



IRF 24/71

Gateway determination report – PP-2023-2323

Rezone 107 Haussman Drive, Thornton, for residential and conservation purposes and amend the minimum lot size

May 24

Published by NSW Department of Planning, Housing and Infrastructure

dphi.nsw.gov.au

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

| | |
|---------------------------------|--|
| LGA | Maitland |
| PPA | Maitland City Council |
| NAME | Rezone 107 Haussman Drive, Thornton, for residential and conservation purposes and amend the minimum lot size (142 homes) |
| NUMBER | PP-2023-2323 |
| LEP TO BE AMENDED | Maitland LEP 2011 |
| ADDRESS | 107 Haussman Drive, Thornton |
| DESCRIPTION | Lot 2 DP 1145348 |
| RECEIVED | 20/11/2023 |
| FILE NO. | IRF24/71 |
| POLITICAL DONATIONS | There are no donations or gifts to disclose, and a political donation disclosure is not required |
| LOBBYIST CODE OF CONDUCT | There have been no meetings or communications with registered lobbyists with respect to this proposal |

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that explain the intent of the proposal. The objectives of the planning proposal are to enable a diversity of future residential housing, while protecting environmentally significant areas and biodiversity corridors.

The objectives of this planning proposal are clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Maitland LEP 2011 as follows:

- amend the land zone map (sheet LZN_006A) from RU2 Rural Landscape to part R1 General Residential zone and part C3 Environmental Management zone; and
- amend the minimum lot size map (sheet LSZ_006A) to amend the minimum lot size for the proposed R1 General Residential zone area from 40ha to 450m². The proposed C3 Environmental Management zoned land will retain the 40ha minimum lot size.

Table 3 Current and proposed controls

| Control | Current | Proposed |
|---------------------|---------------------|--|
| Zone | RU2 Rural Landscape | R1 General Residential and C3 Environmental Management |
| Minimum lot size | 40ha | 450m ² 40ha |
| Number of dwellings | 0 | 142 |

The explanation of provisions is satisfactory and adequate.

1.4 Site description and surrounding area

The site is known as Lot 2 DP 1145348, 107 Haussman Drive, Thornton. The land is approximately 19ha in area and is located at the intersection of Haussman Drive and Raymond Terrace Road in Thornton. The site is a former clay quarry that has now been exhausted and is primarily cleared, with some remnant vegetation located around the north, west and southern perimeter boundaries.

The site is located within the emerging residential development areas of Thornton, Chisholm and Metford, with a number of undeveloped lots located in close proximity, including on the eastern boundary. The site received a Site Compatibility Certificate under the former SEPP (Housing for Seniors or People with a Disability) 2004 and obtained development consent for 156 houses for seniors or people with a disability.

**Figure 1 Subject Site (NearMap)**

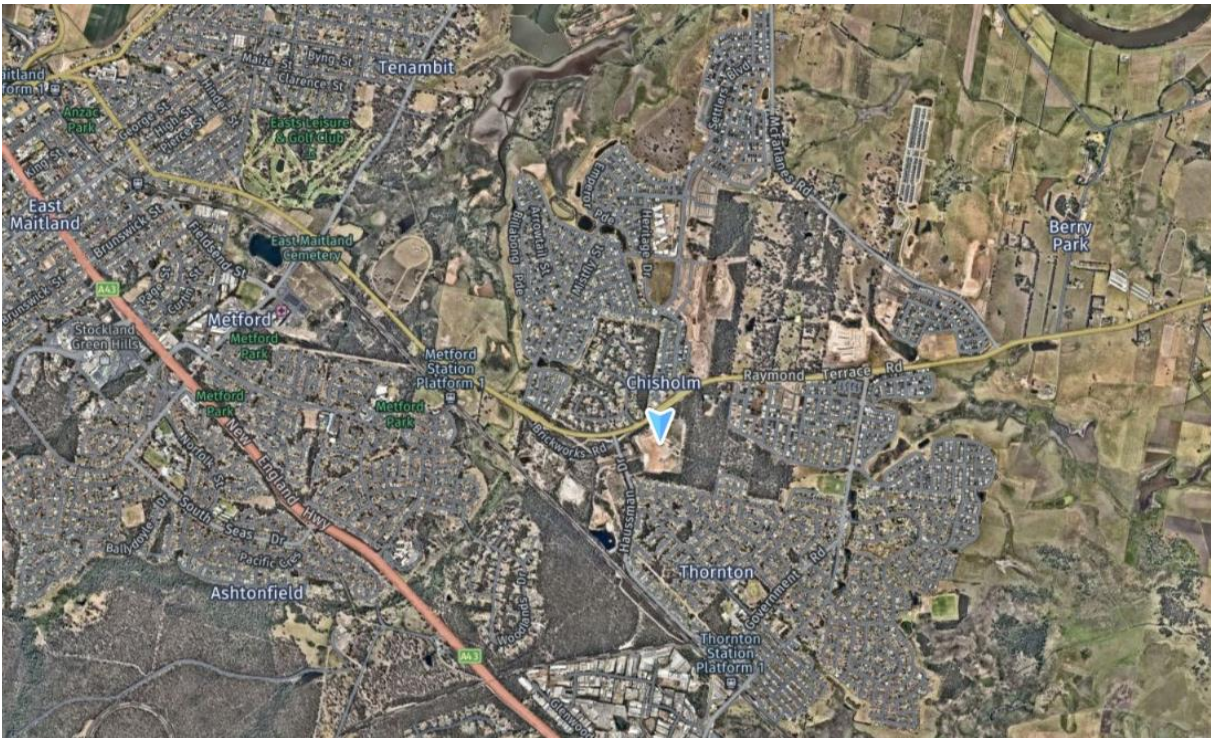


Figure 2 Site context (NearMap)

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning and Lot Size maps that are suitable for exhibition. The proposal notes that some changes to the zone boundaries may occur during the process. Should this occur post exhibition, depending on the scale and nature of any changes, re-exhibition may be needed.

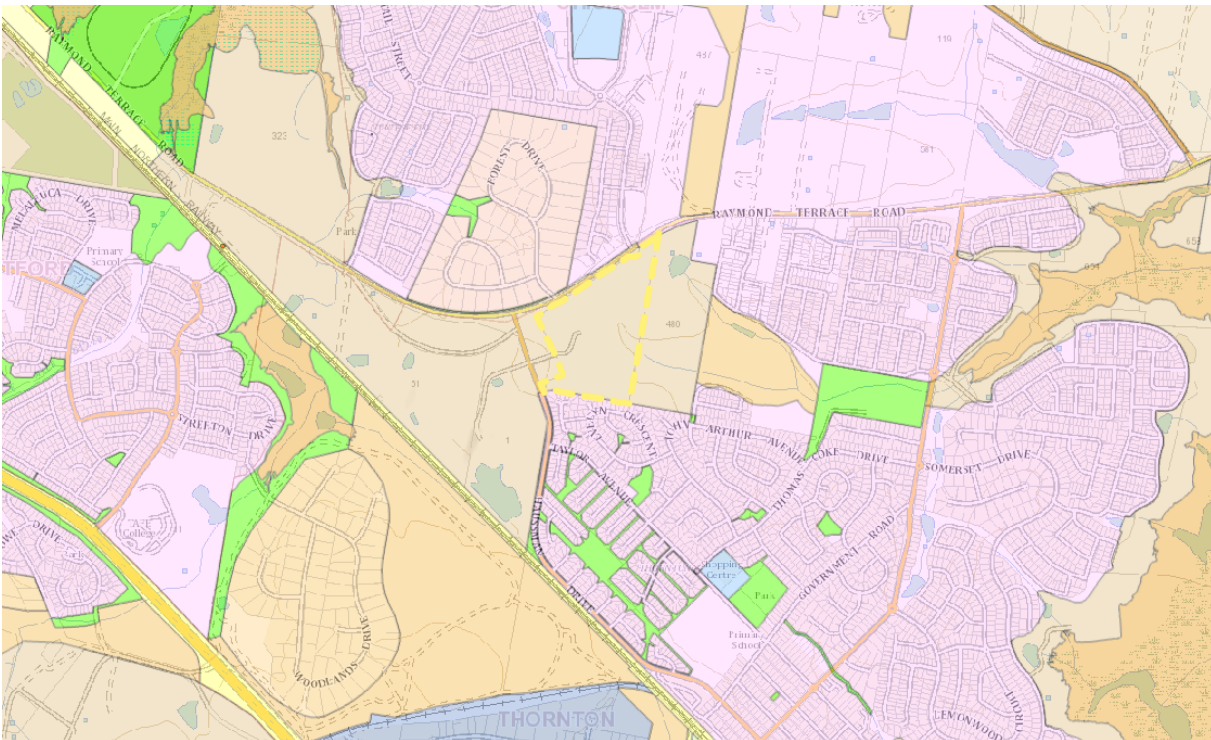


Figure 3 Current zoning map

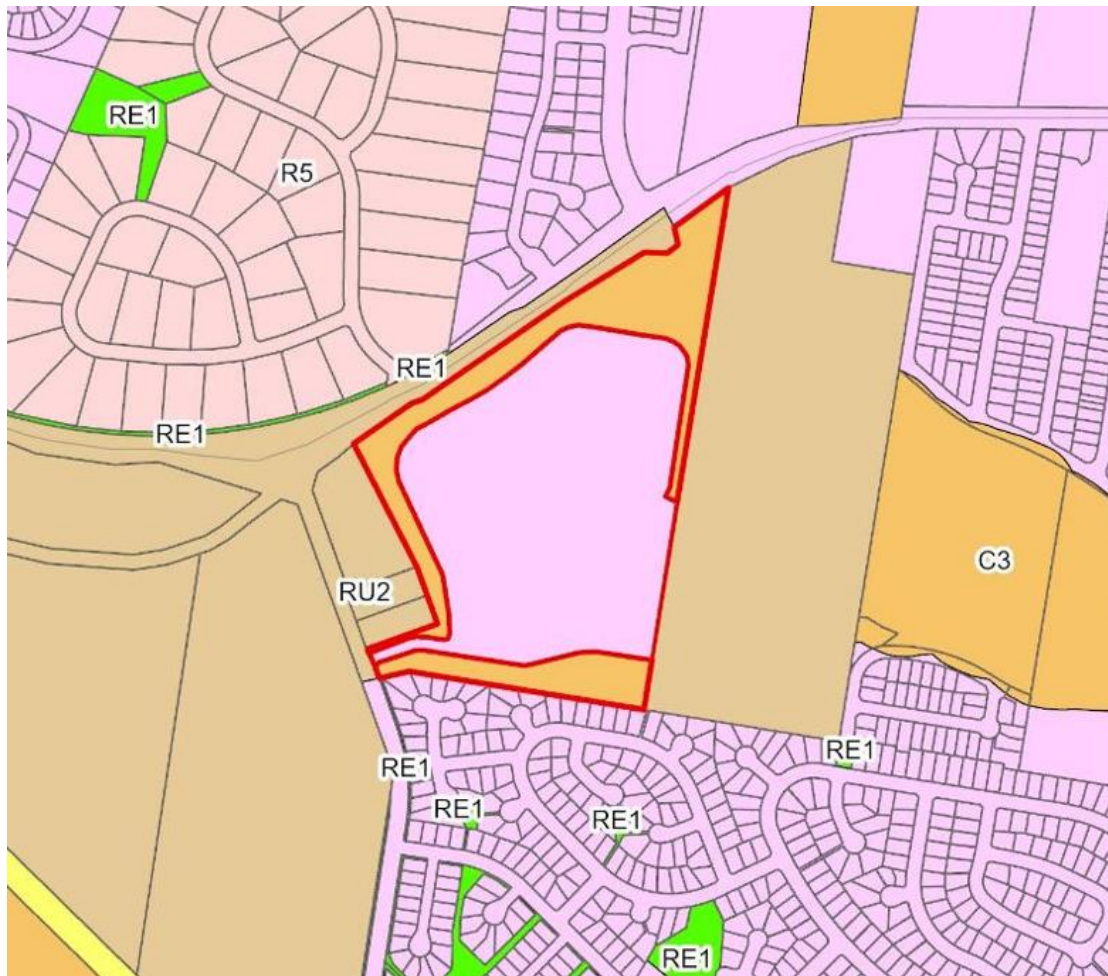


Figure 4 Proposed zoning map

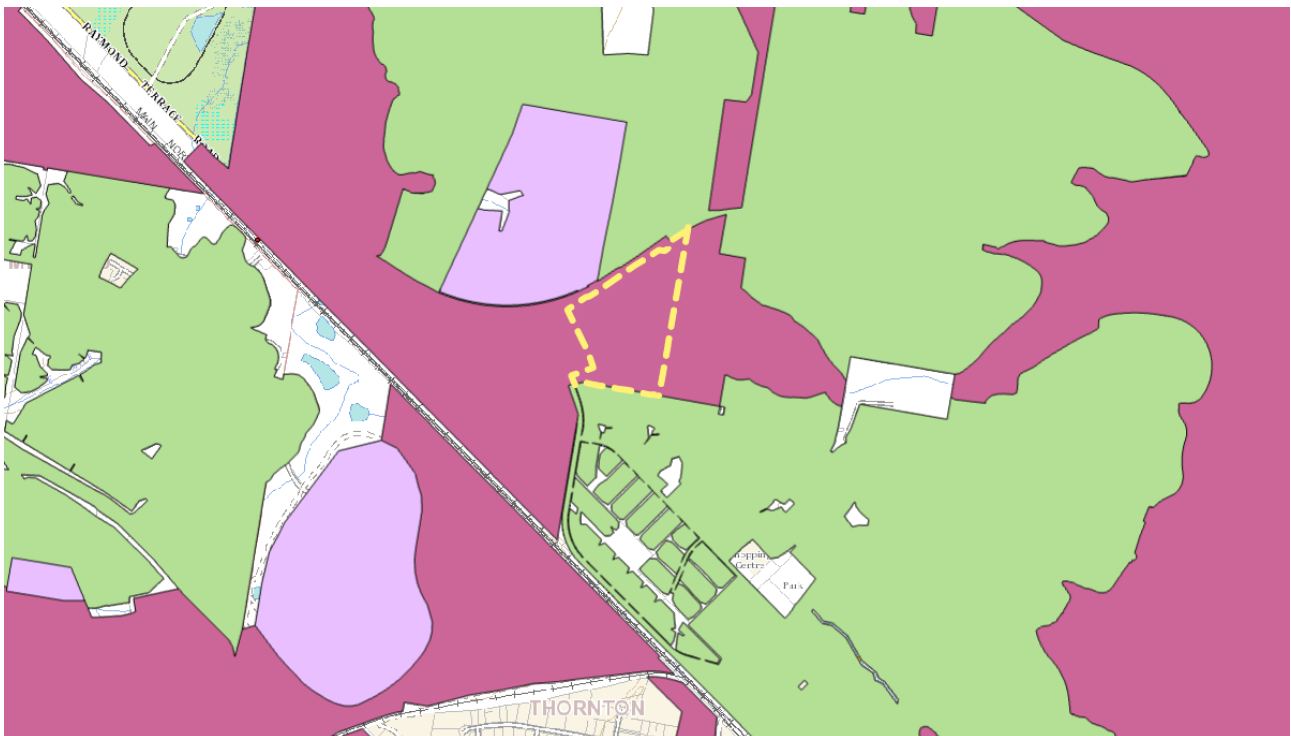


Figure 5 Current minimum lot size map



Figure 6 Proposed minimum lot size map

1.6 Background

DA17-2593 - The site granted development consent for the construction of 156 independent seniors living units by Council under development application DA17-2593 and Site Compatibility Certificate issued October 2017.

PP-2021-2820 – June 2021 – The proposal to rezone to residential was requested to be resubmitted following Gateway assessment with the following information required:

- a) A biodiversity assessment report prepared in accordance with the NSW Biodiversity Assessment Method.
- b) Confirmation from Subsidence Advisory NSW regarding proposed grouting to resolve stability issues and that the rezoning can proceed based on current remediation; and
- c) Confirmation from NSW Rural Fire Services on need for a secondary access to the site to manage evacuation in the event of a bushfire. Should a secondary access be located on land outside of the planning proposal, confirmation and/or support from adjoining landowners is required.

PP-2022-4101 – October 2022 – The proposal to rezone to residential was deemed inadequate for Gateway assessment with the following information outstanding:

- a) A remediation proposal in response to the request from Subsidence Advisory NSW.
- b) Assessment against the recently released Hunter Regional Plan 2041.
- c) Consistency of development description and footprint across the proposal documents.

2 Need for the planning proposal

The proposal site is identified as a *planned investigation– residential* area in the current Maitland Local Strategic Planning Statement 2040+. The LSPS doesn't provide additional detail or criteria on the actions to investigate these sites.

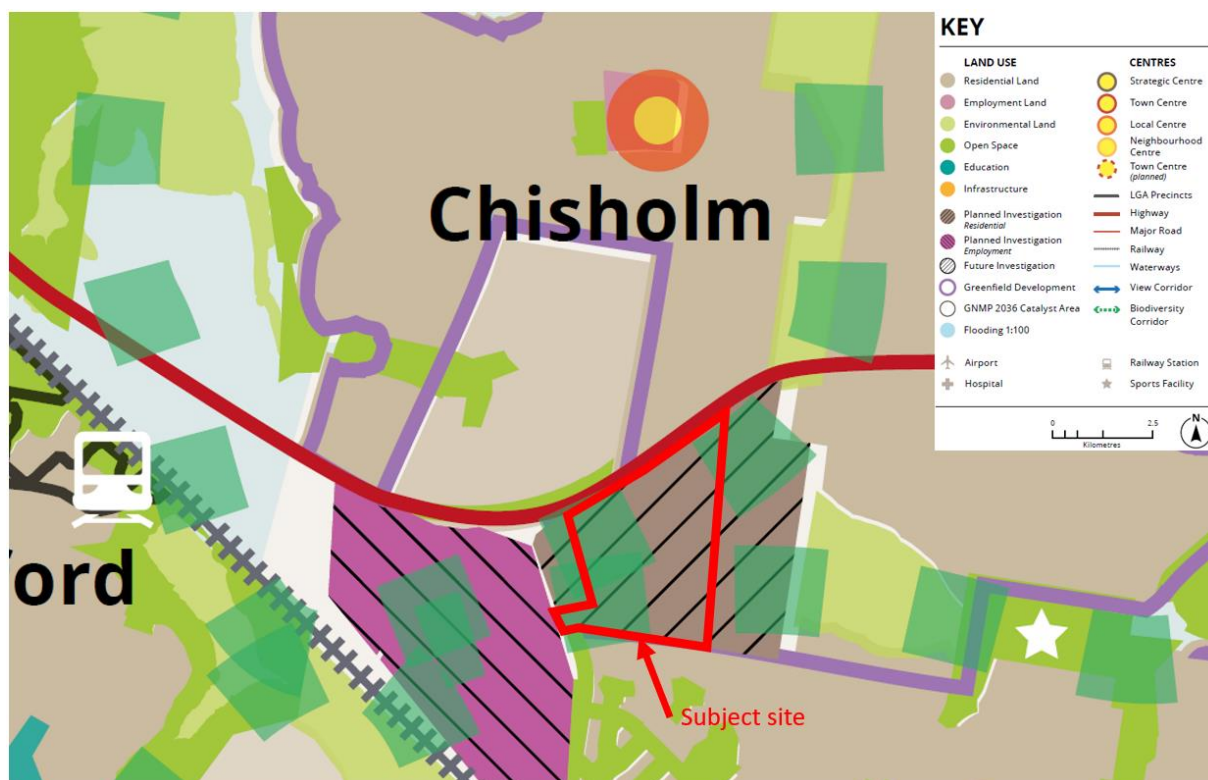


Figure 7 The subject site in the Maitland LSPS 2040+

Council's Local Housing Strategy 2041 identifies the site as the Haussman Drive/Thornton Investigation Area (IA-1) with a capacity to deliver 160 dwellings.

A number of options were considered by Council as to the use of the land, including:

1. Rezone to R1 General Residential and C3 Environmental Management rezoning
2. Retaining the senior housing development approval
3. Retaining the RU2 zone, revegetating and/or rezoning the subject site to a Conservation Environment zoning

The proposal notes that the rezoning is appropriate and needed as:

- the existing approved seniors housing development is not viable due to the current number of approved seniors housing developments in the area (Berry Park, East Maitland, Tenambit and Morpeth in total contain seven senior housing developments within a radius proximity of 6km);
- it would provide a greater diversity to the local housing market than providing for only seniors housing; and
- will likely achieve improved environmental outcomes and will maintain biodiversity connectivity with the adjoining lands by zoning the perimeter vegetation for conservation purposes.

Based on the objectives and intended outcomes stated, the proposal is the most suitable means of achieving these outcomes.

3 Strategic assessment

3.1 Regional Plan

The proposal is generally consistent with the Hunter Regional Plan 2041 (which identifies the site as new residential land) and the Greater Newcastle Metropolitan Plan 2036 except in regard to the matters discussed in the table below.

Table 4 Regional Plan assessment

| Regional Plan Objectives | Justification |
|--|--|
| Objective 5: Plan for 'nimble neighbourhoods', diverse housing and sequenced development | While the adjoining Brickworks Road Employment Precinct (which was rezoned in December 2023) will help deliver a 15-minute neighbourhood to this location once developed with a range of have everyday services, specialised retail, large commercial floorspace, service stations, offices and general/light industrial development, the current proposal estimates it will only achieve a density of 11 houses per hectare rather than the 30 dwellings per hectare for general suburban development identified under the regional plan. This inconsistency is considered to be of minor significance as the lower density is in recognition of the constrained environmental and geotechnical nature of the land. |
| OBJECTIVE 6: Conserve heritage, landscapes, environmentally sensitive areas, waterways and drinking water catchments | The site is identified in the <i>Maitland Greening Plan 2002</i> and Council's LSPS as a future opportunity corridor for biodiversity connectivity. The site is however (as discussed further below) also identified in a number of Council's strategies as having residential development potential. This inconsistency is of minor significance as the current proposal is primarily limited to the former quarry area of the site with the remaining vegetated areas generally being rezoned for conservation purposes and maintained for biodiversity corridor purposes. |

3.2 Local

The proposal notes that it is consistent with the following local plans and endorsed strategies as follows:

Table 5 Local strategic planning assessment

| Local Strategies | Justification |
|---|---|
| Maitland Local Strategic Planning Statement 2040+ | <p>Council Comment:</p> <p><i>The site is identified in LSPS as 'residential investigation land'. The site is situated within the context of planned residential growth in the north Thornton area. The proposal will enable the subject land to be developed for residential purposes in a manner consistent with long term strategic planning.</i></p> <p><i>The proposal will allow for a diversity of residential housing typologies to be developed under the R1 General Residential Zone. The provision of housing diversity is a key planning objective of the LSPS, particularly in new residential areas. The concept subdivision layout also illustrates a diversity of allotment sizes which will allow for differing housing typologies, such as dual occupancies and</i></p> |

| | |
|--------------------------------------|---|
| | <i>secondary dwellings. The concept subdivision layout also has a super development lot, which is potentially proposed, in future, to be medium density housing such as attached or detached terraces.</i> |
| Maitland Local Housing Strategy 2041 | <p>Council Comment:</p> <p><i>The proposal is generally consistent with the Strategy and the consistent with all the planning principles. As the proposal will provide a diversity of housing in a strategic location to service, jobs, open space, public transport and active transport linkages. The proposal will also preserve most of the Thornton biodiversity corridor, while the concept subdivision lot orientation will maximise the resilience and sustainability of future dwellings. Infrastructure will also be sequenced and delivered in a timely matter as per the North Thornton Contribution Plan.</i></p> <p><i>The Strategy also identifies the site as being:</i></p> <ul style="list-style-type: none"> <i>A rating of 5 for being most suitable / or containing limited environmental constraints within the environmental constraints map</i> <i>Is a residential land investigation area within the Strategy's Structure Plan.</i> |

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

| Directions | Consistent Y/N | Justification for Inconsistency |
|--------------------------------------|----------------|--|
| 1.1 Implementation of Regional Plans | Justified | As discussed above, the proposal has minor inconsistencies with the regional plan in relation to dwelling density and environmental protection that are considered to be appropriate and of minor significance. |
| 3.1 Conservation Zones | Justified | The planning proposal is inconsistent with the direction as it does not include provisions that conserve and protect all the environmentally sensitive areas on the site. This inconsistency is considered to be of minor significance as the supporting documentation confirms that the large majority of vegetation which is located on the perimeter of the site will be zoned C3 Environmental Management to maintain biodiversity connectivity with adjoining lands, there will be a total impact area of only 0.82 hectares on native vegetation, and that this impacted area is located in the centre of the site which constitutes the disturbed historic quarry site and approved seniors housing development footprint that can already be legally cleared. It is still recommended however that consultation with the NSW Biodiversity Conservation and Science Group be undertaken to confirm the suitability of the proposal. |
| 3.2 Heritage Conservation | Justified | The proposal is inconsistent with this direction as it does not contain provisions that facilitate the |

| | | |
|--------------------------------------|------------|--|
| | | <p>conservation of Aboriginal and environmental heritage. This inconsistency is considered to be of minor significance as (while still noting that there are a number of Aboriginal recorded sites in the locality including the adjoining site to the east):</p> <ul style="list-style-type: none"> • no European heritage on or adjoining the site has been identified; • an Aboriginal Cultural Heritage report has been prepared that notes that the area of the site to be zoned for residential development is already heavily disturbed by the former quarry; • a site visit was undertaken in 2018 by a representative of the Mindaribba Local Aboriginal Land Council and indicated concurrence with the former cultural heritage report for the SCC that the site did not contain subsurface archaeological potential. <p>It is still recommended however that consultation with the NSW Heritage Office and the Mindaribba Local Aboriginal Land Council be undertaken to confirm the suitability of the proposal.</p> |
| 4.3 Planning for Bushfire Protection | Unresolved | <p>The proposal is potentially inconsistent with this direction as it is identified as bushfire prone land. Consistency with the direction is unable to be determined until consultation has been undertaken with the NSW RFS following receipt of a Gateway Determination in accordance with the terms of the direction.</p> |
| 4.4 Remediation of Contaminated Land | Unresolved | <p>The proposal is inconsistent with the direction as it does not provide supporting information confirming the site is suitable for its future intended use. The planning proposal is accompanied by a preliminary contamination assessment which indicates the presence of potentially contaminating materials in some areas of fill and contaminants in the surface water ponds.</p> <p>The proposal recommends further testing and validation of fill material, as well as dewatering and backfilling for remediation. It is recommended that the proposal be referred to the Environmental Protection Authority for clarification on the suitability of the proposed rehabilitation measures.</p> <p>To give confidence that this remediation is able to be undertaken before the land is used for residential purposes, the PPA may consider the inclusion of a clause in the LEP to include provisions for this to occur.</p> |

| | | |
|---------------------------------------|------------|---|
| | | The proposal will remain unresolved with this direction until the above referral is conducted and advice is provided from the EPA to confirm that the approach proposed by Council is suitable. |
| 4.5 Acid Sulfate Soils | Justified | The proposal is inconsistent with this direction as it contains class 5 acid sulfate soils and is not supported by an acid sulphate soils study. The inconsistency is considered to be of minor significance as the Maitland LEP 2011 contains acid sulfate soils provisions that can ensure this matter can be adequately addressed at the DA stage. |
| 4.6 Mine Subsidence and Unstable Land | Unresolved | <p>The proposal is inconsistent with this direction as the site has been identified as being potentially unstable due to previous underground coal mining and quarrying activities. While the site is not within a declared mine subsidence district, correspondence from Subsidence Advisory NSW (SANSW) advises that there are known underground mining works on the land and therefore there is a risk that the land is unstable.</p> <p>SANSW has previously reviewed the site and has requested a grout/remediation strategy and that follow up verification boreholes be undertaken to ensure works were adequate. The proposal is supported by a mine subsidence constraints report that was prepared in 2015 and was reviewed in 2023 which indicates that the site is suitable for rezoning and the requested strategy and boreholes are not necessary.</p> <p>It is recommended that the planning proposal remain unresolved at this stage until it can be referred to SANSW to verify the recommendations in the provided study and the proposal is suitable to proceed.</p> |
| 9.1 Rural Zones | No | The proposal is inconsistent with this direction as it will rezone land from rural to part residential and part conservation. This inconsistency is considered to be of minor significance as a conservation zone will be applied to the vegetated areas of the site that has limited agricultural value, and the other areas have minor to no agricultural value as a former quarry that has a seniors housing development approved on the land. |
| 9.2 Rural Lands | No | The proposal is inconsistent with this direction as it does not comply with all the principles of the direction such as supporting farmers in exercising their right to farm. This inconsistency is considered to be of minor |

significance as the site is a former quarry that has no likely existing or future agricultural value.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs except as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

| SEPPs | Consistent Y/N | Reasons for Inconsistency |
|--|----------------|--|
| State Environmental Planning Policy (Biodiversity and Conservation) 2021 | No | The planning proposal is accompanied by a preliminary environmental assessment which indicates the presence of potential Koala habitat. The supporting study however suggests that the vegetation does not meet the criteria for core koala habitat. Consultation with the Biodiversity Conservation and Science Group is to be undertaken to confirm the suitability of the proposal. |
| State Environmental Planning Policy (Resilience and Hazards) 2021 | No | <p>The planning proposal is accompanied by a preliminary contamination assessment which indicates the presence of potentially contaminating materials in some areas of fill and contaminants in the surface water ponds.</p> <p>It is recommended that the proposal be referred to the Environmental Protection Authority to confirm the suitability of the proposal.</p> |

4 Site-specific assessment

4.1 Environmental

The site is a former clay quarry that has approval to clear much of the site approved for seniors housing. The supporting reports confirm that there are areas of Endangered Ecological Community (EEC) PCT 1592 Lower Hunter Spotted Gum – Ironbark Forest around the perimeter of the allotment with significant areas of remnant vegetation along the northern, southern and western boundaries.

The reports further found that the site was likely to contain suitable habitat for:

- Little Lorikeet (*Glossopsitta pusilla*)
- Grey-crowned Babbler (eastern sub-species) (*Pomatostomus temporalis temporalis*)
- Squirrel Glider (*Pteropus norfolkensis*)
- Brush-tailed Phascogale (*Phascogale tapoatafa*)
- Grey-headed Flying-fox (*Pteropus poliocephalus*)

- Greater Broad-nosed Bat (*Scoteanax rueppellii*)

A total of 26 hollow-bearing trees were found to be located within the Study area of which 10 (38%) are proposed to be removed to enable residential development. The total area of impact is reported to be approximately 0.82 ha of native vegetation.

As the majority of the existing vegetation is located around the perimeter of the site and will be included in a C3 Environmental Management Zone, no significant adverse environmental impact is anticipated. It is noted that the current zoning proposal is also designed to help maintain biodiversity linkages available within and around the site. It is however recommended that the proposal be referred to the Biodiversity Conservation and Science Group for consultation to confirm the suitability of the proposal.

The proposal is accompanied by a number of supporting studies, however it was noted that the some of the assessments have slightly different development footprints. Prior to agency and community consultation Council should ensure that the development footprints within the proposal and supporting reports are consistent.

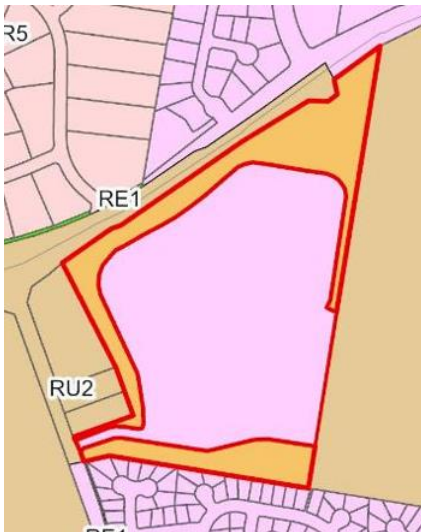


Figure 8 Proposed Zoning Boundaries



Figure 9 Proposed Clearing Area (Kleinfelder)



Figure 10 Proposed APZ (Firebird)

4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 9 Social and economic impact assessment

| Social and Economic Impact | Assessment |
|----------------------------|---|
| Housing provision | There is projected to be a positive net community benefit from the planning proposal considering the new housing provision, housing diversity, and integration with the existing community through good urban design and precinct planning. |

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 10 Infrastructure assessment

| Infrastructure | Assessment |
|-------------------|---|
| Traffic/Transport | <p>The planning proposal is accompanied by a traffic impact assessment which concludes that there are expected to be some increases in traffic, however this is manageable in the existing road network with the incorporation of the recommended intersection treatments. It is also considered that any traffic impact would likely be minimal noting the existing traffic potential from the site associated with the approved seniors living proposal.</p> <p>The proposal will however be referred to Transport for NSW for comment.</p> |
| Water/Sewer | <p>The planning proposal is accompanied by a statement from Hunter Water Corporation (HWC) that additional information is required before preliminary servicing advice can be provided. The proposal should be referred to HWC as a part of agency consultation.</p> |

5 Consultation

5.1 Community

Council proposes a community consultation period, of 28 days. As the proposal is identified as a standard proposal, the recommended consultation period is 20 working days.

The recommended exhibition period is considered appropriate, and forms to the conditions of the Gateway determination.

5.2 Agencies

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- Biodiversity Conservation and Science Group (BCS) – Biodiversity
- Transport for NSW (TfNSW)
- NSW Rural Fire Service (RFS)
- Subsidence Advisory NSW (SA NSW)
- Hunter Water Corporation (HWC)
- Mindaribba Local Aboriginal Land Council (LALC)
- NSW Heritage
- Environment Protection Authority

6 Timeframe

Council proposes a 12 month time frame to complete the LEP.

A time frame of 12 months is recommended to ensure the proposal is completed in line the Department's commitment to reduce processing times. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority. As the planning proposal is considered to be generally consistent with the regional and local planning framework and is of local significance, it is recommended that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the reasons discussed above.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.1 Implementation of Regional Plans, 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.5 Acid Sulfate Soils, 9.1 Rural Zones and 9.2 Rural Lands are justified; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land and 4.6 Mine Subsidence and Unstable Land are unresolved and will require justification.

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

1. Prior to agency and community consultation the proposal is to be amended to ensure a consistent development footprint between the planning proposal and the supporting studies.
2. Consultation is required with the following public authorities:
 - Biodiversity Conservation and Science Group (BCS) – Biodiversity
 - Transport for NSW (TfNSW)
 - NSW Rural Fire Service (RFS)
 - Subsidence Advisory NSW (SA NSW)
 - Hunter Water Corporation (HWC)
 - Mindaribba Local Aboriginal Land Council (LALC)
 - NSW Heritage
 - Environment Protection Authority
3. The planning proposal should be made available for community consultation for a minimum of 28 days.
4. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.
- 6.



7/5/24

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7/5/24

Jeremy Gray

Director Hunter and Northern Region