

# GYDE

# Statement of Environmental Effects

Subdivision - 2 Lot

Access from Aaron Cove, Rutherford

submitted to Maitland City Council  
on behalf of Maitland City Council

**This report was prepared by:**

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**Project:** P23-300  
**Report Version:** Final

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# TABLE OF CONTENTS

<b>1. EXECUTIVE SUMMARY</b> .....	<b>5</b>
<b>2. INTRODUCTION</b> .....	<b>6</b>
<b>3. THE SITE AND SURROUNDS</b> .....	<b>7</b>
3.1. The site .....	7
3.2. The surrounding locality .....	9
<b>4. DESCRIPTION OF DEVELOPMENT</b> .....	<b>10</b>
4.1. Overview .....	10
4.2. Estimated Development Cost.....	10
<b>5. STATUTORY PLANNING CONSIDERATIONS</b> .....	<b>11</b>
5.1. Overview .....	11
5.2. <i>Environmental Planning and Assessment Act 1979</i> .....	11
5.3. <i>Environmental Planning and Assessment Regulation 2021</i> .....	12
5.4. <i>Biodiversity Conservation Act 2016</i> .....	12
5.5. State Environmental Planning Policies.....	13
5.6. <i>Maitland Local Environmental Plan 2011</i> .....	15
5.7. Maitland Development Control Plan 2011 .....	17
<b>6. ASSESSMENT OF LIKELY IMPACTS</b> .....	<b>22</b>
6.1. Natural Environment.....	22
6.2. Built Environment .....	23
6.3. Social and Economic Impacts .....	24
6.4. Suitability of the Site.....	25
6.5. Public interest.....	27
<b>7. CONCLUSION</b> .....	<b>28</b>

## APPENDICES

The following plans and technical reports accompany the development application. Gyde has relied on the information in these reports, prepared by professionals in their field, for the preparation of this Statement of Environmental Effects.

DOCUMENT	PREPARED BY
Plan of Subdivision of Lot 1 DP 1243663	Rennie Golledge Pty Ltd
Bushfire Protection Assessment Report	Travers Bushfire and Ecology
Site Flood Assessment	EMM

## 1. EXECUTIVE SUMMARY

Gyde Consulting has been engaged to prepare a Statement of Environmental Effects (SEE) for a proposed two lot subdivision. The site is in Rutherford and accessed from Aaron Cove.

The proposed subdivision will create the following allotments:

- Lot 11 – 4.285ha, which is proposed to be retained by Maitland City Council (Council).
- Lot 12 – 4.310ha, which is proposed to be sold.

The proposal is characterised as a 'subdivision' as defined under Part 6.2 of the *Environmental Planning and Assessment Act 1979*. The subdivision of land is permitted with development consent under Clause 2.6 of the LEP.

The subject land has a minimum lot size of 450sqm, which the two lots created by the subdivision exceed.

The site is bushfire prone, and the subdivision triggers Integrated Development provisions, as it also requires approval under Section 100B of the *Rural Fires Act 1997*. The site is also flood prone, and this has been taken into consideration within the assessment.

This application demonstrates that the two-lot subdivision creates two parcels of land, which can be developed in the future given lot sizes above and beyond the minimum mapped. The orderly development of the land in the future is not prejudiced noting it is subject to a separate Development Application assessment and approval.

As such, its approval is recommended.

## 2. INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared for Maitland City Council to accompany a development application (DA) to Maitland City Council.

The development application relates to Lot 1, DP 1243663, which is accessed from Aaron Cove, Rutherford (the **site**) and seeks approval for a one lot into two lot subdivision (the **proposal**).

This SEE has been prepared pursuant to Section 4.12 of the *Environmental Planning and Assessment Act 1979* (the **EPA Act**) and the associated *Environmental Planning and Assessment Regulation 2021* (the **EPA Reg**). The purpose of this SEE is to:

- describe the proposed development and its context,
- assess the proposal against the applicable planning controls and guidelines, and
- assess the potential environmental impacts and mitigation measures.

### 3. THE SITE AND SURROUNDS

#### 3.1. The site

The site is legally described as Lot 1 in DP1243663 (previously Lot 31 DP598354) but does not have an allocated formal street address. The site is positioned along the southern side of Aaron Cove and Darby Lane and to the north of the existing Signature Gardens Retirement Resort which was approved to contain 151 Independent Living Units under DA 07-3071.

To the west of the development site is a vacant turfed portion of the site which is currently proposed to remain as vacant. Further west is the former Anambah Landfill Site with a dam near the western boundary of the site.

The site is a regular square shaped parcel of land and encompasses a site area of approximately 8.5 hectares (85,580sqm).

The site benefits from vehicular access via Darby Lane and Aaron Cove to the north.

The site is currently unoccupied and consists of no improvements apart from a small entrance along Aaron Cove and Darby Lane to the north. The site predominately contains grasslands and vegetation, however there are no major trees. The site is relatively flat and observes a low and gradual slope to the west. It is further understood that the site is identified as contaminated.

A visual representation of the allotment is provided below.

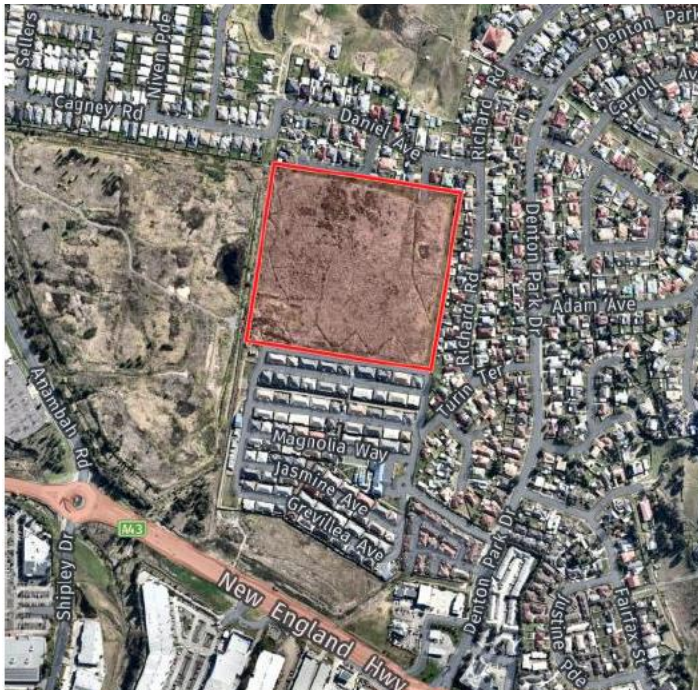


Figure 1: Aerial view of site in red (Source: Nearmap)



Figure 2: View of subject site from Darby Lane looking south-east (Source: Gyde Consulting)



Figure 3: View of subject site from Darby Lane looking south-west (Source: Gyde Consulting)

The subject site is owned by Maitland City Council (Council) and is identified as operational land.

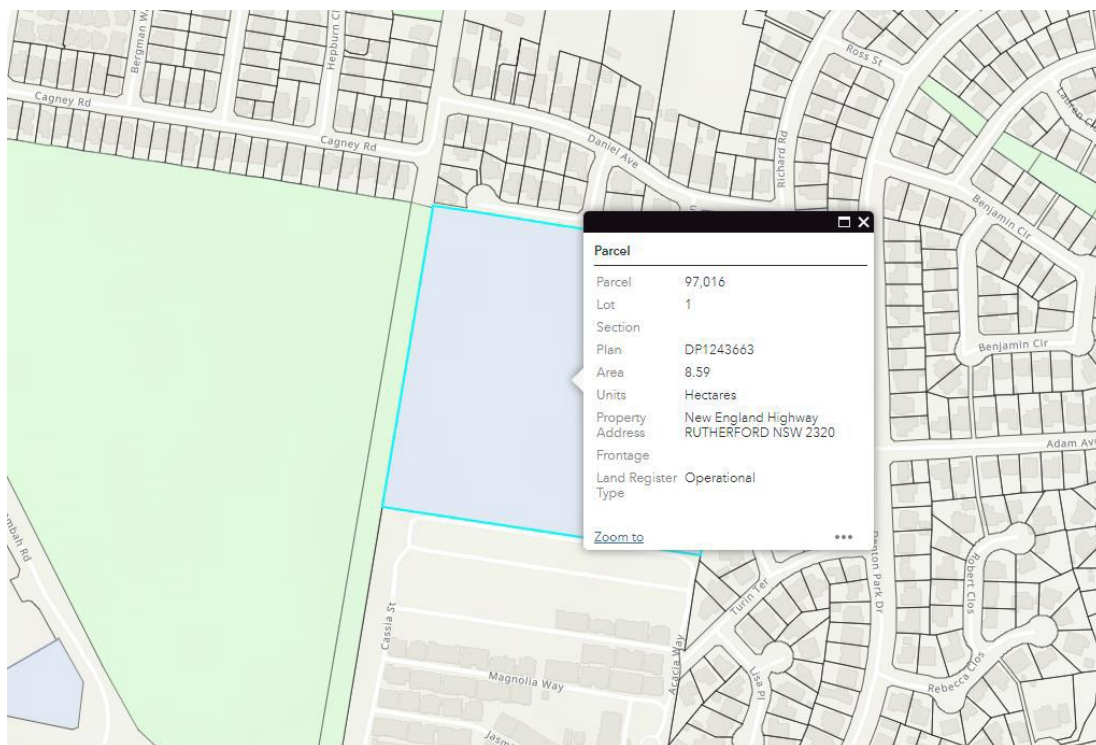


Figure 4: Council online mapping tool Operational Land Map extract site outlined in blue (Source: Maitland City Council)



### 3.2. The surrounding locality

The surrounding locality predominately contains low density residential forms of development largely single storey dwellings. The site abuts the Signature Gardens Retirement Resort which contains 151 Independent Living Units.

The former Anambah Landfill is located to the west of the site.



Figure 5 The subject site within its immediate locality with the existing Signature Gardens Retirement Living Resort immediately to the south and residential development to the north and west (Source: Nearmap)

Regionally, the site is approximately located 41km north-west of Newcastle, 6km north-west of Maitland Town Centre, and 1km south of the Hunter River. The site is serviced by a local road network which connects to the New England Highway (Classified Road) to the south.

## 4. DESCRIPTION OF DEVELOPMENT

### 4.1. Overview

Development consent is sought to subdivide the land from one lot into 2 lot Torrens Title subdivision of Lot 1 DP 1243663.

The proposed subdivision will create the following allotments:

- Lot 11 – 4.285ha, which is proposed to be retained by Council.
- Lot 12 – 4.310ha, which is proposed to be sold.

The proposed subdivision layout can be seen in **Figure 6**

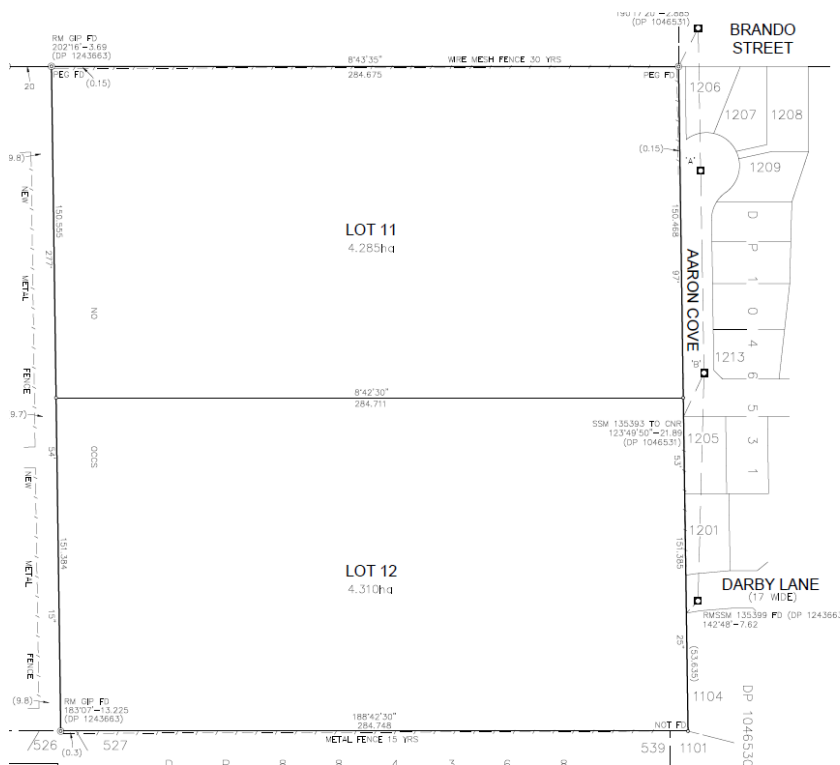


Figure 6 Proposed Subdivision Layout noting Aaron Cove is the northern boundary of the site (Source: Rennie Golledge)

As noted above, the land is classified as Operational Land, and therefore it can be subdivided and sold.

### 4.2. Estimated Development Cost

The application proposes the subdivision of land only and no building works. Therefore, an estimated development cost is not required.

## 5. STATUTORY PLANNING CONSIDERATIONS

### 5.1. Overview

The relevant statutory framework considered in the preparation of this report comprises:

- *Environmental Planning and Assessment Act, 1979;*
- *Environmental Planning and Assessment Regulation 2021;*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *Maitland Local Environmental Plan 2011.*

Where relevant, these are addressed below.

### 5.2. Environmental Planning and Assessment Act 1979

#### 5.2.1. Section 4.15 of EP&A Act 1979

Section 4.15(1) of the EPA Act specifies the matters which a consent authority must consider when determining a development application. The relevant matters for consideration under Section 4.15 of the EPA Act are addressed in the Table below.

Table 1: Section 4.15 of EP&A Act 1979.

SECTION	COMMENT
Section 4.15(1)(a)(i) Any environmental planning instrument	Consideration of relevant instruments is discussed in <b>Section 5.</b>
Section 4.15(1)(a)(ii) Any draft environmental planning instrument	Not relevant to this application.
Section 4.15(1)(a)(iii) Any development control plan	Consideration of relevant the development control plan is discussed in <b>Section 5.7.</b>
Section 4.15(1)(a)(iiia) Any planning agreement	No Planning Agreement applies to the site.
Section 4.15(1)(a)(iv) Matters prescribed by the regulations	Refer to <b>Section 5.3.</b>
Section 4.15(1)(b) - (e)	Refer to <b>Section 6</b> of this SEE for consideration of (b), (c) and (e). Matter (d) relates to submissions and is a matter for the consent authority following public exhibition of the development application.

5.2.2. Section 4.46 – Integrated Development

This section of the EPA Act defines Integrated Development as matters which require consent from Council and one or more approvals under related legislation. In these circumstances, prior to granting consent Council must obtain from each relevant approval body their General Terms of Approval (GTA) in relation to the development.

The application proposes a 2 lot Torrens Title subdivision on land which is mapped as being bushfire prone and within a residential zone.

As such, approval is required under s100B of the *Rural Fires Act 1997* which is a listed provision under s.4.46 of the EPA Act.

The consent authority will refer the application to the Rural Fire Service (RFS) who will grant their GTA's for the proposal.

5.3. Environmental Planning and Assessment Regulation 2021

5.3.1. Part 3 – Development Applications

The SEE has taken into consideration the provisions of Part 3, Division 1 – Making development applications.

**Section 5.2.2** includes the relevant authority in which approval must also be obtained in line with Section 25(b) of the EP&A Reg, that being the RFS.

5.4. Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) lists and protects threatened species, populations and ecological communities that are under threat of extinction in NSW. Impacts to threatened species and endangered ecological communities listed under the BC Act are required to be assessed in accordance with Section 7.3 of the BC Act and Applicants must also consider whether their proposal will exceed the following Biodiversity Offset Scheme Development Thresholds:

1. Exceeding the clearing threshold on an area of native vegetation;
2. Carrying out development on land included in the Biodiversity Values Land Map; or
3. Having a 'significant effect' on threatened species or ecological communities.

*Response*

The site is not mapped under the 'Biodiversity Values Map' as per the NSW Planning Portal. There are no development works proposed with this application. As such the thresholds under the legislation are not triggered.

## 5.5. State Environmental Planning Policies

### 5.5.1. State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

#### **Chapter 4 Remediation of Land**

The object of Chapter 4 is to provide a Statewide planning approach for the remediation of contaminated land. Pursuant to Section 4.6 of the Resilience and Hazards SEPP the consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The SEPP chapter is triggered for this subdivision given the contamination risk created by the former Anambah landfill located adjacent to and to the west of the site.

There have been several assessments in relation to contamination on the site. GHD undertook a combined Stage 1 and Stage 2 Contamination Site Assessment of the site (Lot 1 DP 1243663) in 2017. The assessment concluded that Lot 1 DP 1243663 was suitable from a contamination perspective for residential development except for the potential migration of landfill gas (LFG) from the adjacent former Anambah landfill.

There have been other investigations have been carried out on the adjacent former landfill to establish the nature and extent of any contamination and LFG migration.

Additional investigation of LFG was undertaken on this site and GHD in June 2021 prepared a Landfill Gas Delineation Assessment Report for Lot 1 DP 1243663. Based on the available data, GHD considered that the eastern portion of the site is suitable (from a landfill gas perspective) for residential development, subject to appropriate gas protection measures being incorporated into any new residential development. GHD prepared an Environmental Management Plan (EMP) to document the required gas protection measures for the eastern portion.

Subsequently, Ramboll Australia Pty Ltd (Ramboll) were engaged to prepare a Site Audit Report and a Site Audit Statement for the site. These documents have been submitted with the DA.

Section 12 of the Ramboll Site Audit Report states:

*No significant levels of contaminants were detected in soil over the site and therefore there is little or no potential for migration of contamination from the site or vertically to groundwater. The groundwater assessment undertaken does not indicate significant contamination at the site although indicate potential impact to groundwater by heavy metals from the landfill.*

*There is potential for the migration of HGG (carbon dioxide) during excavation/development works from the underlying subsurface. There is also potential for migration of LFG from the former offsite landfill onto the site. Appropriate building protection measures and a long term EMP will be required to be implemented to reduce these*

## Statement of Environmental Effects

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*potential risks to residential development within the eastern portion.*

For the purposes of this application, the assessment which Ramboll have undertaken are sufficient to demonstrate that the land can be made suitable for residential development as per the underlying zone. However, the subdivision is not proposing any works, nor is it changing land use. Therefore, no consent conditions are proposed which require the remediation of the land before any building works commence on site.

However, we propose that a title restriction be applied to Lot 12, which highlights the contamination on site and propose that the EMP is a requirement for implementation on site. This can be included as a consent condition and the restriction on title is provided as part of the Subdivision Certificate process.

## 5.6. Maitland Local Environmental Plan 2011

### 5.6.1. Zoning and Permissibility

As shown in **Figure 7** below, the site is zoned R1 -General Residential under the provisions of the *Maitland Local Environmental Plan 2011* (the **LEP**). The objectives of the R1 – General Residential Zone are:

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is consistent with the objects of the zone because the subdivision will create a land parcel which is sufficiently sized and capable of providing future housing which addresses the needs of the community. The type and density of housing will be subject to a future development application.

The proposal is characterised as a 'subdivision' as defined under Part 6.2 of the EP&A Act.

Under Part 6.2 – meaning of 'subdivision' of land is as follows:

*(1) For the purposes of this Act, subdivision of land means the division of land into 2 or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected—*

- (a) *by conveyance, transfer or partition, or*
- (b) *by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.*

The subdivision of land is permitted with development consent under Clause 2.6 of the LEP.



Figure 7: Zone extract with subject site highlighted in yellow (Source: NSW Planning Portal)

5.6.2. Relevant Clauses

An assessment of the proposal against the relevant provisions of the **LEP** is set out in the following table.

Table 2 - Assessment against relevant provisions of Maitland Local Environmental Plan 2011

CLAUSE	PROVISION	ASSESSMENT
4.1 Minimum Lot Size	Establishes a minimum lot size of 450sqm for the land.	The proposed lot sizes are: <ul style="list-style-type: none"> <li>Lot 11: 4.285ha</li> <li>Lot 12: 4.310ha</li> </ul> Both well exceed the minimum lot size prescribed for the site.
5.2 Classification and reclassification of public land	This clause enables the Council to classify or reclassify public land as either 'operational land' or 'community land' in accordance with Part 2 of Chapter 6 of the <i>Local Government Act 1993</i> .	As already listed above, the site is Council owned land but is classified as 'operational land'. Therefore, the land can be subdivided and sold.
5.21 Flood Planning	This clause requires for flood planning considerations to be made on flood prone land.	The site is partially mapped as being flood prone. A full assessment is provided in <b>Section 6.4.3</b>
7.1 Acid Sulphate Soils	The objective of this clause is to ensure that development, doesn't disturb, expose or drain acid sulfate soils and cause environmental damage.	The site is mapped as being Class 5 Acid Sulphate Soils. <p>Development consent is only required for works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p> As there are no works associated with this subdivision then no development consent is triggered under this clause.
7.2 Earthworks	One of the key objectives is to ensure that earthworks do not have a detrimental impact on environmental functions and processes or cultural and heritage items.	There are no works being proposed with this subdivision therefore development consent is not being triggered under this clause.



### 5.7. Maitland Development Control Plan 2011

A development control plan (**DCP**) is not strictly a statutory planning consideration. According to s3.42 of the EPA Act, the purpose of a DCP is to provide guidance on:

- giving effect to the aims of the LEP
- facilitating development that is permissible under the LEP, and
- achieving the objectives of the R1 - General Residential Zone applying to the site.

Within this context it is useful to consider the relevant provisions of the Maitland Development Control Plan 2011 (the **DCP**).

An assessment of the proposal against the relevant provisions of the DCP is set out in the following table. In any instances where the proposal departs from a numerical requirement this is assessed in the context of the objectives or aims of the numerical requirement (where available) and the principal purpose of the DCP as noted above.

The key section of assessment is for C.10 – Subdivision. An assessment against the relevant provisions of C.10- Subdivision is provided below:

*Table 3 - Assessment against relevant provisions of C.10 – Subdivision in Maitland Development Control Plan 2011*

CLAUSE	PROVISION	ASSESSMENT
1 Title Systems for subdivision	There are three main forms of subdivision: <ul style="list-style-type: none"> <li>• Torrens Title</li> <li>• Strata</li> <li>• Community Title</li> </ul>	<ul style="list-style-type: none"> <li>• The application proposes a Torrens Title subdivision of one lot into two lots therefore complying with this clause.</li> </ul>
2 Subdivision Design Process	All applications for subdivision must be accompanied by evidence of a thorough Site Assessment, addressing the physical characteristics of the subject land and that land surrounding it which is likely to affect, or be affected by, its development. The site assessment should form the basis of the Statement of Environmental Effects (SEE) which must be submitted with every application.	This application assesses the appropriateness of this subdivision layout and demonstrates it is appropriate for further development. See <b>Section 6</b> for the detailed assessment.
3 Design Elements	This section of the chapter contains Council's requirements for each of the Design Elements to be considered in planning a subdivision	Each relevant section is assessed below.
EC.1 Flora and Fauna	To protect remnant vegetation and	The vegetation on site has been

CLAUSE		PROVISION	ASSESSMENT
		minimise the impact on vegetation of likely future development.	assessed in <b>Section 6.1.1</b> .
EC.2	Heritage and Ecology	To protect heritage items and known archaeological relics from damage.	The site is not mapped within a heritage conservation area, nor does it contain any listed heritage items. Therefore, those provisions are not relevant. There are no works proposed on site therefore an archaeological assessment is not considered to be required.
EC.3	Hazards	To minimise risk to life and property from hazards such as bush fires, flooding, landslip, land contamination, salinity and acid Sulphate Soils.	The site is mapped as being bushfire prone, partially affected by flooding, affected by land contamination, and mapped as Class 5 Acid Sulphate Soils. These hazards have been assessed in this application and are suitably addressed.
EC.3.1- EC.3.4	Flooding	<ul style="list-style-type: none"> <li>All lots within new residential subdivisions shall have safe access made available.</li> <li>All new residential lots are to be wholly above the 1% AEP flood standard. Part of the lot may be permitted below the adopted flood standard, where lot sizes have been increased to provide sufficient flood free area for erection of a dwelling and associated structures.</li> </ul>	Flooding has been addressed in <b>Section 6.4.3</b> in a satisfactory manner.
EC.3.5- EC.3.12	Bushfire	The development must comply with the NSW Planning for Bushfire Protection Guidelines.	Bushfire has been considered in <b>Section 6.4.2</b> and is considered to be satisfactory.
EC3.13	Land contamination	All DA's shall provide documentation in line with the below policies: <ol style="list-style-type: none"> <li>The relevant State Environmental Planning Policies</li> <li>Maitland Council's Contaminated Land Policy,</li> <li>Managing Land Contamination Planning Guidelines (1998),</li> <li>The relevant NSW environment</li> </ol>	Contamination has been assessed and considered in <b>Section 5.5.1</b> .

CLAUSE		PROVISION	ASSESSMENT
		Protection Authority Guidelines- Guidelines for Consultants Reporting on Contaminated Sites. v. National Environment Protection (Assessment of Site Contamination) Measures.	
DC.1	Lot size and dimension	To ensure all new lots have a size and shape appropriate to their proposed use, and to allow for the provision of necessary services and other requirements	The proposed lot sizes of 4.285ha and 4.310ha well exceed the minimum lot size of 450sqm. The lots allow for development for a future use, subject to a separate development application. The site can be serviced by essential utilities as demonstrated in <b>Section 6.2.2.</b>
DC.2	Solar Access and Energy Efficiency	To encourage the design of residential subdivisions which maximise solar access, allow flexibility in the siting of future buildings to take advantage of a northern orientation, and minimise reliance on private car use.	This will be a consideration for the future development of Lot 12. However, the size and shape of the lots allows for solar access for future buildings to be maximised.
DC.3	Drainage, water quality and soil erosion	<ul style="list-style-type: none"> <li>To preserve natural drainage systems, where practicable, and to provide for the repair and enhancement of environmentally significant and/or degraded land.</li> <li>To retard the flow of water, above natural volumes, into the natural drainage system and mitigate impacts from stormwater runoff.</li> <li>To maintain and enhance the quality of water and catchment health.</li> <li>To minimise soil erosion and sedimentation by minimising land disturbance and requiring control measures at the source.</li> </ul>	Detailed stormwater drainage designs will be a consideration for the future development of Lot 12. However, stormwater drainage is available to the area and each lot can connect into the public street system if required.  As there are no buildings proposed, there is no change to the hardstand on site, therefore the runoff remains at pre-development levels.
DC.4	Landscape, Streetscape and Visual Impact	<ul style="list-style-type: none"> <li>To maintain and enhance the existing rural character and landscape of the Maitland LGA.</li> <li>To create, maintain and enhance</li> </ul>	The proposed subdivision will not have a significant impact on the streetscape. It is in effect a paper subdivision and no works are proposed.

Statement of Environmental Effects

CLAUSE		PROVISION	ASSESSMENT
		streetscape and minimise visual impact of subdivision proposals.	
DC.5	Effluent Disposal	<ul style="list-style-type: none"> <li>Subdivisions are to be designed and located so that any effluent can be disposed of in an environmentally sustainable manner, with no adverse impact upon natural systems or adjoining/adjacent land.</li> <li>The sewage management system chosen will be the most appropriate to ensure the protection of the local environment and the health of existing and future populations.</li> </ul>	The site can connect to the reticulated sewer system as supplied by Hunter Water. This has been demonstrated in their Section 50 application.
DC.6	Roads and access, Pedestrian and Cycleways	To provide a safe and appropriate level of access to all new lots created.	The key provision in this section is to ensure that each lot is not 'landlocked' and has access to a public road. Lot 11 has public road access available from Aaron Cove, and Lot 12 has public road access from Darby Lane. This satisfies DC.6.9.
DC.7	Crime Prevention – Safer by Design	To ensure that Council does not approve subdivisions that create or exacerbate crime risk or community fear.	This provision is not relevant to a paper subdivision.
DC.8	Site Filling	To ensure the environmental impact of site fill is properly assessed.	No works are proposed with this subdivision therefore this provision does not apply.
DC.9	Reticulated Services (water/ sewer/ electricity/ telecommunications)	To provide appropriate utility services to all new lots in an efficient, co-ordinated and cost-effective manner, and to restrict subdivisions that create unreasonable or untimely demand for the provision or extension of services, having regard to ecologically sustainable development (ESD) and to ensure minimal environmental impact.	This is fully assessed in <b>Section 6.2.2</b> and satisfactory for the purposes of this subdivision.
IC.3	House/ Lot numbering	Council supplies a number for all new urban and rural lots created, and has an adopted policy in this regard. A fee applies for this service.	Noted. We would expect new street numbering and addresses for the lots to form part of consent conditions.

Statement of Environmental Effects

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CLAUSE	PROVISION	ASSESSMENT
B.3 Hunter River Floodplain	This section of the DCP chapter provides development controls for managing development of flood prone land.	<p>The DCP chapter provides a number of standards and requirements to be met for building works. Given that no development is proposed, these provisions are not relevant.</p> <p>As outlined in <b>Section 6.4.3</b> below, a flood assessment has been undertaken by a flood engineer which confirms the flood risk on site is low.</p>

## 6. ASSESSMENT OF LIKELY IMPACTS

This section identifies and assesses the impacts of the development with specific reference to the heads of consideration under Section 4.15 of the Act.

It is acknowledged that this is a two-lot subdivision, and no works or land use is proposed with this application. The future development of the lots (Lot 12 in particular) will be subject to a separate development application.

This SEE focuses on demonstrating that the lots will be suitable for future development and the subdivision will not restrict or constrain logical development.

### 6.1. Natural Environment

#### 6.1.1. Ecology

The site is cleared of any significant vegetation and not mapped under the 'Biodiversity Values Map' as per the NSW Planning Portal. There are no development works proposed with this application. As such there is no impact to biodiversity with this subdivision application.

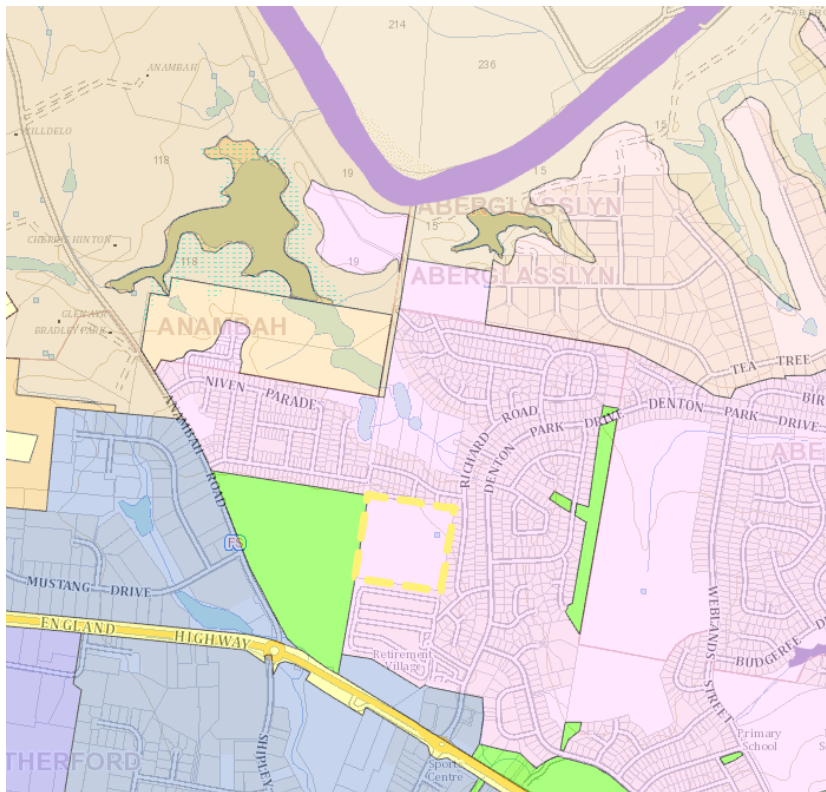


Figure 8: Biodiversity Values Map with subject site shown in yellow (Source: NSW Planning Portal)

### 6.1.2. Acid Sulphate Soils

The subject site is mapped as being Class 5 Acid Sulphate Soils, with the mapped extract shown below in **Figure 9**:

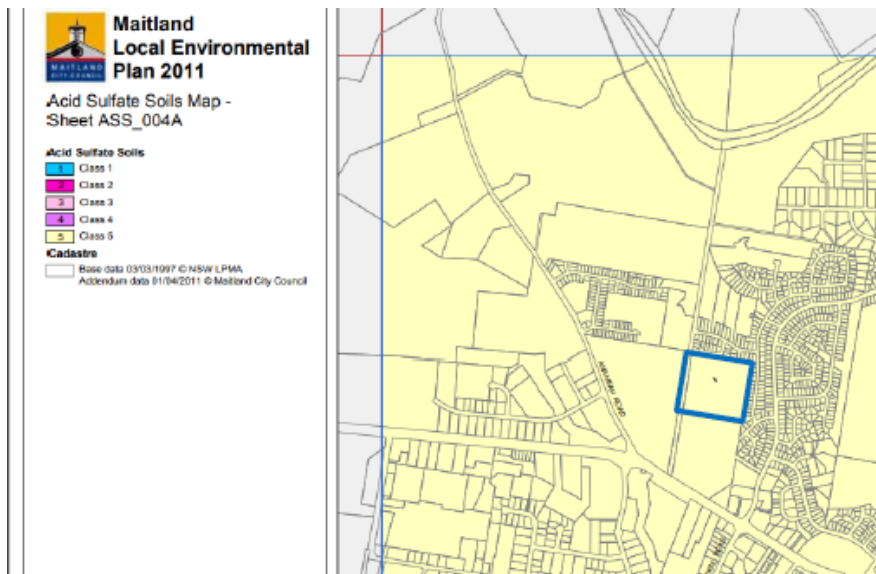


Figure 9: LEP Acid Sulfate Soil Map extract with site outlined in blue (Source: NSW Legislation)

As there are no buildings and works proposed with this subdivision, these provisions are not triggered. The future DA for development on the land will consider these provisions should they apply/

## 6.2. Built Environment

### 6.2.1. Traffic

Any subdivision application must ensure that each lot created as a legal access point. Proposed Lot 11 will have access available from Aaron Cove which runs along its northern boundary. Proposed Lot 12 has an access point from Darby Lane, again off its northern boundary. It is acknowledged that there are no new public roads being proposed with this subdivision.

In terms of traffic impact, advice was provided by Varga Traffic Planning as part of the pre-DA advice for the proposed Seniors Living development.

Key elements of the advice are as follows:

- A Traffic Impact Assessment (TIA) will be required which responds to Transport for NSW Guidelines and Austroads Guide to Traffic Management.
- Traffic surveys and a SIDRA analysis for intersections in the immediate vicinity will form part of the TIA and
- The TIA would also need to include a Parking Assessment which responds to the relevant SEPPs, the DCP and AS2890.1 – Parking Facilities – Off Street car parking.

- Any TIA would have to include an assessment for the adequate provision of emergency services vehicles and waste collection vehicles to access and service the site.
- The proposal may be categorised as 'traffic generating development' pursuant to clause 2.122 of *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

These matters will be addressed in the DA for any future development on the site.

In summary, the subdivision can demonstrate legal road access for both lots created. The future DA for the development of the land will include a full assessment in terms of the potential impact of the surrounding road network along with suitable parking requirements.

#### **6.2.2. Services and Utilities**

The site is located adjacent to an existing residential area which has standard services and utilities. Standard consent conditions will ensure that the two lots have standard services (such as electricity, gas, telecommunications, water and sewer) available and connected before a Subdivision Certificate is issued.

Any augmentation required to services would be determined as a function of the future DA on the site, with the levels and extent determined by way of the intensity of the development.

In terms of water and sewer, a Section 50 application has already been lodged with Hunter Water. The advice provided indicates that this subdivision falls under the 'minor works required' category, which involves providing each lot with a water service and constructing sewer infrastructure so each lot as a sewer point of connection. This can be completed prior to the issue of a Subdivision Certificate, and forms part of the standard works and conditions.

#### **6.3. Social and Economic Impacts**

Overall, the proposal will result in a positive social benefit as it will allow for the future use and development of the site for residential purposes, in an area near services and amenities.



## 6.4. Suitability of the Site

### 6.4.1. Contamination

Contamination is the key factor for consideration in the subdivision and future development of the land.

A detailed assessment of contamination has been provided under the Resilience and Hazards SEPP above in **Section 5.5.1** above.

### 6.4.2. Bushfire

The subject site is mapped as being bushfire prone, with the extract shown in **Figure 10** below:



Figure 10: Bushfire mapping with the subject site shown in yellow (Source: NSW Planning Portal)

As outlined in **Section 5.2.2**, the subdivision application is Integrated Development and requires GTAs from the Rural Fire Service.

A Bushfire report has been prepared by Travers Bushfire and Ecology and submitted with this application. The report indicates that the proposed subdivision can provide the required Asset Protection Zone (APZ) for a BAL 29 rating. The report demonstrates that there are no-known Aboriginal heritage or environmental constraints that would affect the implementation of APZs. The report also provides recommendations for the future development of the land such as meeting the APZ requirements, access, service supply and construction ratings in line with the requirements in

*Planning for Bushfire Protection 2019 (PBP 2019)*. As these are related to building construction (which is not proposed with this application) they are not relevant to this proposal.

In conclusion, the report demonstrates that that the proposed site is suitable for future residential development and can accommodate the requirements of PBP 2019, subject to a future approval.

6.4.3. Flooding

Part of the site is mapped as being located within the Flood Planning Area as per **Figure 11** below:

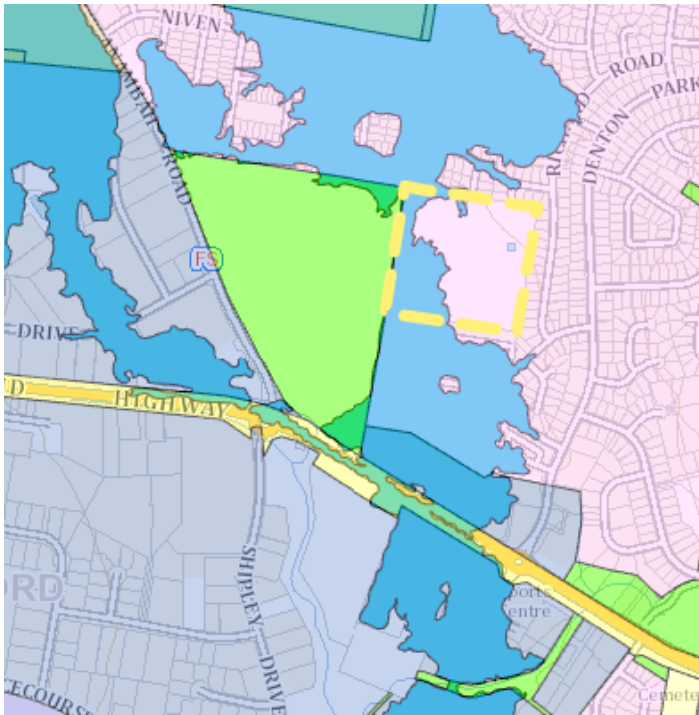


Figure 11 Flood Planning Map extract with site shown in yellow (Source: NSW Legislation)

A flood report has been prepared by EMM which has considered the local and regional flood risk to the site. It is noted that a more detailed flood report is required with the future Development Application on the land which takes into consideration building location and design.

The conclusion of the report stated the following:

*Therefore, flood risk of the proposed subdivision of Lot 2 DP 1243663, New England Highway, Rutherford in to two lots for the purpose of the future planned Signature Gardens Retirement Resort Stages 12-20 is considered low if the following considerations are met:*

- a) *All development is contained within the eastern segment of the subdivided lot*
- b) *The western segment of the lot remains undeveloped indefinitely*

*c) The proposed development remains at or above RL 20.0m AHD*

*d) Any imposed flood storage requirements are met by offsetting flood storage volume (presumably by excavating additional flood storage volume on the western segment)*

*e) The proposed development is designed such that it can receive local flood flows (via the local catchment to the east of the site), and discharge these flows to the existing points of discharge*

*f) Other standard local run-off requirements are met for a stormwater management plan (e.g. flood storage to mitigate peak flows to match existing flow rates)*

#### 6.5. Public interest

According to Brown C in *Ex Gratia Pty Limited v Dungog Shire Council [2005] NSWLEC 148*, a development proposal is in the public interest when the public advantages of the proposal outweigh the public disadvantages.

There are no unreasonable impacts that will result from the proposed development, therefore, the benefits of allowing a subdivision which has the potential to provide for additional housing in an accessible and well serviced area (subject to a future DA) outweigh any disadvantage and as such the proposed subdivision is in the public interest.

## 7. CONCLUSION

This SEE has undertaken an environmental assessment of the proposal for a one lot into two lot Torrens Title Subdivision at accessed from Aaron Cove, Rutherford.

This assessment found that the proposed subdivision is appropriate and will not prejudice the future land for residential development in line with the land uses permissible in the R1 – General Residential Zone.

The key impact of the subdivision relates to contamination. However, as demonstrated, the technical reports demonstrate that the land is suitable for future residential development, and further remediation works can be undertaken with future development. This will be highlighted to future landowners by way of a restriction on title as part of any consent issued.

The site is mapped as being bushfire prone and flood prone, however these constraints do not prevent the subdivision or future development of the land.

Given the findings of this assessment, the proposal is in the public interest and merits approval.