

COUNCIL ASSESSMENT REPORT
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-320 – DA/2024/763
PROPOSAL	Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots
ADDRESS	Lot: 177 DP874171, Lot: 55 DP874170 559 Anambah Road, GOSFORTH NSW 2320
APPLICANT	The Trustee for Third.i Anambah Unit Trust
OWNER	Rodney David Gilmour Bird
DA LODGEMENT DATE	20/09/2024
APPLICATION TYPE	Integrated - Concept and Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2.19 & 2.20 - Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> : Development that has an estimated development cost of more than \$30 million.
CIV	\$74,867,923 (excluding GST)
CLAUSE 4.6 REQUESTS	N/A
KEY SEPP/LEP	SEPP (Planning Systems) 2021 SEPP (Biodiversity and Conservation) 2021 SEPP (Resilience and Hazards) 2021 SEPP (Transport and Infrastructure) 2021 SEPP (Resources and Energy) 2021 Maitland Local Environmental Plan 2011
REPORT APPENDICES	A: Draft Reasons for Refusal B: DCP Compliance Table C: Submission Issues Table
TOTAL SUBMISSIONS KEY ISSUES IN SUBMISSIONS	<p>A total of fifty-nine (59) submissions were received to the development. The development was notified on two (2) occasions as follows:</p> <ul style="list-style-type: none"> Exhibition 1: 3 October 2024 to 31 October 2024 – 39 objections Exhibition 2: 9 June 2025 to 23 June 2025 – 20 objections and 1 in support <p>Key Issues:</p> <ul style="list-style-type: none"> sequencing and orderly development; traffic impact; proximity to existing quarry; land use conflict with the surrounding land uses and rural

	<p>locality;</p> <ul style="list-style-type: none"> • utilities and servicing; • flooding; • bushfire; • number and design of 'small lot housing' typology; • lack of services and infrastructure (water, sewer, electricity and telecommunications); • vegetation and wildlife habitat removal; • visual impact and landscape buffers; • restriction to turning movements at River Road / NEH intersection.
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>Attachment A: Statement of Environmental Effects</p> <p>Attachment B: Response to Request for Additional Information</p> <p>Attachment C: Concept Master Plan – Engineering Drawings</p> <p>Attachment D: Subdivision Plan – Stage 1</p> <p>Attachment E: Preliminary Engineering Drawings – Stage 1</p> <p>Attachment F: Urban Design Report</p> <p>Attachment G: Traffic Impact Assessment and RFI Response</p> <p>Attachment H: Preliminary Site Investigation Report</p> <p>Attachment I: Biodiversity Development Assessment Report (BDAR)</p> <p>Attachment J: Bushfire Threat Assessment (and addendums)</p> <p>Attachment K: Landscape Master Plan Design Report</p> <p>Attachment L: Stage 1 Landscape Package</p> <p>Attachment M: Flood Risk Assessment Report</p> <p>Attachment N: CPTED Report</p> <p>Attachment O: Social Impact Assessment</p> <p>Attachment P: Riparian Vegetation Management Plan</p> <p>Attachment Q: Arboricultural Impact Assessment (29 August 2024), ACHAR Consultation Appendix and Site Card 37-6-4446</p> <p>Attachment R: LiDAR survey</p> <p>Attachment S: Electrical Servicing Strategy</p> <p>Attachment T: Ausgrid Preliminary Enquiry Response Letter</p> <p>Attachment U: Hunter Water Notice of Arrangements</p> <p>Attachment V: Hunter Water Correspondence</p> <p>Attachment W: DPE Water - Response letter – General Terms of Approval (4 February 2025)</p> <p>Attachment X: DPE Water - Response letter – General Terms of Approval (24 June 2025)</p> <p>Attachment Y: RFS – Response letters (Dated: 12 November 2024, 16 June 2025, 11 July 2025)</p> <p>Attachment Z: Transport for NSW Response Letters (Dated: 30 October 2024 and 26 June 2025)</p> <p>Attachment AA: DPI Fisheries Response letter – General Terms of Approval (Dated: 15 October 2024)</p> <p>Attachment AB: SES Referral Response letters (Dated: 4 November 2024 and 27 June 2025) and emails (Dated: 28 July 2025)</p> <p>Attachment AC: DPE Heritage Response letter and email (Dated: 17 October 2024 and 15 July 2025)</p> <p>Attachment AD: Sustainable Utilities Servicing Strategy (Dated: 17 July 2025)</p>

	Attachment AE: Economic assessment of the development of 559 Anambah Road (Dated: 15 June 2025) Attachment AF: Redacted submissions Attachment AG: MCC Response to VPA Offer
HOUSING AND PRODUCTIVITY CONTRIBUTION	\$1,897,838.56 DA Stage 1 only.
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	No
SCHEDULED MEETING DATE	13 August 2025
PREPARED BY	Emmilia Marshall Senior Development Planner, Maitland City Council
DATE OF REPORT	Drafting commenced: 7 July 2025 Report finalised: 4 August 2025

EXECUTIVE SUMMARY

The development application (DA 2024/763) seeks consent for a Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots ('the proposal').

The Concept Development Application encompasses 900 residential allotments, six (6) stormwater drainage basins, three (3) public reserves (future parks), vegetation clearing and road network, to be undertaken over five (5) stages.

The development application for Stage 1 encompasses 221 Torrens Title residential and small lot housing allotments to be constructed in five (5) stages, as well as roads, pathways, stormwater drainage infrastructure, riparian corridor replanting, one (1) public reserve (future park), landscaping works, provision of utility services, Anambah Road and River Road upgrades.

The subject site is known as 559 Anambah Road Gosforth NSW 2320 ('the site') and comprises two irregular shaped allotments (Lot: 55 DP874170 and Lot: 177 DP 874171). The allotments are separated by a 20m wide unformed road corridor, commonly referred to as River Road. Lot 55 benefits from direct access to Anambah Road at the eastern property boundary, and lot 177 benefits from a right of way (10m wide) access easement over neighbouring lot 56 DP874170. The site comprises of largely cleared, pastured and agricultural land which is bisected by a single watercourse.

The Anambah Urban Release Area (URA) comprises a total area of approximately 490 hectares within the western corridor of Maitland. The site was first identified as being suitable for urban development in the Maitland Urban Settlement Strategy (MUSS) 2006. In the 2010 update to the MUSS the site was progressed to 'Category 1 – Residential'. The site formed the subject of a Planning Proposal, which resulted in the rezoning of RU2 Rural Landscape zoned land to predominantly R1 General Residential in December 2020 under Maitland Local Environmental Plan (MLEP) 2011 (Amendment No. 26). The MLEP amendment included site specific minimum lot sizes for the Anambah URA and prescribed the requirement for the future provision of suitable and safe road access to the New England Highway via Wyndella Road after 1,200 lots are delivered within the Anambah URA. The intention of the MLEP 2011 is that Anambah Road is the primary point of access for the URA prior to the connection to Wyndella Road being constructed after the delivery of 1,200 lots. Since its initial adoption in 2020, the AURA yield has increased from 3,000 allotments to 4,200 allotments.

A Development Control Plan and subsequent precinct plans are currently being drafted by Council's Strategic Planning team, anticipated to be reported to Council for public exhibition by September 2025. A preliminary draft document was circulated to AURA land holders in July of this year. A site specific

Contributions Plan is also currently being prepared by Council's Contributions team.

The principle planning controls relevant to the proposal include SEPP (Biodiversity and Conservation) 2021, SEPP (Resilience and Hazards) 2021, SEPP (Transport and Infrastructure) 2021, SEPP (Resources and Energy) 2021, MLEP 2011 and Maitland Development Control Plan (MDCP) 2011. The development application does not address key planning controls under various planning instruments and is inconsistent with adopted Council policies.

There were no concurrence requirements from agencies for the proposal however the application is integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') under the following Acts:

- Rural Fire Act 1997;
- Water Management Act 2000;
- National Park and Wildlife Act 1974;
- Fisheries Management Act 1994.

Of these integrated referrals, General Terms of Approval (GTA's) from the New South Wales Rural Fire Service (NSW RFS) and Department of Planning and Environment – Heritage (DPE Heritage) remain outstanding as of the date of this report. A referral to Ausgrid and Transport for New South Wales (TfNSW) pursuant to *State Environmental Planning Policy (Transport and Infrastructure) 2021* ('Transport and Infrastructure SEPP') were sent to the relevant agencies with comments provided to the consent authority for consideration.

The application was initially placed on public exhibition 3 October 2024 until 31 October 2024. Following provision of amended documentation, the application was renotified from 9 June 2025 to 23 June 2025. The Council received a total of 39 unique submissions were received during the initial exhibition period, with 21 unique submissions received in the second exhibition period. All but one (1) submission objects to the proposal. Key issues raised in submissions include but aren't limited to; sequencing and orderly development, traffic impact, land use conflict with the surrounding land uses and rural locality, utilities and servicing, flooding, bushfire, ecological impacts and vegetation removal and restriction to turning movements at River Road / NEH intersection.

The application is referred to the Hunter Central Coast Regional Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Section 2.19(1) due to an estimated development cost exceeding \$30 million.

A briefing was held with the Panel on 5 December where key issues were discussed, including prematurity of the application, level of details required for concept application, VPA, infrastructure sequencing, road access arrangements, flood evacuation arrangements, the relationship between the development and balance of the URA, social impact, detailed servicing strategy, practical and legal access restrictions to River Road, detailed analysis of flooding implications, and requirement for RFS support.

The key issues associated with the proposal included:

1. **River Road Gated Access** - Council, the RFS, and SES do not support River Road as a gated secondary access. If used, it must remain an unrestricted public road. Council has concerns with restricting access to a public road pursuant to the Roads Act 1993 and ongoing maintenance burden. Council is also concerned about the feasibility of upgrading River Road due to potential land acquisition, earthworks, and required intersection upgrades with the New England Highway. Any changes would require consultation with Transport for NSW and the local community, particularly Windella Estate residents. Council has raised these issues in early discussions and formal requests for information to no avail.
2. **Bushfire** - The application, lodged as Integrated Development under s100B of the Rural Fires Act 1997, was referred to the NSW RFS, which requested further information on several occasions to demonstrate compliance with Planning for Bushfire Protection (PBP) 2019. Key concerns include non-compliant non-perimeter roads, inadequate carriageway widths, insufficient justification for design deviations, and unsafe secondary access using locked gates.

The NSW RFS also identified discrepancies in slope assessments and requested a registered surveyor's input. The applicant submitted addendums and a response letter to RFS in July 2025, but at the time of reporting, a response / GTAs from the NSW RFS remain outstanding.

3. *Heritage* - The application, lodged as Integrated Development under Section 90 of the National Parks and Wildlife Act 1974, was referred to DPE Heritage. On 17 October 2024, further information was requested, including consultation records, archaeological methodologies and results, additional mapping, and revisions to the Aboriginal Cultural Heritage Assessment Report (ACHAR). The amended application, referred on 4 June 2025, was rejected by DPE Heritage due to failure to address these requirements, particularly the amended ACHAR. At the time of drafting this assessment report, a response / GTAs from DPE Heritage remain outstanding.
4. *Traffic* - The application was referred to TfNSW under Section 2.122(4) of SEPP (Transport and Infrastructure) 2021. TfNSW advised they cannot assess transport impacts due to insufficient information including inconsistencies in the SIDRA model, unclear trip generation rates, missing U-turn data, lack of background growth rates, and no Council support for River Road as gated access. TfNSW also noted there is no committed funding for traffic signals at Anambah Road/NEH. As submitted, the application is not supported, as the existing network has not been shown to accommodate the proposed development.
5. *Flooding* - An advisory referral was sent to the SES with the original and amended DA to inform Council's assessment of flooding impacts, evacuation, and River Road use. SES comments have informed Council's current position on the use of River Road. The applicant also contacted SES directly on 23 July 2025, and SES responded on 28 July 2025, confirming their position as communicated to Council.
6. *Design amendments and further information* – Several items are considered secondary to the issues listed above and may be able to be addressed subject to design amendments and / or provision of additional information. However, with regard to the unresolved key issues, the development in its current form warrants refusal subject to insufficient or non-compliant information relating to: flooding, earthworks and retaining walls, small lot housing location and design, orderly economic development, unmitigated social impacts, utility servicing - namely the late proposal for private water / sewer infrastructure (received 18 July 2025) and conflict with the amended application, recreation areas and CPTED, ecology avoidance and mitigation, and vegetation classification and riparian management.
7. *Panel's record of preliminary briefing* – Several critical items that the Panel identified as needing to be addressed prior to determination remain unresolved.

Following consideration of the matters for consideration under Section 4.15 of the EP&A Act, the provisions of the relevant environmental planning instruments (EPIs), and Council policies, the proposal cannot be supported in its current form. Pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA 2024/763 is recommended for refusal subject to the reasons contained at **Appendix A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The site is made up of two irregular shaped allotments, lot: 55 DP874170, measuring 27ha and lot: 177 DP 874171, measuring 96.8ha with a total site area of 123.8ha. The allotments are separated by a 20m wide unformed road corridor, commonly referred to as River Road. The development area comprises of largely cleared, pastured and agricultural land which is bisected by an order 1 watercourse. Another 1st order stream enters the site at the northern boundary but is outside of the stage 1 developable area. The application is predominantly limited to the parts of the site that are predominantly cleared, and zoned R1 – General Residential. Refer to Figure 1 below.

The eastern side of the site, lot 55 (wholly zoned R1 – General Residential), contains a varied topography, with riparian corridor at the south-western corner, and scattered vegetation predominately along the eastern boundary fronting Anambah Road. The western side of the site, lot 177 (split zoned R1 – General Residential and RU2 – Rural Landscape), contains an even more varied topography, the same but more predominant section of riparian corridor, and areas of established vegetation.

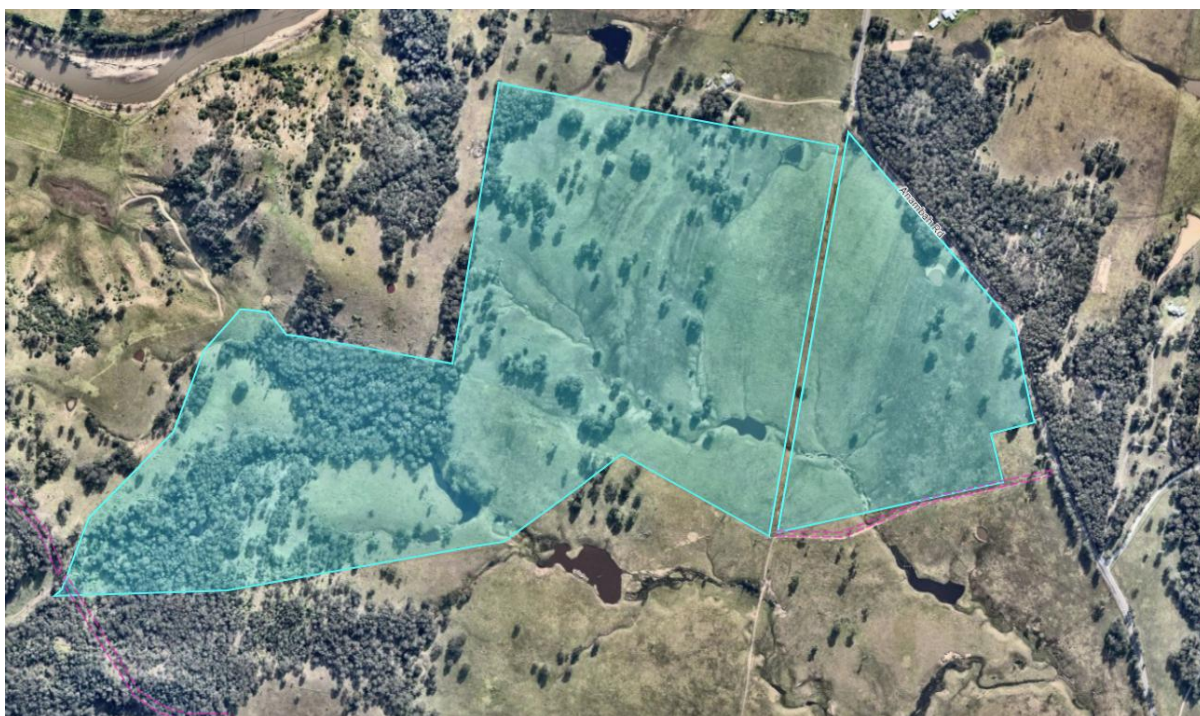


Figure 1 - GIS aerial image. The Site highlighted in blue.

Roads and Access

The surrounding road network predominantly comprises of the New England Highway (4km south of the subject site), Anambah Road (immediately adjoining the site to the east), River Road (unformed road corridor of which dissects the site, and continues south into the Windella Estate) and Wyndella Road (part unformed, private road to New England Highway, 2.7km south-west). Lot 55 benefits from direct access to Anambah Road at the eastern property boundary. Lot 177 benefits from a right of way (10m wide) access easement over neighbouring lot 56 DP874170. Refer to Figure 2.

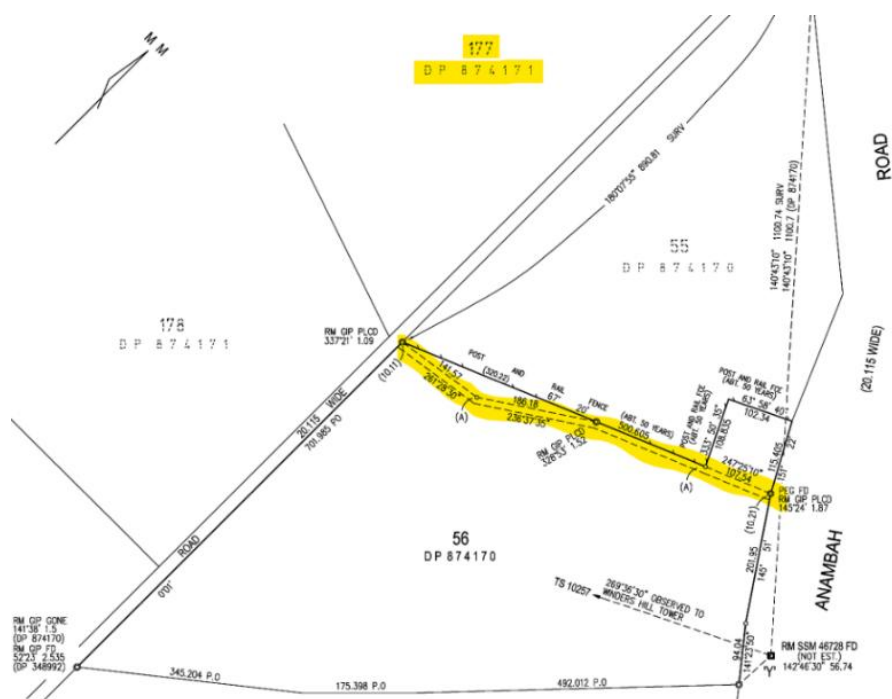


Figure 2 - DP1109627 showing right of way (highlighted yellow) as it relates to lot 177.

Services and Utilities

Overhead power lines are located along Anambah Road at the eastern boundary of the subject site. Load requirements is estimated on a basis of ADMD of 3.5kVA per lot. The total load requirement for each request is as follows:

Stage	Lots	ADMD	Total load (kW)	Total Load (HV Amps)
Overall Development	1000	3.5kW	3500	190A

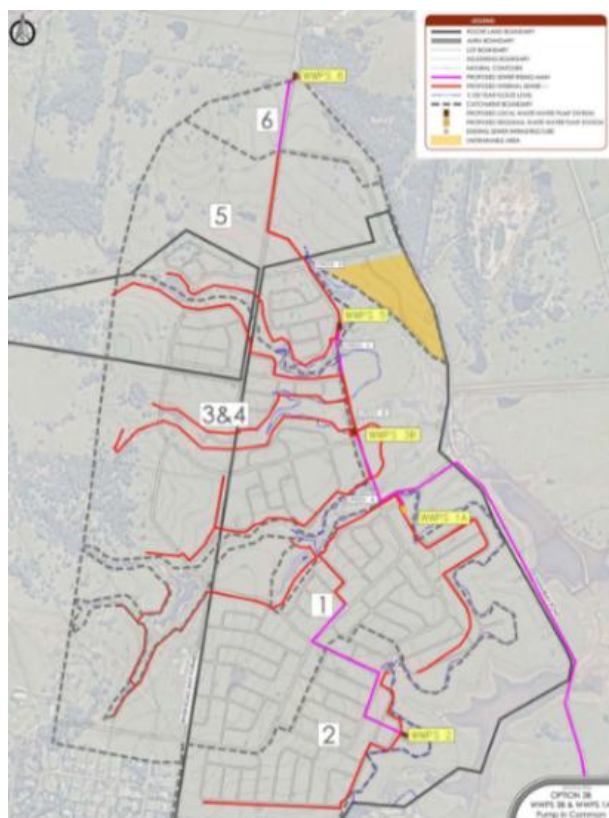


Figure 3 - Waste water servicing
(Preliminary Servicing Advice
Application, HWC, dated: 02/05/2024)

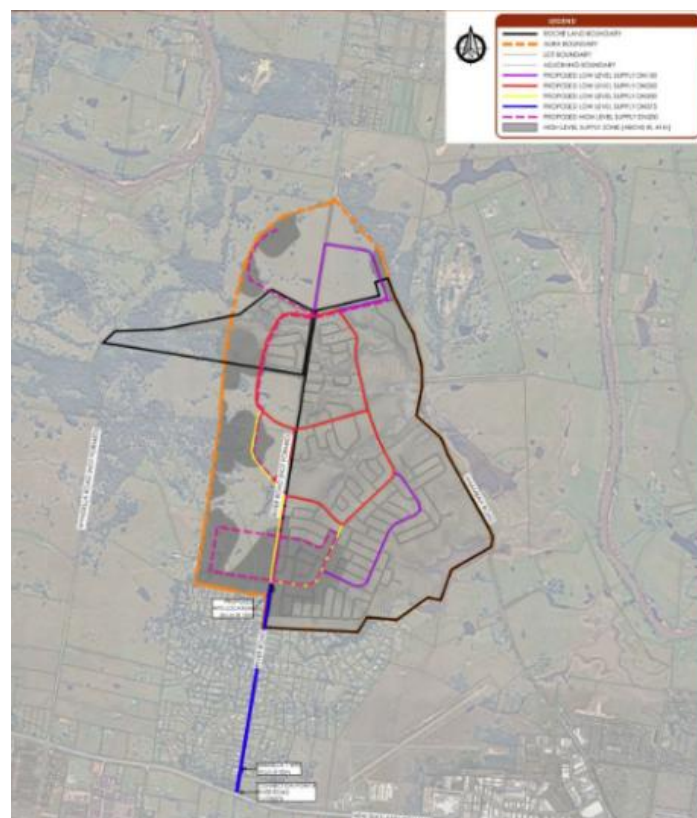


Figure 4 - Watermain alignment plan
(Preliminary Servicing Advice
Application, HWC, dated: 02/05/2024).

The development site is not currently serviced by reticulated water or sewer. A Water and Sewer Servicing Strategy was developed and endorsed by Hunter Water Corporation (HWC) for the southern portion of the URA, however it did not include this the subject development site. Refer to Figures 3 and 4.

Topography and Soils

The site comprises gently to moderately sloping undulating rolling hills. The majority of the of the site is gently sloping with slopes generally ranging from 2-5 degrees over the eastern portion and up to 7-8 degrees over much of the western portion. The elevation of R1 zoned land on the site ranges from approximately 50m AHD in the north-western part of the site to approximately 20m AHD in the southern sections of the site. Drainage across the site is directed into watercourses draining towards the south-east into the neighbouring properties and the north-east into the neighbouring property and piped culverts below Anambah Road. Three (3) dams are located on the site. Refer to Figure 5 below.

The site is mapped as being located on Class 5 Acid Sulphate Soils indicating a low likelihood of acid sulphate soils. Geotechnical investigations conducted for the site indicated, in certain locations, the presence of Class M, H1 and H2 clay soils requiring geotechnical consideration for ground preparation, earthworks, subgrade filling and footing design.

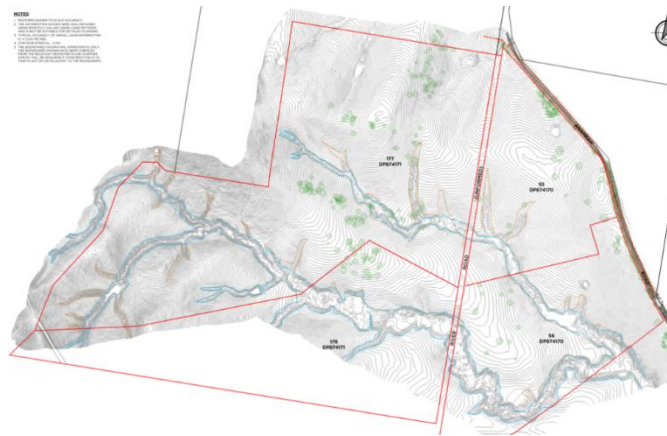


Figure 3 - LiDAR survey (prepared by Delfs Lascelles, reference: 24200, rev: A, dated: 01/08/2024).

Bushfire

The site is mapped as bushfire prone land, categories 1, 2, 3 and buffer (refer to Figure 6). The site is predominantly categorised as grassland, attributed to the previous farming and grazing uses on site. Areas of scattered trees and mature vegetation attribute categories 1 and 2, with the primary hazard classified as 'Hunter Macleay Dry Sclerophyll Forest'.

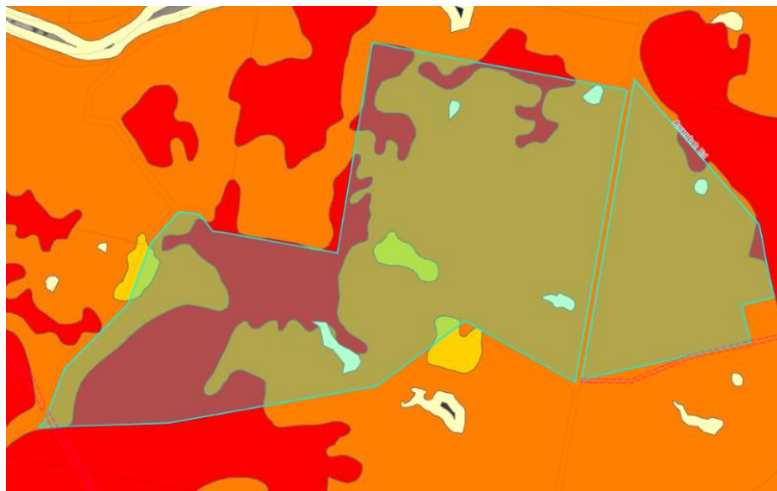


Figure 4 - GIS image. Bushfire prone land mapping.

Flooding

Whilst the site itself is not mapped as flood prone land, except for a very small portion at the southern boundary of Lot 55 (see Figure 6), the development site is subject to flood impacts, with the main access point (Anambah Road) becoming inundated during the 1% AEP flood event. Lot 55 is partially mapped as low hazard flood fringe, with velocity of less than 0.5m/s.

Figure 6.1 and 6.2 show flood impacts of the broader catchment at the 1% and 5% AEP flood events and details the inundation of Anambah Road. Modelling provided in the Flood Impact Assessment (FIA) (Reference: NL222055, dated: 28 May 2025) provides inundation of Anambah Road somewhere between the 39% AEP (1 in 2-year ARI) and 18% AEP (1 in 5-year ARI), and is cut off for approximately 44 hours during an 18% AEP event. Subsequently, the development is required to provide an alternate flood free access.

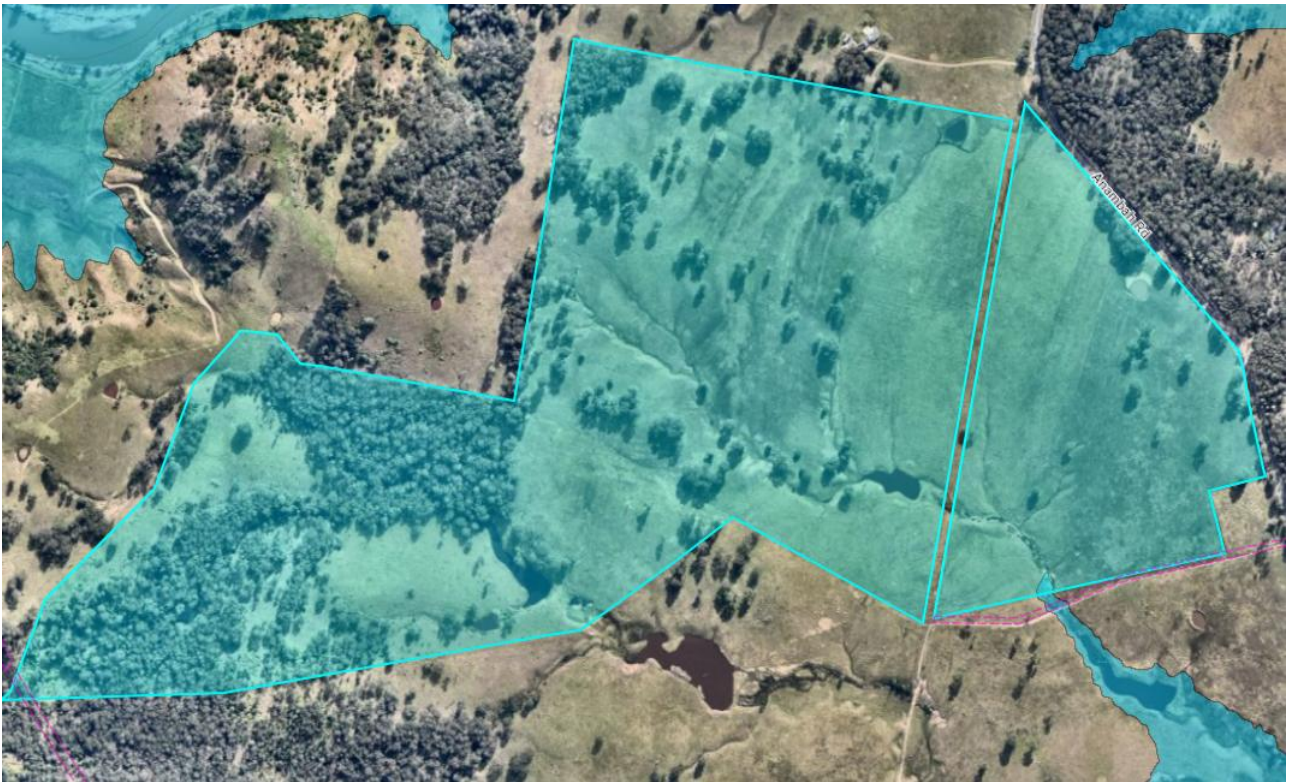


Figure 5 - GIS image. Flood prone land mapping.

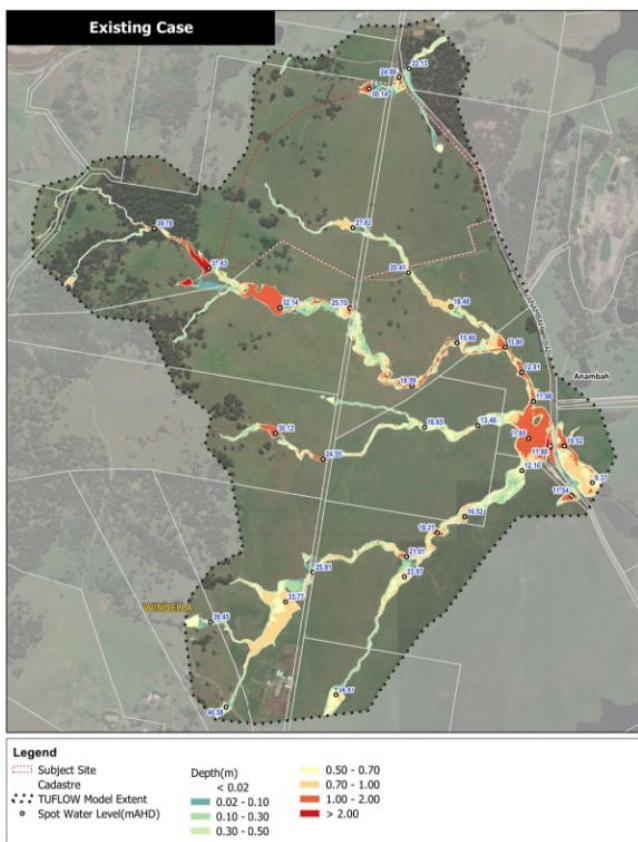


Figure 6.1 - 1% AEP flood depth

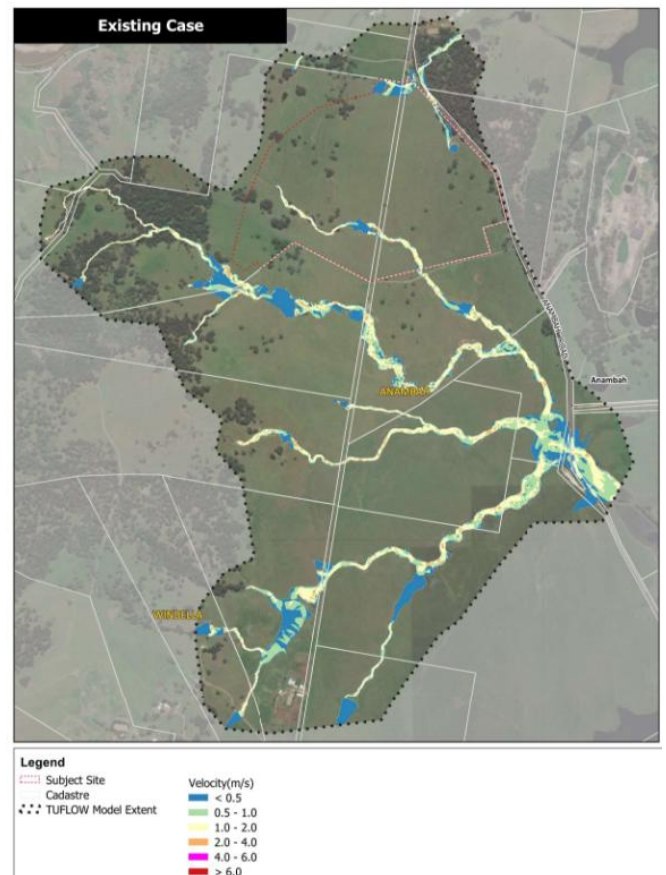


Figure 6.2 - 5% AEP Flood depth

Biodiversity

The subject site is not mapped as containing high biodiversity value. However, the western portion of the lot contains various Endangered Ecological Communities (EEC) including Hunter Stringybark Spotted Gum Ironbark Forest, Hunter Lowlands Redgum Forest Variant, Lower Hunter Spotted Gum Ironbark Forest, Hunter Stringybark Spotted Gum Ironbark Forest and Hunter Valley Moist Forest (refer to Figure 9). Under Council's Environmental Sustainability Strategy 2023, the site is identified as part of the blue / green grid and contains two biodiversity corridors. A regional corridor (Figure 10 , orange line) is shown traversing both allotments at the northern portion of the site, and a local corridor traverses south to north of lot 177 (Figure 10, purple line).

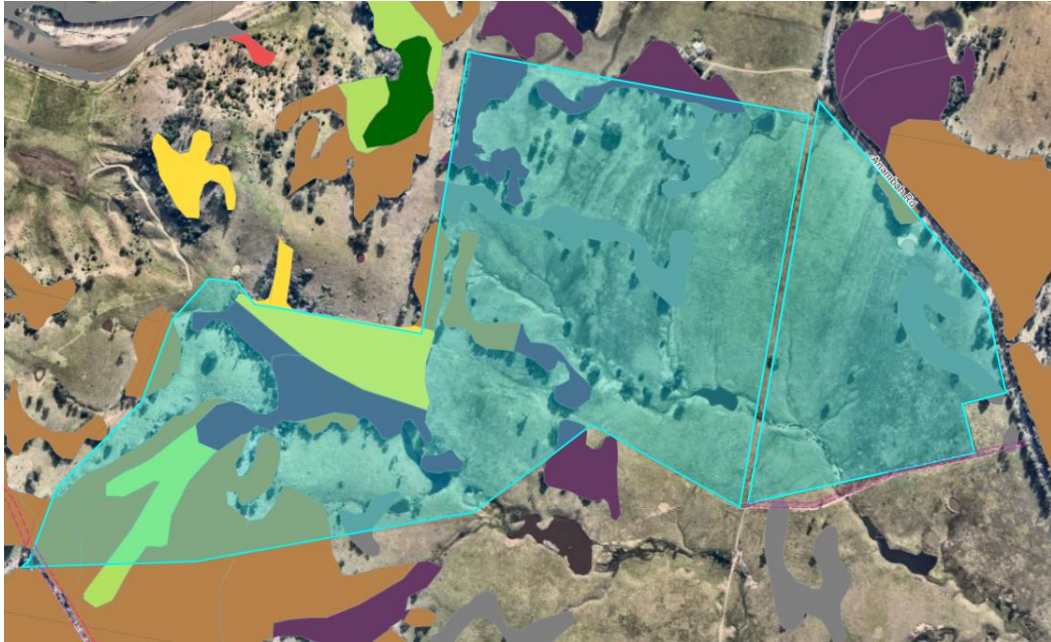


Figure 9 - GIS aerial image. EEC mapping.

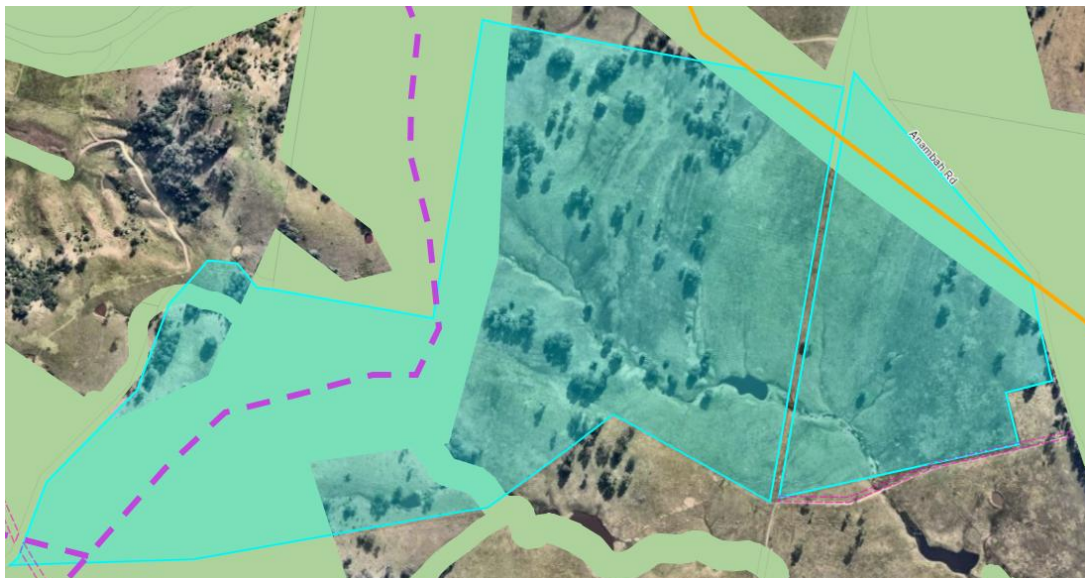


Figure 10 - GIS aerial image. Blue/green grid and biodiversity corridors.

Riparian Land

The residentially zoned portion of the site is mapped as containing two (2) natural watercourses (refer to Figure 11). The most substantial watercourse passes through the southern edge of the site. There

are three minor watercourses on the northern tip of the site. A further watercourse impacts the rural part of the site flowing into the residential land to the south and this watercourse is mapped on the MLEP 2011 Watercourse Map. Key Fish Habitat (KFH) is mapped by NSW Department of Primary Industry (DPI) – Fisheries over a 1st and 3rd order watercourse to the south of the site.

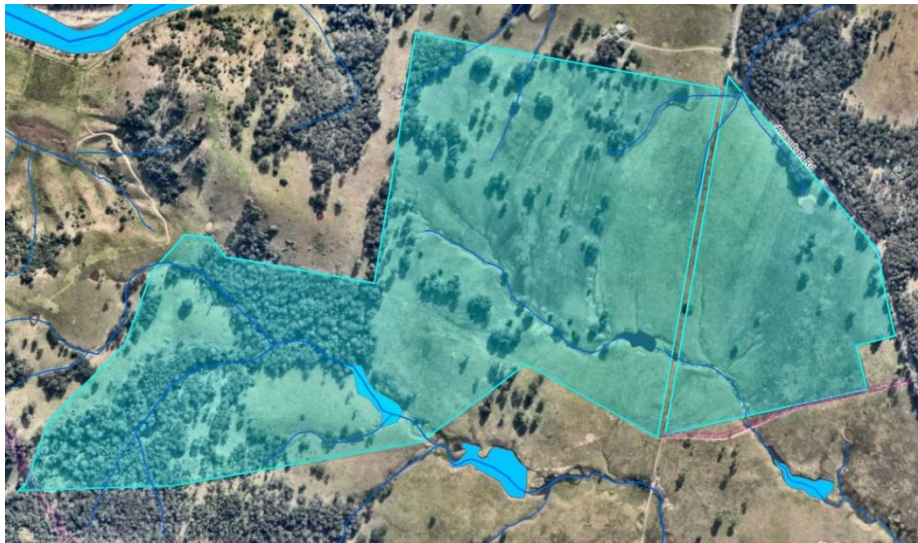
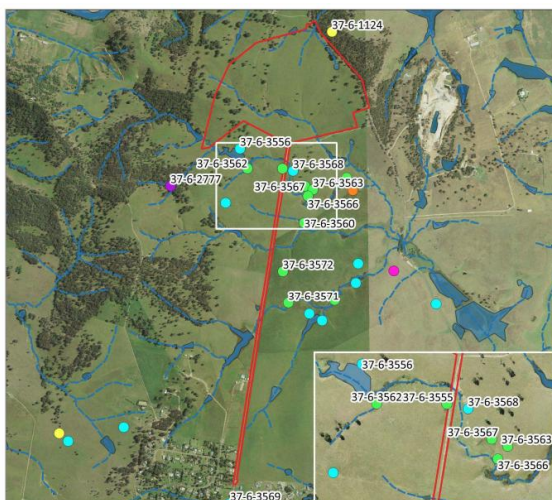


Figure 11 - GIS aerial image, water courses and key fish habitat.

Archaeology

There are no registered Aboriginal Heritage Information Management System (AHIMS) mapped on the site however several items are mapped in proximity to the site. Subsequently, an Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared with referral undertaken to Heritage NSW.

An Archaeological Survey was conducted as part of due diligence investigations for the site which identified three (3) surface artefact sites adjacent to the creek line, running through the centre of the site. The entire creek line, and the second order creek in the southwest corner of the site have been assessed as being archaeologically sensitive, with potential for subsurface archaeological material. The ACHAR concluded that the artefact sites and PADs identified within the site are required to be protected by an exclusion zone during construction; if the sites cannot be protected an Aboriginal Heritage Impact Permit (AHIP) is required. Refer to Figures 12 and 13, below.



1.2 The Locality

The Anambah URA comprises a total area of approximately 490 hectares within the western corridor of Maitland. The site was first identified as being suitable for urban development in the MUSS 2006. In the 2010 update to the MUSS the site was progressed to 'Category 1 – Residential'. The site formed the subject of a planning proposal which resulted in the rezoning of RU2 Rural Landscape zoned land to predominantly R1 General Residential in December 2020 under MLEP 2011 (Amendment No. 26). The MLEP amendment included site specific minimum lot sizes for the Anambah URA and prescribed the requirement for the future provision of suitable and safe road access to the New England Highway via Wyndella Road after 1,200 lots are delivered within the Anambah URA. The intention of the MLEP is that Anambah Road is the primary point of access for the URA prior to the connection to Wyndella Road being constructed after the delivery of 1,200 lots. Since its initial adoption in 2020, the AURA yield has increased from 3,000 allotments to 4,200 allotments.

A Development Control Plan and subsequent precinct plans are currently being drafted by Council's Strategic Planning team, anticipated to be reported to Council for public exhibition by September 2025. A preliminary draft document was circulated to AURA land holders in July of this year. A site specific Contributions Plan is also currently being prepared by Council's Contributions team.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

Consent is sought for a Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots.

The Concept Development Application (pursuant to Section 4.22 of EP&A Act 1979) encompasses 900 residential allotments, six (6) stormwater drainage basins, three (3) parks, vegetation clearing and road network, to be undertaken over five (5) stages (refer to Figure 14).



Figure 4 - Concept Plan

Referring to Figure 15 below, the development application for Stage 1 encompasses 221 residential and small lot housing allotments to be constructed in five (5) stages, as follows:

Construction Stage	Lots
1A	48 Lots + Public Reserve
1B	44 Lots
1C	47 Lots
1D	39 Lots
1E	43 Lots
Total	221 + Public Reserve

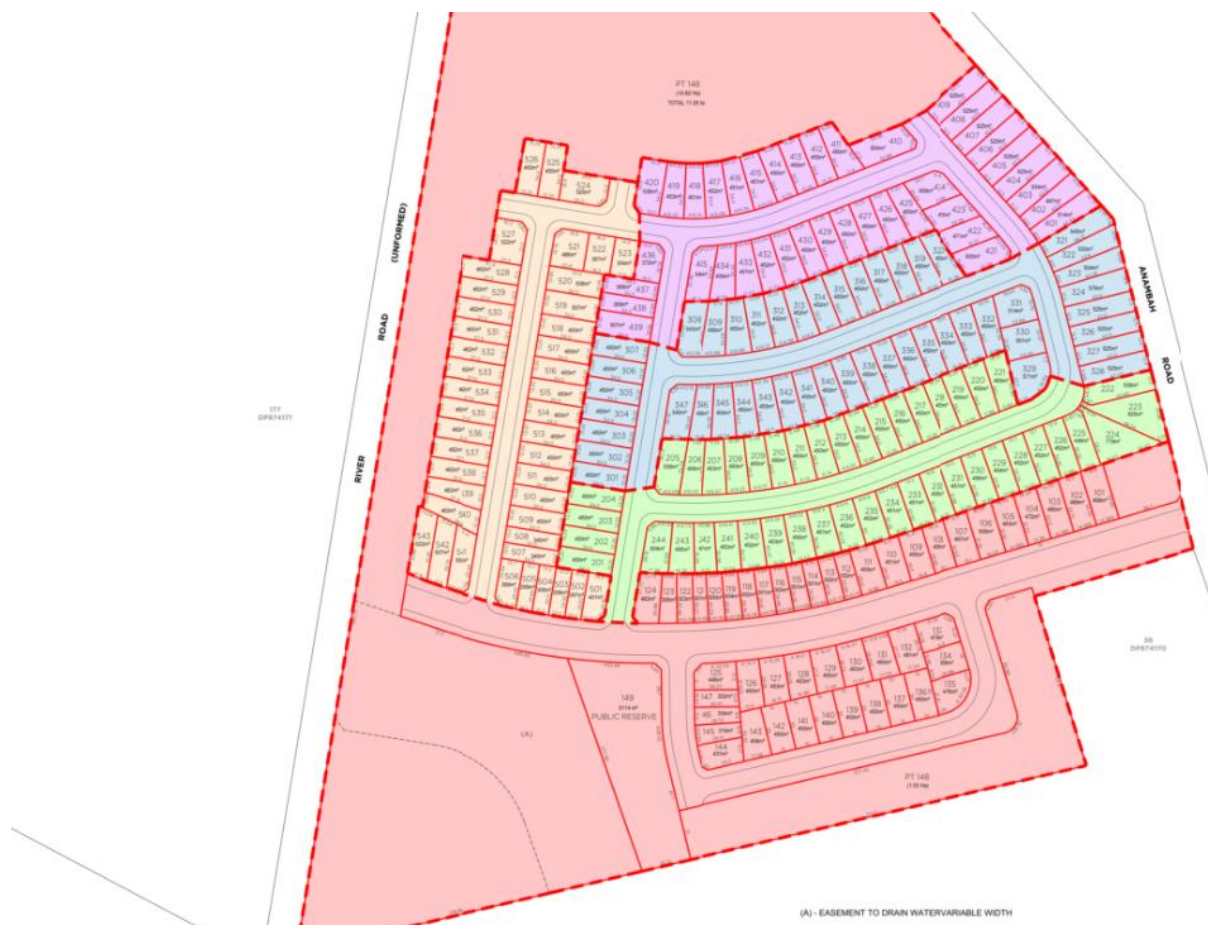


Figure 15 - Stage 1 subdivision plan

Stage 1 also encompasses the following works:

- Pedestrian pathways and cycleways;
- Construction of a portion of River Road through Stage 1;
- Gated alternate access along River Road for use during bushfire or flood events (*Figure 17*);
- Development of riparian open space corridor, including stormwater detention and water quality basins (*Figure 16*);
- Local park (*Figure 16*);
- Landscaping including street trees (*Figure 18*);
- Provision of utilities, including water, sewer, and electricity, to and within the site;
- Anambah Road upgrades including new intersection at the site entry;
- Ancillary works, including:
 - Entry feature and landscape works to be situated on private allotment;
 - Temporary Asset Protection Zones (APZs) for stage 1.

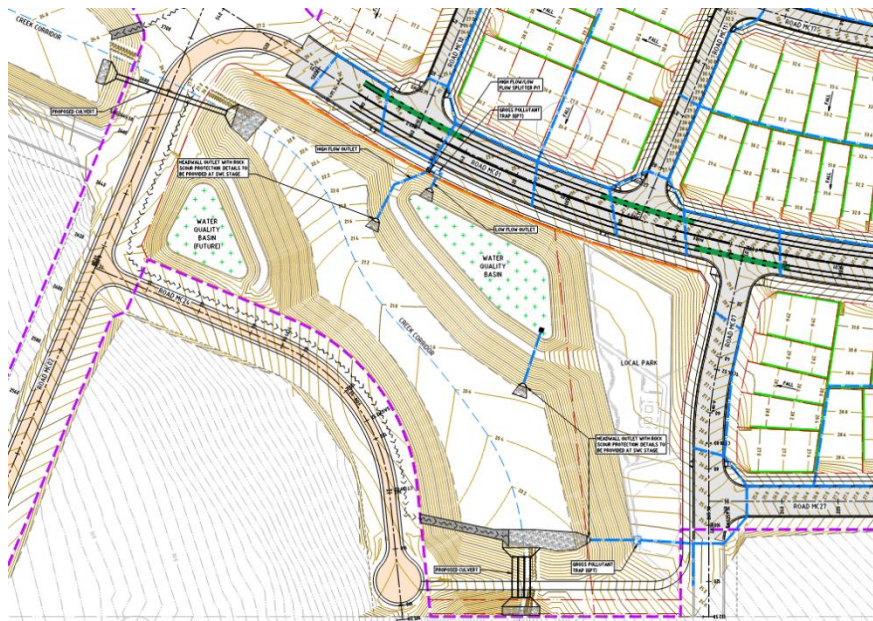


Figure 16 - Riparian corridor development including stormwater drainage basins and local park



Figure 17 - Engineering locality plan showing length of River Road (secondary access) corridor



Figure 18 - Landscape Masterplan

Table 1: Development Data

Control	Proposal
Site area	123.83ha
Clause 4.6 Requests	No
Concept Stages	5 (900 Lots, lot size range unknown).
Stage 1 Construction Stages	5 (221 Lots @ 297m ² to 5114m ²) and residue @ 11.05ha.

2.2 Background

A pre-lodgement meeting was held with Council prior to the lodgement of the application on 11 July 2024 where various issues were discussed. A summary of the key issues and whether they have been addressed by the proposal is outlined in table 2 below:

Table 2: Pre-DA Summary

Key issues	Addressed by proposal?
Concept Development Application requirements pursuant to Clause 4.23 of the EP&A Act 1979 and Clause 6.3 of the Maitland Local Environmental Plan 2011 (MLEP 2011).	Some information provided upon lodgement, required clarification and further information under RFI 1 and RFI 2.

Build to rent component and requirements under SEPP (Housing) 2021	Some information provided upon lodgement however BTR removed under DA amendment (June 2025) following RFI 2.
Maitland Development Control Plan 2011 (MDCP 2011) provisions, with reference to Chapter C.10 – Subdivision.	Not sufficiently addressed. Some supporting documentation considered relevant controls, however assessment against Chapter C10 was not provided in the SOEE or amended documents.
Split zoning, and acknowledgement of Clause 4.2C – Minimum subdivision lot sizes for certain split zones (MLEP 2011).	Acknowledged in initial DA.
Recreation spaces, park area requirements attributed to dwelling yield.	Minimal information provided upon lodgement. Information required under RFI 2.
Bushfire – identification of several non-compliances with Planning for Bushfire Protection (PBP 2019) including lack of perimeter roads. Suggested applicant contact NSW RFS for bushfire specific pre-lodgement meeting.	Not satisfactorily addressed. No pre-lodgement meeting undertaken with the NSW RFS. Subsequently, PBP non-compliance remains a key contention in the DA assessment.
Biodiversity including BDAR requirements, credit calculations, (1) <i>avoid</i> , (2) <i>minimise</i> , (3) <i>offset</i> , requirements, key fish habitat and riparian land.	BDAR provided upon lodgement, but subject to RFI 1 and RFI 2, and subsequent amended BDAR (June 2025).
Any land to be dedicated to Council is to be clearly noted on DA plans.	Not addressed.
Staging details, including Concept DA staging, Stage 1 construction stages, and infrastructure delivery.	Information provided under amended application (June 2025) following RFI 2.
Recommendation to discuss water and sewer strategy with Hunter Water Corporation prior to lodgement.	Consultation undertaken after lodgement of DA, against Council's recommendation.
Anticipated timing of Draft Area Plan and Development Contributions Plan	Noted.
Noted in the absence of a VPA or Development Contributions Plan, Council would be unable to accept dedication of recreation plan. Recommended the applicant discuss VPA letter of offer with Council's Development Contributions Team.	No VPA letter of offer provided upon DA lodgement. VPA Offer submitted to Council February 2025.
It is pivotal that the proposal makes consideration to AURA in its entirety. Attributed to the subject site being the most northern portion of the URA, the concept application needs to demonstrate that the development will not stifle or sterilise the remainder of the URA.	Not addressed upon lodgement. Information provided in response to RFI 2.
Stormwater strategy to address volume and water quality requirements per Council's Manual of Engineering Standards (MOES).	Not entirely addressed and subject to amended application (June 2025) in response to RFI 2.

<p>Flood Management and flood free access. Use of River Road will need to demonstrate several factors:</p> <ul style="list-style-type: none"> ○ Legal dedication to Council and who currently owns and right to the road. ○ Physical ability to construct a suitable access within the corridor. ○ Design speed and pavement type. ○ Culvert requirements. ○ Impact on ability for adjoining land to incrementally develop and keep access open. 	<p>Not addressed and remains a key contention in the development assessment.</p>
<p>Western Link Road – For practicality, the proponent is advised that there may be a need to build a Western Link Road at the commencement of the development, to address flood free access, utility provisioning, sequencing and other factors.</p>	<p>Applicant has not acknowledged or pursued this option.</p>
<p>Utility Corridors – The lead-in works for utilities will be a considerable matter. Extensive liaison with providers will be required and Council will need preliminary routes and corridors including any legal ownership or owner's consent/etc</p>	<p>Remains a key contention under development assessment.</p>
<p>Road design, bus routes, path and cycle ways and circulation networks.</p>	<p>Not entirely addressed and subject to RFI 2.</p>
<p>Recommendation to include more than one (1) riparian crossing near the western perimeter.</p>	<p>Not addressed. Matter raised in RFI 2 and information provided under amended application (June 2025).</p>
<p>Bulk earthworks, cut, fill and retaining walls.</p>	<p>Not addressed. Matter raised in RFI 2 and information provided under amended application (June 2025).</p>
<p>Outline of external referral bodies and lodgement documents.</p>	<p>Noted.</p>
<p>Encouraged applicant to undertake a further pre-lodgement meeting prior to lodgement of the DA.</p>	<p>Not pursued.</p>

The development application was lodged on 20 September 2024. A chronology of the development application since lodgement is outlined below in Table 3 including the Panel's involvement (briefings, deferrals etc) with the application:

Table 3: Chronology of the DA

DATE	ACTION
20 September 2024	Application lodged.
27 September 2024	Application submitted to the Panel.

27 September 2024	Referrals issued to internal officers and external agencies.
3 September 2024	Public Exhibition Commenced.
11 October 2024	Request for further information (RFI 1) issued by Council.
31 October 2024	Public Exhibition Closed.
8 November 2024	Applicant response to RFI (1) received.
21 November 2024	Meeting with Council Contributions Officer to discuss potential VPA offer.
5 December 2024	HCCRPP Kick-off briefing.
6 February 2025	Detailed Request for further information (RFI 2) issued by Council, due 3 April 2025.
17 February 2025	VPA Offer received by Council.
18 February 2025	VPA Offer acknowledgement email sent from Council to Applicant.
1 March 2025	Applicant requested extension on RFI due date (till 30 May 2025).
30 May 2025	Applicant response to RFI 2 received by Council
30 May 2025	S38 Amendment accepted by Council. Assessment period restarts.
2 June 2025	Re-referrals to external agencies.
9 June 2025	Re-exhibition commences.
23 June 2025	Re-exhibition closes.
16 June 2025	RFI (2) issued by NSW RFS.
27 June 2025	Amended bushfire threat assessment uploaded to the Portal by applicant.
1 July 2025	Bushfire assessment report addendum letter uploaded to the Portal by applicant.
1 July 2025	Re-referral to NSW RFS initiated in Portal.
11 July 2025	RFI (3) issued by NSW RFS.
15 July 2025	DPE Heritage advised Council that applicant will not be able to provide finalised ACHAR until mid-late August. Formal response from DPE remains outstanding.
18 July 2025	Bushfire assessment report, RFI response letter, Altogether Servicing Strategy and Economic assessment uploaded to the Portal by applicant.
18 July 2025	Re-referral to NSW RFS initiated in Portal.
21 July 2025	VPA letter of response sent to applicant (not supported in its current form)
31 July 2025	Meeting with Applicant to discuss Panel process and procedure.
6 August 2025	Assessment report and recommendations submitted to the HCCRPP.
13 August 2025	Council Briefing and Public Determination Meeting.

2.3 Site History

There is no DA consent history listed on the subject allotments. Neighbouring allotments, listed under the same property address, are subject to the following consents.

DA02/1870	Operational Approval	3 F Erect a Farm Shed	559 Anambah Road GOSFORT...	13/06/2002	Approved
CC02/1871	Issued	3 F Erect a Farm Shed	559 Anambah Road GOSFORT...	13/06/2002	Approved
UD100/0174	Operational Approval	3 F MACHINERY SHED	559 Anambah Road GOSFORT...	10/02/2000	Approved
UD100/0050	Operational Approval	1 E INGROUND SWIMMING POOL	559 Anambah Road GOSFORT...	28/01/2000	Approved
SE97/1003	Issued	0 E INSTALL AERATED WASTE WATER TREATMENT SYSTEM.	559 Anambah Road GOSFORT...	23/09/1997	Approved
BA97/0532	Issued	2 C ERECTION OF DOUBLE STOREY DWELLING	559 Anambah Road GOSFORT...	20/06/1997	Approved
DA97/0375	Operational Approval	1 F ERECTION OF DWELLING	559 Anambah Road GOSFORT...	09/05/1997	Approved

A Concept Development Application (DA/2025/52) for a Manufactured Home Estate (332 sites) and Stage 1 - 291 Dwelling Sites, Community Facilities and Open Space, Road Infrastructure, Services, Drainage Reserve, Landscaping and Caravan Storage Area has been lodged on the subject site and is to adjoin the residential subdivision to the west (refer to Figure 19 below). The MHE concept and Stage 1 plan includes the road network as proposed under DA 2024/763. This application is currently subject to a detailed request for further information, due in late September 2025, and remains on 'stop the clock'. Attributed to an estimated development cost exceeding \$30 million, DA/2025/52 is also to be determined by the HCCRPP.

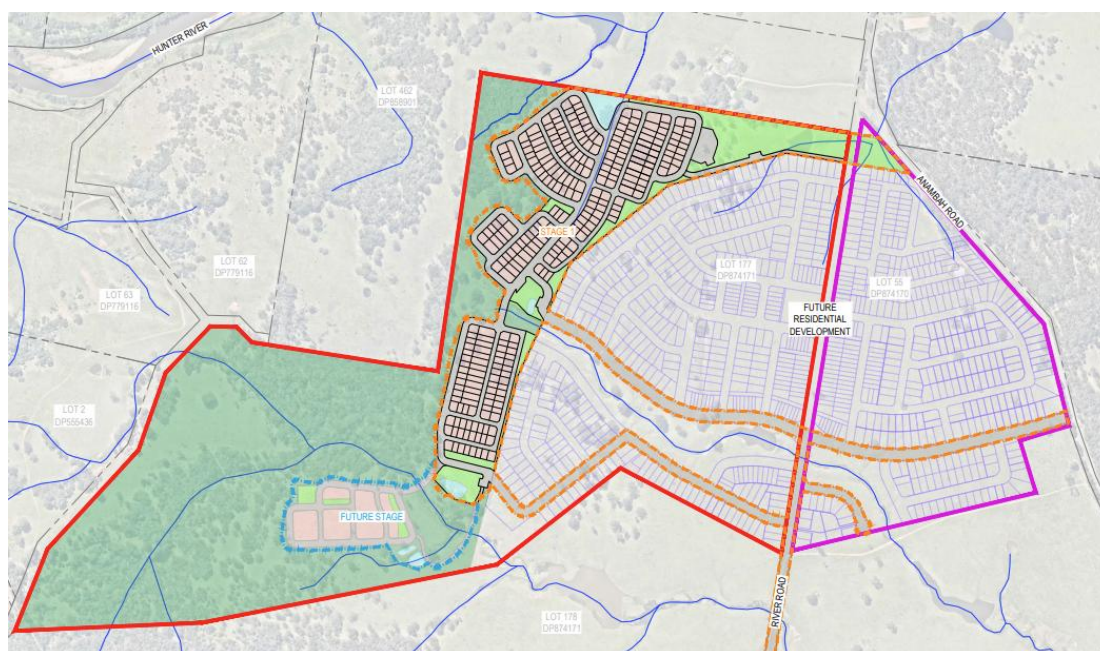


Figure 19 - Site plan of proposed MHE development – DA/2025/52 (Concept and Stage 1).

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*

- (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
- that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
 - (c) *the suitability of the site for the development,*
 - (d) *any submissions made in accordance with this Act or the regulations,*
 - (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is Integrated Development (s4.46) that of which is considered further in this report.

Integrated Development Assessment

Rural Fires Act 1997

Section 100B Fire Safety Authority

The application was lodged as Integrated development and the proposal was referred to NSW RFS. NSW RFS advised on 12 November 2024, 16 June 2025 and 11 July 2025 that additional information is required to address the following:

- Non perimeter roads and non-compliances with Table 5.3b of *Planning for bushfire Protection* (PBP) 2019 with insufficient justifications provided regarding the unique features or constraints of the subject site that would prevent or preclude the proposed subdivision from achieving compliance with the acceptable solutions for carriage width.
- Failing provision of sufficient justification, it is suggested that the subdivision be redesigned to incorporate acceptable solutions pursuant to Table 5.3b of the PBP.
- Concerns with non-compliant non-perimeter roads and subsequent hinderance for fire fighter access with simultaneous resident evacuation.
- Non-perimeter road with and on-street parking (required under MDCP 2011) results in non-compliant carriageway widths pursuant to Table 5.3b of the PBP 20219.
- Steeper effective slopes are assessed beneath the hazard to the east across the Anambah Road for the Transect T2 (east of the proposed lots 321-322 and 401-409) in the 0-5° D/S range as compared to upslope identified in the submitted bush fire report. As such, further information such as a survey plan prepared by a registered surveyor shall be provided to support the slopes assessment undertaken in the bush fire report.
- The use of locked gates for emergency access is not supported and therefore the design must be amended to include unobstructed access to allow for safe access and egress for firefighting vehicles while residents are evacuating.

A copy of the NSW RFS correspondence is attached as Attachment Y.

The application was re-referred to the NSW RFS on 18 July 2025, following provision of additional information from the applicant. A response from the NSW RFS to the latest provision of bushfire report addendum and RFI response remains outstanding as of the report finalisation.

Water Management Act 2000

Section 91 Controlled Activity Approval

The application was lodged as Integrated development and the proposal was referred to DPE Water. GTAs were issued on 4 February 2025 and revised on 24 June 2025 following referral of amended documentation.

It is acknowledged that GTAs issued by the DPE Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to the department for a Controlled Activity Approval (CAA) after consent has been issued by Council and before the commencement of any work or activity.

A copy of the DPE Water GTAs are attached as Attachment W and Attachment X.

National Parks and Wildlife Act 1974

Section 90 Aboriginal heritage impact assessment

The application was lodged as Integrated development, and the proposal was referred to DPE Heritage. A request for further information was issued on 17 October 2024, requiring provision of the following:

- Consultation records for Appendix 1;
- Archaeological survey methodology;
- Archaeological test excavation methodology and results;
- Additional mapping and figures;
- Revisions required to the Aboriginal Cultural Heritage Assessment Report to comply with guidelines and legislative requirements.

A copy of DPE Heritage correspondence is attached as Attachment AC.

The amended application was referred to DPE Heritage on 4 June 2025, however this referral was rejected as the amended application did not include a response to the beforementioned RFI.

A response from DPE Heritage remains outstanding at the time of drafting this assessment report. DPE Heritage has advised that the information is anticipated to be submitted by mid-late August. Refer to email correspondence from DPE Heritage under Attachment AC.

Fisheries Management Act 1994

Section 219 Permit

The application was lodged as Integrated development and the proposal was referred to Department of Primary Industries and Regional Development (DPIRD). GTAs were issued on 15 October 2024.

DPIRD have noted that the ongoing works proposed within unnamed 3rd order stream will trigger the dredging and reclamation provisions of the Fisheries Management Act 1994, requiring GTAs to be issued for this aspect of the proposal. It has also been identified that the proposal constitutes works in areas adjacent to KFH, including vegetation clearing, earthworks, and waterway crossings installed in first and/or second order drainage lines. The scope and scale of these works has the potential to impact upon sensitive receiving key fish habitats. Subsequently, DPIRD have provided advice on this aspect of the development.

It is acknowledged that GTAs issued by the DPIRD Fisheries do not constitute an approval under the Fisheries Management Act 1994. The development consent holder must apply to the Department for a license after consent has been issued by Council and before the commencement of any work or activity.

A copy of the DPIRD Fisheries GTAs are attached as Attachment AA.

3.1 Biodiversity Conservation Act 2016

The proposal triggers the Biodiversity Offset Scheme under the Biodiversity Conservation Act (BC Act) 2016 due to exceeding the area clearing threshold. The applicant has submitted a Biodiversity Development Assessment Report (BDAR), which provides sufficient information to assess the proposed development in accordance with the requirements of the BC Act and Biodiversity Assessment Method (BAM) 2000.

Stage 1: Biodiversity Assessment

The applicant's assessment of native vegetation on the site, including the identification of any Threatened Ecological Communities (TECs), has been undertaken in accordance with the BAM 2020. Habitat suitability for threatened species was also assessed in accordance with the BAM 2020. It should be noted that one ecosystem species, 9 flora species credit species and 19 fauna species credit species were excluded from the candidate species list. Reasonable justification has been provided for the exclusion of these species in accordance with the BAM 2000.

Stage 2: Impact Assessment

Avoid and minimise

The applicant has engaged in an iterative design process, incorporating Council's feedback to avoid some impacts to threatened species habitat, specifically squirrel glider and brush-tailed phascogale. This has been achieved by re-aligning the riparian corridor in the south-west, shifting it from cleared land to include remnant canopy within areas designated as open space. This has allowed for retention of two patches of canopy vegetation and helps to maintain broader landscape connectivity (see Figure 20). Council acknowledges that the applicant made significant changes to the development layout to retain vegetation and implement practical avoidance measures based on Council feedback.



Figure 20 - The canopy vegetation outlined in pink has been avoided to maintain habitat connectivity for the Squirrel Glider and Brush-tailed Phascogale.

However, it is important to note areas of high biodiversity value on site which have not been avoided by the proposal. In order of Council's priority these are:

- A large patch of canopy vegetation adjacent to the avoided area, known to provide habitat for both squirrel glider and brush-tailed phascogale.
- A barn owl roosting tree located on the western boundary which could easily be avoided with minor amendments to the layout.
- A large patch of canopy vegetation in the north-west, known to provide habitat for squirrel glider and brush-tailed phascogale

Overall, the applicant has made a genuine effort to incorporate Council's feedback on avoidance through an iterative design process. However, given the unusually high extent of threatened species habitat on the site, a more robust avoid and minimise strategy which fulfils the requirements of the BAM 2020 should further consider opportunities to avoid the biodiversity values listed above.

Direct Impacts

Removal of 2.88 ha of native vegetation across two Plant Community Types (PCTs), being:

- PCT 3446 Lower North Foothills Ironbark Box-Gum Grassy Forest (2.42 ha impacted);
- PCT 3433 Hunter Coast Foothills Spotted Gum-Ironbark Grassy Forest (0.45 ha impacted).
- Removal of threatened species habitat for four threatened species, being:
 - Southern Myotis – 1.90 hectares of habitat impacted;
 - Barking Owl – 2.88 hectares of habitat impacted;
 - Squirrel Glider – 2.79 hectares of habitat impacted;
 - Brush-tailed Phascogale – 2.79 hectares of habitat impacted;
- The BDAR determined that no Threatened Ecological Communities will be impacted by the proposal.

A total of 54 ecosystem credits and 199 species credits requires an offset.

The extent of impacts to native vegetation are considered to have been appropriately assessed in accordance with the Biodiversity Assessment Method (BAM) 2020.

Indirect and Prescribed Impacts

The extent of indirect and prescribed impacts have been appropriately assessed in accordance with the BAM 2020.

Serious and Irreversible Impacts

The BDAR indicates no impacts associated with the proposal are likely to be serious and irreversible. This has been appropriately assessed in accordance with the BAM 2020.

3.2 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below. Where not explicitly detailed, it is considered those instruments or policies are not relevant to the proposal.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021;*
- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *Maitland Local Environmental Plan 2011.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 4** and considered in more detail below.

Table 4: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	Chapter 2: Vegetation in non-rural areas Chapter 4: Koala Habitat Protection 2021	Y
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 as it comprises of development that has an estimated development cost of more than \$30 million. 	Y
SEPP (Resilience & Hazards)	Chapter 4: Remediation of Land <ul style="list-style-type: none"> Section 4.6 - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions. 	Y
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. Section 2.121(4) – Traffic-generating development 	N
State Environmental Planning Policy (Resources and Energy) 2021	Chapter 2: Mining, petroleum production and extractive industries <ul style="list-style-type: none"> 2.19 Compatibility of proposed development with mining, petroleum production or extractive industry 	N
Proposed Instruments	No compliance issues identified.	Y
MLEP 2011	<ul style="list-style-type: none"> Clause 2.3 – Permissibility and zone objectives Clause 2.6 – Subdivision Clause 4.1 – Minimum subdivision lot size Clause 5.10 – Heritage Conservation Clause 5.21 – Flood planning Clause 6.2 – Public utility Infrastructure Clause 6.3 – Development Control Plan Clause 6.4 – Relationship with Part and remainder of Plan Clause 7.1 – Acid sulfate soils Clause 7.2 – Earthworks Clause 7.4 – Riparian land and watercourses Clause 7.8 – Subdivision of land in Zone R1 in Anambah Urban Release Area 	N

MDCP 2011	<ul style="list-style-type: none"> • Chapter B.3 – Hunter River Flood Plain • Chapter B.5 – Tree and Vegetation Management • Chapter B.7 – Environmentally Sensitive Land • Chapter C.10 – Subdivision • Chapter C.12 – Crime Prevention Through Environmental Design • Chapter F2 – Residential Urban Release Areas 	N
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Consideration of the relevant SEPPs is outlined below:

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2: Vegetation in non-rural areas

The proposal triggers the Biodiversity Offset Scheme under the Biodiversity Conservation Act (BC Act) 2016 due to exceeding the area clearing threshold. The applicant has submitted a BDAR, which provides sufficient information to assess the proposed development in accordance with the requirements of the BC Act and Biodiversity Assessment Method (BAM) 2000. Further consideration of vegetation clearing is provided under section 3.1 of this report.

Chapter 4: Koala Habitat Protection 2021

The applicant provided a Koala Assessment Report in accordance with Chapter 4 of the Biodiversity and Conservation SEPP 2021. The report states that despite presence of suitable habitat, there was no recent evidence of Koala presence in or around the Site and there are no recorded koala sightings within 2.5 km of the area within the last 18 years. The report concludes that it is not considered necessary to prescribe monitoring/adaptive management plans or compensatory measures for the proposal. The applicant has accurately applied the provisions of Chapter 4 of the Biodiversity and Conservation SEPP 2021.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is identified as regionally significant development under 2.19(1) Regionally significant development and Schedule 6 of the SEPP, due to an estimated development cost exceeding \$30 million. The Panel will be the consent authority for the application.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. In order to consider this, a Preliminary Site Investigation ('PSI') has been prepared for the site. It is noted that the report has not been prepared pursuant to Council's Contaminated Land Policy, which requires reports to be prepared, or reviewed and approved by, a certified consultant.

In any case, the report was assessed by Council's Contaminated Land Officer who finds the reports conclusion to be reasonable: *Based on the results of the site history review, site inspection and*

analytical results, the Site is considered to present a low risk of contamination and is suitable for residential land use, subject to the development and implementation of an unexpected finds protocol during redevelopment.

The site has been used as grazing land, which is authenticated by historical records, aerial photos, historical maps, site walkover, and results from sampling. There does not appear to have been any structures or infrastructure within the site, and the site walkover and test pitting did not show any fly tipping or imported fill material. The PSI outlines samples taken for analysis from some of the 40 test pits, which were below adopted criteria (analytes were Heavy metals, OCP, PCB, Phenols, PAH, TRH and BTEXN AF/FA and Bonded Asbestos).

The site is 69 Ha. In the Sampling Design Guidelines, minimum sample locations for grid sampling across a site only goes up to 5 ha, where the minimum number of locations is 55. This site, being larger and having less sampling locations, could be seen as a non-compliance with the guidelines. However, the NSW EPA (2020) Consultants Reporting on Contaminated Land provides *“where complete site history clearly shows that activities have been non-contaminating, there are no impacts from off-site contamination sources, and observations do not indicate any potential for contamination, there may be no need for further investigation or site sampling.”* The PSI is considered to have provided an acceptable amount of detail in this regard.

It should be noted that the staged nature of development at the site would mean that there is a need to ensure that no new activities (such as fly tipping) have occurred before approving the next stage. This could be addressed via conditions of consent.

The PSI has been reviewed and concluded the land is suitable for residential use in terms of soil contamination. The Site is considered to present a low risk of contamination and subject to the development and implementation of an unexpected finds protocol during redevelopment, and ongoing assessment on new activities at each DA stage, is considered suitable for the intended use.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48(2) (Determination of development applications—other development) – electricity transmission

Pursuant to clause 2.48(2) of this Instrument, before determining a development application for development to which this section applies, the consent authority must give written notice to the electrical supply authority for the area in which the development is to be carried out and take into consideration any response to the notice.

The development application and subsequent amendment was referred to Ausgrid in accordance with this Clause. The advisory letter is provided in Attachment T, and notes that Ausgrid does not object to the proposal provided; the development adheres to Ausgrid electrical standard (ES)1, further advice is obtained from Ausgrid for the connection to the adjacent electricity infrastructure, conduit installation requirements, guidelines for vegetation near powerlines, and works in proximity to existing overhead powerlines and underground cables.

Section 2.122(4) - Traffic-generating development

Under Section 104 Traffic Generating Development and Schedule 3 Traffic generating-development to be referred to TfNSW, as the development proposes the subdivision of land of more than 200 or more allotments where the subdivision includes the opening of a public road.

TfNSW provided a response to Council dated 30 October 2024 and 26 June 2025, following referral of an amended development application (refer to Attachment Z). The most recent advisory letter notes TfNSW are unable to properly assess the potential impacts of the transport network due to insufficient information, noting the following:

Stage 1

Inconsistencies in the updated SIDRA model, including but not limited to:

- Trip generation rates;

- Clarification of where eastbound trips reduce between River Road and Anambah Road;
- U-Turn movements have not been accounted for in the model, noting restricted accesses on NEH;
- No background growth rate has been applied to any local roads (ie. Anambah Road or Shipley Drive);
- Evidence should be provided that Council supports River Road to be used as an emergency access;
- Clarification and justification for proposed restriction of right-turn movement from River Road;
- River Road and NEH intersection to be assessed with the current intersection configuration;
- River Road and New England Highway intersection analysis base case should be 2028 model, with additional scenarios;
 - 2028 Base Case;
 - 2028 Base Case + Development Traffic (Stage 1);
 - 2038 Base Case (Design Horizon);
 - 2038 Base Case + Development Traffic (Stage 1);
 - 2038 Base Case + Development Traffic (Stage 1 + any additional lots approved);
- River road/NEH 2028 AM without development traffic shows the intersection fails. Mitigation measures will be required if this intersection is to be approved as emergency access.

Concept Plan

As previously advised, TfNSW has no committed funding, or project, for the delivery of traffic signals at the Anambah Rd/New England Highway intersection. As such, there will be a threshold for land release if the traffic signals have not been delivered prior to any future development stages.

Accordingly, the application in its current form is not supported by TfNSW as the applicant has not demonstrated the existing road network, subject to upgrades, is able to accommodate the increased traffic generated by the proposed subdivision.

State Environmental Planning Policy (Resources and Energy) 2021

Chapter 2: Mining, petroleum production and extractive industries

In response to Council's detailed RFI, the applicant provided additional commentary against the provisions of this instrument. It is noted that Section 2.19 of this instrument is applicable to the development, given the proximity to an existing, operational quarry at 75 Valley Street Gosforth. Section 2.19 of the SEPP requires the consent authority to:

- (a) *consider—*
- (i) *the existing uses and approved uses of land in the vicinity of the development, and*

The site at 75 Valley Street, Gosforth has approval for use as an extractive industry under DA 95-127 (and its subsequent modification). The consent provides approval for the following activities:

- Approval for extraction of up to 770,000 tonnes of rhyolite with a maximum production volume of 30,000 tonnes per year resulting in an expected operational lifespan of 25.7 years.
- Blasting shall be limited to two (2) separate days per year. Blasting shall not be carried out on days with low and heavy cloud cover; and/or, during winds above 6 metres per second.
- Extraction operations (including drilling, blasting, crushing and screening, however, excluding removal of crushed rock from the quarry) shall be limited to two seven-day periods per year.
- Removal of crushed rock from the quarry shall only occur during two periods of no more than fourteen (14) working days in any 12 month period (the first seven days being inclusive of extraction operations).
- Maximum of 28 days activity per year for extraction operations and removal of crushed rock from quarry.

- The number of daily truck movements shall be limited to a maximum of 14 truck movements per hour. This condition applies to laden or unladen trucks.

(ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*

The quarry is subject to the conditions specified in DA 95-127 including duration and timing of extraction operations and utilises an established gravel access road to Anambah Road to transport material to and from the site. The proposed development will not limit access to or impede assessment of these resources and will not significantly impact on current extraction activity.

With respect to future extraction activity, DA 95-127 was approved in March 2001 and with an expected operational life of 25.7 years. The consent has been operational for approximately 25 years and as such, the quarry is expected to have exhausted the majority of the approved extraction volume. When considering the limited remaining operational life of the quarry under DA 95-127, the proposed development is therefore not expected to have a significant impact on future extraction activity.

(iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*

DA 95-127 prescribed several mitigation measures to ensure that quarry operations did not cause unacceptable pollution, cause unacceptable risk to public health or impact on the amenity of the surrounding residents the obligations under the consent required limited days of operation, monitoring of meteorological conditions, restrictions on operation under certain circumstances, this together with the likely limited supply is considered to minimise any impact on future dwellings, further supporting that the quarry is unlikely to have a significant impact on the future development of the site.

(b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a)(i) and (ii), and*

It is considered that the development will provide a public benefit by developing a zoned URA for general residential purposes. Given the expected operational life of the approved quarry, and the commencement of development in the AURA,

(c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).*

The subject development does not make concerted effort to avoid or minimise land compatibility with the current quarry operations. This is of most concern for the Concept Application, noting proposed stage 1 is outside of the quarry buffer zones. The applicant notes that the further consultation can be undertaken as the relevant stages of the development progresses, however the Concept Design as currently proposed provides no consideration to avoid or minimise land use conflict by way of implementing buffer zones or building envelopes. Subsequently, it is anticipated that future staged DAs would not only require ongoing consultation, but potentially amendment to the approved Concept, to ensure compliance with this instrument.

Maitland Local Environmental Plan 2011

The relevant local environmental plan applying to the site is the Maitland *Local Environmental Plan 2011* ('the MLEP'). The aims of the MLEP include:

- (aa) *to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) *to facilitate ecologically sustainable development of land and natural assets,*
- (b) *to protect and maintain the extent, condition, connectivity and resilience of natural ecosystems, native vegetation, wetlands and landscapes, including those aspects of the environment that are matters of national environmental significance within Maitland in the long term,*

- (c) to properly plan and protect human-made resources of Maitland including buildings, structures and sites of recognised significance which are part of the heritage of Maitland,
- (d) to protect, enhance or conserve the natural resources of Maitland including the following—
 - (i) areas of high scenic rural quality,
 - (ii) productive agricultural land,
 - (iii) habitat for listed threatened species and endangered ecological communities,
 - (iv) minerals of regional significance,
- (e) to create liveable communities which are well connected, accessible and sustainable,
- (f) to provide a diversity of affordable housing with a range of housing choices throughout Maitland,
- (g) to allow for future urban development on land within urban release areas and ensure that development on such land occurs in a co-ordinated and cost-effective manner,
- (h) to concentrate intensive urban land uses and trip-generating activities in locations most accessible to transport and centres, strengthening activity centre and precinct hierarchies and employment opportunities,
- (i) to ensure that land uses are organised to minimise risks from hazards including flooding, bushfire, subsidence, acid sulfate soils and climate change,
- (j) to encourage orderly, feasible and equitable development whilst safeguarding the community's interests, environmentally sensitive areas and residential amenity.

The proposal is inconsistent with aims (d), (e), (g), h), (i), and (j), for reasons detailed throughout this report.

Zoning and Permissibility

The development is for the subdivision of land, including the creation of 900 residential lots within the R1 zone, 1 residue lot of land in the RU2 zone. Associated with the residential subdivision will be ancillary works including land clearing, earthworks, civil works, drainage, connection to services, and landscaping including works in the riparian zone.

The development site is zoned R1 Residential and RU2 Rural Landscape under the MLEP 2011 (refer to Figure 21). Subdivision of land in the R1 and RU2 zones is permissible with consent subject to compliance with Clause 4.1 of the MLEP 2011. With the exception of the western perimeter road, all development associated with the URA is contained within the R1 – General Residential zone. The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

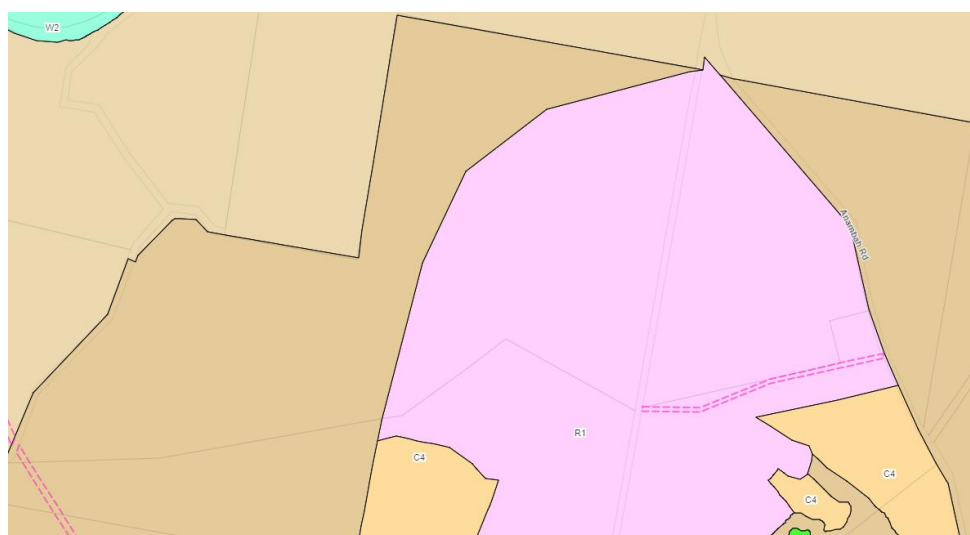


Figure 21 - GIS mapping, LEP zoning map

The objectives of the R1 zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for a range of non-agricultural uses where infrastructure is adequate to support the uses and conflict between different land uses is minimised.*

The proposed development does not meet the R1 zone objectives as it:

- Does not address the housing needs of the community in terms of providing diversity of housing choice;
- Lacks variety of housing types and densities with majority of the lots having an area of 450 to 600m²;
- Does not enable other land uses to provide facilities or services to meet the day-to-day needs of residents.

The development includes minor works (vegetation clearing for APZs and construction of a perimeter road) proposed within the RU2 portion of the site to support the development on the R1 zoned land. It is considered that despite these minor works, the predominant residue of RU2 land will remain to function in accordance with zone objectives. Whilst it is Council's preference that the subdivision wholly reside in the R1 portion of land, the location of the road and clearing has been carefully considered to mitigate environmental impact. Furthermore, a road is a permissible development in the RU2 zone.

Subsequently, vegetation clearing and road construction within the rural portion of the allotment is acceptable upon merit.

Clause 4.1 – Minimum subdivision lot size

The clause applies to the subdivision of any land shown on the *Lot Size Map (Figure 22)*, and requires any lot resulting from a subdivision of land to not be less than the minimum lot size shown on the *Lot Size Map*. R1 General Residential zoned land is subject to a minimum lot size of 450m² (identified as G on the minimum lot size map) RU2 Rural Landscape zoned land is subject to a minimum lot size of 40ha (identified as AB2 on the minimum lot size map).

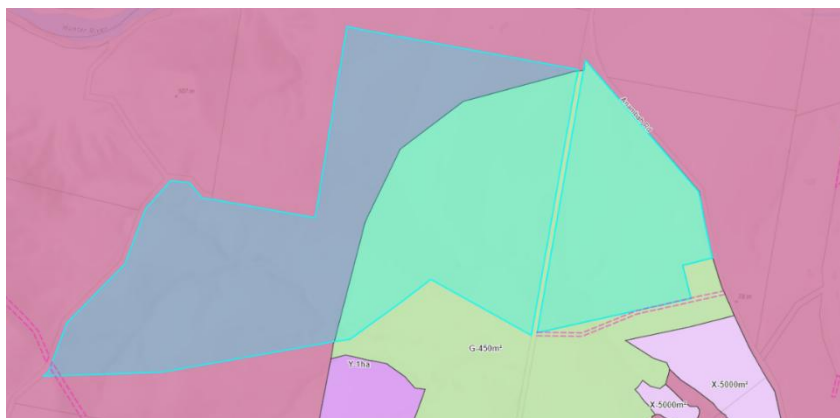


Figure 22 - GIS mapping, minimum lot size map

Lots proposed within the R1 – General Residential portion of land range from 297m² to 11.05ha (residue), with majority of residential lots between 450m² and 600m². Lots below 450m² are proposed and considered under Clause 7.6 of this instrument.

RU2 zoned land will be contained in one allotment, measuring approximately 58.9ha, being above the minimum lot size of 40ha. It is noted that the applicant has not provided a plan nominating the resultant lot size, and the 58.9ha was determined from Council's GIS mapping.

Clause 5.10 – Heritage Conservation

The development site is not listed as a heritage item nor being contained within a heritage conservation area under Schedule 5 of the MLEP2011. An inspection of the development site did not identify any buildings, structures or works warranting further assessment for determining heritage significance.

Sub-clause (8) states the consent authority must, before granting consent:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

An ACHA (dated 29 August 2024, prepared by Heritage Now Pty Ltd) was submitted with the original development application. The proposed subdivision area of the subject site was surveyed in December 2023 by Heritage Now and Mindaribba Local Aboriginal Land Council (MLALC). This survey identified three artefact sites along the creek terrace of a first order drainage line which runs through the Project Area. As a result, the entire creek terrace was identified as a sensitive landform and an area of Potential Archaeological Deposit. A subsequent survey was undertaken in July 2024 by Heritage Now and MLALC for the proposed River Road Access Route. There are several previously recorded sites south of the Project Area. AHIMS 37-6-3568 has surface artefacts and potential archaeological deposit (PAD), the PAD partially overlaps the road corridor. AHIMS 37-6-3555 PAD and AHIMS 37-6- 3572 are outside the road corridor. No new sites were identified in the Road River Access Route. Various recommendations have been made in the ACHA, including acknowledgement of requirement for an AHIP. The application was referred to DPE Heritage pursuant to Section 90 of the *National Parks and Wildlife Act 1974*. DPE Heritage issued an RFI for a revised ACHA, that of which remains outstanding.

Pursuant to subclause 8(b), MLALC were notified of the development application on 27 September 2024 and amended application on 4 June 2025. No response from MLALC has been received to date.

Clause 5.21 – Flood planning

The objectives of this clause including minimising the flood risk to life and property and enabling the safe occupation and efficient evacuation of people in the event of a flood. Subsequently, development consent must not be granted unless the consent authority is satisfied that the development:

- a) is compatible with the flood function and behaviour on the land, and*
- b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties, and*
- c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and*
- d) incorporates appropriate measures to manage risk to life in the event of a flood, and*
- e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.*

The southern side of the site is impacted from Hunter River 1% AEP flood extent and the flood level is 19.90m AHD at the boundary. The total catchment size is 555ha and it generates significant runoff downstream and overland flooding within and outside of the subject development extent. It is noted that Anambah Road becomes inundated during the 1% AEP flood. A Flood Impact and Risk Assessment report has been submitted with the application, which has been considered against provisions of this clause. Council is not satisfied the development meets 5.21(2)(a)-(d), with specific reference to:

- The flooding extent has not been provided on the Civil Engineering Plan. The localised flooding generated from the catchment shall be contained within the riparian corridor lots. The Civil Engineering Plans shall clearly indicate 1% AEP, and Flood Planning extent to demonstrate the residential lots are not affected.
- The detail design of the Culvert, Detention Basins and Roads, within the flooding extent shall be in accordance with the MOES and the DCP. Also, 1% AEP flood extent and level at each hydraulic structure is to be included in the report or Engineering Plans.
- The pre-to-post comparison in FIRA report indicates proposed hydraulic structures have adverse impacts in some of the areas. The applicant needs addressing this matter with further clarifications to comply with the LEP and DCP requirements.
- Regarding impact of development on projected changes to flood behaviour as a result of climate change, the FIRA has considered 1 in 500 AEP as a proxy for climate change. However, it is recommended that all assumptions regarding climate change and flood scenarios align with the most recent guidelines (ARR 2019) in the flood modelling.
- An emergency management plan, including flood warnings, evacuation route, and preparedness strategies, should be developed and approved in consultation with the SES. This should be drafted and approved prior to DA approval.
- River Road is proposed as the evacuation route. Council has raised concerns with this approach, of which is substantiated by comments from TfNSW (see above). Further, SES has recommended the River Road access is to remain publicly accessible and avoid any obstacles to emergency evacuation (ie. locked gates) with reference to the flash flooding nature of the local catchment and associated little warning time. The development proposes a lockable gate to be situated at Road MC01. Subsequently, Council is not satisfied that the development will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.

Noting the above, the development in its current form does not adhere to clause 5.21.

Clause 6.2 – Public utility Infrastructure

Notice of Arrangements issued by HWC on 2 May 2024 noted that although there is sufficient capacity in Hunter Water's trunk water supply network and trunk wastewater network, there is insufficient capacity in the local network to service the development. The development site was included in both water and waste water Servicing Strategies for the Anambah URA, however the strategy only included general servicing requirements for the subject site, including of water pumping station and waste water pumping stations. It was requested that the applicant engage an accredited design consultant to prepare a developer funded addendum to the strategy, including a draft reticulation layout, to determine the specific servicing arrangement for the subject development site. The strategy addendum was required to be submitted to HWC for review.

An updated Notice of Arrangements has not been issued by HWC, however email correspondence from HWC (dated: 22 May 2025) advises that Hunter Water will ensure water and wastewater assets are delivered to service staged development prior to issuing a Compliance Certificate under Section 50 of the Hunter Water act 1991. Hunter Water has no objection to a DA Consent being issued, provided the following condition is included:

Evidence must be submitted to Council that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Act 1991 for the supply of water and sewer infrastructure for this development. Such evidence must be submitted to Council prior to the release of the Subdivision Certificate.

Despite the above, on 18 July 2025 Council was provided an alternate servicing strategy (Sustainable Utilities Servicing Strategy, dated: 17 July 2025, prepared by Altogether Group). This strategy outlines arrangements for a utility scheme under the *Water Industry Competition Act 2006* for management of drinking water, wastewater and recycled water servicing. It is unclear how this report is to integrate with HWC servicing of the site, noting this report outlines a differing approach to the advice issued by HWC (May 2025) and the amended application (June 2025). Furthermore, the late provision of the Sustainable Utilities Servicing Strategy has not provided Council sufficient time to review and assess the material, and it is subsequently unclear to what extent this clause is satisfied.

In terms of electricity, Ausgrid has not raised any issues with the connection of the development to its grid subject to a connection application being lodged at an appropriate time.

Refer to HWC Notice of Arrangements (Attachment U), HWC email advice (Attachment V), Sustainable Utilities Servicing Strategy (Attachment AD) and Ausgrid advice (Attachment T).

Clause 6.3 – Development Control Plan

A Development Control Plan is currently being drafted by Council, anticipated for public exhibition in September. Notwithstanding, Section 4.23 of the EP&A Act specifies that concept development applications can serve as an alternative to a DCP required by an environmental planning instrument. Pursuant to Section 4.23(2) and (3):

(2) [If] an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.

(3) Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.

The lodgement of the subject Concept application is to address Clause 4.23(2) of the EP&A Act 1979. The Concept Plan seeks to address the provisions of Clause 6.3(3) of the MLEP 2011 as outlined in the Table 5 below:

Table 5: Clause 6.3 Assessment

Subclause	Applicant comment (SOEE)	Council comment
(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,	Complies – a staging plan is provided as part of the application. The first stage has the sequenced delivery of lots.	A staging plan was provided upon lodgement and revised in the amended DA (June 2025). Whilst there is no objection to the staging of the subject concept DA, concerns remain as to upgrades proposed to River Road, and the potential impact on sequencing for the remainder of the URA. Servicing issues remain unresolved.

<p>(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,</p>	<p>Complies – the Project is supported by a TIA and Urban Design Report that identifies the transport movement hierarchy within the Site and the surrounding road network. Active modes of transport are supported through the provision of multiple shared paths, bike lanes and wider footpaths. The masterplan has been strategically designed to incorporate road widths that allow for the movement of buses within the Site to promote access to public transport. Circulation routes are shown in detail within the TIA.</p>	<p>The transport movement hierarchy has been prepared based on the Transport Impact Assessment (TIA) submitted with the original DA and revised under the DA Amendment (June 2025). The TIA and subsequent transport movement hierarchy is not supported by TfNSW or Council in its current form.</p>
<p>(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,</p>	<p>Complies – the proposal is supported by an overarching landscape strategy that promotes the enhancement of riparian areas through macrophyte planting along stream edges and stormwater basins.</p> <p>This landscaping strategy also includes durable street tree plantings that provide interesting season foliage colour and contrasts enhancing the public and private domains within the Site.</p>	<p>Throughout the assessment it was recommended that the applicant update the original bushfire assessment to allow for increased canopy and mid storey planting within the riparian area. This would better align with the provisions of this clause, and the MDCP 2011.</p> <p>The amended bushfire assessment presents inconsistencies in the assessment of the riparian corridor and does not align with the revegetation proposed in the Riparian Vegetation Management Plan.</p> <p>It is important that the applicant resolves the inconsistencies within the amended bushfire assessment, particularly in relation to the proposed Riparian Vegetation Management Plan and its alignment with Council's LEP and DCP requirements. Any updates to the vegetation classification of the riparian corridor may alter the required Asset Protection Zone distances and could subsequently impact the overall development layout.</p>
<p>(d) a network of passive and active recreational areas,</p>	<p>Complies – The Project includes multiple passive and active recreation areas as shown in the concept masterplan. In Stage 1, these recreation areas are two landscaped areas that include playgrounds, seating and</p>	<p>Three (3) public reserves (parks) are proposed in the Concept Plan. This was increased in the DA amendment because of an RFI from Council's Community and Recreation team. Whilst the increase from two (2) to three (3)</p>

	<p>sheltered areas with access to bike racks and bins. These landscaped areas are suitably located within the development and are accessible by shared paths within the proposed road network.</p>	<p>parks is supported, concerns are raised with regard to proposed park location and design, primarily relating to topography and CPTED concerns:</p> <ul style="list-style-type: none"> • The proposed central park is undersized for the area and should be expanded by removal of lots on the western edge. • The proposed stage 1 riparian park is not preferred as there is a drop in elevation which interferes with passive surveillance and creates CPTED concerns. <p>The passive recreation areas proposed within the riparian corridor is supportable subject to detailed designs (footpaths, landscaping, etc) which would be required to be provided for each staged DA.</p>
(e) stormwater and water quality management controls,	<p>Complies – the proposal is supported by a stormwater and water quality management plan within the engineering report prepared by Northrop. The measures adopted in the management plans include the on-site detention in the first order stream and end of line water quality treatment.</p>	<p>A stormwater and water quality management plan has been provided for the original DA and revised for the Amended DA (June 2025). Sufficient details have been provided to ensure the proposal does not impact upstream/downstream catchments, works within URA catchment drainage, has adequate space for stormwater facilities and does not take capacity out of downstream catchments to allow further development. The stormwater and water quality management controls are considered suitable subject to further details under staged DAs and subsequent subdivision works certificates.</p>
(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,	<p>Complies – the proposal is supported by technical documents that identify environmental hazards within and surrounding the site and provide appropriate mitigation measures identified in this Statement.</p>	<p>Amelioration of natural and environmental hazards has not been satisfactorily addressed. The impacts of bushfire and flooding, including the safe evacuation from the site, remains a key contention. To this point, the application is not supported in its current form.</p>

(g) detailed urban design controls for significant development sites,	Complies – the proposal is supported by an Urban Design Report that stipulates Site Specific Design Controls used to inform the Concept Master Plan. The controls used have been designed in accordance with the Maitland Development Control Plan with slight variations that are identified in the Urban Design Report.	The Urban Design Report (UDR) (amended June 2025) includes building envelope plans for the proposed small lot housing typology. The building envelope plans stipulate setbacks for front, side and rear boundaries, articulation zones and private open space areas. It is proposed that these building envelopes be implemented via section 88B registered on the title of each allotment.
(h) measures to encourage higher density living around transport, open space and service nodes,	Complies – the concept masterplan makes provision for medium density housing which aligns with the current and proposed access to transport.	The TIA and UDR details the location of small lot housing products within 200m of recreation areas, pursuant to Clause 7.8 of the MLEP. It is noted that no additional measures, beyond that currently provided under the MLEP, encourages higher density within the concept plan.
(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,	Complies – No neighbourhood or commercial uses proposed.	No site-specific measures have been proposed to accommodate neighbourhood commercial and retail uses. The applicant seeks to rely upon current MLEP permissibility and Clause 7.8 of the MLEP.
(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.	Complies – the proposal includes provision for parking within the proposed, residential lots. The Project is supported by a TIA that confirms the Project provides suitable arrangements for traffic movements post construction.	As noted elsewhere, the TIA and subsequent movement hierarchy is not supported by Council or TfNSW. With reference to Anambah Road, TfNSW have advised a threshold would be applicable and conditional to the Concept application, however TfNSW have not indicated what this numerical threshold is, attributed to inaccuracies with the TIA and modelling.

Clause 6.4 Relationship between Part and remainder of Plan

A provision of this Part prevails over any other provision of this Plan to the extent of any inconsistency.

Clause 7.1 – Acid sulfate soils

The site is mapped as being affected by Class 5 Acid Sulfate Soils (ASS). Pursuant to the provisions of this clause, development consent is required for works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD and by which the watertable is likely to be lowered below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land. The proposal does not include works within 500m of adjacent

classes, nor below 5m AHD or by which the water table is likely to be lowered.

Clause 7.2 – Earthworks

Under the provisions of this clause, development consent is required for ancillary earthworks associated with the proposed subdivision. The application identifies bulk earthworks (cut and fill) to the majority of the site, including the River Road corridor, and retaining walls on majority of lot boundaries.

Cut and fill amounts are estimated up to +/-3m throughout proposed stage 1, and +/-5m for riparian and road works within the broader concept plan. Total cut and fill balances for the site were provided in the original Waste Management Plan (by: JBS&G Australia Pty Ltd, dated: 29/08/2024) however have not been updated for the amended application (June 2025). Refer to Table 6 below:

Table 6: Cut / Fill / Balance amounts (waste management plan)

Cut / Fill	Stage 1 (including River Road)	Concept Da (including River Road) subject to future DAs
Total Cut	130,000m ³	270,000m ³
Total Fill	50,000m ³	120,000m ³
Balance	80,000m ³	150,000m ³ excess cut

Retaining walls (up to 1.5m high) are proposed throughout the stage 1 subdivision, including on the small lot housing product which Council considers as not appropriate for boundary-to-boundary dwelling design. The urban design report provides no justification or commentary for retaining walls in small lot housing products.

Retaining wall height and location, extent and impact of earthworks and appropriate with small lot housing was raised in the detailed RFI and not satisfactorily addressed in the amended DA package (June 2025).

Noting the above, the proposed earthworks cannot be supported in its current form as the development has not ensured proposed earthworks will not have a detrimental impact on environmental functions and processes and future land uses (small lot housing product). Given that consideration and subsequent GTAs associated with the ACHA remain outstanding, it is also unclear if the proposed earthworks will impact on cultural or heritage items or features of the subject and neighbouring land.

Clause 7.4 – Riparian land and watercourses

This clause applies to land identified as 'watercourse land' on the MLEP Watercourse map and all land within 40m of the top of bank of a identified watercourse. Prior to determining an application to which this clause applies, the consent authority must consider whether or not the development is likely to impact on water quality and flows, aquatic and riparian species, stability of the bed, shore and banks, free passage of fish, and future rehabilitation of the water course.

The applicant's SOEE incorrectly states that the land is not identified on the water course map, and the provisions of this clause do not apply. Pursuant to Figure 23 below, the land does contain a mapped watercourse.

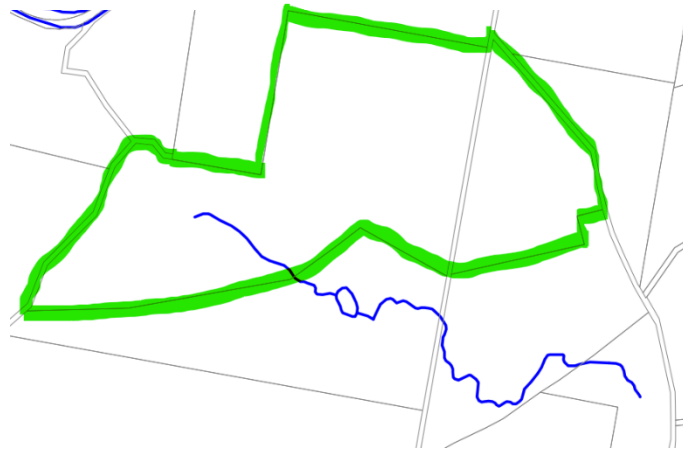


Figure 23 - MLEP Watercourse map, subject site highlighted in green, and mapped watercourse identified in blue

The mapped watercourse appears to be largely outside of the developable area and predominately impacts upon the Concept layout and future stage 5. It is anticipated further detailed assessment can be undertaken pursuant to this clause at the appropriate stage.

Clause 7.8 – Subdivision of land in Zone R1 in Anambah Urban Release Area

This clause applies to development on land in Zone R1 General Residential in the Anambah URA . The clause allows for lots less than the minimum subdivision lot size to be created, provided that lots are equal to or greater than 200m², are located no more than 200m from a community facility, recreation area or commercial premises, and the subdivision will not result in more than a total 450 lots on land to which this clause applies (with a lot size of 450 square metres or less).

The broader concept plan highlights general areas for location of small lot housing surrounding proposed parks, however the small lot yield has not been disclosed. Stage 1 subdivision plan shows 26 lots with an area between 299m² and 450m², seeking consent under the provisions of this clause. Three of the proposed small lots (436, 437 and 438) are outside of the 200m radius to parks, as identified in the Urban Design Report (by: Taylor Brammer Landscape Architects Pty Ltd, dated: 30 May 2025). See Figure 24.



Figure 24 - Lot density plan, urban design report (Figure 41). Purple dots identify Lots under 450m² located outside of the 200m radius.

With reference to subclause 3(a) and (b), development consent must not be granted to the subdivision of land that would result in more than 1200 lots being on the land, unless the persons residing on the land will have suitable and safe road access to the New England Highway via Wyndella Road, and the road will be appropriately located. The total number of lots proposed under the Concept DA will not exceed 900. Subsequently, the development adheres to the requirements of this clause by not exceeding the 1200 lot threshold for delivery of the 'western road link'.

Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

No issues are identified relating to any Draft State Environmental Planning Policies.

Maitland Local Environmental Plan 2011 – Amendment No. 38

The MLEP 2011 Amendment 38, gazetted 28 March 2025, adds clause 7.9 – Essential Services. Amendment no. 38 includes savings provisions which apply to this development however consideration is given as the amendment was in draft form at the time of lodgement. In any case, as the development is situated in an urban release area, the provisions of 6.2 – Public utility infrastructure achieves the intent of 'draft' clause 7.9 – Essential services. Refer to assessment against Clause 6.2. above.

(d) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Maitland Development Control Plan 2011 (MDCP 2011)

Detailed assessment against all relevant MDCP 2011 provisions can be found under the DCP Compliance Tables contained in Appendix A summary of the assessment of each chapter is provided below.

Chapter A.4 – Notification

The application was initially placed on public exhibition for a period of 28 days from 3 October 2024 to 31 October 2024 in accordance with the EP&A Act, EP&A Regs and MDCP 2011. Following provision of an amended documentation, the application was renotified from 9 June 2025 to 23 June 2025.

Chapter B.3 - Hunter River Flood Plain

2.3 Filling of the Flood Storage and Flood Fringe Areas

Further information is required to ensure the development can comply with all relevant provisions of this chapter. Civil engineering plans are required to be updated to indicate 1% AEP and flood planning extent, to demonstrate proposed works do not result in residential allotments being flood affected as a result of civil and earthworks proposed within the riparian corridor. The pre-to-post comparison in Flood Impact Assessment report indicates proposed hydraulic structures have adverse impacts in some of the areas. This matter would need to be resolved prior to the application being approved.

2.3 General Requirements

The applicant proposes use of River Road as flood free access. This is not supported in its current form by Council and the SES, as the proposal includes a locked gate, and TIA identifies impact on the NEH. Noting this, River Road is to be upgraded to a fully accessible, unimpeded, public road. This raises design, sequencing and delivery issues regarding upgrades and potential road widening. Further consultation with TfNSW and Council is required before this option can be pursued.

Chapter B.5 – Tree and Vegetation Management

The proposal triggers the Biodiversity Offset Scheme under the Biodiversity Conservation Act (BC Act) 2016 due to exceeding the area clearing threshold. The applicant has submitted a BDAR, which provides sufficient information to assess the proposed development in accordance with the requirements of the BC Act and BAM 2000. Refer to section 3.1 of this report.

Chapter B.7 – Environmentally Sensitive Land

- 1. Introduction and section objectives*
- 2. Access and pathways*
- 3. Development location*

Council's ecologists recommended that the applicant update the original bushfire assessment to allow for increased canopy and mid-storey planting within the riparian area. This would better align with the provisions of this chapter, which requires that watercourse restoration efforts "recreate the native vegetation that would have occurred prior to disturbance". The proposed changes would also enhance canopy cover, helping to mitigate potential future urban heat impacts on the community. The amended bushfire assessment (Version 5, 30 May 2025) presents inconsistencies in the assessment of the riparian corridor and does not align with the revegetation proposed in the Riparian Vegetation Management Plan (MJD, May 2025).

4. Riparian Watercourses & Flooding

Flooding extent has not been shown on civil engineering plans. Further detail regarding culvert, detention basins and roads within the flooding extent is required to be included in the engineering report and civil plans. The pre-to-post comparison in Flood Impact Assessment report indicates proposed hydraulic structures have adverse impacts in some of the areas. The applicant needs addressing this matter with further clarifications to comply with the LEP and DCP requirements.

Chapter C.10 – Subdivision

a. Environmental Considerations (EC.1 to EC.3)

EC.1 – Flora and Fauna

Overall, the applicant has made a genuine effort to incorporate Council's feedback on avoidance through an iterative design process. However, given the unusually high extent of threatened species habitat on the site, a more robust avoid and minimise strategy which fulfils the requirements of the BAM 2020 should further consider opportunities to avoid various biodiversity values (various areas of squirrel glider and brush-tailed phascogale habitat, and barn owl rooting tree). *EC.2 – Heritage and Archaeology*

The subject site does not contain, nor is in proximity, to any European heritage sites, however the proposed subdivision area contains three (3) aboriginal artefacts sites, as surveyed in December 2023 and detailed in the AACHA (dated 29 August 2024, prepared by Heritage Now Pty Ltd) was submitted with the original development application.

As a result of the above, the entire creek terrace was identified as a sensitive landform and an area of Potential Archaeological Deposit. A subsequent survey was undertaken in July 2024 by Heritage Now and MLALC for the proposed River Road Access Route. There are several previously recorded sites south of the Project Area. AHIMS 37-6-3568 has surface artefacts and potential archaeological deposit (PAD), the PAD partially overlaps the road corridor. AHIMS 37-6-3555 PAD and AHIMS 37-6-3572 are outside the road corridor. No new sites were identified in the Road River Access Route. Various recommendations have been made in the ACHA, including acknowledgement of requirement for an AHIP.

The application was referred to DPE Heritage pursuant to Section 90 of the *National Parks and Wildlife Act 1974*. DPE Heritage issued an RFI for a revised ACHA, that of which remains outstanding.

EC.3 – Hazards

Flooding: The development does not demonstrate safe access requirements pursuant to Clause 5.21 of the MLEP.

Bushfire: The development does not comply with PBP provisions. A bushfire threat assessment (including revisions and RFI response letters) was provided upon lodgement and updated throughout the assessment. The development does not demonstrate compliance with non-perimeter roads, slope / vegetation assessment, or secondary access / evacuation requirements. Further, the bushfire threat assessment (including revisions) presents inconsistencies in the assessment of the riparian corridor and does not align with the revegetation proposed in the Riparian Vegetation Management Plan. The inconsistencies with vegetation classification in the bushfire threat assessment and proposed revegetation in the VMP results in incorrect APZs are likely to affect the subdivision layout.

Land contamination: The application is supported with PSI, which despite not being prepared or reviewed and approved by a certified consultant, pursuant to Council's Contaminated Land Policy, is deemed generally acceptable by Council's contaminated land officer. The land is deemed suitable for general residential development, subject to conditional requirements.

b. Design Considerations (DC.1 to DC.9)

The development in its current form has not demonstrated compliance with controls relating to lot width types, building envelopes, access way width requirements for hatchet shaped allotments, earthworks, non-perimeter road design and on street parking, access and impact on the NEH, block lengths, CPTED principals and sightlines between public and private spaces and site filling. It is acknowledged that compliance some design controls may be achievable subject to amended subdivision layout and / or additional supporting documentation. Where controls are not listed above, the development is considered to comply or could reasonably comply subject to conditions.

c. Identity components (IC.1 to IC.3)

The proposed entry feature exceeds maximum height requirements provided under these controls. All other controls under this part may be complied with subject to conditions of consent.

Chapter C12 – Crime Prevention Through Environmental Design

A CPTED Report was provided as part of the amended application (June 2025), in response to Council's detailed RFI (dated February 2025). The CPTED report considers each of the principles across the development both pre- and post-construction however does not provide detailed CPTED assessment of passive recreation areas such as the parks within the development. It is recommended that the CPTED report updated and CPTED principles are applied to these sites. The recommendations identified within the CPTED report should be implemented in the subdivision and park design and would be conditioned accordingly.

Chapter F2 – Residential Urban Release Areas

Desired Future Outcomes

It is considered that the Concept Plan could be amended to include greater detail with regard to controls 1 to 10. The development relies heavily on prescribed controls under the MLEP 2011 but does not have regard to the more detailed provisions of the MDCP 2011.

Design Considerations

A concept plan has been lodged in lieu of area and precinct plan(s). The DA concept plan has been prepared pursuant to Clause 6.3 of the MLEP, however the details presented in the concept plan may be improved by consulting with the design criteria outlined under this chapter. The development application does not have regard nor provide assessment against the provisions of this chapter.

(e) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

An offer to enter into a VPA was received on 17 February 2025 and acknowledged by Council on 18 February 2025. Council rejected the VPA offer in its current form on 21 July 2025.

Given the applicant are intending to deliver works that will be contained in the Anambah Contributions Plan and a VPA letter of offer has been submitted to Council, any development consent would be supported with a condition deferring to the VPA, in lieu of s7.11 development contributions.

(f) Section 4.15(1)(a)(iv) - Provisions of Regulations

The proposed development has been prepared in accordance with Part 3 of the EP&A Regulation. It is noted that Clause 33 of the Regulation specifies provisions for Concept Development Applications.

Pursuant to Clause 33(1) the information about the various stages of development, required by this Regulation to be included in a concept development application, may be deferred to a subsequent development application, with the approval of the consent authority.

The Stage 1 DA accompanies the concept development application. Detailed information relating to subsequent stages of the concept development application is intended to form the subject of future stage DAs. As noted elsewhere in this report, there are some concept plan details that the applicant has highlighted for deferral to future stages, that of which Council does not deem suitable to defer.

4.1 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting** – As discussed elsewhere in this report, the development is not considered to adequately address R1 zone objectives. Minor works within the RU2 zone are intended to support the R1 development and is considered acceptable upon merit. Regarding the broader context and surrounding land uses, the development fails to acknowledge and implement mitigation measures and practical solutions within the subdivision design. In this way, the development fails comprehensively consider the surrounding context and setting, instead relying wholly on the extent to which this was considered for the rezoning process.
- **Access and traffic** – Whilst the amended application (June 2025) includes revisions to the road network to improve internal subdivision design and usability, concerns remain with regard to the impact on the external road network. The main access to the site is via Anambah Road, which becomes inundated during a 1 in 100 flood event. The applicant has proposed an alternative gated access route via River Road, that of which is not supported by Council, RFS and SES as noted elsewhere throughout this report. TfNSW has raised several inconsistencies with the current modelling and TIA, that of which would need to be addressed before the proposal could be supported.
- **Public Domain** – The amended subdivision design provides three (3) public reserves (future park areas), and passive recreation via the riparian corridor. However, the location and design of the southern and central park areas have not adequately considered CPTED principles.

Whilst the development is considered to have a net benefit to public domain, design amendments are required to ensure safe and practical designs are implemented in the subdivision.

- **Utilities** – The development is supported in principle by Ausgrid (electricity) and HWC (water / sewer). Whilst it has been demonstrated that the site can be serviced, Council still holds major concerns that the servicing of the site does not demonstrate orderly economic development. Council understands that utility servicing agreed to by HWC will predominantly be provided from the south (River Road corridor) that of which will require ongoing works and upgrades for the remaining portion of the URA. Despite this, on 18 July 2025, the applicant provided a report outlining an alternate water / sewer servicing strategy to be provided under the *Water Industry Competition Act* 2006. It is not clear if this alternate strategy is in conjunction or in lieu of the servicing provisions agreed to by HWC and has occurred unreasonably late in the assessment process.
- **Heritage** – An amended ACHAR remains outstanding. Council and DPE Heritage cannot adequately address heritage impacts.
- **Water/air/soils impacts** - The application is supported with PSI, which despite not being prepared or reviewed and approved by a certified consultant pursuant to Council's Contaminated Land Policy, is deemed generally acceptable by Council's contaminated land officer. The land is deemed suitable for general residential development, subject to conditional requirements.
- **Flora and fauna impacts** - The applicant has submitted a BDAR, which provides sufficient information to assess the proposed development in accordance with the requirements of the BC Act and BAM 2020. Overall, the applicant has made a genuine effort to incorporate Council's feedback on avoidance through an iterative design process. However, given the unusually high extent of threatened species habitat on the site, a more robust avoid and minimise strategy which fulfils the requirements of the BAM 2020 should further consider opportunities to avoid key biodiversity values, as outlined elsewhere in this report.
- **Natural environment** – The development is supported with GTAs from DPE Water and DPI Fisheries for works within mapped watercourses and key fish habitats. Both GTAs require the applicant to obtain approvals / permits from the relevant agencies prior to commencing works.
- **Noise and vibration** – Construction impacts could be satisfactorily mitigated by way of a construction environmental management plan (CEMP) which could be conditioned. The residential subdivision is not anticipated to generate unacceptable noise and vibration impacts upon occupation and use.
- **Natural hazards** – As discussed at length throughout this report, the development has not adequately addressed bushfire and flooding impacts. Council is not satisfied that the development adheres to Clause 5.21 of the MLEP 2011, and GTAs from the NSW RFS remain outstanding.
- **Safety, security and crime prevention** – A CPTED Report was provided with the amended application (June 2025) of which applies CPTED Principles to the subdivision design. However, the public domain and park area has not been considered in this report. Council has CPTED concerns for the central and southern parks and requires an amended CPTED report to address these areas before the application could be supported.
- **Social impact** – A SIA was provided with the amended application (June 2025) which highlights the lack of social infrastructure within the immediate locality. The development is heavily reliant upon provision of social infrastructure within the remaining AURA, however until such time these facilities and services are delivered (timeline uncertain) the subdivision would remain heavily isolated.

- **Economic impact** – The development seeks to deliver a residential subdivision within a zoned URA, and at a high level is considered a positive economic impact. However, the practicality of delivering the subdivision, including augmentation of utility services and road access, raises questions and concerns regarding orderly economic development and is potentially cost prohibitive for future residents.
- **Site design and internal design** – Several subdivision design concerns have been highlighted elsewhere in this report and Appendices (Appendix B: DCP Compliance Tables).

Accordingly, it is considered that the proposal in its current form is likely to result in significant adverse impacts.

4.2 Section 4.15(1)(c) - Suitability of the site

As outlined throughout this report, the development application and subdivision design does not adequately address flooding and bushfire constraints, social infrastructure, compatibility with surrounding land uses, impacts on the surrounding transport network, utility servicing and aboriginal cultural heritage. Subsequently, the development has not adequately addressed site suitability in its current form.

4.3 Section 4.15(1)(d) - Public Submissions

These submissions are considered in Section 5 of this report.

4.4 Section 4.15(1)(e) - Public interest

As discussed elsewhere in this report, the development application has not adequately mitigated environmental impacts, presents inconsistencies with several SEPPs and clauses under the MLEP 2011, and fails to consider controls or justify non-compliances under the MDCP 2011. Whilst the development presents a new residential subdivision in an adopted URA and is considered a positive contribution to housing supply, the design, construction and delivery of the subdivision requires further consideration before it could be deemed an acceptable outcome. Further, the development application has been exhibited twice, with majority of submissions raising concerns and objections to the proposal in its current form. Subsequently, the application is not considered within the public interest.

5. REFERRALS AND SUBMISSIONS

5.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 7.

The outstanding issues raised by Agencies are considered in the Key Issues section of this report.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
None applicable.			
Referral/Consultation Agencies			

Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Ausgrid does not object to the proposal subject to the following conditions: <ul style="list-style-type: none"> • Method of electricity connection; • Supply of electricity; • Conduit installation; • Works in proximity to existing assets (overhead powerlines and underground cables). 	YES
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	TfNSW are unable to properly assess the potential impacts on the transport network due to insufficient information, including: <ul style="list-style-type: none"> • Numerous inconsistencies in the updated SIDRA model; • Revisions required to TIA because of inconsistencies in SIDRA model; • Amended TIA and SIDRA modelling is to inform threshold for Anambah Road / NEH intersection upgrades. 	NO
Mindaribba Aboriginal Land Council	Clause 5.10(8) <i>Maitland Local Environmental Plan 2011</i>	No response received.	
SES	Clause 5.21 <i>Maitland Local Environmental Plan 2011</i>	Supportive of an access and egress route to reduce frequency and duration of isolation, subject to the following recommendations: <ul style="list-style-type: none"> • Increasing flood resilience of proposed roads and road upgrades, including accommodation for climate change impacts. • River road access to be publicly acceptable and maintain to appropriate standard for use in wet weather. Any obstacles to emergency evacuation, such as locked gates, is to be avoided. • Flood resilient infrastructure, including roads, to be in place prior to development occurring. 	NO
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - <i>Rural Fires Act 1997</i> bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes	RFI's issued 12/11/2024, 16/06/2025, and 11/07/2025. Outstanding issues include the following: <ul style="list-style-type: none"> • Non-compliant non-perimeter roads. • Non-compliance with Table 5.3b of PBP. • Conflict between non-perimeter travel lanes and MDCP on-street parking requirements. • Use of locked gates for emergency access is not supported. • RFS disagreement with steeper effective slopes assessment beneath hazard to the east. 	NO

DPE Water	s.91 – <i>Water Management Act 2000</i> controlled activity approval	GTAs issued 4 February 2025 and revised 24 June 2025: <ul style="list-style-type: none"> Controlled activity approval to be obtained before works commencing on waterfront land Documentation and application requirements for controlled activity approval Requirement for security deposit. 	YES
DPE Heritage	s.90 – <i>National Parks and Wildlife Act 1974</i> grant of Aboriginal heritage impact permit	RFI issued on 17 October 2024 and remains outstanding. Amended ACHR required to address the following: <ul style="list-style-type: none"> Consultation records for Appendix 1 Archaeological survey methodology Archaeological test excavation methodology and results Additional mapping and figures Revisions required to the Aboriginal Cultural Heritage Assessment Report to comply with guidelines and legislative requirements 	NO
DPI Fisheries	s.219 – <i>Fisheries Management Act</i> permit to— (a) set a net, netting or other material, or (b) construct or alter a dam, floodgate, causeway or weir, or (c) otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat	GTAs issued 15 October 2024: <ul style="list-style-type: none"> A permit under s198-202 to be obtained prior to works commencing. Works to be carried out in accordance with all applicable requirements of The Blue Book. 	YES

5.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 8**.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Matters which remain unresolved: <ul style="list-style-type: none"> Use of River Road for access is not supported in its current form. Anambah Road upgrades. Upgrades of the New England Hwy/Anambah Road Intersection will be required for full development (900 lots) as identified in the TIA. TfNSW have not stipulated threshold number given inadequately of TIA. Internal (non-perimeter roads) are non-compliant with PBP 2019. 	NO

	<ul style="list-style-type: none"> • APZ's are shown around the basins at the Northern extent of the development. APZ's are not supported within future Council land or basins. • The location of the proposed watermain and sewer rising main within the River Road corridor to service the development is inappropriate. Future relocation of this infrastructure would be costly and may prohibit future development within the area. • Plans show WPS located in the road reserve, this is not road related infrastructure and shall be located outside the road reserve. The proposed location will prohibit any future. • Road widening that may be necessary within the vicinity to achieve an ultimate road configuration. <p>Noted various other items included in detailed RFI have not been satisfactorily addressed but could be conditioned for if the abovementioned matters were resolved.</p>	
Environmental Health	Supportable subject to conditions requiring detailed construction environmental management plan, outlining requirements for traffic, dust, noise and vibration mitigation during subdivision works.	YES
Waste	Temporary turning heads have not been identified (and are required) for street cut offs due to staging of the subdivision.	NO
Strategic Planning	<ul style="list-style-type: none"> • Development is considered out of sequence and premature. The proposal 'leap frogs' to the northern portion of the URA requiring the upgrade and augmentation, over considerable distance, of essential public infrastructure. • The proponent has not demonstrated how this is to occur in a cost effective, sustainable, and logical manner, nor how they will manage/mitigate the impact upon the sequencing and roll out of development for the remainder of the Anambah URA. • The development does not demonstrate how the proposal will access schools, community facilities commercial precinct and sporting fields as required for the overall development of the Anambah URA and subsequent population. • The submitted information does not demonstrate a satisfactory arrangement for the provision of flood free vehicular access to and from the subject land. A temporary/emergency/gated arrangement along River Road alignment is not acceptable to Council or other Government agencies. 	NO
Flooding	<ul style="list-style-type: none"> • The flooding extent has not been provided on the Civil Engineering Plan. The localised flooding generated from the catchment shall be contained within the riparian corridor lots. The Civil Engineering Plans shall clearly indicate 1% AEP, and Flood Planning extent to demonstrate the residential lots are not affected. • The detail design of the Culvert, Detention Basins and Roads, within the flooding extent shall be in accordance with the MOES and the DCP. Also, 1% AEP flood extent and level at each hydraulic structure is to be included in the report or Engineering Plans. • The pre-to-post comparison in FIRA report indicates proposed hydraulic structures have adverse impacts in some of the areas. The applicant needs addressing this matter with further 	NO

	<p>clarifications to comply with the LEP and DCP requirements. Further comments regarding sizing and location of water quality and quantity basins and culverts should be sought from Council's Subdivision & Development Engineering Team.</p> <ul style="list-style-type: none"> • Regarding impact of development on projected changes to flood behaviour as a result of climate change, the FIRA has considered 1 in 500 AEP as a proxy for climate change. However, it is recommended that all assumptions regarding climate change and flood scenarios align with the most recent guidelines (ARR 2019) in the flood modelling. • An emergency management plan, including flood warnings, evacuation route, and preparedness strategies, should be developed and approved in consultation with the SES. This should be drafted and approved prior to DA approval. • River Road is considered as the evacuation route, which is not supported in its current form. An alternative route and / or unimpeded access should be explored. 	
Ecology	<p>Overall, the applicant has made a genuine effort to incorporate Council's feedback on avoidance through an iterative design process. However, given the unusually high extent of threatened species habitat on the site, a more robust avoid and minimise strategy which fulfils the requirements of the BAM 2020 should further consider opportunities to avoid the following biodiversity values:</p> <ul style="list-style-type: none"> • A large patch of canopy vegetation adjacent to the avoided area, known to provide habitat for both squirrel glider and brush-tailed phascogale. • A barn owl roosting tree located on the western boundary which could easily be avoided with minor amendments to the layout. • A large patch of canopy vegetation in the north-west, known to provide habitat for squirrel glider and brush-tailed phascogale <p>The amended bushfire assessment (Version 5, 30 May 2025) presents inconsistencies in the assessment of the riparian corridor and does not align with the revegetation proposed in the Riparian Vegetation Management Plan (MJD, May 2025).</p> <p>Figure 9 – Slope and Vegetation Assessment in the amended bushfire assessment maps the riparian corridor as "Forested Wetland – Coastal Floodplain Wetland (PCT 4042)," which is consistent with the applicant's proposed Riparian Vegetation Management Plan and aligns with Council's DCP requirements. However, Table 3 – Required and Recommended Asset Protection Zones – Concept Masterplan contradicts this by identifying the vegetation formation of the riparian corridor as Freshwater Wetlands. This classification requires significantly narrower Asset Protection Zones than Forested Wetlands and would not accommodate the revegetation proposed in the Riparian Vegetation Management Plan or meet Council's DCP requirements.</p>	NO

	<p>It is important that the applicant resolves the inconsistencies within the amended bushfire assessment, particularly in relation to the proposed Riparian Vegetation Management Plan and its alignment with Council's DCP requirements. Any updates to the vegetation classification of the riparian corridor may alter the required Asset Protection Zone distances and could subsequently impact the overall development layout.</p>	
Community and Recreation	<p>The proposed central park is undersized for the area and should be expanded through the removal of the lots on the western edge. The removal of these lots would also improve access, CPTED principles and prohibit the need for setbacks or screening of the lot boundaries, reduce impact on the park from residential backyards and be better aligned with expected provision rates.</p> <p>The location of the riparian park – active, particularly the open turf/kickabout area location is not preferred as there is a drop in elevation, as shown below, which would likely interfere with passive surveillance and creates CPTED concerns. If the applicant is able to provide a cross-sectional from the North that demonstrates appropriate passive surveillance this may mitigate concerns for this site location.</p>	NO
Social Planning / CPTED	<p><u>Social Planning</u> A Social Impact Assessment (SIA) has been prepared by a suitable consultant, noting that no consultant/applicant led community consultation was undertaken as part of this process. The identified responses/mitigations within the SIA would need to be implemented as a condition of the DA. It is also noted that a number of the social impacts still have a negative residual impact even after mechanisms are identified and it would be recommended that further consideration as to the mitigation of these impacts be undertaken prior to DA determination. It is noted that the development no longer contains Build-to-Rent and now encompasses up to 5% of dwellings being affordable housing and Specialist Disability Accommodation (SDA).</p> <p><u>CPTED</u> A CPTED report has been prepared by a suitable consultant. The CPTED report considers each of the principles across the development both pre- and post-construction however does not provide detailed CPTED assessment of passive recreation areas such as the parks within the development. It is recommended that CPTED principles are applied to these sites, and amended report provided to Council for consideration.</p>	NO
Land Contamination	<p>With reference to Maitland Council's Contamination Land Policy, reports must be prepared, or reviewed and approved by a certified consultant, and this report is not. Acknowledged certification schemes are:</p> <ul style="list-style-type: none"> • Environment Institute of Australia and New Zealand - Certified Environmental Practitioner (Site Contamination Specialist) (CEEnvP (SC)); 	YES

	<ul style="list-style-type: none"> • Soil Science Australia - Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM). <p>Despite the above, Council's Contaminated Land Officer finds the consultant's conclusion reasonable: <i>"Based on the results of the site history review, site inspection and analytical results, the Site is considered to present a low risk of contamination and is suitable for residential land use, subject to the development and implementation of an unexpected finds protocol during redevelopment."</i></p> <p>However, in addition to the statement above, the staged approach to development at the site would mean that there is a need to ensure that no new activities (such as fly tipping) have occurred before approving the next stage.</p> <p>According to the information gathered in the PSI, the site has been used as grazing land, which is backed up by historical records, aerial photos, historical maps, site walkover, and results from sampling. There does not appear to have been any structures or infrastructure within the site, and the site walkover and test pitting did not show any fly tipping or imported fill material. The consultant took samples for analysis from some of the 40 test pits, and they were below adopted criteria (analytes were Heavy metals, OCP, PCB, Phenols, PAH, TRH and BTEXN AF/FA and Bonded Asbestos).</p> <p>The site is 69 Ha. In the Sampling Design Guidelines, minimum sample locations for grid sampling across a site only goes up to 5 ha, where the minimum number of locations is 55. This site, being larger and having less sampling locations, could be seen as a non-compliance with the guidelines. However, the NSW EPA (2020) Consultants Reporting on Contaminated Land states the following for a PSI:</p> <p><i>"Where a complete site history clearly shows that activities have been non-contaminating, there are no impacts from off-site contamination sources, and observations do not indicate any potential for contamination, there may be no need for further investigation or site sampling. Refer to Section 2 Stages of investigation, (Schedule B2, ASC NEPM). However, where contaminating activities are suspected or known to have occurred, or if the site history is incomplete, it may be necessary to undertake a preliminary sampling and analysis program to assess the need for a detailed investigation."</i></p> <p>In this case, the samples collected were preliminary in nature to assess if the site history indicating a low risk of contamination was supported by the sample results, which they did.</p>	
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The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

5.3 Community Consultation

The proposal was notified in accordance with the MDCP 2011 and Council's Community Participation Plan from 3 October 2024 until 31 October 2024. Following provision of an amended documentation, the application was renotified from 9 June 2025 to 23 June 2025.

On both occasions notification included the following:

- Exhibition page on Council's website;
- Listing on Council's DA Tracker;
- Notification letters sent to adjoining and adjacent properties.

The Council received a total of 39 unique submissions were received during the initial exhibition period, with 21 unique submissions received in the second exhibition period. All but one (1) submission objects to the proposal. A copy of redacted submissions are provided under **Attachment AF**.

The predominant issues raised in these submissions are considered in detail under **Appendix C**. In summary, key concerns include the following:

- Sequencing and orderly development;
- Traffic impact;
- Proximity to existing quarry;
- Land use conflict with the surrounding land uses (composting facility) and rural locality;
- Flooding;
- Bushfire;
- Lack of services and infrastructure (water, sewer, electricity, telecommunications and access / transport network);
- Ecological impacts and vegetation removal;
- Restriction to turning movements at River Road / NEH intersection.

6. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

6.1 River Road Gated Access

Agency advice

As discussed at length throughout this report, Council, the RFS and SES do not support River Road as a gated secondary access. Should River Road be utilised for access, it must be as an unrestricted, public road, with ongoing access for all residents.

With regard to agency advice, the SES state that the restricted / controlled access (whether gated or otherwise) is undesirable, and the RFS note that the use of locked gates for emergency access is not supported. Further, correspondence from the applicant to the SES (July 2025) is contradictory, stating that the River Road is available for flood free access as an 'interim solution' (until such time the western road link is delivered by other land holders in AURA), but also references 'availability in perpetuity'.

Roads Act 1993

Pursuant to Section 114 and 115 of the *Roads Act 1993*, Council cannot regulate traffic (block a road) unless it is undertaken for one of the following reasons:

Division 1 General powers

114 Roads authorities may only regulate traffic in accordance with Part

A roads authority may not regulate traffic on a public road otherwise than in accordance with this Part.

115 Roads authority may regulate traffic in connection with road work etc

(1) A roads authority may regulate traffic on a public road by means of barriers or by means of notices conspicuously displayed on or adjacent to the public road.

(2) The power conferred by this section may be exercised by TfNSW for any purpose but may not be exercised by any other roads authority otherwise than—

- (a) for the purpose of enabling the roads authority to exercise its functions under this Act with respect to the carrying out of road work or other work on a public road, or
- (b) for the purpose of protecting a public road from serious damage by vehicles or animals as a result of wet weather, or
- (c) for the purpose of protecting earth roads from damage caused by heavy vehicles or by animals, or
- (d) for the purpose of protecting members of the public from any hazards on the public road, or
- (e) for the purpose of protecting vehicles and other property on the public road from damage, or
- (f) for the purpose of enabling a public road to be used for an activity in respect of which a permit is in force under Division 4 of Part 9, or
- (g) for a purpose for which the roads authority is authorised or required, by or under this or any other Act or law, to regulate traffic.

(3) A roads authority may not restrict the passage of heavy vehicles or animals along the roadway of an earth road unless clear side tracks have been provided for their passage.

(4) A person—

- (a) must not, in wilful contravention of any such notice or in wilful disregard of any such barrier, pass along, or cause any vehicle or animal to pass along, a length of public road, and
- (b) must not damage, remove or otherwise interfere with a notice or barrier erected for the purposes of this section.

Maximum penalty—10 penalty units.

(5) It is the duty of a roads authority by which a notice or barrier has been erected under this section to remove the notice or barrier if there is no longer any need to regulate traffic for the purpose for which the notice or barrier was erected.

The restriction of access along River Road to limit the extent of upgrades, reduce impact on southern residents, and alleviate intersection upgrade requirements to the NEH does not fall within Section 114 and 115 as listed above. Although the gate is proposed to physically reside on private property, Council cannot grant consent to the restriction of access without contravening the Roads Act 1993. The unformed road corridor has been identified as a public (Council owned) road corridor. Subsequently, where construction occurs within the road corridor to facilitate traffic movement, free and unrestricted access should be provided at all times.

Maintenance burden

In the event that the above legality issue is addressed, Council's hold concerns for the maintenance burdened created by upgrading 2.5km of road, whereby access is restricted, and the road is not utilised for extended periods of time. Council also has concerns for the redevelopment and realignment of the River Road corridor as the southern portion of the URA comes online, and the ability for the subject development to maintain flood free access during works.

Upgrade requirements for unimpeded access to River Road

Council has concerns with the ability of River Road to be upgraded to an acceptable standard for ongoing public use. It is noted that upgrades may require widening of the road corridor (including in the Windella Estate), and subsequent land acquisition, as well as substantial earthworks and regrading. TfNSW would need to be consulted to confirm the extent of intersection upgrades required at the River Road / New England Highway.

As currently proposed, the use of the River Road corridor (for secondary access only) warrants restriction of movement (no right turn) at the River Road / NEH intersection. Subsequently, River Road upgrades, potential land acquisition and change of movement to the River Road / NEH intersection not only warrants further consultation with Council and TfNSW, but greater community consultation with Windella Estate residents who would be impacted by works and changes to the broader transport network.

It should be noted that Council has raised this concern at Pre-DA stage, in the detailed RFI 2 (dated: 06/02/2025), and has held multiple meetings with the applicant to discuss this issue.

6.2 Bushfire

The application was lodged as Integrated development under s100B of the Rural Fires Act 1997, and the proposal was referred to NSW RFS. NSW RFS advised on 12 November 2024, 16 June 2025 and 11 July 2025 that additional information is required to demonstrate compliance with the PBP 2019.

- Non perimeter roads and non-compliances with Table 5.3b of *Planning for bushfire Protection* (PBP) 2019 with insufficient justifications provided regarding the unique features or constraints of the subject site that would prevent or preclude the proposed subdivision from achieving compliance with the acceptable solutions for carriage width.
- Failing provision of sufficient justification, it is suggested that the subdivision be redesigned to incorporate acceptable solutions pursuant to Table 5.3b of the PBP.
- Concerns with non-compliant non-perimeter roads and subsequent hinderance for fire fighter access with simultaneous resident evacuation.
- Non-perimeter road with and on-street parking (required under MDCP 2011) results in non-compliant carriageway widths pursuant to Table 5.3b of the PBP 20219.
- Steeper effective slopes are assessed beneath the hazard to the east across the Anambah Road for the Transect T2 (east of the proposed lots 321-322 and 401-409) in the 0-5° D/S range as compared to upslope identified in the submitted bush fire report. As such, further information such as a survey plan prepared by a registered surveyor shall be provided to support the slopes assessment undertaken in the bush fire report.
- The use of locked gates for emergency access is not supported and therefore the design must be amended to include unobstructed access to allow for safe access and egress for firefighting vehicles while residents are evacuating.

The applicant's latest response to the NSW RFS was uploaded to the Planning Portal on 18 July 2025 and 23 July 2025 and re-referred to the NSW RFS for comment. At the time of drafting this report, response from the NSW RFS remains outstanding.

6.3 Heritage

The application was lodged as Integrated development under Section 90 of the National Parks and Wildlife Act 1974 and the proposal was referred to DPE Heritage. A request for further information was issued on 17 October 2024, requiring provision of the following:

- Consultation records for Appendix 1;
- Archaeological survey methodology;
- Archaeological test excavation methodology and results;
- Additional mapping and figures;
- Revisions required to the ACHAR to comply with guidelines and legislative requirements.

The amended application was referred to DPE Heritage on 4 June 2025, however this referral was rejected as the amended application did not include a response to the beforementioned RF (namely amended ACHAR).

A response from DPE Heritage remains outstanding at the time of drafting this assessment report.
DPE

6.4 Traffic

Referral to TfNSW was undertaken pursuant to Section 2.122(4) - Traffic-generating development of SEPP (Transport and Infrastructure) 2021. The most recent advisory letter notes TfNSW are unable to properly assess the potential impacts of the transport network due to insufficient information, noting the following:

Stage 1

Inconsistencies in the updated SIDRA model, including but not limited to:

- Trip generation rates;
- Clarification of where eastbound trips reduce between River Road and Anambah Road
- U-Turn movements have not been accounted for in the model, noting restricted accesses on NEH;
- No background growth rate has been applied to any local roads (ie. Anambah Road or Shipley Drive);
- Evidence should be provided that Council supports River Road to be used as an emergency access;
- Clarification and justification for proposed restriction of right-turn movement from River Road;
- River Road and NEH intersection to be assessed with the current intersection configuration;
- River Rd and New England Highway intersection analysis base case should be 2028 model, with additional scenarios;
 - 2028 Base Case;
 - 2028 Base Case + Development Traffic (Stage 1);
 - 2038 Base Case (Design Horizon);
 - 2038 Base Case + Development Traffic (Stage 1);
 - 2038 Base Case + Development Traffic (Stage 1 + any additional lots approved);
- River road/NEH 2028 AM without development traffic shows the intersection fails. Mitigation measures will be required if this intersection is to be approved as emergency access.

Concept Plan

As previously advised, TfNSW has no committed funding, or project, for the delivery of traffic signals at the Anambah Rd/New England Highway intersection. As such, there will be a threshold for land release if the traffic signals have not been delivered prior to any future development stages.

Accordingly, the application in its current form is not supported by TfNSW as the applicant has not demonstrated the existing road network, subject to upgrades, is able to accommodate the increased traffic generated by the proposed subdivision.

6.5 Flooding

An advisory referral was sent to the SES upon lodgement of the original DA (September 2025) and amended application (June 2025). The advisory referral was undertaken to assist Council with assessment of Clause 5.21 of the MLEP 2011 and Chapter B5 of the MDCP 2011. The comments made in the referral have been integrated in Council assessment and position on flooding impacts to date, with particular consideration of flood free access and use of River Road.

The applicant independently sent an email to the SES on 23 July 2025. The SES responded on 28 July 2025 reiterating their position, that:

- River Road is intended to be a temporary alternate access engineered to provide improved flood resilience.
- The long-term access strategy is to deliver the western road link via Wyndella Road
- Recommend mitigating risk by delivering appropriate infrastructure (Wyndella Road upgrades) prior to development (subdivision) occurring.
- Reiterating that locked gates / restricted access can add complexities for warnings, emergency response and evacuation, resulting in delays. This becomes particularly problematic during flooding events of large scale when resource demands are already quite high.

6.6 Design amendments and further information

The following items are considered secondary to the issues listed above and may be able to be addressed subject to design amendments and / or provision of additional information. In any case, each of the following requires either amendment to the subdivision design or provision of additional information before Council would be in a position to recommend approval.

Subsequently, the development in its current form warrants refusal subject to the following:

- (a) Flooding (Clause 5.21 MLEP 2011 and Chapter B3 MDCP 2011);
- (b) Earthworks and retaining walls (Clause 7.2 MLEP 2011);
- (c) Small lot housing location and design (Clause 7.8 MLEP 2011);
- (d) Orderly economic development (s4.15(b) EP&A Act 1979);
- (e) Unmitigated social impacts (s4.15(b) EP&A Act 1979);
- (f) Utility servicing - namely the late proposal for private water / sewer infrastructure and conflict with the amended application (Clause 6.2 MLEP 2011);
- (g) Recreation areas and CPTED (Chapter C10 and Chapter C12 MDCP 2011);
- (h) Ecology avoidance and mitigation (BC Act 2016, BAM-C 2022, Chapter C10 MDCP 2011);
- (i) Vegetation classification and riparian management (Chapter B.7 MDCP 2011).

6.7 Panel's Record of Preliminary Briefing:

With consideration of the Panel's Record of Preliminary Briefing (5 December 2025), the following matters remain unresolved:

- Detailed Concept Plan framework;
- VPA;
- Sequencing of infrastructure;
- Road access arrangements;
- Flood evacuation arrangements and the relationship to the balance of the URA;
- SIA;
- Detailed servicing strategy;
- Use of River Road;
- Support from the NSW RFS.

7. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application cannot be supported.

It is considered that the key issues as outlined in Section 6 have not been resolved satisfactorily through amendments to the proposal.

8. RECOMMENDATION

That the Development Application DA/2024/763 for Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots at 559 Anambah Road GOSFORTH NSW 2320 be REFUSED pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the reasons for refusal attached to this report at Appendix A.

The following appendices should be read in conjunction with this assessment report.

- Appx. A: Draft Reasons for Refusal;
- Appx. B: DCP Compliance Table;
- Appx. C: Submission Issues Table.