

COUNCIL ASSESSMENT BRIEFING REPORT TO PANEL
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-192 Section 8.2(1) Review of DA2018/01351 (CN application Ref RE2023/00003)
PROPOSAL	Sec 8.2(1) Review of DA2018/01351 - Subdivision of 6 lots into 858 residential lots, 7 development lots for future residential development; 14 Local Centre Lots; 1 Neighbourhood Centre Lot; 3 Residue Lots; and 21 lots for road widening, public reserves and drainage reserves plus associated works and including the modification of DA2015/10393 pursuant to Section 4.17(1) of the Act to be Subdivision of 2 lots into 292 lots, 7 large redevelopment lots (super lots), 4 drainage reserves, 3 public reserves and 2 residual lots, plus associated works
ADDRESS	Lot 100 DP1252590 Lot 5 DP 1230960 Lot 48 DP115128 Part Lot 1 DP1156243 Lot 4 DP1253716 Part Lot 3 DP 1230960 (Lot 2 & 3 in DP1230960 associated with modification of DA2015/01351) 144 & 177 Woodford Street Minmi NSW 2287 & 610 Minmi Road Minmi NSW 2287
APPLICANT	Winten (No. 21) Pty Ltd
OWNER	Winten (No. 21) Pty Ltd
DA REVIEW LODGEMENT DATE	6 April 2023
APPLICATION TYPE	Local Development

REGIONALLY SIGNIFICANT CRITERIA	<p>Original application subject to Clause 2 of Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> which declares the proposal regionally significant development as the development has a capital investment value of more than \$30 million.</p> <p>This is also consistent with Clause 2 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> which declares the proposal regionally significant development as the development has a capital investment value of more than \$30 million.</p>
CIV	\$113,000,000 (excluding GST) – Note: subject to submission of an updated cost report.
TOTAL & UNIQUE SUBMISSIONS	Currently 16 submissions received
KEY ISSUES	<ul style="list-style-type: none"> • Concept Approval compliance • Traffic (regional road network) • Noise and vibration • Biodiversity • Land contamination • Mine subsidence • Earthworks • Flood planning • Stormwater management and Water Quality • Bushfire protection • Heritage • Modification to DA2015/10393 - Land for Recreation Facilities (Stage 1B amendment)
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>SEE and appendices.</p> <p>Refer to Attachment A: RE2023_00003 S8.2 DA Documentation List Updates Summary, for the list of SEE appendices and relevant amendments.</p>
PREVIOUS BRIEFINGS	Nil related to review application
PLAN VERSION	Refer to Attachment A : RE2023_00003 S8.2 DA Documentation List Updates Summary, for the list of SEE appendices and relevant amendments.
ASSESSMENT STATUS	On notification, Awaiting agency referrals
PREPARED BY	Steven Masia – Engineering Assessment Coordinator
DATE OF REPORT	2 June 2023

1. THE SITE AND LOCALITY

1.1 The Site

The subject site includes the following properties:

- 144 & 177 Woodford Street Minmi NSW 2287
- 610 Minmi Road Minmi NSW 2287

The development site is generally bounded by the existing Minmi township to the north, the M1 Motorway to the west, the Newcastle City Council (NCC)/Lake Macquarie City Council (LMCC) LGA boundary to the south and the Blue Gum Hills Regional Park to the east.

The existing Minmi township sits predominantly in the northern part of the site and is categorised by R2 Low density Residential land, a small area of B1 Neighbourhood Centre zoned land and five parcels of Council owned RE1 Public Recreation zoned land. Minmi township also contains a small public school.

The southern portion of the site is predominately bushland, with clearings for access tracks and overhead electrical infrastructure. Cleared areas of the site have been fenced off to create paddocks, used for agistment.

One existing dwelling and associated outbuildings exists on the site and these are proposed to be demolished.

A total of 19 other isolated lots, not owned by the applicant, are scattered within the broader site boundaries. Vehicular access tracks traverse the site, providing informal access to these isolated lots.

The site comprises highly variable terrain, ranging from gentle slopes to steep topography. In the cleared areas, the site terrain is reflective land that has been modified by past mining activities. A locally prominent ridgeline trending north-northeast along the alignment of Woodford Street separates the western and eastern sides of the site. Localised steep slopes occur on the site in the order of 15 to 20 degrees.

Several watercourses run through the site, eventually draining to Hexham Swamp Wetland. The main channel is Minmi Creek, flowing west of the existing Minmi township. Back Creek, a major tributary of Minmi Creek, rises on the Link Road North Precinct and flows north on the eastern side of the township, before entering Minmi Creek just prior to discharging to Hexham Swamp.

Site elevations range from approximately RL 4m (AHD) to RL 10m in the lower-lying northern section of the site. Elevations in other areas generally range from RL 10m to RL 20m in the creek beds, up to RL 50m to 64m on the crests of hills and spurs.

The suburb of Minmi can potentially be affected by flooding during major flood events from both local catchment flooding (associated within Minmi Creek and Back Creek) and flooding from the Hunter River system via Hexham Wetland.

The site has a history of both open cut and underground coal mining and is subject to mine subsidence risk at varying degrees up to and including a high risk of potholes and/or subsidence. The site also contains a number of former mine shafts.

The development site contains significant coverage of native vegetation comprising a number of vegetation communities, including Endangered Ecological Communities, with some clearings as a result of past mining and grazing uses.

The land is subject to a number of environmental constraints including the presence of waterfront land and riparian corridors, Endangered Ecological Communities, mine subsidence, geotechnical stability, acid sulphate soils, land contamination, bushfire threat, flooding, ground water, dispersible soils and Aboriginal (potential) and European heritage.

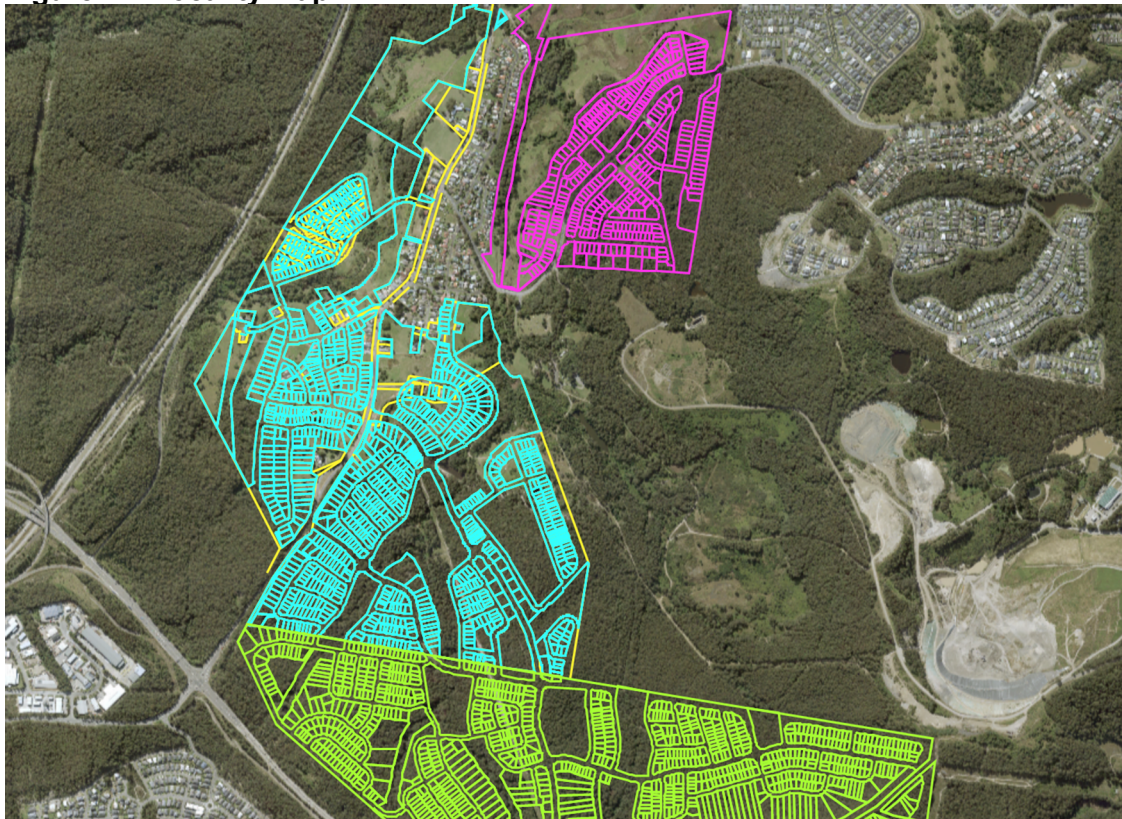
1.2 The Locality

- Located within an urban release area.
- Adjoining residential subdivisions to the east (Fletcher) consisting of predominantly low density residential.
- M1 Motorway to the west
- Newcastle Link Road to the south (beyond LMCC DA).
- Blue Gum Hills National Park to the east, with Summerhill Waste Management Centre beyond.

Refer Figure 1 below for locality

- **Cyan** – current proposed development – review of determination.
- **Pink** – modification to DA2015/10393, included in the current application.
- **Yellow** – refused DA2018/01351 (Note: layout as at time of determination of DA2018/01351 – 13 December 2022)
- **Green** – LMCC DA (Note: layout as at time of determination of DA2018/01351)

Figure 1 – Locality Map



2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposal seeks consent for subdivision.

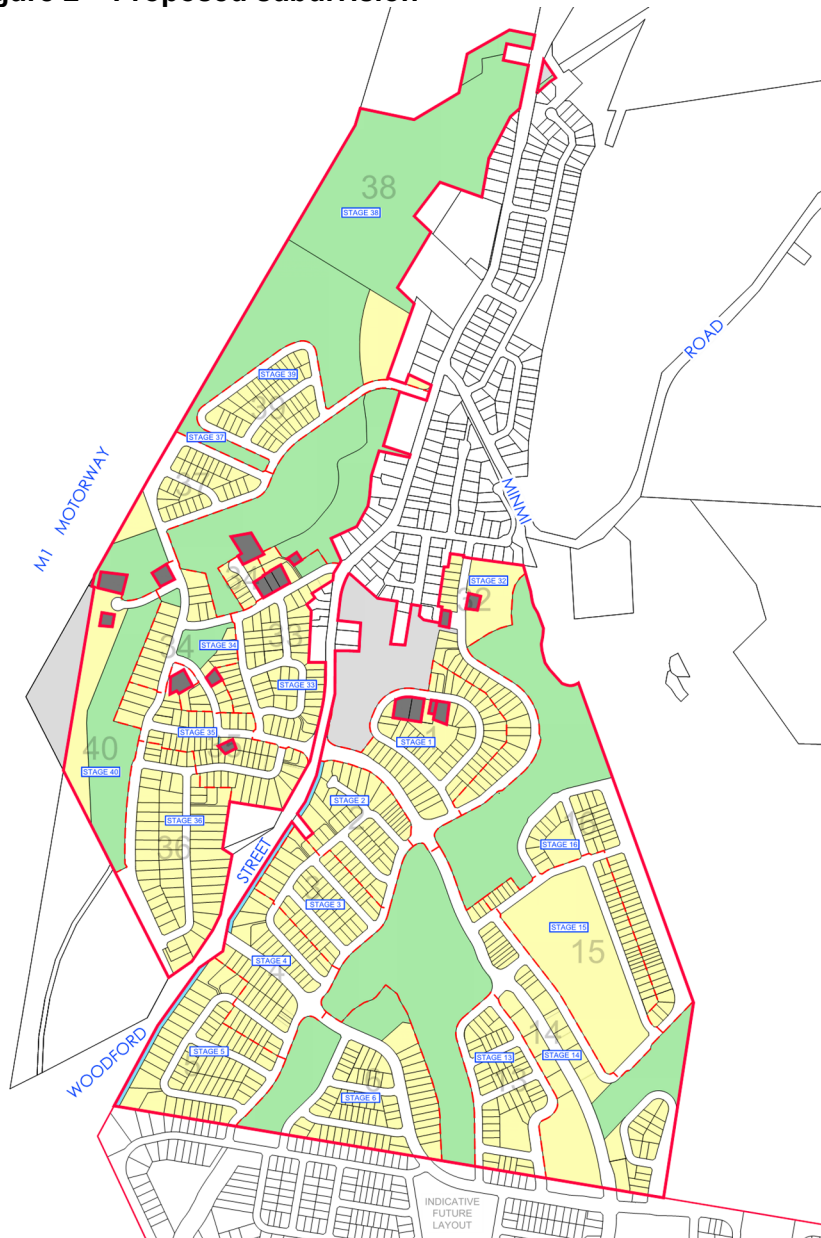
Specifically, the proposal involves:

Subdivision of 6 Lots into: 858 residential lots, 7 development lots for future residential development; 14 Local Centre Lots; 1 Neighbourhood Centre Lot; 3 Residue Lots; and 21 lots for road widening, public reserves and drainage reserves (proposed to be dedicated to Council), plus associated roads, infrastructure, utilities, open space, clearing, demolition, remediation, bulk earthworks and retaining walls.

and

The modification of DA2015/10393 pursuant to Section 4.17(1) of the Act to be Subdivision of Lot 2 in DP 1230960 and Lot 3 in DP1230960 into 292 lots, 7 large redevelopment lots (super lots), 4 drainage reserves, 3 public reserves and 2 residual lots, plus associated roads, infrastructure, bulk earthworks, open space and signage.

Figure 2 – Proposed subdivision



2.2 Background

The review of determination application was lodged on 6 April 2023.

On 13 Dec 2022, development consent was refused to Development Application (DA) DA2018/01351 by the Hunter and Central Coast Regional Planning Panel to carry out the following development on the subject property:

Subdivision of 6 Lots into: 874 residential lots; 7 development lots for future residential development; 14 Local Centre Lots; 1 Neighbourhood Centre Lot; 2 Residue Lots; and 20 lots for road widening, public reserves and drainage reserves (proposed to be dedicated to Council)

and

The modification of DA2015/10393 pursuant to Section 4.17(1) of the Act to be Subdivision of Lot 2 in DP 1230960 and Lot 3 in DP1230960 into 292 lots, 7 large redevelopment lots (super lots), 4 drainage reserves, 3 public reserves and 2 residual lots, plus associated roads, infrastructure, bulk earthworks, open space and signage.

An Application for Review of Determination was submitted to CN on 06 April 2023 by the Applicant. As part of the application the proposal has been amended to carry out the following development on the subject property:

Subdivision of 6 Lots into: 858 residential lots, 7 development lots for future residential development; 14 Local Centre Lots; 1 Neighbourhood Centre Lot; 3 Residue Lots; and 21 lots for road widening, public reserves and drainage reserves (proposed to be dedicated to Council), plus associated roads, infrastructure, utilities, open space, landscaping, clearing, demolition, remediation, bulk earthworks and retaining walls.

and

The modification of DA2015/10393 pursuant to Section 4.17(1) of the Act to be Subdivision of Lot 2 in DP 1230960 and Lot 3 in DP1230960 into 292 lots, 7 large redevelopment lots (super lots), 4 drainage reserves, 3 public reserves and 2 residual lots, plus associated roads, infrastructure, bulk earthworks, open space and signage.

A chronology of the current review of determination application since lodgement is outlined in **Table 2**.

Table 1: Chronology of the DA

Date	Event
8 May 2023	Exhibition of the application
8 May 2023	DA referred to external agencies
2 June 2023	Panel briefing

2.3 Site History

The development is associated with Concept Approval MP10_0090, which was issued by the NSW Planning and Assessment Commission on 6 August 2013 under Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act).

The proposed subdivision forms Precincts 3, 4 and part 5 of the development concept approved under MP10_0090. The remainder of Precinct 5 is located within the LMCC LGA and is subject to a separate DA2087/2018 (lodged with LMCC on 22 November 2018). These two DA's represent the balance of the development under the Concept Approval.

This application has been prepared in accordance with the provisions of Part 4 of the EP&A Act, as well as the transitional provisions associated with Part 3A projects.

3. PLANNING CONTROLS

Concept Approval MP10_0090

On 1 March 2013 re-zoning of the development lands occurred upon the making of the *State Environmental Planning Policy Amendment (Minmi-Link Road) 2013*. These zonings are now reflected in the *Newcastle Local Environmental Plan 2012*.

On 6 August 2013 the Planning Assessment Commission of NSW, pursuant sections 75O and 75P of the *Environmental Planning and Assessment Act, 1979*, determined to approve MP10_0090. In summary, the Concept Approval provided for a five-stage development of up to 3,300 dwellings and two commercial centres across the 520-hectare development site, including associated infrastructure. In addition to the development outcomes, the Concept Approval also secured the dedication of approximately 1,561 hectares of nearby conservation lands to the NSW Government.

On 21 December 2016 the Planning Assessment Commission of NSW, determined as approved an application (MP10_0090 MOD1) made pursuant s75W of the *Environmental Planning and Assessment Act, 1979* to modify several conditions of the Concept Approval.

On 16 November 2018 the Director, Regional Assessments of the Department of Planning and Environment, as delegate of the Secretary, approved the *Minmi Precinct Development Guidelines (ADW Johnson 9/11/2018) (MPDG)*.

On 18 October 2018 the Director, Regional Assessments of the Department of Planning and Environment certified under clause 34A(3) of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* that;

the proposed development is part of a concept plan approval for which the biodiversity impacts of the proposed development have been satisfactorily assessed before 25 August 2017, and

that conservation measures to offset the residual impact of the proposed development on biodiversity values after the measures required to be taken to avoid or minimise those impacts have been secured into the future.

Schedule 2 'Transferred transitional arrangements on repeal of Part 3A—former Schedule 6A' of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* applies as the proposal is a Transitional Part 3A project.

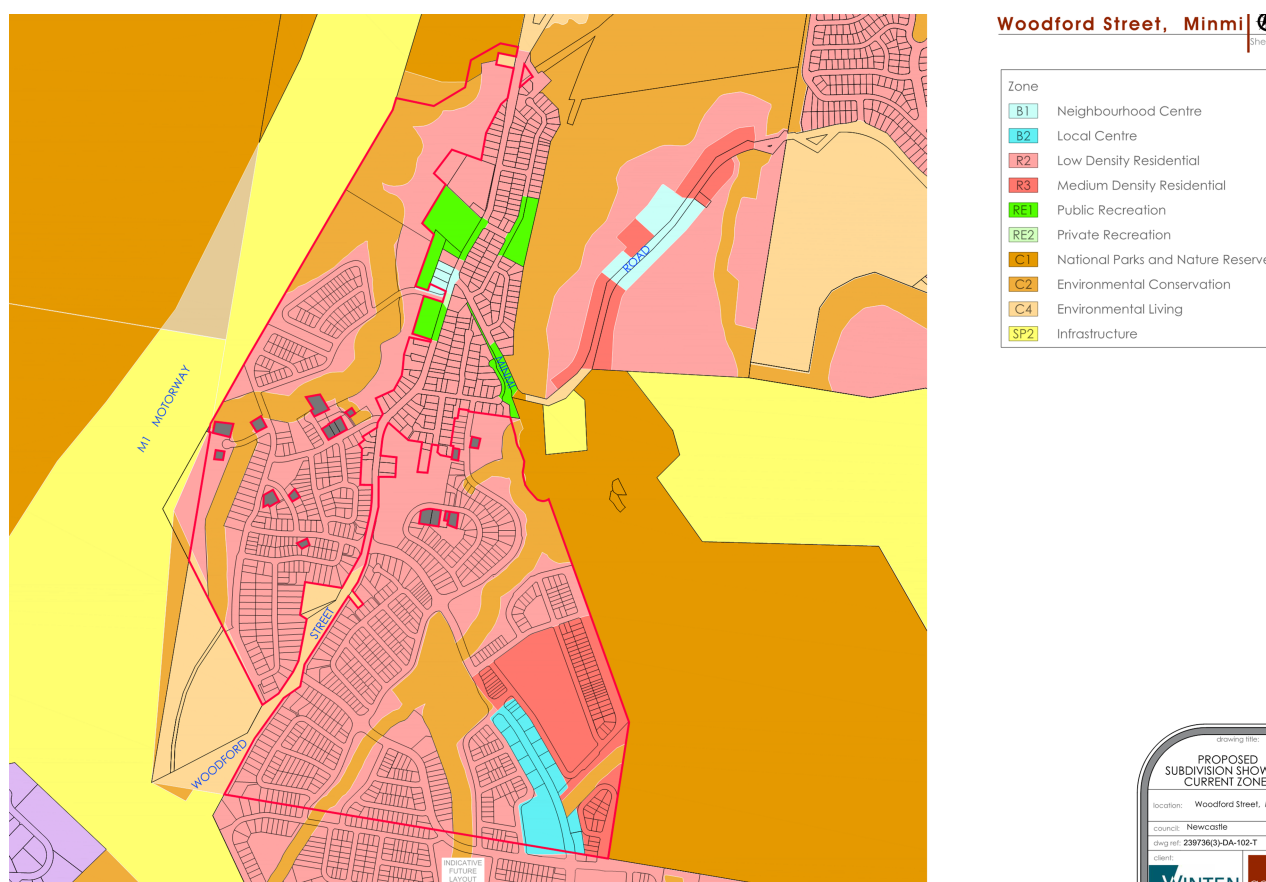
The Department of Planning and Environment has advised that, in accordance with section 75P(2)(b) of the *Environmental Planning and Assessment Act 1979*, development applications lodged subsequent to MP 10_0090 are not Integrated Development for the purposes of section 91 of that Act.

Newcastle Local Environmental Plan 2012

Under the Newcastle Local Environmental Plan 2012 the land is zoned;

- R2 Low Density Residential
- R3 Medium Density Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- E1 National Parks and Nature
- E2 Environmental Conservation
- E4 Environmental Living

Figure 3 – Land Zoning with Proposed Development



A summary of the key matters for consideration from the relevant EPIs are outlined in **Table 3**.

Table 2: Summary of Key Matters in the Relevant EPIs

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 3: Koala Habitat Protection 2020 Chapter 4: Koala Habitat Protection 2021	TBC

State Environmental Planning Policy (Planning Systems) 2021	Chapter 2: State and Regional Development <ul style="list-style-type: none"> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6. 	Yes
SEPP (Resilience & Hazards)	Chapter 2: Coastal Management Chapter 4: Remediation of Land	TBC
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> Section 2.48(2) (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. Section 2.118(2) - Development with frontage to classified road Section 2.119(2) Impact of road noise or vibration on non-road development Section 2.121(4) - Traffic-generating development 	TBC

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The Department of Planning and Environment has previously advised that, in accordance with Section 75P(2)(b) of the *Environment Planning and Assessment Act 1979*, development applications lodged subsequent to the Concept Plan approval (MP10_0090) are not Integrated Development for the purposes of Section 91 (now Section 4.46) of that Act.

Subsequent approvals and permits will or may need to be obtained under Acts such as the *Roads Act 1993*, the *Protection of the Environment Operations Act 1997*, the *National Parks and Wildlife Act 1974* and the *Water Management Act 2000*.

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and Concept Approval (Further Environmental Assessment Requirements (FEARs)) and outlined below in **Table 4**.

Table 3: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Ausgrid	Impact on infrastructure – SEPP (transport and Infrastructure) 2021 – Clause 2.48	No response to date	TBC

Transgrid	Impact on infrastructure – SEPP (transport and Infrastructure) 2021 – Clause 2.48	No response to date	TBC
Hunter Water Corporation	Public Utility Servicing	No response to date	TBC
NSW Rural Fire Service	FEAR 1.45 of Concept Approval requires bushfire management to be to the satisfaction of the RFS.	General terms of approval received (dated 24 May 2023) which support the proposal subject to conditions. CN consideration of the conditions has not been undertaken.	Y
Transport for NSW	SEPP (Transport & Infrastructure) 2021 – Clause s2.121 Traffic Generating Development	No response to date	TBC
Transport for NSW	FEAR 1.31 of Concept Approval requires micro simulation traffic modelling to TfNSW requirements. FEAR 1.33 of Concept Approval requires public transport to be provided to TfNSW requirements. Also any general advice on Lower Hunter Freight Corridor	No response to date	TBC
National Parks and Wildlife Service	Aboriginal heritage and impacts on Blue Gum Hills Regional Park	No response to date The site contains no known Aboriginal heritage sites.	TBC
Subsidence Advisory NSW	FEAR 1.30 of Concept Approval. Mine Subsidence Compensation Act 1961	No response to date	TBC
Department of Primary Industry - Water	FEAR 1.22 and 1.25 - Potential impacts on groundwater and waterfront lands.	No response to date	TBC
Department of Education	Neighbouring property	No response to date	TBC

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**.

Table 4: Consideration of Council Referrals

Officer	Comments	Resolved
Assets	Seeking advice on assets proposed to be dedicated to Council such as roads, riparian corridors.	TBC
Environmental Services	Seeking advice on contamination, Noise	TBC
Parks and Recreation	Seeking advice on open space	TBC
Flood and stormwater	Consultant engaged	TBC
Biodiversity	Consultant engaged	TBC
Heritage	Heritage	TBC

4.3 Community Consultation

The proposal is being notified in accordance with the Council's Community Participation Plan from 8 May 2023 until 5 June 2023. As of 30 May 2023, a total of 16 unique submissions, have been received.

No assessment of the submissions has been conducted.

5. KEY ISSUES

The following key issues are likely relevant to the assessment of this application having considered the relevant planning controls and preliminary review of the application, including having regards to the reasons for refusal:

- Concept Approval compliance
- Traffic (regional road network) – applicant has engaged directly with TfNSW
- Noise and vibration
- Biodiversity
- Land contamination
- Mine subsidence – applicant has engaged directly with Subsidence Advisory.
- Earthworks
- Flood planning – amendments to lot layout and updated flood report submitted.
- Stormwater management and Water Quality
- Bushfire protection - RFS has advised acceptable.
- Heritage
- Modification to DA2015/10393 - Land for Recreation Facilities (Stage 1B amendment)

No detailed preliminary assessment has been conducted on these issues.

6. RECOMMENDATION

The Panel receive the briefing report.

7. ATTACHMENTS

The following attachments are provided:

- **Attachment A:** RE2023_00003 S8.2 DA Documentation List Updates Summary
- **Attachment B:** Plan of subdivision