



Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

Anambah House, Anambah

Version 2.1

21/9/2022

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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 *Maitland4 Local Environmental Plan 2011* (Maitland LEP 2011) with regard to land in Anambah, to the north of the existing residential area and to the south of the Anambah Urban Release Area. The lands subject to this planning proposal are: Lot 712 DP1233410, Lot 721 DP1191240 and Lot 722 DP1191240.

The purpose of the planning proposal is to amend the Maitland LEP 2011 to provide for development of the subject land for rural residential purposes. The subject lands are identified as Category 2 Land within the *Maitland Urban Settlement Strategy (MUSS) 2012* for future urban development consistent with the sequencing and release of land in Anambah. A locality plan of the lands subject is provided as **Figure 1**.

Figure 1 – Locality Plan



PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are;

1. Enable rural residential development.
2. Protect and manage areas with environmental constraints.
3. 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.

The planning proposal necessitates the following amendments to the maps in Maitland LEP 2011(LEP) to reflect the proposed zoning and the corresponding lot sizes:

- Land Zoning Maps (Sheet LZN_003 and Sheet LZN_004A);
- Lot Size Maps (Sheet LSZ_003 and Sheet LSZ_004A);
- Amendment to Heritage Maps (Sheet HER_003 and Sheet HER_004A) to accurately reflect the heritage item and the identified curtilage; and

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, However, as Category 2 Land this is not consistent with the sequencing and release of land as identified in the endorsed MUSS 2012. However, it is acknowledged that the Anambah Urban Release Area has recently been gazetted, allowing this land to now being to progress. It is also noted that the land can be independently serviced, and only involves one land owner, negating the need for complex discussions between different land owners.

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 (HRP) 2036, Greater Newcastle Metropolitan Plan (GNMP) 2036 and Maitland Urban Settlement Strategy (MUSS) 2012.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this proposal.

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 western sector of the Maitland LGA;
- The land has largely exhausted its historical agricultural use and the proposal to develop the land for rural residential purposes will result in an improved outcome and a higher order use of the land;
- Existing environmentally sensitive areas, including heritage areas, on the site will be protected and enhanced;

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 (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;

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?

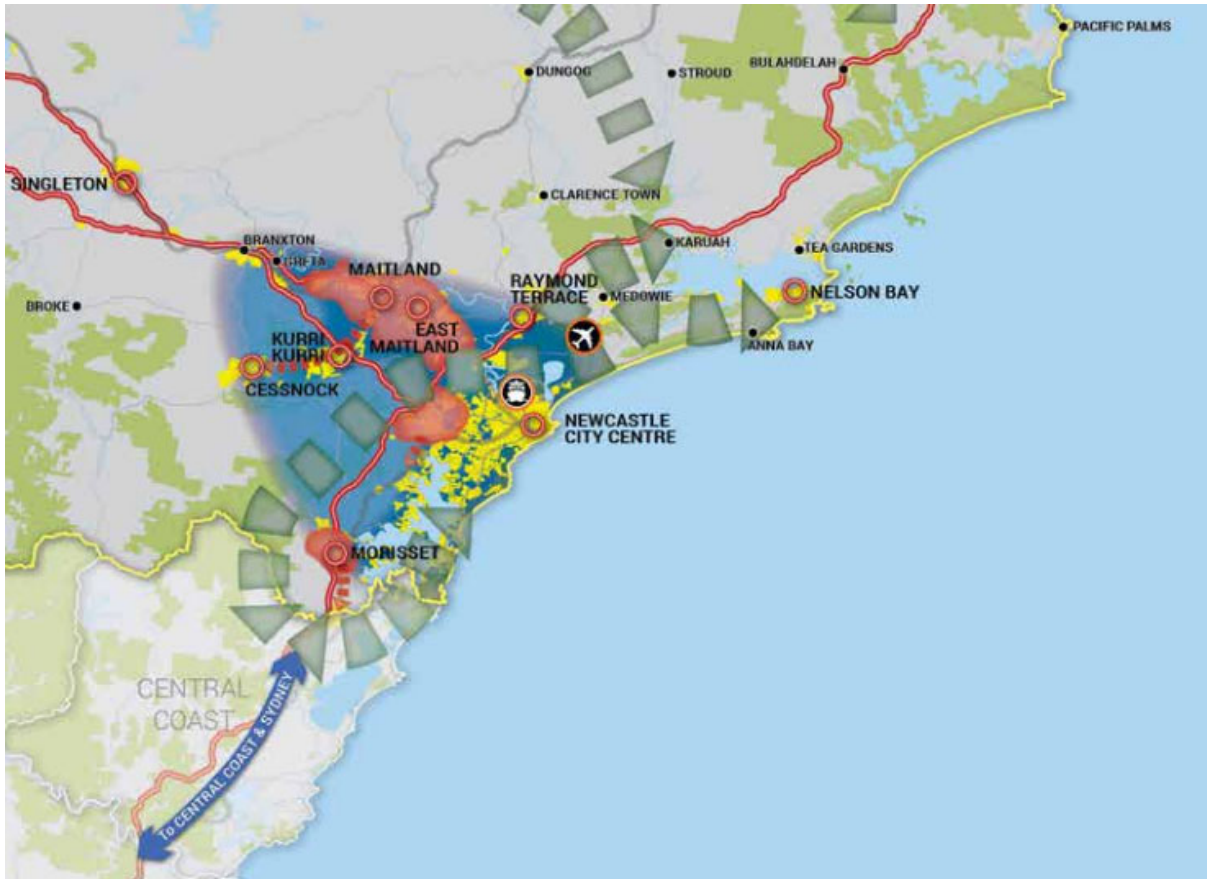
Hunter Regional Plan (NSW Department of Planning and Environment) 2036

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 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 identifies approximately 18ha of land to contribute rural residential housing towards the implied demand of 12,550 dwellings by 2036.

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

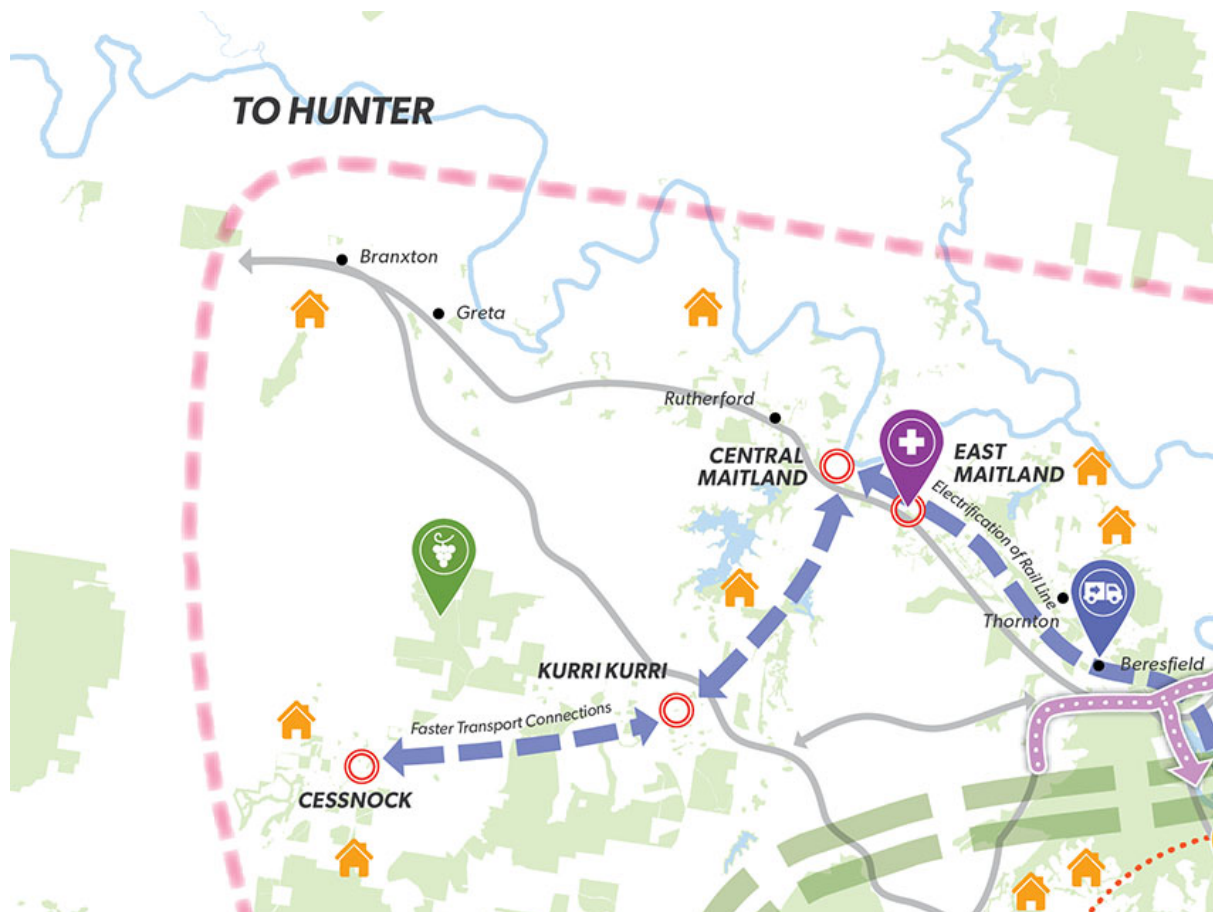


Greater Newcastle Metropolitan Plan (NSW Department of Planning and Environment) 2036

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.

The subject land is not identified by the Greater Newcastle Metropolitan Plan (GNMP) as a housing release area. However, it is located in proximity to the proposed Anambah 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. It is noted that Action 18.1 of the GNMP requires that land be identified within an LSPS when it is proposed to be used for Rural Residential purposes. In this instance, that land has been identified within the Maitland Urban Settlement Strategy as being suitable for Rural Residential development, and has been accordingly mapped within the LSPS.



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 Urban Settlement Strategy (MUSS) 2012

The subject land is identified as Category 2 land within the MUSS. This Planning Proposal is out of sequence with the intended land release. However, it is noted that the rezoning of the Anambah Urban Release Area has been gazetted, and that more detailed site planning for this area has now commenced. This allows for the consideration of this Planning Proposal in light of the future land uses in this area.

The Category 2 lands identify land to both the east (the site) and the west of Anambah Road as being suitable for consideration. In this instance, the land owner of the land to the west has not expressed a desire for their land to be progressed at this point in time. As the land is separated

by Anambah Road, and the future planning of the precinct is not co-dependent, it is considered that the site can progress independently. Any future rezoning on the western side of the road will be considered in a similar light.

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
SEPP (PRIMARY PRODUCTION AND RURAL DEVELOPMENT) 2019	Inconsistency Justified
<p>The relevant aims of this policy are:</p> <ul style="list-style-type: none"> to facilitate the orderly economic use and development of lands for primary production, to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources, 	<p>The planning proposal is inconsistent with the SEPP as it proposes for RU2 Rural Landscape zoned land to be rezoned for residential purposes. Therefore, the proposal is not facilitating the orderly and economic development of rural lands for rural related purposes. However, the inconsistency with the aims of the SEPP is considered justified as the subject land proposed for urban purposes is identified within an endorsed local strategy (MUSS 2012) and is therefore appropriate for urban development.</p> <p>The area in question has been identified within the Maitland Urban Settlement Strategy and is located between the existing Anambah residential area and future Anambah Urban Release Area. This minimises future land use conflicts and is reflective of the zoning progression in Maitland.</p>
SEPP (INFRASTRUCTURE) 2007	Consistent
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.
SEPP NO. 55 - REMEDIATION OF LAND	Consistent
Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is	Preliminary evaluation of the site has indicated that the area proposed for development is not subject to contamination

RELEVANCE	CONSISTENCY AND IMPLICATIONS
unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	and past land uses were of a type that would not create contamination. An addendum to the desktop study to reflect changes to legislation should be undertaken as a Gateway Condition.
SEPP – (KOALA HABITAT PROTECTION) 2019	Consistent
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 Ecological Assessment prepared by MJD Environmental, dated Nov 2017, included an assessment under the now-repealed SEPP 44 (Koala habitat protection) 1995 which concluded that the site and/or the surroundings, does not constitute Koala habitat. The mapping associated with this SEPP identifies the garden trees adjoining the Anambah House as a Koala Development Application area. It also identifies parts of the wetland where there are no canopy trees as a Site Investigation Area for Koala Plans of Management. The nominated development site and the adjoining land contains no canopy trees or vegetation that may potentially support Koala habitat. As such, it is highly unlikely that the site or the adjoining areas would support habitat for Koala populations.

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

Table 2: s9.1 Directions.

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
1. EMPLOYMENT AND RESOURCES	
1.2 Rural Zones	Inconsistency Justified
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 residential purposes is identified within a local (MUSS) growth strategy and is therefore considered appropriate for investigation for urban development.

S9.1 DIRECTIONS		CONSISTENCY AND IMPLICATIONS
1.3 Mining, Petroleum Production and Extractive Industries		Not Applicable
1.4 Oyster Aquaculture		Not Applicable
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 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 residential purposes is identified within a local (MUSS) 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.		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
2.2 Coastal Protection		Not Applicable
2.3 Heritage Conservation		Inconsistency Justified
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.		<p>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. Consultation on Aboriginal Heritage will be required to be undertaken post-gateway.</p> <p>The subject lands directly adjoin Anambah House, a State Heritage listed building. A review of the curtilage has been undertaken as part of the Planning Proposal. The proposed layout with 2000sqm lots is not considered appropriate and further consideration will need to be given to an appropriate curtilage to Anambah House.</p> <p>The preparation of a detailed DCP and visual impact analysis post-gateway, as well as resolving the end lot size, will provide the</p>

S9.1 DIRECTIONS

CONSISTENCY AND IMPLICATIONS

detail required to ensure that the appropriate curtilage around Anambah House.

Concurrent to the Planning Proposal, an application to Heritage NSW to amend the SHR curtilage for Anambah House will be undertaken. The outcome of this process will allow the further consideration of the heritage impacts on Anambah house.

2.4 Recreation Vehicle Areas

Not Applicable

2.5 Application of E2 & E3 Zones and Environmental Overlays in Far North coast LEPs

Not applicable

2.6 Remediation of Contaminated Land

Consistent

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 site investigation has been undertaken by Cardno. This concluded that: *"The potential or known contamination at this Site is not considered to present a significant constraint on site for the proposed residential use and a limited intrusive sampling and testing regime should be undertaken to confirm suitability."*

There has been limited agricultural usage of the site. The desktop study undertaken should be updated to reflect current standards, however, this will not alter the historic land uses of the site. This can be undertaken post-gateway, and can be considered as an addendum to the report.

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 planning proposal is applicable to this direction as it is proposing an amendment to the Maitland LEP 2011 for rezoning of lands for urban purposes.

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 2 Residential in the MUSS 2012.

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
	The proposal is considered consistent with the objectives of this direction.
3.2 Caravan Parks & Manufactured Home Estates	Inconsistency Justified
The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates	The proposed rezoning affects the permissibility of caravan parks and manufactured homes on the subject site; however, the proposed use for the site is consistent with Council's strategy for large-lot residential development. Due to its location in the vicinity of heritage items and environmentally sensitive areas the site has limited potential for caravan parks and manufactured home estates. Therefore, the proposal's deviation from this SEPP is adequately justified.
3.3 Home Occupations	Consistent
To encourage the carrying out of low-impact small businesses in dwelling houses.	<p>The planning proposal is applicable to this direction as it is proposing an amendment to the Maitland LEP 2011 for rezoning of lands for urban purposes.</p> <p>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 2 Residential in the MUSS 2012. Therefore, the planning proposal is considered consistent with the objectives of this direction.</p>
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.	<p>The site has direct access to an existing sealed road in close proximity to the existing residential and employment lands. The proposed rezoning is consistent with the objectives of this clause.</p> <p>The recently gazetted Anambah Urban Release Area will create additional justification for increased public transport links in the area, which will likely pass in front of the site.</p>
3.5 Development Near Licensed Aerodromes	Consistent
The objectives of this direction are: (a) to ensure the effective and safe operation of regulated airports and defence airfields; (b) to	The site is affected by a flight path associated with Rutherford Aerodrome. An aircraft noise assessment has been undertaken which

S9.1 DIRECTIONS

ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and (c) to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.

CONSISTENCY AND IMPLICATIONS

established that the site was not affected to any significant extent by the operation of the aerodrome. An Obstacle Limitation Surface report has also been prepared which demonstrates that the subdivision can proceed

Notwithstanding the above, additional consideration regarding appropriate building siting needs to be undertaken. This can be undertaken as part of a DCP prepared for the site.

3.6 Shooting ranges

Not Applicable

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.

The proposal is consistent with this 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 subject land is not identified within a Mines Subsidence District. The subject land does not support known shallow mine workings in the area.

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 proposed area for development is above the flood planning level and therefore classified as flood-free. As with many roads in the vicinity part of Anambah Road is, however, subjected to flooding.

Anambah Road is subject to flood events to both the north and south of the site. As a result, flood free access requirements will need to be put in place prior to finalisation of the planning proposal. If details are not provided of how this flood free access is to be provided, it is recommended that this planning proposal not proceed.

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
4.4 Planning for Bushfire Protection	Consistent
<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (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. 	<p>It is considered the site is suitable for urban development and that measures to mitigate bushfire threat can be achieved and addressed through the development assessment process, where approval from the RFS will be required.</p>
5. REGIONAL PLANNING	
5.1 Implementation of Regional Strategies	Not applicable
5.2 Sydney Drinking Water Catchment	Not Applicable
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not Applicable
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not Applicable
5.8 Second Sydney Airport: Badgery's Creek	Not Applicable
5.9 North West Rail Link Corridor Strategy	Not Applicable
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>
5.11 Development of Aboriginal Land Council Land	Not Applicable
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 affect the objectives of this direction and will be consistent with this requirement.</p>
6.2 Reserving Land for Public Purposes	Consistent
<p>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.</p>	<p>The proposal is considered consistent with this direction.</p>

S9.1 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
6.3 Site Specific Provisions	Consistent
The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The proposal is considered consistent with this direction.
7. METROPOLITAN PLANNING	
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not Applicable
7.3 Parramatta Road Corridor Urban Transformation Strategy	Not Applicable
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	Not Applicable
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	Not Applicable
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	Not Applicable
7.8 Implementation of the Western Sydney Aerotropolis Plan	Not Applicable
7.9 Implementation of Bayside West Precincts 2036 Plan	Not Applicable
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	Not Applicable
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	Not Applicable
7.12 Implementation of Greater Macarthur 2040	Not Applicable

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 Ecological Assessment prepared by MJD Environmental, dated Nov 2017 concluded that the proposal is unlikely to have any impact on the threatened entities or their habitats. It is noted, that this assessment was undertaken under the provisions of the transitional arrangements set out under the Biodiversity Conservation (Savings and Transitional) Regulation 2017. As such the likely impacts of this proposal were examined against the threatened species, populations or ecological communities listed under the now-repealed NSW Threatened Species Conservation Act 1995 (TSC Act). Given that the land has historically been used for low impact grazing and is largely managed pasture, this level of information is considered appropriate at this point in time

Post- gateway, it will be required that the proponent prepare a Biodiversity Development Assessment Report (BDAR) in accordance with the current provisions of the Biodiversity Conservation Act 2016.

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. These matters are addressed as follows:

Heritage

The planning proposal impacts upon the lot on which Anambah House is located. As such, a Statement of Heritage Impact has been prepared. This SHI identifies the main features and inherent historic values within the Anambah House site and proposed a curtilage to preserve this important relic depicting the agricultural heritage of the 19th century.

Anambah House with its double-storey Victorian mansion, billiard room, stables and gardens presents a compact setting on a gentle hill above the lagoon. Its mature Araucaria pines and Silky Oaks make it a prominent element in the surrounding countryside which is largely cleared of any vegetation. The existing gardens reflect the historic orientation and setting of the house oriented towards the Hunter River to the north and east. The established hedges and mature trees form a visual barrier to the south while the westerly aspect is largely absorbed in the stables, sheds and outbuildings. In considering these physical attributes and the prominent view corridors, the curtilage assessment undertaken in accordance with the guidelines provided by the NSW Heritage Division concluded that a reduced curtilage was most appropriate for Anambah House. This is a smaller curtilage than that identified in the OEH conservation order. The impacts of this are exacerbated by the proponents proposed 2000sqm lot size. This will need to be reviewed in order to establish a curtilage that responds to the final lot size.

The view corridors from Anambah House to the north and east address the Hunter River and distant views to the paddock. The view to the south is screened off and additional planting was recommended in this area to enhance the visual buffer. The view to the west is largely into the courtyard of Anambah House where the outbuildings are located. The existing views to and from the house to the public domain (road) in the west will not change as the site is well camouflaged by existing trees.

It is noted that the preparation of a Draft DCP post-gateway (but prior to finalisation) can identify landscaping treatments, view corridor protection and the imposition of a range of lot sizes that cater to the curtilage and views to and from the site.

An application to amend the curtilage around Anambah House to Heritage NSW will run concurrently to this Planning Proposal, which will guide the outcomes of the DCP.

An Aboriginal Heritage Due Diligence Assessment has been prepared by RPS, dated Aug 2017. This did not identify any constraints to the rezoning and development of the site. However, as the proposed areas of work extend into the three previously registered aboriginal sites, additional consultation will be required to be undertaken post gateway.

Traffic

A Traffic Impact Assessment was prepared in support of the Planning Proposal. However, the TIA looked at the site in isolation. No consideration has been given to the impacts of traffic from the proposed rezoning on the Anambah Road/New England Highway. Given the impacts from the Anambah URA consultation with Transport for New South Wales, and likely a revised TIA will be required.

Flooding Assessment

Although the proposed area to be rezoned is not flood prone there are significant access constraints caused by flooding along Anambah Road. Available flood modelling results indicate that floodwaters would rise to 15.2 m AHD on Anambah Road in a 10% AEP event and the road would be cut for approximately 28 hours. Floodwaters are predicted to rise to 16.5 m AHD in the 5% AEP flood and would cut Anambah Road for approximately 34 hours. In the 2% AEP event, floodwaters would reach an elevation of 18 m AHD and would cut the road for 38 hours. In the 1% AEP event, floodwaters are predicted to reach an elevation of 19.5 m AHD and would cut Anambah Road for approximately 40 hours.

There are a number of options proposed within the proponents consultants report outlining how this can be addressed. The two key options are:

- 1) Upgrades to Anambah Road to raise it above the peak level of the 20% AEP flood level
- 2) Alternative emergency access arrangements over adjoining land owners. It is noted that there is no confirmation that the adjoining landowners have agreed to such an arrangement.

Given the significant constraints posed by flood free access to the site, the provision of this will need to be resolved prior to the Finalisation of the Planning Proposal. If no flood free access is provided for within the timeframe specified within the Gateway Determination, it is recommended that this Planning Proposal not proceed.

Flora and Fauna

The ecological assessment undertaken was carried out in November 2017. As such, it considered the potential impacts of the proposal on any threatened species, populations, or ecological

communities listed under the NSW Threatened Species Conservation Act 1995 (TSC Act) and Native Vegetation Act, with due consideration of the new Biodiversity Conservation Regulation 2017 savings and transition arrangements.

This assessment was undertaken as both a desktop study and a field validation survey. The vegetation communities within the study area were generally in a modified state due to the extensive clearing and grazing activities.

Two hollow bearing trees were identified within the proposed development area. This will need to be considered during the future preparation of a subdivision plan.

No significant threatened flora or fauna species or potential habitat for the species listed under the Threatened Species Conservation (TSC) Act or EPBC (Environment Protection and Biodiversity Conservation Act 1999) Act were identified on the site during the ecological assessment. The site lacked any habitat features that could support a local population of any threatened species occurring in the region. One threatened species, the Eastern Cave Bat (*Vespadelus troughtoni*) had the potential to occur onsite but could not be confidentially detected in the anabat data analysis. No additional threatened species were confidently recorded within the broader study area.

The undertaken report made the following recommendations to mitigate potential impacts on biodiversity values within the development site and broader study area with particular focus on any species, population, or ecological community listed under the TSC Act and/or EPBC Act.

- *Appropriate Water Sensitive Urban Design (WSUD) principles should be implemented for the proposed subdivision to effectively capture and treat stormwater and runoff. Outputs from stormwater treatment infrastructure should be of a comparable quality and quantity to the existing water regime to maintain the health of the freshwater wetlands and floodplain lagoons on and adjacent to the study area;*
- *Clearing of hollow bearing trees should be supervised by a qualified ecologist to ensure previously identified habitat trees are 'soft-felled' and any fauna is handled appropriately, including the relocation of any arboreal mammals; • Appropriate measures should be employed to ensure that machinery working within the study areas do not bring materials (soils etc.) onto the site with the potential to infect surrounding vegetation with Exotic Rust Fungi; and*
- *Erosion and sediment controls will be implemented to prevent run-off or sediment flows from impacting upon downstream habitats during construction and maintained until such time that formal engineering is installed and operational.*

Due to the change in legislation there will be a requirement to prepare a Biodiversity Development Assessment Report (BDAR) in accordance with the current provisions of the Biodiversity Conservation Act 2016.

Airport Impacts

The Rutherford Aerodrome is located approximately 100m to the west of the subject site. Due to its proximity to the airport, the southern portion of the subject site is constrained by the approach surface for runway 23.

Based on the obstacle limitation surface (OLS) contours provided by the Newcastle Aero Club and the current levels of the subject property, an OLS Assessment has been undertaken. This assessment concluded the subject site allows for a minimum building height clearance of approximately 19m. To manage the potential risks associated with OLS, a maximum building height of 8.5 m will be placed across the subject site.

Aircraft noise

Rutherford Aerodrome operates as a light general aviation aerodrome without ANEF (Airport Noise Exposure Forecast) charts. It is open generally from 6.00 am to 11.00 pm. As such the assessment prepared considers the building site acceptability criterion provided in Appendix E of Australian Standard AS2021-2000.

The main runway can cater for 30 flights per day. The corresponding standard for acceptable noise levels on sites for residential use is less than 70dB(A). The report provides a general assessment based on the ANEC contours and a site-specific investigation to identify the noise levels at the closest point on the site. The results from the noise monitoring are compared against the 70dB threshold for development sites and indoor aircraft noise criteria provided in AS2021-2000. The Airport Noise Exposure Contour (ANEC) for Rutherford shows that the majority of the subject site is located outside ANEC 10, with only a relatively small area in the south-western part within the ANEC 10 to 15 zone. AS2021 considers sites with ANEF zones less than 20dB as acceptable for dwelling houses.

It is noted that the report undertaken measured the noise levels of 14 planes but focussed on those circling overhead and those approaching the runway to land. This resulted in an Lmax of 66dB which is lower than the acceptable level of 70dB in AS2021.

Further consideration will need to be given to the appropriate siting of building envelopes in any revised subdivision plan and should be covered within a DCP, which should be prepared prior to finalisation.

Bushfire

The site is not mapped as bushfire prone land

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 and no salinity exists on site.

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

The planning proposal provides increased housing opportunities within the western 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.

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 western precinct, 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.

Electrical infrastructure services this area and can be efficiently extended to service the subject land.

A revised 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?

No formal consultation with State and Commonwealth public authorities has been undertaken at this stage for this planning proposal. Consultation will occur in accordance with the conditions outlined in the Gateway Determination to be issued for this planning proposal. It is anticipated that the NSW Biodiversity Conservation Division (BCD), Transport for New South Wales (TfNSW), Hunter Water Corporation (HWC), State Emergency Services (SES) and Mindaribba Local Aboriginal Land Council (MLALC) would be consulted in relation to this planning proposal.

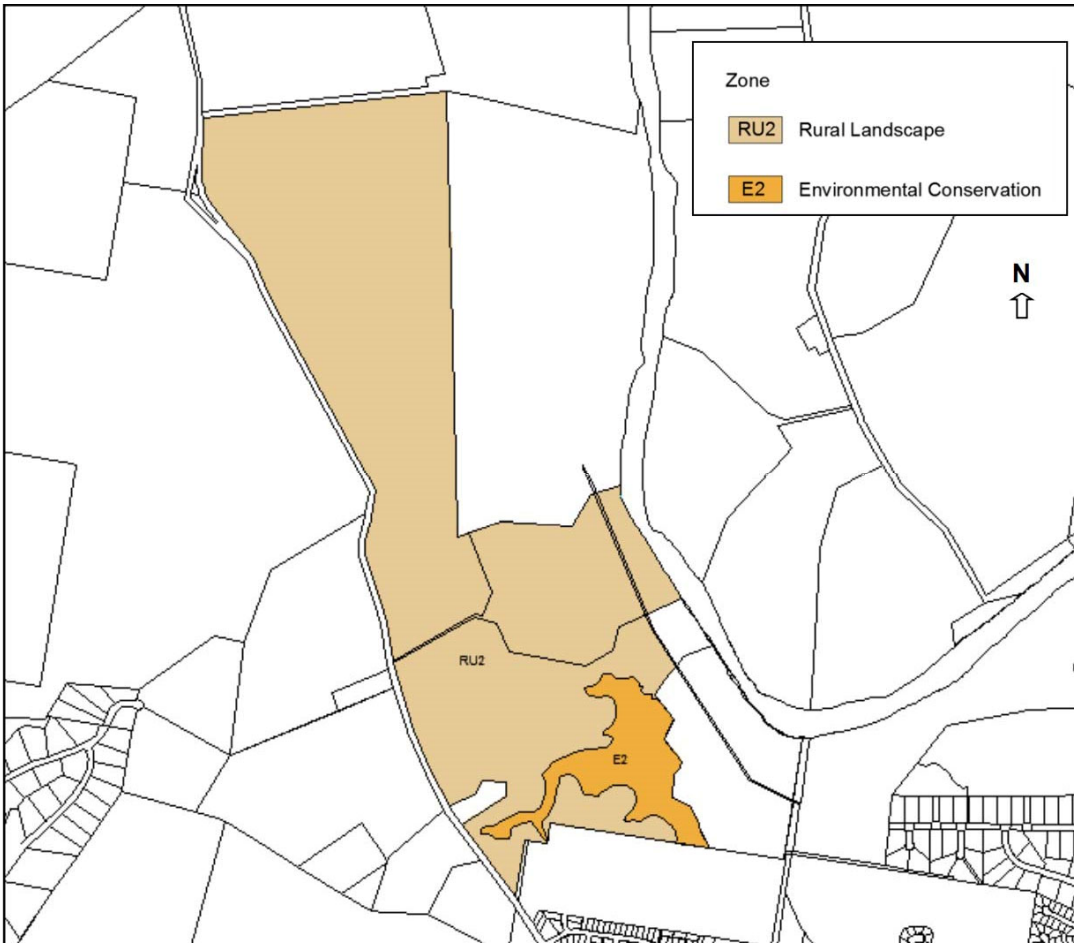
PART 4: MAPS

The following maps support the proposal:

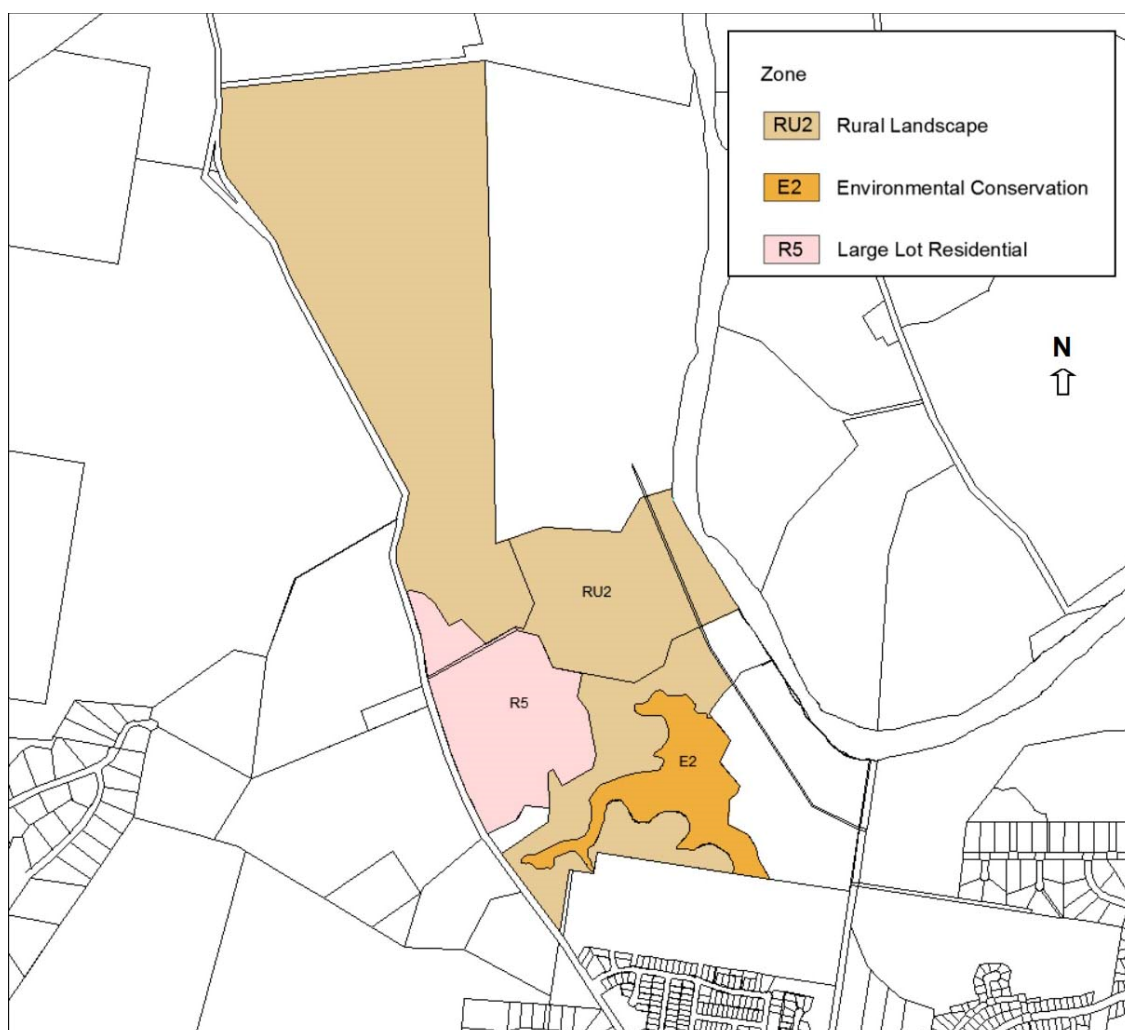
MAP 1 – EXISTING ZONING MAP

MAP 2 - PROPOSED ZONING MAP

MAP 1 – Existing Zone



Map 2 – Proposed Zone



PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of 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 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.
- 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)	30 September 2022
Anticipated timeframe for flood free access arrangements	25 January 2023
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days excluding Public Holidays and Exclusion Period)	30 November - 19 December 2022 (19 days) Re-commence for 2 working days from 11 January 2023 End by 12 January 2023
Commencement and completion dates for public exhibition period	30 November - 19 December 2022 (19 days) Re-commence for 9 working days from 11 January 2022 End by 24 January 2023
Dates for public hearing (if required)	N/A
Consideration of submissions/post exhibition	18 April 2023
Finalisation	30 June 2023

Appendix A:

Gateway Determination

To be inserted

Appendix B-

Alteration of Gateway Determination

To be inserted