

STATEMENT OF ENVIRONMENTAL EFFECTS

Section 4.55 (2) Application

CONSOLIDATION & TORRENS TITLE SUBDIVISION OF LAND INTO 50 x RESIDENTIAL
LOTS, CONSTRUCTION AND DEDICATION OF PUBLIC ROADS & STORMWATER
DRAINAGE WORKS

412-414 CESSNOCK ROAD, GILLIESTON HEIGHTS, MAITLAND 2321

(LOTS 21 & 22 DP1092105)

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1. INTRODUCTION

1.1 Overview

This Statement of Environmental Effects (SoEE) has been prepared by EXP Capital Australia Pty Ltd to accompany a Development Application (DA) to The Maitland City Council proposing the Torrens Title subdivision of the Subject Site into 50 x residential lots, construction and dedication of public roads, stormwater drainage and other associated site works. The demolition of existing structures are part of a separate development application (PAN-242508) under assessment by The Maitland City Council.

The Subject Site is legally described as being **412-414 Cessnock Road, Gillieston Heights, Maitland 2321** (Lots 21 & 22 DP1092105) and is zoned R1 Medium Density Residential, pursuant to the provisions of Maitland Local Environmental Plan (MLEP) 2011 and Maitland Development Control Plan (Maitland DCP) 2011 within the West Precinct of the Part F.5 Gillieston Heights Urban Release Area. The residential subdivision development of the site is permissible with consent and as determined by DA/2022/783.



Figure 1: Extract of Zoning Map with Cadastre (source: ePlanning Spatial Viewer).

The proposed Torrens Title residential subdivision development is permissible with consent and consistent with the relevantly applicable provisions of the Maitland Local Environmental Plan (MLEP) - 2011 and Maitland DCP 2011 - Part F.5 Gillieston Heights Urban Release Area.

This Statement of Environmental Effects (SoEE) addresses the proposal in the context of the applicable planning legislation and policy:

- Maitland Local Environmental Plan (MLEP) 2011, and
- Maitland Development Control Plan (DCP) 2011 - Part F.5 Gillieston Heights Urban Release Area.

The purpose of this SoEE is to provide Council with the relevant information necessary to assess and determine the application for the proposed subdivision development.

This report is to be read in conjunction with the following associated documents and plans prepared as a part of Development Application DA/2022/783:

- **Subdivision plans** prepared by GCA Engineering Solutions Pty Ltd;
- **Bushfire Protection Assessment Addendum** prepared by Ecological Australia Pty Ltd;
- **Ecologist Letter of Support** prepared by Biodiversity Australia Pty Ltd;
- **Civil Engineering Plans** prepared by GCA Engineering Solutions Pty Ltd; and
- **Owner's Consent.**

2. SITE LOCATION

2.1. Subject Site and Local Context

The Subject Site **412-414 Cessnock Road, Gillieston Heights, Maitland 2321** (Lots 21 & 22 DP1092105) (**the Site**) is located within the West Precinct of the Gillieston Heights Urban release area to which Maitland Local Environmental Plan (MLEP) 2011 and Maitland DCP 2011 - Part F.5 Gillieston Heights Urban Release Area applies. The Site is a rectangular parcel of land located on the western side of Cessnock Road, and to the south of its intersection with the Russell Street approximately 4.7 km south of Maitland Railway station and New England Highway. The Site has a street frontage width of approximately 394.51 m to the Cessnock Road, a lot depth of 100.465 m and occupies an area of approximately 3.96 ha. An aerial photograph of the Site is provided in **Figure 2 below**.

The Site is surrounded by low density rural residential development to the east, south and west that is transitioning into low density residential housing and adjacent to a low density residential area to the north.



Figure 2: Locality Map (Source: SIX Maps, Online)

2.2. Existing Site and Vegetation

The Site previously contained two single-storey dwelling located in the south-eastern part of the site with a detached garage and a coop to the north of the dwelling. The Site falls from the eastern / front of the Site the western/rear of the Site towards Hollands Circuit from **28 m to 18 m**-Australian Height Datum (AHD). The Site contours are shown in **Figure 3**.

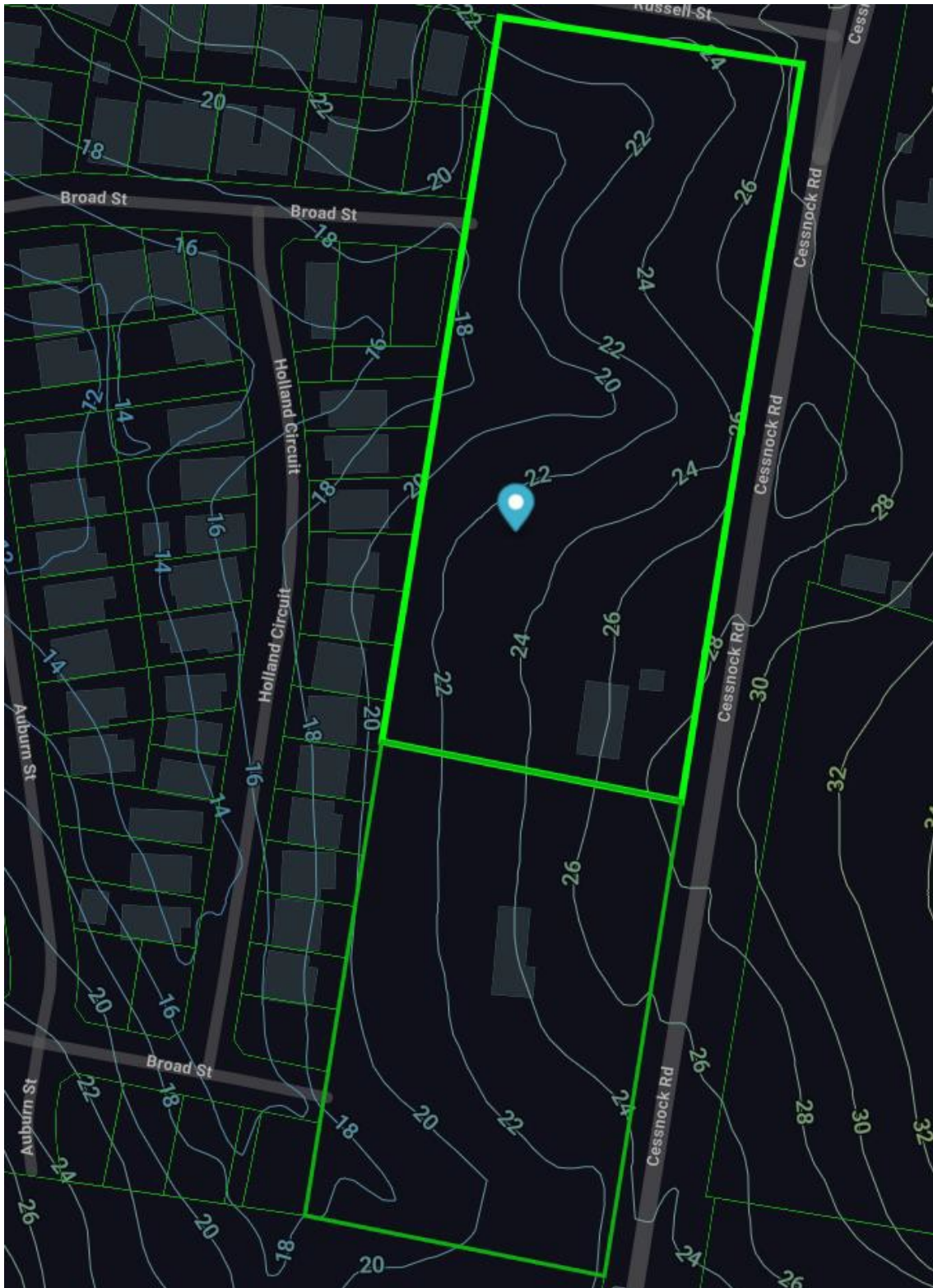


Figure 3: Site Contours (Source: Mecone Mosaic)

3. PROPOSED DEVELOPMENT

This SoEE accompanies a Section 4.55(2) application (MOD) seeking Council's consent for the following as detailed on the proposed Subdivision Plans prepared by EXP Capital Australia Pty Ltd.

The Section 4.55(2) proposal seeks consent for modification of DA/2022/783:

- Previous approval of 59 Lots to 50 Lots; and
- Increase of the number of Lots greater than 600m²;
- Reduction in 10m buffer to 5m buffer;
- Reduction of retaining wall sqm;
- Reduction of cut n fill from approx. 29,000m³ exported material to approx. 10,000m³ exported material; and
- Removal of an additional 7 trees

Figure 4 Illustrates the proposed Torrens Title subdivision lots and public roads.

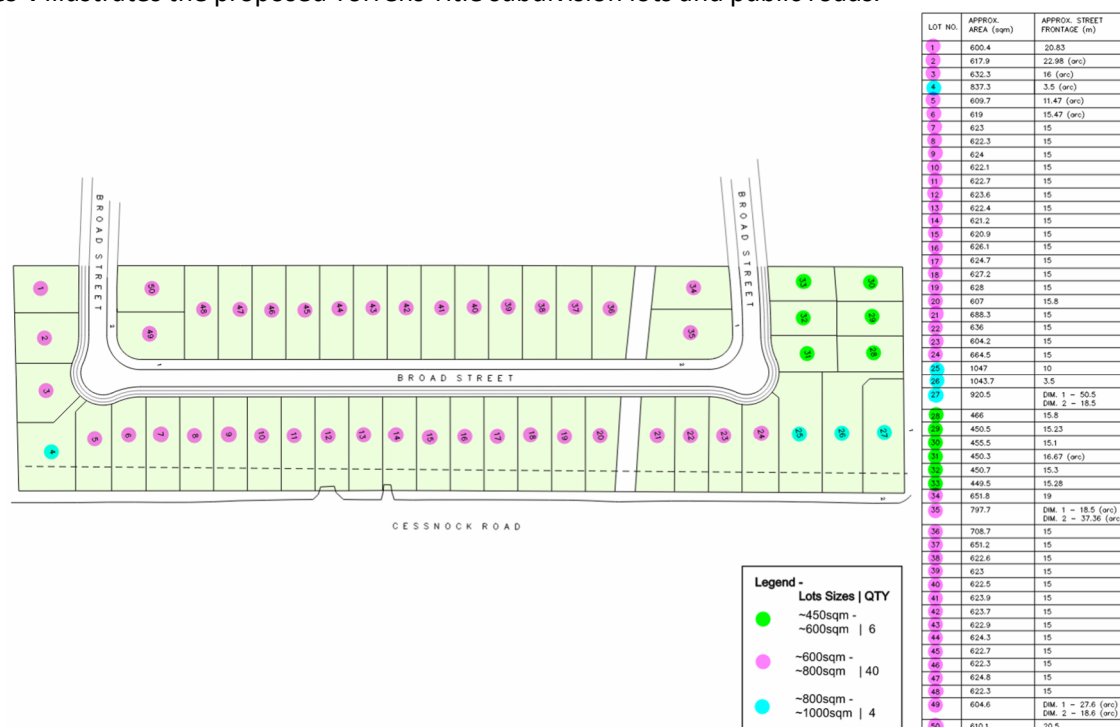


Figure 4: Proposed Subdivision Plan (Prepared by EXP Capital)

The number and size of proposed lots are listed in **Table 1** below.

Type of Proposed Lot	Number of Lots	Area of Lots
R1 General Residential Zone Lots	50 x lots (Note: Lots adjoining Cessnock Road to have 10 m landscape buffer within the lots.)	~450 m ² to ~1000 m ² size lots.
	6 x lots	~450-600 m ²
	40 x lots	~600-800 m ²
	4 x lots	~800-1000 m ²

The proposed modification is considered to be in accordance with the **MLEP - 2011, and Maitland DCP 2011 – Part F 4.5 Gillieston Heights Urban Release Area**. The proposed residential lot sizes vary from 450 m² to 1000 m² complying with the minimum lot size requirements specified in the **MLEP - 2011**.

4. ENVIRONMENTAL PLANNING ASSESSMENT

Section 4.15 of the Environmental Planning & Assessment Act 1979 contains the matters for consideration when assessing development applications. This section of the SoEE undertakes an assessment of the proposal in the context of Section 4.15 (1) of the Environmental Planning and Assessment Act which states as follows:-

4.15 Evaluation (cf previous s 79C)

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—

- (a) the provisions of—
 - (i) any environmental planning instrument, and
 - (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations, 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.

4.1 The provisions of any Environmental Planning Instrument (section 4.15)(1)(a)(i)

Compliance with relevantly applicable development standards pursuant to Maitland Local Environmental Plan 2011 is addressed below:

4.1.1 Maitland Local Environmental Plan (MLEP) 2011

The proposed development site is located within the West Precinct of the Gillieston Heights Urban Release Area and complies with the aims of the Maitland LEP (MLEP) – 2011.

The particular aims of the Maitland LEP are as follows:

- (1) *This Plan aims to make local environmental planning provisions for land in Maitland in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
- (2) *The particular aims of this Plan are as follows—*
 - (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.

This application would provide Torrens Title allotments in conjunction with adjoining lands for residential development as a part of the urban release area shown in **Figure 5** below. The proposal would create lots that would address to facilitate residential development that will increase housing supply and affordability. An environmental assessment was undertaken in this SoEE with no significant adverse impact raised in the specialist technical assessment reports that accompany this DA.

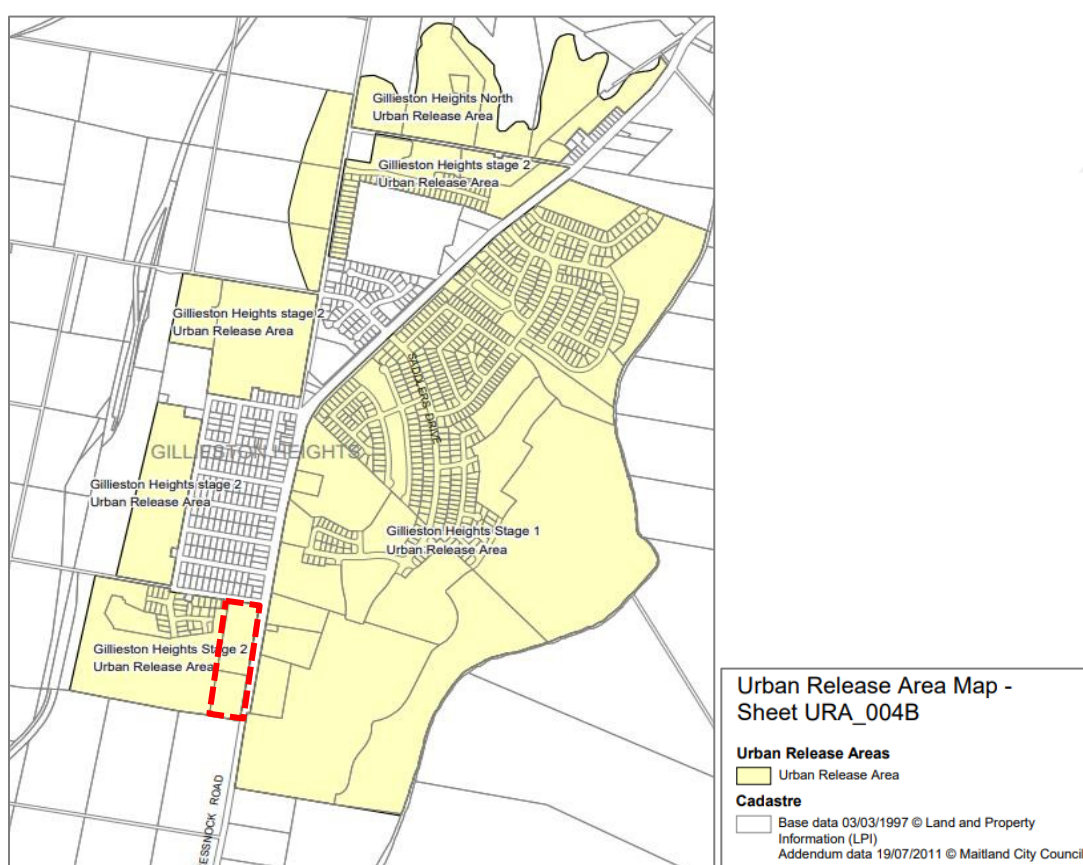


Figure 5: Gillieston Urban Release Area Map Sheet URA_004B

Zoning

The land is zoned **R1 General Density Residential** pursuant to MLEP - 2011.

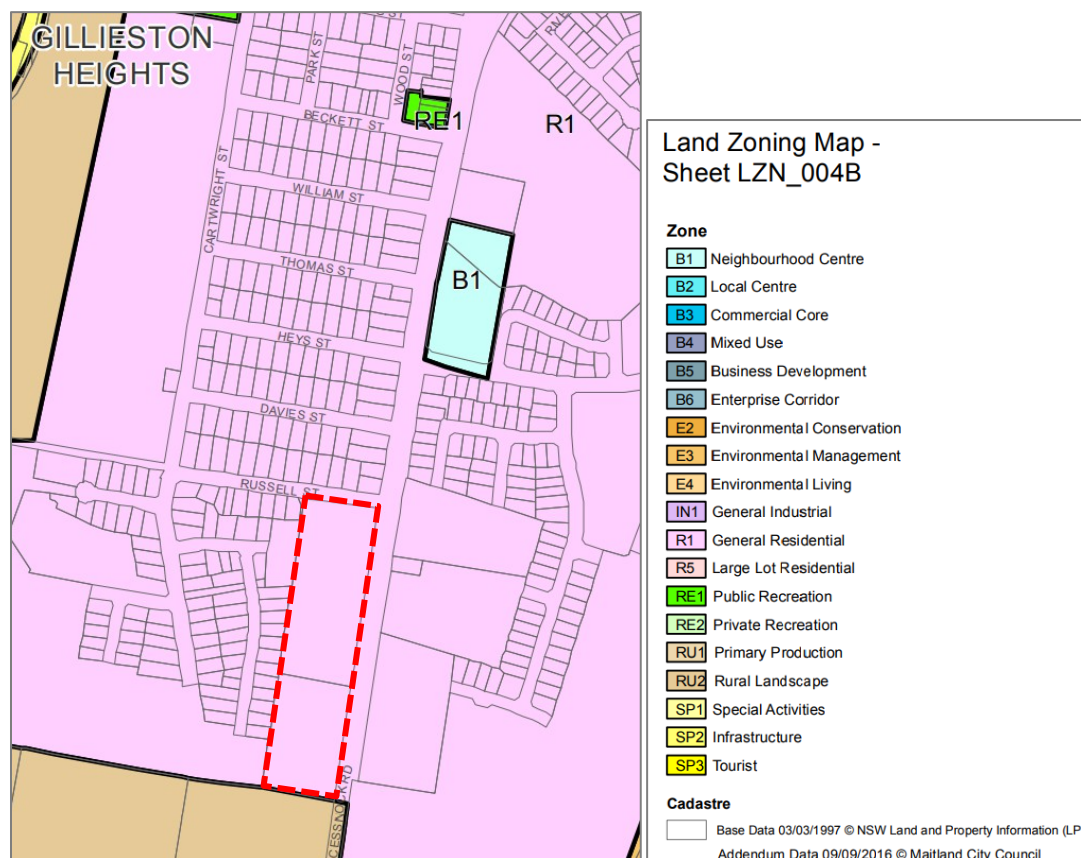


Figure 6: Land Zoning Map Sheet LZN_004B

The land use table for the R1 General Density Residential zone provides the following:

Zone R1 General Residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide 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.

2 Permitted without consent

Home occupations

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Dwelling houses; Group homes; Home-based child care; Home industries; Hostels; Hotel or motel accommodation; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Residential flat buildings; Respite day care centres; Roads; Semi-

detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Tank-based aquaculture; Any other development not specified in item 2 or 4.

4 Prohibited

Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Boat sheds; Camping grounds; Car parks; Caravan parks; Cemeteries; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Entertainment facilities; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Information and education facilities; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewage treatment plants; Sex services premises; Signage; Storage premises; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water recreation structures; Water recycling facilities; Wharf or boating facilities; Wholesale supplies

Pursuant to clause 2.6 of MLEP - 2011 the subdivision of land to which this Precinct Plan applies is permissible with consent.

2.6 Subdivision—consent requirements

Land to which this Precinct Plan applies may be subdivided, but only with development consent.

Note—

If a subdivision is identified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.

The modification of the approved proposal remains consistent with DA/2022/783 and the relevantly applicable objectives of the R1 General Residential zone as:

- *the subdivision proposes residential lots that will provide for the housing needs of the community*
- *To provide a variety of housing types and densities*

On the basis of the above assessment of the relevantly applicable objectives for the R1 General Residential zone, it is considered that the proposed development is a compatible form of land use with the zoning context of the site and surrounding locality.

Subdivision Lot Sizes

The Site is located within **Minimum Lot Size Area G** – which allows the land to be subdivided up to an area of 450 sqm pursuant to the MLEP - 2011 as shown in **Figure 7** below.

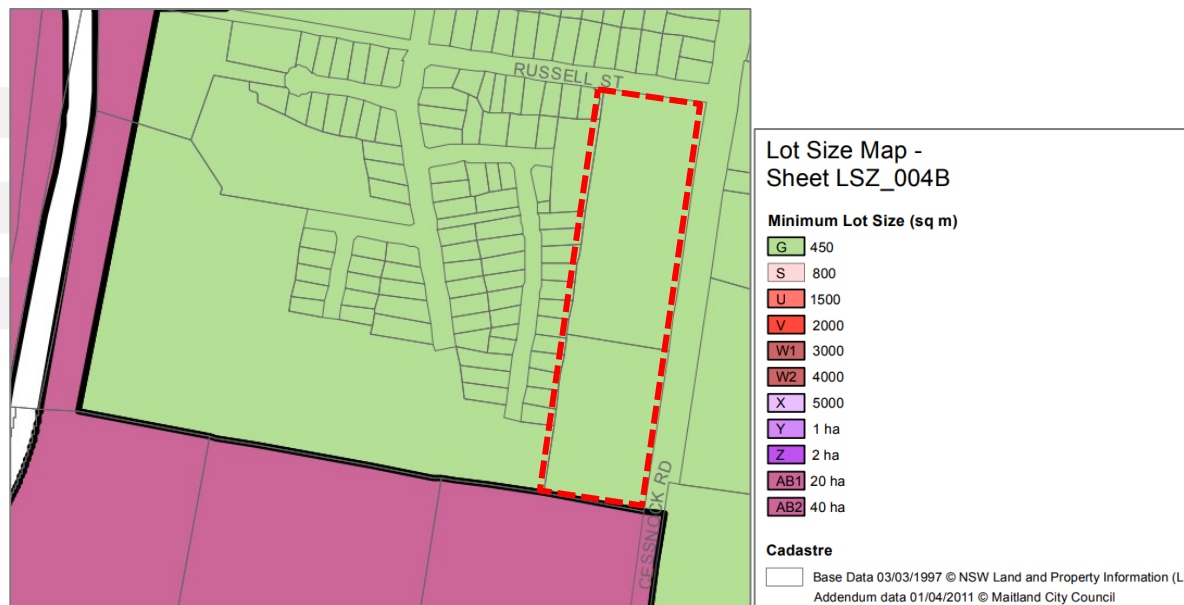


Figure 7: Minimum Lot Size Map LSZ_004B

The modification of the original subdivision under DA/2022/783 complies with the development standard pursuant to Clause 4.1 as the allotments proposed have an area of 450 m² or greater. Noteworthy to advise there is only 6 lots being around 450m² with the remaining 44 lots being greater than 600m².

4.1.2 State Environmental Planning Policy (Transport and Infrastructure) 2021

This SEPP does not apply to the proposed development as the DA falls outside the provisions of Traffic Generating Development identified under Schedule 3 as a matter for consideration under the Policy because the site is located greater than 90 m from a Classified Road and is below the number of 200 for residential allotments proposed (i.e. 50 lots).

4.1.3 State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 requires the Council to consider whether the land is contaminated prior to granting consent to the carrying out of any development on that land. Should the land be contaminated, the Council must be satisfied that the land is suitable in a contaminated state for the proposed residential use.

The Site Investigation report prepared by **Geotesta Pty Ltd** discussed in Section 4.5.1 of this SoEEs recommends that:

“The overall findings of this assessment indicate that:

- The limited soil sampling and analysis program conducted indicated a low risk of soil and groundwater contamination.*

- *In the opinion of Geotesta, the site can be made suitable for the proposed Development Application (DA) in the foreseeable future pending the successful application of a Data Gap Assessment (to be carried out after the approved demolition)."*

4.2 The Provisions of any Draft Environmental Planning Instrument (Section 4.15(1)(a)(ii))

There are no Draft Environmental Planning Instruments that would apply to the proposed development at the Site.

4.3 The Provisions of any Development Control Plan (Section 4.15(1)(a)(iii))

Compliance with relevantly applicable development controls pursuant to Maitland Development Control Plan 2011 is addressed below:

4.3.1 Maitland DCP 2011, Part C - Design Guidelines, Section C.10: Subdivision

This section of the SEE responds to the controls outlined in the Maitland DCP - 2011, Part C – Design Guidelines, contained in Section C.10: Subdivision

The proposed subdivision of the lots is done in pursuant to the Section C.10 of the Maitland DCP, adheres to the objective and requirements enlisted in the sub-section DC.1. The new proposed sub-divided lots will have size and shape appropriate to their proposed residential use stated in R1 general residential zone, and allows for the provision of necessary services, access and parking, location of ancillary buildings such as garages and sheds, vegetation retention and other requirements within the minimum stated lot sizes of 450 sqm.

4.3.2 Maitland DCP 2011, Part F.5 Gillieston Heights Urban Release Area

The site falls in the West Precinct of the Gillieston Heights Urban Release area in the Maitland DCP and the proposed sub-division complies with the Development Requirements mentioned under this part of the DCP. Refer to **Figure 8** below.

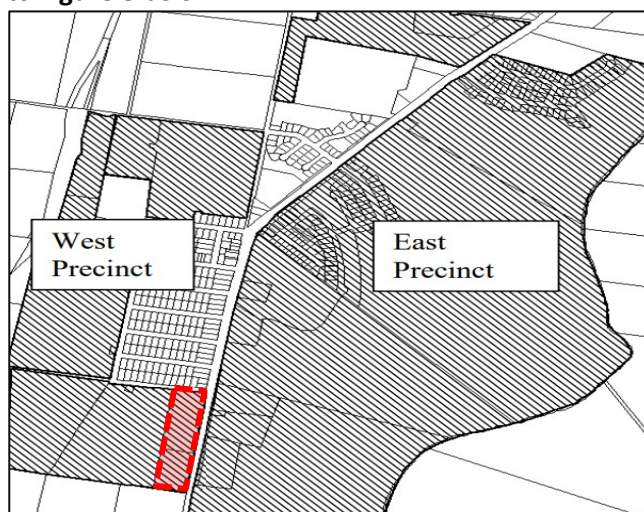


Figure 8: Gillieston Heights Urban Release Area Map – Precincts Map

4.3.2.1 Transport Movement Hierarchy (MDCP- Part 4.5 Gillieston Heights Urban Release Area- Western Precinct)

In pursuant to the Section 1.2 of the Maitland MDCP- Part 4.5 Gillieston Heights Urban Release Area the road layout of the new proposed street is designed to be consistent with the precinct Plan and extends to merge with the existing Broad Street within the Gillieston Heights Urban Release Area. Refer **Figure 3** above with the **Figure 4** and the accompanying Sub-division Plan. Also in pursuant to the part b of this section none of the lots have frontage and direct access to the Cessnock Road (RMS Classified Road No.MR195).

4.3.2.2 Overall Landscaping Strategy

In pursuant to the Development Requirements stated in the Section 1.3 of the Maitland MDCP- Part 4.5 Gillieston Heights Urban Release Area – West Precinct, this Section 4.55(2) application generally remains consist with the previous Landscape Plan approval under DA/2022/783. A final landscape plan will be prepared and provided as part of the Subdivision Works Certificate submission.

4.3.2.3 Key Development Sites – Land fronting Cessnock Road.

Under the Development Requirements in Section 1.7 (Key Development Sites) of the Maitland MDCP-Part 4.5 Gillieston Heights Urban Release Area – West Precinct, part I (Land fronting Cessnock Road), proposed subdivided lots adjoining Cessnock Road include a 10m-wide landscape buffer within the lots.

This Section 4.55(2) submission requests Council’s consideration of reducing the buffer to 5m, aligning with the Eastern Precinct's greater-than-5m buffer. This reduction facilitates the construction of retaining walls, significantly decreasing exported cut-and-fill material from approximately 29,000m³ to 10,000m³. Furthermore, private open space can contribute to meeting the buffer zone requirements under Section 1.7 while maintaining a general 10m buffer zone.

4.4 The Provisions of any Matters Prescribed by the Regulations (Section 4.15(1)(a)(iv))

N/A, there are no matters of relevance prescribed by the Regulations.

4.5 Likely Impacts of the Development (Section 4.15(1)(b))

This Section considers the likely impacts of the proposed Torrens Title Residential Subdivision of the Site.

4.5.1 Preliminary Site Investigation

The Preliminary Site Investigation report has been prepared by **Geotesta Pty Ltd** on 16th June 2022. This report remains valid for these purposes of this Section 4.55(2).

Please refer to the report for the detailed recommendations under DA/2022/783.

4.5.2 Acoustic Assessment

In pursuant to the part m of the **Section 1.7 (under sub-section: *Land fronting Cessnock Road*)** of the MDCP- Part 4.5 Gillieston heights Urban Release Area- Western Precinct under an Acoustic report has been prepared by **Acoustic Logic Pty Ltd**.

The Acoustic report has been prepared by **Acoustic Logic Pty Ltd** report remains valid for these purposes of this Section 4.55(2).

Please refer to the report for the detailed recommendations under DA/2022/783.

4.5.3 Bushfire Protection Assessment

The site is located on land classified as bush fire prone on the Maitland City Council Bush Fire Prone Land (refer to **Figure 11**).

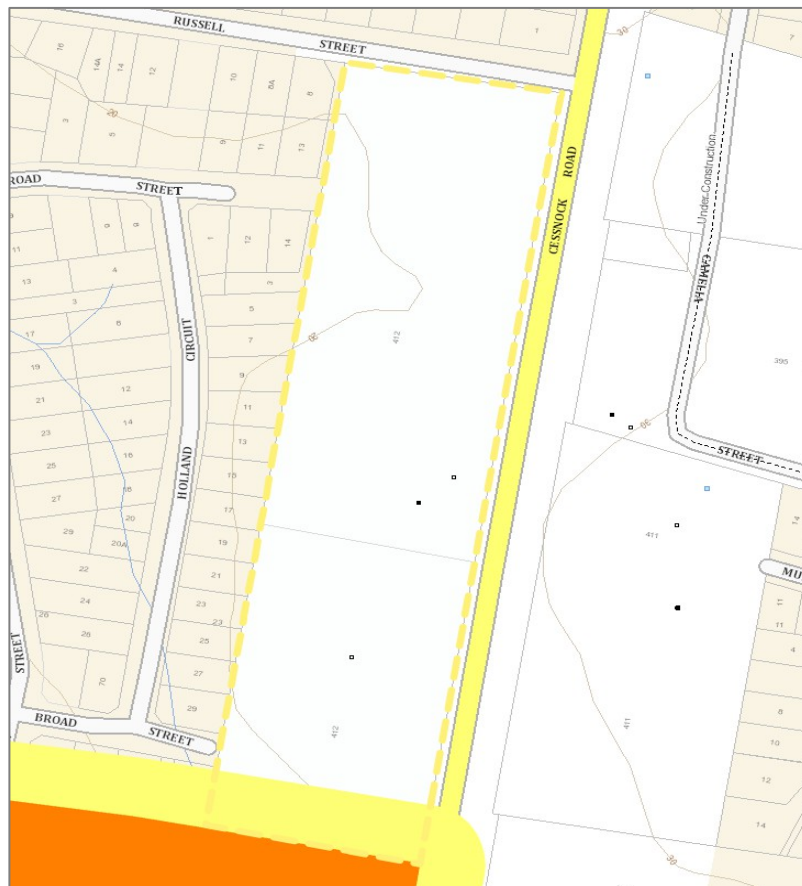


Figure 11: Bushfire Prone Land Mapping (Source ePlanning Spatial Viewer)

A bushfire Protection Assessment Addendum Letter has been prepared by Ecological Australia Pty. Ltd. This Addendum Letter summarises that there is no further impact on the reduction of residential lots from 59 to 50.

Please refer to the Bushfire Protection Assessment Report for more details under DA/2022/783.

4.5.4 Aboriginal Heritage Due Diligence Assessment

The Site has no mapped Items of General heritage concern nor contains any Conservation area of general heritage concern. This heritage assessment report remains valid for these purposes of this Section 4.55(2) as prepared by Apex Archaeology under DA/2022/783.

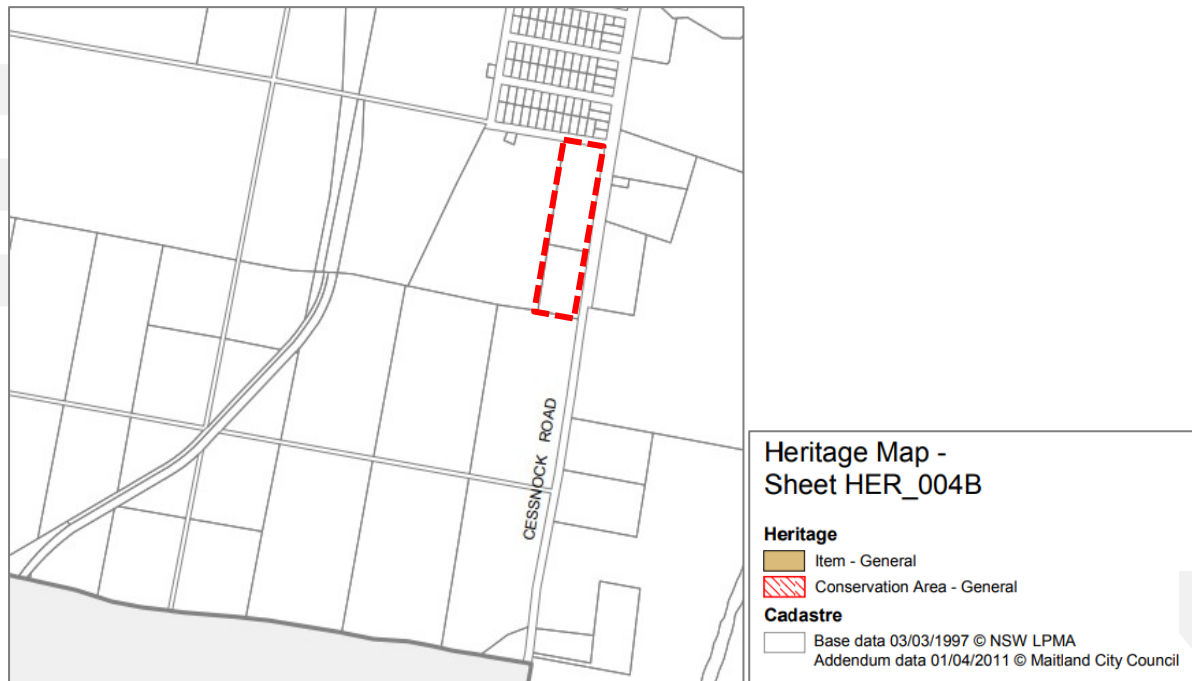


Figure 12: Heritage Map - Sheet HER_00 4B

An aboriginal due diligence assessment report has been prepared by **Apex Archaeology Pty Ltd** in February 2022. This report provides the following findings and recommendations.

4.5.5 Stormwater Management Report

The Civil Engineering and Stormwater Management report prepared by **GCA Engineering Solutions Pty Ltd** on 4th July 2022, remains valid for these purposes of this Section 4.55(2).

For further details refer Stormwater Management Report under DA/2022/783.

4.5.6 Arboricultural Impact Assessment

The Section 4.55(2) submission proposed removing seven trees: T1, T2, T26, T27, T28, T51, and T52. According to the Preliminary Tree Assessment report by Monaco Designs Pty Ltd (2nd November 2021), five of these trees (T1, T2, T26, T27, T28) have very high retention value, while the remaining two (T51, T52) are dying. Notably, T51 and T52, though deteriorating, belong to the same species as the other five trees and are located nearby.

Given the risks associated with T51 and T52, and considering the revised subdivision plan, the proposed removal of all seven trees—with replacement by new mature trees—has been supported by Biodiversity Australia.

4.5.7 Sewage and Water

Water and sewer services are available to the site. The services will be connected to the proposed development in accordance with the Authority requirements.

4.5.8 Electricity and Telecommunication Supply

Electricity and telecommunication services are available to the site. The services will be connected to the proposed development in accordance with the Authority requirements.

4.6 Suitability of the Site (Section 4.15(1)(c))

The proposed subdivision is suitable due to the Site zoning, residential density. Environmental hazards/constraints have also been addressed with the technical assessment reports that accompany this DA to ensure no adverse impacts occur upon the natural or built environments. Any future impact on the built environment with regard to the erection of residential dwellings would be considered under a future DA to be lodged with Council on the proposed residential lots to be created.

4.7 Any Submissions Made (Section 4.15(1)(d))

Council may formally advertise and notify the proposed development application. Should any submissions be made on the application, Council shall consider the merits of any issues that may be raised. Bathla would welcome an opportunity to review and appropriately respond to any community concerns that may be raised for this DA.

4.8 The Public Interest (Section 4.15(1)(e))

The proposed subdivision seeks to facilitate land release for future residential housing provision located within the North West Growth Sector of Sydney and is considered to be in the public interest.

5. CONCLUSION

In conclusion, the proposed Torrens Title Subdivision of the Site into 50 x residential lots, and the construction and dedication of public roads, and stormwater drainage works are an appropriate and compatible form of development when assessed under Matters for Consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

It is considered that the proposed development satisfies and is in accordance with the planning controls pursuant to Maitland Local Environmental Plan (MLEP) 2011 and Maitland DCP 2011 - Part F.5: Gillieston Heights Urban Release Area

Based on the above the proposed Section 4.55(2) documents submitted, it is recommended that the Maitland Council approve the proposed modification of the already determined development DA/2022/783.