



Planning Proposal

AMENDMENT TO THE MAITLAND LEP 2011

Gillieston Heights South - Western Precinct

Version 2.0

13/12/2020

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INTRODUCTION

This planning proposal has been prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It explains the intended effect of, and justification for, the proposed amendment to *Maitland Local Environmental Plan 2011* (Maitland LEP 2011) with regard to land in the Gillieston Heights South (Western Precinct) area, as detailed below.

Lot	Area	Owner
Lot 1 DP456946	8.0ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 2 DP456946	7.4ha	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 3 DP456946	390m2	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 4 DP456946	1.5ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 5 DP456946	3.6ha	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 7 DP456946	1.2ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 8 DP456946	3.8ha	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 9 DP456946	2.0ha	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 10 DP456946	820m2	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 54 DP975994	9.3ha	Hydro Aluminium Kurri Kurri Pty Ltd
Pt Lot 55 DP975994	8.6ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 69 DP975994	3.8ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 70 DP975994	9.4ha	Hydro Aluminium Kurri Kurri Pty Ltd
Lot 71 DP975994	9.6ha	Hydro Aluminium Kurri Kurri Pty Ltd
	Total 69.4ha	

The purpose of the planning proposal is to amend the Maitland LEP 2011 to provide for the development of the subject land for residential purposes. The subject lands are identified within the *Maitland Urban Settlement Strategy 2012* (MUSS 2012) for future urban development consistent with the sequencing and release of urban land in Gillieston Heights. A locality plan identifying the subject land is provided in **Figure 1**.

The Hydro-owned land forms part of the wider land holding of the Kurri Kurri Hydro Aluminium industrial complex. This industrial land use ceased operation, with the landowner investigating potential redevelopment opportunities for areas of the site. The northern extent of the Hydro site is situated within the Maitland local government area (LGA) and is subject to this planning proposal. The remainder of the Hydro Site (approximately 1300 hectares) is located within the Cessnock LGA and is subject to a separate planning proposal, currently under consideration by Cessnock City Council, to give effect to the Hydro Kurri Kurri Rezoning Masterplan (refer to **Figure 2**).

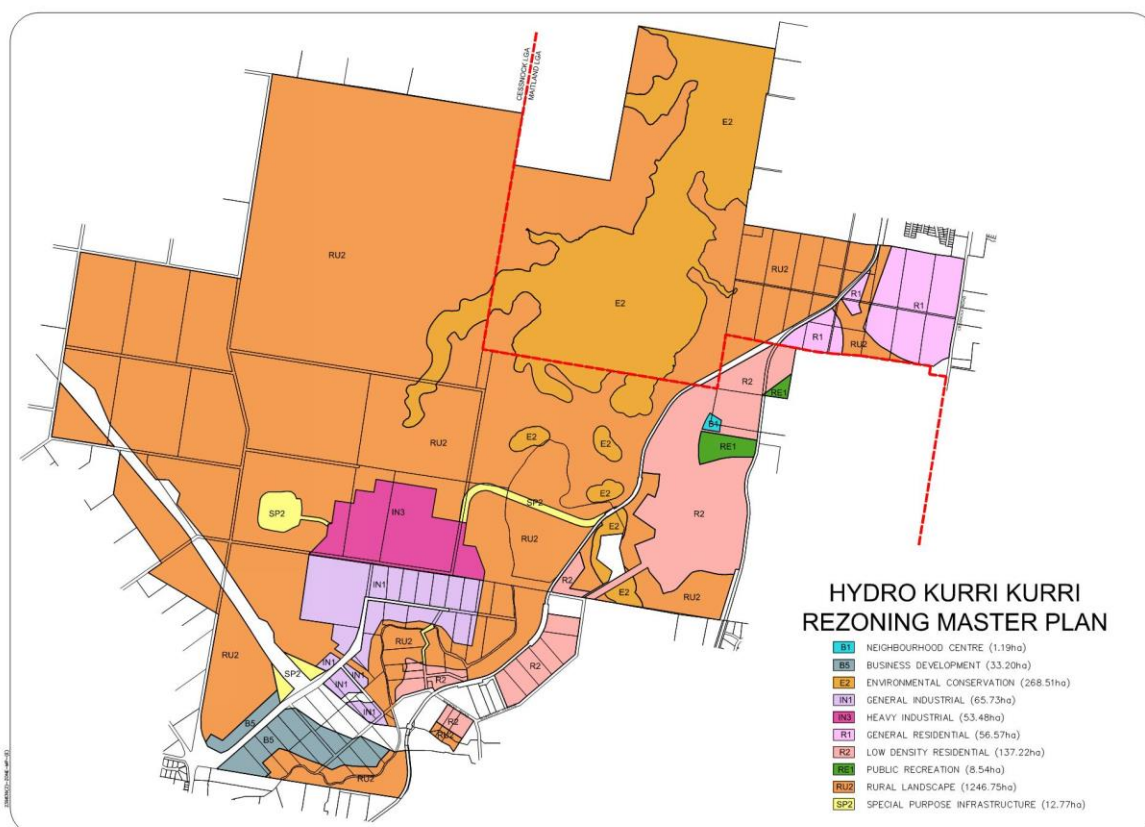
The Hydro Kurri Kurri Rezoning Masterplan proposes urban development extending from the Hunter Expressway to Gillieston Heights. Development of the subject lands will establish a continuity of infrastructure and urban development, linking Hydro's proposed development to Cessnock Road, and establishing a connected growth corridor.

The proposed rezoning was submitted as a joint planning proposal. The approach to milestone delivery and consideration of cross-boundary impacts for both Maitland and Cessnock Council's planning proposals was intended to align wherever possible.

Figure 1 – Locality Plan



Figure 2 – Hydro Kurri Kurri Rezoning Masterplan



At its meeting of 24 November 2015, Council considered a report in relation to the proposed rezoning of the Gillieston Heights South area. Council resolved to prepare a planning proposal and seek a Gateway determination for an extended area that included Hydro-owned land to the west of Cessnock Rd (the western precinct) as well as the remaining developable land (various landowners) east of Cessnock Rd (the eastern precinct). A Gateway determination was issued by the Department of Planning, Industry and Environment (the Department) on 23 March 2016. It included the agency consultation and exhibition requirements for the planning proposal. A copy of the Gateway determination issued on 23 March 2016 is included as **Appendix A**.

The Gateway determination specified a thirty-six (36) month timeframe for the completion of the local environmental plan (LEP), with completion due by March 2019. In January 2019, Council wrote to the Department requesting an extension of time in which to complete the LEP. The Gateway determination was subsequently altered on 10 September 2019, to amend the Gateway determination conditions and extend the timeframe for completion of the LEP by 23 December 2020. A copy of the Alteration of Gateway determination is included as **Appendix B**.

The planning proposal has progressed in a manner consistent with the conditions of the original and altered Gateway determinations. However, there are several outstanding issues requiring further information and consideration/resolution prior to the finalisation of the planning proposal.

Consultation with public authorities identified a number of outstanding matters for resolution that are different for the eastern and western precincts. The variation in timeframes to address these

outstanding matters may result in possible delays in the rezoning process. For these reasons, separating the planning proposal into two (2) revised planning proposals (one for the western precinct and one for the eastern precinct) was considered appropriate. Council has therefore now prepared separate planning proposals for the eastern and western precincts. This planning proposal relates specifically to the western precinct.

Council received correspondence from the Department, on 2 October 2020, advising of a focused work program to finalise planning proposals that have been under consideration for four (4) or more years, as part of the recently announced Planning System Acceleration Program. The former planning proposal was identified as one of these proposals and as such, was required to be finalised by 31 December 2020, consistent with the Department's advice. As it was not possible to finalise the planning proposal by 31 December 2020, due to the outstanding matters, the Department advised Council to submit a revised planning proposal to the Department and seek a new Gateway determination.

On 1 December 2020, the Department issued two (2) new Gateway determinations, one for the western precinct and one for the eastern precinct and discontinued the former planning proposal. The new Gateway determinations recognise the work already undertaken to address the conditions of the original and altered Gateway determinations and enable the revised planning proposals to proceed to public exhibition. A copy of the new Gateway determination for the western precinct is included as **Appendix C**.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are to:

1. Identify a new urban release area (the Gillieston Heights South URA) to encompass the subject land;
2. Enable residential development;
3. Protect and manage areas with environmental constraints; and
4. Ensure that future residents have access to adequate local and regional infrastructure.

PART 2: EXPLANATION OF PROVISIONS

The objectives of this planning proposal are intended to be achieved through amending the Maitland LEP 2011 to provide for the development of the subject land for residential purposes.

A summary of the proposed amendment is provided in the table below. The proposed map amendments are detailed in Part 4 of this planning proposal.

Applicable Land	Lots 1, 2, 5 and 8 DP456946 Part Lots 3, 4, 7, 9, 10 and 11 DP 456946 (i.e. the parts of these lots that are east of South Maitland Railway) Lots 54, 55, 69, 70 and 71 DP975994
Landowner	Hydro Aluminium Kurri Kurri Pty Ltd
Land size	Total 69.4ha
Current Zone	RU2 Rural Landscape
Proposed Zone	Portion of the precinct to be zoned R1 General Residential with the remainder staying RU2 Rural Landscape.
Applicable Minimum Lot size	R1 General Residential – 450m ² RU2 Rural Landscape - 40 Ha
Map amendments	LZN Map 004B amended to identify R1 General Residential land. LSZ Map 004B amended to amend the minimum lot size for the residential portion of land to 450m ² . URA Map 004B amended to identify the subject land as an urban release area.

As the site is to be identified as an urban release area, it will be captured under the provisions of Part 6 of the Maitland LEP 2011. Subsequently, and consistent with other green field urban release areas, this ensures that satisfactory arrangements for the provision of designated state public infrastructure are met prior to the development of the subject site.

It is proposed to retain the existing RU2 Rural Landscape zone over that part of the subject land that is subject to environmental constraints, including mine subsidence, EECs and threatened species.

The proponent intends to apply for biodiversity certification of the subject land under the *Biodiversity Conservation Act 2016*, in parallel with the rezoning process and is currently finalising a Biodiversity Certification Assessment Report (BCAR) encompassing the entire Hydro site. Once the BCAR is finalised, Council will be able to determine whether there is any likelihood that critical habitat or threatened species, populations or threatened species, populations or ecological communities or their habitats will be adversely affected by the proposal, and thus determine whether an Environmental zone should be applied over this area.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

1. Is the planning proposal a result of any strategic study or report?

Yes. The subject land is identified in an endorsed strategy (i.e. MUSS 2012) as being suitable for consideration for urban purposes, consistent with the sequencing and release of land in the Gillieston Heights area, as outlined in the MUSS 2012.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that an amendment to the Maitland LEP 2011 through the Gateway process and preparation of this planning proposal is the most effective and timely method to achieve the vision and objectives of the *Hunter Regional Plan 2036* (HRP 2036), *Greater Newcastle Metropolitan Plan 2036* (GNMP 2036) and Council's adopted Local Strategic Planning Statement (LSPS) and MUSS 2012.

The current land zoning does not permit residential development or supporting community and public infrastructure for the development of a future urban area. The rezoning will be supported by a Section 7.11 Contributions Plan and Development Control Plan to achieve the objectives outlined in this planning proposal.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this proposal. However, Council envisages that this planning proposal will result in a net community benefit.

Specifically, the subject lands are considered as part of the adopted policy position for urban investigation sites identified within the MUSS 2012.

The rezoning of the subject site would enable residential development, contributing to the local economy given that a high proportion of residents within the subject area will be able to readily commute to the Maitland CBD. Additionally, this will assist in providing a local supply of labour for local businesses.

Residents within the subject area will also have ready access to jobs within the future employment lands being proposed as part of the Hydro Kurri Kurri Rezoning Masterplan within the Cessnock LGA.

The public interest reasons for preparing this draft plan include:

- The development of the subject lands will support the growing residential population within the central sector of the Maitland LGA;
- The land has largely exhausted its historical agricultural use and the proposal to develop the land for urban purposes will result in an improved outcome and a higher order use of the land;
- Existing environmentally sensitive areas on the site will be protected and enhanced;
- The end urban environment may include community and public facilities for the growing population of the Gillieston Heights area including adjoining and surrounding residential areas.

The implications of not proceeding with the planning proposal include:

- The availability of urban land for population growth addressed in the HRP 2036 and GNMP 2036 will not be achieved;
- The desired future outcomes of Council's long-term strategic plans (LSPS and MUSS 2012) for this area will not be achieved;
- The potential for a higher order land use within the subject lands would be lost, as the land is not large enough to support sustainable agricultural practices;
- The potential for improvements to the existing public infrastructure would be limited;
- Opportunities to improve and enhance the linkages between established and developing residential areas of Gillieston Heights, Clifleigh, and Hydro's proposed Central Residential Precinct will be denied if the proposal is not supported.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Hunter Regional Plan (NSW Department of Planning and Environment) 2036

The HRP 2036 is a 20-year blueprint for the future of the Hunter. Its vision is to create a leading regional economy in Australia, with a vibrant metropolitan city at the heart. This vision will be delivered through four goals, as follows:

- a leading regional economy in Australia;
- a biodiversity-rich natural environment;
- thriving communities; and
- greater housing choice and jobs.

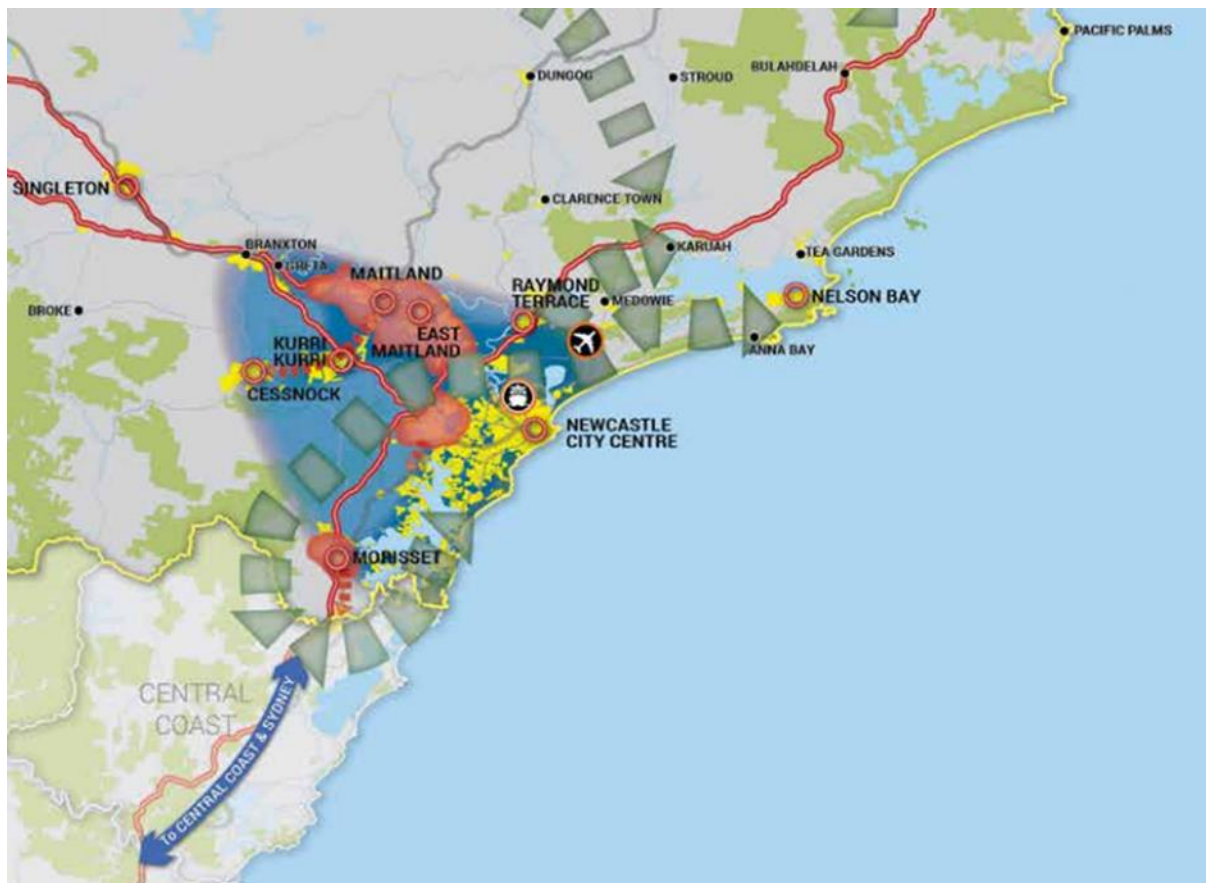
It is estimated that an additional 12,550 residential dwellings will be needed in Maitland by 2036. The plan focuses on providing land and infrastructure to meet this requirement and by supporting infill development opportunity in established areas and greenfield sites. The plan provides directions for housing opportunities to be located in areas with established services and infrastructure and which are close to existing towns and villages. The planning proposal will

provide approximately 57 hectares of residentially zoned land, potentially contributing around 380-420 new dwellings towards the implied demand of 12,550 dwellings by 2036.

The subject site is identified by the HRP 2036 as part of a growth corridor demarked for both residential and employment uses.

The proposal assists in meeting the objectives of the HRP 2036, as it proposes to provide additional housing opportunity located close to existing services and infrastructure and is proximate to local employment centres.

Figure 3 – Extract from Hunter Regional Plan 2036



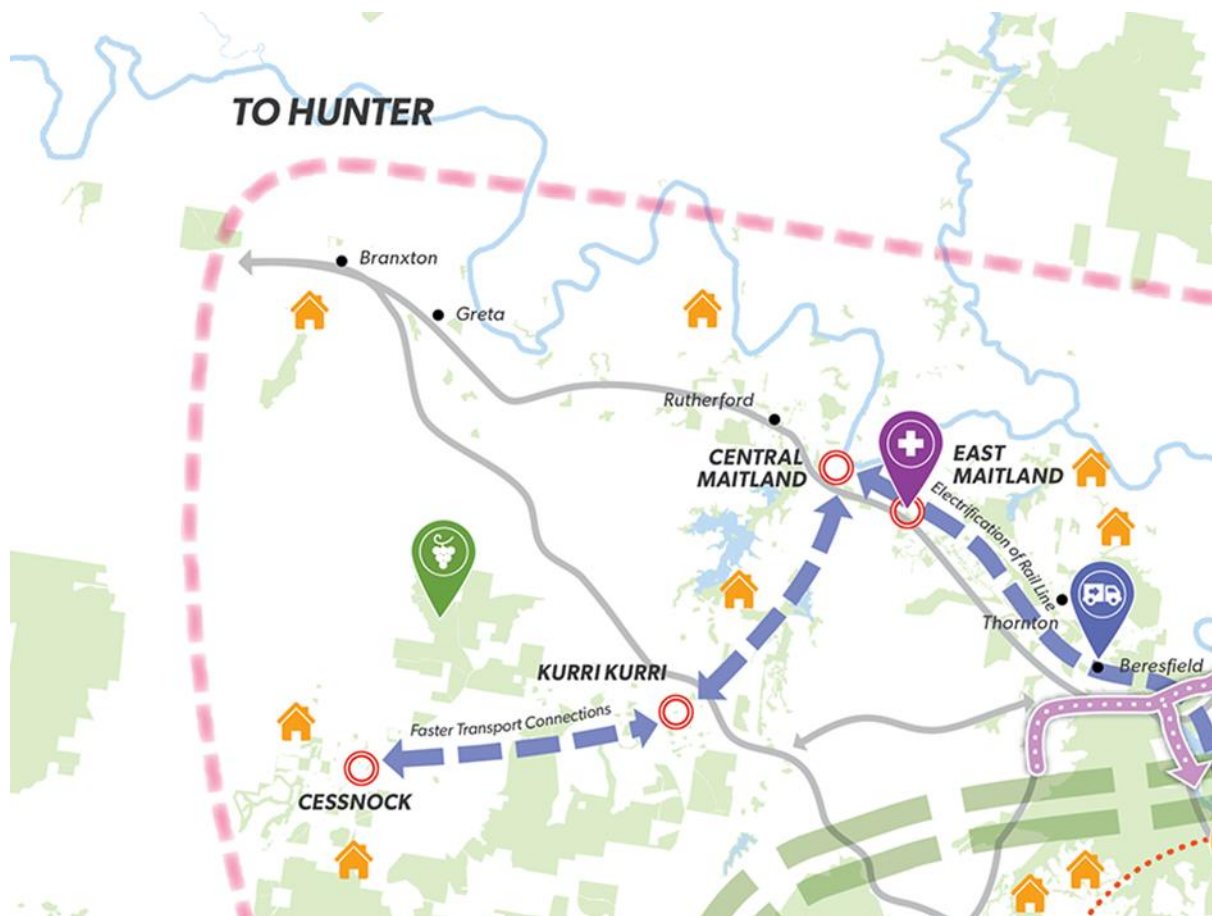
Greater Newcastle Metropolitan Plan (NSW Department of Planning and Environment) 2036

The GNMP 2036 sets out the strategies and actions that will drive sustainable growth across the five (5) Local Government Areas of Cessnock, Lake Macquarie, Newcastle City, Port Stephens and Maitland, which make up Greater Newcastle. The plan aims to achieve the vision set out in the HRP 2036 – for the Hunter to be the leading regional economy in Australia with a vibrant new metropolitan city at its heart.

The subject land is identified in the GNMP 2036 as a housing release area, adjacent to the existing Gillieston Heights URA.

This proposal will assist in meeting the objectives of the GNMP 2036. The proposal is consistent with the strategies and actions in the GNMP 2036, as it will provide additional housing opportunities in close proximity to existing jobs and services.

Figure 4 – Extract from Greater Newcastle Metropolitan Plan 2036



5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Maitland +10 (Community Strategic Plan)

Council has prepared and adopted the Maitland +10 Community Strategic Plan (CSP) in line with the Integrated Planning and Reporting legislation and guidelines. The CSP was last reviewed in 2018. The planning proposal is considered consistent with the vision and objectives of the CSP as it provides opportunities for urban growth within the city to meet the needs of a growing population.

Maitland Local Strategic Planning Statement 2040+

The proposal aligns with the planning priorities of Maitland's Local Strategic Planning Statement (LSPS) as it will provide additional housing to support the LGA's growing population within an existing urban area. It will be an efficient use of land and will support greater accessibility to jobs and services. The land is identified as an area for planned residential investigation.

Maitland Urban Settlement Strategy 2012

The subject land is currently zoned RU2 - Rural Landscape in the Maitland LEP 2011 and is identified in the HRP 2036 as an area of investigation for urban purposes. The land occupies approximately 69.4 hectares and is identified in the MUSS 2012 for urban expansion consistent with the sequencing and release of urban land for the Gillieston Heights locality. The land forms part of the remaining developable land in the Gillieston Heights locality.

6. Is the planning proposal consistent with applicable state environmental planning policies?

An assessment of the planning proposal against the relevant SEPPs is provided in the table below.

Table 1: Relevant State Environmental Planning Policies.

RELEVANCE	CONSISTENCY AND IMPLICATIONS
SEPP (PRIMARY PRODUCTION AND RURAL DEVELOPMENT) 2019	Consistent
The aim of this policy is to facilitate the orderly, economic use and development of rural lands, reduce land use conflicts and to identify and protect State significant agricultural land.	The site is not identified as State significant agricultural land and only a small part of the Hydro lands could be considered as suitable for agriculture. This land is classified 3, 4, and 5 by the former NSW Department of Agriculture. Under these classifications the land is suitable for "cropping but not continuous cultivation" (3), "grazing but not cultivation" (4) or "not suitable for agriculture or only light grazing" (5), respectively.
SEPP (INFRASTRUCTURE) 2007	Consistent
Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.	Nothing in this planning proposal affects the aims and provisions of this SEPP. The proposal considers future development adjacent to the South Maitland Rail corridor and Main Road 195 (Cessnock Road).
SEPP (KOALA HABITAT PROTECTION) 2019	Consistent
This Policy aims to encourage the conservation and management of natural vegetation that provide habitat for Koalas to support a permanent free-living population and reverse the current trend of Koala population decline.	The proponent intends to apply for biodiversity certification of the subject land under the <i>Biodiversity Conservation Act 2016</i> in parallel with the rezoning process and is currently finalising a Biodiversity Certification Assessment Report (BCAR) encompassing the entire Hydro site. The BCAR will include details of how it is proposed to mitigate any impacts of clearing

RELEVANCE	CONSISTENCY AND IMPLICATIONS
	for the purposes of residential development. These mitigation measures may include the creation and ongoing maintenance of a large “biodiversity stewardship” site over much of the adjoining areas of significant conservation land. As the Koala is identified as a threatened species under the <i>Biodiversity Conservation Act 2016</i>, the BCAR will need to consider any impacts of the proposal on the Koala and/or its habitat. Notwithstanding, the vegetated areas of the site are proposed to be contained within the existing RU2 Rural Landscape zone.
SEPP (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007	Consistent
The SEPP aims to provide for the proper management of mineral, petroleum and extractive material resources and ESD.	Nothing in this Planning Proposal affects the aims and provisions of this SEPP. Council has undertaken preliminary consultation with the NSW DPIE – Resources and Geoscience. No resource concerns were raised. However, should biodiversity offsets become considered, the Division has requested to be consulted in relation to the proposed location of any offsite biodiversity offset areas, or any supplementary biodiversity measures (should they be required), to ensure there is no consequent reduction in access to prospective land for mineral exploration, or potential for sterilisation of mineral or extractive resources.
SEPP NO. 55 - REMEDIATION OF LAND	N/A
Provides state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed.	This SEPP no longer applies at the planning proposal stage. Rather the requirements of the SEPP are to be considered at the Development Application (DA) stage. <i>Ministerial Direction 2.6 – Remediation of Contaminated Land</i> applies to planning proposals and is discussed in the next section of this planning proposal.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Table 2: Section 9.1 Directions.

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
1. EMPLOYMENT AND RESOURCES	
1.1 Business and Industrial Zones	N/A
1.2 Rural Zones	Inconsistent
The objective of this direction is to protect the agricultural production value of rural land.	The planning proposal is inconsistent with the objectives of this direction as it proposes to rezone RU2 Rural Landscape zoned land for urban purposes. However, the inconsistency is considered justified because the subject land proposed for urban purposes is identified in the MUSS 2012 and in the GNMP 2036 as a housing release area and is therefore considered appropriate for urban development.
1.3 Mining, Petroleum Production and Extractive Industries	Consistent
The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The proposed residential zoning would have the effect of prohibiting the mining of coal and other minerals, production of petroleum and winning/obtaining of extractive materials from the site. The Planning Proposal does not cover any areas known to have existing resources. Notwithstanding, the planning proposal has been referred to NSW DPIE - Resources and Geoscience for comment. DPI -Resources and Geoscience raised no concerns. However, should biodiversity offsets become considered, the Division has requested to be consulted in relation to the proposed location of any offsite biodiversity offset areas, or any supplementary biodiversity measures (should they be required), to ensure there is no consequent reduction in access to prospective land for mineral exploration, or potential for sterilisation of mineral or extractive resources.
1.4 Oyster Aquaculture	N/A

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
1.5 Rural Lands	Inconsistent
The objectives of this direction are to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.	The planning proposal is inconsistent with the objectives of this direction as it proposes to rezone RU2 Rural Landscape zoned land for urban purposes. However, the inconsistency is considered justified because the subject land proposed for urban purposes is identified in the MUSS 2012 and in the GNMP as a housing release area and is therefore considered appropriate for urban development.
2. ENVIRONMENT AND HERITAGE	
2.1 Environment Protection Zones	Consistent
The objective of this direction is to protect and conserve environmentally sensitive areas. According to the direction, a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.	The planning proposal is consistent with the objectives of this direction as it proposes to retain the existing RU2 Rural Landscape zone over that part of the subject land that is subject to environmental constraints, including mine subsidence, EECs and threatened species. Once the outcomes of the BCAR are known and Council is able to determine whether there is any likelihood that critical habitat or threatened species, populations or threatened species, populations or ecological communities or their habitats will be adversely affected by the proposal, Council will be able to determine whether an Environmental zone should be applied over this area.
2.2 Coastal Protection	N/A
2.3 Heritage Conservation	Inconsistent
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	An Aboriginal Cultural Heritage assessment was undertaken by AECOM in 2014, which identified one recorded artefact site and two (2) areas of high archaeological sensitivity in the area that may be impacted by the proposed development and require further archaeological investigation. Council has undertaken preliminary consultation with Heritage NSW who have advised that the consultation with the

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
	registered Aboriginal parties (RAPs) has lapsed over the last six years. In order to determine the planning proposal's consistency with Direction 2.3, additional consultation with the RAPs is required to update them regarding the current status of the planning proposal.
2.4 Recreation Vehicle Areas	N/A
2.5 Application of E2 & E3 Zones and Environmental Overlays in Far North coast LEPs	N/A
2.6 Remediation of Contaminated Land	Inconsistent
The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.	The proponent has completed a Phase 2 Environmental Site Assessment, Remedial Action Plan, Validation Report, Site Audit Report and a Site Audit Statement in respect of the subject land. Council officers have reviewed the above documents and raised concerns in relation to the adequacy of sampling carried out across the proposed residential land. The proponent has been advised further soil sampling is required to address the requirements of this direction. The sampling is to be undertaken in accordance with the EPA's sampling guidelines across the site, with laboratory analysis for all potential contaminants, including those that would normally be associated with previous rural/agricultural uses of the site, coal mining and the existence of the coal train line. This is to satisfy Council that the land proposed to be rezoned is suitable for all uses permitted in the R1 General Residential zone. The results of the additional sampling will need to be provided, in order to satisfy Council that the land proposed to be rezoned to R1 General Residential is suitable for all uses permitted in the zone, prior to finalisation of the planning proposal.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT	
3.1 Residential Zones	Consistent

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
The objectives of this direction are to encourage a variety and choice of housing, minimise the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services.	The proposed rezoning to R1 General Residential will enable residential development across most of the site. The land proposed for urban purposes is identified as an urban release area in the GNMP and as Category 1 Residential land in the MUSS 2012. The planning proposal is therefore considered consistent with this direction.
3.2 Caravan Parks & Manufactured Home Estates	N/A
3.3 Home Occupations	Consistent
To encourage the carrying out of low-impact small businesses in dwelling houses.	The proposed R1 General Residential zone will permit home occupations without consent. The proposal is therefore consistent with this direction.
3.4 Integrating Land Use and Transport	Consistent
The objectives of this direction relate to the location of urban land and its proximity to public transport infrastructure and road networks, and improving access to housing, employment and services by methods other than private vehicles.	The planning proposal proposes to establish an urban environment with local and regional connectivity through design and location of road networks, including provision for public transport services. The planning proposal is considered consistent with the objectives of this direction.
3.5 Development Near Regulated Airports and Defence Airfields	N/A
3.6 Shooting Ranges	N/A
3.7 Reduction in non-hosted short-term rental accommodation period	N/A
4. HAZARD and RISK	
4.1 Acid Sulfate Soils	Consistent
The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The Maitland LEP 2011 indicates a potential Class 5 Acid Sulphate Soils risk affecting the subject land. Further development associated with the subject land will, in accordance with Clause 7.1 of the Maitland LEP 2011, be required to include an Acid Sulfate Soil Management Plan as a condition of development consent. The proposal is consistent with this direction.

S9.1 DIRECTION**CONSISTENCY AND IMPLICATIONS****4.2 Mine Subsidence and Unstable Land****Consistent**

The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.

Part of the subject land has been identified as containing shallow underground mine workings and is located within a Proclaimed Mine Subsidence District (MSD). Development within a MSD requires approval from Subsidence Advisory (SA) NSW.

Council has undertaken preliminary consultation with SA NSW and SA NSW has advised that the mine subsidence risk must be effectively eliminated prior to any subdivision/development of the affected land. This may involve further consultation with SA NSW, further detailed geotechnical investigations and/or remediation (e.g. grouting of the mine voids) to be undertaken prior to subdivision/development of the site.

NB: It is not proposed to rezone the area of the site impacted by mine subsidence. It will retain the existing RU2 Rural Landscape zoning.

4.3 Flood Prone Land**Consistent**

The objectives of this direction are:

- (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The subject land is not affected by flooding.

Development of the site for urban purposes, in conjunction with the development of the rest of Hydro's landholdings within the Cessnock LGA in accordance with the Hydro Kurri Kurri Rezoning Masterplan, will facilitate access for Gillieston Heights that is above the 1:100 ARI flood event.

The planning proposal is considered consistent with the objectives of this direction.

4.4 Planning for Bushfire Protection**Consistent**

The objectives of this direction are:

- (a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and

Council has undertaken preliminary consultation with the NSW Rural Fire Service (RFS) in accordance with the requirements of the original Gateway determination. The RFS has identified the need for the existing bushfire threat assessment report to be updated/revised to consider the new

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
(b) to encourage sound management of bush fire prone areas. According to this direction, in preparing a planning proposal, Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a Gateway determination, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made. It is also a requirement of the direction that a planning proposal must have regard to <i>Planning for Bushfire Protection 2019</i>.	requirements under <i>Planning for Bushfire Protection 2019</i>. It is a requirement of the new Gateway determination, that consideration be given to a revised bushfire report prior to finalisation of the planning proposal. Further consultation with the RFS is a requirement of the new Gateway determination and will occur concurrently with public exhibition of the planning proposal.
5. REGIONAL PLANNING	
5.1 Implementation of Regional Strategies	N/A
5.2 Sydney Drinking Water Catchment	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	N/A
5.4 Commercial & Retail Development along the Pacific Highway, North Coast	N/A
5.9 North West Rail Link Corridor Strategy	N/A
5.10 Implementation of Regional Plans	Consistent
The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	The proposal is consistent with the HRP 2036 and GNMP 2036 and implements key goals and directions of these strategies.
5.11 Development of Aboriginal Land Council Land	N/A
6. LOCAL PLAN MAKING	
6.1 Approval and Referral	Consistent
The direction aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The planning proposal does not propose to include provisions in the LEP that require concurrence, consultation or referral of development applications to a Minister or public authority and does not identify development as designated development.
6.2 Reserving Land for Public Purposes	Consistent

S9.1 DIRECTION	CONSISTENCY AND IMPLICATIONS
The direction aims to facilitate (i) the provision of public services and facilities by reserving land for public purposes; and (ii) removal of reservations of land for public purposes where land is no longer required for acquisition.	The planning proposal does not propose to reserve any land, or remove any reservations of land, for public purposes and is considered consistent with this direction.
6.3 Site Specific Provisions	Consistent
The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.	The planning proposal does not include any site-specific planning controls and is therefore considered consistent with this direction.
7 METROPOLITAN PLANNING	
7.1 Implementation of a Plan for Growing Sydney	N/A
7.3 Parramatta Road Corridor Urban Transformation Strategy	N/A
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	N/A
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	N/A
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor	N/A
7.8 Implementation of the Western Sydney Aerotropolis Plan	N/A
7.9 Implementation of Bayside West Precincts 2036 Plan	N/A
7.10 Implementation of Planning Principles for the Cooks Cove Precinct	N/A
7.11 Implementation of St Leonards and Crows Nest 2036 Plan	N/A
7.12 Implementation of Greater Macarthur 2040	N/A

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The proponent intends to apply for biodiversity certification of the site under the provisions of the *Biodiversity Conservation Act 2016* in parallel with the rezoning process. A Biodiversity Certification Assessment Report (BCAR) is currently being finalised to accompany a standard biodiversity certification application to the Biodiversity and Conservation Division (BCD) of the Department.

The proponent has previously submitted a letter report prepared by Ecological Australia in March 2015, which provided a summary only of results of preliminary flora and fauna surveys carried out within the portion of biodiversity certification assessment area that falls within the Maitland LGA. These surveys identified four (4) endangered ecological communities (EECs) within the Maitland LGA, as well as a number of threatened fauna species, two of which (i.e. the Squirrel Glider and East-coast Freetail Bat) were located in the area east of the SMR, which is the area proposed for urban purposes.

Further detailed assessment of biodiversity constraints and potential biodiversity impacts of the development, following completion of Hydro's biodiversity study encompassing the entire Hydro site (currently being undertaken as part of the biodiversity certification process) will be required, prior to finalisation of the planning proposal. In the absence of this information, Council is unable to determine whether there is any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

At its meeting of 23 August 2016, Council resolved to endorse the application of the biodiversity certification process and align the standard biodiversity certification application and the BCAR with the planning proposal process wherever possible. BCD, in their response to Council's preliminary agency consultation, have also indicated their preference to review the planning proposal and the standard biodiversity certification application concurrently, to ensure a consistent approach for conservation and development outcomes over the site. However, the biodiversity certification application has not yet been lodged with BCD. It is expected that BCD will provide detailed comment on the revised Planning Proposal (Western Precinct) when Council undertakes further agency consultation, as a requirement of the new Gateway determination.

Council will not be in a position to finalise the planning proposal until such time as the biodiversity certification application has been determined by the Minister for the Environment.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The proponent has undertaken a detailed environmental assessment across the full extent of the Hydro site. A suite of specialist technical reports has been prepared to justify the preparation of amendments to the Maitland and Cessnock LEPs, including:

- Aboriginal Cultural Heritage Assessment
- Bushfire Impact Assessment

- Contamination Assessment
- Servicing Strategy
- Stormwater Impact Assessment
- Geotechnical Assessment
- Noise and Vibration Impact Assessment
- Socio-economic Impact Assessment
- Traffic and Transport Study
- Visual Impact Assessment
- European Heritage Impact Assessment
- Agricultural Land Suitability and Capability Study
- Flood Study

In resolving the complex issues associated with the site, the planning proposal has experienced delays in progressing through the planning process, due to multiple site constraints, various developers being involved in the planning over time, issues raised by various Government agencies and legislative amendments. The planning proposal has required (and in some cases, requires further) consideration of agency and stakeholder input, including Transport for NSW (TfNSW), BCD, and private landowner, South Maitland Railways Pty Ltd, whose land traverses the Hydro site.

Council has identified a number of matters, during the initial assessment of the rezoning proposal, requiring further clarification by the proponent, in order to adequately address the environmental impacts of the proposal and the conditions of the existing and altered Gateway determinations. A summary of the key issues and current status of matters requiring further consideration is provided below.

Flooding

A detailed investigation of flooding was required in order to adequately address conditions 1(a) and 1(b) of the original Gateway determination. In the absence of accurate baseline data, a comprehensive flood study, outlining the full range of flood behaviour and associated consequences within the study area, was required. Maitland City Council (in partnership with Cessnock City Council) commissioned the work using grant funding obtained through the State Floodplain Management program managed by the former Office of Environment and Heritage (OEH) and engaged WMA to undertake the Wallis and Swamp-Fishery Creek Flood Study in March 2017.

The study took approximately two (2) years to complete and involved extensive hydrologic and hydraulic modelling across three (3) catchments to define flood behaviour for a range of design flood events including the 1% AEP. The flood study was publicly exhibited in October 2018 and was formally adopted by Council on 26 March 2019. The findings of the study address the original Gateway determination conditions in relation to flooding impacts and the provision of a flood free access strategy for the proposed residential development and have informed the preparation of the Hydro Masterplan and this revised planning proposal. The proponents have prepared a Flood Free Access Strategy Map detailing an alternate access route between Kurri Kurri and Maitland above the 1% AEP flood level, to satisfy Gateway condition 1(b). This map will be incorporated into a future Development Control Plan for the site.

Contamination

Given the nature of the former Hydro industrial land use, potential contamination has been an issue in determining the suitability of the site for its intended residential development. Council should be satisfied the level of investigation is adequate to fulfill the statutory requirements under *Ministerial Direction 2.6 – Remediation of Contaminated Land*. The work completed to date has included a Phase 2 Environmental Site Assessment, Remedial Action Plan, Validation Report, Site Audit Report and Site Audit Statement.

Council officers have reviewed the above documents and raised concerns in relation to the adequacy of the sampling carried out across the proposed residential land. The proponent has been advised further soil sampling is required to address the requirements of the Ministerial Direction. The sampling is to be undertaken in accordance with the EPA's sampling guidelines across the site, with laboratory analysis for all potential contaminants, including those that would normally be associated with previous rural/agricultural uses of the site, coal mining and the existence of the coal train line. This is to satisfy Council that the land proposed to be rezoned is suitable for all uses permitted in the R1 General Residential zone.

The results of this additional sampling will need to be provided, in order to satisfy Council that the land proposed to be rezoned to R1 General Residential is suitable for all uses permitted in the zone, prior to finalisation of the planning proposal.

Traffic and Transport

Condition 1(i) of the altered Gateway determination required agreement from TfNSW for proposed intersections and upgrades to Cessnock/Main Road (MR 195) between the New England Highway and the Hunter Expressway, including staging and development thresholds for upgrades and funding mechanisms to deliver the agreed upgrades.

In issuing the altered Gateway determination, the Department acknowledged that TfNSW is currently undertaking a Corridor Strategy for this section of MR 195, the purpose of which is to:

- Identify the timing for duplication of MR 195; and
- Assess location points for future connections and/or restrictions or upgrades to existing intersections, including identifying the type of intersection controls to meet the needs of residential growth within the corridor over the next twenty (20) years.

Condition 1(i) also requires the proponent to undertake a detailed Traffic Impact Assessment (TIA) that considers the impact of the development on the local road network and responds to the need to consolidate access points along the length of Cessnock/Main Road and identify preferred intersection locations.

The Department and TfNSW have acknowledged that the outcomes/findings of the Corridor Strategy will largely address the requirements of Gateway condition 1(i) and in an effort to minimise the overlap in the scope of works between the TfNSW Corridor Strategy and the TIA being prepared by the proponent, TfNSW have offered to share the results of their microsimulation modelling and other relevant traffic data with the proponent and Council, if required.

Work associated with the Strategy commenced in November 2019, with finalisation of the Strategy scheduled for August 2020 but for various reasons, including the impact of Covid 19, the project has been significantly delayed and is now not expected to be finalised until late December 2020. This has meant that the proponent has been unable to undertake the required TIA or finalise various aspects of their master-planning for the site. Despite this, TfNSW recently advised the Department there is no objection to the revised planning proposal proceeding to public exhibition. The Department subsequently wrote to Council on the 6 November 2020 to confirm that the Department is satisfied the planning proposal should proceed to public exhibition.

It is a requirement of the new Gateway determination that the comments in TfNSW's correspondence to Council dated 15 May 2020 are addressed prior to finalisation of the planning proposal.

Bushfire

Portions of the subject land are identified on Council's Bushfire Prone Land map as being bushfire prone, including portions of the land proposed for residential purposes. Accordingly, a bushfire threat assessment for the site was carried out in February 2015. Council forwarded a copy of the report to the RFS for comment in February 2020, as part of the agency consultation process.

In their response, the RFS advised that the bushfire threat assessment report should be updated to reflect the requirements of *Planning for Bushfire Protection 2019*. In addition, emphasis should

be placed on the deficiencies around access and egress identified in the report. The revised assessment should be undertaken in conjunction with the comprehensive traffic impact assessment requested by Council.

The updated report should be submitted to Council prior to public exhibition of the planning proposal, in accordance with the requirements set out in *Ministerial Direction 4.4 – Planning for Bushfire Protection*.

Further consultation with the RFS in respect of an updated/revised bushfire threat assessment report is a requirement of the new Gateway determination and will occur concurrently with public exhibition of the planning proposal

Noise

Given the proposal to develop land in close proximity to both the South Maitland Railway and Cessnock Road, Vipac Engineers and Scientists Ltd (Vipac) were commissioned to undertake a noise impact assessment for the Hydro site in March 2015. The assessment was based on traffic count data presented in the Traffic & Transport Study prepared for the site by Hyder in February 2015. However, significant development has occurred in the Gillieston Heights and Cliftleigh urban release areas since 2015. Accordingly, Council has requested a revised noise and vibration impact assessment based upon the amended subdivision masterplan and most up-to-date traffic data being prepared by TfNSW as part of the MR 195 Corridor Strategy. Once this traffic data is available, a revised noise and vibration impact assessment will need to be prepared and submitted to Council for consideration, prior to finalisation of the planning proposal. The recommendations of the revised acoustic report will be incorporated into a future DCP for the site, in the form of appropriate development controls.

Mine Subsidence

A preliminary geotechnical assessment of the subject land was undertaken by Douglas Partners Pty Ltd in March 2015. The assessment found that mine subsidence risks are likely to present the most significant geotechnical constraint to development and that the site is generally suitable for the proposed residential development, subject to a more detailed investigation being undertaken at the appropriate stage of project planning and design.

Part of the site is within a proclaimed Mine Subsidence District (MSD). Subsidence Advisory NSW (SA NSW) records indicate part of the proposal is undermined by one or two steeply dipping coal seams ranging from shallow (<10m below surface at the western extent of workings) to relatively deep (>220m below surface at the eastern extent of workings). There are also mine entries near the western boundary of mine workings.

SA NSW has advised that if un-remediated, the entries and mine workings towards the western extents of mining represent a high risk of mine subsidence, including sinkhole (pothole) formation. Where a credible risk of sinkhole formation is identified, SA NSW requires the risk to be effectively eliminated prior to subdivision of the lot. Grouting of the mine voids may be required.

SA NSW records indicate those areas of the site outside of the MSD are not undermined. It is not proposed to rezone any land located within the MSD. This area will retain the existing RU2 Rural Landscape zoning.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal provides increased housing opportunities within the central sector of the Maitland LGA, including the possibility for a diverse range of housing choice. Any increase in supply of housing will increase the need for the provision of open space and recreational services including community facilities, passive and active open space areas, either within or utilising existing facilities in the immediate areas. This will be considered in the preparation of the Section 7.11 Contributions Plan.

The proponent has submitted a socio-economic impact assessment for the entire Hydro site. It is reasonable to extrapolate the findings of the social impact assessment to provide a general understanding of impacts for the Maitland LGA.

The report identifies a range of relevant issues for the local community, including the need for quality public transport, and the need to encourage connectivity and access to surrounding residential and employment areas. The report also concludes that additional demand generated by the new community on existing community facilities may generate the need for new community infrastructure. It should be noted that these issues will be addressed in the preparation of a Section 7.11 Contributions Plan.

Development of the Hydro site will increase the availability of housing stock, providing a contribution towards regional population growth targets identified in the HRP 2036. The report notes that a diversity of lot sizes and housing styles would contribute to diversity across the community in terms of household types and income groups.

In addition, the report notes that employment opportunities will be generated by the proposed industrial and commercial precincts that form the southern extent of the Hydro Masterplan. Strong connectivity between the proposed urban area and the Maitland CBD should also be considered as notable in this regard.

SECTION D – STATE AND COMMONWEALTH INTERESTS

11. Is there adequate public infrastructure for the planning proposal?

As part of their site suitability assessment, the proponent has prepared a Servicing Strategy for the entire Hydro site outlining general principles for the supply of water, sewer infrastructure, electricity, gas and communications networks. The strategy includes a staging plan that is largely determined by the provision of lead-in infrastructure. Key elements of the Servicing Strategy are outlined below.

Water

The report notes that the supply of potable water to the development would be instigated at the developer's expense based on a staging that provides security of supply in the short-term and adequate main sizes to accommodate the ultimate growth of the development. On completion of the rezoning process, further investigation will be undertaken through the preparation of a developer funded Water Servicing Strategy to Hunter Water Corporation standards. The Water Servicing Strategy will identify the means of supplying potable water to the high-level area in the north-east corner of the residential precinct and ensure security of supply for the ultimate growth of the Hydro site.

Sewer

Sewer services are proposed to be supplied via conventional gravity mains draining to a series of wastewater pump stations. Each wastewater pump will direct flows to an adjacent catchment and ultimately to the Kurri Kurri Wastewater Treatment Works (WWTW). The report states that on completion of the rezoning process, further investigation will be performed through the preparation of a developer funded Sewer Servicing Strategy to Hunter Water Corporation standards. This will identify the means of supplying sewer to the development and reducing the number of pump stations where possible.

Electricity

Electricity is proposed to be delivered to the development through underground cable located in common shared trenching through the road reserves. The report states that underground cabling will extend the Ausgrid feeder network at higher voltages to a series of above-ground kiosk substations that distribute the electricity in the low-voltage network. On completion of the rezoning process, further investigation will be performed through Ausgrid's preparation of a developer funded Identification of Needs Masterplan. This will identify the means of supplying electricity to the development, including refined estimates of ultimate demand.

Gas

The report notes that connection to the gas network will be available and determined on a staging basis, with an assessment of the connection methods determined by Jemena Gas Networks once the first application is made.

Communications

Communications connections are proposed to be made available and determined by the National Broadband Network (NBN Co) once the first application is made.

The Strategy states that the provision of essential lead-in infrastructure services and the attached cost will have a substantial impact on the construction staging. The entire residential development is proposed to drain to Kurri Kurri WWTW, due to capacity and access constraints in the Farley WWTW catchment. The planning, design, construction and commissioning of Wastewater Pump Stations are likely to dominate the staging sequence, as the sewer network is largely governed by topography. Therefore, staging is presumed to be governed by the sewer catchment boundaries.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

Council undertook preliminary consultation with relevant Government agencies in February 2020. The issues raised by Government agencies and Council's comments are summarised in Table 1, attached as **Appendix D**.

It is a requirement of the new Gateway determination, that Council consult with BCD, Mindaribba LALC and the RFS in relation to the revised planning proposal, pursuant to section 3.34(2)(d) of the EP&A Act and that this consultation should occur concurrently with public exhibition of the planning proposal.

PART 4: MAPPING

The following maps support the proposal:

MAP 1 - EXISTING ZONING MAP

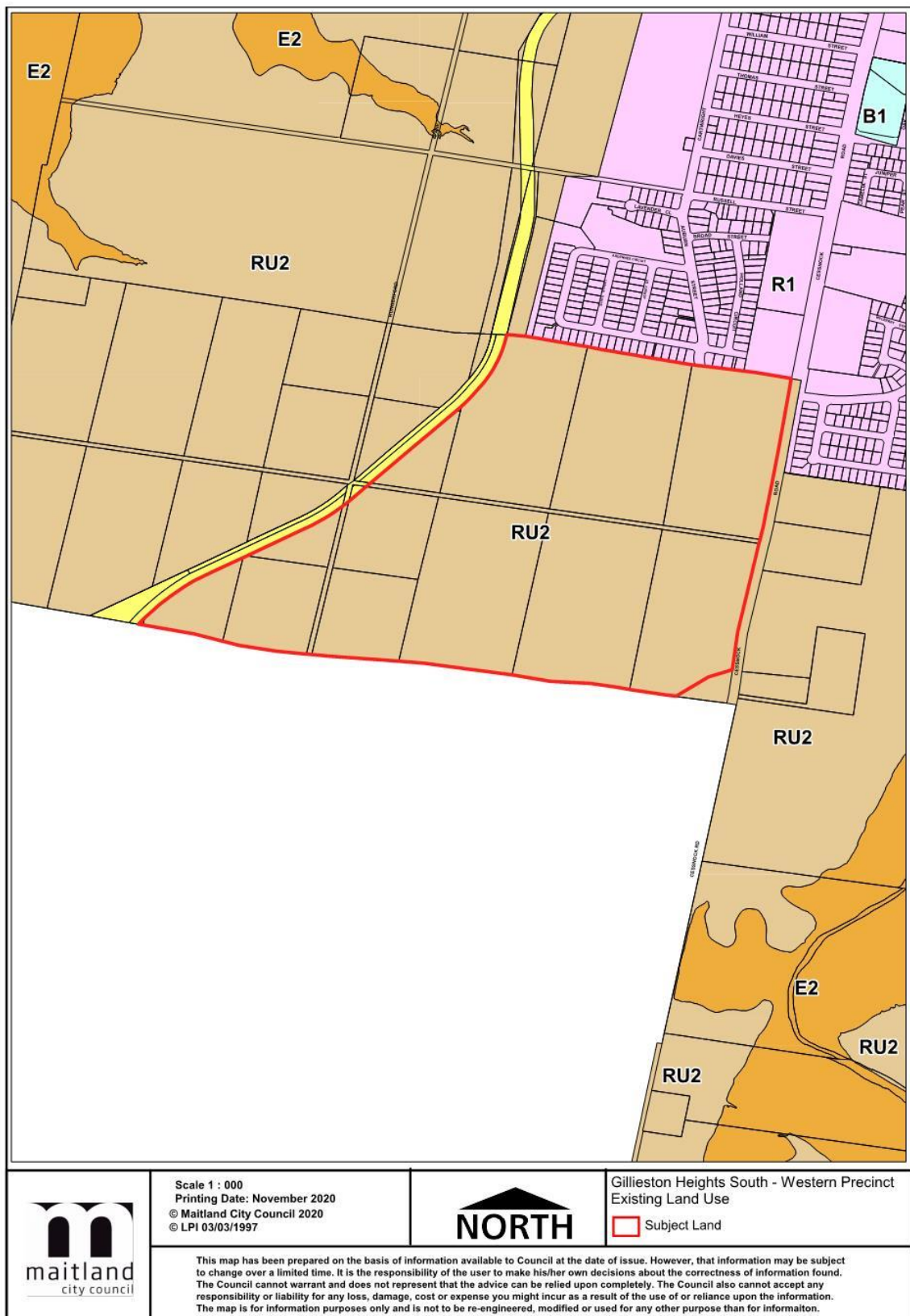
MAP 2 - PROPOSED ZONING MAP

MAP 3 - EXISTING MINIMUM LOT SIZE MAP

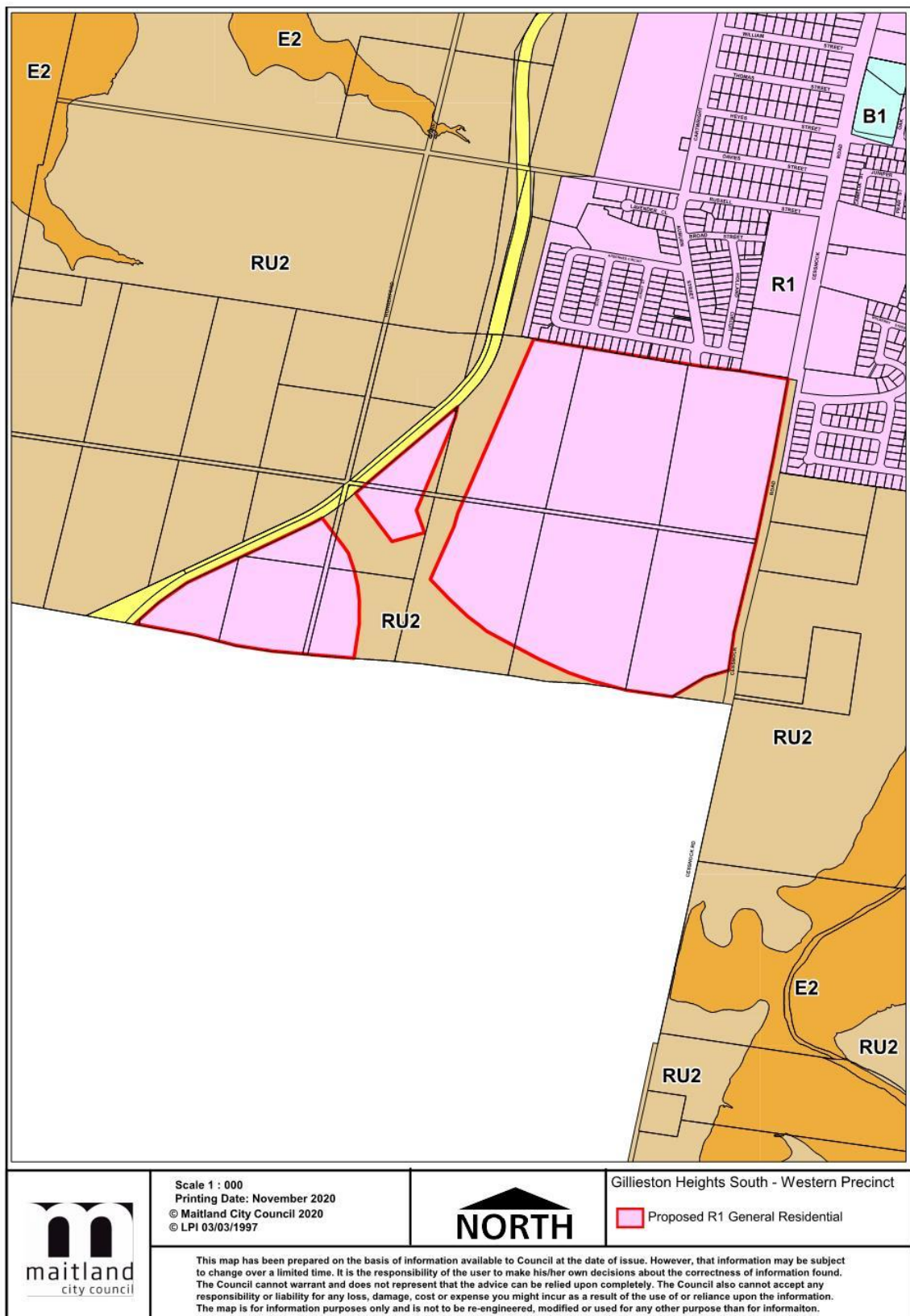
MAP 4 - PROPOSED MINIMUM LOT SIZE MAP

MAP 5 - PROPOSED URBAN RELEASE AREA MAP

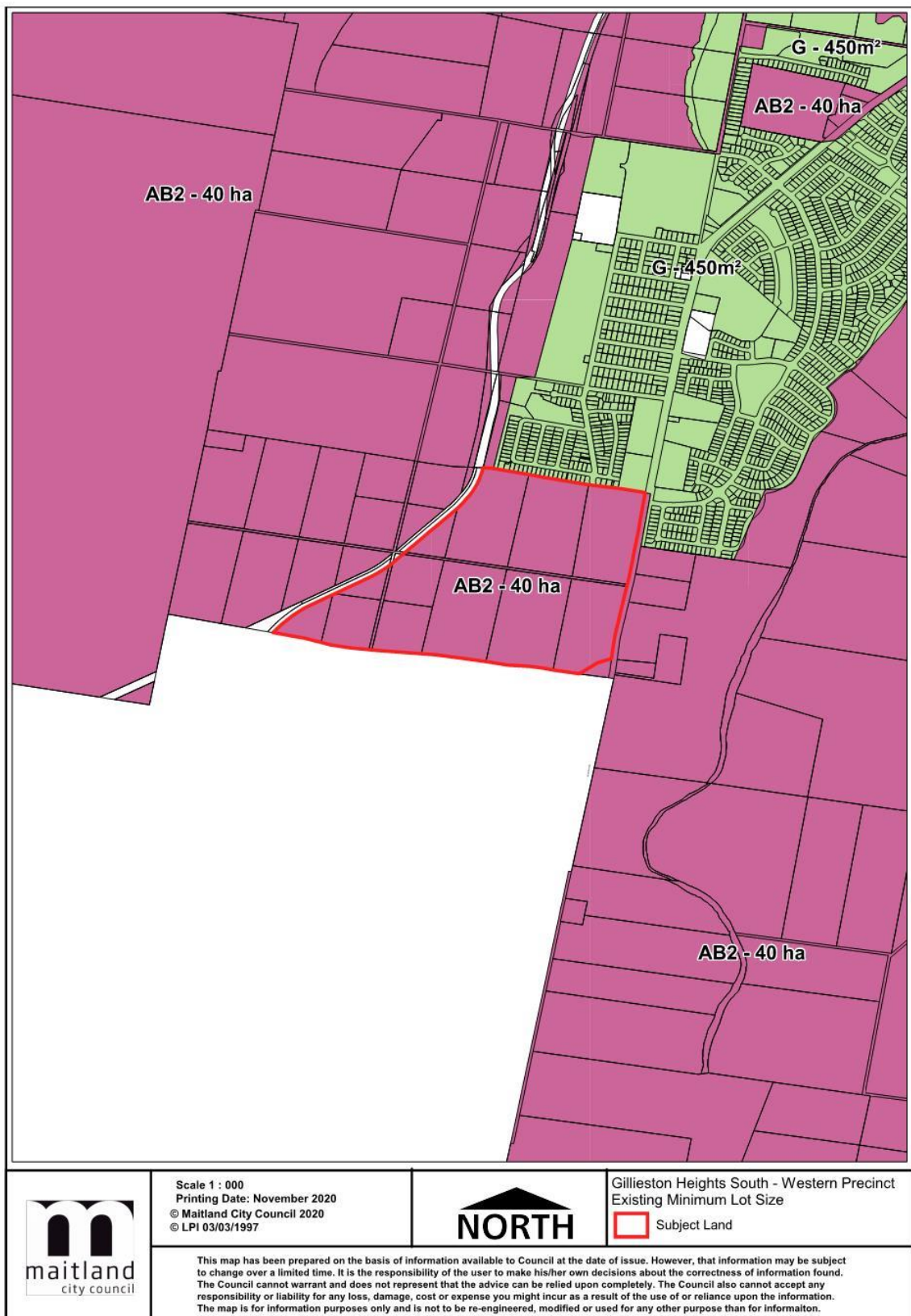
MAP 1 - EXISTING ZONING MAP



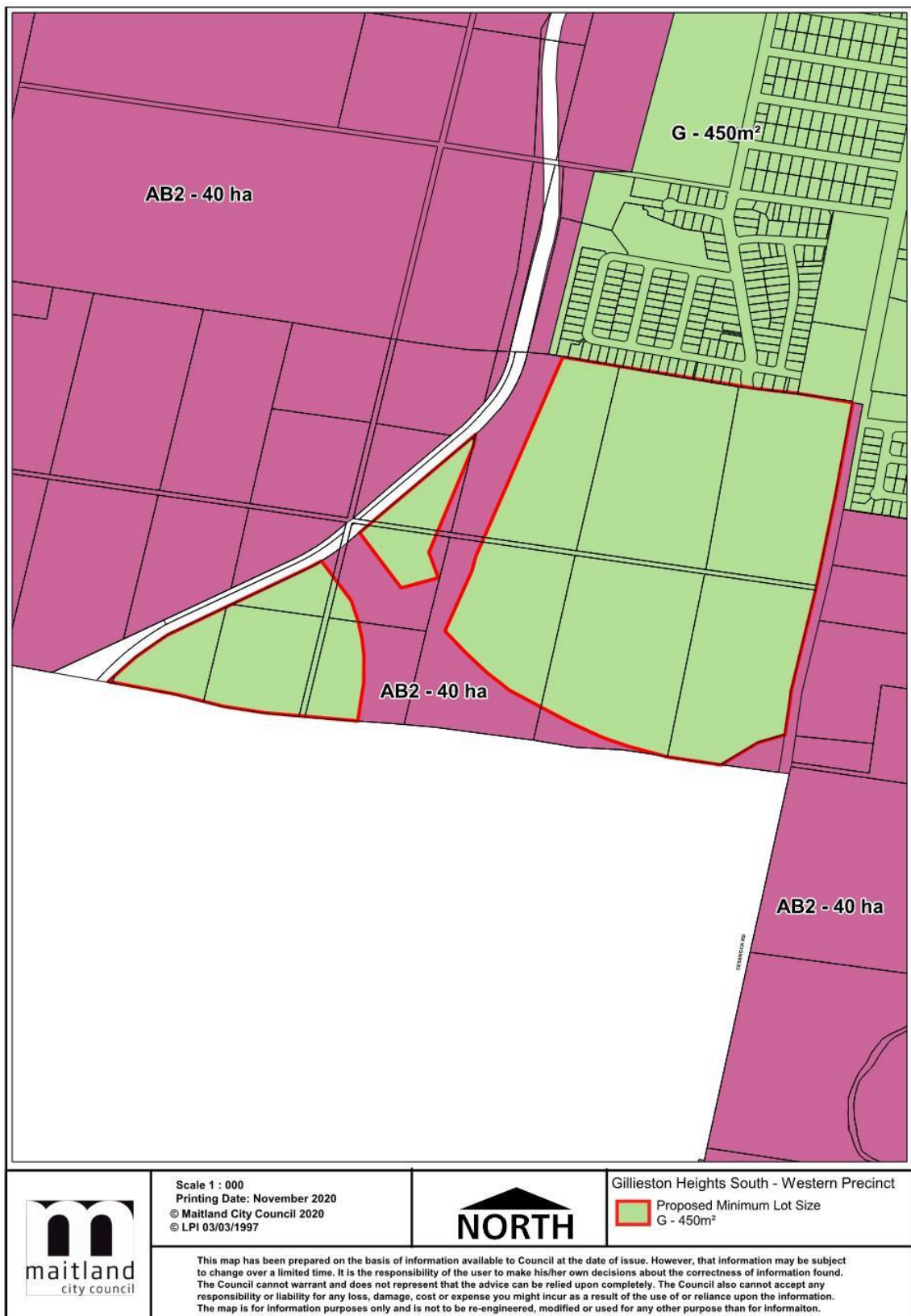
MAP 2 – PROPOSED ZONING MAP



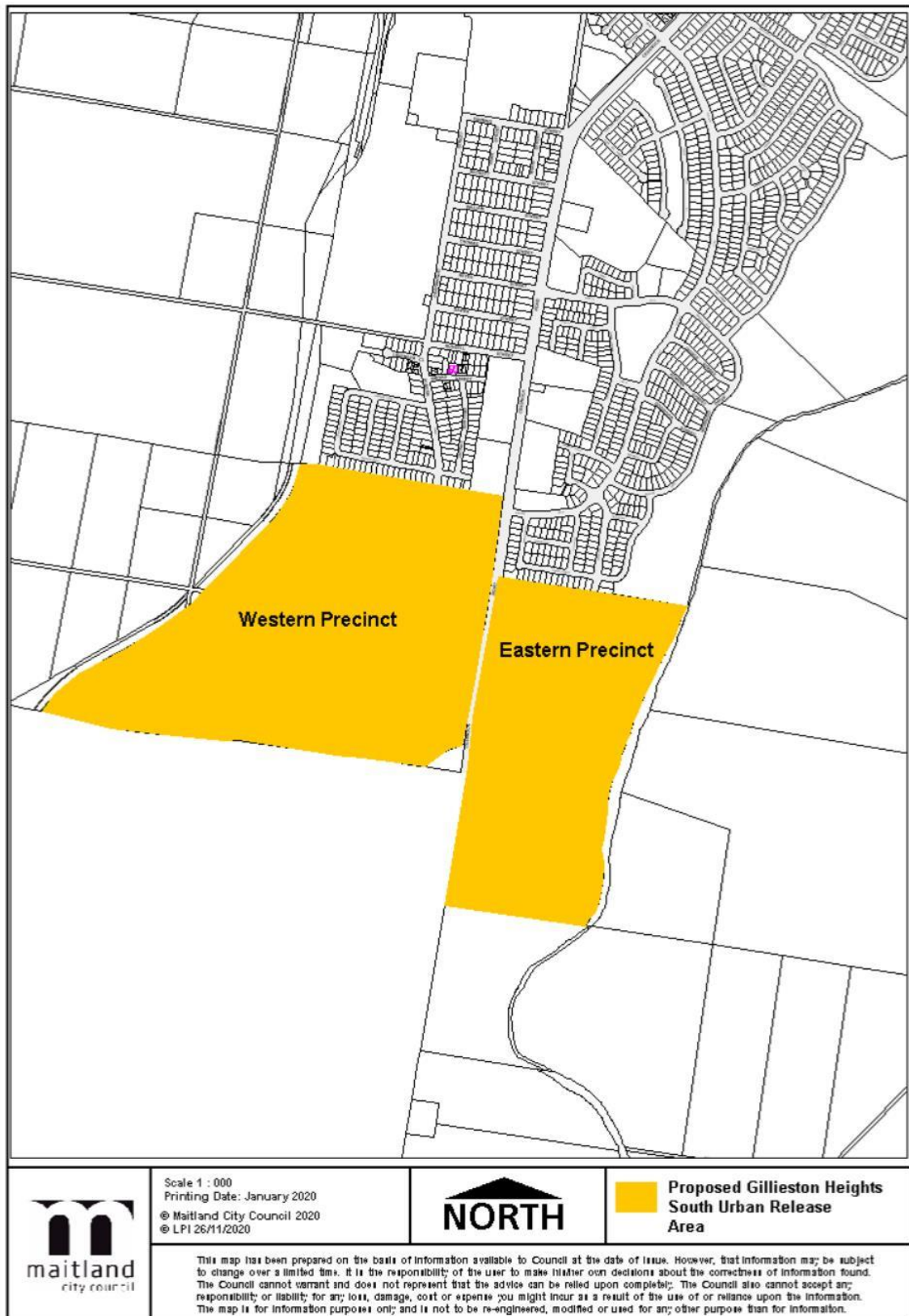
MAP 3 – EXISTING MINIMUM LOT SIZE MAP



MAP 4 – PROPOSED MINIMUM LOT SIZE MAP



MAP 5 – PROPOSED URBAN RELEASE AREA MAP



PART 5: COMMUNITY CONSULTATION

In accordance with Schedule 1, Clause 4 of the EP&A Act, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

In accordance with Council's adopted Community Engagement Strategy (March 2009), consultation on the proposed rezoning will be undertaken to inform and receive feedback from interested stakeholders. To engage the local community the following will be undertaken:

- A public exhibition period of at least 28 days;
- Exhibition material and relevant consultation documents to be made available at all Council Libraries and Council's Administration Building;
- Consultation documents to be made available on Council's website;
- Notices published on Council's social media applications, for public comment; and
- Consultation with any relevant committee or reference groups.

At the close of the consultation process, Council officers will consider all submissions received and present a report to Council for their endorsement of the planning proposal before proceeding to finalisation of the amendment.

The consultation process, as outlined above, does not prevent any additional consultation measures that may be determined appropriate as part of the Gateway determination process.

PART 6: PROJECT TIMELINE

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	December 2020
Commencement and completion dates for public exhibition period	December 2020 - January 2021
Anticipated timeframe for the completion of required studies	February 2021
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	February 2021
Dates for public hearing (if required)	N/A
Timeframe for consideration of submissions	March 2021
Report to Council – consideration of submissions	April 2021
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	May 2021
Anticipated date RPA will make the plan (if delegated)	N/A
Anticipated date RPA will forward to the department for notification (if delegated)	N/A

Appendix A:

Original Gateway Determination

Issued 23rd March 2016

Gateway Determination

Planning Proposal (Department Ref: PP_2016_MAITL_001): to investigate the rezoning of the Gillieston Heights Southern Precinct.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Maitland Local Environmental Plan (LEP) 2011* to rezone Gillieston Heights Southern Precinct, should proceed subject to the following conditions:

1. Council is to amend the planning proposal prior to public exhibition to:
 - (a) address the requirements of the Office of Environment and Heritage regarding flood modelling to accurately demonstrate the impact of flooding, including local flooding, on the land to be rezoned and all existing and proposed access roads;
 - (b) provide a strategy that facilitates flood free access for proposed residential development;
 - (c) address the requirements of State Environmental Planning Policy No 55 (SEPP 55) - Remediation of Land and the Contaminated Land Planning Guidelines;
 - (d) prepare an agricultural land suitability and capability assessment and update its assessment in the planning proposal of the Minister's s117 Directions 1.2 Rural Zones and s1.5 Rural Lands;
 - (e) include an assessment of the proposal against the Lower Hunter Regional Strategy sustainability criteria to justify its consistency with the regional strategy;
 - (f) include the outcomes of relevant heritage assessment of Aboriginal and European heritage;
 - (g) determine the appropriate zoning for the land adjoining Cessnock Road and the South Maitland Railway line based on detailed acoustic and vibration impact assessment. The responsibility for and mechanism to deliver any proposed noise attenuation measures such as bunds should be clarified. If required, the proposed zoning map should be amended before exhibiting the planning proposal where impacts cannot be ameliorated;
 - (h) undertake the relevant studies to support the rezoning of the land to the east of Cessnock road, including flooding, geotechnical and biodiversity as identified by Council;
 - (i) resolve road upgrades/intersection proposals to Cessnock Road following discussion with Roads and Maritime Services and Cessnock City Council regarding road upgrade requirements;
 - (j) correct the statement (pg 18) that indicates that the proposal will provide flood free access from Kurri Kurri to Gillieston Heights; and
 - (k) amend zone boundaries to reflect the outcomes of studies.
2. Council is to provide a copy of the updated Planning Proposal to the Department's Regional Office for review prior to public exhibition.

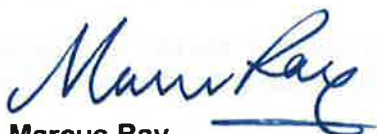
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act, prior to exhibition:

- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- Office of Environment and Heritage (regarding Section 117 Direction Environment Protection Zones and Section 117 Direction 4.3 Flood Prone Land)
- Transport for NSW - Roads and Maritime Services
- NSW Aboriginal Land Council
- NSW Mine Subsidence Board
- NSW Department of Primary Industries - Agriculture
- NSW Department of Industry – Resources and Energy
- Hunter Water Corporation
- Relevant Rail Authority for South Maitland Railway
- Cessnock LGA
- NSW State Emergency Service.

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. Community consultation is required under section 56(2)(c) and 57 of the Act as follows:
- (a) the Planning Proposal be made publicly available for 28 days; and
 - (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department for Planning 2009).
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
6. The timeframe for completing the LEP is 36 months from the date of the Gateway Determination.

Dated 23rd day of March 2016.



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

Appendix B:

Alteration of Original Gateway Determination

Alteration of Gateway Determination

Planning proposal (Department Ref: PP_2016_MAITL_001_00)

I, Acting Director, Central Coast and Hunter Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 23 March 2016 for the proposed amendment to the Maitland Local Environmental Plan 2011 as follows:

1. Delete "condition 1(i)"

and replace with:

a new condition 1(i) "Agreement from Roads and Maritime Services (RMS) shall be required for proposed intersections and upgrades to Cessnock/Main Road (MR195) between the New England Highway and the Hunter Expressway, including staging/development thresholds for upgrades and funding mechanisms to deliver the agreed upgrades. RMS will assess the traffic impacts associated with the development through a Traffic Impact Assessment that responds to the need to consolidate access points along the length of Cessnock/Main Road and find preferred intersection locations. The Traffic Impact Assessment shall be undertaken in accordance with *Roads and Maritime's Guide to Traffic Generating Developments 2002*."

2. Delete: "condition 2"

and replace with:

a new condition 2 "Council is required to obtain the Department's endorsement of the revised planning proposal prior to public exhibition".

3. Delete: "condition 6"

and replace with:

a new condition 6 "The time frame for completing the LEP is by 23 December 2020".

Dated 10th day of September 2019.

A handwritten signature in black ink, appearing to read 'Greg Sullivan', with a stylized, cursive script.

Greg Sullivan
Acting Director, Central Coast and
Hunter Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces

Appendix C:

New Gateway Determination Issued 1st December 2020

Gateway Determination

Planning proposal (Department Ref: PP_2020_MAITL_002_00): to rezone the former Hydro Aluminium Smelter and buffer lands west of Cessnock Road to permit residential development.

I, the Director, Central Coast and Hunter Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the *Maitland Local Environmental Plan 2011* to rezone the former Hydro Aluminium Smelter and buffer lands west of Cessnock Road to permit residential development should proceed subject to the following conditions:

1. Prior to finalisation of the local environmental plan:
 - (a) comments in Transport for NSW's correspondence to Maitland City Council dated 15 May 2020 are addressed; and
 - (b) consideration is given to an exhibited biodiversity conservation assessment report, preliminary contamination report and revised bushfire report.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment, 2018).
3. Consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act and this consultation should occur concurrently with the public exhibition. The consultation is required to comply with the requirements of relevant section 9.1 Ministerial directions:
 - Biodiversity Conservation Division;
 - Mindaribba Local Aboriginal Land Council; and
 - NSW Rural Fire Service.

Each public authority/organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

Council should consider consultation with the owners of the South Maitland Railway to consider the requirements for the existing level crossing.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The time frame for completing the planning proposal are:
 - (a) public exhibition commenced by 15 February 2021; and
 - (b) local environmental plan amendment is finalised by **12 months** following the date of the Gateway determination.

Dated 1st day of December 2020.



Dan Simpkins
Director, Central Coast and Hunter Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning and
Public Spaces

Appendix D:

Summary of Agency Consultation

Table 1: Government Agency Comments – Gillieston Heights South - Western Precinct

Agency	Response	Council's Comment
NSW Rural Fire Service	The bushfire threat assessment prepared by Kleinfelder should be updated to reflect <i>Planning for Bushfire Protection 2019</i> . Emphasis should be placed on the deficiencies around access and egress identified in the Kleinfelder report. The assessment should be undertaken in conjunction with the comprehensive traffic impact assessment requested by Council.	Council has requested a revised bushfire report which considers the new requirements under <i>Planning for Bushfire Protection 2019</i> . The updated report shall be submitted prior to finalisation of the planning proposal, in accordance with the requirements set out in <i>Ministerial Direction 4.4 – Planning for Bushfire Protection</i> .
BCD - Biodiversity	BCD understands the proponent intends to apply for biodiversity certification over the site in parallel with the rezoning process. BCD's preference is to review the planning proposal and the Biodiversity Certification application concurrently, to ensure a consistency of approach for conservation and development outcomes over the site. Therefore, BCD will not be providing comments on the planning proposal until the Biodiversity Certification Assessment Report (BCAR) is submitted formally.	The proponent intends to lodge a Biodiversity Certification application with BCD following public exhibition of the planning proposal. Council will be afforded an opportunity to comment on the BCAR as part of the legislative process. Further consultation with BCD is a requirement of the new Gateway determination and will occur concurrently with the public exhibition of the planning proposal.
BCD – Water, Floodplains & Coast	No response.	Further consultation with BCD is a requirement of the new Gateway determination and will occur concurrently with the public exhibition of the planning proposal.
TfNSW	Within the Maitland LGA, the proposal has the potential to generate approximately 500 peak hour trips connecting directly to MR195. In addition, the Cessnock Hydro planning proposal could generate some 1,500 trips from the proposed residential lands. It is noted that a MR195 Corridor Strategy is currently progressing and will identify cumulative impacts on the classified road network stemming from growth	In accordance with the altered Gateway determination condition 1(i), Council has requested the proponent to specifically address the impacts of the proposed development upon local roads, in the form of a revised/updated Traffic Impact Assessment incorporating the most up-to-date RMS traffic data. The revised TIA should incorporate the results of the traffic microsimulation modelling being undertaken by TfNSW as part of the MR 195 Corridor Strategy.

	throughout the corridor (including this planning proposal) and associated mitigations. Of particular note is the location and nature of a future intersection with MR195 providing access to the proposal. Prior to finalisation of the planning proposal, the MR195 Corridor Strategy will need to be completed for TfNSW to understand the traffic and transport implications of the residential component of the planning proposal. Council should ensure that any required infrastructure identified within the MR195 corridor strategy is provided for within a Section 7.11 Development Contributions Plan or VPA and is fully scoped and estimated including appropriate contingencies and delivery triggers. Council is to provide evidence that it has addressed condition 1(i) in the Gateway determination prior to public exhibition, noting the outcomes of the ongoing Cessnock Road Corridor Strategy will provide much of this evidence.	In accordance with the advice from TfNSW, Council requested that this information be submitted prior to public exhibition of the planning proposal. However, in light of recent correspondence from the Department, advising that they are satisfied that the current planning proposal should proceed to public exhibition, despite the MR 195 Corridor Strategy not being finalised, it is expected that this information will be provided post-exhibition but prior to finalisation of the planning proposal.
DPI - NSW Agriculture	No issues/concerns raised.	No comment.
Mindaribba LALC	No response.	It is Council's understanding Mindaribba LALC participated in the consultation process for the Aboriginal Cultural Heritage Assessment (ACH) undertaken by AECOM in 2014, however, did not provide comment on the draft ACH report. Further consultation with Mindaribba LALC is a requirement of the new Gateway determination and will

		occur concurrently with public exhibition of the planning proposal.
Subsidence Advisory NSW	Part of the area is in a mine subsidence district (MSD). Development within a MSD requires approval from SA NSW. SA NSW records indicate part of the proposal is undermined by one or two steeply dipping coal seams ranging from shallow (<10m below surface at the western extent of workings) to relatively deep (>220m below surface at the eastern extent of workings). There are also mine entries near the western boundary of mine workings. If un-remediated, the entries and mine workings towards the western extents of mining represent a high risk of mine subsidence, including sinkhole (pothole) formation. Where a credible risk of sinkhole formation is identified, SA NSW requires the risk to be effectively eliminated prior to subdivision of the lot. Grouting of the mine voids may be required. SA NSW records indicate that identified in the proposal outside of MSDs are not undermined.	The DCP will detail measures to manage mine subsidence risk, in accordance with the requirements of SA NSW. The DCP will need to clearly identify all land within the Mine Subsidence District and set out the relevant SA NSW guidelines that are required to be complied with by property owners and developers when developing a property within the MSD. It is recommended that the proponent undertake further consultation with SA NSW during preparation of the draft DCP to ensure the risk is adequately mitigated. It should be noted that this may involve further detailed geotechnical investigations and/or remediation (e.g. grouting of the mine voids) to be undertaken prior to subdivision.
Hunter Water Corporation	Hunter Water has no objections to the proposed rezoning and has commenced consultation with the Developer regarding the provision of water, dual reticulation water and wastewater services to the development.	No comment.
South Maitland Railways	<u>Acoustic Impacts</u> – To appropriately manage potential noise & vibration impacts arising from the SMR active rail corridor, SMR require that a comprehensive Noise & Vibration assessment be completed prior to	The 2015 Vipac assessment was based on traffic count data presented in the Traffic & Transport Study prepared for the site by Hyder in February 2015. However, significant development has occurred in the Gillieston

	determination of the planning proposal, to establish appropriate development parameters for future lot layouts & dwelling design and inform the final zoning layer. <u>Public Safety</u> – To appropriately manage risk to public safety, SMR require installation of security fencing along the full length of the rail corridor within the planning proposal area. Responsibility for the installation and ongoing maintenance should not burden SMR, now or into the future. <u>Ongoing Operational Security of Rail Corridor</u> – The planning proposal and any resulting development must not compromise or diminish the ability to utilise the corridor to its fullest extent, now or into the future. <u>Installation of Railway Level Crossings</u> – SMR will not be responsible for any costs associated with the installation or ongoing maintenance of any new railway level crossings. Relevant regulatory approvals must be obtained prior to installation of any new level crossings. <u>Managing Bushfire Threat</u> – a revised bushfire assessment should be carried out that gives consideration to the proposal's compliance with <i>Planning for Bushfire Protection 2019</i>. The inclusion of any of SMR's rail corridors as Asset Protection Zones (APZs) is not supported unless a separate agreement is reached with the developer. <u>Wangara Bridge</u> – Lot 4 DP456946 benefits from a right of way over the Wangara Bridge. • Clarification is requested to confirm the future use of land located on the western side of the rail	Heights and Cliftleigh urban release areas since 2015. Accordingly, Council has requested an amended/updated acoustic assessment based upon the amended subdivision masterplan and most up-to-date traffic data being prepared by TfNSW as part of the Cessnock/Main Road Corridor Strategy, to be submitted prior to public exhibition of the planning proposal. The recommendations of the revised acoustic report will need to be incorporated into the DCP via appropriate development controls. Boundary fencing can be addressed in the DCP. Agreed. The inclusion of SMR's rail corridors as APZs is not supported. Agreed. The proponent will need to secure the agreement of SMR for any proposal to access land via Wangara Bridge. However, this does not preclude rezoning of the land.
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	corridor that is currently accessed via the Wangara Bridge; • Use of the bridge to cross the operational rail corridor is not supported at this point in time, unless appropriate agreement can be reached relating to its use, upgrade and ongoing maintenance; • The planning proposal must not result in an increase in traffic movements across Wangara Bridge. This includes construction related traffic; Any lots created as a result of the future subdivision of Lot 4 DP456946 that would be facilitated by the planning proposal, must not benefit from a right of way over the Wangara Bridge.	
Cessnock City Council	Council raises no objection to the planning proposal.	No comment.
NSW State Emergency Service	No response.	No comment.
DPIE – Resources & Geoscience	No resource concerns to raise. Should biodiversity offsets become considered, the Division requests to be consulted in relation to the proposed location of any offsite biodiversity offset areas, or any supplementary biodiversity measures (should they be required), to ensure there is no consequent reduction in access to prospective land for mineral exploration, or potential for sterilization of mineral or extractive resources.	The proponent intends to lodge a Biodiversity Certification application with BCD under the provisions of the <i>NSW Biodiversity Conservation Act 2016</i> . It is understood that as part of the assessment process, BCD will consult directly with DPIE – Resources & Geoscience regarding any potential conflict between proposed biodiversity offset areas and mineral/extractive resources.
Heritage NSW	No response.	Heritage NSW didn't provide a response to Council's first round of consultation, in relation to the western precinct. However, they did provide a response during the 2 nd round of consultation, in relation to the eastern precinct.

		In that response, they made the following comments regarding the land within the western precinct: - <i>“There is one recorded artefact site and two (2) areas of high archaeological sensitivity in the area to the west of Cessnock Road, within the Maitland LGA, that may be impacted by the proposed development and require further archaeological investigation. Consultation with the registered Aboriginal parties (RAPs) has lapsed over the last six years. Additional consultation with the RAPs is required to update them regarding the current status of the Gillieston Heights Southern Precinct planning proposal.”</i>
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