed amendment to planning controls and rezoning is consistent with the outcomes of the MUSS and adopted framework for consideration of such proposals.

The Activity Centres and Employment Cluster Strategy (ACECS) identifies new emerging business areas as reinforcing the role and function of business areas in the Maitland LGA through working in harmony with the network of employment clusters and activity centres, not in competition with existing centres. New business areas are to ensure that high amenity is created for employees, workers and visitors through built form, access to convenience facilities and the provision of transport options. The site is in proximity to an existing and growing residential population with access and transport options to local and regional road and rail infrastructure. It is considered the proposal for a B5 Business Development zone in this locality is consistent with the vision and objectives of the ACECS.

The public interest reasons for preparing the amendment include:

- The development of the site will support the growing residential population in Maitland LGA, encouraging additional employment opportunities in the locality and region.
- The land has largely exhausted its historical use (clay quarry) and the proposal to develop part of the lands for business purposes will result in an improved outcome and higher order use of the land.
- Existing environmentally significant areas in the site will be protected and enhanced by using an C3 Environmental Management zone. This enables the protection on existing vegetation corridors on site, connecting established larger habitat areas to the northeast and south.

The implications of not proceeding with the planning proposal are that:

- The desire future outcomes of Council's strategic plan for this area will not be achieved.
- The potential for a higher order land use within the subject land will be lost, as the site is no longer viable for clay extraction and brick making practices or agricultural activities.
- Opportunities to provide employment in the locality to the adjoining growing population will be precluded.
- The protection through a conservation zoning of high value ecological lands containing critical habitat connectivity will be precluded, potentially compromising the continuation and integrity of surrounding habitat.

## SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 4. Is the planning proposal consistent with the objectives and actions of the applicable regional, sub-regional or district plan or strategy (including any exhibited draft plans or strategies?)

#### Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* is a 20-year blueprint for the future of the Hunter.

The 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
- greater housing choice and jobs.

The planning proposal is consistent with these goals as it will create additional employment land to strengthen and diversify the economy, protect, and maintain areas of biodiversity value, support existing communities and provide jobs for the growing population.

#### Greater Newcastle Metropolitan Plan 2036

The *Greater Newcastle Metropolitan Plan 2036* (GNMP) 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.

Outcome 1 of the GNMP focuses on creating a workforce skilled and ready for the new economy. To achieve this outcome, Greater Newcastle councils will align their local plans to ensure an adequate supply of employment land, including industrial zoned land, to cater for demand of urban services in accessible locations.

The proposal is consistent with the above action, as it will provide additional employment land adjoining a growing and existing urban area, providing convenient access to jobs and services for the rapidly expanding surrounding communities.

### 5. Will the planning proposal give effect to Council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

#### Maitland +10 (Community Strategic Plan)

Maitland City Council has adopted a Community Strategic Plan (Maitland +10) in line with the State's Integrated Planning and Reporting legislation and guidelines. The planning proposal is considered consistent with the vision and objectives of the Maitland +10 Community Strategic

Plan as it provides opportunities for urban growth within the city to meet the needs of a rapidly growing population.

#### Maitland Local Strategic Planning Statement 2040+

The site is identified as a Planned Investigation Area – Employment in the Maitland Local Strategic Planning Statement (LSPS). The planning proposal aligns with the planning priorities of LSPS as it will provide additional employment land to support the LGAs growing population and increasing residential development in the eastern sector. It will be an efficient use of land as the site is strategically located in an area with surrounding population growth and accessibility to transport routes to facilitate movement of goods and services. The site also has connection to infrastructure and services.

#### Maitland Urban Settlement Strategy (MUSS) 2012

The collective sites are identified in the MUSS 2012 as a Category 1 Investigation Area for Employment. These (5) allotments comprise an area of approximately 48 hectares. The MUSS 2012 highlights the need for further investigations to determine the suitability of the area for development including consideration of land characteristics, amenity, and environmental constraints. The MUSS 2012 recognises that the Investigation Area includes important native vegetation linkages and has been identified as an opportunity corridor in Council's Greening Plan for drainage, wildlife and bushland and that the status of this vegetation and the potential to retain linkages will be a key consideration in future investigations.

According to the MUSS, a local catchment analysis will be required, including assessment of the potential impacts on water quality and quantity, as well as land degradation issues such as salinity and acid sulfate soils. Impacts on native flora and fauna will also need to be addressed as part of any future zone and development considerations. The receipt and consideration of the subject proposals is consistent with the intent and timing of this site addressed in the MUSS.

#### Activity Centres and Employment Cluster Strategy

The ACECS, adopted 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. Set within the regional and local context, the strategy presents a proactive approach to the planning and development of activity centres and employment clusters. This approach is set within a network and hierarchy framework and provides a clear definition as to the vision, role and function of activity centres and employment clusters. The proposed B5 Business Development zone and associated land uses, in this location, is consistent with the vision and objectives of the strategy. The proposal will contribute to providing employment and services to the surrounding growing population in accordance with the hierarchy of centres identified in the strategy.

#### Strategic and Site-Specific Merit

The planning proposal will deliver social and economic benefits to the locality and wide Maitland area. The strong growth experienced in the Maitland LGA and particularly the eastern sector

over the last 10 years is well document. The provision of additional employment opportunities in proximity to existing utilities and the surrounding growing residential area.

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

- The site is identified as planned investigation – employment in the Maitland LSPS 2040, as Category 1 Future Employment Land in the MUSS 2012 and is consistent with the Greater Newcastle Metropolitan Plan as it will provide additional employment land adjoining a growing and existing urban area.
- The site is strategically located in an area with surrounding population growth and has accessibility to transport routes to facilitate movement of goods and services.
- The site has connection to existing infrastructure and services.
- The planning proposal process provides for the additional investigations and agency consultation required to justify the amendments to planning controls and land use zone configurations to achieve the intended outcomes for the site.
- Matters to address traffic, flooding and drainage, biodiversity conservation and contamination appear capable of resolution.

An Economic Impact Assessment (EIA) has been provided to assesses the merit of the proposed additional permitted use (Attachment 6). The EIA considers the need for the additional food and drink premises and the impact that it would have on the centre hierarchy and on the viability of commercial centres. The report concludes that the trading impacts of the proposed food and drink services would be acceptable as the proportion of growth in expenditure captured by the new development is well within acceptable limits enabling other centres to share some of that growth.

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

## 6. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Council has undertaken an assessment of the planning proposal against all relevant State Environmental Planning Policies (SEPPs) and a summary is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
<b>STATE ENVIRONMENTAL PLANING POLICY (KOALA HABITAT PROTECTION) 2021</b>	<b>CONSISTENT</b>
The SEPP requires any development application to be determined by Council must be consistent with an approved koala plan of management that applies to the land.	Maitland LGA is listed in Schedule 1 of the SEPP. A Flora and Fauna Assessment was carried out for the subject lands. The subject land is not considered "Potential Koala Habitat" because the number of koala feed trees found in the study area comprise less than 15% of all native trees on the site. Further, the land is not considered to be "Core Koala Habitat" as no evidence of koalas was found on or near the site.
<b>STATE ENVIRONMENTAL PLANNING POLICY (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004</b>	<b>CONSISTENT</b>
<p>This Policy applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes, but only if:</p> <p>a) development for the purpose of any of the following is permitted on the land:</p> <ul style="list-style-type: none"> <li>i. dwelling houses</li> <li>ii. residential flat buildings</li> <li>iii. hospitals</li> <li>iv. development of a kind identified in respect of land zoned as special uses, including (but not limited to) churches, convents, educational establishments, schools and seminaries, or</li> </ul> <p>b) the land is being used for the purposes of an existing registered club.</p>	Hospitals are permitted in the proposed B5 Business Development zone. As a result, the SEPP facilitates housing for seniors or people with a disability on the site. The Concept Masterplan does not, however, envisage use of the land for seniors housing or people with a disability. Any future development for that purpose would be subject to the provisions of the SEPP.
<b>STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007</b>	<b>CONSISTENT</b>
Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal impacts upon the aims or provisions of this SEPP. Consultation with service providers and government agencies will determine the level of impact and upgrades required associated with future development of a B5 Business Development zone.

**RELEVANCE****CONSISTENCY AND IMPLICATIONS****SEPP (PRIMARY PRODUCTION AND RURAL DEVELOPMENT) 2019****CONSISTENT**

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. The site has been used for clay quarrying and brick making activities in the past. The site is not suitable for agricultural practice due to past quarrying activities.

The proposal is therefore consistent with the aims of this policy as it is enabling the orderly and economic use of the land.

**SEPP (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007****CONSISTENT**

The SEPP aims to provide for the proper management of mineral, petroleum and extractive material resources and ESD.

Under this SEPP mining development may be carried out with development consent on land where development for the purposes of agriculture may be carried out. The current zone therefore enables this to occur only with development consent.

Part of the site (Lot 161 in DP 136183) and Lot 1,2, 3 and 4 in DP1145348 are identified as "*Mineral Resources Area*" in the MLEP 2011 Mineral Resources Area Maps.

These sites have supported clay quarrying activities and associated brick making in the past. This clay resource has been exhausted and associated brick making infrastructure removed from the sites and general locality

The sites do not have any active leases over to the property titles. Consultation undertaken by the proponent with the NSW Department of Mining Exploration and Geosciences (Assessment and System Group), and the Regional NSW information resource MinView has confirmed that no active mining leases are applicable over the sites.

The remediation and redevelopment of the site for employment purposes facilitates the orderly and economic use of the land now

**RELEVANCE****CONSISTENCY AND IMPLICATIONS**

that the resource is exhausted. Therefore, the proposal is consistent with this SEPP.

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

Council has undertaken an assessment of the planning proposal against all relevant Section 9.1 Directions. The directions and consistency with the directions are addressed in table 2 below:

Table 2: Relevant Section 9.1 Directions.

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
<b>1. EMPLOYMENT AND RESOURCES</b>	
<b>1.1 Business and Industrial Zones</b>	<b>Consistent</b>
The objective of this direction is to encourage growth, protect employment land in business zones and support the viability of identified strategic centres.	It is proposed to rezone the subject lands from RU2 Rural Landscape to B5 Business Development and C3 Environmental Management. The rezoning of the subject lands for business and employment related purposes is consistent justified by the endorsed MUSS 2012 which identifies the subject lands as appropriated for considering employment/business land use outcome.
<b>1.2 Rural Zones</b>	<b>Inconsistency justified</b>
The objective of this direction is to protect the agricultural production value of rural land.	The planning proposal is inconsistent with the objectives of this direction as it proposes to rezone RU2 Rural Landscape zoned land for employment purposes. However, the inconsistency is considered justified as the subject land proposed for employment purposes is identified in the endorsed MUSS 2012 as an employment investigation area and is therefore considered appropriate for future 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 proposed business employment zone would have the effect of prohibiting the mining of coal and other minerals, production of petroleum and winning/obtaining of extractive materials from the site.

## S9.1 DIRECTION

## CONSISTENCY AND IMPLICATIONS

Part of the site (Lot 161 DP in 136183) and Lot 1,2, 3 and 4 in DP1145348 are identified as “*Mineral Resources Area*” in the MLEP 2011 Mineral Resources Area Maps.

The sites have supported clay quarrying activities and associated brick making in the past. This clay resource has been exhausted and associated brick making infrastructure removed from the sites and general locality.

These sites have exhausted the resource, and do not have any active leases over to the property titles. Consultation undertaken by the proponent with the NSW Department of Mining Exploration and Geosciences (Assessment and System Group), and the Regional NSW information resource MinView has confirmed that no active mining leases are applicable over the sites.

The remediation and redevelopment of the site for employment purposes facilitates the orderly and economic use of the land now that the resource is exhausted. Therefore, the proposal is consistent with this Ministerial Direction.

### 1.5 Rural Lands

### Inconsistency justified

The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.

The planning proposal is inconsistent with the objectives of this Ministerial Direction as it proposes to rezone RU2 Rural Landscape zoned land for business development purposes. However, the inconsistency is considered justified as the subject land proposed is identified in the MUSS 2012 as an employment investigation area.

## 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

The planning proposal is consistent with the objectives of this Ministerial Direction as it proposes to apply the C3 Environmental Management zone over part of the site to protect a significant proportion of the identified EEC and maintain and enhance

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
facilitate the protection and conservation of environmentally sensitive areas.	<p>habitat connectivity through the site to adjoining large EEC habitat areas.</p> <p>The proposed zone boundaries were informed by the detailed and extensive ecological assessment undertaken on the site and will protect high value ecological land, and regionally significant biodiversity corridors.</p>
2.2 Coastal Management	N/A
2.3 Heritage Conservation	<b>Consistent</b>
<p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>Both Aboriginal Cultural Heritage assessment and European Heritage assessments were undertaken over the site. No sites, artefacts or PADs were identified given past land uses and the highly disturbed nature of the site.</p> <p>The potential impact of future development on the identified “Brickworks Stack” (not heritage listed but may have potential heritage significance) and Great Northern Railway GNR (State Heritage listed) was considered as part of the Heritage Report. The report found the proposed rezoning and future development would have minimal impact on the potential heritage significance of the former brickworks site or the GNR. The report recommends retaining existing vegetation screening between the site and identified potential items.</p>
2.6 Remediation of Contaminated Land	<b>Consistent</b>
<p>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.</p>	<p>The proponent has submitted a Detailed Site Investigation for the site. Soil sampled across the site against the Site Acceptance Criteria provided by the National Environmental Protection (Assessment of Site Contamination Measure).</p> <p>The laboratory results for all soil samples were below the adopted detection limits and or the guideline criteria. Furthermore, no asbestos was detected in the soil samples. The report noted that previously detected fragments of asbestos detected on the surface of the site have been removed.</p>

## S9.1 DIRECTION

## CONSISTENCY AND IMPLICATIONS

The report concluded that the site is deemed suitable for the proposed development.

The Planning Proposal is consistent with the Ministerial Direction.

### 3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT

#### 3.4 Integrating Land Use and Transport

#### Consistent

The objectives of this direction 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 employment area with local and regional connectivity through design and location of road networks. The planning proposal is considered consistent with the objectives of this Ministerial Direction.

### 4. HAZARD and RISK

#### 4.1 Acid Sulfate Soils

#### Consistent

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.

*MLEP 2011* indicates a potential Class 5 Acid Sulphate Soils risk affecting the site. Site studies supporting the proposal identified water acidity levels within the dams on site. A RAP is required to address these areas as they are proposed to be modified. The proposal is consistent with this Ministerial Direction.

#### 4.2 Mine Subsidence and Unstable Land

#### Consistent

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 site is not located within a Proclaimed Mine Subsidence District (MSD). Geotechnical reports submitted with the proposal confirm there are no underground workings. A Preliminary Site Investigation (PSI) was undertaken on the site. The PSI had limited intrusive investigations. The report conclusion noted the following:

*Based on the historical review, environmental information, proposed development and laboratory results of the investigation, the site is suitable for the for the proposed rezoning and redevelopment*

## S9.1 DIRECTION

## CONSISTENCY AND IMPLICATIONS

*subject to a full SEPP55 assessment as part of the DA process and the following:*

- *Any soil requiring removal from the site, as part of future site works, should be classified in accordance with the "Waste Classification Guidelines, Part 1: Classifying Waste" NSW EPA (2014).*
- *An unexpected finds protocol has been included in Appendix K and should be followed during the construction phase of the development*

Council is satisfied that sufficient investigations have been undertaken to support the proposal. Controls on the management of fill on the site will be incorporated within the Development Control Plan.

### 4.3 Flood Prone Land

### Consistent

The objectives of this direction are:

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

The subject land is not affected by flooding.

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

### 4.4 Planning for Bushfire Protection

### Consistent

The objectives of this direction are:

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

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

The landsite is identified as bushfire prone in *MLEP 2011* bushfire prone land maps.

A bushfire assessment has been carried out over individual lots within subject site. These assessments conclude that APZ's will need to be created internally between individual lots. Where lots adjoin the rail corridor to the south, Haussmann Dr to the east and Raymond Terrace Rd to the north, APZ can be accommodated with this infrastructure.

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
<p>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.</p> <p>It is also a requirement of the direction that a planning proposal must have regard to <i>Planning for Bushfire Protection 2019</i>.</p>	<p>Assessing the site collectively, suitable APZ's, in accordance with Planning for Bushfire Protection 2019 can be accommodation in the adjoining road and rail corridors. Land to the west is cleared flood liable rural land.</p> <p>A bushfire assessment over the entire site will need to be undertaken to demonstrate compliance with the relevant through the development application process.</p>
5.10 Implementation of Regional Plans	Consistent
<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p>	<p>The proposal is consistent with the HRP 2036 and GNMP 2036 and implements key goals and directions of these strategies.</p>
6. LOCAL PLAN MAKING	
6.1 Approval and Referral	Consistent
<p>The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</p>	<p>The planning proposal does not propose to include provisions in the LEP that require concurrence, consultation, or referral of development applications to a Minister or public authority and does not identify development as designated development.</p>
6.3 Site Specific Provisions	Consistent
<p>The direction aims to discourage unnecessarily restricting site-specific planning controls.</p>	<p>The planning proposal seeks to include an Additional Permitted Use over Lot 161 in DP 136183 to facilitate the development of a <i>Food and Drink Premise</i>.</p> <p>The proposed Additional Permitted Use is supported by an Economic Impact Assessment that indicates that the proposed additional use will not have a detrimental impact on the functionality of any existing centre or employment precinct in the locality.</p> <p>The planning proposal does not seek to include any associated restrictive development standard in association with the Additional Permitted Use. The proposal is considered to be consistent with the Ministerial Direction.</p>



## 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?**

The total area of the site is approximately 46.48ha consisting of approximately 14.26ha of disturbed vegetation and 12.22ha of mature remnant vegetation having a mix of Endangered Ecological Community - Lower Hunter Spotted Gum Ironbark community and Hunter Forest Red Gum community (26.48ha EEC). It is proposed to protect approximately 39% of EEC within a C3 Environmental Management zone.

The subject land is located between two areas of significant habitat vegetation communities supporting known populations of squirrel gliders and other threatened species. Both the north-eastern vegetation community and southern vegetation community are more than 40ha in size and extend to and connect with regional vegetation corridors. Currently the site provides a critical link between these vegetation communities.

Through the agency consultation process, the Biodiversity Conservation Division (BCD) of the Department of Planning and Environment recommended that consideration should be given to improving avoidance and minimising impacts of High Environmental Value (HEV). Specifically, BCD recommended that a greater proportion of remnant vegetation be maintained and zoned for conservation including:

1. Remnant vegetation along Haussman Drive. This vegetation provided corridor connectivity between vegetation to the south of the site and vegetation to the northeast. BCD recommended that remaining vegetation along Haussman Drive and an associated protective buffer included in the proposed conservation zone.
2. Remanent vegetation, and an associated protective buffer, to the proposed conservation corridor through the centre of the site. The proposed width, length and surrounding land use of the corridor proposed through the centre of the site is likely to impact its viability in the long term. BCD recommended that the width of this corridor be increased, and a protective buffer included in the proposed conservation zone.
3. A proportion of EEC vegetation along the northern boundary of the site that provides habitat for species such as the threatened squirrel glider.

In response, the zone map has been amended to include the remnant vegetation along Haussman Drive forming a corridor from the vegetation community to the south, and vegetation on the eastern side of Haussman Drive. In addition, the zoned width of the central corridor has been increased to a minimum of 40 metres. However, additional C3 zoned land has not been provided along the northern boundary of the site.

The preservation of a viable connective corridors through this site is paramount to the continued movement of threatened species to adjoining areas of significant habitat. The Maitland Greening Plan identifies this area as a local wildlife corridor connecting with a regional corridor.

The proposed zones are based on an assessment of the submitted biodiversity assessment reports, including specialist Squirrel Glider reports, comments from Biodiversity Conservation Division and consistency with relevant strategic documents applying to the land. The proposed zone map for the subject land includes a C3 Environmental Management vegetation corridor along both Haussman Drive, and centrally through the site.

It must be acknowledged that the proposed zoning map does not project all High Environmental Value vegetation on site. Approximately 10.6 hectares of EEC is proposed to be included within the B5 Business Development zone. Council is seeking to balance the imperative to provide lands for employment purposes, whilst protecting the biodiversity values on the site through zoning of the most mature vegetation with the ability to support the movement of threatened species to critical vegetation to the south and north-east of the site. Further assessment of the environmental impact of the development will occur through the development assessment process.

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

Several studies, including a contamination assessment, geotechnical assessment, traffic impact assessment, stormwater management, and heritage/archaeological assessment, of the site have been undertaken and submitted with the proposal.

Revised site studies have been submitted and assessed to inform the preparation of the planning proposal. Details of the assessment of site studies is provided below.

Contamination and Geotechnical

The proponent has submitted a Detailed Site Investigation for the site. Soil sampled across the site against the Site Acceptance Criteria provided by the National Environmental Protection (Assessment of Site Contamination Measure). A revised Preliminary Site Investigation has been submitted and reviewed and approved by a certified environmental practitioner.

The laboratory results for all soil samples were below the adopted detection limits and or the guideline criteria. Furthermore, no asbestos was detected in the soil samples. The report noted that previously detected fragments of asbestos detected on the surface of the site have been removed.

Further studies will be required at the DA stage, including more specific investigations to assess any potential contamination around building footprints. Controls will be included within the Development Control Plan to ensure future investigations adequately address remaining discrepancies prior to earthworks occurring on site.

*Recommendation: No further studies are required to support the Planning Proposal. Detailed development controls will be incorporated within the Development Control Plan over the site.*

Archaeology and Heritage

Both Aboriginal Cultural Heritage Assessment and European Heritage Assessment were undertaken over the site. No sites, artefacts or PADs were identified given past land uses and the

highly disturbed nature of the site. A search of the Aboriginal Heritage Information Management System (AHIMS) did not reveal any aboriginal sites or places.

The potential impact of future development on the identified “Brickworks Stack” (not heritage listed but may have potential heritage significance) and Great Northern Railway GNR (State Heritage listed) was considered as part of the Heritage Report. The report found the proposed rezoning and future development would have minimal impact on the potential heritage significance of the former brickworks site or the GNR. The report recommends retaining existing vegetation screening between the site and identified potential items.

*Recommendation: No further work is required during the planning proposal process. Further consideration of heritage and archaeological matters will be required post finalisation of the planning proposal and through the development assessment process.*

### Stormwater

A Stormwater Management Report has been prepared which covers both stormwater quality management and quantity management, as well as assessing the impact of the stormwater discharge on Four Mile Creek catchment.

Stormwater detention needs to be provided to ensure that the post development flows from the total site do not exceed the predevelopment flows for 1% AEP storm events.

Minor stormwater conveyance system for the development of the subject lands will be via traditional pit and pipes with the capacity to convey the peak flows from 10% AEP storm events, with outlets draining to detention/water quality basins. Major stormwater conveyance systems are proposed via overland flows, utilising internal roads, carparks, and grassed swales with the capacity to convey the peak flows from a 1% AEP storm event. Major flows will also be directed to the proposed detention/water quality basins.

The proposed site runoff is to drain to the two proposed detention basins in the southeast corner and southwest corner. The outlet from the basin in the southeast corner will discharge into the rail corridor. The outlet from the basin in the southwest corner will discharge via a grassed swale to the existing culverts under Raymond Terrace Rd. The report provides detailed design requirements for each basin including top level, bottom level, outlet pipes and storage areas. The discharge of stormwater onto adjoining land not part of this planning proposal is of concern. Details on legal agreements and stormwater easements will be required post gateway determination.

*Recommendation: The stormwater quality treatment train proposed includes rainwater tanks, gross pollutant traps and bioretention basins. The location and size of the proposed water quality basin will need to be assessed post the finalisation of the planning proposal.*

### Traffic

Multiple traffic impact assessment reports have been submitted for the individual sites in the identified employment investigation area. All reports have addressed traffic generation for the

future development and concluded that access to and from the site through an intersection with Haussman Dr at Taylor Ave would accommodate the modelled increase in traffic. The individual reports did not address the cumulative traffic impact at this location from the development of all three sites.

An additional “cumulative traffic impact assessment” has been prepared which considers and models total traffic generation from the development of the collective sites. In this assessment and modelling the report includes an additional access point off Raymond Terrace Rd by providing a “4<sup>th</sup> leg” to the existing Harvest Bvde/ Raymond Terrace Rd intersection. The report concludes that the proposed modifications to the existing Raymond Terrace Rd /Harvest Bvde intersection will provide for satisfactory performance for the proposed development in its entirety. The proposed upgrade of the intersection of Haussman Dr/Taylor Ave will provide capacity for traffic entering and leaving the sites using this intersection as well as for existing and future traffic long Haussman Dr and Taylor Ave.

The proposed Raymond Terrace Rd intersection with Harvest Bvde is via separate land that does not form part of the planning proposal. The adjoining land (Lot 5 in DP 879456) is under separate ownership. Landowners consent has been provided over the adjoining land in order to carry out investigation and assessment of the impacts of the assessment.

This land is within the Four Mile Creek flood plain with minimal land available “at grade” with Raymond Terrace Rd. Specific details have not been provided with the impacts on drainage associated with Four Mile Creek, physical site analysis details on the ability to construct the proposed works in this locality to service an additional access point. Council considers consultation with the relevant government agency, being TfNSW, will be required.

### Bushfire

The site is identified as bushfire prone in MLEP 2011 bushfire prone land maps.

A bushfire assessment has been carried out over individual lots within the site. These assessments conclude that APZ's will need to be created internally between individual lots. Where lots adjoin the rail corridor to the south, Haussmann Dr to the east and Raymond Terrace Rd to the north, APZ can be accommodated with this infrastructure.

Assessing the site collectively, suitable APZ's, in accordance with Planning for Bushfire Protection 2019 can be accommodated in the adjoining road and rail corridors. Land to the west is cleared flood liable rural land.

*Recommendation: No further studies are required to support the Planning Proposal. An updated and consolidated bushfire assessment will be a requirement within the Development Control Plan to be prepared over the site prior to the approval of any development application.*

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

The planning proposal will deliver significant social and economic benefits to the locality and wider Maitland area. The strong growth experienced in the Maitland LGA and particularly the

eastern sector over the last 10 years is well documented. The provision of additional employment land within the eastern sector of the LGA will provide business growth and employment opportunities in proximity to existing utilities and the surrounding growing residential area.

The protection and preservation of a proportion of the identified High Environmental Value vegetation on site will ensure continued connective habitat through the site to adjoining environmental zones established through previous planning outcomes associated with balanced urban growth in the area.

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

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

#### Provision of Local and State Infrastructure

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

#### Access, Transport and Traffic

The site has frontage to Raymond Terrace Rd and Haussmann Drive. Development of the site proposes extension of existing road infrastructure to facilitate a more permeable road network by facilitating the potential future connection of an existing local road in the area to a regional road, i.e. future Haussman Dr / Taylor Avenue round-a-bout through the site to Raymond Terrace Rd/Harvest Bvde.

#### Infrastructure Services

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

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

Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal. It is anticipated that consultation in relation to this planning proposal will be required with the following government agencies:

- Department of Planning, Industry and Environment's Biodiversity Conservation Division (BCD),
- Transport for NSW (TfNSW),
- Hunter Water Corporation (HWC),
- NSW Rural Fire Service,
- Mardimarra Local Aboriginal Land Council (LALC) and

- Environment Protection Authority (EPA).

## PART 4: MAPPING

The proposal will involve amendments to the following LEP maps:

- Land Zoning Map (Sheet LZN 004D, Sheet LZN\_006A),
- Lot Size Map (Sheet LSZ 004D, Sheet LSZ\_006A),
- Mineral resources Area Map (Sheet MRA\_006A),
- Urban Release Area Map (Sheet URA 004D, Sheet URA\_006A)

## PART 5: COMMUNITY CONSULTATION

In accordance with the *Environmental Planning and Assessment Act 1979*, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

In accordance with Council's Community Participation Plan, 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; and
- consultation documents to be made available on Council's website.

At the close of the consultation period, Council officers will consider all submissions received and present a report to Council for its endorsement of the planning proposal before proceeding to finalisation of the amendment.

## PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Date of Gateway Determination	Apr 2022
Timeframe for government agency consultation (as required by Gateway Determination)	Oct 2022 – Feb 2023
Commencement and completion dates for public exhibition period	Jan 2023
Timeframe for consideration of submissions	Feb 2023
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	Mar 2023
Anticipated date of Publication of the amendment	Jun 2023

## **PART 7: ATTACHMENTS**

Under separate cover.