

## COUNCIL ASSESSMENT REPORT

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>Panel Reference</b>	PPSHCC-382
<b>DA Number</b>	DA/2024/763:1
<b>LGA</b>	Maitland City Council
<b>Proposed Development</b>	Section 8.2 Review of Determination - Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision with Stage 1 Torrens Title Subdivision of 226 Lots
<b>Street Address</b>	Lot: 177 DP874171, Lot: 55 DP874170  559 Anambah Road, GOSFORTH NSW 2320
<b>Applicant</b>	The Trustee for Third.i Anambah Unit Trust
<b>Date of DA lodgement</b>	4 November 2025
<b>Total number of Submissions Number of Unique Objections and Summary of key submissions</b>	A total of seventeen (17) unique submissions were received to the development. The development was notified on: 13 November 2025 to 10 December 2025.  Key Issues: <ul style="list-style-type: none"> <li>• Sequencing and orderly development;</li> <li>• Traffic impacts and road safety;</li> <li>• Flooding, isolation and reliability of access;</li> <li>• Use of River Road (safety, rural character, infrastructure constraints);</li> <li>• Utilities and servicing constraints (water, sewer, schools, public transport);</li> <li>• Land use conflict with existing rural and residential uses;</li> <li>• Social isolation and lack of nearby services;</li> <li>• Bushfire risk and emergency evacuation arrangements;</li> <li>• Ecological impacts and vegetation removal;</li> <li>• Odour and air quality concerns from nearby composting facility;</li> </ul>
<b>Recommendation</b>	Refusal
<b>Regional Development Criteria</b>	<b>Clause 2.19 &amp; 2.20 - Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: Development that has an estimated development cost of more than \$30 million.</b>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• <i>Environmental Planning and Assessment Act 1979</i></li> <li>• <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resources and Energy) 2021</i></li> <li>• <i>Maitland Local Environmental Plan 2011</i></li> <li>• <i>Maitland Development Control Plan 2011</i></li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Attachment A: Applicant 8.2 Review Cover Letter Attachment B: DCP Compliance Schedule Attachment C: Plan of Subdivision - Stage 1 Attachment D: Concept Masterplan - Engineer Drawings Attachment E: Preliminary Engineering Drawings – Stage 1 Attachment F: Landscape Master Plan Design Report Attachment G: Urban Design Report Attachment H: Traffic Impact Assessment and RFI Response Attachment I: Road Safety Audit & Mitigation Details

	<p>Attachment J: Preliminary Site Investigation Report</p> <p>Attachment K: Biodiversity Development Assessment Report (BDAR)</p> <p>Attachment L: Bushfire Threat Assessment</p> <p>Attachment M: Emergency Access Strategy Report</p> <p>Attachment N: CPTED Report</p> <p>Attachment O: Social Impact Assessment</p> <p>Attachment P - Economic Assessment</p> <p>Attachment Q: Riparian Vegetation Management Plan</p> <p>Attachment R: Aboriginal Cultural Heritage Assessment Report</p> <p>Attachment S: LiDAR survey</p> <p>Attachment T: Electrical Servicing Strategy</p> <p>Attachment U: Ausgrid Preliminary Enquiry Response Letter</p> <p>Attachment V: Hunter Water Correspondence</p> <p>Attachment W: Sewer &amp; Water Staging Plan</p> <p>Attachment X: DPE Water - Response letter – General Terms of Approval</p> <p>Attachment Y: RFS - Response letter – General Terms of Approval</p> <p>Attachment Z: DPIRD Fisheries - Response Letter - General Terms of Approval</p> <p>Attachment AA: Heritage NSW - Response Letter - General Terms of Approval</p> <p>Attachment AB: SES Referral Response letter</p> <p>Attachment AC: TfNSW Referral Response letter</p> <p>Attachment AD: Redacted Submissions</p>
<b>Report Appendices</b>	<p>A: Draft Reasons for Refusal</p> <p>B: DCP Compliance Table</p> <p>C: Submission Issues Table</p>
<b>Clause 4.6 requests</b>	N/A
<b>Report prepared by</b>	<p><b>Scott Fatches, Senior Development Planner</b></p> <p><b>Reviewed by: Georgie Williams, Principal Planner</b></p>
<b>Report date</b>	10 February 2026

**Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not applicable**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Conditions**

Have draft conditions been provided to the applicant for comment? **No**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

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The subject site at 559 Anambah Road, Gosforth forms part of the broader Anambah Urban Release Area (URA) and is the subject of a Concept Development Application (DA) seeking approval for a staged Torrens title subdivision comprising up to 900 residential lots, together with detailed approval for Stage 1 involving the subdivision of 226 lots and associated civil works.

The original development application (DA/2024/763) was assessed by Council and determined by the Hunter and Central Coast Regional Planning Panel ('the Panel') as Regionally Significant Development pursuant to Section 2.19(1) of the State Environmental Planning Policy (Planning Systems) 2021, given its Estimated Development Cost (EDC) exceeding \$30 million. The assessment identified a wide range of strategic, infrastructure, flooding, traffic, access, environmental and servicing issues, many of which related to staging and sequencing within the Anambah URA, the reliance on uncommitted or uncertain future infrastructure, and the adequacy of supporting technical information at both concept and Stage 1 DA level.

Following a detailed assessment, the Panel refused the application on 20 August 2025, identifying multiple reasons for refusal. Key matters included the premature proposed staging, failure to demonstrate orderly and economic development of the Anambah URA, unresolved traffic and access impacts on both the local and State road network, inadequate emergency evacuation arrangements for a flood-affected site, land-use conflict with surrounding activities, lack of demonstrated utility servicing, and ongoing environmental, biodiversity and earthworks concerns.

The applicant lodged a review of the Panel's determination under Section 8.2 of the Environmental Planning and Assessment (EP&A) Act, 1979 on 4 November 2025. The review application is accompanied by additional and amended technical information that the applicant contends addresses the Panel's reasons for refusal.

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, Maitland Local Environmental Plan (MLEP) 2011 and Maitland Development Control Plan (MDCP) 2011.

There were no concurrence requirements from agencies for the proposal however the application is integrated development pursuant to Section 4.46 of the 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.*

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 publicly exhibited between 13 November 2025 and 10 December 2025. Council received 17 unique submissions, all in objection. Key issues raised included sequencing and orderly development, traffic and intersection impacts, land-use conflict with surrounding activities, flooding concerns, ecological impacts and vegetation removal, bushfire and emergency access constraints, utilities and servicing, and concerns regarding reliance on River Road.

The key issues associated with the proposal include:

1. **River Road Access and Emergency Evacuation** - The proposal continues to rely on River Road as a gated, controlled “emergency-only” access arrangement despite clear and consistent advice from Council, the NSW SES and Transport for NSW that such an arrangement is unsuitable and unsafe. The SES has advised that any form of restricted or conditional access introduces unacceptable delay and risk during flood events – particularly in a flash-flooding environment where warning times are short and evacuation routes must remain immediately and reliably available. Restricted access is inconsistent with SES operational practice and broader emergency management principles, and creates an additional point of failure at the very moment communities face the highest risk.

Council's position is reinforced by the practical, operational and strategic issues with this arrangement. These include issues with a private entity to open and close a gated public road during rapidly evolving emergencies, the ongoing responsibility and cost to maintain a “closed” road, and concerns raised by SES about the risks associated with any controlled-access arrangement. Further, the applicant's proposed “interim” solution is not interim in effect: the flooding behaviour of Anambah Road means River Road would be required on a regular basis, not only for rare emergencies. Council has already recognised that Anambah Road is subject to both local catchment flooding and Hunter River flooding, meaning River Road would likely become a routine alternative access route. Council is also concerned about the feasibility of upgrading River Road to a standard that would support unrestricted public access. Significant constraints exist, including potential land acquisition, earthworks, and the need to resolve safety at the River Road / New England Highway intersection – matters that would require detailed consultation with Transport for NSW and the Windella Estate community. The proposal remains inconsistent with the emerging AURA road hierarchy, which does not carry a continuous collector route through the River Road corridor due to topographic and watercourse constraints.

2. **Bushfire** - The application is integrated development under the *Rural Fires Act 1997*. Key bushfire protection measures remain unresolved, including conflicts with NSW RFS General Terms of Approval (GTA) requirements for perimeter access – particularly the required 8m carriageway width for MC02/River Road, which has design and land-tenure constraints due to topographical constraints.
3. **Traffic** - TfNSW has not supported the proposal due to unresolved modelling inconsistencies, unclear trip generation assumptions, lack of assessment of key movements, and no demonstrated upgrade pathway for the New England Highway/ Anambah Road intersection. The existing network has not been shown to accommodate the proposed 900-lot concept or the 226-lot Stage 1 subdivision, or evidence that identifies infrastructure options to mitigate impact of Stage 1. TfNSW also raise questions of the interactions between River Road as an emergency flood evacuation route, and the New England Highway.
4. **Flooding** - SES advisory comments highlight that the proposed evacuation arrangements are unsuitable for a flood-affected site of this scale. Further, Council does not support River Road as an emergency-only route. Flood-free access and evacuation remain unresolved consistent with Clause 5.21 of the MLEP 2011.
5. **Orderly and Economic Development, Staging and Sequencing** – The proposal remains out-of-sequence with the logical delivery of the Anambah URA, relying heavily on future infrastructure

that is not committed, feasible or available in a timely manner. Hunter Water servicing remains unresolved; road network performance is uncertain; and the staging approach does not satisfy Clause 6.3(3)(a) of the MLEP 2011. The applicant's updates do not demonstrate coordinated development or timely delivery of essential infrastructure.

6. **Design amendments and deficient information** – Several technical design matters remain unresolved. The extent of cut and fill across the subdivision is substantial, and the absence of updated servicing and engineering detail leaves uncertainty about the final design and impact of retaining walls, particularly for constrained small-lot housing typologies. There are also inconsistencies between the bushfire requirements, ecological constraints and the proposed subdivision layout, which have not been reconciled through a revised Biodiversity Development Assessment Report (BDAR) or supporting documentation. In addition, the proposal has not resolved ongoing biodiversity and riparian management issues, nor has it demonstrated that odour impacts associated with the adjoining composting facility or impacts from nearby quarry can be adequately managed or avoided.

## Scope of the Section 8.2 Review

This report has been prepared in response to a request for review of the determination of DA/2024/763 under Section 8.2 of the EP&A Act 1979.

In undertaking the Section 8.2 Review, the consent authority is required to conduct a fresh assessment of the application under the statutory framework in Sections 4.15 and 4.22 of the EP&A Act, having regard to both the original material and the additional information submitted with the review. While the original reasons for refusal remain an important reference point, they do not limit the scope of assessment. The review requires the consent authority to form its own view on whether the development is acceptable in light of the full suite of current material, including whether the matters previously identified as determinative have now been properly addressed.

Where elements of the proposal remain unchanged, or where the review material does not substantively alter the assessment of impacts, the findings of the original determination remain relevant.

In accordance with Section 8.3(2)(a) of the EP&A Act, a determination of decision cannot be reviewed after the period within which any appeal may be made to the Court has expired if no appeal was made. Based on an original refusal date of 20 August 2025, this equates to 20 February 2026.

## 1. RECOMMENDATION

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Following consideration of the matters for consideration under Section 4.15 and 4.22 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 2024/763:1 is recommended for refusal subject to the reasons contained at **Appendix A** of this report.

## 2. THE SITE AND LOCALITY

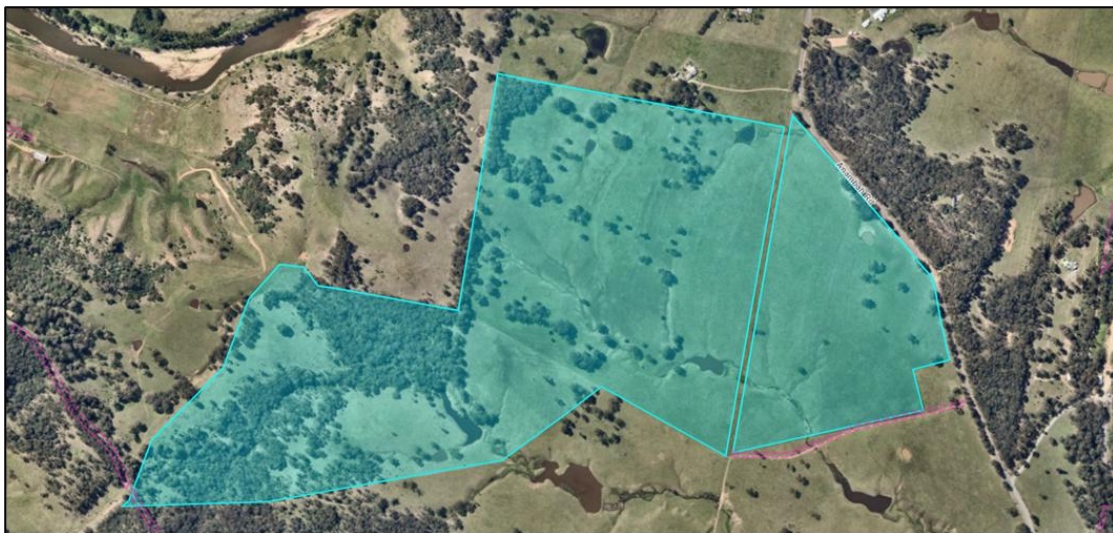
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### 2.1 The Site

The subject site comprises two irregularly shaped allotments: Lot 55 DP 874170 with an area of approximately 27 hectares, and Lot 177 DP 874171 with an area of approximately 96.8 hectares, resulting in a total site area of approximately 123.8 hectares (refer to **Figure 1** below). The allotments are separated by a 20-metre-wide unformed road corridor commonly referred to as River Road.

The development area consists largely of cleared pastoral and agricultural land and is bisected by a first-order watercourse. A further first-order stream enters the site at the northern boundary; however, this lies outside the Stage 1 developable area. The application is predominantly confined to cleared land zoned R1 General Residential.

The eastern portion of the site (Lot 55), which is wholly zoned R1 General Residential, exhibits varied topography and contains a riparian corridor at the south-western corner, together with scattered vegetation primarily along the eastern boundary fronting Anambah Road. The western portion (Lot 177), which is split-zoned R1 General Residential and RU2 Rural Landscape, contains more pronounced topographic variation, a more extensive riparian corridor, and areas of established vegetation.



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

### Roads and Access

The surrounding road network comprises the New England Highway (approximately 4 kilometres south of the site), Anambah Road (adjoining the eastern boundary), River Road (an unformed road corridor bisecting the site and continuing south through the Windella Estate), and Wyndella Road (a partly unformed private road connecting to the New England Highway approximately 2.7 kilometres south-west).

Lot 55 has direct frontage and access to Anambah Road. Lot 177 benefits from a 10-metre-wide right-of-carriageway access easement over neighbouring Lot 56 DP 874170 (refer to Figure 2 below).

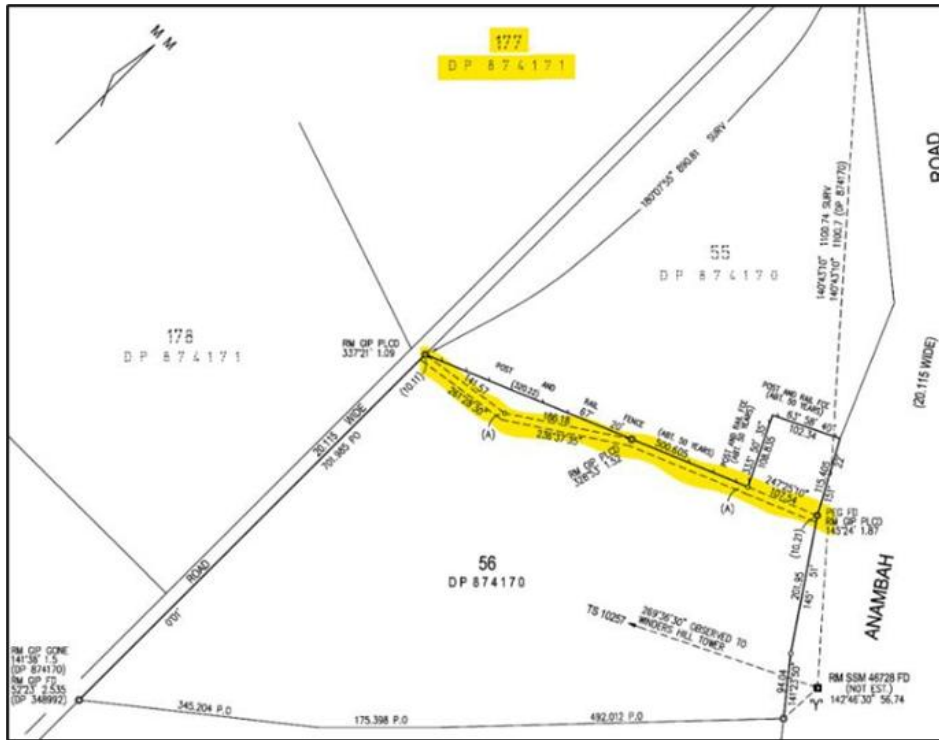


Figure 2 - DP1109627 showing right of way (highlighted yellow) as it relates to lot 177

### Services and Utilities

Overhead electricity infrastructure is located along Anambah Road at the eastern boundary of the site. Electrical load requirements have been estimated on the basis of an average demand of 3.5 kVA per lot.

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

The site is not currently serviced by reticulated water or sewer. A Water and Sewer Servicing Strategy has previously been developed and endorsed by Hunter Water Corporation for the southern portion of the Anambah URA; however, this strategy does not include the subject site. Refer to Figures 3 and Figure 4 below.

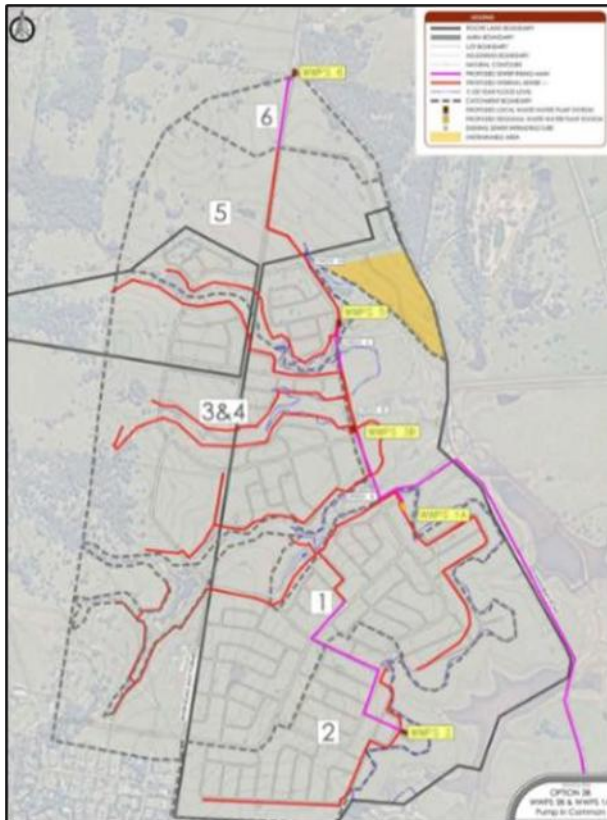


Figure 3 - Waste water servicing (Preliminary Servicing Advice Application, HWC, dated: 02/05/2024)

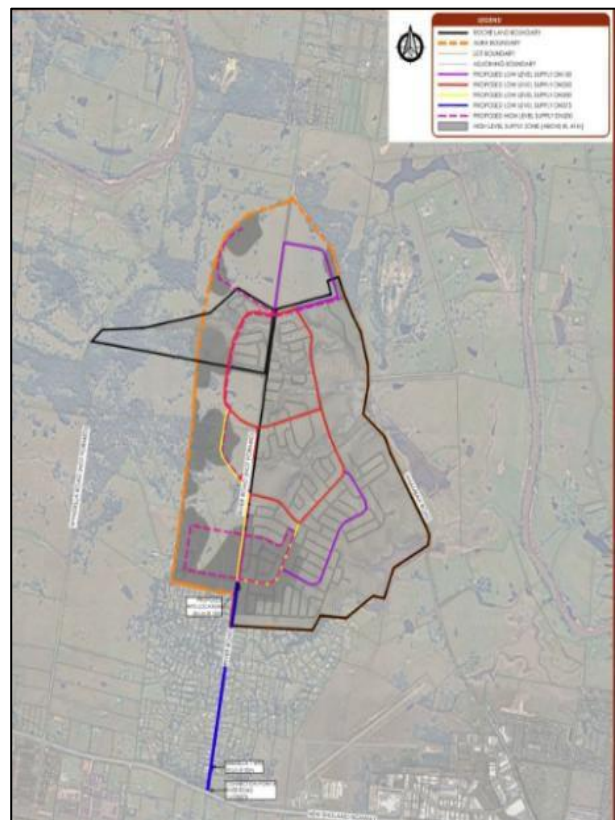


Figure 4 - Watermain alignment plan (Preliminary Servicing Advice Application, HWC, dated: 02/05/2024)

### Topography and Soils

The site comprises gentle to moderately undulating terrain. Slopes across the eastern portion of the site generally range between 2 and 5 degrees, increasing to approximately 7 to 8 degrees across much of the western portion. Elevation within the R1-zoned land ranges from approximately 50 metres AHD in the north-western portion of the site to approximately 20 metres AHD in the southern areas.

Surface drainage across the site flows toward watercourses draining south-east and north-east into adjoining properties, with discharge via culverts beneath Anambah Road. Three farm dams are located within the site. Refer to **Figure 5**.

The site is mapped as Class 5 Acid Sulphate Soils, indicating a low likelihood of occurrence. Geotechnical investigations identified areas of Class M, H1 and H2 clay soils, requiring consideration in relation to earthworks, subgrade preparation and footing design.

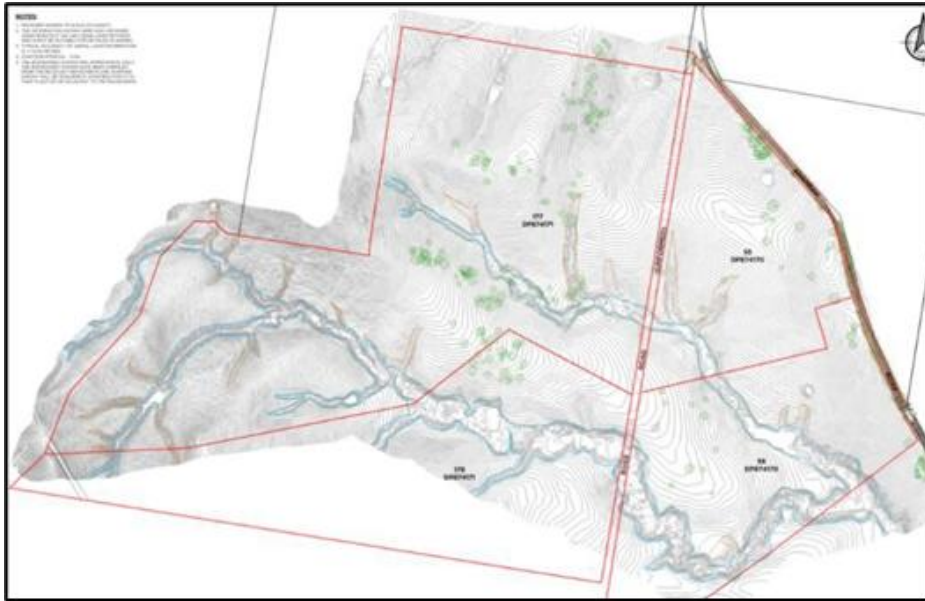


Figure 5 - LiDAR survey (prepared by Delfs Lascelles, reference: 24200, rev: A, dated: 01/08/2024)

### Bushfire

The site is identified as bushfire prone land, comprising Categories 1, 2, 3 and buffer areas (refer to **Figure 6**). The majority of the site is classified as grassland, reflecting its historical agricultural use. Areas of scattered trees and mature vegetation contribute to Categories 1 and 2, with the primary hazard vegetation identified as Hunter–Macleay Dry Sclerophyll Forest.

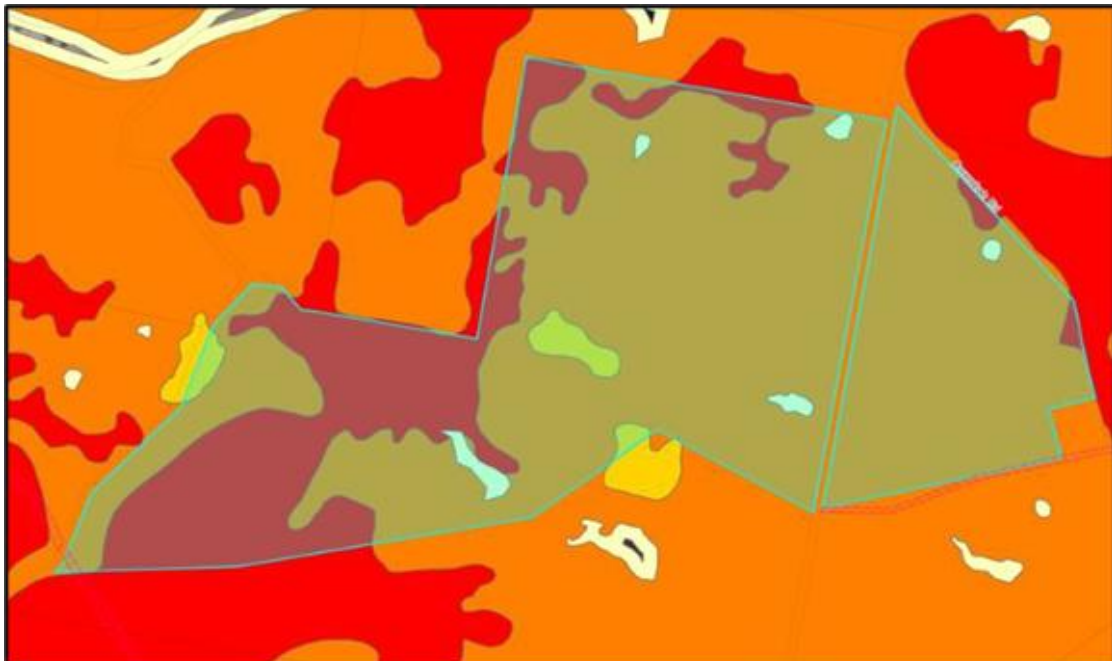


Figure 6 - GIS image. Bushfire prone land mapping

### Flooding

While the majority of the site is not mapped as flood prone land, a small portion at the southern boundary of Lot 55 is identified as low-hazard flood fringe (refer to **Figure 7**), with flood velocities of less than 0.5 metres per second.

Notwithstanding this, the site is affected by flood-related access constraints, with Anambah Road becoming inundated during flood events. Flood modelling contained within the Flood Impact Assessment (NL222055, dated 28 May 2025) indicates that Anambah Road becomes inundated between the 39% AEP (approximately 1 in 2-year ARI) and 18% AEP (approximately 1 in 5-year ARI) events and may be impassable for up to approximately 44 hours during an 18% AEP event. Accordingly, the development is required to provide an alternative flood-free access arrangement.

Figure 7.1 and Figure 7.2 illustrate the extent of flooding across the broader catchment during the 1% and 5% AEP events, including inundation of Anambah Road.

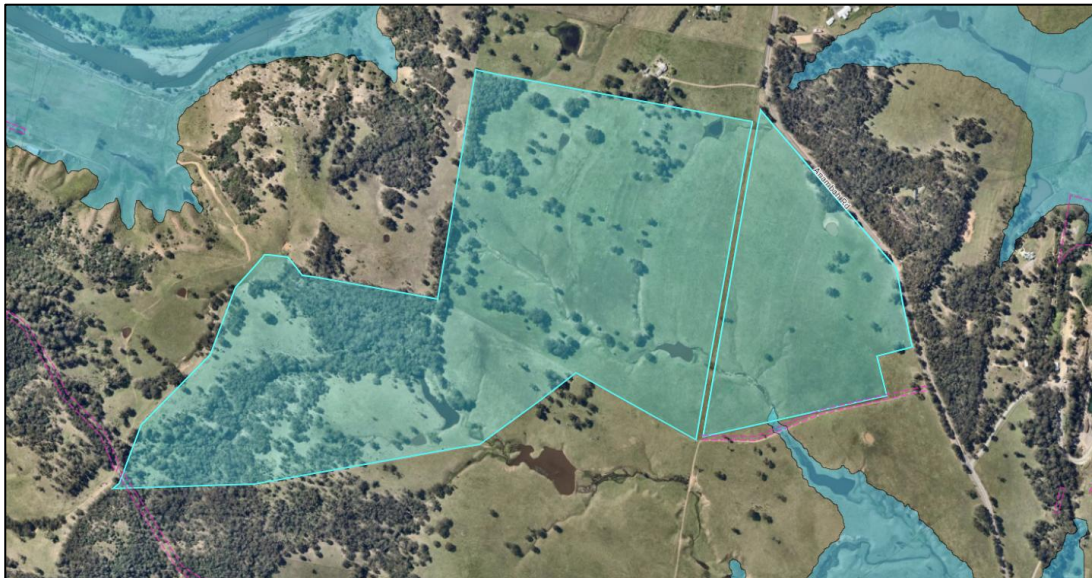


Figure 7 - GIS image. Flood prone land mapping

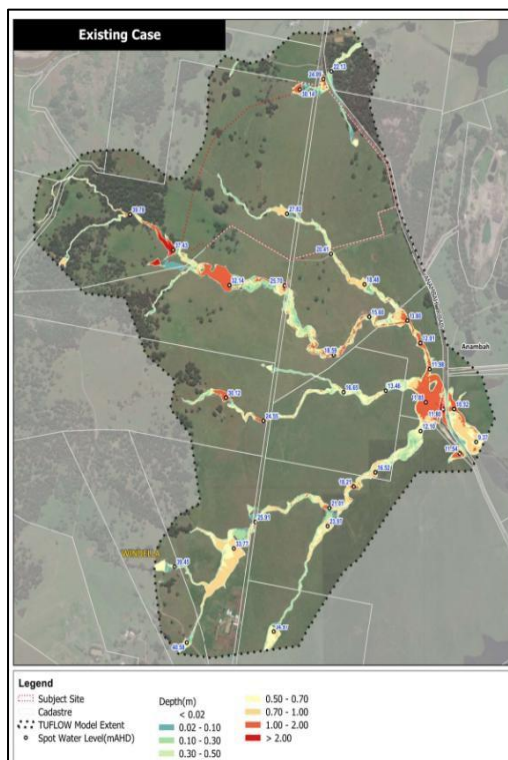


Figure 7.1 - 1% AEP flood depth

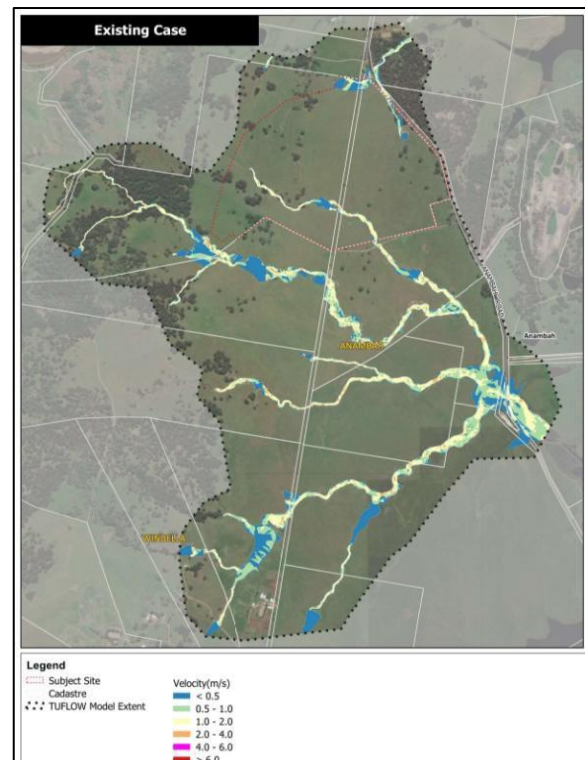


Figure 7.2 - 5% AEP Flood depth

**Biodiversity**

The site is not mapped as land of high biodiversity value. However, the western portion contains areas of Endangered Ecological Communities (EEC), including Hunter Stringybark–Spotted Gum–Ironbark Forest, Hunter Lowlands Red Gum Forest (Variant), Lower Hunter Spotted Gum–Ironbark Forest, Hunter Valley Moist Forest, and related assemblages (refer to **Figure 8**).

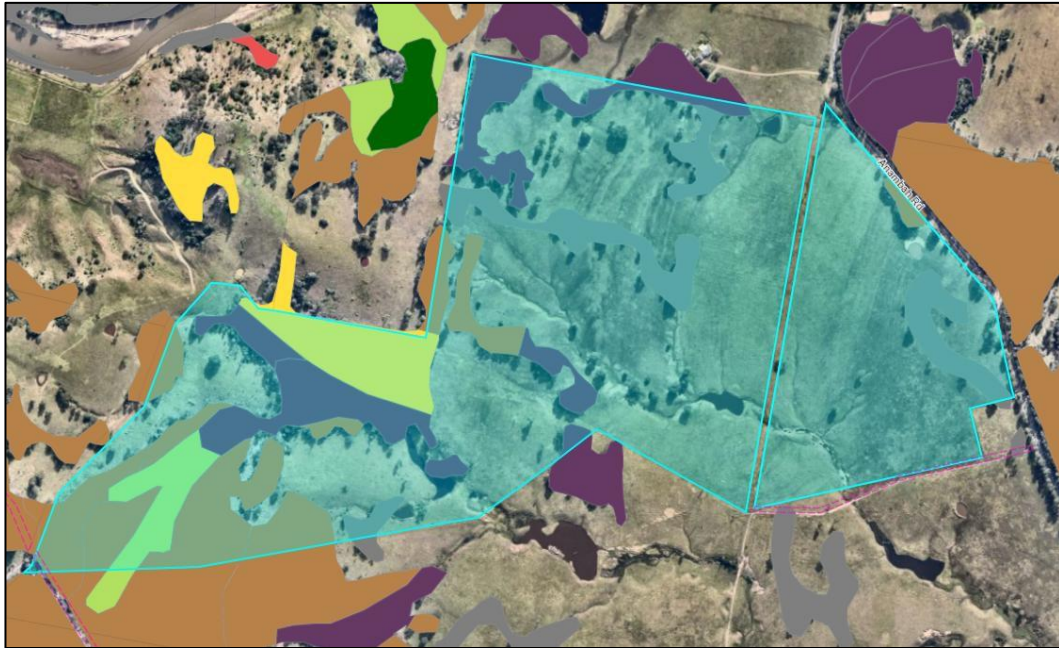


Figure 8 - GIS aerial image. EEC mapping

Under Council's Environmental Sustainability Strategy (ESS) 2023, the site forms part of the blue-green grid and contains mapped biodiversity corridors. A regional corridor traverses the northern portion of both allotments, while a local corridor extends in a north-south direction through Lot 177 (refer to **Figure 9**).

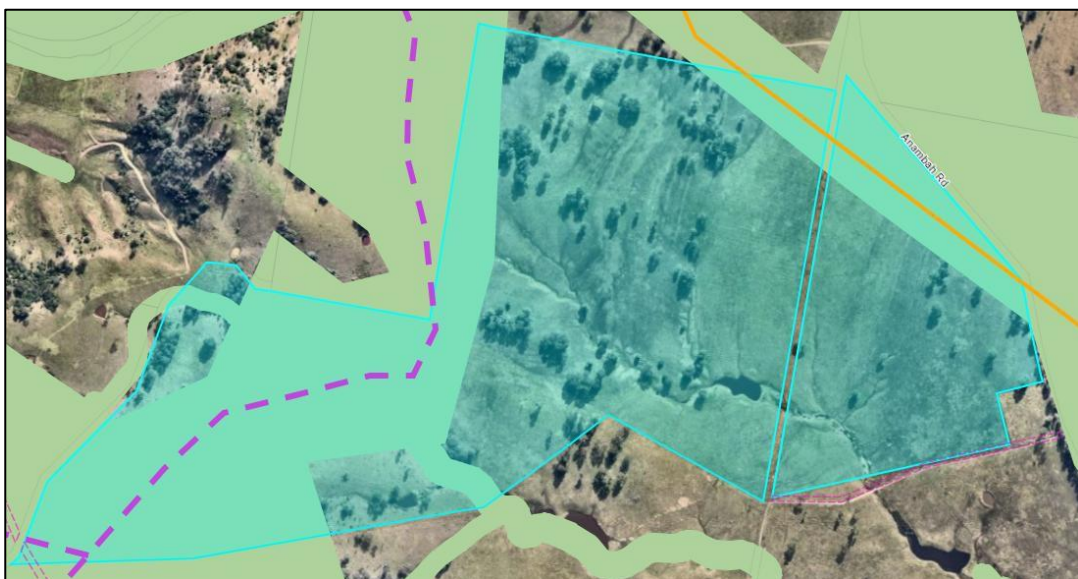


Figure 9 - GIS aerial image. Blue/green grid and biodiversity corridors

### ***Riparian Land***

The residentially zoned portion of the site contains two mapped natural watercourses (refer to Figure 10), with the most substantial watercourse traversing the southern portion of the site. Three minor watercourses are located at the northern extent of the site. A further watercourse flows through the RU2 zoned portion of the land and enters the residentially zoned area to the south and is mapped under the MLEP 2011 Watercourse Map.

Key Fish Habitat (KFH) is mapped by NSW Department of Primary Industries – Fisheries over first- and third-order watercourses within the southern portion of the site (refer to **Figure 10**).



Figure 10 - GIS aerial image, water courses and key fish habitat

### **Aboriginal Cultural Heritage**

There are no Aboriginal Heritage Information Management System (AHIMS) sites mapped within the subject land; however, several recorded sites are located in proximity to the site. An Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared and referred to Heritage NSW.

An archaeological survey identified three surface artefact sites adjacent to the central creek line. The creek line and a second-order watercourse in the south-western portion of the site were assessed as archaeologically sensitive, with potential for subsurface deposits. The ACHAR concludes that identified artefact sites and potential archaeological deposits are to be protected by exclusion zones during construction. Where avoidance is not possible, an Aboriginal Heritage Impact Permit would be required. Refer to **Figure 11** and **Figure 12**.

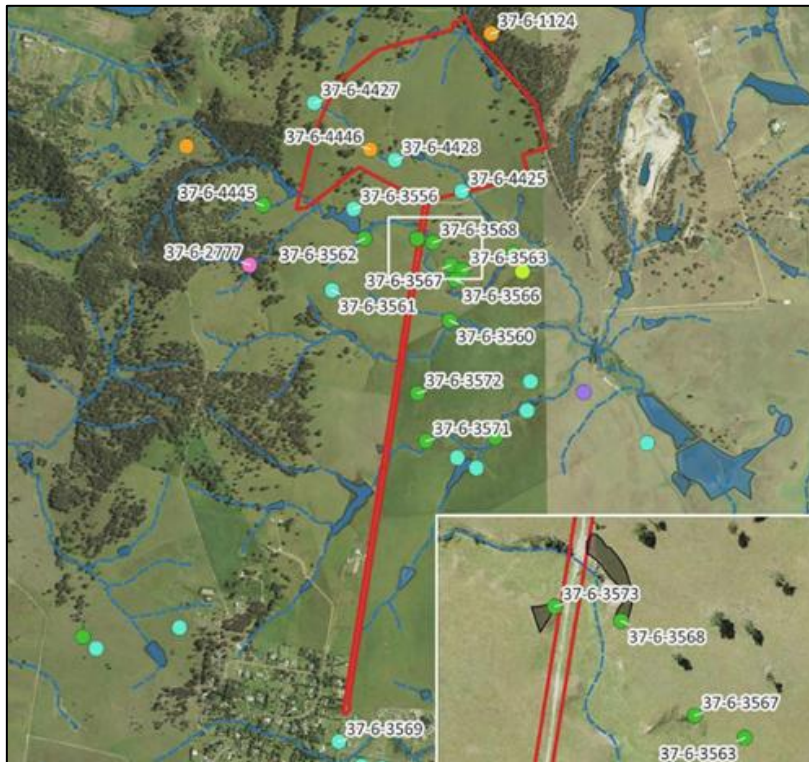


Figure 11 - AHIMS sites in proximity to subject site (Heritage Now ACHAR, dated: 15/09/2025).

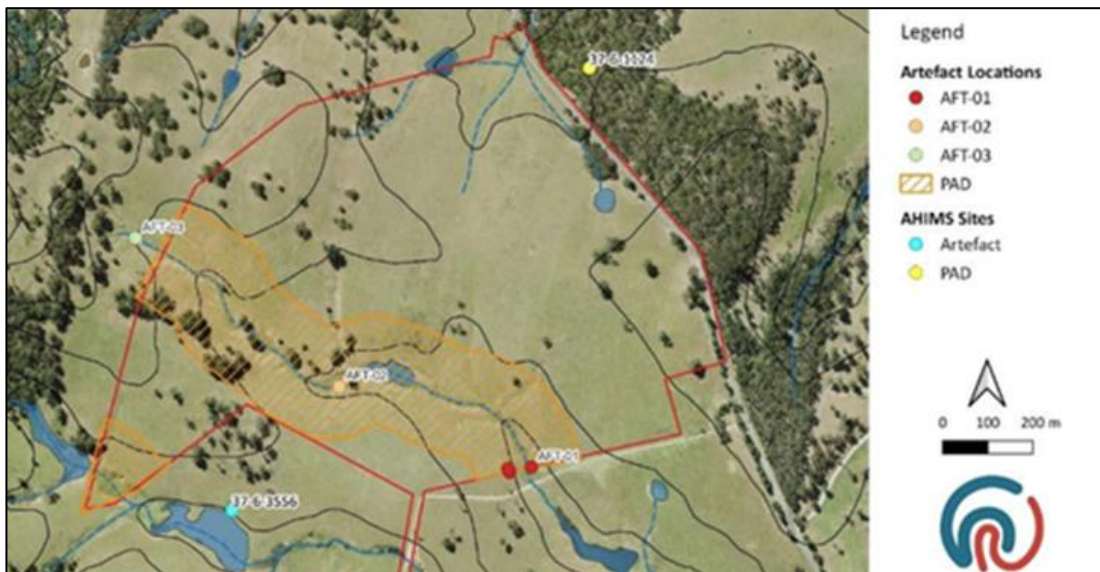


Figure 12 - PAD sites identified on the subject site (Heritage Now ACHAR, dated: 15/09/2025)

## 2.2 The Locality

The Anambah URA comprises approximately 490 hectares of land within the western growth corridor of Maitland, located generally north of the Windella Estate and accessed primarily via Anambah Road. The URA was first identified as suitable for future urban development in the Maitland Urban Settlement Strategy (MUSS) 2006 and was subsequently progressed to Category 1 – Residential in the 2010 update to the MUSS.

The URA formed the subject of a Planning Proposal that resulted in the rezoning of predominantly RU2 Rural Landscape land to R1 General Residential under MLEP 2011 (Amendment No. 26), which came into effect in December 2020. That amendment introduced site-specific minimum lot sizes for land within the URA and established a strategic framework for the staged delivery of urban development and supporting infrastructure.

A key outcome of MLEP Amendment No. 26 was the identification of a staged access strategy for the URA, whereby Anambah Road functions as the primary point of access in the early stages of development, with the provision of a future connection to the New England Highway via Wyndella Road required following the delivery of approximately 1,200 lots within the URA. This access framework was intended to ensure orderly and economic development, appropriate infrastructure sequencing, and the safe movement of residents and emergency services as the URA develops over time.

Since its rezoning in 2020, the anticipated development yield for the Anambah URA has increased from approximately 3,000 dwellings to around 4,200 dwellings, with an ultimate population density of approximately 10,500 people.

To support the planned growth of the Anambah URA and provide more detailed guidance for future development, Council resolved on 18 November 2025 to place the draft Anambah Development Control Plan (DCP) on public exhibition between 21 November 2025 and 19 December 2025. The draft DCP is intended to supplement the MDCP 2011 and establish a comprehensive framework to guide the orderly development of the URA over time.

The draft DCP includes controls and guidelines relating to, among other matters:

- Protection of environmentally sensitive land, including steep land, flood-affected areas and riparian corridors;
- Stormwater management and water quality outcomes;
- Mitigation of natural and environmental hazards, including bushfire risk and Endangered Ecological Communities;
- Residential density, scale and urban form;
- Staging and sequencing of development;
- A transport movement hierarchy identifying road connections, access arrangements and active transport networks;
- Provision of public open space, community facilities and supporting infrastructure; and
- Landscape outcomes, including targets to increase urban tree canopy in accordance with Council's ESS.

In addition, Council is progressing a site-specific Contributions Plan for the Anambah URA to facilitate the coordinated delivery of local and regional infrastructure required to support the full development of the release area.

### **3. THE PROPOSAL AND BACKGROUND**

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#### **3.1 The Proposal**

The application before the Panel seeks a review of determination under Section 8.2 of the EP&A Act 1979 for a previously refused Concept Development Application and associated Stage 1 subdivision at 559 Anambah Road, Gosforth.

### Concept Development Application

The original application sought consent under Section 4.22 of the Act for a staged two (2) into 900-lot Torrens title residential subdivision. The Concept Development Application provides the high-level framework for the ultimate development of the site, including:

- Approximately 900 residential allotments;
- An internal road network with associated pedestrian and cycle connections;
- Six (6) stormwater detention and water-quality basins;
- Three (3) public parks;
- Riparian corridors and drainage land; and
- Associated vegetation clearing, earthworks and landscape works.

The concept proposal is intended to be delivered over five (5) stages and is shown at **Figure 13** below.



*Figure 13 - Concept Plan*

### Stage 1 Development

The detailed Stage 1 subdivision seeks approval for 226 residential Torrens title lots and a public reserve shown at **Figure 14**.

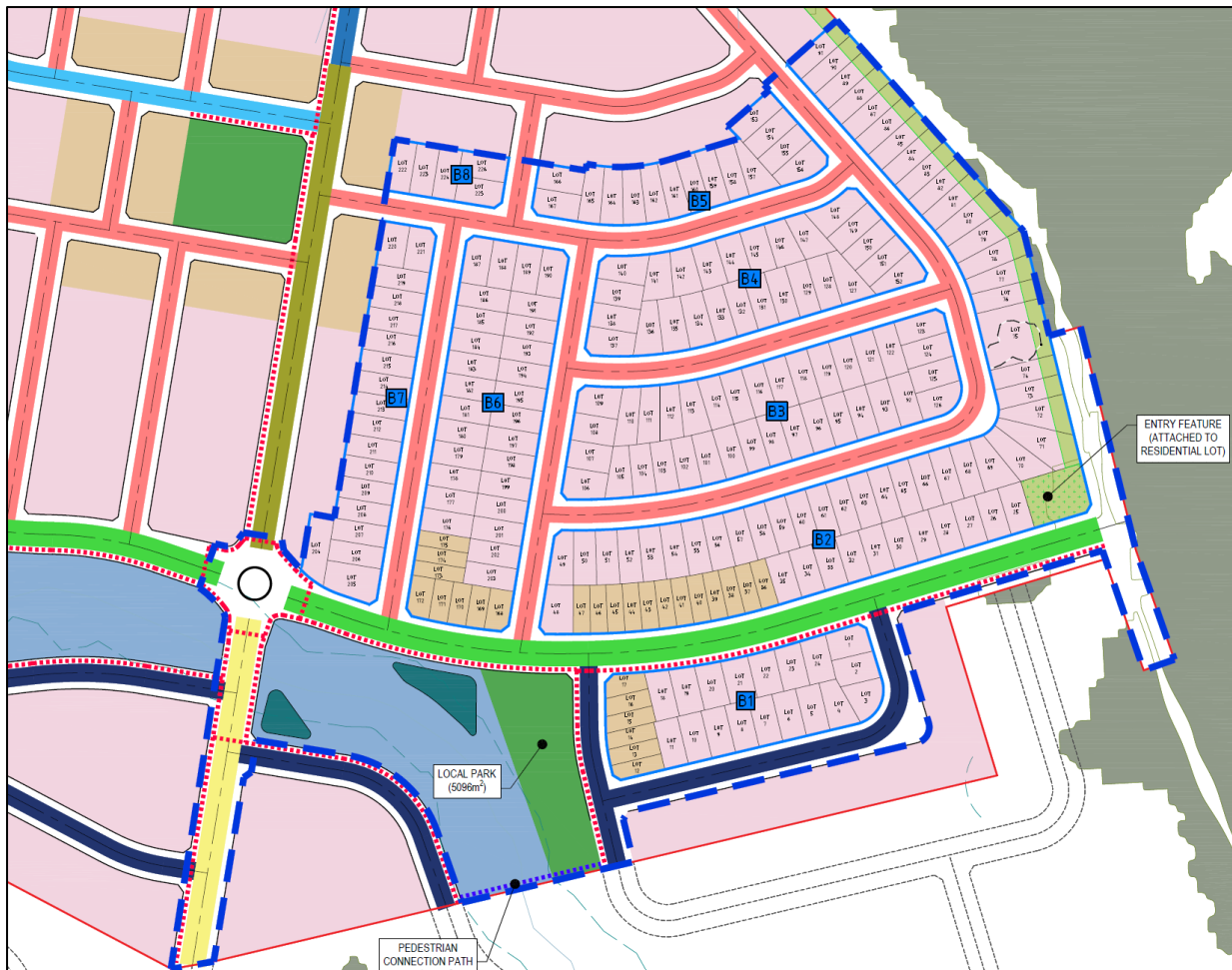


Figure 14 - Stage 1 subdivision plan

Stage 1 also includes the following works:

- Construction of internal local roads, pedestrian pathways and cycleways;
- Establishment of riparian open space corridors, including stormwater detention and water-quality basins (see Figure 15);
- Construction of a portion of River Road within the Stage 1 area (See Figure 16);
- Provision of a privately controlled, emergency-only access connection to River Road, incorporating an automated gate system located on private land;
- Delivery of a local neighbourhood park;
- Landscaping works, including street tree planting (see Figure 17);
- Provision of essential services including water, sewer and electricity infrastructure;
- Safety upgrades to Anambah Road, including a new site-access intersection; and
- Ancillary works including:
  - Entry feature and landscape works on private allotments; and
  - Temporary APZs associated with Stage 1.

### 3.2 Nature of Changes in the Section 8.2 Review

Section 8.2 review does not alter the overall nature, intent or scale of the development originally proposed. The applicant continues to seek:

- Concept approval for an overall yield of approximately 900 lots;
- Detailed approval for Stage 1;

- The same primary access via Anambah Road and controlled “emergency-only” access via River Road;
- The same staging strategy and sequencing approach; and
- The same overall subdivision footprint and road hierarchy.

It is noted that the revised Stage 1 plan now identifies 226 lots, compared with 221 lots in the version originally considered by the Panel. This change does not alter the footprint, access arrangements or staging structure, and is considered a minor modification that does not materially change the character or scale of the development. The proposal remains substantially the same development for the purposes of Section 8.3(3) of the EP&A Act.

### **3.3 Information Submitted with the Section 8.2 Review**

In support of the Section 8.2 review, the applicant has lodged additional and updated documentation addressing various technical matters. Based on the material submitted, the key updates include:

- Applicants 8.2 Review response, addressing reasons for refusal;
- Updated traffic and transport information, including commentary on the Anambah Road / New England Highway intersection and staging-related network impacts;
- Revised flooding and emergency access material, including updated engineering plans showing the 1% AEP flood extent and an Emergency Access and Traffic Management Strategy supporting continued reliance on River Road as a controlled emergency route;
- An amended Bushfire Assessment Report with updated vegetation classifications, revised APZ mapping and commentary on road widths;
- Updated economic and social impact analysis intended to support the early release of land within the Anambah URA and addressing nearby extractive/ resource recovery industry impacts;
- An updated CPTED assessment addressing site safety and security;
- Amended Masterplan and Landscape Masterplan documentation; and
- Updated Aboriginal Cultural Heritage reporting, including test excavation outcomes addressing impacts on identified Aboriginal heritage.

Notwithstanding these supplementary documents, the development concept remains unchanged. The review continues to seek approval for the same overall yield, Stage 1 subdivision (noting a minor increase in lot numbers), access strategy, staging approach and development footprint as originally refused.

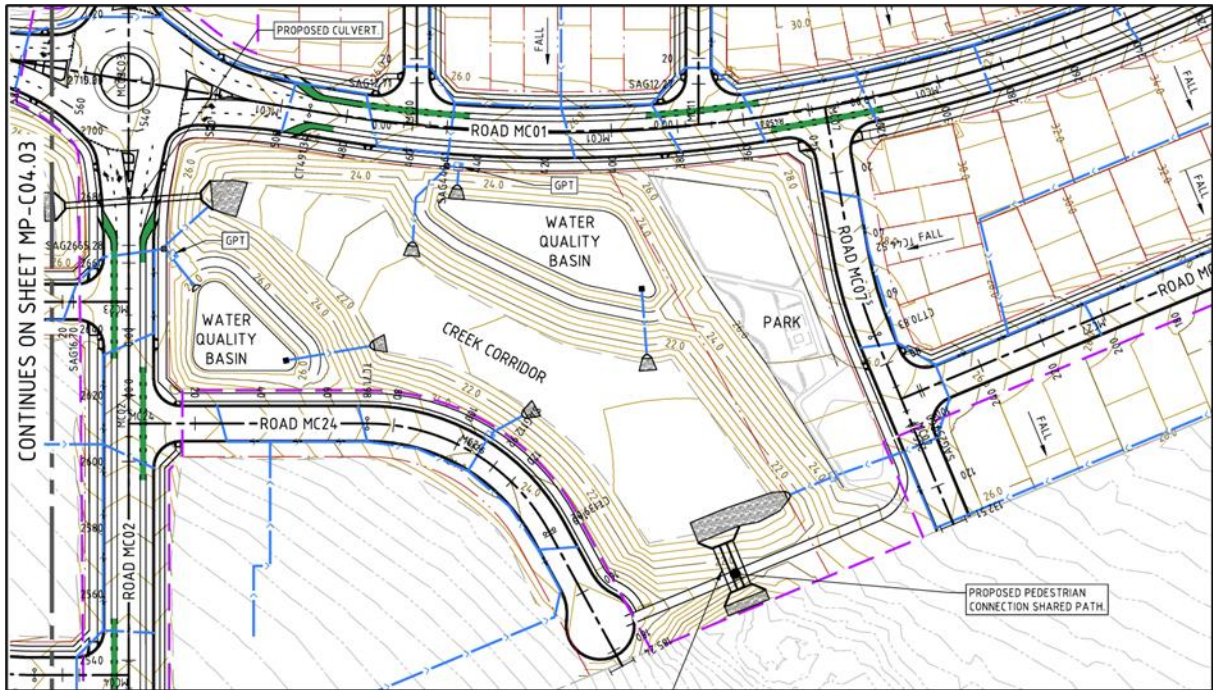


Figure 15 - Riparian corridor development including stormwater drainage basins and local park

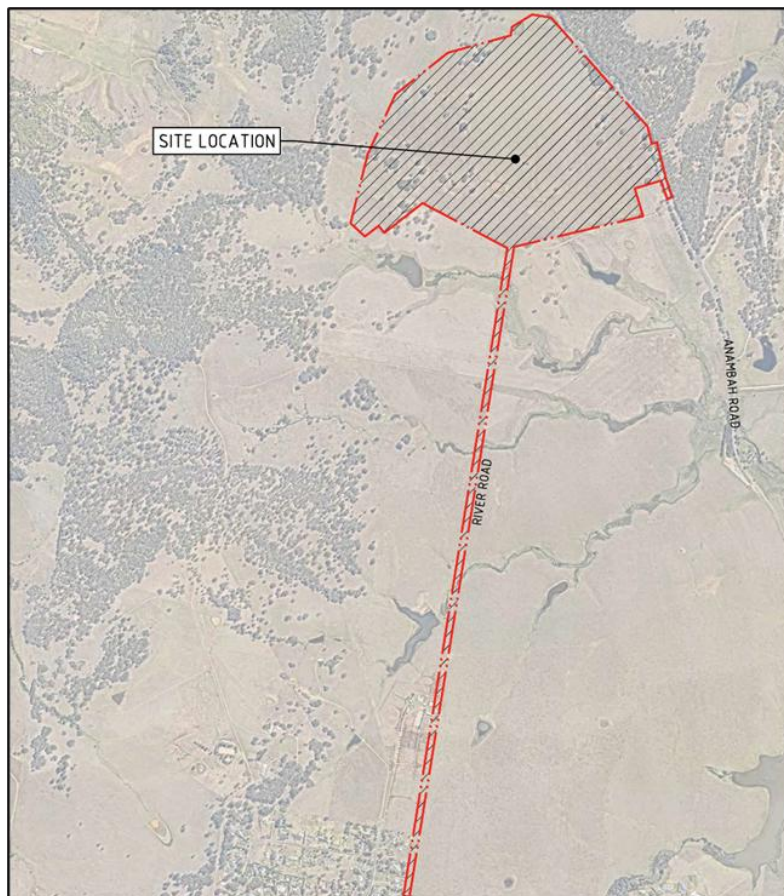


Figure 16 - Engineering locality plan showing length of River Road works



Figure 17 - Landscape Masterplan

**Table 1: General Proposed Development Data**

Control	Proposal
Site area	123.83 ha
Clause 4.6 Requests	No
Concept Stages	5 (900 Lots, lot size range unknown).
Stage 1 Construction Stages	5 (226 Lots @ 300m <sup>2</sup> to 1476m <sup>2</sup> ) and residue = 11.05ha.

### 3.4 Background

#### Anambah Urban Release Area (URA)

The subject land forms part of the Anambah URA, which was rezoned for urban purposes in December 2020 through Amendment No. 26 to the MLEP 2011. The rezoning:

- Transitioned the land from RU2 Rural Landscape to predominantly R1 General Residential;
- Mapped minimum lot sizes and riparian / ecological constraints; and
- Established the statutory basis for long-term residential development supported by new transport, utility and community infrastructure.

The strategic intent underpinning the URA rezoning is that development proceeds in a logical, staged and coordinated manner, including:

- Initial access and servicing from Anambah Road;
- Future delivery of the Western Link Road (connecting Wyndella Road to the New England Highway); and
- Sequencing that aligns with the timely provision of essential infrastructure and avoids premature or isolated development outcomes.

These assumptions form the basis of Council's strategic planning framework for the Anambah URA and are reflected in the exhibited Draft Anambah URA Development Control Plan.

### Original Assessment and Determination

DA/2024/763 sought consent for:

- A Concept Development Application under Division 4.4 of the EP&A Act for a staged residential subdivision of approximately 900 lots; and
- Stage 1 detailed subdivision comprising 221 lots, internal roads, drainage works, public open space and associated civil infrastructure.

The initial stages were proposed in the northernmost section of the URA, relying on:

- Primary access from Anambah Road;
- A gated connection to River Road for flood evacuation; and
- The assumption that broader URA infrastructure – including the Western Link Road – would be delivered at later stages.

Following assessment, the Panel refused the application on 20 August 2025 with 20 reasons for refusal, including:

- Out-of-sequence development and premature reliance on future infrastructure;
- Inadequate and unreliable flood evacuation arrangements, particularly the proposed gated River Road access;
- Unresolved bushfire access, perimeter road and APZ configuration issues;
- Traffic and network capacity concerns on Anambah Road and at the New England Highway;
- Unresolved environmental constraints including biodiversity, riparian corridor management and flooding implications; and
- Inconsistency with the strategic planning intent for the URA.

The Panel concluded that these deficiencies were fundamental and not capable of resolution through the imposition of conditions. A detailed response to the original reasons for refusal is provided in **Table 2**.

### Context of Evolving Strategic Controls

Since the Panel's determination, Council has exhibited the Draft Anambah URA Development Control Plan (21 November – 19 December 2025). The draft DCP is not adopted at the time of this reporting and does not carry determinative weight under Section 4.15(1)(a)(iii). However, it provides strategic context relevant to:

- Section 4.15(1)(b) likely impacts;
- Section 4.15(1)(c) site suitability; and
- Section 4.15(1)(e) public interest.

The draft DCP establishes a coordinated framework for managing environmental constraints, infrastructure delivery and urban design across the release area. It provides guidance for protecting

environmentally sensitive land, managing stormwater and natural hazards, and ensuring appropriate residential scale and density. The draft DCP also sets out a clear transport movement hierarchy to support safe and efficient access, identifies requirements for public facilities and open space, and includes landscaping provisions aimed at improving tree canopy and overall environmental performance.

This contextual guidance is considered in the broader assessment of orderly and economic development but does not override statutory planning controls.

### 3.5 Assessment Framework – Response to Reasons for Refusal

To assist the Panel in its consideration of the development application, this report assesses the applicant’s Section 8.2 review material directly against each of the twenty (20) reasons for refusal issued by the Panel.

Detailed discussion of each matter is cross-referenced to the relevant sections of this report.

**Table 2: Assessment of Applicant’s Response to Reasons for Refusal**

Reason for Refusal	Comment
<p>1. The development does not comply with the provisions of the <i>Maitland Local Environmental Plan 2011</i> and fails to satisfy or comply with the following clauses:</p> <ul style="list-style-type: none"> <li>a. Clause 1.2 – Aims of Plan</li> <li>b. Clause 2.3 – Permissibility and zone objectives</li> <li>c. Clause 5.10 – Heritage Conservation</li> <li>d. Clause 5.21 – Flood Planning</li> <li>e. Clause 6.2 – Public Utility Infrastructure</li> <li>f. Clause 6.3 – Development Control Plan</li> <li>g. Clause 7.2 – Earthworks</li> <li>h. Clause 7.8 – Subdivision of land in Zone R1 in Anambah Urban Release Area</li> </ul> <p>[s4.15(a)(i) of <i>Environmental Planning and Assessment Act 1979</i>]</p>	<p>Partially resolved.</p> <p>Clause 5.10 and Clause 7.8 have been resolved through updated documentation. However, non-compliances remain under Clauses 1.2, 2.3, 5.21, 6.2, 6.3 and 7.2. A new conflict also arises under Clause 7.9 (Essential Services). These deficiencies materially affect sequencing, access, flooding, utility servicing, and the ability to demonstrate orderly development.</p> <p>Refer to <b>Section 4.3.1</b> – MLEP 2011</p>
<p>2. The development does not comply with various controls contained in the Maitland Development Control Plan 2011, namely:</p> <ul style="list-style-type: none"> <li>a) Chapter B.3 – Hunter River Flood Plain</li> <li>b) Chapter B.7 –</li> </ul>	<p>Partially resolved.</p> <p>While the revised CPTED report satisfactorily resolves matters under Chapter C.12, significant non-compliances remain under Chapters B.3 (flooding and evacuation), B.7 (environmentally sensitive land), C.10 (subdivision design, road hierarchy, APZ conflicts, biodiversity impacts), and F.2 (URA planning framework and sequencing). The amended documentation does not demonstrate that flood-free access,</p>

<p>Environmentally Sensitive Land</p> <p>c) Chapter C.10 – Subdivision</p> <p>d) Chapter C.12 – Crime Prevention Through Environmental Design</p> <p>e) Chapter F.2 – Residential Urban Release Areas</p> <p><i>[s4.15(a)(iii) of Environmental Planning and Assessment Act 1979]</i></p>	<p>safe evacuation, orderly staging, or adequate avoidance of environmental constraints can be achieved. Accordingly, the proposal continues to be inconsistent with multiple mandatory and performance-based controls in the MDCP 2011.</p> <p><b>Refer to Section 4.3.3 – MDCP and Appendix B – DCP Compliance Table</b></p>
<p>3. The development does not comply with NSW Rural Fire Service General Terms of Approval (Reference: DA20240927003999-S38-3, dated: 5 August 2025).</p> <p><i>[s4.46 of Environmental Planning and Assessment Act 1979]</i></p>	<p>Subsequent GTAs have been issued by the NSW RFS, with the most recent dated 26 November 2025. A key concern is GTA No. 7, which requires the proposed perimeter road (MC02, identified as River Road in the engineering plans) to provide an 8m carriageway. This requirement has significant implications, as upgrading River Road to this standard would require works within a highly constrained corridor and may impact adjoining properties. Given the existing topography, the feasibility of constructing an 8m formation that complies with RFS and Council standards, along with the unresolved land-tenure issues within the corridor, remains uncertain.</p>
<p>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.</p> <p><i>[s4.46 of Environmental Planning and Assessment Act 1979]</i></p>	<p>Resolved.</p> <p>An amended Aboriginal Cultural Heritage Assessment Report was submitted with the Section 8.2 Review and re-referred to Heritage NSW. Heritage NSW has confirmed that all outstanding matters have been addressed and has issued their GTA's under section 4.47 of the EP&amp;A Act. No further issues remain in respect of the NPW Act integrated development requirements.</p> <p>Refer to <b>Section 4.1 – National Parks and Wildlife Act 1974</b></p>
<p>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.</p> <p><i>[s4.15(a)(i) of Environmental Planning and Assessment Act 1979]</i></p>	<p>Not resolved.</p> <p>TfNSW's most recent advisory response, dated 9 February 2026, confirms that the impacts of the development on the State road network cannot be properly assessed due to insufficient and inconsistent information. Key issues remain unresolved, including:</p> <ul style="list-style-type: none"> <li>• Sensitivity testing shows the New England Highway / Anambah Road intersection reaches capacity by 2034, only 5–6 years after Stage 1 occupation, indicating a material impact on the State road network.</li> <li>• TfNSW has no funding for the required intersection upgrade and requires the applicant to provide feasible infrastructure options and a strategic design to mitigate Stage 1 impacts; none have been submitted.</li> <li>• The proposed use of River Road as a gated emergency access relies on traffic management on the New England Highway, but the duration, frequency and network impact of such traffic control during flood events remain unclear.</li> </ul>

	<ul style="list-style-type: none"> <li>The traffic management proposal is intended to operate until the Western Link Road is constructed, but the timing and certainty of this link are unknown.</li> </ul> <p>TfNSW has therefore not provided support under Clause 2.122, and the consent authority cannot be satisfied that the development will not adversely impact the State road network.</p> <p>Refer to <b>Section 4.3.1 – State Environmental Planning Policy (Transport and Infrastructure) 2021</b>.</p>
<p>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.</p> <p>[s4.15(a)(i) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The applicant has not addressed Clause 2.19 of SEPP (Resources and Energy) 2021. The site is located in close proximity to the Gosforth Rhyolite Quarry, at 75 Valley Street GOSFORTH which lawfully operates under DA/95-127 with blasting, crushing, screening and high-intensity haulage activities and is approved for extraction of up to 770,000 tonnes per annum. The review material provides no updated quarry interface assessment and no technical analysis of noise, vibration, blasting, dust or heavy vehicle impacts on future residential receivers. In the absence of this information, the proposal does not demonstrate how land use incompatibility will be avoided or minimised, as required by Clause 2.19. The consent authority therefore remains unable to conclude that the development will not result in unacceptable land use conflict with an existing extractive industry.</p> <p>Refer to <b>Section 4.3.1 – State Environmental Planning Policy (Resources and Energy) 2021</b>.</p>
<p>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)</p> <p>[s4.23 of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The Section 8.2 Review does not resolve the fundamental concerns regarding the adequacy of the Concept Plan as a planning framework for future development within the Anambah URA. While supplementary reports have been provided, the Concept Plan continues to rely on an access, servicing and staging strategy that remains uncertain, untested or inconsistent with the broader URA structure. Key matters such as flood evacuation, sequencing, road network capacity, odour and quarry interfaces, Hunter Water servicing and the role of River Road remain unresolved at the concept level. As a result, the Concept Plan does not provide the level of certainty required under section 4.23 of the EP&amp;A Act to guide future detailed applications, nor does it establish a coherent basis for orderly, economical or coordinated development of the URA. This refusal reason therefore remains unresolved.</p> <p>Refer to <b>Section 4.3.1 – SEPP (Transport and Infrastructure)</b>, <b>SEPP (Resources and Energy) 2021</b>, Clause 5.21, Clause 6.2, Clause 6.3 and <b>Section 4.3.6 – Likely Impacts</b>.</p>
<p>8. The development results in unreasonable social, economic, built and environmental impacts.</p> <p>[s4.15(b) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The additional Social Impact Assessment and Economic Assessment submitted with the Section 8.2 Review do not resolve the Panel’s concerns regarding unreasonable social, economic, built or environmental impacts. The documentation largely repeats the benefits claimed in the</p>

	<p>original application but does not address the determinative issues that arise from the proposal's out-of-sequence staging, constrained access and reliance on uncommitted infrastructure.</p> <p>The review material continues to assume the future delivery of schools, neighbourhood centres, public transport and road upgrades elsewhere in the URA, but provides no evidence of timing or certainty. As a result, the projected benefits remain speculative. Early-stage residents may face prolonged isolation, limited transport options, and an absence of essential services – conditions exacerbated by unresolved traffic, flood evacuation, odour, quarry interface and biodiversity impacts.</p> <p>Being located within a developing URA does not guarantee when, or in what order, critical social and physical infrastructure will be delivered. Without secured staging of regional roads, utilities or community facilities, the proposal places premature burdens on both Council and State agencies and does not demonstrate orderly or economically sustainable development.</p> <p>Given the absence of any substantive changes to the development layout, access strategy, staging or yield, the proposal continues to result in unreasonable social, economic, built and environmental impacts. This refusal reason remains unresolved.</p> <p>Refer to <b>Section 4.3.6</b> – Likely Impacts and <b>Section 6</b> – Key Issues.</p>
<p>9. The land is not suitable for the development as proposed. [s4.15(c) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The additional material submitted with the Section 8.2 Review does not alter the fundamental constraints that led the Panel to conclude the land is not suitable for the development as proposed. The site and surrounding road network (Anambah Road) remains affected by flooding, requires reliance on an unacceptable and unresolved emergency access arrangement via River Road, is exposed to odour impacts from the adjoining composting facility, and is located within close proximity to the Gosforth Quarry without adequate compatibility assessment.</p> <p>Further, servicing arrangements for water and sewer remain unconfirmed, and the proposal continues to rely on infrastructure, road upgrades and staging outcomes that are uncertain in timing and feasibility. The subdivision layout has not been amended to avoid high-value biodiversity areas or to respond to known bushfire, riparian and ecological constraints.</p> <p>Given these unresolved issues across hazard, infrastructure, environmental and land-use interface considerations – and noting no substantive redesign has occurred – the land cannot be considered suitable for the scale, form or staging of development proposed.</p> <p>Refer to <b>Section 4.3.6</b> Likely Impacts of Development, <b>Section 4.3.7</b> – suitability of the site, <b>Section 6</b> – Key Issues.</p>
<p>10. The development application fails to adequately address community</p>	<p>Not resolved.</p> <p>The Section 8.2 Review material or assessment cannot</p>

<p>submissions made in accordance with the Act and Regulations.</p> <p>[s4.15(d) of Environmental Planning and Assessment Act 1979]</p>	<p>satisfactorily address the issues raised in community submissions. The majority of concerns raised during the public exhibition – relating to traffic and access constraints, flood evacuation, sequencing and isolation, odour impacts, quarry interface, biodiversity loss, utility servicing, and overall site suitability – remain unresolved in the amended documentation.</p> <p>While the applicant has provided additional justification and commentary, no substantive design changes or technical assessments have been submitted that meaningfully respond to, mitigate or resolve the matters raised by the community. As a result, the underlying concerns expressed in public submissions continue to be valid and are reflected in the unresolved issues discussed throughout this report.</p> <p>Refer to <b>Section 4.3.8</b> – Public submissions and <b>Section 5 – Referrals and Submissions</b>.</p>
<p>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 17 submissions in the form of objections to the proposal. The issues of concern raised in the public submissions remain unresolved.</p> <p>[s4.15(e) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>Although the Section 8.2 Review attracted fewer submissions than the original exhibition (17 submissions, all in objection), the concerns raised by the community remain substantively the same and continue to be unresolved. The issues raised – relating to flooding and evacuation, traffic capacity, odour, quarry interface, staging and sequencing, lack of services, biodiversity impacts and overall site suitability – align with the unresolved planning, environmental and infrastructure matters identified throughout this assessment.</p> <p>Under Section 4.15(e), the public interest extends beyond the number of submissions and includes the broader principles of orderly development, infrastructure coordination, risk avoidance, land use compatibility and long-term community wellbeing. The proposal continues to present significant and unresolved impacts in each of these areas.</p> <p>Given the continuing inconsistency with infrastructure sequencing, the failure to demonstrate safe and reliable access, unresolved land-use conflicts, and the lack of evidence that future residents will have adequate services or safe conditions, the development cannot be considered to be in the public interest.</p> <p>Refer to <b>Section 4.3.6</b> – Likely Impacts, <b>Section 4.3.8</b> – Public submissions, <b>Section 4.3.9</b> – Public interest and <b>Section 5 – Referrals and Submissions</b>.</p>
<p>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.</p> <p>[s4.15(a)(i) and s4.15(c) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The applicant has not provided an updated Notice of Arrangements or an endorsed, site-specific water and wastewater servicing strategy from Hunter Water. The Section 8.2 Review material relies on high-level servicing assumptions and does not include formal confirmation from Hunter Water regarding capacity, infrastructure upgrades, delivery timing or the feasibility of servicing the early stages of the URA from the south via River Road.</p> <p>In the absence of Hunter Water’s agreement to the proposed servicing approach, and given the lack of detail on infrastructure staging, augmentation requirements and delivery timeframes, the consent authority cannot be</p>

	<p>satisfied that essential services will be available or that adequate arrangements have been made, as required by Clause 6.2 and Clause 7.9 of the MLEP 2011 and Section 4.15.</p> <p>Refer to <b>Section 4.3.1</b> – Clause 6.2 Clause 7.9 of the LEP and <b>Section 4.3.6</b> – Likely Impacts and <b>Section 6</b> - Key issues.</p>
<p>13. The extent of cut and fill across the site is not minimised.</p> <p>[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The applicant has submitted amended earthworks plans as part of the Section 8.2 Review; however, the updated material does not resolve the core concerns relating to the extent and impacts of cut and fill. The revised plans continue to show substantial regrading across the site, including deep cuts within the small-lot housing areas where lot functionality is already constrained.</p> <p>No updated civil engineering or retaining wall plans have been provided to demonstrate how the proposed earthworks translate to feasible building envelopes, acceptable boundary interfaces, or compliant drainage outcomes. Retaining walls previously of concern remain insufficiently detailed, with no confirmation of their final location, height, construction, or visual/amenity impacts.</p> <p>As a result, Council cannot be satisfied that the proposed earthworks have been minimised or that they will not adversely affect adjoining land, future residents, environmental processes or lot usability. The refusal reason therefore remains unresolved.</p> <p>Refer to <b>Section 4.3.1</b> – Clause 7.2.</p>
<p>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</p> <p>[s4.15(a)(i), s4.15(a)(iii), s4.15(b) and s4.15(c) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved</p> <p>The issues relating to traffic, flooding, engineering and civil design remain unresolved. TfNSW has not supported the proposal, with key concerns about the capacity of the Anambah Road / New England Highway intersection and the lack of committed upgrades. Anambah Road remains flood-prone with no demonstrated safe access, and the proposed River Road arrangement is still technically unfeasible and inconsistent with SES requirements. Accordingly, the consent authority cannot be satisfied that safe access, acceptable flood performance or functional engineering outcomes can be achieved.</p> <p>Refer to <b>Section 4.3.1</b> – Clause 5.21, <b>Section 4.3.3</b> – Chapter B.3 Hunter River Flood Plain, <b>Section 4.3.6</b> – Likely Impacts and <b>Section 6</b> - Key issues.</p>
<p>15. The development fails to avoid areas of high biodiversity value.</p> <p>[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The applicant has not demonstrated that the biodiversity avoidance measures relied upon in the Section 8.2 Review resolve the matters identified in Reasons 15 and 16 of the refusal. While the development footprint has not materially changed, the applicant has not substantiated claimed additional avoidance outcomes through updated plans, a revised BDAR, or consistent supporting documentation.</p> <p>Accordingly, biodiversity impacts remain an unresolved issue, particularly in relation to the adequacy of avoidance and the consistency between the bushfire assessment,</p>

	<p>riparian Vegetation Management Plan and subdivision layout.</p> <p>Refer to <b>Section 4.1</b> – <i>Biodiversity Conservation Act 2016</i>, <b>Section 4.3.6</b> – Likely Impacts of Development and <b>Section 6</b> – Key Impacts.</p>
<p>16. The development has unresolved issues relating to vegetation and riparian management.</p> <p>[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The review material does not resolve the biodiversity concerns identified at refusal. No revised BDAR has been submitted, and the applicant has not substantiated claimed avoidance or minimisation outcomes through updated plans or technical assessment. Key inconsistencies remain between the bushfire APZ requirements, the riparian VMP, and the subdivision layout, resulting in avoidable vegetation loss – including areas of high biodiversity value identified in the original assessment. The development therefore continues to not address the avoidance hierarchy and does not demonstrate compliance with the BAM.</p> <p>Refer to <b>Section 4.1</b> – <i>Biodiversity Conservation Act 2016</i>, <b>Section 4.3.6</b> – Likely Impacts of Development and <b>Section 6</b> – Key Impacts.</p>
<p>17. The development includes recreational areas with unresolved CPTED issues.</p> <p>[s4.15(a) and s4.15(b) of Environmental Planning and Assessment Act 1979]</p>	<p>Resolved.</p> <p>The applicant has submitted updated plans and additional detail addressing the CPTED concerns raised at refusal. The revised layout provides improved passive surveillance, simplified pedestrian connections, clearer sightlines and increased residential interface with open space areas. Council is satisfied that the CPTED issues identified in the original assessment have been resolved or can be further refined at the subsequent DA details for later stages, and this refusal reason is now addressed.</p> <p>Refer to <b>Section 4.3.3</b> – Chapter 12 – Crime Prevention Through Environmental Design.</p>
<p>18. The social impact assessment identifies negative residual impact that has not been mitigated.</p> <p>[s4.15(b) and s4.15(c) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The updated Social Impact Assessment acknowledges residual negative impacts associated with isolation, limited access, lack of early services, and reliance on uncommitted infrastructure. The Section 8.2 review does not demonstrate that these impacts have been mitigated, with key determinants – including access, sequencing, emergency management, odour, quarry interface, and provision of community services – remaining unresolved. Council is therefore not satisfied that the identified social impacts have been adequately addressed.</p> <p>Refer to <b>Section 4.3.6</b> – Likely Impacts of Development and <b>Section 6</b> – Key Impacts.</p>
<p>19. The development is out of sequence, premature and does not promote orderly economic development.</p> <p>[s4.15(a), s4.15(b), s4.15(c) and s4.15(d) of Environmental Planning and Assessment Act 1979]</p>	<p>Not resolved.</p> <p>The additional material does not resolve the fundamental sequencing and infrastructure issues. The proposal remains clearly out-of-sequence, with Stage 1 located in the northern cell identified in Council's strategic planning framework and the draft Anambah DCP as the final stage of the URA. Advancing this area first, before essential enabling works are committed, would create fragmented development and premature demands on public authorities. Critical</p>

	<p>infrastructure remains unresolved, including Hunter Water servicing and upgrades to the NEH/Anambah Road intersection. Reliance on River Road as an interim emergency or flood-free access route is inconsistent with SES advice and Council engineering requirements and does not represent a feasible or safe interim solution. TfNSW has also confirmed that the review material does not demonstrate that the road network can support the proposal or that a viable upgrade pathway exists.</p> <p>While the draft DCP is not determinative, its staging framework aligns with Strategic Planning and agency advice and reinforces that early development of this northern cell undermines the coordinated rollout of the URA. The applicant has not provided the level of justification required to support out-of-sequence development or demonstrate orderly and economic development as required by Clause 6.3 of the MLEP 2011.</p> <p>The proposal therefore remains premature, out-of-sequence and inconsistent with orderly economic development.</p> <p>Refer to <b>Section 4.3.1 – Clause 6.3, Section 4.3.6 – Likely Impacts of Development and Section 6 – Key Impacts.</b></p>
<p>20. The development application for subdivision of land results in contraventions of the Environmental Planning and Assessment Act 1979 and environmental planning instruments, including:</p> <p>a) s4.47 of Environmental Planning and Assessment Act 1979</p> <p>b) s4.23 of Environmental Planning and Assessment Act 1979</p> <p>c) Clauses 5.10, 5.21, 6.2 and 7.2 of the Maitland Local Environmental Plan 2011</p> <p>d) Clause 2.19 of the SEPP (Resources and Energy) 2021</p> <p><i>[s4.16(2) of Environmental Planning and Assessment Act 1979]</i></p>	<p>Partially resolved.</p> <p>While the matter relating to s4.47 EP&amp;A Act (Heritage NSW GTA) has now been resolved, the remaining issues identified in this refusal reason continue to apply. The development still fails to demonstrate compliance with:</p> <ul style="list-style-type: none"> <li>• Section 4.23 EP&amp;A Act, as the concept plan does not provide a sufficient planning framework or the level of certainty required for future detailed applications;</li> <li>• Clause 5.21 (Flood Planning) of the MLEP 2011, with unresolved issues relating to flood-free access, emergency egress, River Road feasibility, and SES advice;</li> <li>• Clause 6.2 (Public Utility Infrastructure) of the MLEP 2011, as Hunter Water servicing arrangements remain unconfirmed and no Notice of Arrangements or endorsed servicing strategy has been provided;</li> <li>• Clause 7.2 (Earthworks) of the MLEP 2011, with extensive cut and fill, unresolved retaining wall details and insufficient evidence that earthworks will not adversely impact environmental processes or future development; and</li> <li>• Clause 2.19 SEPP (Resources and Energy) 2021, due to the absence of adequate assessment of land use incompatibility with the Gosforth Rhyolite Quarry.</li> </ul> <p>Given these unresolved matters, the application continues to result in contraventions of the EP&amp;A Act and multiple EPs. Refer to <b>Section 4.3.1 – SEPP (Resources and Energy) 2021, Clause 6.2, Clause 5.21, Clause 6.3, Clause 7.2, Section 4.3.6 – Likely Impacts of Development and Section 6 – Key Impacts.</b></p>

### 3.6 Assessment Framework – Response to Reasons for Refusal

The review of determination application was lodged on 4 November 2025. A chronology of the development application since lodgement is outlined below in **Table 3** with the application:

**Table 3: Chronology of the DA**

<b>Date</b>	<b>Event</b>
<b>4 November 2025</b>	Application lodged with Council
<b>6 November 2025</b>	Referrals issued to internal officers and external agencies.
<b>11 November 2025</b>	Department of Primary Industries and Regional Development issue GTA's
<b>13 November 2025</b>	Public Exhibition Commenced.
<b>26 November 2025</b>	Ausgrid provide comments/ raise no objections subject to conditions
<b>22 November 2025</b>	Heritage NSW – Department of Climate Change, Energy, the Environment and Water issued GTA's.
<b>26 November 2025</b>	NSW Rural Fire Service provided GTA's
<b>1 December 2025</b>	SES provide advice/ raise concern for emergency access arrangements
<b>4 December 2025</b>	Department of Planning and Environment – Water provided correspondence confirming GTA's issued 4 February 2025 remain relevant
<b>10 December 2025</b>	Public Exhibition Closed – 17 unique submissions received
<b>24 December 2025</b>	RFI issued by TfNSW
<b>5 January 2026</b>	Response by applicant to TfNSW provided (copy sent to TfNSW same day).
<b>4 February 2026</b>	Meeting between the applicant, Council and TfNSW
<b>9 February 2026</b>	RFI issued by TfNSW
<b>10 February 2026</b>	Assessment report and recommendations lodged to NSW Planning Panel

### **3.7 Site History**

There is no DA consent history listed on the subject allotments.

Adjoining the site a revised Concept Development Application (DA/2025/52) for a Manufactured Home Estate (263 sites) and Stage 1 - 221 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 18 below). The MHE concept and Stage 1 plan includes the road network as proposed under DA/2024/763. This application is currently under assessment by Council staff and will be determined by the Panel attributed to an EDC exceeding \$30 million.

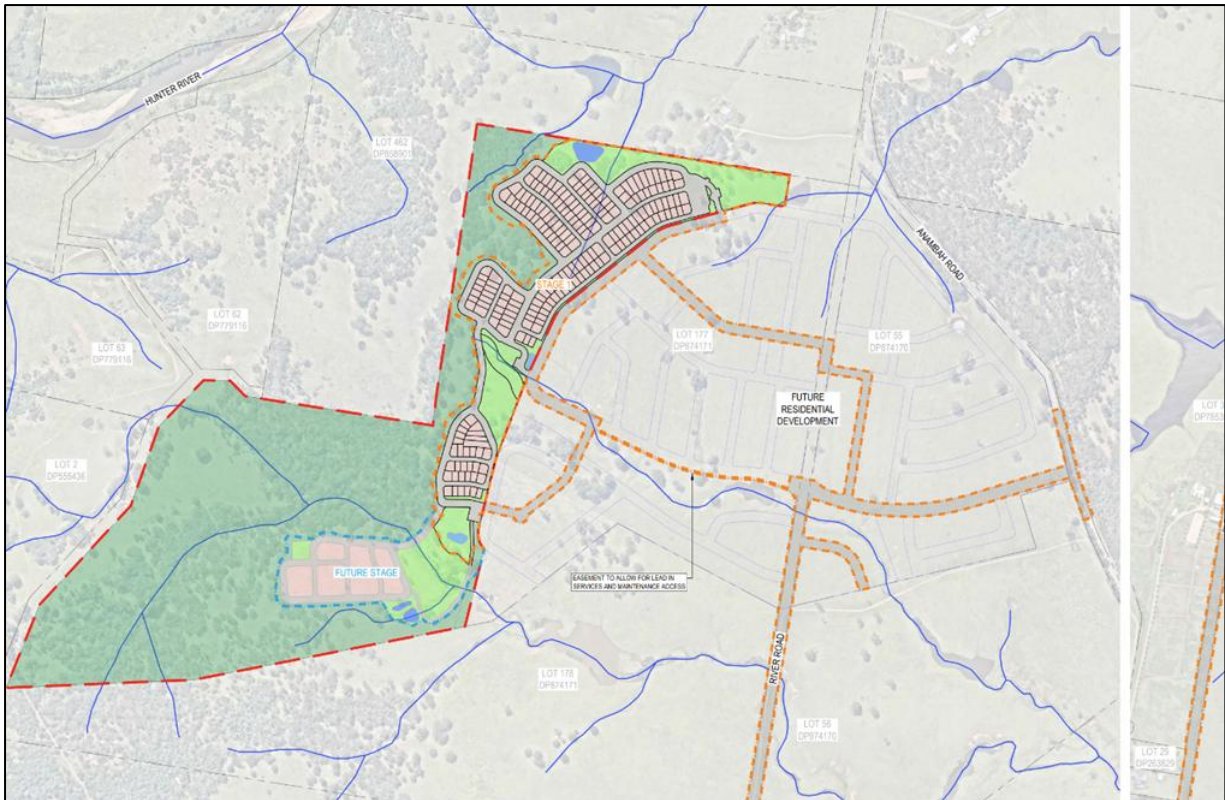


Figure 18 - Site plan of proposed MHE development adjacent to the subject development – DA/2025/52 (Concept and Stage 1).

## 4. STATUTORY CONSIDERATIONS

### 4.1 Relevant State Legislation

In addition to the EP&A Act 1979, the following legislation has been considered. Where relevant, further detailed assessment of the proposed development against the various Acts is included throughout this report.

#### Biodiversity Conservation Act 2016

The proposed development exceeds the clearing threshold under the *Biodiversity Conservation Regulation 2017*, triggering the Biodiversity Offset Scheme and requiring submission of a Biodiversity Development Assessment Report (BDAR). A BDAR accompanied the original development application and has been relied upon again as part of the Section 8.2 review.

The BDAR identifies:

- Approximately 2.88 ha of native vegetation removal across two PCTs (PCT 3433 and PCT 3446);
- Impacts to habitat for four threatened species; and
- The need to retire 54 ecosystem credits and 199 species credits.

These baseline impact calculations were accepted during the original assessment and remain valid.

#### Avoid and Minimise Requirements

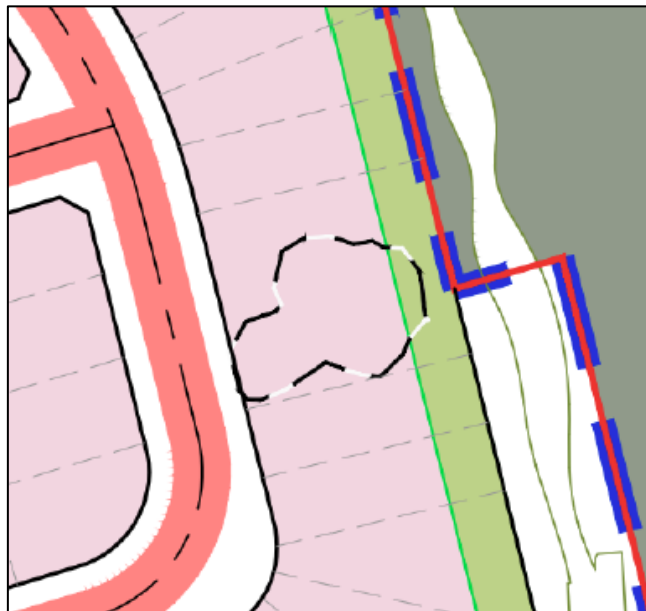
Avoidance and minimisation formed a key issue in the Panel's refusal (Reasons 15 and 16). Despite some iterative design changes during the original assessment, areas of known high biodiversity value

– including significant canopy vegetation, habitat for Squirrel Glider and Brush-tailed Phascogale, and a confirmed Barn Owl roosting tree – were not avoided.

In the Section 8.2 Review, the applicant asserts further avoidance. The Concept Masterplan indicates that an oversized residential allotment has been created to facilitate retention of the barn owl roosting tree (see **Figure 19** below); however, this retention is not reflected in the updated Landscape Plan or updated Civil plans.

Amendments to the Landscape Plan, BDAR and arborist assessment would be required to confirm that the long-term protection of this vegetation is feasible and appropriately secured.

Any additional vegetation avoidance measures claimed by the applicant are not shown on either the Concept Masterplan or the Landscape Plan. Further, no updated BDAR or arborist assessment has been provided. Accordingly, the additional avoidance measures claimed by the applicant cannot be substantiated.



*Figure 19: An excerpt from the Concept Masterplan showing the oversized lot created to facilitate avoidance of the barn owl roosting tree*

Reason 16 arose from Council's concern that the bushfire assessment and riparian Vegetation Management Plan (VMP) were inconsistent. The amended Bushfire Assessment Report (Version 8) has only partially addressed this consistency. As requested, references to 'Freshwater Wetlands' have been appropriately replaced with 'Forested Wetland'.

However, the canopy targets for the riparian area remain inconsistent between the updated Bushfire Assessment Report and VMP. The Bushfire Assessment states that tree canopy within the riparian corridor shall be planted 'with tree canopy less than 10% at maturity', whereas the VMP states that planting densities for stream banks shall target 50% canopy cover (equal to 20% Projected Foliage Cover).

Council's Ecologist confirmed that the applicant has not demonstrated improved avoidance or compliance with the avoid-and-minimise hierarchy of the Biodiversity Assessment Method (BAM). The matters raised in Refusal Reasons 15 and 16 therefore remain unresolved.

### **National Parks and Wildlife Act 1974**

Under the original application, Heritage NSW did not issue GTAs. As part of the Section 8.2 Review, the applicant submitted a revised Aboriginal Cultural Heritage Assessment Report, including updated consultation material, archaeological survey and test excavation results for Stage 1, and additional mapping and analysis. Heritage NSW reviewed the amended report and confirmed that all previously outstanding matters had been satisfactorily addressed.

GTAs were subsequently issued on 22 November 2025 (attached with this report), requiring an Aboriginal Heritage Impact Permit (AHIP) before works commence and setting out associated requirements for documentation, mapping and ongoing consultation with registered Aboriginal parties. These GTAs also confirm that the development may proceed subject to compliance with the approved report and the conditions attached to any future AHIP.

Accordingly, all Aboriginal cultural heritage matters arising under the *National Parks and Wildlife Act 1974* are now resolved.

### **Protection of the Environment Operations Act 1997**

The proposal does not trigger an Environment Protection Licence under Schedule 1 of the POEO Act. Standard environmental management obligations relating to air, water, noise and waste pollution will apply during construction and operation. No determinative issues arise under this Act.

### **Crown Land Management Act 2016**

The proposal does not affect Crown land, and no issues arise under this Act.

### **Water Management Act 2000**

The application is integrated development due to works within 40 metres of a watercourse. The proposal was referred to DPE Water, which advised on 4 December 2025 that:

- Previously issued GTAs remain current and adequate; and
- No further assessment is required at this stage.

A Controlled Activity Approval (CAA) will be required prior to any future works near the watercourse. Details of this correspondence are attached with this report.

### **Fisheries Management Act 1994**

The proposal constitutes integrated development due to impacts on riparian and aquatic habitat. DPI Fisheries confirmed on 22 August 2025 that previously issued GTAs remain valid and raised no objection, subject to those conditions. These details are attached to this report. No determinative issues arise under this Act.

### **Heritage Act 1977**

There are no items listed on the State Heritage Register within or in close proximity to the site. The proposal does not raise issues under this Act.

### **Rural Fires Act 1997**

GTAs were issued by the NSW RFS on 26 November 2025. A key condition requires River Road (identified as MC02) to be upgraded to an 8m carriageway if it is to function as a public road suitable for evacuation or emergency access. The material submitted with the review instead depicts River Road to a rural-access standard intended only for emergency use, and does not demonstrate that the higher standard required by the GTA can be achieved.

Accordingly, despite the issuing of GTAs, the development has not demonstrated compliance with the bushfire access requirements of the Rural Fires Act 1997.

## 4.2 Part 4 Environmental Planning and Assessment Act, 1979

### Matters for Consideration - general (Section 4.15)

When determining a DA, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the 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.

### Integrated Development (Section 4.46)

As part of the Section 8.2 Review process, the application was re-referred as integrated development to the relevant approval bodies under their respective legislation.

Noting the amendments to the proposal and supporting documentation, and consistent with the requirements of the EP&A Act 1979, the following agencies have issued GTAs which now form part of the review application:

- NSW Rural Fire Service (*Rural Fires Act 1997*);
- DPIE Water (*Water Management Act 2000*);
- Heritage NSW (*National Parks and Wildlife Act 1974 / Heritage Act 1977*);
- DPI Fisheries (*Fisheries Management Act 1994*).

In addition, relevant agencies have confirmed that previously issued GTAs remain valid where applicable. Copies of correspondence and GTAs support this report.

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

In accordance with Section 4.15(1)(a) of the EP&A Act, consideration has been given to the provisions of all relevant environmental planning instruments, proposed instruments, development control plans, planning agreements, and the Regulation.

Where instruments or policies are not discussed in detail, they are considered either not relevant to the proposal or raise no substantive planning issues.

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

The proposal was assessed against the applicable EPIs as part of the original DA. As part of this Section 8.2 Review, those instruments have been reconsidered, together with the updated documentation submitted by the applicant.

Several conclusions from the original assessment remain unchanged – such as findings relating to koala habitat and site contamination. However, the updated material submitted with the review does not resolve key issues identified in the Panel’s reasons for refusal, including:

- The adequacy and safety of traffic and access arrangements;
- Land-use compatibility with nearby extractive industry; and
- Avoidance and management of biodiversity and riparian vegetation impacts.

Accordingly, each relevant EPI must be reconsidered in the context of both the original issues and the updated information submitted. The following EPI and DCP are relevant to the assessment of this application:

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

A summary of key matters arising from these instruments is outlined in **Table 4**, with detailed consideration provided in the subsections below.

**Table 4: Summary of Applicable Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<p><b>Chapter 2: Vegetation in non-rural areas</b> Vegetation clearing/offset framework addressed via BC Act</p> <p><b>Chapter 4: Koala Habitat Protection 2021</b> Koala assessment previously accepted; no new issues raised.</p>	Y
SEPP (Planning Systems) 2021	<p><b>Chapter 2: State and Regional Development</b></p> <ul style="list-style-type: none"> <li>• Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6 as it</li> </ul>	Y

	comprises of development that has an estimated development cost of more than \$30 million.	
SEPP (Resilience & Hazards)	<p><b>Chapter 4: Remediation of Land</b></p> <ul style="list-style-type: none"> <li>• Preliminary Site Investigation confirms low contamination risk.</li> <li>• Site suitable for residential development subject to unexpected finds protocol.</li> <li>• No change in contamination risk profile under the Section 8.2 review.</li> </ul>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><b>Chapter 2: Infrastructure</b></p> <ul style="list-style-type: none"> <li>• Section 2.48 (Determination of development applications – other development) – Ausgrid raised no objections as outlined in their letter of consideration</li> <li>• Section 2.122 (Traffic-generating development) – The development is identified as being traffic generating development being a waste or resource management facility (of any size or capacity).</li> </ul> <p>TfNSW has reviewed the information provided and raises concerns for the development. These issues remain unresolved.</p>	N
State Environmental Planning Policy (Resources and Energy) 2021	<p><b>Chapter 2: Mining, petroleum production and extractive industries</b></p> <ul style="list-style-type: none"> <li>• Proposal located adjacent to the operating Gosforth Rhyolite Quarry.</li> <li>• No technical assessments (noise, dust, blasting, transport) provided.</li> <li>• Land-use conflict and public benefit balancing remain unresolved.</li> <li>• Proposal does not meet Clause 2.19 considerations.</li> </ul>	N
MLEP 2011	<ul style="list-style-type: none"> <li>• Clause 2.3 – Permissibility and zone objectives</li> <li>• Clause 2.6 – Subdivision</li> <li>• Clause 4.1 – Minimum subdivision lot size</li> <li>• Clause 5.10 – Heritage Conservation</li> <li>• Clause 5.21 – Flood planning</li> <li>• Clause 6.2 – Public utility Infrastructure</li> <li>• Clause 6.3 – Development Control Plan</li> <li>• Clause 6.4 – Relationship with Part and remainder of Plan</li> <li>• Clause 7.1 – Acid sulfate soils</li> <li>• Clause 7.2 – Earthworks</li> <li>• Clause 7.4 – Riparian land and watercourses</li> <li>• Clause 7.8 – Subdivision of land in Zone R1 in Anambah Urban Release Area</li> <li>• Clause 7.9 – Essential Services</li> </ul>	N
MDCP 2011	<ul style="list-style-type: none"> <li>• Chapter B.3 – Hunter River Flood Plain</li> <li>• Chapter B.5 – Tree and Vegetation Management</li> <li>• Chapter B.7 – Environmentally Sensitive Land</li> <li>• Chapter C.10 – Subdivision</li> <li>• Chapter C.12 – Crime Prevention Through Environmental Design</li> <li>• Chapter F2 – Residential Urban Release Areas</li> </ul>	N

## ***State Environmental Planning Policy (Biodiversity and Conservation) 2021***

### Chapter 2: Vegetation in non-rural areas

The proposal exceeds the threshold for the Biodiversity Offset Scheme (BOS) under the Biodiversity Conservation Act 2016, and a BDAR was submitted with the original application and relied upon again for the Section 8.2 review.

As outlined in Section 4.1 – *Biodiversity Conservation Act 2016*, Council's Ecologist has identified several unresolved issues in the review material, including:

- Unsubstantiated claims of additional avoidance of high-value vegetation;
- Inconsistencies between the subdivision layout, civil plans, Landscape Plan, bushfire assessment and the Riparian Vegetation Management Plan;
- Absence of an updated BDAR;
- Absence of an arborist assessment to demonstrate long-term retention of key habitat trees, including a known Barn Owl roosting tree;
- Unresolved conflict between riparian canopy targets and bushfire APZ requirements;

Accordingly, while vegetation clearing impacts are identified, the applicant has not demonstrated:

- That additional avoidance has occurred; or
- That a consistent and implementable vegetation and riparian management framework exists.

Council is therefore not satisfied that the proposal appropriately addresses vegetation management outcomes under Chapter 2 of the Biodiversity and Conservation SEPP.

These issues are directly related to Refusal Reasons 15 and 16, which remain unresolved.

### Chapter 4: Koala Habitat Protection 2021

A Koala Assessment Report accompanied the original development application. The assessment found:

- No recent evidence of koala presence on the site; and
- No koala records within 2.5 km of the site in the previous 18 years.

The application was assessed as not requiring koala-specific management or offset measures. The Section 8.2 review does not modify the development footprint in a way that changes this conclusion. Koala habitat protection was not a reason for refusal and does not raise any new issues under the current review.

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

### Chapter 2: State and Regional Development

The development continues to meet the definition of regionally significant development under Clause 2.19 and Schedule 6, based on an EDC exceeding \$30 million. Accordingly, the Panel remains the consent authority for the Section 8.2 Review.

## ***State Environmental Planning Policy (Resilience and Hazards) 2021***

### Chapter 4: Remediation of Land

Clause 4.6 requires the consent authority to determine whether the land is suitable for the proposed development (or can be made suitable), having regard to potential contamination.

A Preliminary Site Investigation (PSI) was submitted with the original DA and reviewed by Council's contaminated land officer, who found:

- Low risk of contamination; and
- The land is suitable for residential use, subject to an unexpected finds protocol.

The Section 8.2 Review does not alter the development footprint or introduce new activities that would change this conclusion.

Accordingly, Council is satisfied the land remains suitable for the proposed development, and no new issues arise under this SEPP.

### ***State Environmental Planning Policy (Transport and Infrastructure) 2021***

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

The application was referred to Ausgrid, which raised no objection subject to compliance with standard electrical infrastructure requirements. This matter is considered satisfactorily addressed.

#### Section 2.122 - Traffic-generating development

The proposed subdivision exceeds the thresholds in Schedule 3 of SEPP (Transport and Infrastructure) 2021 and is therefore classified as traffic-generating development requiring referral to Transport for NSW (TfNSW). The consent authority must consider TfNSW's submission before determining the application.

TfNSW's most recent advisory response dated 9 February 2026 confirms that the impacts of the development on the State road network cannot be resolved on the basis of the information provided, and that matters remain outstanding. Sensitivity analysis undertaken by the applicant shows that the New England Highway / Anambah Road intersection will reach capacity by 2034, only 5–6 years after the projected opening of Stage 1, demonstrating a material impact on the State network within the 10-year planning horizon. TfNSW has no committed funding for the required intersection upgrade and has advised that the applicant must provide evidence of feasible infrastructure options capable of mitigating Stage 1 impacts and enabling a strategic design to be developed for consideration. No such options or strategic design have been submitted at this time.

TfNSW also notes that the applicant proposes to use River Road as a gated emergency access, requiring traffic management on the New England Highway during flood events. Based on the material submitted, TfNSW cannot determine how long such traffic management would be in place during typical flood events, nor can it confirm whether reliance on a Road Occupancy Licence for extended or recurring periods is reasonable. TfNSW emphasises that traffic management plans on State highways are generally acceptable only for short-term construction or special-event purposes, and that using such measures for prolonged or indefinite periods may be unreasonable and may adversely affect network efficiency. TfNSW highlights that the proposed arrangement is intended to apply until the Western Link Road is constructed, yet the timing and certainty of this road remain unknown and would be guided by Council's advice.

On this basis, TfNSW has not provided support under Clause 2.122, and the consent authority cannot be satisfied that the development will avoid adverse impacts on the State road network or demonstrate a feasible and coordinated long-term access strategy. Without a clear upgrade pathway and without adequate modelling of impacts on the State road network, the consent authority cannot be satisfied that the road network can accommodate traffic from the development.

While a Concept DA may defer detailed design matters, it cannot defer resolution of determinative access and network-capacity constraints. The capacity of Anambah Road and the New England Highway intersection fundamentally underpins the viability of the proposed 900-lot yield, and in the absence of sufficient evidence or information, the impacts remain unresolved.

## State Environmental Planning Policy (Resources and Energy) 2021

### Chapter 2: Mining, petroleum production and extractive industries

Clause 2.19 of SEPP (Resources and Energy) 2021 applies as the land is located in the vicinity of an operating extractive industry, being the Gosforth Rhyolite Quarry at 75 Valley Street, Gosforth.

The quarry operates under Development Consent DA/95-127 (and subsequent modifications), authorising extraction of up to 770,000 tonnes of rhyolite. Activities permitted under the consent include drilling, blasting, crushing, screening and associated truck haulage, subject to defined annual operating limits. The consent remains in force and has not been surrendered, modified or reduced in scope.

The application was originally refused in part due to the absence of any meaningful assessment or mitigation of land-use incompatibility with the quarry and a failure to demonstrate compliance with Clause 2.19.

As part of the Section 8.2 review, the applicant has provided further written justification, principally in the form of a Social Impact Assessment (SIA). The material has been reassessed below against the mandatory considerations in Clause 2.19(2) below:

*(i) the existing uses and approved uses of land in the vicinity of the development, and*

The Gosforth Rhyolite Quarry is an established, lawfully approved extractive industry operating under DA/95-127. The consent permits:

- Extraction of up to 770,000 tonnes of rhyolite with a nominal operational life of approximately 25.7 years;
- Blasting on up to two days per year, subject to meteorological conditions;
- Extraction operations limited to two seven-day periods per year;
- Removal of crushed rock limited to two periods of up to 14 working days per year;
- A maximum of 28 operational days per year; and
- Up to 14 truck movements per hour.

The quarry continues to service regional infrastructure projects, as noted in the SIA. No rehabilitation or cessation process has commenced. Accordingly, the quarry must be treated as an active and ongoing land use for planning purposes and must be afforded full statutory weight under Clause 2.19.

*(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 applicant contends that the development will not constrain quarry operations, relying on the nominal 25.7 year life referenced in the original quarry consent.

However, the quarry consent remains operative and no formal cessation or rehabilitation process has commenced. Nothing under the SEPP permits a consent authority to discount a lawful extractive use on the basis of assumed exhaustion of resources.

The SIA itself confirms that the quarry continues to supply large infrastructure projects, demonstrating ongoing operational relevance. Therefore, the quarry must be considered an ongoing and future land use, and the proximity of sensitive receivers has the potential to constrain extraction through reverse-amenity conflict.

On this basis, the applicant has not demonstrated that the proposal will avoid significant impact on current or future extraction activities.

*(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*

The central unresolved issue remains land-use conflict between an operating quarry and a major new residential release area.

The quarry operator previously objected to the proposal, citing risks associated with blasting impacts, operational noise, dust emissions, heavy vehicle movements and cumulative proximity effects on sensitive receivers. The Section 8.2 Review does not include any technical assessments or supporting information capable of addressing, clarifying or resolving these identified impact pathways.

Instead, the applicant relies on a Social Impact Assessment, which asserts that predicted impacts comply with EPA criteria. However:

- The SIA does not include any acoustic, air quality, blasting or dust modelling;
- The SIA is not a substitute for technical environmental assessments;
- No spatial buffer analysis has been provided;
- No enforceable land-use interface framework has been proposed.

Accordingly, incompatibility between the quarry and the proposed residential use remains untested and unresolved.

*(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*

The public benefit of additional housing in the Anambah URA is acknowledged. However, Clause 2.19 requires that this be balanced against the public benefit of continued quarry operations, which supply important infrastructure projects.

Due to the applicant not providing technical evidence assessing or quantifying interface impacts, the consent authority cannot properly undertake the statutory balancing exercise mandated by Clause 2.19(2)(b).

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

The applicant refers to spatial separation, vegetated buffers and future design adaptability. However:

- No quantified buffer distances have been modelled;
- No technical assessments support the claimed adequacy of separation;

- No enforceable mitigation measures are provided within the concept plan;
- Measures remain high-level and conceptual only.

Without technical evidence, the consent authority cannot meaningfully evaluate whether the proposed measures avoid or minimise land-use conflict, as required by Clause 2.19(2)(c). The applicant has not provided any new technical evidence capable of resolving the land-use compatibility issues identified in the original determination.

The reliance on a Social Impact Assessment does not address the environmental interface risks raised by the quarry operator and does not satisfy the evaluative tasks required by Clause 2.19. Accordingly, the proposal continues to fail Clause 2.19 of SEPP (Resources and Energy) 2021, and the original reason for refusal remains valid.

### **Maitland Local Environmental Plan 2011**

**Note:** Where matters were previously found to be satisfactory and no material changes have occurred under the review application, the original assessment remains valid and is not repeated in full. This section focuses on whether any new or unresolved issues arise under the LEP as a result of the amendments submitted with the Section 8.2 Review.

The aims of the MLEP include:

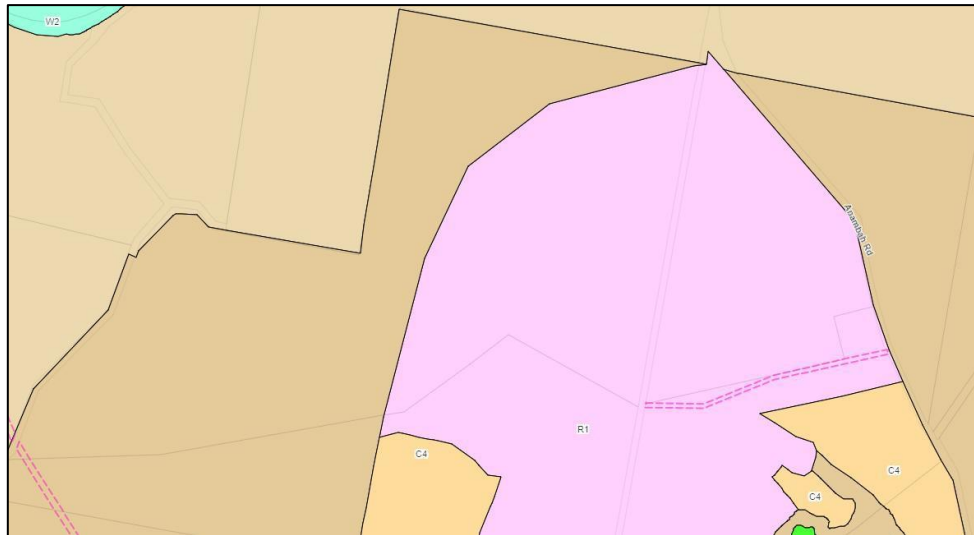
- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to facilitate ecologically sustainable development of land and natural assets,*
- (b) to protect and maintain the extent, condition, connectivity and resilience 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 remains inconsistent with aims (b), (e), (f), (g), (h), (i), and (j), for reasons detailed throughout this report.

### Zoning and Permissibility

The development seeks subdivision of land to facilitate approximately 900 residential lots within the R1 General Residential zone and the creation of a residue lot within the RU2 Rural Landscape zone. Associated civil works include vegetation clearing, earthworks, road construction, servicing, drainage infrastructure, and landscaping, including works within mapped riparian areas. The zoning pattern is shown at **Figure 20** below.

Subdivision is permissible with consent in both the R1 and RU2 zones, subject to compliance with Clause 4.1 (Minimum Subdivision Lot Size) and other relevant provisions of the LEP.



**Figure 20 - GIS mapping, LEP zoning map**

The objectives of the R1 General Residential zone include:

- *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 proposal has been reconsidered against these objectives in light of the updated documentation. The subdivision layout, lot mix and overall urban structure remain substantively unchanged from the original application. The design continues to provide:

- Limited diversity in lot sizes and future housing outcomes therefore failing to support one of the primary objectives above; and
- No supporting land uses or local-scale infrastructure to meet day to day neighbourhood needs of future residents or contribute to a balanced residential environment.

Further, several matters that relate indirectly to the intent of the R1 zone objectives – namely access arrangements, emergency management, staging and sequencing, land-use compatibility, and environmental constraints – remain unresolved based on the updated Section 8.2 material. These issues are dealt with in detail later in this report but are relevant to zone objective assessment because they impact the suitability of the land for the scale and pattern of residential development proposed.

Having regard to the unchanged subdivision structure and unresolved strategic and servicing issues, the proposal does not satisfactorily demonstrate consistency with several R1 zone objectives. While residential subdivision is permissible, the information provided in the review application does not establish that the site can accommodate the development in an orderly, coordinated and infrastructure-supported manner consistent with the intended residential outcomes for the zone.

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.*

A smaller western portion of the site is zoned RU2 Rural Landscape. The proposal includes only limited works within this zone, namely:

- Construction of a perimeter road required to service the adjoining R1-zoned land; and
- Vegetation clearing for bushfire protection associated with the R1 subdivision.

No additional or intensified development is proposed within the RU2 zone as part of the Section 8.2 review. The RU2-zoned land remains within a single large residue lot, allowing it to continue to function in accordance with the intended rural landscape and environmental outcomes for the zone.

These works were previously assessed as minor, ancillary to the urban release area, and not inconsistent with RU2 zone objectives. Given that no changes are proposed in this area under the Section 8.2 Review, this conclusion remains valid.

#### Clause 4.1 – Minimum subdivision lot size

Clause 4.1 of the MLEP 2011 requires that any lot created by subdivision must not be less than the minimum lot size shown on the Lot Size Map. The site is subject to two minimum lot size standards (refer to **Figure 21** below):

- 450m<sup>2</sup> for land zoned R1 General Residential; and
- 40 hectares for land zoned RU2 Rural Landscape.

The subdivision layout submitted with the Section 8.2 review is unchanged from the lodged application and includes:

- Residential lots within the R1 zone, the majority of which are 450–1,476m<sup>2</sup>, with several undersized lots proposed to rely on Clause 7.6 of the MLEP 2011; and
- Approximately 59-hectare residue allotment within the RU2 zone, which exceeds the minimum 40-hectare lot size requirement.

No amendments introduced through the Section 8.2 Review alter minimum lot size outcomes. The RU2 residue lot complies with Clause 4.1, and the proposed undersized R1 lots remain subject to assessment under Clause 7.6.

Accordingly, the proposal continues to satisfy the minimum subdivision lot size requirements of Clause 4.1, noting that the acceptance of undersized lots is dependent on meeting the criteria under Clause 7.6.

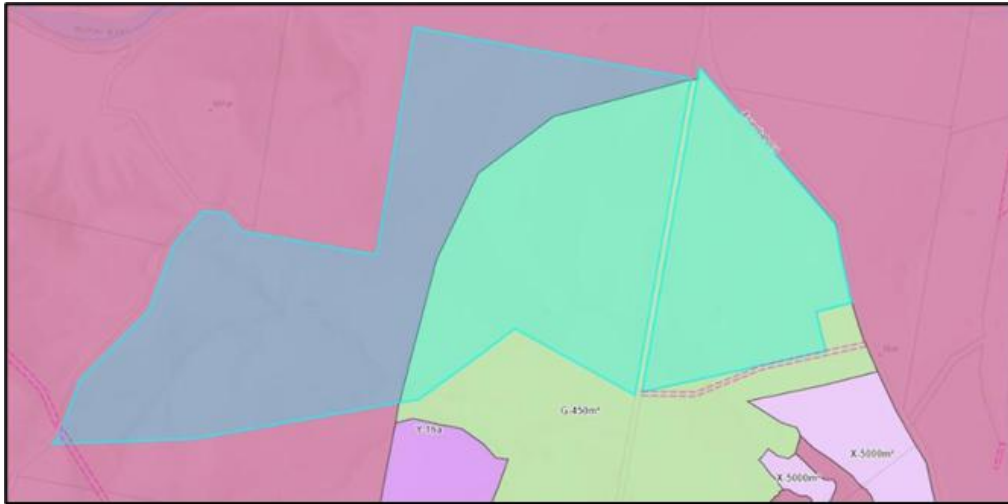


Figure 21 - GIS mapping, minimum lot size map

#### Clause 5.10 – Heritage Conservation

The subject land is not identified as a heritage item or located within a heritage conservation area under Schedule 5 of the MLEP 2011. No built heritage items or structures of local significance were identified through site inspection.

However, Clause 5.10(8) requires the consent authority to consider the effect of development on the heritage significance of any Aboriginal object reasonably likely to be located on the land, and to undertake appropriate notification and consultation.

In the original determination, consent could not be granted because Heritage NSW had not issued GTAs for the integrated development component under the National Parks and Wildlife Act 1974. This constituted a statutory impediment to approval under s4.46 of the EP&A Act.

As part of the Section 8.2 review, the applicant submitted an amended Aboriginal Cultural Heritage Assessment Report that addresses the deficiencies previously identified. Heritage NSW subsequently issued GTAs on 22 November 2025, confirming that the proposed development can proceed subject to conditions consistent with the NPW Act.

Mindaribba Local Aboriginal Land Council was notified of the Section 8.2 Review on 10 November 2025, and no submission was received. The consent authority is now in receipt of:

- A revised Aboriginal Cultural Heritage Assessment Report; and
- GTAs issued by Heritage NSW.

Accordingly, the requirements of Clause 5.10(8) have been satisfied and the heritage-related impediment that existed at the time of the original refusal has been resolved. Heritage matters no longer constitute a determinative issue for this Section 8.2 Review.

#### Clause 5.21 – Flood planning

Clause 5.21 of the MLEP 2011 requires the consent authority to be satisfied that development on flood-affected land:

- 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 portion of the site is affected by Hunter River flooding. Anambah Road – the sole existing access – is inundated during flood events, including events as frequent as the 1% AEP, and may remain closed for extended periods. The NSW SES confirms the site is a High Flood Island, with all proposed dwelling lots on land above the Probable Maximum Flood (PMF) event for both riverine and local catchment flooding. However, the site is currently frequently isolated (approximately 20% AEP) when Anambah Road, the current access route, becomes flooded by high hazard flood water for several days, as occurred as recently as May and August 2025.

These characteristics heighten the need for a reliable, public, flood-free evacuation route, which is presently not available.

### **Original Determination**

The original refusal concluded that the evacuation arrangements did not satisfy Clause 5.21(2)(a)-(d) largely due to:

- Flood extent information is incomplete; the Civil Engineering Plans do not clearly show the 1% AEP or Flood Planning extents needed to confirm residential lots are unaffected.
- Key hydraulic elements – including culverts, detention basins and roads – have not been detailed to MOES and DCP standards, and required 1% AEP levels are missing from the plans
- The FIRA pre- to post-development comparison indicates adverse flood impacts in several locations, requiring further clarification and mitigation
- Climate change assumptions rely on a 1:500 AEP proxy and do not align with current ARR2019 guidance.
- A compliant emergency management plan, including SES-endorsed warnings, evacuation routes and preparedness measures, has not been provided.
- Reliance on River Road for evacuation – particularly with a proposed lockable gate – is not supported by Council, TfNSW or SES and does not demonstrate safe or efficient evacuation in accordance with Clause 5.21.

Of particular concern was the reliance on a secondary flood evacuation route via River Road accessed through a gated connection. Council and the SES consistently raised the following concerns:

- Gated access introduces uncertainty and operational risk during rapidly developing flood events, and
- Anambah Road is already known to be flood affected, making reliable secondary access critical to life and safety.

The Panel was not satisfied that the proposed evacuation strategy would ensure the safe occupation and efficient evacuation of future residents.

### **Section 8.2 Review Submission**

For this review, the applicant submitted an Emergency Access Traffic Management Strategy, but the core arrangement remains unchanged:

- River Road continues to function as the sole secondary evacuation route;
- access remains dependent on a privately operated automated gate across land not dedicated as public road;
- the arrangement is proposed to be operated by Third.i to operate and manage the system during flood events; and
- the constructability, tenure, and road-upgrade feasibility for River Road remain unresolved.

The updated strategy provides more operational description, but no material change to the underlying evacuation mechanism or its compliance or feasibility with flood-planning requirements, even if at a temporary period.

### **Updated SES Position**

The NSW SES has provided further advice confirming that the proposal is not acceptable. Key SES conclusions include:

- Privately managed gates are not supported for flood evacuation;
- the arrangement is not SES-compatible and inconsistent with SES operating protocols;
- the long-term, precinct-wide solution for the AURA is the Wyndella Road / Western Link Road connection, not River Road.

The SES further notes that any emergency access arrangement must be acceptable to Council as the Roads Authority – which it presently is not.

SES advice therefore represents the primary expert evidence available to Council on evacuation feasibility, warning time, isolation risk and operational reliability.

Council is not in a position to disregard the SES advice where:

- The SES has issued clear, consistent and unequivocal objections to the proposed evacuation arrangement and has reiterated these concerns across multiple correspondence rounds.
- Privately managed or controlled access systems – whether gated, automated or conditional – are expressly not supported by the SES, as they introduce delay, operational uncertainty and an additional point of failure during flood evacuation, particularly in a flash-flooding environment.
- There is no SES-endorsed operating protocol for private or automated gate management during flood emergencies, and the proposal therefore cannot be characterised as “SES-compatible emergency egress or ingress”.
- The SES has confirmed the site exhibits High Flood Island characteristics, including limited warning time and a heightened risk of dangerous isolation, which demand reliable, unrestricted and publicly accessible evacuation routes.
- The arrangement carries an unacceptable margin for human error, as the safe operation of a private emergency gate during rapidly evolving flood conditions cannot be guaranteed and is not supported by contemporary emergency management principles.

Council concurs with the SES concerns. The matters raised by the SES directly relate to the statutory tests under Clause 5.21(2)(c) and (d), and Council has no alternative expert evidence to justify a different conclusion. SES advice informs Council's own independent assessment and supports the view that safe and reliable evacuation has not been demonstrated.

### **Council's Flood Engineering Assessment**

Council's Flood Engineer confirmed:

- Anambah Road is frequently inundated and cannot be relied upon during significant flood events.
- If River Road is not supported (as now confirmed by SES), an alternative evacuation route must be identified.
- Any evacuation plan must include warnings, preparedness measures and a verified evacuation route, and must be approved in consultation with the SES.

No such compliant alternative route or SES-endorsed evacuation framework has been provided.

### **Assessment Against Clause 5.21(2)**

Development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development has considered and demonstrated the matters under 5.21(2). A review of matters under Clause 5.21(2) finds:

#### **(a) Compatibility with flood behaviour**

The development footprint and stormwater infrastructure can be engineered to address flood behaviour. This matter is not determinative.

#### **(b) Off-site flood impacts**

Modelling suggests off-site impacts could be managed via conditions. This matter is not determinative.

#### **(c) Safe occupation and efficient evacuation**

This matter remains unresolved. The applicant continues to rely on:

- River Road as the secondary evacuation route;
- a controlled, privately managed automated gate across a future public road; and
- an evacuation framework not supported by SES or Council.

The SES and Council confirms that the arrangement is not operationally reliable and not consistent with emergency-management practice. Without a flood-free public route, such as the future Wyndella Road link or a substantial upgrade to Anambah Road, the proposal cannot demonstrate safe and efficient evacuation. There are unacceptable risks in relying on the current River Road proposal as an emergency access route, noting that the design remains substandard and below the minimum Council requirements for a public road intended to support evacuation traffic. The proposal introduces further uncertainty by relying on privately controlled flood-event operations, creating an unmanageable point of failure during conditions where timely evacuation is essential.

In addition, the effect on the capacity and performance of existing evacuation routes in the surrounding area downstream of the development remains unknown. Reliance on River Road at the level of detail proposed during a major flood event risks compounding evacuation pressures on the wider network, particularly given the frequent inundation of Anambah Road and the High Flood Island characteristics of the locality.

These unresolved design, operational and network risks mean the proposal cannot demonstrate safe occupation or efficient evacuation in accordance with Clause 5.21(2)(c) of the MLEP.

#### **(d) Risk to life**

Not satisfied. Given:

- The High Flood Island characteristics of the site;
- Frequent inundation of the only public access road (Anambah Road);
- No alternative accepted flood-free evacuation route (considered above);
- The risk to life with a human, privately controlled emergency access is not zero; and
- SES's and Council's explicit rejection of the proposed arrangement.

The proposal does not incorporate measures adequate to manage risk to life in a flood event.

#### **(e) Environmental impacts**

Environmental impacts (sedimentation, riparian effects, etc.) could be managed subject to appropriate conditions of consent and are not determinative.

### **Assessment Against Clause 5.21(3)**

Clause 5.21(3) requires additional matters to be considered when deciding whether to grant consent. Relevantly:

*(3)(c) whether the development incorporates measures to minimise risk to life and ensure safe evacuation*

The same issues identified under 5.21(2)(c) and (d) apply here. The proposed gated River Road system does not constitute an acceptable measure to minimise risk to life. SES has confirmed it is not a recognised or safe evacuation arrangement nor is Council supportive of this arrangement to address the safe occupation and efficient evacuation of people in the event of a flood.

### **Concept DA Feasibility – s4.24 EP&A Act**

Under s4.24, the consent authority must be satisfied that the concept proposal is capable of being delivered safely. Where:

- the Stage 1 evacuation solution relies on an interim, unsafe, and SES-rejected arrangement, and
- the long-term evacuation route is not sequenced for delivery and may not be available for years.

The concept proposal does not demonstrate safe delivery. Council cannot grant consent to a concept DA predicated on an evacuation solution that cannot be legally or safely implemented in subsequent stages.

Despite the submission of an Emergency Access Traffic Management Strategy, the fundamental flood evacuation deficiencies remain unresolved. The updated SES advice repeats the original concerns and clearly identifies the proposed arrangement as inappropriate, unreliable, and inconsistent with accepted emergency management practice.

The proposal continues to rely on a gated, privately managed access to River Road for flood evacuation. This arrangement is not supported by Council or the SES and does not demonstrate safe, reliable or effective evacuation in accordance with Clause 5.21.

As a result, the consent authority cannot be satisfied that the development complies with Clause 5.21(2)(c), 5.21(2)(d) or 5.21(3)(c) of the MLEP 2011. The flood evacuation and life-safety deficiencies remain unresolved and constitute a determinative reason for refusal under this Section 8.2 Review.

### Clause 6.2 – Public utility Infrastructure

Clause 6.2 of the MLEP 2011 requires the consent authority to be satisfied that essential public utility infrastructure – water, sewer and electricity – is available or that adequate arrangements have been made for that infrastructure to be provided when required.

### **Water and Sewer**

As identified during the original assessment, Council required the applicant to prepare a developer-funded Servicing Strategy addendum – including a detailed reticulation layout, staging plan and infrastructure delivery framework – to demonstrate how water and sewer services would be provided in a coordinated and orderly manner across the URA. This strategy was required to be reviewed and endorsed by HWC prior to the granting of development consent.

No endorsed servicing documentation has been provided with the Section 8.2 Review. The only correspondence available from Hunter Water in relation to the current servicing situation is the letter dated 9 December 2025. That letter does not constitute an endorsement of the servicing approach

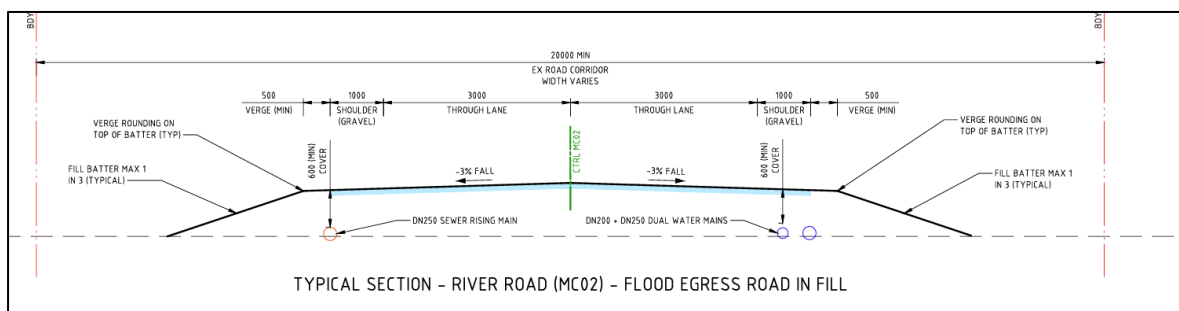
for the site, nor does it satisfy the requirements of Clause 6.2 of the MLEP 2011, which requires the consent authority to be satisfied at the DA stage that essential services is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The Hunter Water letter confirms that Servicing Strategy addendums for the AURA are still under review and that this review is not expected to be completed until the end of February. It also clarifies that Hunter Water will ensure the required water and wastewater assets are delivered before issuing a Section 50 Certificate. However, this advice relates to Hunter Water's statutory role under the *Hunter Water Act 1991* and does not provide Council with certainty regarding the timing, sequencing or feasibility of essential infrastructure necessary to support this development.

The provision of water and sewer services to the site is understood to depend on trunk infrastructure extending northward from the southern portion of the URA via River Road. The review material does not demonstrate how this arrangement will align with the staged rollout of services in the southern cells, nor does it explain how the northern cell can be serviced independently without creating premature, inefficient or fragmented servicing outcomes. This remains a concern for the orderly and economic development of the AURA.

Further concerns arise from the proposal to place major water and sewer infrastructure within the River Road corridor (refer to extract of plans in **Figure 22**). River Road does not meet Council's minimum width, structural or formation standards and is not intended to function as a long-term utility corridor. Installing critical infrastructure within an undersized and ultimately transitional road reserve exposes future development and public authorities to avoidable risks. Any future widening, upgrading or realignment of River Road as the URA progresses would likely require relocation of these assets, creating unnecessary cost, service disruption and delays to broader precinct development.

Given the absence of any endorsed servicing strategy and the limited scope of the available Hunter Water correspondence, the Section 8.2 review does not demonstrate that essential services can be provided in a manner consistent with Clause 6.2 of the MLEP 2011.



**Figure 22 – Engineer cross sections of River Road works (MC02)**

In the absence of an updated Notice of Arrangements and an endorsed Servicing Strategy that demonstrates infrastructure certainty, coordinated staging and long-term feasibility, the consent authority cannot be satisfied that adequate arrangements have been made to provide essential water and sewer services as required under Clause 6.2 of the MLEP 2011. Servicing remains a determinative constraint and recommended reason for refusal.

### Other Utilities

Ausgrid has advised that connection to the electricity network is feasible, subject to a future connection application at the appropriate stage. This is sufficient to demonstrate that electricity can be made available when required and does not raise determinative issues under Clause 6.2.

Clause 6.3 – Development Control Plan

Clause 6.3 of the MLEP 2011 applies to all land within an URA and requires that development occur in a logical, coordinated and cost-effective manner. Critically, the clause provides that development consent must not be granted unless a development control plan (DCP) has been prepared for the land and addresses each of the matters listed in Clause 6.3(3).

However, Sections 4.22–4.23 of the EP&A Act 1979 establish an alternative pathway for Concept DA's. Under Section 4.23(2), if an EPI requires the preparation of a DCP before development occurs, that obligation may be satisfied by the making and approval of a Concept DA. Section 4.23(3) qualifies this by requiring that the Concept DA must contain all information that the DCP would otherwise have been required to include.

The following assessment (**Table 5**) evaluates the Concept DA against the mandatory Clause 6.3(3) matters to determine whether the information submitted is adequate to satisfy Section 4.23 of the Act.

**Table 5: Clause 6.3 Assessment**

Subclause	Council comment
<p>(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,</p>	<p>Clause 6.3(3)(a) requires a staging plan demonstrating timely, logical and cost-effective sequencing of development, supported by coordinated delivery of essential infrastructure. Although the applicant has provided economic and social justification for early release, the clause is fundamentally an infrastructure sequencing test.</p> <p>The staging plan does not satisfy this requirement due to:</p> <ul style="list-style-type: none"> <li>• Reliance on River Road – the Stage 1 evacuation strategy relies on an interim, unsafe and SES/ Council rejected arrangement, with the only viable long-term evacuation route unsequenced and potentially unavailable for many years</li> <li>• Hunter Water servicing not confirmed – No updated Notice of Arrangements or endorsed water/sewer strategy has been provided. Essential utility capacity, staging and delivery remain unresolved.</li> <li>• Road network impacts – The NEH/Anambah Road intersection reaches failure by 2034, within 5–6 years of Stage 1 occupation. Inadequate information has been provided to TfNSW to satisfy this road authority on the impacts on their road networks from this development. There are no current commitments from the development to improve these conditions</li> <li>• URA sequencing conflict – The draft Anambah URA DCP (while not determinative) identifies this land for later stages. The applicant has not demonstrated that out-of-sequence development can occur without placing premature demands on access, evacuation, utilities, and major road upgrades.</li> </ul> <p><b>Clause 6.3(3)(a) is not satisfied.</b></p>
<p>(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a</p>	<p>TfNSW's updated advice, dated 9 February 2026, confirms that key concerns remain unresolved and are determinative:</p> <ul style="list-style-type: none"> <li>• Sensitivity analysis indicates the New England Highway / Anambah Road intersection will reach capacity by 2034, only 5–6 years after Stage 1 occupation, demonstrating a material impact</li> </ul>

<p>simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,</p>	<p>on the State road network.</p> <ul style="list-style-type: none"> <li>• No funded upgrade exists for the intersection, and the applicant has not provided the required infrastructure options or strategic design needed to demonstrate a feasible mitigation pathway.</li> <li>• The proposal continues to rely on River Road as a gated emergency access, requiring traffic management on the New England Highway, yet the frequency, duration and network impact of this arrangement during flood events remain unclear.</li> <li>• Long-term or repeated reliance on Road Occupancy Licences is unlikely to be reasonable, given ROLs are intended for short-term construction or event-related activities, not ongoing emergency access arrangements.</li> <li>• The emergency access arrangement is proposed to operate until delivery of the Western Link Road, but the timing and certainty of that link remain unknown.</li> </ul> <p>Council's Development Engineer notes the proposed Anambah Road intersection for Stage 1 presents significant safety and performance concerns, with insufficient information provided regarding the intersection form, operational capacity, design speed or compliance with the 100 km/h posted environment. At this stage, the access arrangement is not demonstrated to be safe or appropriate for a high-speed rural arterial road.</p> <p>Similarly, the roundabout design required to support the development has not been resolved. A dual-lane roundabout in all approaches is necessary to maintain an acceptable level of service at full development, noting that this would require detailed design to confirm feasibility and integration with the broader road network.</p> <p>The proposal does not demonstrate a simple, safe or coordinated movement hierarchy.</p> <p><b>Clause 6.3(3)(b) is not satisfied.</b></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>Although the Urban Design Report sets out a high-level landscaping framework, inconsistencies remain between the:</p> <ul style="list-style-type: none"> <li>• Bushfire Assessment;</li> <li>• Riparian Vegetation Management Plan (VMP);</li> <li>• Landscape Plan;</li> <li>• Claimed vegetation avoidance measures.</li> </ul> <p>The Bushfire Assessment applies &lt;10% canopy cover to riparian corridors, but the VMP requires ~50% canopy cover based on the mapped PCT. No revised BDAR, VMP or plan set reconciles these conflicts.</p> <p>APZs are also noted to extend into stormwater basins to northern stages and future Council land, which is inconsistent with Council's land management expectations.</p> <p><b>Clause 6.3(3)(c) is not satisfied.</b></p>
<p>(d) a network of passive and active recreational areas,</p>	<p>The concept plan provides three public parks and riparian links, and the Urban Design Report establishes an acceptable high-level open space structure.</p> <p>However:</p> <ul style="list-style-type: none"> <li>• CPTED concerns have been identified by Council's Community and Recreation team relating to the central park and abutting residential lots. These concerns could be resolved by planting</li> </ul>

	<p>types for the screening plants between these lots and the park to ensure they don't create opportunities for concealment or access to neighbouring residential lots via climbing.</p> <p><b>Clause 6.3(3)(d) is generally satisfied</b></p>
(e) stormwater and water quality management controls,	<p>Council's engineers confirmed that the stormwater and water quality concept is feasible and can be resolved at the detailed design stage via conditions.</p> <p><b>Clause 6.3(3)(e) is capable of being satisfied.</b></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><b>Bushfire</b> Inconsistencies remain between the Bushfire Assessment, VMP and landscape plans. APZ feasibility is not demonstrated due to inconsistencies noted above and may change the level of risk with greater canopy cover.</p> <p><b>Flooding and evacuation</b> The proposal continues to rely on gated, privately managed emergency access to River Road. SES has confirmed that:</p> <ul style="list-style-type: none"> <li>• Such arrangements are not supported;</li> <li>• They are not SES-compatible egress systems; and</li> <li>• Flood-resilient public road infrastructure should precede development in isolated flood islands.</li> </ul> <p>Safe, reliable evacuation cannot be demonstrated.</p> <p><b>Clause 6.3(3)(f) is not satisfied.</b></p>
(g) detailed urban design controls for significant development sites,	<p>The Urban Design Report provides a basic framework for small-lot housing envelopes that could be implemented through future s88B instruments. This element is generally acceptable.</p> <p><b>Clause 6.3(3)(g) is capable of being satisfied.</b></p>
(h) measures to encourage higher density living around transport, open space and service nodes,	<p>The Urban Design Report identifies appropriate small-lot and medium-density areas within 200m of open space, consistent with Clause 7.8.</p> <p><b>Clause 6.3(3)(h) is capable of being satisfied.</b></p>
(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,	<p>Although no commercial land is proposed within the site, the Urban Design Report identifies logical locations for future neighbourhood centres elsewhere within the URA. This satisfies the concept-level requirement.</p> <p><b>Clause 6.3(3)(i) is capable of being satisfied.</b></p>
(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.	<p>Due to unresolved issues regarding:</p> <ul style="list-style-type: none"> <li>• Anambah Road capacity and safety;</li> <li>• River Road viability and upgrade requirements;</li> <li>• NEH / Anambah Road intersection performance;</li> <li>• TfNSW modelling and network impacts;</li> </ul> <p>the concept DA does not demonstrate that road and traffic management infrastructure is appropriately located or capable of timely delivery.</p> <p><b>Clause 6.3(3)(j) is not satisfied.</b></p>

The Urban Design Report lodged with the original DA addresses many of the structural and design-based elements ordinarily required by Clause 6.3, and it is appropriate to acknowledge that several components – such as open space structure, urban design controls, density strategy and stormwater framework – are adequately covered for the purposes of a concept development application.

However, Clause 6.3 requires all matters in subclause (3) to be addressed, and the concept DA continues to exhibit fundamental deficiencies that prevent compliance, particularly in relation to:

- Sequencing and infrastructure delivery (6.3(a));
- Transport movement hierarchy (6.3(b));
- Riparian and remnant vegetation strategy (6.3(c));
- Hazard amelioration and safe evacuation (6.3(f)); and
- Public facilities and services including road and utility upgrades (6.3(j)).

These unresolved issues reflect the same strategic, infrastructure and environmental constraints that formed the basis of the Panel's original refusal.

Accordingly, the proposal does not satisfy Clause 6.3 of the MLEP 2011, and the development cannot be supported on this basis.

#### Clause 6.4 Relationship between Part and remainder of Plan

The 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 Clause 7.2 of the MLEP 2011, the consent authority must not grant approval unless satisfied that the proposed earthworks will not result in adverse impacts on environmental processes, adjoining land or the suitability of the land for future development.

The Section 8.2 review includes updated bulk earthworks plans; however, these do not materially alter the extent or nature of earthworks previously proposed. Significant cut-and-fill is still required across Stage 1 and the broader concept area, including deep excavation in the small-lot product where lot width and building envelopes are already constrained. The implications of these earthworks for the functionality of these lots remain unclear.

Critically, no updated civil engineering drawings have been submitted to demonstrate how the revised levels interface with retaining walls, drainage, road levels or adjoining lots. Retaining walls of up to approximately 1.5 metres were identified in the original submission and are expected to remain necessary, yet their location, extent and height have not been confirmed. This lack of detail raises ongoing concerns regarding:

- Boundary retaining on narrow lots;
- Overland flow paths and drainage;
- Structural feasibility and long-term maintenance;
- Impacts on adjoining land and future dwellings.

The absence of coordinated engineering documentation prevents Council from determining whether the proposed earthworks are appropriate or whether alternative design responses could reduce their impact.

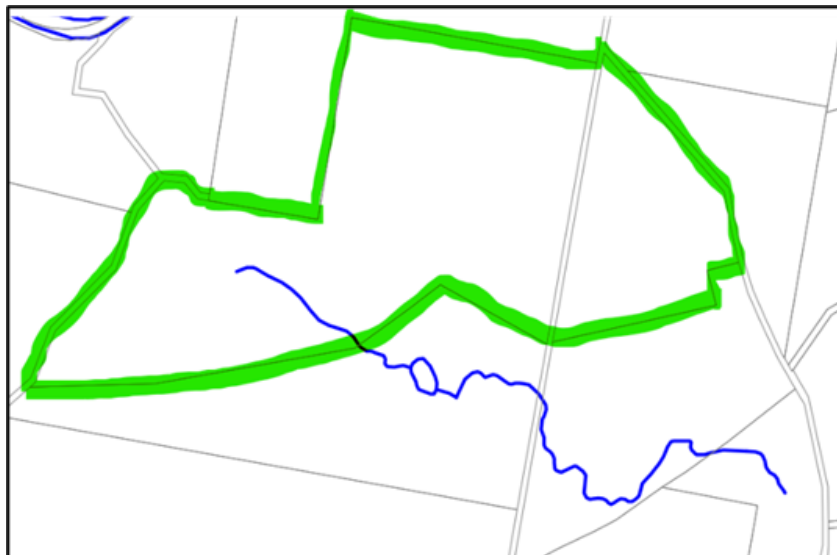
While Aboriginal archaeological matters have now been resolved through the issuing of GTAs, the substantive issues concerning bulk earthworks remain unaddressed.

Accordingly, the development has not demonstrated compliance with Clause 7.2, and the proposed earthworks cannot be supported in their current form.

#### 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.

Pursuant to **Figure 23** below, the land contains 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

Clause 7.8 applies to subdivision within the R1 General Residential zoned land in the Anambah URA and enables the creation of lots below the minimum lot size where certain criteria are met.

The proposed subdivision continues to incorporate a small-lot housing product within the R1 zone. Stage 1 identifies 26 lots between approximately 300m<sup>2</sup> and 450m<sup>2</sup> that rely on Clause 7.8, and the broader concept plan identifies indicative small-lot locations adjacent to proposed public open space areas, consistent with the intent of the clause.

Under subclause (2), the consent authority must be satisfied that:

- (a) the subdivision will result in at least two lots equal to or greater than 200m<sup>2</sup>  
This requirement is met. Stage 1 provides 26 such lots.
- (b) no lot relying on this clause will be more than 200 metres from a community facility, recreation area, or commercial premises. This requirement is met. The Urban Design Report identifies all small lots within a 200m radius of a recreation area.
- (c) the subdivision will not result in more than 450 lots with a lot size of 450m<sup>2</sup> or less across the R1 land  
This requirement is satisfied. While a final tally of these lots across the entire concept area has not been provided, the Stage 1 yield and the indicative lot mix demonstrate that the overall development will remain well below the 450-lot cap allowed by the clause.

Subclause (3) prohibits granting consent to any subdivision that would result in more than 1,200 lots within the Anambah Urban Release Area unless safe and suitable access to the New England Highway via Wyndella Road is available. This requirement is satisfied, as the proposal seeks approval for approximately 900 lots, below the 1,200 lot threshold.

### 7.9 – Essential Services

Clause 7.9 requires the consent authority to be satisfied that essential services – water, sewer, electricity, stormwater and suitable vehicular access – are available to the land or that adequate arrangements have been made for their provision.

While a concept DA is not expected to include construction-ready servicing designs, the consent authority must still reach a state of satisfaction that essential services can be delivered in a timely, coordinated and feasible manner. The information submitted does not meet this threshold for key services, namely water and sewer details.

#### **Water and Sewer**

Hunter Water Corporation has advised that the servicing strategy addendums required to enable development in this part of the AURA are still under review, with no endorsed servicing strategy or updated Notice of Arrangements issued at this time. The 9 December 2025 correspondence is the only advice currently available, and it does not confirm servicing feasibility is available or that adequate arrangements have been made to make that infrastructure available when it is required – as the revised strategy is still under review.

In the absence of an endorsed servicing strategy, updated Notice of Arrangements, or confirmation that essential services can be provided in an orderly and efficient manner, Council cannot be satisfied that adequate arrangements for water and wastewater servicing have been made at this stage.

#### **Electricity**

Ausgrid has advised that connection is feasible subject to standard application processes. Electricity supply is therefore capable of being made available.

#### **Stormwater**

Council's Development Engineer has confirmed that the concept stormwater strategy is technically feasible and integrates with the broader URA catchment. Stormwater services are capable of being provided at the required time, subject to detailed design at later stages.

#### **Vehicular Access**

Vehicular access remains the major unresolved essential service:

- Primary access – Anambah Road is flood-prone and known to experience extended closures.

- Secondary/emergency access – The proposal continues to rely on River Road, accessed via a gated and privately managed connection. SES and Council have confirmed that this arrangement is not acceptable and does not provide reliable evacuation capability.
- State road capacity – Updated modelling shows the NEH/Anambah Road intersection reaches capacity early in the development horizon. TfNSW maintains that the applicant has not demonstrated that the State road network can safely or efficiently accommodate the proposal.

Given the flood susceptibility of Anambah Road, the absence of a safe and publicly accessible secondary route, and unresolved State road impacts, suitable vehicular access is not demonstrated.

Accordingly, the consent authority is not able to be satisfied that the development meets the essential services requirement, and the deficiencies identified in the original determination remain unresolved under the Section 8.2 review.

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

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

#### **4.3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

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

##### Chapter A.4 – Notification

The application was publicly exhibited from 13 November to 10 December 2025 in accordance with the EP&A Act, EP&A Regulation and MDCP 2011.

##### Chapter B.3 - Hunter River Flood Plain

###### *2.3 Filling of the Flood Storage and Flood Fringe Areas*

Engineering plans identify the 1% AEP flood extent and applicable flood planning levels across the site. Council's Flood Engineer is satisfied that the subdivision footprint itself is not directly affected by the 1% AEP flood extent or flood planning levels. These matters are not determinative in the context of broader evacuation considerations.

###### *2.3 General Requirements*

Relevant controls under this section require that:

- Flood-free access be provided from the development to an appropriate evacuation facility at the 1:20 ARI flood level or higher; and
- Provision be made for the safe evacuation of people in accordance with the Maitland Local Flood Plan.

The original assessment concluded that the applicant relied on River Road as the primary evacuation route when Anambah Road is inundated. Council, the NSW SES and Transport for NSW consistently raised concerns regarding this approach, particularly due to the reliance on gated or controlled access across River Road.

- Council previously identified several operational and feasibility issues relating to the controlled-access proposal, including:

- practical uncertainty around who would operate or authorise opening/closing of the gate during a rapidly evolving flood;
- the regularity with which River Road would be required due to frequent inundation of Anambah Road;
- lack of SES or Council support for restricted public access; and
- unresolved design, tenure and long-term upgrade requirements for River Road.

Under the Section 8.2 Review, the proposal continues to rely on River Road as the sole secondary evacuation route for the site when Anambah Road is closed. Despite supplementary operational material, the physical arrangement remains unchanged and continues to depend on a privately controlled, automated gated system located over land not dedicated as public road.

The core evacuation concept therefore remains fundamentally inconsistent with:

- SES operational practice, which does not support private or automated gates for flood evacuation;
- the ability to provide reliable and unrestricted public evacuation routes; and
- Council's own assessment, including the advice that if River Road cannot be supported, a flood-free alternative route must be identified.

River Road is currently an unformed local road, and no acceptable evidence has been provided demonstrating that it can be feasibly upgraded to meet the necessary standards for:

- flood-free public access;
- unrestricted, reliable evacuation;
- compliance with Council road specifications; or
- downstream safety at the River Road / New England Highway intersection, which would require consultation with TfNSW

Council has also identified that the Draft DCP road hierarchy does not continue the collector road network through the River Road corridor because of topography and watercourse constraints. The proposal therefore departs from intended precinct-scale planning outcomes.

The proposal does not demonstrate (where relevant to be demonstrated):

- flood-free access to an evacuation facility at the 1:20 ARI level; or
- safe evacuation consistent with the Maitland Local Flood Plan.

This is due to the unresolved and unacceptable reliance on:

- a gated, privately controlled access point;
- an evacuation route not supported by the SES or Council; and
- a road corridor that is not presently formed, compliant or strategically planned to function as an evacuation route.

Given the continued dependence on a non-endorsed, gated River Road arrangement and the absence of any feasible flood-free alternative, the development fails to satisfy the general requirements of Chapter B.3 of the Maitland DCP 2011.

The inconsistencies identified under the original assessment remain unresolved, and the proposal continues to conflict with the objectives and controls relating to safe, reliable evacuation on the Hunter River floodplain.

### Chapter B.5 – Tree and Vegetation Management

The proposal triggers the BOS biodiversity Offset Scheme under the Biodiversity Conservation Act (BC Act) 2016 due to exceeding the area clearing threshold. The applicant asserts in the Section 8.2 Review that additional avoidance measures have been incorporated; however, these claims are not supported by updated ecological documentation. Council's ecological review confirms that no revised BDAR, arborist assessment or updated landscape plans have been submitted to substantiate the alleged improvements or to demonstrate the long-term protection of retained vegetation. The Concept Masterplan, Landscape Plan and civil plans do not consistently reflect the avoidance outcomes described in the covering material. As a result, the claimed biodiversity avoidance measures cannot be independently verified.

### Chapter B.7 – Environmentally Sensitive Land

Council's Ecologists previously recommended that the applicant update the bushfire assessment to allow for increased canopy and mid-storey planting within the riparian corridor. This was to better align with the objectives of this chapter, which require watercourse restoration efforts to "recreate the native vegetation that would have occurred prior to disturbance" and to support long-term ecological outcomes, including improved riparian function and mitigation of urban heat impacts.

As part of the Section 8.2 review, the applicant has submitted an amended Bushfire Assessment Report (SCT Consulting, October 2025). While the amended report replaces references to "Freshwater Wetland" with "Forested Wetland – Coastal Floodplain Wetland (PCT 4042)", Council's ecological review confirms that substantive inconsistencies remain between the bushfire assessment and the Riparian Vegetation Management Plan (MJD, May 2025).

In particular, the Bushfire Assessment continues to assume riparian planting outcomes of less than 10% tree canopy cover at maturity, whereas the VMP targets approximately 50% canopy cover (equivalent to 20% Projected Foliage Cover) to reflect the benchmark condition of the relevant Plant Community Type. These divergent assumptions result in an unresolved conflict between riparian rehabilitation objectives and bushfire protection measures, with direct implications for APZ requirements and the broader subdivision layout.

The vegetation classification applied in the APZ calculations has therefore not been consistently aligned with the revegetation outcomes proposed under the VMP or Landscape Masterplan. Council's ecologist has advised that, in the absence of reconciled canopy targets and supporting documentation (including updated plans and, where necessary, revisions to the BDAR), it cannot be confirmed that riparian restoration objectives and bushfire protection requirements can be achieved concurrently.

In addition, APZs continue to be shown extending into stormwater detention basins and land intended for future Council ownership. Council does not support the establishment of APZs within stormwater infrastructure or future public land, as this is inconsistent with Council's land management objectives, undermines the intended function of environmentally sensitive areas, and creates ongoing maintenance and land use compatibility issues.

With respect to flooding considerations within environmentally sensitive land, civil engineering plans have now been updated to delineate the 1% AEP flood extent, including flood levels across detention basins and along the riparian corridor. Council's flood engineering review confirms that these amendments satisfactorily address earlier concerns relating to flood extent mapping and the interaction of proposed civil works with the floodplain.

Notwithstanding the above, the unresolved inconsistencies between the bushfire assessment, riparian VMP and proposed APZ configuration indicate that the proposal does not currently demonstrate an integrated and ecologically appropriate outcome for environmentally sensitive land. Accordingly, the requirements of Chapter B.7 – Environmentally Sensitive Land have not been fully satisfied, particularly in relation to riparian vegetation restoration, long-term ecological integrity and compatibility with bushfire protection measures.

#### Chapter C.10 – Subdivision

### **Environmental Considerations (EC.1 to EC.3)**

#### *EC.1 – Flora and Fauna*

The site contains extensive native vegetation and mapped threatened species habitat and has consistently been identified by Council's ecologists as having high biodiversity value, including habitat for species such as the Squirrel Glider and Brush-tailed Phascogale.

While the original design was refined to improve avoidance and minimisation outcomes, Council identified remaining feasible opportunities—most notably the retention of additional canopy patches and a Barn Owl roosting tree. These matters formed the basis of Reason 15 in the original refusal.

Under the Section 8.2 Review, the applicant asserts that further avoidance has been incorporated. However, Council's ecological review confirmed:

- The claimed retention of additional vegetation is not reflected in the updated Landscape Plan or Civil Plans.
- The Barn Owl roosting tree is not shown as retained in any plan-set.
- No updated BDAR, arborist report or revised VMP has been submitted.

Accordingly, the Section 8.2 Review does not satisfactorily demonstrate that avoidance and minimisation measures have been meaningfully improved or secured. Unresolved inconsistencies prevent Council from concluding that flora and fauna impacts have been addressed for the purposes of EC.1.

#### *EC.2 – Heritage and Archaeology*

Three Aboriginal artefact sites were identified during site investigations undertaken for the original DA. Further targeted investigation (July 2024) confirmed:

- Previously recorded sites are present near – but largely outside – the proposed River Road corridor; and
- One site (AHIMS 37-6-3568) contains a PAD that partially overlaps the corridor.

The updated Aboriginal Cultural Heritage Assessment provides appropriate management measures, including obtaining an AHIP where impacts are unavoidable. GTA's from Heritage NSW have now been issued, resolving the prior referral issue.

On this basis, Aboriginal cultural heritage impacts are considered capable of being appropriately managed, subject to implementation of the ACHA and statutory permitting.

#### *EC.3 – Hazards*

Flooding: Flooding remains a critical constraint affecting site feasibility.

As discussed in detail under Clause 5.21, the proposal still relies on:

- Anambah Road as the primary access (known to become inundated); and
- River Road as the secondary evacuation route, accessed through a gated, privately managed system.

Despite additional material submitted as part of the Section 8.2 review:

- NSW SES nor Council support privately controlled or gated emergency access for flood evacuation.
- The arrangement fails to satisfy both Clause 5.21 and the evacuation/access requirements of Chapter B.3.

Flood hazard management is therefore not resolved and continues to represent a determinative planning issue.

Bushfire: The applicant has submitted an amended Bushfire Assessment that revises vegetation classification within the riparian corridor and updates APZ calculations. NSW RFS has issued GTAs.

However, Council's Ecologist and Development Engineer have advised that:

- Road widths relied on in the bushfire assessment are not demonstrated on the subdivision or civil plans.
- APZs are still shown encroaching into stormwater basins and future Council land – an arrangement Council will not accept and which is inconsistent with long-term asset management expectations.
- Coordinated consistency across bushfire, engineering and subdivision plans has not been demonstrated.

Accordingly, bushfire protection measures have not yet been shown to be deliverable in a practical or integrated manner.

Land contamination: The PSI identifies no significant contamination constraints. While the PSI was not prepared by a certified consultant, Council's contaminated land officer considers the investigation acceptable for assessment purposes. The site is suitable for residential development subject to standard conditions.

The land is considered suitable for general residential development, subject to the imposition of standard contamination conditions of consent.

### **Design Considerations (DC.1 to DC.9)**

The current subdivision layout does not demonstrate compliance with several key design controls, including:

- Minimum road width requirements in civil design details (noting likely increases arising from the bushfire assessment);
- Intersection details from Stage 1 onto Anambah Road;
- Roundabout design details for Stage 1;
- Block lengths and walkability connections; and
- Access and impact on the New England Highway.

It is acknowledged that some of these matters may be addressable through amended plans and supporting documentation. Where controls are not listed above, the proposal is considered compliant or capable of compliance through conditions.

Overall, the submitted plans do not yet demonstrate integrated compliance with the full suite of DC.1–DC.9 requirements.

### **Identity components (IC.1 to IC.3)**

The proposed entry feature complies with the maximum 2-metre height control and is acceptable. Other identity controls can be satisfied through conditions of consent.

### Chapter C12 – Crime Prevention Through Environmental Design

An amended CPTED Report has been submitted by the applicant in response to Council's earlier concerns, including the need for a detailed assessment of passive recreation areas and open spaces within the subdivision.

The revised CPTED report now provides a comprehensive assessment of all proposed public open spaces, including the Central Park, active and passive riparian parks, and the riparian corridor. The report appropriately addresses the five CPTED principles – territorial definition, natural surveillance, access control, activity support and target hardening – with consideration given to wayfinding, sightlines, landscaping, lighting, and opportunities for passive surveillance from surrounding residential development.

The assessment demonstrates that:

- Public open spaces are clearly defined and legible, with strong visual connectivity and walkability.
- Park layouts promote natural surveillance through surrounding streets and adjoining residential lots.
- Access and movement patterns are logical and intuitive, supporting safe use and passive community stewardship.
- Lighting, landscaping and signage are addressed consistent with CPTED best practice, subject to detailed design.
- Recommendations are provided to strengthen safety outcomes, including lighting strategies, planting controls, and the potential inclusion of supporting facilities.

Feedback from Council's Community and Recreation Team has also been considered. The Central Park concept currently includes an amenities building; however, such a facility is not required for local-level play spaces of this scale and should therefore be removed. Should the Central Park progress to a detailed application in later stages, the need for an amenities building can be reconsidered at that time.

Community and Recreation have also identified CPTED considerations relating to the interface between the Central Park and abutting residential lots – specifically, ensuring that proposed screening vegetation does not create opportunities for concealment or facilitate access to adjoining properties. These matters can be addressed through appropriate planting selection and spacing at the detailed design stage and do not affect the acceptability of the Stage 1 subdivision.

It is noted from review of cross-sections relating to riparian park areas, there are poor passive surveillance opportunity from the road to the open kickabout space, there is appropriate passive surveillance of this space from the adjacent play space. The offerings in play type for this site should differ from the play types provided in the central park given their proximity.

With the implementation of the recommendations within the amended CPTED report, together with the additional refinements identified above to be resolved through detailed design or conditions of consent, CPTED matters are considered to be satisfactorily addressed.

Accordingly, the proposal is acceptable with respect to Chapter C12 of the DCP.

#### Chapter F2 – Residential Urban Release Areas

##### *Desired Future Outcomes*

While the concept plan establishes some structural elements consistent with the intended neighbourhood character – such as an internal street network, an open space framework and the potential for varied lot sizes – it does not yet demonstrate a holistic response to the desired future outcomes for URA.

In particular, the proposal relies heavily on permissibility under the LEP but does not sufficiently address the broader performance outcomes of the DCP relating to coordinated infrastructure delivery, transport and access, hazard management, environmental protection, neighbourhood walkability and integration with the wider URA structure.

Key strategic dependencies remain unresolved, including flood evacuation, access sequencing, state road capacity, servicing arrangements, and alignment between bushfire, vegetation and riparian management objectives. Until these matters are addressed, the development cannot be considered to meet the overarching neighbourhood, environmental and infrastructure outcomes envisaged under Chapter F.2.

##### *Design Considerations*

The applicant has lodged a concept plan in lieu of Area and Precinct Plans under Clause 6.3 of the LEP. While a concept DA may substitute for these plans, it must also demonstrate the same level of strategic coordination and integration required by the DCP.

At this stage, the concept plan does not sufficiently respond to several of the key design criteria in Chapter F.2, including coordinated staging and infrastructure delivery, safe and consistent access and movement networks, integration of hazard management, vegetation and riparian protection, and neighbourhood structure.

Many of the unresolved issues – such as reliance on non-viable emergency access, out-of-sequence staging, unconfirmed water and sewer servicing, and inconsistencies across bushfire and ecological documentation – indicate that the design considerations have not been fully resolved at a concept stage.

Greater reliance on, and demonstration of compliance with, the design criteria in Chapter F.2 would improve the robustness and feasibility of the proposed Urban Release Area framework.

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

Council's Infrastructure Contributions Committee has reviewed the October 2025 VPA offer accompanying the application, and Strategic Planning will provide a formal response to the applicant in due course. At this stage, the matters raised through internal review are still under consideration.

The applicable contributions framework for the land is the 2016 City-Wide Section 7.11 Plan, which does not include the Anambah URA or its associated infrastructure requirements. As such, it is not recommended that contributions be conditioned under this plan.

Council is currently preparing an Anambah-specific contributions plan, which is expected to be subject to IPART review and Ministerial approval. It is unlikely that this plan will be in force at the time of determination. It is noted, however, that the VPA offer includes provisions to allow for monetary contributions consistent with a future IPART-reviewed contributions plan, which will be further considered as part of the VPA assessment.

Therefore, if the consent authority was to approve the development, and despite the above, Council would recommend a deferred commencement condition for the developer to enter into the VPA and register the VPA on the title of the land.

#### **4.3.5 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 DAs.

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 elements of the concept plan that have not been adequately addressed that of which Council does not deem suitable to defer.

#### **4.3.6 Section 4.15(1)(b) - Likely Impacts of Development**

Section 4.15(1)(b) requires consideration of the likely impacts of the development, including impacts on the natural and built environments, and social and economic impacts in the locality. The assessment below draws together the findings from the preceding sections of this report, including consideration of relevant SEPPs, the LEP, the DCP, agency advice, technical referrals and the Panel's previous reasons for refusal.

Overall, while certain impacts could be managed through conditions at later stages, numerous key impacts – particularly relating to access, flooding, staging, biodiversity, land-use compatibility and service infrastructure – remain unresolved and are likely to result in significant adverse environmental, social and economic consequences.

**Context and setting** – As The proposal does not demonstrate that the development appropriately responds to the context of the Anambah URA. While subdivision is permissible, the subdivision pattern, sequencing, access arrangements and environmental responses do not align with the intended development form of the URA or the R1 zone objectives. Further, the development fails to adequately consider or mitigate the implications of:

- Proximity to Riverbend Organics (odour);
- Proximity to the Gosforth Rhyolite Quarry (noise, blasting, heavy vehicle movements);
- Flood-isolation constraints unique to this northern URA cell;
- The intended sequencing of the wider URA (as expressed in strategic studies and the draft DCP).

As such, the proposal does not adequately reflect the physical, environmental or operational context in which it is situated.

**Sequencing, Servicing and Orderly Development** – The proposed staging arrangement remains one of the more significant impact considerations.

#### Unresolved staging and sequencing impacts

The applicant asserts that “there is no formally adopted development sequencing plan for the AURA” and that Council has incorrectly relied on a privately prepared staging concept associated with other landholdings. They further contend that development within the URA should not be constrained to a linear or predetermined sequence, suggesting instead that areas may proceed wherever a proponent can demonstrate that infrastructure could be delivered independently and in accordance with market readiness.

These statements oversimplify, and in some respects mischaracterise, the basis on which sequencing concerns were raised in the original determination.

First, while the Panel’s determination pre-dated exhibition of the Draft Anambah DCP, the strategic intent for sequencing across the URA has long been established through the Planning Proposal, associated infrastructure investigations and the LEP. Since the original refusal, the Draft Anambah DCP has been publicly exhibited and now provides a clear and transparent staging framework. This framework identifies the subject land within the northernmost cell (Stage 4), representing the final stage of the URA. That position reflects its geographic isolation, distance from trunk infrastructure, lack of flood-free access, unserved road network, and the need for foundational connections – including the Western Link Road and New England Highway upgrades – to be in place before development in this location can proceed in an orderly manner.

While the Draft DCP is not yet adopted and cannot be given determinative statutory weight, it remains a relevant and contemporary expression of Council’s strategic intent for coordinated delivery of the URA – an intent also reflected in Clause 6.3(3)(a) of the MLEP. In other words, it is not the Draft DCP that gives rise to the sequencing concerns; rather, the Draft DCP confirms and formalises the sequencing logic that has always underpinned planning for Anambah. To disregard that context would narrow the assessment and overlook the significant infrastructure dependencies affecting the northern cell.

Second, the applicant’s suggestion that sequencing concerns rest on a “preferred staging sequence prepared privately” is not accurate. Council’s assessment is not based on any private staging preference but on the combined advice of Council’s engineering, strategic planning, emergency management and traffic specialists, together with the input of Hunter Water, RFS, TfNSW and the SES. The fundamental issue is not which landowner develops first; it is whether essential infrastructure – water, sewer, evacuation routes, arterial connections, road network capacity, public transport access and supporting services – can be made available in an orderly, timely and cost-effective manner. The applicant has not demonstrated that this can occur independently of the broader sequencing of the URA.

At a strategic level on development sequencing, The Hunter Regional Plan 2041 further reinforces this approach. It adopts an infrastructure-first, place-based sequencing model in which new development is expected to follow a logical, cost-efficient rollout of infrastructure. The Plan emphasises that sequencing must consider existing infrastructure capacity, delivery timing, take-up scenarios and the whole-of-network cost implications of alternative pathways. While the Regional

Plan allows for flexibility, it makes clear that any deviation from logical sequencing must be supported by evidence that essential infrastructure can be delivered in full, without imposing premature or unreasonable burdens on public authorities.

Third, out-of-sequence development is feasible only where it demonstrably avoids placing premature, inefficient or unreasonable burdens on public authorities or the wider community. While some flexibility in staging is possible, this can only occur where a proponent shows that essential infrastructure will be delivered in alignment with demand and without compromising the coordinated rollout of the precinct. The applicant has not met this threshold. The absence of a confirmed sewer and water servicing strategy, the lack of any committed upgrade pathway for the Anambah Road / New England Highway intersection, continued reliance on River Road contrary to SES and Council advice, and the absence of a secured delivery mechanism for the Western Link Road all demonstrate reliance on speculative or uncertain infrastructure. These concerns are compounded by the proposal to locate major water and sewer infrastructure within the River Road corridor, a road reserve that does not meet Council's minimum width, structural or formation standards and is not intended to function as a long-term utility corridor. Installing critical assets within an undersized and ultimately transitional alignment would expose future development and public authorities to avoidable costs, service disruption and likely asset relocation as the URA road network is upgraded, further reinforcing that the proposal would impose premature and inefficient burdens inconsistent with orderly and economic development.

Finally, the information submitted does not engage with these determinative infrastructure constraints. Its conclusion that the development can form a "coherent community in the short term" is not supported by any evidence addressing emergency access, flood-free evacuation, utility servicing, road capacity, public transport availability, basic day to day services, school and centre provision, or cumulative traffic performance. Its assertion that any additional public authority costs will be borne by the proponent is similarly unsubstantiated.

In this context, the proposal does not demonstrate orderly or economic development as required by Clause 6.3(3)(a) of the MLEP 2011. The claim that there is "no sequencing plan" does not remove the need for the consent authority to be satisfied that the development will proceed in a coordinated manner with essential infrastructure available when required. The material submitted to date does not demonstrate that this requirement has been met.

It is also important to highlight that one of the primary objects of the EP&A Act is:

*(k) to promote the orderly and economic use and development of land.*

As detailed in this review of determination, the proposed development fails to promote the orderly and economic use and development of land and this should continue to form a reason for refusal.

#### Hunter Water servicing remains unresolved

The absence of a revised, HWC-endorsed Servicing Strategy or updated Notice of Arrangements means that essential services has not been demonstrated or that adequate arrangements have been made. This undermines both Clause 6.2 (Public Utility Infrastructure) and 6.3(3)(a) (DCP/Concept DA equivalence).

#### Road network capacity and orderly sequencing

The updated TIA acknowledges that the New England Highway/Anambah Road intersection reaches capacity in 2034 – within 5–6 years of the first stage being occupied. While the applicant argues the intersection would fail regardless, the modelling makes clear that:

- The development brings forward the failure point significantly; and
- No committed or feasible upgrade pathway has been demonstrated or proposed by the applicant;
- TfNSW remains unable to support the proposal due to insufficient and inconsistent modelling. Without a confirmed upgrade pathway, the early release of the northern cell has clear adverse implications for the broader URA sequencing, reinforcing that the staging plan is not demonstrating orderly or cost-effective development.

#### Draft DCP context

While not yet adopted, the Draft Anambah DCP identifies this northern cell as forming the final stage of development under the logical sequencing of the URA. The Draft DCP allows staged flexibility only where a proposal demonstrates orderly and economic development without placing premature burdens on public infrastructure. The information before Council – including the TIA, utility servicing status, and strategic planning advice – indicates that the applicant has not demonstrated this.

The additional traffic, social and economic material does not rectify the sequencing and infrastructure deficiencies. The staging plan does not demonstrate that development will proceed in a logical or cost-effective manner, nor that necessary infrastructure will be made available in step with demand.

**Access and traffic** – Access and transport impacts remain determinative.

#### Primary access – Anambah Road

Anambah Road is flood-affected and becomes inaccessible during major events, meaning it cannot provide reliable, all-weather access for residents or emergency services. The applicant proposes only minor safety works and does not demonstrate that the road – either in its current form or with the suggested upgrades – can support the traffic generated by Stage 1, let alone the broader concept yield. Sensitivity testing indicates that the New England Highway / Anambah Road intersection will reach capacity shortly after Stage 1, with no committed upgrade pathway or feasible mitigation. As such, safe and sufficient primary access is not demonstrated at this stage.

#### Secondary/emergency access – River Road

The proposal relies on a gated, privately controlled emergency access point on River Road. This arrangement is not supported by SES or Council. River Road itself is substantially under-standard, unformed in sections, and unmodelled in terms of intersection impacts on the New England Highway. The applicant has not demonstrated that River Road can operate as a safe access route – whether in emergencies or otherwise – or that required upgrades are practical, permissible or deliverable.

TfNSW's raised concerns about the reliance on River Road as an emergency access route, as this would require traffic management on the New England Highway during flood events. TfNSW or Council cannot determine the likely duration or frequency of such controls and notes that ongoing reliance on Road Occupancy Licences is inappropriate for operational access arrangements. This creates uncertainty about the impact on the safe and efficient functioning of the New England Highway, particularly given that the Anambah Road intersection is already forecast to reach capacity within a short timeframe.

TfNSW's advice confirms that the applicant has not demonstrated that the State or local road network can accommodate the development. While a concept DA may defer detailed design, it cannot defer resolution of determinative access constraints. In this case, the performance of Anambah Road, the New England Highway intersection and the feasibility of any River Road function

remain unresolved. These constraints are fundamental to the safe operation of the subdivision and cannot be addressed at a later stage.

**Public Domain** – The concept layout identifies three parks and a riparian corridor; however, broader neighbourhood functionality will be constrained until:

- The Western Link Road is delivered;
- Neighbourhood centres and community facilities elsewhere in the URA are available;
- Safe, reliable road access is secured.

In the current form, early residents would live in an isolated pocket with limited access to social infrastructure, services and community facilities – reliant on established suburbs in the area. This has implications for:

- Walkability and active transport;
- Public transport access;
- Community cohesion;
- Neighbourhood liveability.

These are core outcomes of Chapter F2 which the concept plan is unable to demonstrate at this time.

**Utilities** – The development is supported in principle by Ausgrid (electricity). Details from Hunter Water remain in question (water / sewer). Whilst it has been noted by the applicant that the site can be serviced, Council still holds 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, thus making these works sacrificial as the URA progresses, putting unknown impacts to the subject development as River Road evolves.

**Water/soils impacts** - The application is supported with PSI, which is deemed generally acceptable by Council's Contaminated Officer. The land is deemed suitable for general residential development, subject to conditional requirements.

**Air Quality and Odour Impacts** – The subject land is located in proximity to an approved and operational composting and resource recovery facility to the east at 442 Anambah Road (Riverbend Organics), which operates under Development Consent DA/2015/433 (as modified) and Environment Protection Licence (EPL) No. 12510. The facility has lawful approval to process up to 40,000 tonnes per annum of organic materials, including food organics and other putrescible waste streams, subject to staged infrastructure delivery.

An Air Quality Assessment prepared by Todoroski Air Sciences (2022), submitted in support of the approved modification to DA/2015/433, identifies a 2.0 odour unit (OU) contour representing the appropriate impact assessment criterion under the NSW Approved Methods for the Modelling and Assessment of Air Pollutants for a community of this scale. The modelling adopted a 2.0 OU criterion on the basis that the future URA would accommodate a population exceeding 2,000 persons, consistent with State guidance (see **Figure 24**).

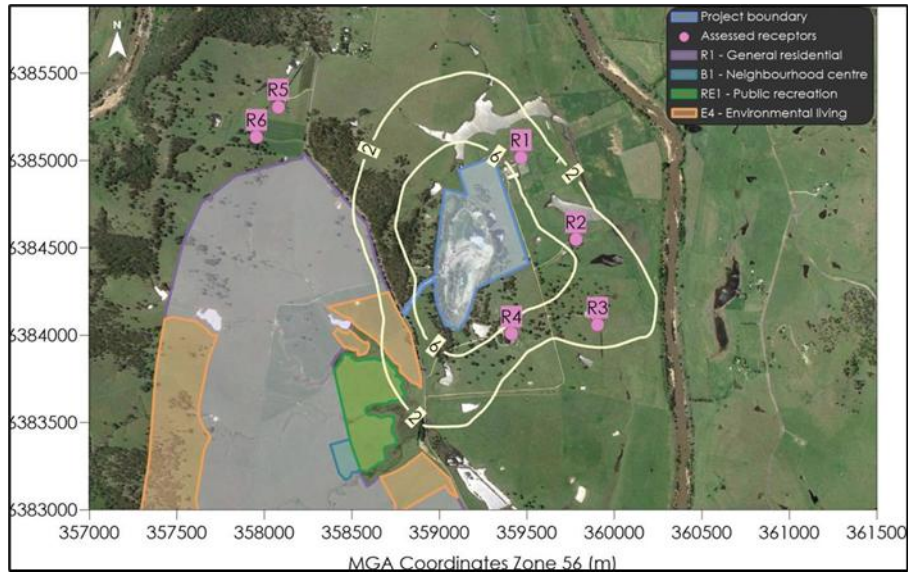


Figure 24 - Todoroski Air Sciences 2.0 OU contour

A review of the approved odour contours demonstrates that the 2.0 OU contour extends into the Anambah URA and overlaps with parts of the subject development site, including land within the proposed Stage 1 subdivision area.

The applicant has not submitted an updated or independent Air Quality Assessment as part of the Section 8.2 Review. Instead, reliance has been placed on statements within a Social Impact Assessment which assert compliance with EPA criteria. These statements are not supported by any accompanying technical modelling, do not reconcile with the approved Todoroski odour contours, and do not demonstrate compliance with the NSW Approved Methods. As such, the validity of the applicants statements cannot be verified and cannot be relied upon to resolve the identified land use conflict.

The composting facility is operating within the scope of its development consent and EPL, and has not yet fully realised the maximum operational envelope approved under the 2023 modification. Accordingly, existing odour conditions cannot be assumed to represent future worst-case impacts.

The applicant has not adequately addressed or demonstrated how land use incompatibility is to be avoided or minimised in areas affected by odour emissions.

Accordingly, from a land use compatibility and amenity perspective, Council raises concern if residential lots or future dwellings should be located within the approved 2.0 odour unit contour. This includes lots proposed within Stage 1 and any future stages of the development.

In the absence of a revised subdivision layout and a robust, independent Air Quality Assessment demonstrating compliance with the NSW Approved Methods, the likely air quality and odour impacts of the development cannot be supported.

**Flora and fauna impacts** – The proposal continues to present substantial biodiversity impacts, and the Section 8.2 supporting information does not resolve the issues identified in the original determination. Although a BDAR accompanied the original application and remains useful for quantifying vegetation loss and offsets, it does not demonstrate that all reasonable avoidance and minimisation measures have been exhausted.

The applicant now states additional avoidance outcomes – such as retention of vegetation in the south-west and north-west of the site and protection of the Barn Owl roosting tree – but these are not consistently shown or supported across the suite of revised documentation. Council's ecological review confirms that key elements, including the oversized lot intended to protect the Barn Owl roost, do not appear on the updated Landscape Plan or Civil Plans, and no updated BDAR or Arborist advice has been provided to verify that these biodiversity values can be retained in practice.

Inconsistencies also remain between the Bushfire Assessment and the Riparian Vegetation Management Plan. The Bushfire Assessment assumes riparian canopy outcomes of less than 10% to support APZ requirements, whereas the VMP proposes canopy cover of around 50% consistent with the benchmark condition of PCT 4042. These conflicting assumptions have not been reconciled and create uncertainty about whether riparian restoration and bushfire protection can be achieved concurrently. As noted by Council's Ecologist, without updated and coordinated documentation – including, where necessary, revisions to the BDAR – it cannot be confirmed that the subdivision layout and APZ configuration can meet ecological and bushfire requirements simultaneously.

Accordingly, the biodiversity impacts of the proposal remain unresolved. The applicant has not demonstrated that the additional avoidance measures relied upon in the Section 8.2 Review are feasible or deliverable, and the inconsistencies across the ecological, landscaping and bushfire documentation mean that impacts on high biodiversity value areas remain a significant planning concern.

**Noise and vibration** – The Gosforth Rhyolite Quarry, operating lawfully under DA/95-127, is an established extractive industry with approval for blasting, crushing and screening activities, high-intensity haulage, and extraction rates of up to 770,000 tonnes per annum. These operations generate periodic but significant noise, vibration, airblast overpressure and dust emissions which must be properly assessed when proposing sensitive land uses in proximity to the quarry.

The applicant has not provided any acoustic, quarry blast, vibration or dust modelling to demonstrate that the subdivision layout can achieve acceptable amenity outcomes or meet the technical requirements of SEPP (Resources and Energy) Clause 2.19. Instead, the Social Impact Assessment relies on generalised statements that no unacceptable impacts are expected, without any supporting technical analysis. In the absence of modelling or an evidence-based interface strategy, the potential for adverse impacts remains high and represents an unresolved land-use conflict.

**Bushfire** – Although the Section 8.2 Review includes an amended Bushfire Assessment Report, key matters remain unresolved. Inconsistencies remain between the revegetation assumptions in the Riparian Vegetation Management Plan and those applied in the bushfire report, particularly in relation to canopy cover within the riparian corridor. These discrepancies directly affect APZ dimensions and the feasibility of achieving both ecological restoration and bushfire protection outcomes.

**Flooding and Flood Evacuation Impacts** – Flooding and evacuation remain determinative issues for this proposal. The NSW SES has been explicit that the proposed evacuation arrangement – reliance on River Road accessed via a privately operated, controlled gate system – is not compatible with accepted emergency management practice, is not supported under any SES protocol, and introduces avoidable points of failure during flood events. Council similarly does not support this arrangement due to the risk to life, the liability associated with directing residents onto a sub-standard road during an emergency to services urban residential development, and the practical

difficulties of restricting public access to a public road, including uncertainty around gate operation during a rapidly evolving flood event.

The applicant has not demonstrated a flood-free, reliable, or publicly accessible evacuation pathway for Stage 1. River Road, in both its current and proposed form, is not capable of functioning as an emergency route, and no alternative flood-free connection has been secured or is available.

In these circumstances, the proposal fails the fundamental statutory tests under Clause 5.21 of the MLEP 2011. The development cannot be considered compatible with safe occupation or efficient evacuation, and the life-safety risks remain unacceptable and determinative.

**Safety, security and crime prevention** – The CPTED report submitted with the application indicates that fundamental safety principles, including passive surveillance, sightlines, lighting and activation of public spaces, can be incorporated into the future detailed design of parks and the riparian corridor. While some refinements may be required at later stages, these matters are capable of being addressed through conditions or future approvals and do not present a determinative constraint on the development.

**Social impact** – The social impacts of the proposal are closely tied to unresolved staging, access, services and infrastructure delivery constraints. The development relies heavily on the timely provision of schools, neighbourhood centres, community facilities, public transport connections and open space networks within the broader URA. At present, these facilities are not committed or sequenced in a way that aligns with early occupation of the site. Without these services in place, early residents are likely to experience geographic isolation, limited transport options and reduced access to essential community infrastructure. These matters represent significant and unresolved social impacts that flow directly from the premature staging and infrastructure deficiencies identified elsewhere in this assessment.

The applicant's Social Impact Assessment further acknowledges that early residents will be entirely dependent on private vehicles due to the absence of public transport, the lack of nearby activity centres and the unsafe conditions for walking and cycling along Anambah Road. It also concedes that River Road – an unsealed rural road without pedestrian infrastructure and intended only for emergency use – is nevertheless “expected” to function informally as a walking and cycling link. This suggests to Council that the proposal does not provide safe, planned or functional transport connections for future residents and highlights the social isolation likely to arise from out-of-sequence development. These factors compound the unresolved staging, access and infrastructure issues identified throughout this assessment.

**Economic impact** – While additional housing supply generally supports economic growth, the proposal in its current form imposes substantial premature demands on public infrastructure and relies on uncommitted upgrades to roads, utilities and evacuation routes. These unresolved servicing and access issues introduce uncertainty and potential cost burdens for public authorities and future residents. The presence of unresolved land-use conflicts – particularly in relation to odour, quarry interface and constrained evacuation capacity – also risks undermining the long-term economic viability and attractiveness of the area. On balance, the development does not demonstrate orderly or sustainable economic outcomes.

**Cumulative Impacts** – When considered cumulatively, the proposal presents a pattern of interrelated impacts that significantly constrain the suitability of the site for residential subdivision at this time. Flood isolation, odour exposure, proximity to a major quarry, unresolved servicing arrangements, biodiversity loss, premature staging, untested bushfire interface and pressure on the regional road

network collectively undermine the environmental, social and infrastructural integrity of the development. These cumulative impacts are inconsistent with the planning intent for the URA Area and reinforce the conclusion that the proposal is not capable of delivering orderly and coordinated development in its current form. On balance, the cumulative impacts are considered unacceptable

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

#### **4.3.7 Section 4.15(1)(c) - Suitability of the site**

Based on the review and assessment undertaken, the site is not suitable for the proposed residential subdivision in its current form.

The land is constrained by flooding and functions as a High Flood Island, with no demonstrated safe or reliable evacuation route. The continued reliance on River Road – an unformed, flood-affected and privately controlled access – is not supported by the NSW SES or Council and cannot meet flood evacuation requirements.

The site is also affected by land-use compatibility issues, including odour impacts from the approved composting facility to the east and potential blasting, noise and vibration impacts from the Gosforth Quarry to the north, none of which have been addressed through updated technical assessments.

Essential servicing – particularly water and sewer – has not been demonstrated, with no updated Notice of Arrangements or endorsed Servicing Strategy from HWC. Transport and access constraints remain unresolved, including the capacity of the New England Highway/Anambah Road intersection and the absence of a safe secondary access route.

The suitability of the site is further constrained by the social impacts associated with premature development in an area that lacks the necessary supporting infrastructure. Early stages of occupation would occur ahead of committed schools, neighbourhood centres, community facilities, public transport connections and open space networks across the broader URA. In the absence of this foundational infrastructure, future residents are likely to experience geographic isolation, limited transport choice and reduced access to essential services. These impacts flow directly from the unresolved staging, access and servicing constraints identified elsewhere in this assessment and reinforce that the land is not presently suited to the scale or timing of development proposed.

Taken together, these constraints – compounded by broader staging conflicts within the URA – demonstrate that the site is not capable of supporting the development safely or sustainably at this time. Accordingly, the proposal does not satisfy Section 4.15(1)(c) of the EP&A Act.

#### **4.3.8 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

#### **4.3.9 Section 4.15(1)(e) - Public interest**

Having regard to the findings throughout this assessment, the proposal is not considered to be in the public interest.

The development has not adequately addressed key environmental, infrastructure and hazard-related constraints, and fails to demonstrate compliance with several applicable SEPPs, the LEP and

critical provisions of the DCP. Fundamental issues remain unresolved in relation to flood evacuation, land-use compatibility, traffic and access, and essential utility servicing. These matters directly affect public safety, orderly development and the long-term functioning of the broader Urban Release Area.

In addition, concerns raised in submissions highlight that the proposed staging and access arrangements would shift significant impacts onto existing communities rather than resolving them within the development footprint. By not committing to any feasible or flood-free access solution, and instead relying on a substandard, interim upgrade of River Road, the proposal risks displacing flood-related access and traffic pressures onto Windella Estate and other residents south of the site. This approach does not provide a net public benefit and is inconsistent with the principles of orderly, economic and equitable development.

While the delivery of additional housing within a residential zoned URA is acknowledged as a positive strategic outcome, this benefit cannot outweigh the significant unresolved risks and deficiencies in the subdivision design and staging. The proposal, in its current form, does not demonstrate that the community, future residents or public authorities would be protected from avoidable environmental, safety or infrastructure impacts.

The development has also been publicly exhibited, with the majority of submissions raising well-founded concerns that align with the technical issues identified in this report. These matters further indicate that proceeding with the proposal would not reflect the expectations or interests of the local community.

Accordingly, based on the statutory assessment, expert advice and community submissions, the application is not in 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 6.

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

**Table 6: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act)			
N/A – Concurrence was not required under this application			
<b>Referral/Consultation Agencies</b>			
Electricity supply authority – Ausgrid	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	The application was referred to Ausgrid who raised no objection to the development and recommended conditions regarding construction related matters	Y

Transport for NSW (TfNSW)	Section 2.122 – <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"> <li>• Cumulative impacts from development sequencing;</li> <li>• Insufficient details to confirm impacts on State Road network;</li> <li>• Noted concern relating to River Road and direct impacts to the NEH during flood emergency management</li> </ul>	N
Mindaribba Aboriginal Land Council	Clause 5.10(8) Maitland Local Environmental Plan 2011	No response received.	N/A
SES	Clause 5.21 Maitland Local Environmental Plan 2011	Not supportive of current proposal for the following reasons: <ul style="list-style-type: none"> <li>• Do not recommend privately accessed and managed automated gate systems for flood emergency access and egress [on River Road] and as such the proposal is not as reported an “<i>SES-compatible emergency egress and ingress</i>” and there is not a “<i>NSW SES-endorsed operating protocol</i>”. As per the Flood Risk Management Guideline EM01: Support for Emergency management, Principle 1 “<i>Any proposed Emergency Management strategy should be compatible with any existing community Emergency Management strategy</i>”</li> <li>• Recommend infrastructure including roads should be in place prior to development occurring in locations which otherwise become isolated by flooding</li> <li>• Recommend robust Development Control Plans are adopted prior to consent, to enable careful consideration of the proposed development against the flood and</li> </ul>	N

		isolation risks for the residents and community, and the resultant burden on the Maitland City Council and emergency services, particularly given the potential for high hazard, long duration flooding in the Hunter River floodplain.	
Hunter Water Corporation (HWC)	Section 51 of Hunter Water Act 1991	Hunter Water's correspondence of 9 December 2025 confirms that the required Servicing Strategy Addendums remain under review and no endorsed servicing pathway or updated Notice of Arrangements has been issued. The advice does not confirm that essential water or wastewater infrastructure can be provided in sequence to support development of the northern cell, and key questions remain regarding the feasibility, timing and coordination of trunk extensions and the proposed use of River Road as a utility corridor. As these matters are unresolved, Council cannot be satisfied that adequate arrangements have been made to make that infrastructure available when it is required.	N
Integrated Development (S 4.46 of the EP&A Act)			
RFS	S100B - Rural Fires Act 1997 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	The development is unlikely to be able to meet: <ul style="list-style-type: none"> <li>GTA Condition 7 requiring MC02 (River Road) to have a minimum of 8m carriageway width kerb to kerb due to topographical and land tenure concerns</li> </ul>	N
DPE Water	s.91 – <i>Water Management Act 2000</i> controlled activity approval	Correspondence issued 4 December 2025 confirmed GTAs issued 4 February 2025 and revised 24 June 2025: <ul style="list-style-type: none"> <li>Controlled activity approval to be obtained before works commencing on waterfront land</li> <li>Documentation and application requirements for controlled activity approval</li> <li>Requirement for security deposit.</li> </ul>	Y
DPE Heritage	s.90 – National Parks and Wildlife Act 1974	Heritage NSW has issued GTAs requiring that an AHIP be obtained prior to the commencement of any	Y

	grant of Aboriginal heritage impact permit	works. The AHIP application must be supported by appropriate investigation, documentation and mapping, and be prepared in accordance with relevant NSW guidelines and codes of practice. The application must also demonstrate that consultation with the Aboriginal community has been undertaken in accordance with statutory requirements and that appropriate consideration has been given to the long-term management of Aboriginal objects.	
DPI Fisheries	s.219 – Fisheries Management Act 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 11 November 2025: <ul style="list-style-type: none"> <li>Permanent and temporary waterway crossings are to be designed and constructed in accordance with Chapters 4.1 and 4.2 of DPIRD Fisheries Policy &amp; Guidelines;</li> <li>A permit under s198-202 to be obtained prior to works commencing;</li> <li>Works to be carried out in accordance with all applicable requirements of The Blue Book.</li> </ul>	Y

## 5.2 Council Officers Referrals

The development application has been referred to various Council officers for technical review as outlined Table 7.

**Table 7: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	<p>Matters which remain unresolved:</p> <p><b>Overall Concept Layout</b></p> <ul style="list-style-type: none"> <li>River Road access remains unresolved. The proposal continues to rely on River Road for emergency and/or permanent access, however the road does not meet Council's minimum standards. Upgrading River Road would require property acquisition and substantial works through the Windella Estate to the New England Highway, including intersection upgrades. These impacts have not been addressed and remain unresolved.</li> <li>Anambah Road upgrades remain unresolved. While a Road Safety Audit has been submitted, there is no evidence demonstrating that the existing alignment, pavement or configuration can safely accommodate the proposed development. Draft DCP and Contributions Plan provisions</li> </ul>	No

	<p>indicate that substantial upgrades will be required, including realignment, widening, reconstruction and land acquisition.</p> <ul style="list-style-type: none"> <li>• Utility servicing strategies require confirmation. While Ausgrid and Hunter Water have provided in-principle advice that services can be provided, detailed servicing strategies endorsed by the relevant authorities have not been provided to demonstrate that infrastructure can be delivered for the full 900-lot development in accordance with Clause 6.2 of the MLEP 2011.</li> <li>• New England Highway / Anambah Road intersection upgrades will be required for the full development. TfNSW has indicated that a lot release threshold will apply, however no threshold has been nominated, potentially due to deficiencies in the Traffic Impact Assessment.</li> <li>• Road hierarchy inconsistencies remain. Although updated cross-sections and a road hierarchy plan indicate 10m-wide non-perimeter roads, this is not reflected in the subdivision or engineering plans. Any increase in road corridor widths will affect lot sizes, subdivision yield and earthworks.</li> <li>• APZ encroachment into basins and future Council land is not supported. APZs are shown within stormwater basins at the northern extent of the site, which Council does not support.</li> <li>• Stormwater infrastructure detail is limited. While generally addressed at a strategic level, insufficient detail has been provided to demonstrate integration with the wider URA catchment, downstream capacity, and long-term functionality. Further detail would be required at Subdivision Works Certificate stage.</li> <li>• Water and sewer infrastructure within River Road corridor is inappropriate and unresolved. The proposed location of watermains and sewer rising mains is inconsistent with the approved Hunter Water Strategy and would constrain future development and require costly relocation.</li> <li>• Wastewater Pumping Station location is unresolved. Plans show the WPS located within the road reserve, which is not acceptable as it would restrict future road widening and ultimate road configuration.</li> </ul> <p><b>Stage 1 – Additional Engineering Issues</b></p> <ul style="list-style-type: none"> <li>• Anambah Road intersection design for Stage 1 remains inadequately addressed. Limited detail has been provided on intersection type, safety performance, level of service or design speed. Given the 100 km/h posted speed limit (110 km/h design speed), the proposed access raises significant road safety concerns.</li> <li>• Roundabout design has not been resolved. A dual-lane roundabout is required in all directions to maintain acceptable levels of service. This matter could be addressed through conditions of consent, subject to detailed design.</li> </ul>	
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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
Strategic Planning	<p>Strategic Planning advises that the proposal does not satisfy the staging, sequencing or access framework intended for the Anambah URA. While the DCP allows flexibility for out-of-sequence development, this is only where detailed justification demonstrates orderly and economic development and the timely delivery of essential infrastructure. The applicant has not met this threshold, with unresolved issues relating to access, evacuation, utilities and road network performance.</p> <p>Strategic Planning also confirms that River Road is not identified as a preferred or required access route in the Draft DCP. Its only reference is as a future contingency option, and even then only if fully upgraded to Council standards following detailed assessment. Importantly, feedback from SES have since made clear that emergency-only access via River Road is unsafe and not supported, overriding any historic references in earlier planning proposal material.</p> <p>Their advice reinforces that progressing this northern cell ahead of the intended sequence would undermine the coordinated rollout of the Anambah URA, place premature demands on infrastructure, and create fragmented development outcomes.</p>	No
Flooding Engineer	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.	No
Ecology	<p>As part of the Section 8.2 Review, the applicant asserts that additional avoidance measures have been incorporated to address these concerns. However, Council's ecological review advises that these claimed measures have not been consistently demonstrated across the submitted Concept Masterplan, Landscape Plan, civil plans or supporting documentation. In particular, no updated BDAR, arborist assessment or revised landscape documentation has been provided to substantiate the long-term protection and feasibility of the claimed avoidance measures.</p> <p>Accordingly, the additional biodiversity avoidance outcomes relied upon in the Section 8.2 Review cannot be verified.</p> <p>With respect to vegetation and riparian management (Reason 16), the applicant has submitted an amended Bushfire Assessment which partially addresses earlier inconsistencies by updating references to the riparian corridor vegetation classification. While the riparian corridor is now generally identified as Forested Wetland – Coastal Floodplain Wetland (PCT 4042), consistent with the Riparian Vegetation Management Plan, Council's ecologist notes that inconsistencies remain between the bushfire assessment and the Vegetation Management Plan in relation to canopy cover targets.</p> <p>Specifically, the Bushfire Assessment continues to reference a riparian canopy cover of less than 10% at maturity, whereas the Vegetation Management Plan identifies canopy targets of approximately 50% (equivalent to 20% Projected Foliage Cover), consistent with Council's DCP requirement to recreate pre-</p>	No

	<p>disturbance vegetation communities. These inconsistencies have implications for Asset Protection Zone design and the integration of bushfire protection measures with riparian restoration outcomes.</p> <p>On this basis, Council's ecological review concludes that the biodiversity avoidance and riparian vegetation management issues identified in Reasons 15 and 16 have not been adequately resolved as part of the Section 8.2 review.</p>	
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### 5.3 Community Consultation

The proposal was notified in accordance with the MDCP 2011 and Council's Community Participation Plan from 13 November 2025 until 10 December 2025.

The notification process included the following:

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

The issues raised are addressed in detail in **Appendix C**, however the predominant concerns can be summarised as follows:

- Sequencing and Orderly Development – Concern that the proposal represents out-of-sequence development within the Anambah URA, prematurely placing demands on infrastructure and isolating future residents.
- Traffic and Road Safety Impacts – Significant objections relating to increased traffic on Anambah Road and River Road, limited sight distances, road geometry constraints, school bus safety, and reliance on River Road for access.
- Flooding and Emergency Access – Concerns regarding repeated flood isolation of Anambah Road, lack of a safe flood-free evacuation route, and opposition to the use of River Road for emergency access.
- Infrastructure Servicing – Insufficient water, sewer, electricity, telecommunications and road network capacity to service the development, with concern that existing networks are already constrained.
- Land Use Conflict and Amenity Impacts – Concerns regarding proximity to the Gosforth Quarry, Riverbend Organics composting facility, and incompatibility of high-density residential development with the established rural character.
- Ecological Impacts – Loss of native vegetation, fragmentation of wildlife habitat and broader biodiversity impacts.
- Restriction of Turning Movements at River Road / New England Highway Intersection – Safety, traffic efficiency and access concerns associated with the intersection configuration and its ability to accommodate additional development traffic.
- Social Isolation and Lack of Services – Concern that the site is remote from shops, schools, public transport and community facilities, leading to car-dependency and social disadvantage.

These matters have been carefully considered in the overall assessment of the application and reinforce several of the identified planning, environmental and infrastructure deficiencies discussed throughout this report.

## 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:

## River Road Gated Access

The applicant continues to rely on River Road as the secondary evacuation route for the development, facilitated through a privately controlled “controlled-access gate” located on land adjoining the public road corridor. This arrangement has been the subject of extensive assessment and remains a determinative issue preventing the proposal from demonstrating safe access, lawful road use, or compliance with Clause 5.21 of the MLEP 2011 and Chapter B.3 of the MDCP 2011.

### Agency advice

Both Council and the NSW SES have consistently advised that emergency access arrangements dependent on privately controlled, restricted or automated gates are not acceptable. The SES has expressly stated that:

- controlled-access mechanisms – whether gated, automated, or otherwise – are operationally undesirable during flood events;
- such systems are incompatible with SES flood evacuation protocols;
- no SES-endorsed procedure exists for private gate management during emergencies; and
- evacuation reliability should not depend on private landowners, private operators, or privately maintained infrastructure.

TfNSW has advised that using River Road as an emergency access route would necessitate traffic management on the New England Highway during flood events, yet the duration, frequency and operational impact of this arrangement remain unknown. TfNSW or Council are unable to understand the long-term impacts of this arrangement by the developer.

Further, Council notes that if River Road is to function as an evacuation or access route at any stage, it must be available as an unrestricted, publicly accessible public road, not a conditional or privately regulated facility.

Accordingly, the applicant’s proposal to retain private control over a barrier regulating access to River Road is inconsistent with emergency management requirements, is not supported by SES, and cannot be supported by Council.



Figure 25 – Proposed gated emergency access

### Maintenance burden

Significant concerns exist regarding both the upgrade and long-term management of River Road. Engineering review and internal assessments indicate that the corridor has not been designed, nor has it been demonstrated capable of being upgraded, to a standard that would safely accommodate public access, support two-way evacuation traffic, or function as an ongoing route for the broader community. The current alignment is an unformed local road requiring substantial reconstruction,

widening, regrading and, potentially, land acquisition within the Windella Estate. None of these matters have been shown to be feasible and they remain unresolved in the Section 8.2 review.

Any upgrade that would allow River Road to operate as a genuinely usable public road would also necessitate new SIDRA modelling and potentially extensive intersection works at the River Road–New England Highway junction. These matters require formal consultation with Transport for NSW and engagement with affected residents in the Windella Estate; however, no such consultation has occurred to date.

Council further holds concerns about inheriting the long-term responsibility for maintaining what would become a 2.5-kilometre upgraded public road. Such a road would be required to remain open and serviceable at all times, despite providing minimal day-to-day benefit outside flood events, and may ultimately require realignment or further reconstruction as the southern portion of the URA is developed. This represents an inefficient, high-cost and operationally impractical outcome and is inconsistent with the orderly and economic development of the Anambah Urban Release Area.

#### Upgrade requirements for unimpeded access to River Road

Council remains concerned that River Road cannot be feasibly upgraded to an acceptable standard for ongoing public use. Any upgrade capable of supporting unimpeded public access would require substantial widening of the existing corridor, including the potential need for land acquisition within the River Road corridor, together with extensive earthworks and regrading to address known topographic constraints. In addition, the extent of intersection upgrades required at the River Road–New England Highway junction would need to be confirmed through formal consultation with Transport for NSW, as safe integration with the state road network cannot be assumed. Consideration must also be given to the function of River Road within the broader precinct road hierarchy; the Draft Anambah DCP does not identify River Road as a continuous collector route due to watercourse crossings and terrain limitations, indicating that its strategic role in the URA has not been planned or endorsed for evacuation purposes.

These matters remain unresolved and collectively reinforce that River Road is not capable of functioning as a lawful, reliable or safe evacuation route for the proposed development.

#### **Sequencing and Orderly Development**

Council's Strategic Planning team have identified that the proposal represents clear out-of-sequence development when measured against the established strategic intent for the Anambah URA . While the Draft Anambah DCP is not a statutory document for the purposes of assessment, it has been publicly exhibited and provides strategic direction of Council's intended sequencing for the precinct. Under that strategic framework, the northern cell – where the subject land is located – is identified as the final stage of development, reflecting its physical isolation, flood vulnerability, constrained access, and separation from committed infrastructure corridors.

Whilst a draft DCP is not required to be considered, its staging structure is consistent with the long-standing planning logic and rationale applied to an URA . In this context, the proposal seeks to reverse the intended development sequence by bringing forward the last stage of the URA in the absence of the essential servicing, transport upgrades or evacuation capability that underpins orderly and economic use and development of land, a primary objective of the EP&A Act.

The applicant's staging argument relies primarily on housing demand and economic considerations. However, Clause 6.3(3)(a) of the MLEP 2011 establishes a fundamentally different test: whether development proceeds in a logical, coordinated pattern that aligns with the timely delivery of essential water, sewer, electricity and road infrastructure and avoids imposing premature or inefficient burdens on public authorities. The proposal does not meet this test.

The proposal to use River Road as an 'emergency access' inhibits orderly development of the land to the South as this road will need to be available at all times to be used for emergency purposes. Utilities are also proposed within this corridor and would be cost prohibitive to relocate in the future. Council will not accept the temporary closure of this formed public road in order to be only used during emergencies.

Key enabling elements remain unresolved, including Hunter Water servicing, upgrades to River Road, improvements to the New England Highway / Anambah Road intersection and any committed timing for the Western Link Road. In the absence of these, the proposal cannot demonstrate a logical and cost-effective manner in accordance with Clause 6.3(3)(a) and thus contravenes the objective of the EP&A Act which looks to promote the orderly and economic use and development of land. While the Draft DCP allows flexibility for out-of-sequence development where justified, no adequate justification has been provided that addresses these fundamental threshold issues.

### **Odour impacts to adjoining organic land use**

The subject land is situated in close proximity to the approved and operational Riverbend Organics composting and resource recovery facility at 442 Anambah Road, which lawfully operates under DA/2015/433 (as modified) and EPL 12510. The facility is approved to process up to 40,000 tonnes of organic materials per annum, including putrescible feedstocks, and has not yet reached its maximum operational capacity. Its emission profile, including odour emissions, is therefore expected to increase as the operation expands within its approved limits.

Approved odour modelling for the composting facility, prepared by Todoroski Air Sciences and adopted under both the development consent and EPL, identifies a 2.0 odour unit (OU) contour as the appropriate impact assessment threshold for a community of this size, consistent with the NSW Approved Methods for the Modelling and Assessment of Air Pollutants. This 2.0 OU contour extends into the Anambah URA and overlaps portions of the subject site, including land proposed for Stage 1 residential lots.

Despite this, the applicant has not provided any updated or independent odour or air quality assessment as part of the Section 8.2 Review. Instead, the applicant relies on high-level statements within a Social Impact Assessment asserting that the development will meet relevant EPA odour criteria. These statements are unsupported by technical modelling, do not reconcile with the approved Todoroski odour contours, and cannot be relied upon to demonstrate compliance with the NSW Approved Methods.

Given that Riverbend Organics is a lawful and expanding operation with significant remaining capacity within its approvals, it cannot be assumed that current odour conditions reflect future peak impacts. The introduction of residential development within an established 2.0 OU contour presents a clear land-use incompatibility and an unacceptable risk of odour-related amenity impacts for future residents. No avoidance or mitigation strategy has been presented, nor has the subdivision layout been adjusted to exclude residential lots from the affected area.

Accordingly, the odour conflict remains unresolved. Residential development within the 2.0 OU contour cannot be supported, and in the absence of a revised subdivision layout and a robust, independent odour assessment demonstrating compliance with State criteria, the proposal fails to adequately address land-use conflict and future amenity impacts.

### **Quarry Interface**

The subject site lies in proximity to the Gosforth Rhyolite Quarry, operating under DA 95-127 with approval for blasting, crushing, screening, high-intensity heavy vehicle haulage and extraction of up to 770,000 tonnes per annum. The quarry is an established extractive industry with lawful operating rights and a capacity for significant expansion of activity within its approved envelope. Its operations

generate noise, vibration, dust, light spill and occasional blasting events, all of which can result in land-use conflict if sensitive receivers are introduced nearby without appropriate assessment and mitigation.

The applicant has not submitted any acoustic, blasting, vibration or dust modelling addressing this interface. There is no assessment of blast overpressure, ground vibration impacts on dwellings, truck noise projections, particulate emissions or the potential need for buffer setbacks consistent with the requirements of SEPP (Resources and Energy), the NSW Resources Regulator guidelines or the EPA's operational frameworks. The Social Impact Assessment provided by the applicant contains unsupported statements on compatibility but does not include any technical evidence or modelling capable of addressing permissible operational impacts.

As a result, there is no certainty that future residents would not be adversely affected by lawful quarry operations, nor that the quarry would not be placed under undue pressure to constrain its approved activities. This represents a significant and unresolved land-use conflict, contrary to Section 4.15(1)(b) of the EP&A Act and SEPP (Resources and Energy) Clause 2.19.

### **Utility Servicing (Water & Sewer)**

Hunter Water Corporation's previous Notice of Arrangements confirms that while capacity exists within the broader trunk network, additional local reticulation design and staging are required before the proposed development can be serviced. Council requested a developer-funded servicing strategy addendum to clarify these arrangements. The only correspondence now available from Hunter Water is the letter dated 9 December 2025, which confirms that the applicant's Servicing Strategy Addendums remain under review and that no endorsed servicing pathway or updated Notice of Arrangements has been issued.

Part 6 of the MLEP 2011 require demonstrated adequacy, certainty and sequencing of essential public utility infrastructure at the development application stage. These requirements have not been met, and Hunter Water's current advice does not resolve the uncertainty.

Council's engineering review also identifies concerns with the proposal to install major water and sewer infrastructure within the River Road corridor. River Road does not meet Council's minimum standards for a public road and will require significant widening, reconstruction and likely realignment as the URA develops. Locating essential utilities in a constrained, substandard and ultimately transitional corridor is poor servicing practice and would likely necessitate future relocation at significant public and private cost. This approach introduces avoidable infrastructure risk, undermines orderly development and may constrain the future build-out of the southern URA.

In the absence of an endorsed servicing strategy or updated Notice of Arrangements, the consent authority cannot be satisfied that essential services are available, viable or deliverable in a coordinated and timely manner. Utility servicing therefore remains a determinative constraint.

### **Bushfire**

The applicant has submitted an amended Bushfire Assessment Report as part of the Section 8.2 review, which attempts to address earlier inconsistencies between vegetation classification, riparian revegetation and APZ calculations. NSW RFS has issued GTAs, however these GTAs rely on assumptions that are not yet demonstrated within the subdivision layout or civil design.

Several matters remain unresolved. APZs are still shown extending into detention basins and lands intended for future Council ownership, which is inconsistent with Council's land management

expectations and creates unacceptable long-term maintenance and enforceability issues. These matters could be reviewed under subsequent staging details.

Road widths relied upon in the bushfire assessment to meet RFS and Council egress and access requirements are not demonstrated within the civil design details, and no revised plans have been provided to confirm that required dimensions can be delivered without materially altering the subdivision layout. In addition, inconsistencies remain between the canopy assumptions relied upon in the Bushfire Assessment and the revegetation targets contained in the Riparian Vegetation Management Plan, which continues to undermine confidence that both environmental and bushfire protection outcomes can be simultaneously achieved.

On this basis, and notwithstanding the progress made in addressing certain technical matters, Council cannot be satisfied that the proposed subdivision can be designed and constructed in a manner that fully complies with matters relating to bushfire. Bushfire protection feasibility remains uncertain and continues to represent a determinative constraint.

### **Biodiversity and Riparian Impacts**

The site contains an unusually high proportion of native vegetation and mapped threatened species habitat, including habitat for species such as Squirrel Glider and Brush-tailed Phascogale. Council's ecological assessment during the original DA demonstrated that additional reasonable avoidance opportunities were available. Reason 15 of the refusal reflected the concern that areas of high biodiversity value – including an identified Barn Owl roosting tree – could be retained through relatively minor amendments to the subdivision layout.

As part of the Section 8.2 review, the applicant claims to have incorporated further avoidance measures; however, these measures are not consistently reflected across the updated Landscape Plan, Civil Plans or Vegetation Management Plans. No updated BDAR or arborist assessment has been submitted to verify that these areas will be retained and protected in perpetuity. This inconsistency creates uncertainty in both the extent of vegetation loss and the scale of biodiversity offsets required.

Further, significant conflicts remain between the Bushfire Assessment, the Riparian Vegetation Management Plan and the proposed APZ configuration. The Bushfire Assessment relies on a reduced canopy density (<10%) in riparian areas, whereas the VMP sets a target of approximately 50% canopy cover to match the relevant PCT benchmark. This mismatch results in incompatible assumptions that cannot realistically be achieved simultaneously. APZs are also shown encroaching into detention basins and areas intended for future Council ownership, which is not supported by Council and undermines biodiversity and riparian management outcomes.

The proposal does not demonstrate that biodiversity impacts have been avoided and minimised in accordance with the Biodiversity Assessment Method. These matters remain unresolved.

### **Traffic**

The development is traffic-generating under SEPP (Transport and Infrastructure) 2021 and was referred to Transport for NSW. TfNSW's most recent advice, dated 9 February 2026, confirms that the information submitted remains insufficient to demonstrate that the proposed subdivision can be safely and efficiently accommodated on the surrounding State and local road network. In particular, TfNSW is unable to confirm that the development would not adversely affect the performance of the New England Highway or associated intersections.

TfNSW notes that sensitivity analysis submitted by the applicant shows the New England Highway / Anambah Road intersection reaching capacity by 2034, only five to six years after the anticipated occupation of Stage 1. This demonstrates a material impact on the State road network within the 10-year design horizon. TfNSW also confirms that there is no committed funding for the required intersection upgrade and that the applicant has not provided the necessary infrastructure options or strategic design to enable a feasible upgrade pathway to be considered. In the absence of a workable or coordinated solution, the intersection capacity issue remains an unresolved threshold constraint.

The proposed reliance on River Road for emergency access also raises additional concerns. TfNSW advises that this arrangement would require traffic management on the New England Highway during flood events, yet the duration, frequency and operational impact of such controls are unknown. TfNSW further notes that Road Occupancy Licences are generally intended for short-term construction or event-related works and may not be appropriate for ongoing or repeated emergency access arrangements. The use of River Road as a secondary or emergency route therefore has unresolved implications for the safe and efficient operation of the State road network.

The applicant has not demonstrated that the broader network can support the concept yield, nor has it shown that the required upgrades are deliverable, coordinated or able to be secured through later stages. Continued reliance on speculative future works – such as the signalisation of the New England Highway or the eventual delivery of the Western Link Road – does not satisfy the concept-level assessment required under sections 4.15 and 4.22 of the EP&A Act.

Given the unresolved capacity and safety issues at the New England Highway / Anambah Road intersection, and the operational risks associated with reliance on River Road, the consent authority cannot be satisfied that the surrounding road network can safely or efficiently accommodate the development. These matters represent determinative constraints at the concept DA stage.

### **Social Infrastructure and Isolation**

The proposal relies heavily on the future delivery of social and community infrastructure across the wider Anambah URA, including schools, neighbourhood centres, public transport connections, open space networks and community facilities. However, with no committed program for the delivery of these services, early residents would experience significant geographic and social isolation. Access constraints, the absence of walkable local destinations, uncertainty around future bus services and the lack of proximate community infrastructure compound these impacts.

Submissions received during public exhibition consistently raised concerns that the development – particularly in its proposed out-of-sequence location – would result in a community isolated from essential services and reliant on long road-based travel for everyday needs. Without secured delivery of access, infrastructure and services, the proposal does not demonstrate the creation of a functional, integrated neighbourhood consistent with Chapter F2 of the MDCP or the Desired Future Outcomes for the URA.

The applicant's Social Impact Assessment also concedes that early residents will be highly dependent on private vehicles, that cycling along Anambah Road is unsafe, and that River Road – an unsealed rural road without footpaths and formally intended only for emergency egress – is nevertheless "expected" to operate informally as a walking and cycling route. This highlights the absence of safe, planned or functional transport connections and illustrates the lack of infrastructure commitment associated with the proposal proceeding out of sequence. Rather than demonstrating an integrated neighbourhood structure, the proposal relies on informal and unsuitable use of a substandard rural road to compensate for the absence of public transport, walkable destinations and committed

community infrastructure. These matters reinforce the risk of long-term geographic and social isolation and confirm that the proposal does not support orderly social development at this time.

### **Flooding**

An advisory referral was sent to the NSW State Emergency Service to inform Council's assessment under Clause 5.21 of the MLEP 2011 and Chapter B3 of the MDCP 2011. SES advice has been consistent and unequivocal: the proposed evacuation arrangement does not provide a safe, reliable or operationally acceptable means of flood evacuation for a community of this scale.

The site behaves as a High Flood Island with limited warning time and a demonstrated reliance on early evacuation. Anambah Road is flood-affected during key design events, and the applicant proposes River Road as the alternative evacuation route, accessed through a privately managed controlled gate. SES does not support gated, controlled or privately managed evacuation arrangements under any circumstances, and advises that such systems are incompatible with emergency management protocols, unreliable under flood conditions and pose unacceptable life-safety risks.

SES further notes that River Road itself is unformed, low-lying and not trafficable in its existing state. Its reconstruction to a flood-resilient standard is neither secured nor credibly staged, and no permanent, publicly accessible flood-free evacuation route has been demonstrated. In the absence of a compliant evacuation pathway, the development fails to meet the fundamental requirement of Clause 5.21 that the land be capable of safe occupation and efficient evacuation.

These concerns reinforce the conclusion reached throughout this report: the proposed development does not demonstrate an acceptable or feasible solution to flood evacuation risk, and in its current form, presents an unacceptable impact on life safety

## **CONCLUSION**

This application for review of determination 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.

## **7. RECOMMENDATION**

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That the Review of Determination of Development Application DA/2024/763:1 for Concept Development Application for Two (2) into 900 Lot Staged Torrens Title Subdivision, and Stage 1 Torrens Title Subdivision of 226 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:

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