

DA/2024/763 – Reasons for Refusal

1. The development does not comply with the provisions of the *Maitland Local Environmental Plan 2011* and fails to satisfy or comply with the following clauses:

- a) Clause 1.2 – Aims of Plan
- b) Clause 2.3 – Permissibility and zone objectives
- c) Clause 5.10 – Heritage Conservation
- d) Clause 5.21 – Flood Planning
- e) Clause 6.2 – Public Utility Infrastructure
- f) Clause 6.3 – Development Control Plan
- g) Clause 7.2 – Earthworks
- h) Clause 7.8 – Subdivision of land in Zone R1 in Anambah Urban Release Area

[s4.15(a)(i) of *Environmental Planning and Assessment Act 1979*]

2. The development does not comply with various controls contained in the *Maitland Development Control Plan 2011*, namely:

- a) Chapter B.3 – Hunter River Flood Plain
- b) Chapter B.7 – Environmentally Sensitive Land
- c) Chapter C.10 – Subdivision
- d) Chapter C.12 – Crime Prevention Through Environmental Design
- e) Chapter F.2 – Residential Urban Release Areas

[s4.15(a)(iii) of *Environmental Planning and Assessment Act 1979*]

3. The development has not addressed the requirements of Integrated Development Approval having regard to the *Rural Fires Act 1997* and the *NSW Rural Fire Service* has not issued *General Terms of Approval*.

[s4.46 of *Environmental Planning and Assessment Act 1979*]

4. The development has not addressed the requirements of Integrated Development Approval having regard to the *National Parks and Wildlife Act 1974* and *DPE Heritage* has not issued *General Terms of Approval*.

[s4.46 of *Environmental Planning and Assessment Act 1979*]

5. The development does not meet the requirements of Clause 2.122 – Traffic generating development of *SEPP (Transport and Infrastructure) 2021*. Transport for New South Wales do not support the development in its current form.

[s4.15(a)(i) of *Environmental Planning and Assessment Act 1979*]

6. The development does not meet the requirements of Clause 2.19 of *SEPP (Resources and Energy) 2021*, as the development does not include any measures to avoid or minimise land use incompatibility with nearby extractive industries.

[s4.15(a)(i) of *Environmental Planning and Assessment Act 1979*]

7. The Concept Plan application does not provide sufficient detail to provide an adequate planning framework for the consideration of future development applications for subdivision and urban development.
[s4.23 of Environmental Planning and Assessment Act 1979]
8. The development results in unreasonable social, economic, built and environmental impacts.
[s4.15(b) of Environmental Planning and Assessment Act 1979]
9. The land is not suitable for the development as proposed.
[s4.15(c) of Environmental Planning and Assessment Act 1979]
10. The development application fails to adequately address submissions made in accordance with the Act and Regulations.
[s4.15(d) of Environmental Planning and Assessment Act 1979]
11. The development is not in the public interest. Specifically, the proposed development is not consistent with the values of the local community, having regard to the significant number of submissions in the form of objections to the proposal.

A total of 60 submissions, in the form of objections, were received by Council following notification of the proposed development. The issues of concern raised in public submissions remain unresolved.
[s4.15(e) of Environmental Planning and Assessment Act 1979]
12. The proposal has not demonstrated that the necessary infrastructure (water and sewer) to service the development can be provided.
[s4.15(a)(i) and s4.15(c) of Environmental Planning and Assessment Act 1979]
13. The extent of cut and fill across the site is not minimised.
[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]
14. The development has unresolved traffic, engineering, flooding and civil design issues.
[s4.15(a)(i), s4.15(a)(iii), s4.15(b) and s4.15(c) of Environmental Planning and Assessment Act 1979]
15. The development fails to avoid areas of high biodiversity value.
[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]
16. The development has unresolved issues relating to vegetation and riparian management.
[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]
17. The development includes recreational areas with unresolved CPTED issues.
[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]

18. The social impact assessment identifies negative residual impact that have not been mitigated.

[s4.15(b) and s4.15(c) of Environmental Planning and Assessment Act 1979]

19. The development is considered out of sequence, premature and does not promote orderly economic development.

[s4.15(a), s4.15(b), s4.15(c) and s4.15(d) of Environmental Planning and Assessment Act 1979]

20. The development application for subdivision of land results in a contravention of the *Environmental Planning and Assessment Act 1979*, an environmental planning instrument and the regulations.

[s4.16(2) of Environmental Planning and Assessment Act 1979]