

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	20 August 2025
DATE OF PANEL DECISION	20 August 2025
DATE OF PANEL MEETING	13 August 2025
PANEL MEMBERS	Tony McNamara (Alternate Chair), Susan Budd, Stephen O'Connor, Ashley Kavanagh, Sally Halliday
APOLOGIES	None
DECLARATIONS OF INTEREST	Alison McCabe – declared a COI due to her consultancy SJB Planning carrying out work with the Applicant (Third.i) not related to this project. Roberta Ryan – declared a COI due to previous work with the Applicant (Third.i) not related to this project.

Public meeting held by teleconference on 13 August 2025, opened at 10.00am and closed at 12.00 noon.

MATTER DETERMINED

PPSHCC-320 – Maitland – DA/2024/763 - 559 Anambah Road Gosforth 2320 - Concept Development for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel had the benefit of an early briefing on this matter in December 2024 and provided detailed minutes outlining key issues and concerns at that stage, including prematurity of the application, level of detail required for a concept DA, the voluntary planning agreement offer, infrastructure sequencing, road access arrangements, flood evacuation arrangements, relationship to the balance of the Urban Release Area, social impacts, the need for a detailed servicing strategy, practical and legal access restrictions to River Road, safety and traffic issues with Anambah Rd, the need for detailed flooding impact assessment and the need for integrated agency support. The Council remain concerned that a number of these matters remain outstanding and have submitted a comprehensive assessment report that recommends refusal of the application.

The Panel notes that late information was supplied in relation to Water and Sewer Servicing arrangements, Bushfire, Aboriginal Cultural Heritage and applicant consultation with the SES. The Panel notes Council's position is that the recently submitted information does not change the recommendation for refusal.

The Panel had the benefit of a further briefing from Council and heard in detail from the applicant and submitters in the public meeting. The applicant requested the Panel defer determination of the application to attempt to resolve the outstanding issues.

Whilst the Panel recognises that this site is part of an Urban Release Area and should be able to support residential development at an appropriate time, it is the Panel's view that the application remains premature and does not provide for the orderly sequencing and development of land. The development site is located at the northern portion of the Anambah Urban Release Area and has the Hunter River in close proximity to the East, North and North West. Servicing Strategies and proposed road infrastructure

arrangements supporting the Planning Proposal were based on development of the urban release area proceeding in an orderly south to north sequence.

The Panel is not satisfied, having regard to the documentation available to the Panel at the date of determination, that a number of key threshold matters have been satisfactorily resolved including the following:

- Maitland Local Environmental Plan Clause 5.21 Flood Planning

The Panel is not satisfied that the proposed flood evacuation route which relies on gated access to River Road (an unformed Council road) is an appropriate response to ensure the efficient evacuation of flood affected residents, or to provide adequate egress/ingress for emergency vehicles when Anambah Road is inundated.

- Maitland Local Environmental Plan Clause 6.2 Public Utility Infrastructure

The Panel has not been provided with a detailed Water and Sewerage Infrastructure Staging plan for the Concept Plan and Stage 1 areas or details of agreed arrangements for the provision of essential water and wastewater services to the site. In the absence of detailed documentation, the Panel is not satisfied that adequate arrangements have been made to service both the area subject to the Concept plan and Stage 1 of the development in a timely fashion.

Development of the northern portion of the Urban Release Area is out of sequence as proposed and would result in an isolated urban community without reasonable access to neighbourhood facilities or services and is not a supportable or desirable planning outcome.

Although Aboriginal Cultural Heritage investigations and consultation has been undertaken the relevant authority has not issued general terms of agreement (GTAs) which is a prerequisite to the granting of consent. There is no indication of when such GTAs may be issued.

The Panel is concerned about the lack of progress which has been made in advancing a Voluntary Planning Agreement (VPA) as a VPA has the potential to resolve a number of the outstanding issues that are yet to be satisfactorily resolved.

Given that the development application was lodged over 300 days ago and there has been sufficient time to address these key threshold issues, the Panel is not supportive of granting the applicant further time to resolve these issues.

Development application

The Panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to refuse the application for the reasons in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Access off Anambah Road without a secondary access due to flooding and bushfire
- Expect development but concerned about the density proposed – would encourage more green and open space
- Concerns that the development is premature
- Traffic and safety impacts
- Lack of infrastructure
- Social impacts with lack of services, public transport, footpaths etc
- Downstream environmental / water impacts and ongoing monitoring requirements

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Tony McNamara (Alternate Chair)	 Susan Budd
 Stephen O'Connor	 Ashley Kavanagh
 Sally Halliday	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-320 – Maitland – DA/2024/763
2	PROPOSED DEVELOPMENT	Concept Development for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 221 Lots
3	STREET ADDRESS	559 Anambah Road, Gosforth 2320
4	APPLICANT/OWNER	The Trustee for Third.i Anambah Unit Trust Rodney David Gilmour Bird
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Transport and infrastructure) 2021 ○ State Environmental Planning Policy (Resources and Energy) 2021 ○ Maitland Local Environmental Plan 2011 • Draft environmental planning instruments: Nil • Development control plans: ○ Maitland Development Control Plan 2011 • Planning agreements: Offer received 17 February but not accepted by Council. • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Clause 33 – concept development applications. • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	• Council Assessment Report: 4 August 2025 • Written submissions during public exhibition: 60 • Verbal submissions at the public meeting: ○ James Clarke ○ Jade Catton ○ Bill Linklater ○ Robert Smith ○ Diana Dastoor ○ Ruth Harvey ○ Council assessment officers – Emilia Marshall, Kristy Cousins, Cameron Evans, Adam Ovenden ○ On behalf of the applicant – Jason McIntosh, Matt Sonter, Stephen Barr, Andrew Brown, Matt Doherty, Dan Lincoln, Rodney Bird. • Total number of unique submissions received by way of objection: 60
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Initial Briefing: 5 December 2024 ○ <u>Panel members</u>: Tony McNamara (Alternate Chair), Susan Budd, Ashley Kavanagh, Sally Halliday ○ <u>Applicant representatives</u>: Brian Swaine, Stephen Barr, Jason McIntosh, Jack Loughnan

		○ <u>Council assessment staff</u>: Emilia Marshall, Kristy Cousins, Cameron Evans ○ <u>Department</u>: Leanne Harris, Holly McCann ● Site inspection: ○ Tony McNamara: August 2025 ○ Ashley Kavanagh: 4 December 2024 ○ Sally Halliday: 6 July 2025 ● Final briefing to discuss council’s recommendation: 13 August 2025 ○ <u>Panel members</u>: Tony McNamara (Alternate Chair), Susan Budd, Stephen O’Connor, Ashley Kavanagh, Sally Halliday ○ <u>Council assessment staff</u>: Emilia Marshall, Kristy Cousins, Cameron Evans, Adam Ovenden ○ <u>Department</u>: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A

SCHEDULE 2
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 does not comply with *NSW Rural Fire Service General Terms of Approval* (Reference: DA20240927003999-S38-3, dated: 5 August 2025).

[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 does 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 within the Anambah Urban Release Area (AURA)
[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 community 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 60 submissions in the form of objections to the proposal. The issues of concern raised in the public submissions remain unresolved.
[s4.15(e) of Environmental Planning and Assessment Act 1979]
12. The proposal has not demonstrated that adequate arrangements have been made to provide the necessary infrastructure (water and sewer) to service the development in a timely fashion.
[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, including access via Anambah Road which is flood prone and River Road which is largely unmade and has unresolved issues in respect of design, land ownership and construction
[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 has not been mitigated.
[s4.15(b) and s4.15(c) of Environmental Planning and Assessment Act 1979]
19. The development is 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 contraventions of the Environmental Planning and Assessment Act 1979 and environmental planning instruments, including:
 - a) s4.47 of Environmental Planning and Assessment Act 1979
 - b) s4.23 of Environmental Planning and Assessment Act 1979
 - c) Clauses 5.10, 5.21, 6.2 and 7.2 of the Maitland Local Environmental Plan 2011
 - d) Clause 2.19 of the SEPP (Resources and Energy) 2021*[s4.16(2) of Environmental Planning and Assessment Act 1979]*