



city council

## **Planning Proposal - Proponent-initiated**

**Pre-Gateway version**

**107 Haussman Drive, Thornton**

**Amendments to Land Zoning Map and Minimum Lot Size Map**

**Draft Amendment No.X to *Maitland Local Environmental Plan 2011***



# CONTENTS

INTRODUCTION AND ADMINISTRATION.....	3
SECTION 1 DOCUMENT REVISIONS.....	3
SECTION 2 TABLES.....	3
SECTION 3 FIGURES.....	<b>Error! Bookmark not defined.</b>
SECTION.4 MAPS.....	4
SECTION 5. OTHER ATTACHMENTS.....	4
PART 1: OBJECTIVES OR INTENDED OUTCOMES .....	5
PART 1: OBJECTIVES OR INTENDED OUTCOMES .....	<b>Error! Bookmark not defined.</b>
PART 2: EXPLANATION OF PROVISIONS.....	6
PART 3: JUSTIFICATION FOR PROPOSED REZONING.....	7
SECTION A – NEED FOR THE PLANNING PROPOSAL .....	7
SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK .....	14
SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT .....	26
SECTION D – STATE AND COMMONWEALTH INTERESTS .....	39
PART 4: MAPPING .....	41
PART 5: COMMUNITY CONSULTATION .....	46
PART 6: TIMEFRAMES .....	47

## INTRODUCTION AND ADMINISTRATION

This planning proposal has been prepared in accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the Department of Planning and Environment's '*Local Environmental Plan Making Guideline (August 2023)*'. The following tables provides the administrative information of the subject land, and sections of this planning proposal.

<b>Local Government Area:</b>	Maitland City Council (Council)
<b>Name of Draft LEP</b>	Maitland City Council Local Environmental Plan (MLEP) 2011 (Draft Amendment No. X)
<b>Subject land</b>	107 Haussman Drive, Lot 2 DP 1145348
<b>Site area</b>	18.96 ha
<b>Landowner(s)</b>	McCloy Thornton Pty Ltd
<b>Applicant(s)</b>	McCloy Thornton Pty Ltd
<b>Council file number</b>	RZ21002
<b>Previous planning portal number(s)</b>	PP-2021-2820 / PP-2022-4101
<b>Current version date</b>	18 October 2023
<b>Responsible officer(s)</b>	Prior officer: Leonie Bryson; Current officer: Adam Kennedy
<b>Officer(s) position</b>	Senior Strategic Planner
<b>Responsible manager</b>	Brett Gardiner
<b>Manager position</b>	Manager Strategic Planning – Planning and Environment

### SECTION 1 DOCUMENT REVISIONS

Version	Description	Date
1.0	Council Report Request for Gateway	24.01.2022
2.0	Council Report Request for Gateway Post Deferral and Councillor Briefing	24.02.2022
3.0	Re-submission Request for Gateway	23.05.2023
4.0	Re-submission of additional information for Request for Gateway	18.10.2023

### SECTION 2 TABLES

Table	Description	Page
1	Assessment of the Planning Proposal against relevant State Environmental Planning Policies (SEPPs)	18
2	Relevant Section 9.1(2) Ministerial Directions	20

### SECTION 3 FIGURES

Figure	Description	Page
1	Conceptual subdivision layout of the subject site	5
2	Location of the subject site within the LSPS Structure Plan	7
3	Thornton North Locality Plan Precincts	8
4	Previously proposed zoning of the subject site	9
5	Approved 156 independent seniors' living units on subject site	11
6	Draft Concept Masterplan of Brickworks Lane Employment Precinct	13
7	Sites currently applied with the "Identified Resource" mapping layer under MLEP 2011 (Sheet MRA_006A)	16
8	Excerpt from North Thorton Masterplan 2003: Structure Plan	17
9	Vegetation Mapping and Hollow Bearing Trees	28
10	Indicative Location of Mine Workings	35
11	Assumed scope and preliminary cost estimation (2015)	36
12	Excerpt of Conditions of Consent for DA - 17-2593	37

#### SECTION.4 MAPS

Map	Description	Page
1	Aerial Locality Plan	40
2	Existing Zoning (Sheet LZN_006A)	41
3	Proposed Zoning (Sheet LZN_006A)	42
4	Existing Minimum Lot Size (Sheet LSZ_006A)	43
5	Proposed Minimum Lot Size (Sheet LSZ_006A)	44

#### SECTION 5. SUPPORTING ATTACHMENTS

Attachment	Description
A	McCloy Group Cover Letter to Adequacy Assessment
1A	Preliminary Biodiversity Development Assessment Report (2021)
1B	Streamline Biodiversity Development Assessment Report (2022)
2	Site Compatibility Certificate (SCC_2017_MAITL_001_00)
3	Adequacy assessment (PP-2022-4101) prior information for needed for (PP-2021-2820)
4	Assessment of Hunter and Regional Plan 2041 Strategies
5	Bushfire Threat Assessment
6	Aboriginal Due Diligence
7	Preliminary Contamination Assessment
8	Surface Water and Sediment Assessment
9	Mine Subsidence Constraints Advice Letter 2015 and Review 2023
10	Preliminary Geotechnical Assessment
11	Subsidence Advisory NSW Correspondence 2022
12A	Traffic and Parking Impact Assessment
12B	Supplementary Traffic Impact Assessment
13	Preliminary servicing advice from the Hunter Water Corporation



## PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objective of this proponent-initiated planning proposal (proposal) is to enable a diversity of future residential housing, while protecting environmentally significant areas and biodiversity corridors by amending *Maitland Local Environmental Plan 2011* (MLEP 2011) in the following manner:

1. amend the land zone map (sheet LZN\_006A) from the existing RU2 Rural Landscape to part R1 General Residential zone and C3 Environmental Management zone
2. amend the minimum lot size map (sheet LSZ\_006A) to amend the minimum lot size for from mostly the 40ha minimum lot size to 450m<sup>2</sup> for the proposed R1 General Residential zoned land. The remainder of the C3 Environmental Management zoned land will retain the 40ha minimum lot size.

The proposal will enable the site to be developed up to a range of 132 - 142 residential allotments. This number excludes any calculation for the possibility of future dual occupancies or secondary dwellings. This equates to a dwelling density ranging from 10.8 – 11.6 dwellings per/ha. The density outcome is a lower target than that aspired to in the *Hunter Regional Plan 2041*. However, this is due to the unique characteristics of the site, preserving the critical environmental function of the existing remnant vegetation and retaining a key biodiversity corridor for the area, while also providing for public open space and an onsite detention basin. Furthermore, as the R1 General Residential zone includes a broad range of residential accommodation land uses, the proposed amendment does not prohibit a significantly higher density being achieved on the site.

Refer to **Figure 1** below of conceptual subdivision layout.



Figure 1: Conceptual subdivision layout of the subject site

The proposal is intended to be a mix of R1 General Residential and C3 Environmental Management across the site. The indicative land use boundaries included in this proposal reflect the supporting Biodiversity Development Assessment Report (**Attachment 1A and 1B**) ('biodiversity report'). The determination of zone boundaries within the site will be finalised through the Gateway assessment, and agency engagement. This process of determining the final zone boundary and development footprint will further enhance the objectives of this proposal and the intended outcome will be comprehensively assessed.

It is intended that proposal and future development will be managed through a precinct wide development control plan with the adjoining eastern property (Lot 182 DP792071) and the land to the west known as 'the Brickworks' land, consistent with the staging of the Thornton North Urban Release Area. This will provide more detailed development and subdivision controls to manage future staging and allow response to development constraints on the site. It will also enable the consideration of precinct wide outcomes including traffic, drainage and biodiversity.

## **PART 2: EXPLANATION OF PROVISIONS**

The proposed objectives will be achieved by amending the MLEP 2011 by:

<b>Amendment Applies to</b>	<b>Explanation of Provisions</b>
Land Zoning Map	Amend the existing RU2 Rural Landscape zone to a R1 General Residential and C3 Environmental Management zone. Final zone boundaries to be determined through the Gateway assessment and agency engagement. Land Zoning Map - Sheet LZN_006A.
Lot Size Map	Amend the Lot Size Map from 40ha minimum lot size to 450m <sup>2</sup> minimum lot size applying to land rezoned to R1 General Residential. The 40ha minimum lot size will be remained for land zoned C3 Environmental Management. Minimum Lot Size Map - Sheet LSZ_006A.

The final determination of zone boundary and developable footprint will occur throughout the Gateway assessment, and agency engagement. Therefore, the development footprint (as illustrated in **Figure 1**) may be subject to change following these key milestones.

The existing and proposed maps can be located at Section 4 Maps (Map 1 – 5), which include the land use zones and minimum lots sizes.

## PART 3: JUSTIFICATION FOR PROPOSED REZONING

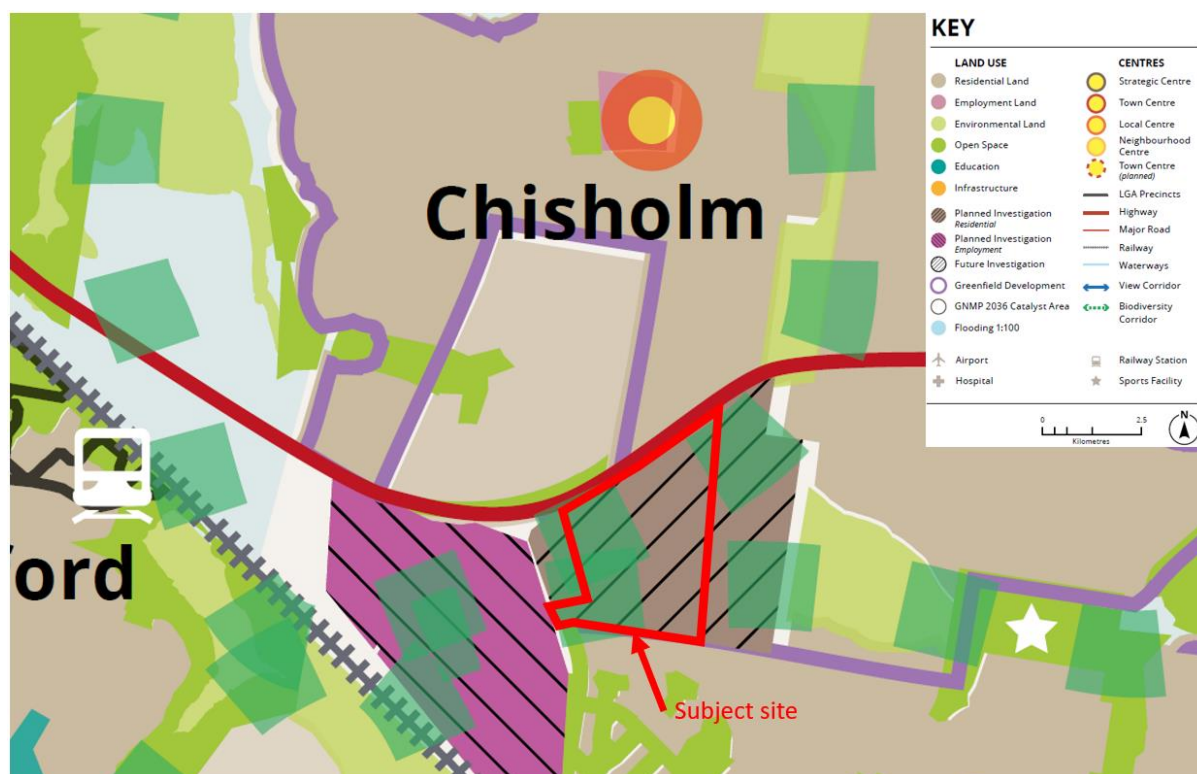
In accordance with the Department of Planning and Environment's 'Local Environmental Plan Making Guideline (August 2023)', this Part provides a response to the following:

### 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?

Yes. The proposal is proponent-initiated and is identified in several endorsed strategies, these include: the site being identified in the *Maitland Local Strategic Planning Statement 2040+* (LSPS) as a *Planned Investigation Area – Residential*. As shown in the LSPS Structure Map excerpt in **Figure 2**. The LSPS is Council's current long-term planning strategy and provides a vision for how growth will be managed for a 20-year period.

The site is also identified in the *Maitland Greening Plan 2002* as a future opportunity corridor for biodiversity connectivity, which is reflected as a biodiversity corridor within the LSPS.

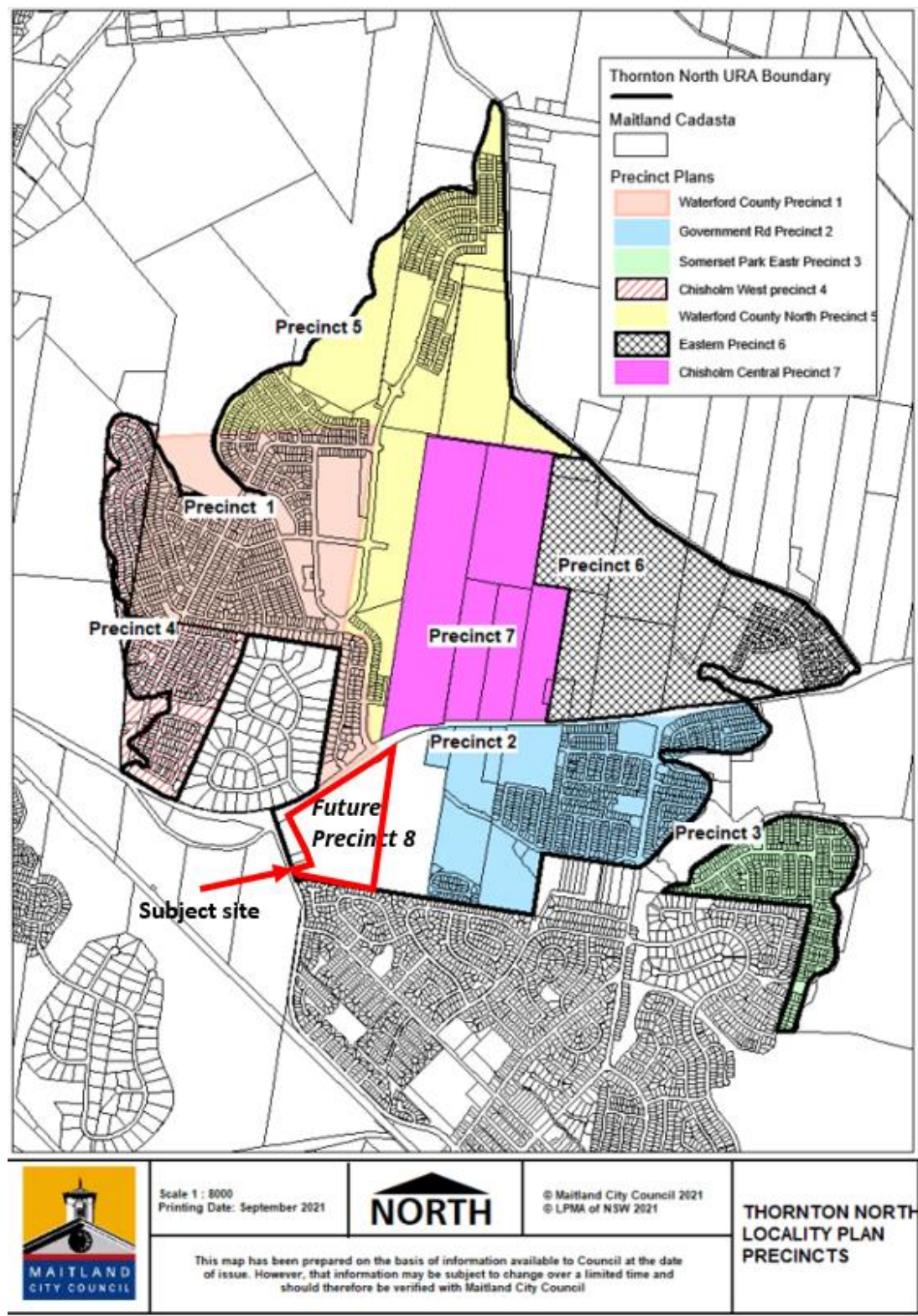


**Figure 2: Location of the subject site within the LSPS Structure Plan**

The subject site was additionally identified as *Category 1 – Residential Land (Thornton North Stage 3 Investigation Area)* in the *Maitland Urban Settlement Strategy 2001 - 2020 (MUSS)*. The MUSS was superseded, and sites incorporated into Council's LSPS as planned residential investigation areas.



The subject site will form *Precinct 8* of the *Thornton North Locality Plan Precincts* within the Thornton North Urban Release Area Development Control Plan 2011, along with the eastern adjoining property 480 Raymond Terrace Road, Thornton (Lot 182 DP792071) refer to **Figure 3**.



**Figure 3: Thornton North Locality Plan Precincts**



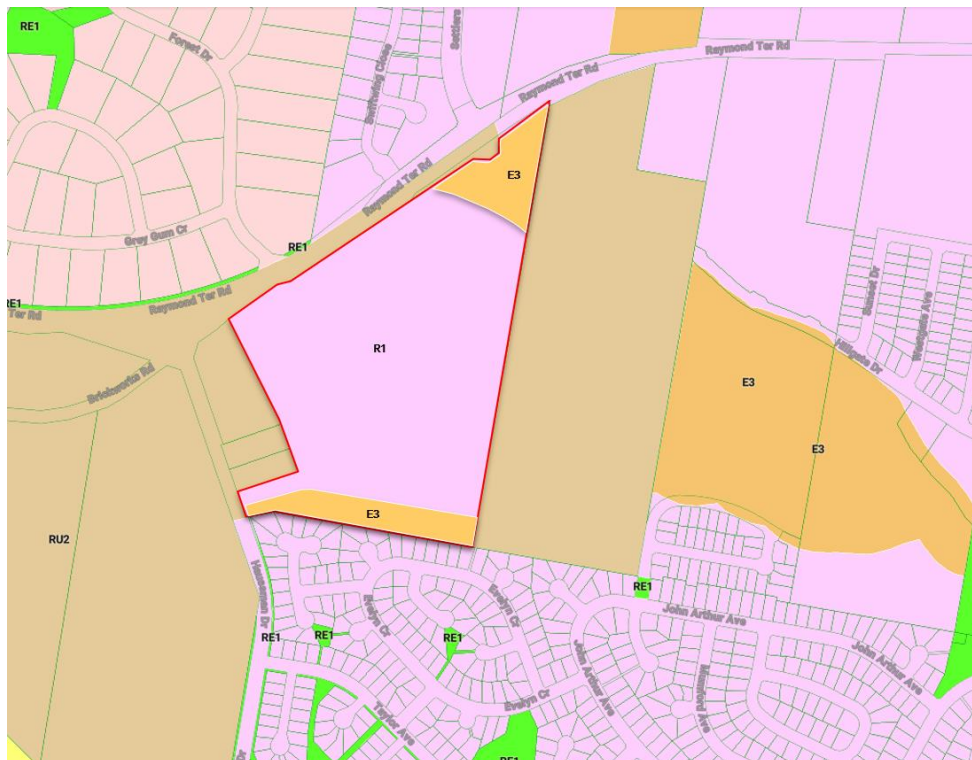
The MUSS identified the need for future investigations to determine the suitability of the area for development including road network infrastructure, biodiversity and utility provisioning. Site investigations provided by the proponent have identified the key characteristics, constraints, and opportunities of the land. These investigations (in **Attachments 1 – 13**) have formed the basis of a detailed site analysis and the preparation of this proposal.

Geographically, the site forms an irregular shaped parcel bound by Raymond Terrace Road to the north, Haussman Drive to the west, and existing residential and environmental zoned lands to the south and east. The site has a total area of approximately 18.96 hectares.

The site is strategically located in an area with surrounding residential and population growth within Chilsom, Thornton and Metford and has access to existing local and regional commercial centres and services at East Maitland and Thornton.

The site has had an ongoing history of development investigation and subsequent approvals. The site, formally a disused quarry, was granted development consent (DA 17-2593) for the construction of 156 independent seniors' living units granted under a previous Site Compatibility Certificate (SCC\_2017\_MAITL\_001\_00) approved by the Department of Planning and Environment (DPE) on 04 October 2017 (**Attachment 2**).

A previous planning proposal (PP-2021-2820) was submitted to Council in June 2021. This proposal sought to provide greater housing diversity than seniors' living units, however, this proposed a much greater residential footprint at the detriment to significant biodiversity lands (per **Figure 4** below).



**Figure 4: Previously proposed zoning of the subject site**

During the assessment of the proposal (PP-2021-2820) in August 2022 to progress to Gateway Determination, the DPE requested additional information and environmental studies to comprehensively consider the impact to the site and surrounds before issuing a Gateway Determination. This included:

- a biodiversity assessment report prepared in accordance with the NSW Biodiversity Assessment Method
- advice from Subsidence Advisory NSW regarding proposed grouting to resolve stability issues and whether these can be resolved at the development application stage
- advice from NSW Rural Fire Services on the 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.

This information was provided to DPE on 20 October 2022 with the proposal portal number changing to (PP-2022-4101-107). An adequacy assessment was undertaken by DPE and provided to Council on 07 September 2023 (refer **Attachment 3**). This adequacy assessment resolved many of the issues stated above for proposal PP-2021-2820. However, further information was required to continue the process to issuing a Gateway Determination. This included:

- proposal should be prepared by a geotechnical consultant with experience in mine subsidence assessments. After grouting, the geotechnical consultant should undertake sufficient verification boreholes to ensure that the intent of the grout plan has been met and that the risk of pothole subsidence has been effectively eliminated
- Consistency with a number of planning directions within the *Hunter Regional Plan 2041*, and Ministerial Directions 9.1 of the *EP&A Act 1979*
- Consistency with wording and development footprint of supporting studies.

Maps of the current proposed development and environmental footprint can be found at **Section 4 Map 4**.

The proposal provides the additional information and investigations required to justify the LEP amendments as per the first and second requests for information within the adequacy assessment in order to achieve the proposal's intended outcome. A cover letter addressing the adequacy assessment of the DPE has also been prepared by the proponent (**Attachment A**).

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

In order to achieve the intended outcome, the following options were considered:

### Rezone to R1 General Residential and C3 Environmental Management rezoning (the proposal)

This is the supported option for the subject site. Amending the RU2 Rural Landscape zone to a part R1 General Residential and C3 Environment Management zone will generate a diversity of housing choice, while preserving environmentally significant vegetation that contributes to the wider biodiversity corridor within the surrounding Thorton area. The revised residential and conservation footprint is also similar to the currently approved development approval (DA 17-2593) and issued Site Compatibility Certificate (SCC\_2017\_MAITL\_001\_00) for the construction of 156 independent seniors' living units (**Figure 5**) for the site.



**Figure 5: Approved 156 independent seniors' living units on subject site**

The concept subdivision plan (**Figure 1**) illustrates a residential density of 10 – 11 dwelling per hectare, which even though is lower than the density aspirations within the *Hunter Regional Plan 2041*, accommodates the unique environmental, historical quarry uses and general characteristics of the site. The proposal also seeks to provide a future subdivision layout with a diversity of lot sizes, with opportunities to develop dual occupancies and secondary dwellings potentially increasing this conceptual density figure. The conceptual subdivision also proposes a super 'Development Lot' to facilitate a medium housing density development product such as terrace housing or multi-dwelling housing.

## Retaining the senior housing development approval

This is not a supported option. Although, the site has an active development approval (DA 17-2593) and issued Site Compatibility Certificate (SCC\_2017\_MAITL\_001\_00) for the construction of 156 independent seniors' living units, surrounding senior housing development and the potential adverse impact from an amenity perspective for senior residents has resulted in this type of development being unfeasible, and undesirable.

### 1. Surrounding senior housing development

The surrounding area (Berry Park, East Maitland, Tenambit and Morpeth) in total contain seven senior housing developments within a radius proximity of 6km. While a number of these senior housing development provide their own care services and recreational facilities that are over the 800m accessible distance from a centre, such as the Berry Park Retirement Village. Four senior housing developments are under the 400m accessible distance from the regional Greenhills shopping centre. In addition, the Berry Park Retirement Village is only 2km from the subject site. This analysis shows that this cluster already provides an adequate level of senior housing supply while being in close proximity to everyday services and needs without the need for additional seniors housing.

On evaluation of this existing cluster of seniors housing development, the proponent has concluded that the approved seniors housing development has become unfeasible due to the existing number of senior housing developments, and the unfeasibility of the material and construction costs for adhering to the provisions of Part 5 of the *State Environmental Planning Policy (Housing) 2021*.

### 2. Amenity and safety impacts

The recent adoption of the Brickworks Road Employment Precinct (PP-2022-1187) west of the subject site will fundamentally alter the character and amenity of both Haussman Drive and Brickworks Lane, along with the surrounding area. This future development, although providing some everyday services in an under 200m accessible distance from the proposal, is nevertheless considerably different than a traditional 'high street'.

This future development is an employment precinct (**Figure 6**), which will not only have everyday services but also, specialised retail, large commercial floorspace, service stations, offices and general/light industrial development. Although, some of these everyday services may benefit future senior residents, there are other conflicting uses (i.e. large floorspace retail/commercial, industrial and office development) which may cause increased impacts on noise, odour, traffic, general visual amenity of the employment precinct, and safely accessing pedestrian pathways to



travel to and from the employment precinct from the senior development.



**Figure 6: Draft Concept Masterplan of Brickworks Lane Employment Precinct**

### **Retaining the RU2 zone, revegetating and/or rezoning the subject site to a Conservation Environment zoning**

This is not a supported option. Possibly rezoning and/or vegetating the subject site to its natural state would improve the Thorton biodiversity corridor and its connectivity, while appeasing aspects of the Maitland Greening Plan 2002 and LSPS. It would nevertheless require revised consideration under the Section 9.1 Ministerial Directions, which critically would require that the site be remediated, prepare a Vegetation Management Plan, and that the land's agricultural potential was not being impacted. Critically, environmentally zoned land is generally transferred to the ownership and management of Council which may place additional unsustainable financial burdens on its ongoing operational and financial planning.

The subject site has been identified as a Residential Investigation Area since the adoption of the MUSS in 2001 and would be inconsistent with this long-term policy position. Additionally, the proponent has designed a residential and conservation footprint that is of almost identical to the approved seniors housing development which seeks to maintain part of the Thorton biodiversity corridor (see further information in Section 7 and **Attachment 1A and B**).

This option is also the most inefficient when considering planning proposal timeframes, the proponent's considerable investment and Council time and resources.

## SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

### 3. 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 2041

The objective of the Hunter Regional Plan 2041 (HRP) is to deliver a long-term vision for the region with clear objectives and approaches to pursue the vision. The regional vision of the Hunter seeks to continue to be the leading regional economy in Australia, connected to Country with a vibrant metropolitan core. Refer to **Attachment 4** which outlines the consistencies and any inconsistencies within the Objectives, Strategies and Place Strategy Outcomes of HRP 2041.

#### Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan (GNMP) 2036 sets goals and strategies to deliver on the vision of the Hunter Regional Plan 2041, but with specific focus on the for the Greater Newcastle Metropolitan Area. The proposal is located in the Metro Frame and is identified as a 'Housing Release Area within the GNMP. The proposal is consistent with the outcomes, strategies and actions in the GNMP, as it will provide additional and diverse housing opportunities surrounding an existing urban area, within a *Residential Investigation Zone*, and neighbouring the Brickworks Road Employment Precinct. It will also preserve part of the Thornton biodiversity corridor improving its flora and fauna connectivity.

As stated, the proposal will result in 132 - 142 residential allotments. This number excludes any calculation for the possibility of future dual occupancies or secondary dwellings. This equates to a dwelling density ranging from 10.8 – 11.6 dwellings per/ha. The density outcome is a lower target than that aspired to in the *Hunter Regional Plan 2041*.

However, this is due to the unique characteristics of the site, preserving the critical environmental function of the existing remnant vegetation and retaining a key biodiversity corridor for the area, while also providing for public open space and an onsite detention basin. Furthermore, as the R1 General Residential zone includes a broad range of residential accommodation land uses, the proposed amendment does not prohibit a significantly higher density being achieved on the site.

### 4. 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) (CSP)

The Maitland +10 Community Strategic Plan (the CSP) is the key document to give effect to the Integrated Planning and Reporting legislation and guidelines. The proposal is considered consistent with the vision and objectives of the Community Strategic Plan as it provides opportunities for urban growth, housing diversity, public open space and a retention of a biodiversity corridor within the city that meets the needs of a growing population attracted by its unique amenity and close proximity to services and jobs.

## Maitland Local Strategic Planning Statement (LSPS)

The LSPS vision aims to provide the right type of housing in the right locations, supported by essential infrastructure and services to support population growth and change at the same time maintaining and enhancing local character

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 (as stated in **Attachment 4** and within this proposal).

The land currently benefits from development consent (DA 17-2593) for the construction of 156 independent seniors' living units issued under a site compatibility certificate scheme (SCC\_2017\_MAITL\_001\_00).

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 (**Figure 1**) also illustrates a diversity of allotment sizes which will allow for differing housing typologies, such as dual occupancies and 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.

## Local Housing Strategy 2041

The Maitland Local Housing Strategy 2041 (Strategy) aims to provide the right type of housing in the right locations with essential infrastructure and services to meet the housing needs of our growing and changing population over the next 20 years.

The Strategy builds on seven planning principles that serve as a foundation for future planning and decision making to achieve better housing outcomes across the city. 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 ap per the *North Thornton Contribution Plan*.

The Strategy also identifies the site as being:

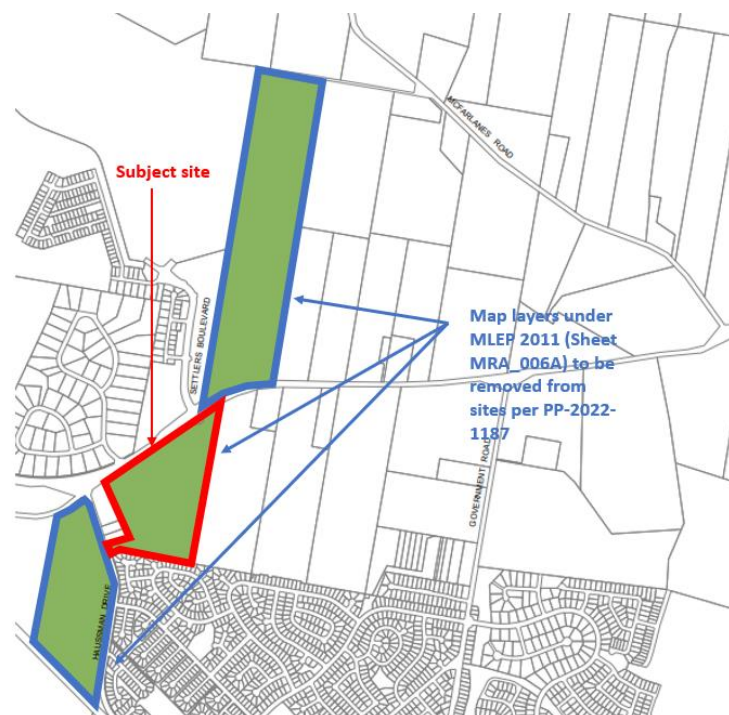
- A rating of 5 for being most suitable / or containing limited environmental constraints within the environmental constraints map
- Is a residential land investigation area within the Strategy's Structure Plan.

## Rural Lands Strategy 2041

The purpose of this Strategy is to provide an evidence-based framework and clear direction for planning and managing rural and environmental land in the Maitland LGA over the next 20

years. It aims and set principles to support and protect agricultural land in the long term; provide certainty for land use, highlight resilience and environmental threats, and promote economic diversification and growth.

The proposal is consistent with the Strategy. The subject site is currently zoned RU2 Rural Landscape and is identified as a 'LEP Mineral and Extractive' site. The site is also listed mapped (Sheet MRA\_006A) under MLEP 2011 as a 'Identified Resource'. Nevertheless, the Brickworks Employment Precinct proposal (PP-2022-1187) recently adopted for finalisation by Council on 10 October 2023. Proposes to remove the 'Identified Resource' mapping layer of Sheet MRA\_006A from the proposed site and surrounding sites (**Figure 7**). This is due to the sites exhausting resources over the years and to why they are currently unused.



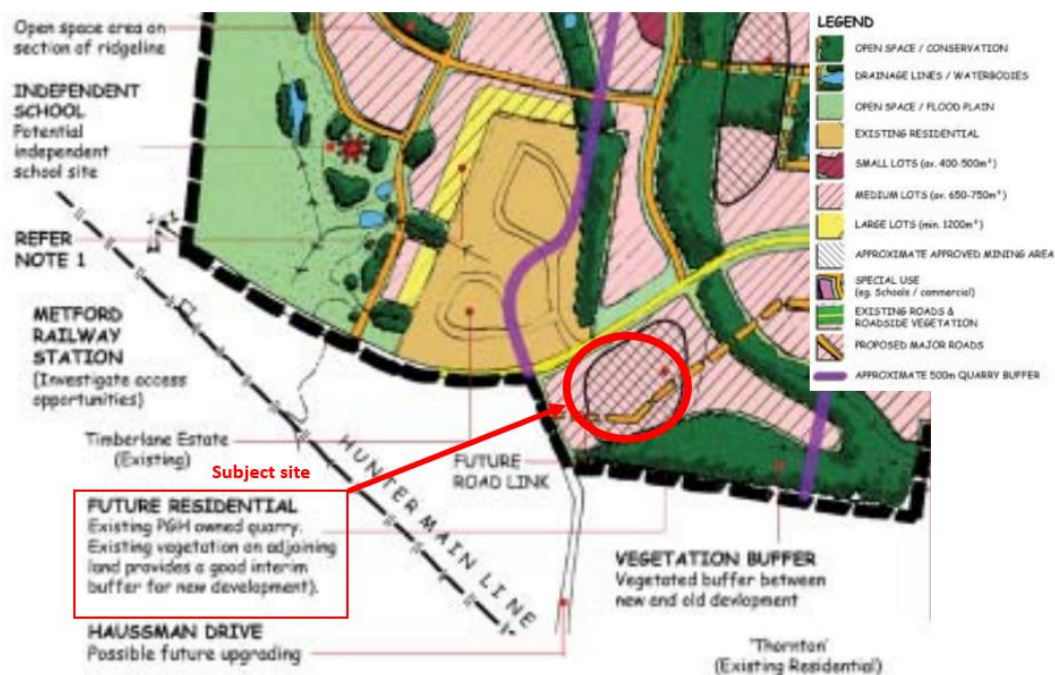
**Figure 7: Sites currently applied with the "Identified Resource" mapping layer under MLEP 2011 (Sheet MRA\_006A)**

The subject site also has little to no agricultural value as it was used for decades as a quarry removing any type of agricultural potential.

### **North Thorton Masterplan 2003 and Maitland Development Control Plan 2011 – Thorton North Urban Release Area**

The North Thorton Masterplan 2003 (Masterplan) began the long-term strategic planning for the northern Thorton / Chilsom area. The Masterplan considered the ongoing and future use of quarry sites and their future potential for development or for potential environmental conservation. The proposal is consistent with the Masterplan, as shown in **Figure 8**, the Masterplan envisioned the site to be utilised for residential development with remnant vegetation of the site and adjoining site to be used as a buffer and environmental corridor.





**Figure 8: Excerpt from North Thorton Masterplan 2003: Structure Plan**

The Masterplan was superseded by the Thorton North Urban Release Area (URA) within MDCP 2011. This URA replicated the key themes, strategic direction and structure planning as the Masterplan and the URA's Structure Plan is identical to that of the Masterplan. This URA identifies the site as a 'Residential Area', with part 'riparian/vegetation conservation and roadside landscape buffer. These features are similar to that of the proposed rezoning development footprint.

### **North Thorton Contribution Plan 2008**

The North Thorton Contribution Plan 2008 (Plan) supports the previous strategic work of the MUSS and Masterplan and identifies the type of local infrastructure required to support the projected growth of the area.

The subject site is within the Plan boundary and identifies a number of local infrastructure upgrades surrounding the site required to support the residential growth. The proposal will support the Plan as it will provide additional contributions to support the delivery of local infrastructure for the northern Thorton area.

## **5. 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: Assessment of the Planning Proposal against relevant State Environmental Planning Policies (SEPPs).**

RELEVANCE	CONSISTENCY AND IMPLICATIONS
State Environmental Planning Policy (Biodiversity and Conservation) 2021	<p><b>Consistent</b></p> <hr/> <p><b>Chapter 3/4</b> Maitland LGA is listed in Schedule 2 of the SEPP.</p> <p>A Preliminary Environmental Assessment was provided in support of the rezoning request (<b>Attachment 1A</b>).</p> <p>The report found seven (7) tree species listed under Schedule 2 – Koala Use Tree Species in the SEPP. The report concluded that Koala Use Tree Species comprised greater than 15% of the study area constituting ‘Highly Suitable Habitat’.</p> <p>It is noted, however that there have been no Koalas recorded within 2.5km of the subject site within the last 18 years, therefore the vegetation on site would not meet the definition or Core Koala Habitat under the SEPP.</p> <p>It is therefore highly unlikely that Koala inhabit the area and no further investigation is required to demonstrate this.</p> <p>More detail on environmental assessment is provided in Section 7 of this report or <b>Attachment 1A Biodiversity Development Assessment Report</b>.</p>
State Environmental Planning Policy (Resilience and Hazards) 2021	<p><b>Minor Inconsistency</b></p> <hr/> <p><b>Chapter 2</b></p> <p>The subject site is not identified as an area of Coastal Management.</p> <p><b>Chapter 4</b></p> <p>The subject site was historically used as a quarry and is therefore a potentially contaminated or contaminated activity under the SEPP Contamination Guideline. Nevertheless, the site is not identified as contaminated on Council’s mapping system but is identified as a contaminated land risk. Contamination and remediation assessments have determined the site is suitable for residential use with further testing to occur during the development application process.</p>

RELEVANCE	CONSISTENCY AND IMPLICATIONS
	<p>Therefore, this is a considered a <b>minor inconsistency</b> and concurrence of the Secretary of the Department of Planning and Environment is requested.</p> <p>More detail on contamination and remediation of the subject site is provided in Section 9 of this report, and within <b>Attachment 7 Preliminary Contamination Assessment.</b></p>
<b>State Environmental Planning Policy (Housing) 2021</b>	<b>Consistent</b>
	<p>The proposal will result in an area of land zoned primarily for urban purposes, whereby a variety of residential uses will be permissible. The site is located in an existing serviced area.</p> <p>This planning proposal will support the aims and provisions of the SEPP.</p>
<b>State Environmental Planning Policy (Transport and Infrastructure) 2021</b>	<b>Consistent</b>
	<p>Nothing in this planning proposal impacts upon the aims or provisions of this SEPP.</p> <p>Consultation with service providers and government agencies will determine the level of impact and upgrades required associated with future development of a R1 General Residential zone.</p> <p>Infrastructure provision is to consider the development outcomes of the precinct and neighbouring areas.</p>
<b>State Environmental Planning Policy (Primary Production) 2021</b>	<b>Consistent</b>
	<p><b>Chapter 2</b></p> <p>The subject site is not identified as State significant agricultural land and represents an isolated parcel of rural land. The site is not considered suitable for agricultural practice due to its constraints, biodiversity values, proximity to existing residential areas and former use as a quarry.</p> <p>The proposal is therefore consistent with the aims of this policy as it is enabling the orderly and economic use of the land.</p>
<b>State Environmental Planning Policy (Resources and Energy) 2021</b>	<b>Consistent</b>

**RELEVANCE****CONSISTENCY AND IMPLICATIONS****Chapter 2**

Under the 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 RU2, therefore enables this to occur only with development consent.

The site is identified on the Minerals Resource Area Map as being an identified resource.

Subsidence Advisory NSW have identified abandoned undermined coal workings on the northern section of the site. The central portion of the site presents as an exhausted clay quarry void.

Further extraction opportunity is considered limited and unlikely given the surrounding residential and biodiversity context of the site.

More detail on this is provided in Section 8 of this report, and within **Attachment 7** and **9**.

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

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

**Table 2: Relevant and consistency with Section 9.1(2) Directions.**

<b>DIRECTION</b>		<b>CONSISTENCY AND IMPLICATIONS</b>
<b>1. PLANNING SYSTEMS</b>		
<b>1.1. Implementation of Regional Plans</b>		<b>Consistent</b>
The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.		The proposal is consistent with the HRP 2041 and GNMP 2036 and implements key goals and directions of these strategies.
<b>3. BIODIVERSITY AND CONSERVATION</b>		
<b>3.1 Conservation Zones</b>		<b>Consistent</b>
The objective of this direction is to protect and conserve		The proposal is consistent with the objectives of this Ministerial Direction as it proposes to apply the C3



DIRECTION	CONSISTENCY AND IMPLICATIONS
environmentally sensitive areas.	Environmental Management zone over areas of the site that contain biodiversity values. Further detail regarding ecology and conservation can be found in Section 7 of <b>Attachment 1A and B</b> .
According to the direction, a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	Council is currently seeking independent advice to determine viable biodiversity corridor widths across the wider precinct and will be incorporated into a future DCP for the precinct.  Therefore, the identification of zone boundaries may be amended during the Gateway assessment and agency engagement process.

### 3.2 Heritage Conservation

### Consistent

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

An Aboriginal Due Diligence report (**Attachment 6**) including site inspection and consultation with Aboriginal stakeholders was undertaken in 2018. This assessment was for the central portion of the site, relating to the seniors living development footprint.

The report concluded that there was no evidence of past Aboriginal use, and a low likelihood for surviving deposits. The Mindaribba Land Council representative indicated concurrence with these findings.

An updated report was provided that recorded an Aboriginal site had been registered, salvaged and destroyed on the land.

A further item was identified on the eastern boundary of the site.

The item is currently proposed to fall immediately adjacent to a proposed R1 – General Residential area. Further Indigenous Heritage assessment and consultation will be required. Any impact proposed in close proximity to this item, or other areas of the site which have not been adequately assessed for Indigenous heritage would trigger the need for further investigation. Potential land use buffers may be required to protect the item which are to be determined post investigation works and through the Gateway process.

## 4. RESILIENCE AND HAZARDS

### 4.1 Flooding

### N/A and Consistent

The objectives of this direction are:

The subject land is not affected by flooding as identified in the MLEP.

DIRECTION	CONSISTENCY AND IMPLICATIONS
<p>(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</p> <p>(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.</p>	<p>The planning proposal is considered consistent with the objectives of this direction.</p>
<b>4.2 Planning for Bushfire Protection</b>	<b>Consistent</b>
<p>The objectives of this direction are 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 to encourage sound management of bush fire prone areas.</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>The subject site is identified as bushfire prone in the bushfire prone land maps.</p> <p>A Bushfire Threat Assessment Report (<b>Attachment 5</b>) has been provided detailing the bushfire risk of the site.</p> <p>The assessment concludes that the proposed residential areas can comply with Planning for Bushfire Protection 2019 through the provision of suitable Asset Protection Zones (APZ's) and development design within the context of the existing seniors living development footprint.</p> <p>Initial discussions with the proponent indicate that secondary access is proposed via the adjoining eastern property (Lot 182 DP792071). Suitable secondary access requirements are to be finalised to the satisfaction of the NSW Rural Fire Service post Gateway Determination.</p> <p>Secondary access requirements will need to be considered holistically within the context of wider transport and biodiversity outcomes.</p> <p>The proposal will be referred to NSW Rural Fire Service for comment as part of the agency engagement process.</p>
<b>4.4 Remediation of Contaminated Land</b>	<b>Minor inconsistency</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>A Phase 1 Contamination Assessment (<b>Attachment 7</b>) found three (3) potential areas of environmental concern being:</p> <ul style="list-style-type: none"> <li>• The area used to fill the central portion of the site</li> <li>• Fill observed in the construction of the access track and associated stockpile of bricks, and</li> <li>• The water/sediments in ponds located on the eastern portion of the site</li> </ul>

DIRECTION	CONSISTENCY AND IMPLICATIONS
	<p>Testing demonstrated that the fill in the central portion of the site had concentrations of contaminants below the adopted health investigation levels for residential land use.</p> <p>Precautions were recommended for future development for the area of fill used to construct the access track (subject to detailed development design).</p> <p>Further sampling was undertaken for one of the two (2) dams located on the site which found sediment samples were within health investigation level criteria. The surface water however contained concentrations of metals slightly elevated above values for protection of aquatic ecosystems. The surface water was deemed suitable for dewatering and backfilling.</p> <p>No further observations of gross contamination i.e., odours or staining were observed. It is noted, however, that fill material continues to be brought to the site.</p> <p>Further testing of the water bodies, and validation of fill material has been recommended prior to finalisation of the plan and/or during the development application process.</p> <p>Therefore, this is considered a <b>minor inconsistency</b> and concurrence of the Secretary of the Department of Planning and Environment is requested.</p>

<b>4.5 Acid Sulfate Soils</b>	<b>Consistent</b>
	<p>The MLEP 2011 indicates a potential Class 5 Acid Sulfate Soils risk affecting the site.</p> <p>The Preliminary Contamination Assessment (<b>Attachment 7</b>) undertaken for contamination did not identify the site as being within an area or known acid sulfate occurrence.</p>
<b>4.6 Mine Subsidence and Unstable Land</b>	<b>Consistent</b>
The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	<p>The site is not located within a Proclaimed Mine Subsidence District (MSD) however is identified as being used as a historic quarry and having abandoned underground mine workings on the site.</p> <p>Previous consultation with Subsidence Advisory NSW indicates that fully grouting the area of affectation will be required to support future residential uses.</p>

## DIRECTION

## CONSISTENCY AND IMPLICATIONS

A Mine Subsidence Constraints Advice Letter (**Attachment 9**) in 2015 was undertaken as part of the previous senior housing development (DA 17-2593) Site Compatibility Certificate (SCC\_2017\_MAITL\_001\_00). This Letter provided high-level preliminary advice on the mine subsidence extent and costings for grouting.

A subsequent Preliminary Geotechnical Assessment (**Attachment 10**) was undertaken in 2017 for the seniors housing development, which went into further detail on the extent of subsidence and tunnelling within the site, at request of Council and the Subsidence Advisory NSW.

The Subsidence Advisory NSW provided further correspondence in 2022 which sought a grouting remediation strategy be prepared (**Attachment 11**).

Nevertheless, the previous assessments were undertaken at the time when the site was proposed to be a seniors housing development, a much more stringently controlled and sensitive type of land use when considered against general residential. A review of the original advice letter in 2023 confirmed (**Attachment 9**) this justification, which concluded that apart from the grouting cost increasing, the proposed residential rezoning was appropriate when considered against the subsidence risk.

Further information can be found at Section 8, **Attachment 9, 10 and 11**.

Further concurrence is requested from the Subsidence Advisory NSW.

## 5. TRANSPORT AND INFRASTRUCTURE

### 5.1 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 proposal seeks to establish a residential area adjacent to local and regional road networks. **Figure 1** displays the concept subdivision layout and road connections. In addition, **Attachment 12A and 12B** provide an impact assessment of the increased road usage from the proposal, which assessed at a higher density yield (160 lots) and determined minimal to no impact on the local and regional road network.

The subject site is located in close proximity to alternative transportation modes including bus and train.



**DIRECTION****CONSISTENCY AND IMPLICATIONS**

Council is working with the proponent, TfNSW and adjacent landowners to determine the best transportation solution and strategy for the precinct, and this will occur during the preparation of the precinct wide DCP.

**6. HOUSING****5.1 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 proposal will amend MLEP 2011 from a rural land use to R1 General Residential. The proposed rezoning will result in a change of land use to enable future residential development of the site making use of existing infrastructure and services in the immediate locality. It is anticipated that the urban outcome of this land can potentially allow for a variety of housing choices and densities.

**8. RESOURCES AND ENERGY****8.1 Mining, Petroleum Production and Extractive Industries****Consistent**

The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.

The site is listed mapped (Sheet MRA\_006A) under MLEP 2011 as a 'Identified Resource'. Nevertheless, the Brickworks Employment Precinct proposal (PP-2022-1187) recently adopted for finalisation by Council on 10 October 2023. Proposes to remove the 'Identified Resource' mapping layer of Sheet MRA\_006A.

Subsidence Advisory NSW have identified abandoned undermined coal workings on the northern section of the site. The central portion of the site presents as an exhausted clay quarry void.

Further extraction opportunity is considered limited and unlikely given the surrounding residential and biodiversity context of the site.

**9. PRIMARY PRODUCTION****9.1 Rural Zones****Minor inconsistency**

The objective of this direction is to encourage growth, protect employment land in business zones and support the viability of identified strategic centres.

The proposal is inconsistent with the objectives of this direction as it proposes to rezone RU2 Rural Landscape zoned land to R1 General Residential.

The inconsistency is considered justified and is a minor inconsistency as the subject site has been identified as a residential investigation area in the endorsed MUSS 2012 and

DIRECTION	CONSISTENCY AND IMPLICATIONS
	<p>LSPS. The site has also been historically used as a quarry which has exhausted its resources. Therefore, there is little to no agricultural value to the site and is appropriate for future residential development.</p> <p>This is a considered a <b>minor inconsistency</b> and concurrence of the Secretary of the Department of Planning and Environment is requested.</p>

9.2 Rural Lands	Minor inconsistency
<p>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.</p>	<p>The proposal is inconsistent with the objectives of this direction as it proposes to rezone RU2 Rural Landscape zoned land to R1 General Residential.</p> <p>The inconsistency is considered justified and is a minor inconsistency as the subject site has been identified as a residential investigation area in the endorsed MUSS 2012 and LSPS. The site has also been historically used as a quarry which has exhausted its resources. Therefore, there is little to no agricultural value to the site and is appropriate for future residential development.</p> <p>This is a considered a <b>minor inconsistency</b> and concurrence of the Secretary of the Department of Planning and Environment is requested.</p>

## SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

### 7. 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?

#### Ecology

A Preliminary Ecological Assessment Report (**Attachment 1A**) was provided in 2021 in support of the rezoning request. The assessment included a review of a 2017 ecological study previously undertaken on the site for the seniors housing development. It is noted that since the 2017 ecological study was produced, vegetation clearing in accordance with the approval for DA 17-2593 was undertaken. This clearing has occurred within the limits of the proposed seniors living development footprint.

The previous assessment relied on survey data taken in 2017 and therefore did not meet the requirements of a Biodiversity Development Assessment Report (BDAR) as prescribed by the *Biodiversity Conservation Act 2016*.

A further Streamline Biodiversity Development Assessment Report (**Attachment 1B**) was provided to Council for consideration in 2022. The report identifies 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 (Refer to **Figure 6**).

The report 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 (Refer to **Figure 9**).

The total area of impact is reported to be approximately 0.82 ha of native vegetation.

While the area of proposed impact is predominantly within the already disturbed historic quarry and proposed seniors housing development footprint, the remaining vegetation on the site performs a critical function for the precinct.

The critical importance of the site by providing biodiversity connectivity to the north/south and east/west is well documented. It is Council's view that the perimeter vegetation is strategically important for the purposes of biodiversity as well as for mitigating the impacts (view, noise) from Haussman Drive and Raymond Terrace Road for future residents. It must therefore be retained as a key objective of the rezoning.

Council is currently working with the proponents of this proposal, and the adjoining properties to resolve ecological issues at a precinct scale. Independent advice is being commissioned to determine ecological principles for viable corridor widths. This is expected to occur with the preparation of a future precinct wide DCP.

*Recommendation: A key objective of final land use configuration is to be the protection and viability of north/south and east/west biodiversity movement corridors through the application of C3 Environmental Management zoning.*

*It will be important for any C3 zone boundaries and the Precinct Development Control Plan to address practical habitat corridors and widths, condition, and maturity of trees (including hollows) and suitable connection points to the adjoining habitat EEC's.*

*Cumulative impacts from all development footprints, access arrangements and APZ's are to be reflected in a precinct wide biodiversity outcomes reflected in the future precinct DCP.*

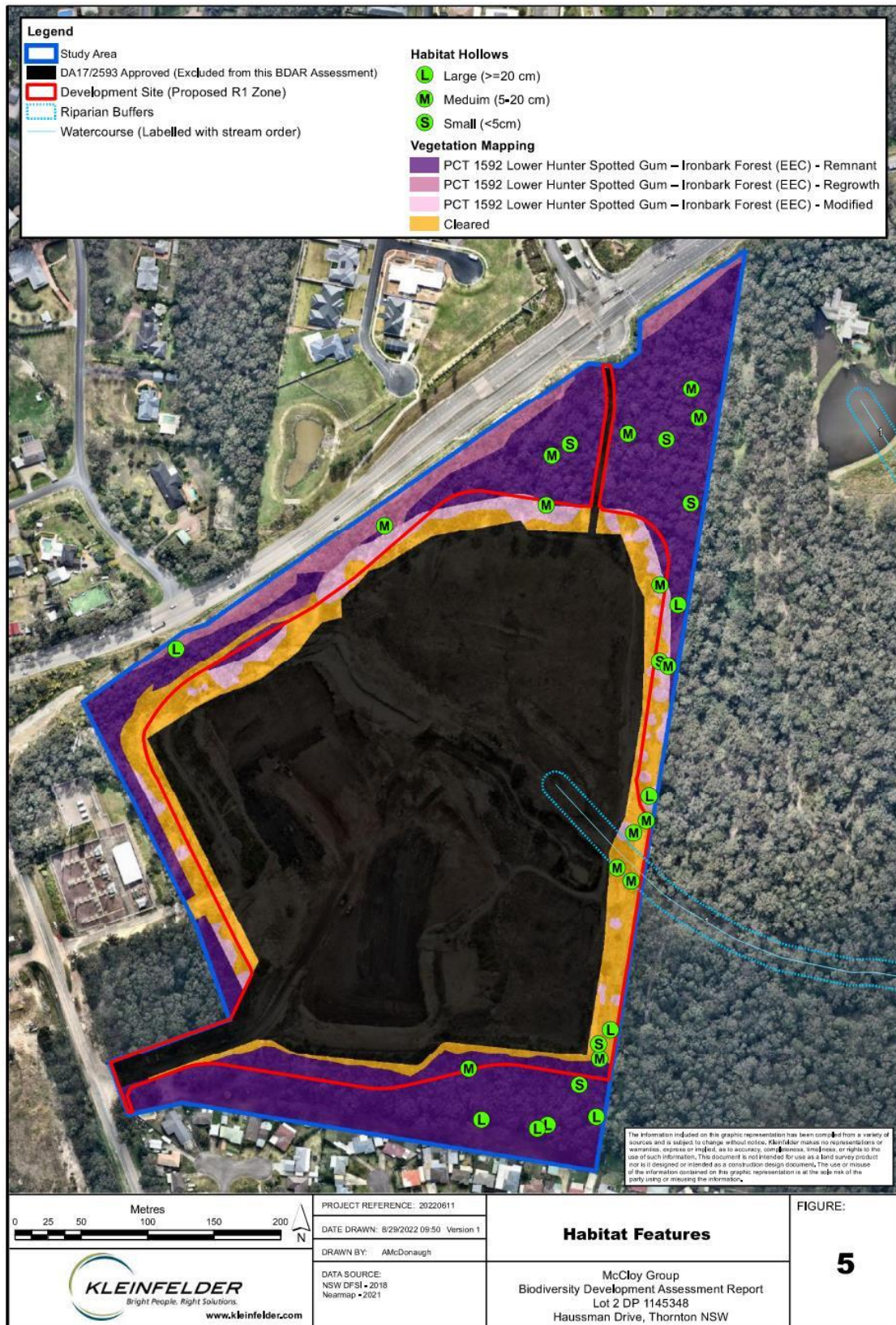


Figure 9: Vegetation Mapping and Hollow Bearing Trees



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

The following additional environmental studies were submitted as part of the planning proposal.

**Contamination**

Qualtest Laboratory undertook a Phase 1 Contamination Assessment in 2017 (**Attachment 7**) to support the seniors housing development. The investigation was limited to the area within the former quarry site, located in the centre of the site i.e. the footprint of the Seniors Living Development.

Investigations identified three (3) areas of environmental concern (AEC) being the area used to fill the central portion of the site, fill observed in the construction of the access track and associated stockpile of bricks, and the water/sediments in ponds located on the eastern portion of the site.

Samples were collected for the first AEC of the material used to fill the centre of the site. Samples were tested for:

- Total Recoverable Hydrocarbons (TRH)
- Benzene, Toluene, Ethylbenzene and Xylene (BTEX)
- Polycyclic Aromatic Hydrocarbons (PAHs); and
- Heavy metals (arsenic, cadmium, chromium, copper, lead, mercury, nickel and zinc)

Samples were compared against Health Investigation Levels A, Health Screening Levels A, Ecological Investigation Levels A and Ecological Screening Levels.

Results found concentrations of contaminants below the adopted residential land use criteria for the above investigation levels. No further observations of gross contamination i.e., odours or staining were observed.

No samples were collected for the AEC relating to fill used to construct the access track, however, the potential for gross contamination was expected to be low based on observations. No asbestos containing material was found at this location.

No surface water or sediment testing was carried out for the water bodies on site which constituted the third AEC, and therefore potential contamination remained unknown.

The report concluded that the site is likely to be suitable for residential development given the sites historic use and the results of investigation. The report recommended that:

- Further sampling and analysis of fill materials on the access tracks and northern portion of the site may be required if these materials are proposed to be used within 2m of the final surface of the residential allotments.
- Sampling of the onsite ponds was also recommended, and
- An unexpected finds procedure be prepared and implemented for earthworks activity on the site.

Given the recommendations and findings of the preliminary contamination assessment, Council requested further sampling be undertaken for the dams present in the investigation area.

In May 2021 Qualtest Laboratory undertook further examination of potential contaminants in the surface water and sediments for the two (2) dams located on the site (refer **Attachment 8**). Of these dams only one (1) was sampled, the second was considered inaccessible at the time of investigation. Samples examined concentrations of:

- Heavy Metals (arsenic, cadmium, chromium, copper, lead, nickel, zinc and mercury)
- Total Recoverable Hydrocarbons (TRH)
- Benzene, Toluene, Ethylbenzene, Xylenes (BTEX)
- Polycyclic Aromatic Hydrocarbons (PAH)
- Organochlorine Pesticides (OCP) (Suspended Soils–water sample only), and
- pH and Electrical Conductivity.

Sediment samples were found to be within health investigation level criteria. The surface water however, contained concentrations of metals slightly elevated above values considered acceptable for the protection of aquatic ecosystems. Surface water was deemed suitable for dewatering and backfilling. It is unclear what the proposed use of these onsite waterbodies will be - if they are to be integrated into proposed residential areas or utilised in stormwater management.

Council understands that fill material is continuing to be brought onto the site to remediate the quarry void, as approved by the Seniors Living development consent.

*Recommendation: Finalise testing of the second dam and confirm that investigation levels are consistent with the intended use of the water bodies, prior to finalisation of the plan.*

*Validation of fill material is to be provided to Council upon completion of site remediation and prior to the finalisation of the plan. Alternatively, comprehensive documentation and sourcing of all fill be provided to Council to determine the suitability of the material to support all areas proposed for, and all future land uses permissible under, the R1 – General Residential zone.*

*Further sampling and analysis of fill materials on the access tracks and northern portion of the site may be required if these materials are proposed to be used within 2m of the final surface of the residential allotments. To be confirmed at detail design phase.*

*Further consideration of contamination will be required in the instance of any unexpected finds post finalisation of the planning proposal and throughout the development application process.*

## **Archaeology and Heritage**

An Aboriginal Due Diligence Assessment was previously undertaken by Mary Dallas Consulting in July 2018 in support of the proposed seniors living development. This Assessment included a site inspection and consultation with Aboriginal stakeholders (a representative of Mindaribba Local Aboriginal Land Council accompanied the site visit). The assessment reported on environmental and heritage context, predictive modelling, and included impact assessment and recommendations. No archaeological survey pits were established as part of the assessment.

An Aboriginal Heritage Information Management System (AHIMS) database search was provided. The search found eighty-four (84) Aboriginal sites had been recorded within a 4km x 4km area around the subject site.

Investigations found that the subject site had been significantly impacted by quarrying activities and did not contain subsurface archaeological potential within the proposed seniors living development footprint.

The report concluded that there was no evidence of past Aboriginal use, and a low likelihood for surviving deposits. The Mindaribba Land Council representative indicated concurrence with these findings.

An updated desktop 'Due Diligence' report has been undertaken by Heritage Now (2020) (**Attachment 6**) and is provided in support of the rezoning request. The report includes a refreshed AHIMS database search that found one-hundred and sixteen (116) sites recorded nearby to the subject site. It is noted that one Aboriginal site registered within the subject site (AHIMS #38-4-0399) has since been salvaged/destroyed.

A further item (AHIMS #38-4-2001) was identified on the adjoining eastern property, in close proximity to the boundary of the subject site. The Report concludes that further inspection would be required if this area is to be impacted.

There are no listed items of European Heritage on or in the vicinity of the subject site.

*Recommendation: Further investigation is required to justify the extent the proposed of R1 – General Residential zone. Further assessment and consultation are required for the artefacts identified along the creek lines and vegetated strips of the subject site which remain unexamined.*

*An unexpected finds protocol should be adopted and followed if Aboriginal objects or bones suspected of being of human origin are uncovered during any works on the site.*

*The proposal is to be referred to The Mindaribba Local Aboriginal Land Council for agency consultation during the exhibition period should a positive gateway be issued.*

### **Electro Magnetic Fields (EMF)**

The subject site is in close proximity to a substation located on the western boundary at Haussman Drive. An Assessment of Electronic Fields Report was produced in October 2017 by EMR Australia as part of the Seniors Living Development Application. The report compared expose levels at the site to the Guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

Five (5) measurement positions were taken along the boundary of the subject site to the substation and a further measurement was taken from the proposed access road.

The magnetic field measurements obtained during the assessment were found to be significantly lower than the limits of the ICNIRP Guidelines – designed to prevent specific adverse effects from short-term exposure to EMF's. Measurements were found to be within, and lower

than the limits of the International Agency for Research on Cancer's research on the long-term effects of magnetic fields.

The investigation demonstrates the suitability of a residential land use at the site.

*Recommendation: No further investigation required.*

## **Stormwater**

No Stormwater Management Report or Plan have been submitted in support of the rezoning request. A report was prepared in November 2017 by Costin Roe Consulting for the previous seniors living Development Assessment. The report conceptually demonstrates the ability for a Stormwater Management system to be designed for urban uses within the existing approved development footprint. Further assessment is required given that the proposed R1 – General Residential area extends beyond the original Seniors Living development footprint.

*Recommendation: A plan is required to demonstrate that the area of proposed R1 – General Residential is capable of appropriate stormwater management. Future stormwater design will need to be considered as part of a precinct wide DCP with the adjoining eastern property, while also being considered during the development application stage for the site. Design is to adopt water sensitive urban design principles and enhance the quality of the onsite stream that runs from the site terminating in wetlands to the east.*

## **Traffic**

A Traffic Impact Assessment (TIA) was provided in support of the rezoning request (McLaren Traffic Engineering October 2020 report) (**Attachment 12A**). It considered the existing road network and the likely traffic and associated impacts resulting from the development. Based on the assumptions and modelling undertaken, the report found that the proposed residential land would expect to generate 239 vehicle trips per day spread between peak AM and PM periods.

Modelling indicated that the level of service of the intersection of Haussman Drive and Raymond Terrace Road is currently operating at capacity and requires upgrading. The level of service requirements is reported as being dependent on the future upgrades at Raymond Terrace Road.

It is noted that the TIA drew conclusions from traffic count data acquired in 2017 with a nominal growth factor of 2% pa applied to the year 2020.

Traffic Impact had also been modelled on the assumption of one access point to Haussman Drive. An additional ingress/egress has since been proposed to connect the site to Haussman Drive in an easterly direction and through the adjoining allotment. The TIA recommends additional modelling be undertaken for the additional access point to Honeymyrtle Street and consideration be given to potential amenity impacts to the local road network.

Council requested that further Traffic Impact modelling be undertaken to bridge the deficiencies identified above.



A further supplementary report including additional traffic modelling based off of planned road network changes information provided by TfNSW was submitted to Council for consideration (McLaren Traffic Engineering November 2022 Report) (**Attachment 12B**).

The report concludes that:

- The proposal is anticipated to have little effect on the performance of the road network;
- Left-in / left-out and left-in / right-in / left-out access scenarios perform acceptably when considering access options to the site from Haussman Drive; and
- Right-turn into the site is considered superior in terms of amenity to future residents.

The findings of the report rely on the following infrastructure assumptions:

- Duplication of Haussman Drive between Taylor Avenue and Raymond Terrace Road;
- Upgrade of Taylor Avenue / Haussman Drive intersection to a dual-lane roundabout;
- Upgrade of Raymond Terrace / Haussman Drive intersection to signal control, including extra lanes; and
- Duplication of Raymond Terrace Road between Haussman Drive and Harvest Boulevard.

Council notes that the timing and funding pathways of the above infrastructure has not been fully resolved, and therefore has implications for the planning proposals currently under assessment in the precinct. Specifically, whereby a proposal is relying on the intersection upgrade of Haussman Drive and Raymond Terrace Road which is operating at capacity.

Council is working with TfNSW and adjoining landowners to determine the most effective transport solution for the precinct. Multiple options and configurations are being examined, and it is Council's view that traffic issues are capable of being resolved.

*Recommendation: Efficiencies are to be achieved through the consideration of a whole of precinct outcome with adjoining landowners and TfNSW. Depending on the agreed outcome, further traffic modelling may be required, particularly if alternative road arrangements are proposed including secondary access via Honeymyrtle Street or Raymond Terrace Road. It is noted that the impact to the local road network via Honeymyrtle Street under the current proposal remains unexamined.*

*The proposal is to be referred to Transport for NSW for agency consultation during the exhibition period should a positive gateway be issued.*

## **Bushfire**

The site is identified as bushfire prone. A Bushfire Threat Assessment Report (**Attachment 5**) has been provided detailing the bushfire risk of the site in support of the rezoning request.

The assessment concludes that proposed future residential dwellings areas will be capable of complying with Planning for Bushfire Protection 2019 based on the following assumptions:

- Reticulated water will be extended to the site.
- Future dwellings will be designed and assessed to a sufficient bushfire protection standard.

- Asset Protection zones are adequately provided in accordance with the report.
- Access internal roads are designed to meet performance criteria.
- Fencing to be constructed in accordance with the NSW Rural Fire Service Guideline, and
- Future homeowners prepare a Bush Fire Survival Plan.

It is noted however that the report references required Asset Protection Zones (APZ's) which exceed the level of Ecological Assessment provided.

A previous Bushfire Assessment Report was undertaken in support of DA 17 -2593. It demonstrated that appropriate APZ's could be achieved within the proposed Seniors Living Development footprint, within the context of assessed ecological impact.

It is noted that a secondary access point, for the purposes of safe emergency ingress/egress will be required. Initial discussions with the proponent indicate that secondary access is proposed via the adjoining western property Lot 182 DP792071.

*Recommendation: There is currently no nexus demonstrated between the Ecological Assessment and the Bushfire Threat Assessment Report provided to Council in support of the rezoning request. Ecological impact requires quantification to demonstrate the suitability of establishing APZ's.*

*Suitable secondary access requirements are to be finalised to the satisfaction of the NSW Rural Fire Service post Gateway Determination and this secondary access is to be featured in the precinct DCP. The proposal will be referred to NSW Rural Fire Service for comment as part of the agency consultation process.*

## **Geotechnical and subsidence**

The site has historically been utilised as a clay quarry and has also been identified as having undermined coal workings located towards the northern extend of the site (Refer to **Figure 10**).

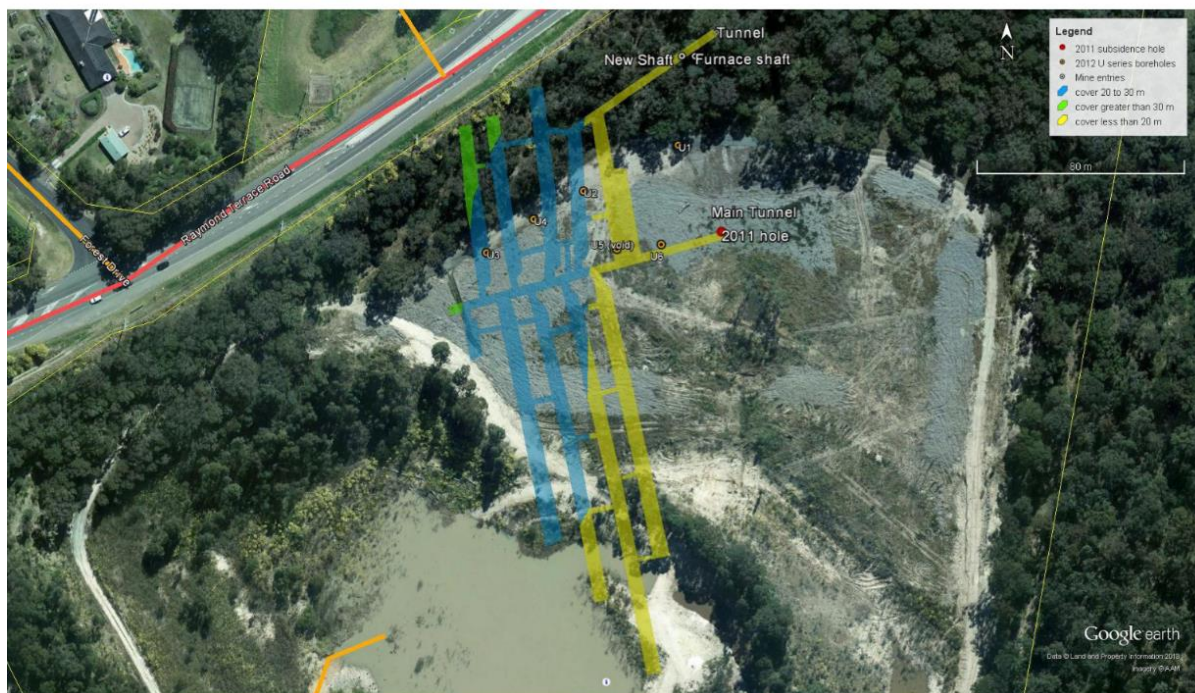
No geotechnical subsidence studies have been provided in support of the rezoning request. Council has referenced geotechnical information provided for DA 17-2593, which included:

1. a Mine Subsidence Constraints Advice Letter and Review (**Attachment 9**) was prepared in 2015 and 2023 to provide more clarification around the issue of undermined abandoned coal workings in the northern extent of the site (Refer to **Figure 10**). Investigations suggest that the depth of cover for the workings could vary from approximately 9m to 36m excluding tunnel entrances which are likely to be shallower. The extent has not been fully defined through this investigation and further borehole drilling would be required.

The assessment also stated:

*For the Glenvale Colliery workings as depicted on the record tracing, trough subsidence is not expected to be a mechanism of concern. This is due to the relatively large dimensions of the pillars shown to remain, their expected height of less than 1.8 m and the depth of cover being relatively shallow. Note that this assessment is based on the validity of the record tracing which may not be a reasonable representation of the mine workings.*

The assessment illustrated the historic quarrying tunnelling extent while identifying boreholes within the site (see **Figure 10** below).



**Figure 10: Indicative Location of Mine Workings**

The assessment also detailed a preliminary grouting schedule with estimated costings to mitigate subsidence risk for the site (**Figure 11**). Additional detail and updated costings would occur during the development application stage.

Item	Description	Basis / assumptions	Preliminary cost estimate	
			low	high
Geotechnical consulting services	Investigation of mine workings (including location, downhole identification and survey of shafts and tunnels), assessment of risk, risk mitigation strategy and grouting specification, remediation QA and reporting	Estimated from projects of similar nature and not determined through detailed scoping and cost estimating	\$ 100,000	\$ 150,000
Tunnels and shafts	Engineering filling of excavated shafts and tunnels over approximately 300 m <sup>2</sup> area to average of 2 m depth	No concrete slab capping required	Cost assumed to be included in site regrade earthworks for subdivision	
Grout plant mobilisation and demobilisation	Set up plant and access, demobilisation following completion of grouting		\$ 15,000 <sup>A</sup>	\$ 25,000 <sup>A</sup>
Drilling and plug grouting	Low mobility gravel and grout to plug workings at about 20 m cover in 7 locations (headings)	14 boreholes to 20 m with gravel and grout plugs ~200 m <sup>2</sup> area x 1 to 1.5 m depth at \$200/m <sup>3</sup> <sup>B</sup>	1 m avg. void height \$ 40,000	1.5 m avg. void height \$ 60,000
Drilling and infill grouting	Filling of mine voids shallower than 20 m with higher mobility cementitious grout	~2,400 m <sup>2</sup> area x 1 to 1.5 m depth at \$150/m <sup>3</sup> <sup>A</sup>	1 m avg. void height \$ 360,000	1.5 m avg. void height \$ 540,000
<b>Preliminary cost estimate (excluding GST)</b>			<b>\$ 415,100</b>	<b>\$ 645,130</b>
A: Based on indicative rates for a similar project provided by a grouting contractor recently				
B: Additional \$50/m <sup>3</sup> included over base rate for grouting and drilling to allow for more complex and time consuming plug grouting				

**Figure 11: Assumed scope and preliminary cost estimation (2015)**

As such, the proponent has advised that the scope and estimated cost would not preclude the development feasibility. As generally, the cost to develop a housing estate (dependent on scale) is considerably less than that of a seniors housing development due to the provisions within the *Housing SEPP 2021*.

2. A Preliminary Geotechnical Assessment Report (**Attachment 10**) was undertaken in June 2017 for the seniors housing development which included the excavation of fourteen (14) test pits limited to the quarry footprint. The assessment found steep slopes in the order of 12° to 22° in areas of the site, posing a potential instability risk. Testing also demonstrated the presence/inferred presence of uncontrolled fill across the majority of the quarry footprint.

The report concluded the following:

- Further geotechnical investigation should be carried out to ensure design can meet AS2870-2011 (Residential Slab and Footings Classification) and pavement design standards.
- Previously filled areas should have detailed geotechnical investigation to define the extent, depth and properties of the fill.

- Preliminary investigation of the engineered fill used at the base of the quarry pit approximately 20 years ago demonstrate inadequate capacity to support residential footings. Recommendation is made to remove and replace existing fill materials as controlled fill.
- Potential options of leaving the uncontrolled fill in situ are provided, however carries a greater risk and would require further engineering assessment, and
- At the time of assessment, no records were available to indicate the placement or compaction of the fill, therefore it remained classified as uncontrolled for the purposes of assessment.

It is understood that, at the time of this assessment, imported fill material continues to be brought to the site. A report provided by the proponent identifies this fill as being classified as virgin extractive natural material (NENM), however this report only accounts for approximately 5,000m<sup>3</sup> of material.

Concurrence from Subsidence Advisory NSW (**Attachment 11**) on 13 September 2022 and coinciding Condition 1(b) of the DPE's Adequacy Assessment (**Attachment 3**) indicates that a grout/remediation proposal **should** be prepared by a geotechnical consultant with experience in mine subsidence assessments. After grouting, the geotechnical consultant should undertake sufficient verification boreholes to ensure that the intent of the grout plan has been met and that the risk of pothole subsidence has been effectively eliminated.

However, the 2015 and 2023 assessments were prepared considering the impact of the approved seniors housing development DA 17-2593. This approved development is a substantially more intense and sensitive land use, than a residential subdivision both in resident profile and density. This justification was confirmed within the 2023 subsidence advice review (**Attachment 9**), with the only change being inflationary costs to the grouting plan.

Council also prescribed provisions for DA 17-2593 as shown in Condition 20 excerpt below (**Figure 12**), that sought detail investigations for subsidence and grouting prior to a construction certificate.



## MINE WORKINGS

20. Prior to the issue of a Construction Certificate for Stage 2, the extent of mine workings including depth of cover are to be determined by a detailed *Site Investigation Report* for the purposes of establishing the appropriate treatment of abandoned mine workings, to permit the staged surface residential development for the purposes of this consent including the internal road network and associated utility installations.

The Site Investigation is to include conclusions and recommendations on civil design and building construction standards to ensure that the development will be designed to remain safe, serviceable and repairable in the event of mine subsidence.

The recommendations arising from this *Site Investigation Report* form part of the development consent and are to be incorporated into any relevant construction stage.

**Figure 12: Excerpt of Conditions of Consent for DA - 17-2593**

Therefore, it seems somewhat pre-emptive to commit to a comprehensive grout/remediation proposal when:

1. The proposal will result in a cumulatively less impact than that of a seniors housing development
2. There is already a historic precedent that this type of comprehensive assessment occur at the development application stage as per DA 17-2593
3. Preliminary assessments (although now outdated) have identified the subsidence risk, and have provided a scope of works and costs to remediate the site, reducing the risk of the development becoming unfeasible at a later date when these comprehensive remediation/grouting studies are undertaken at the Development Application stage
4. The 2023 assessment review concluded that the proposed rezoning was appropriate when regarding the subsidence risk.

*Recommendation: A comprehensive remediation strategy is required to demonstrate the ability of the land to support residential use as part of the development during the preparation of the DCP. Such a strategy will need to address the implications of the uncontrolled fill on the site, and validation of the additional fill being brought to the site. This should be undertaken during the preparation of the wider DCP and development application stage.*

*Once fill works have been completed – the fill material is to be validated and re-assessed for its geotechnical suitability to support residential uses, prior to the adoption of the DCP and development application approval.*

*The DCP developed for the site is to reflect the staging of works required to grout, remediate and engineer the land to an adequate standard to support proposed development on the site, before its adoption.*

*The proposal is to be referred to Subsidence Advisory NSW for agency engagement to confirm and approve this proposed approach during any Gateway Determination be issued.*

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

The proposal is unlikely to have any significantly adverse social or economic impacts. The proposed rezoning will enable the development potential of the land and provide additional housing opportunities adjacent to existing urban areas, current and future services and jobs.

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 residential land within the eastern sector of the LGA will provide housing opportunity in proximity to existing utilities and services.

**SECTION D – STATE AND COMMONWEALTH INTERESTS**

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

**Provision of Local and State Infrastructure**

The subject site is identified as the Thornton North Stage 1 Urban Release Area Urban Release Area under MLEP 2011(Sheet URA\_006A). The subject site must adhere to the provision of satisfactory arrangements to be made for the provision of designated State public infrastructure and adequate arrangements for public utility infrastructure.

The proposal is also within the boundary of the *North Thornton Development Contribution Plan 2008*, which seeks contribution for several local infrastructure items within the surrounds of the site.

**Access, Transport and Traffic**

The subject site gains access from Haussman Drive to the west of the allotment. A secondary access point is proposed to the east of the site from the adjoining property (Lot 182 DP792071). Development of the site proposes an extension of the existing road infrastructure. The subject site is located in the vicinity of bus and rail services. Future road layout should reflect the possibility of improved bus servicing to the proposed residential area.

**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. Preliminary servicing advice from the Hunter Water Corporation (**Attachment 13**) also outlines the additional plans required and infrastructure upgrades for the previous seniors housing development, which would occur prior to any issue of a construction certificate. This would be a similar process to this proposal, with any plan or strategy required at the Development Application stage.

## **11. 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. Preliminary discussions have been held with TfNSW, Hunter Water, Subsidence Advisory NSW and the Department of Planning and Environment's Biodiversity Conservation Division (BCD). All authorities have reaffirmed the need the need to resolve precinct wide transport, subsidence, contamination and biodiversity issues.

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 and Environment's Biodiversity Conservation Division (BCD)
- Transport for NSW (TfNSW)
- NSW Rural Fire Service (RFS)
- Subsidence Advisory NSW (SA NSW)
- Hunter Water Corporation (HWC), and
- Mindaribba Local Aboriginal Land Council (LALC).

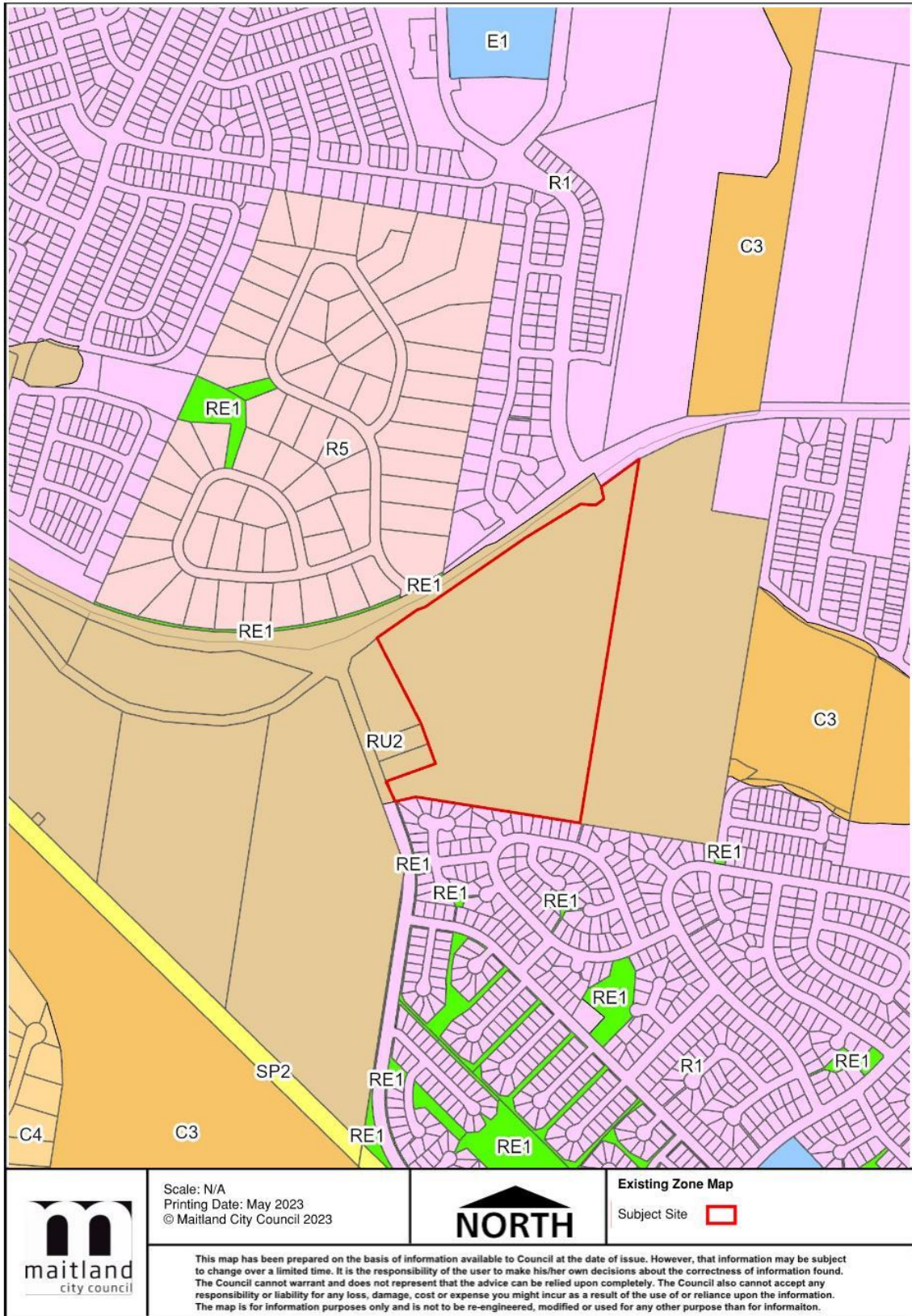


**PART 4:    MAPPING**

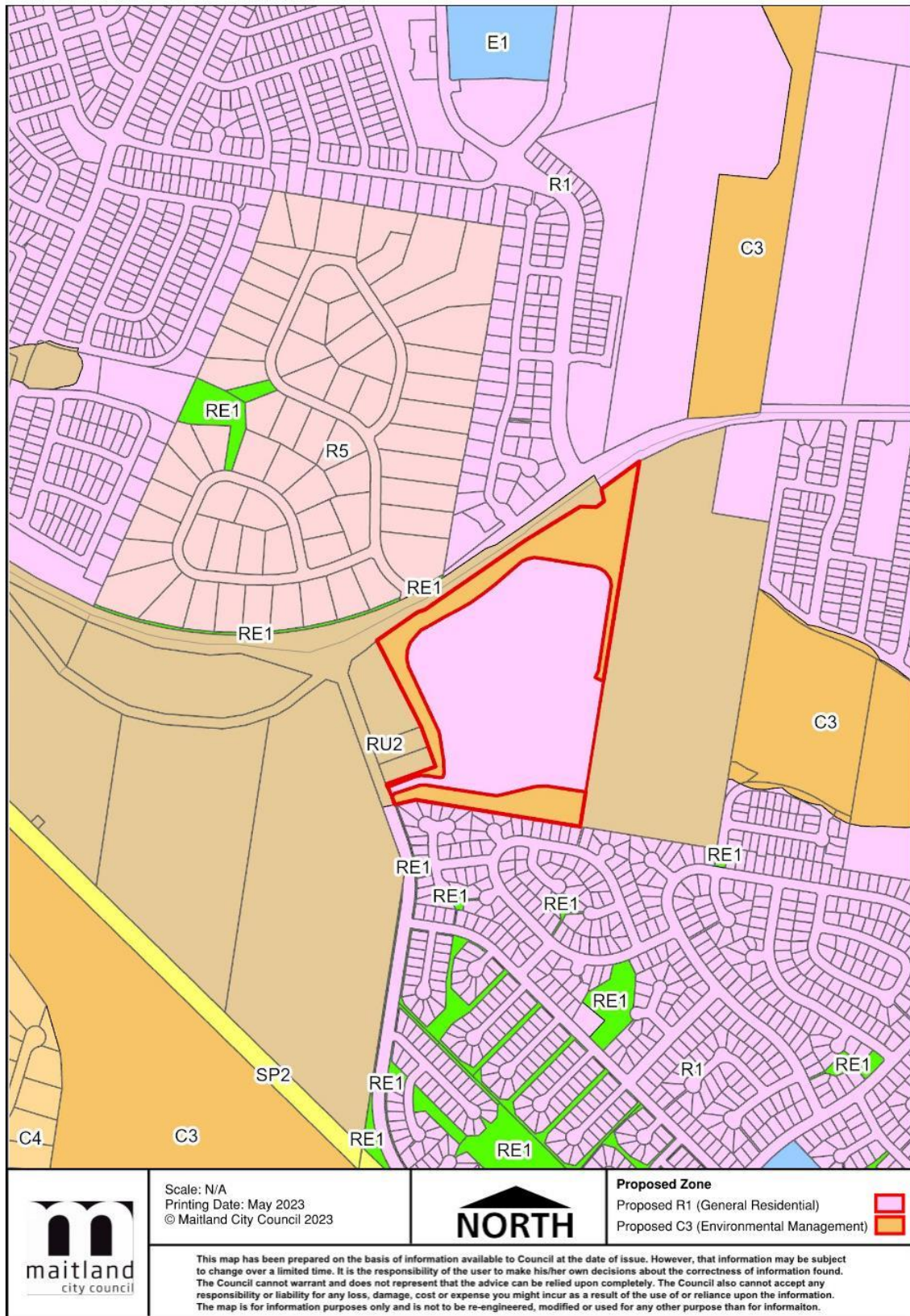
The proposal will involve amendments to the following LEP maps:



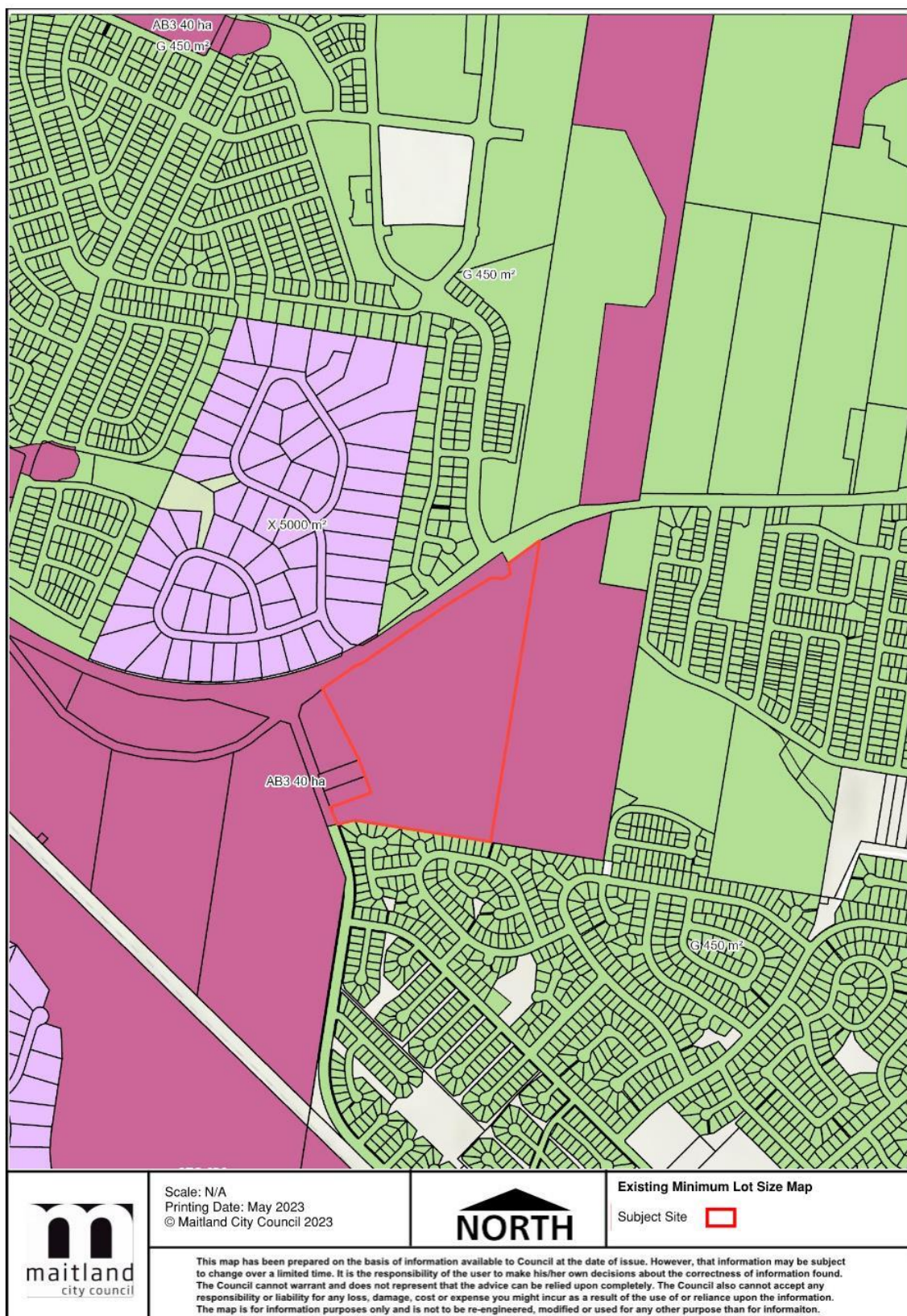




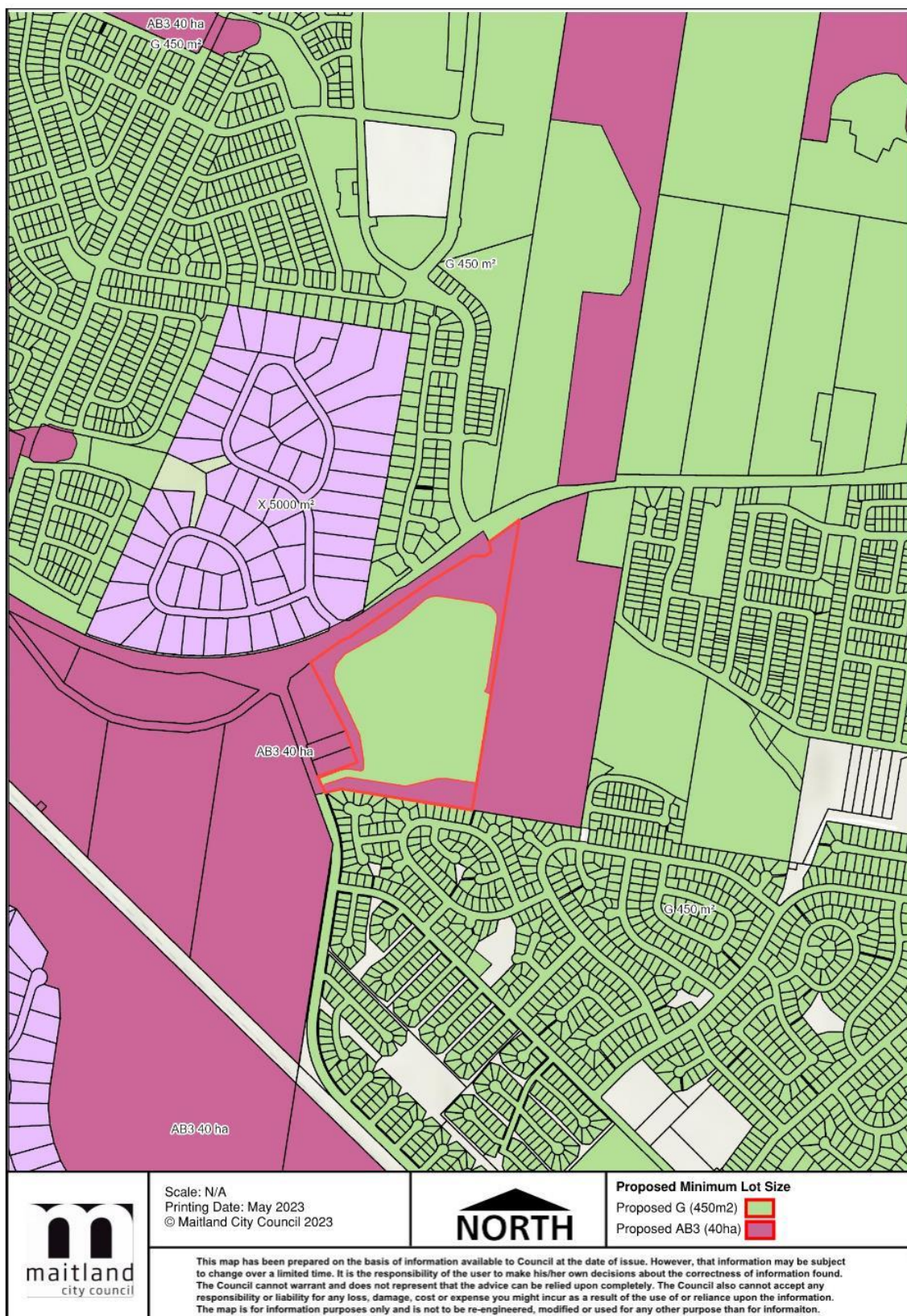












## **PART 5: COMMUNITY CONSULTATION**

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

The recommended maximum period of public exhibition under the NSW Government's 'Local Environmental Plan Making Guideline' for Planning Proposals categorised as 'standard' is 20 working days.

It is likely that, if this planning proposal is supported, it would require exhibition for a period of not less than 28 days to be in accordance with Council's adopted Communication and Engagement Strategy 2022-2026, consultation on the proposed rezoning will be undertaken to inform and receive feedback from surrounding landholders and key stakeholders.

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: TIMEFRAME

The following timelines are provided as an indication only and are based on the 12-month timeframe prescribed by the Department of Planning and Environment's 'Local Environmental Plan Making Guideline (August 2023)'.

Stage	Timeframe and / or date
Gateway determination	25 working days
Pre-exhibition and agency engagement	50 working days
Commencement and completion of public exhibition period	20-28 working days
Consideration of submissions	10 working days
Post-exhibition review and additional studies	10 working days
Post exhibition planning proposal consideration / preparation	55 working days
Submission to Department for finalisation (where applicable)	10 working days
Gazettal of LEP Amendment	45 working days