

Statement of Environmental Effects

Staged Residential Subdivision

Lot 8 DP 855275, Part Lot 141 and Part Lot 142
DP 1225076, Wilton Drive, East Maitland

August 2024

Prepared by

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1.0 Introduction

This Statement of Environmental Effects (SEE) has been prepared for East Maitland Land 62 Pty Ltd (the Applicant) in support of a Development Application (DA) for residential subdivision to be submitted to and determined by the City of Maitland (Council).

The Land is described as Lot 8 DP 855275, Part of Lot 141 and Part of Lot 142 DP 1225076, Wilton Drive in East Maitland (hereinafter known as “the Land”).

The DA is for approval of:

- 77 residential lots (to be delivered in 3 stages)
- Subdivision works – including an intersection to Wilton Drive, a stormwater detention basin and fire trail for emergency access

See Figure 1.

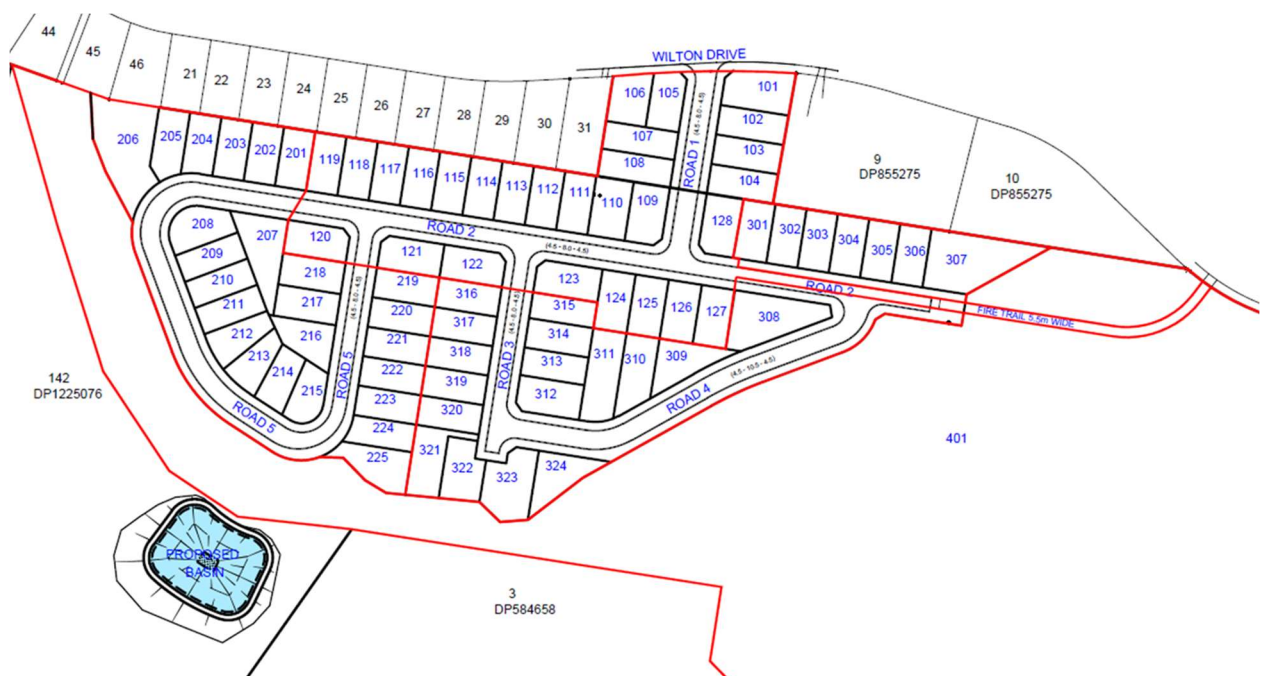


Figure 1 – Proposed Subdivision

1.1. Land Planning History

1.1.1. Planning Proposal to Rezone the Land

A process of rezoning culminated in a rezoning of part of Lot 141 to R1 – General Residential, in November 2021.

This land is designated the Mt Vincent Road Urban Release Area under Maitland Local Environmental Plan 2011 (MLEP 2011).

See Figure 2.



Figure 2 – Mount Vincent Road Urban Release Area

1.1.2. Lot 8 DP 855275

Lot 8 DP 855275 was granted a DA approval for a 12-unit seniors living development. It is understood that DA has now lapsed.

2.0 The Land

2.1. Overview

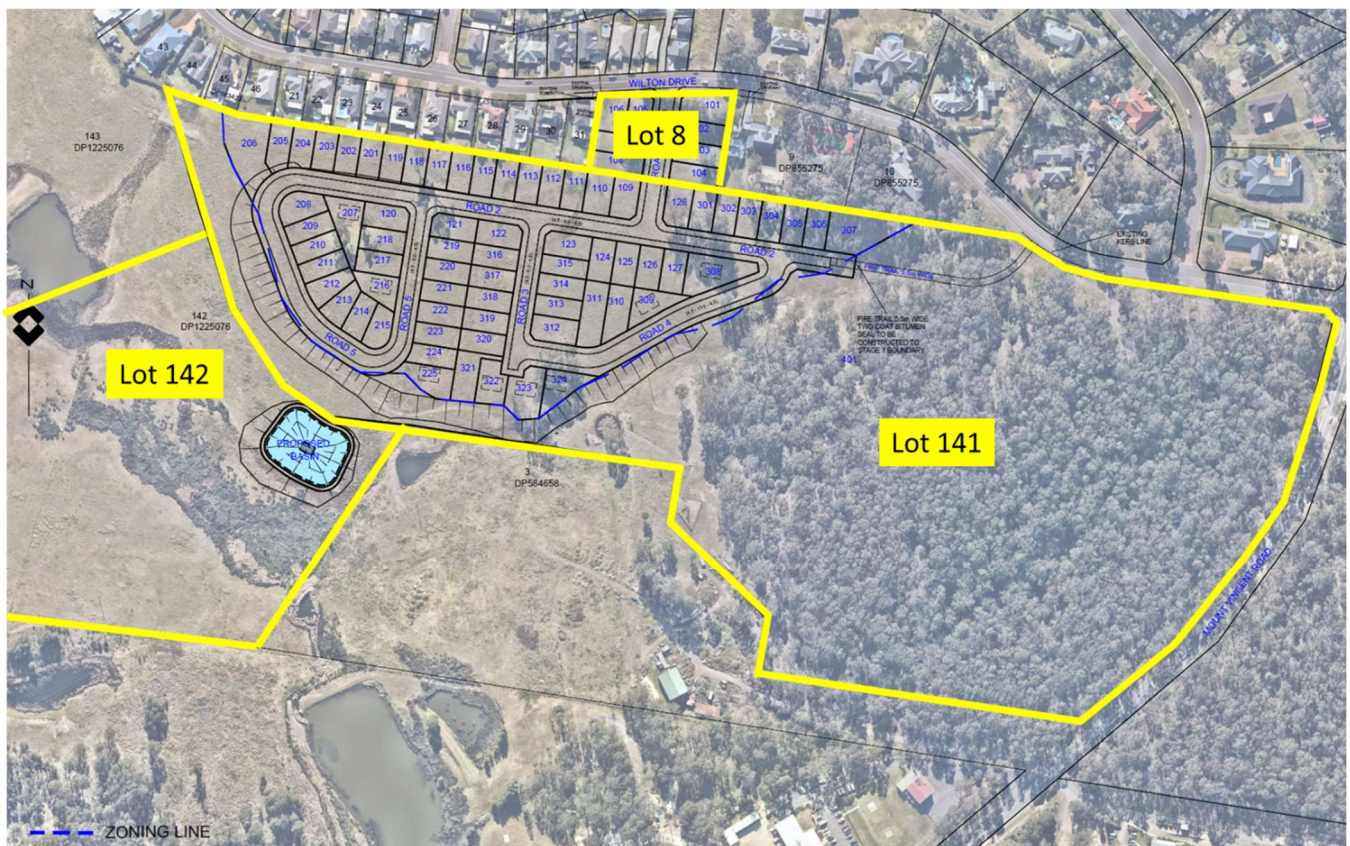


Figure 3 – The Land

The Land is located to the west of Mt Vincent Road and south of Wilton Drive. See Figure 3 above.

Part of Lot 141 was rezoned to R1 – General Residential in November 2021, covering an area of approximately 8.2 hectares. The zoning boundary to rural land was determined by the extent of flood liable land (southeast section) and the alignment of an ephemeral watercourse (southwest section). The area of Lot 141 not zoned R1, approximately 13 hectares) contains some cleared land but the majority is bushland.

Lot 142, with total area 10.168 hectares is largely cleared, low lying and flood liable land that has a frontage to Gullivers Lane with a building envelope near Gullivers Lane that is currently not built on. The eastern boundary of Lot 142 is partly shared with Lot 141. Lot 142 is the location of a proposed stormwater detention basin to manage stormwater from the proposed development.

Lot 8, area approximately 6.3 hectares has direct frontage to Wilton Drive and it is through Lot 8 that the access to the subdivision is proposed.

Developed residential properties adjoin the Land in the north, those properties having frontage to Wilton Drive.

Part of the Land has a past land use history that includes underground coal mining. The Land is within the East Maitland Mine Subsidence District. The Land aboveground is used for grazing of cattle.

The development area is mainly grassland with scattered trees which will be removed by the development.

The development area has natural surface slopes typically in the order of 6-8%.

The development area varies in level from approximately R.L. 30m AHD in the north to R.L. 6.5m where the stormwater detention basin is proposed.

The development area has an overhead low voltage electricity power line that will be relocated as part of the development.

To the east of the development area is another low voltage electricity easement that will remain. To the east of the easement is bushland extending to Mt Vincent Road.

2.2. Land Use Zoning

The Land is zoned R1 - General Residential, RU2 – Rural Landscape and C3 – Environmental Management under Maitland LEP 2011. See Figure 4 below.

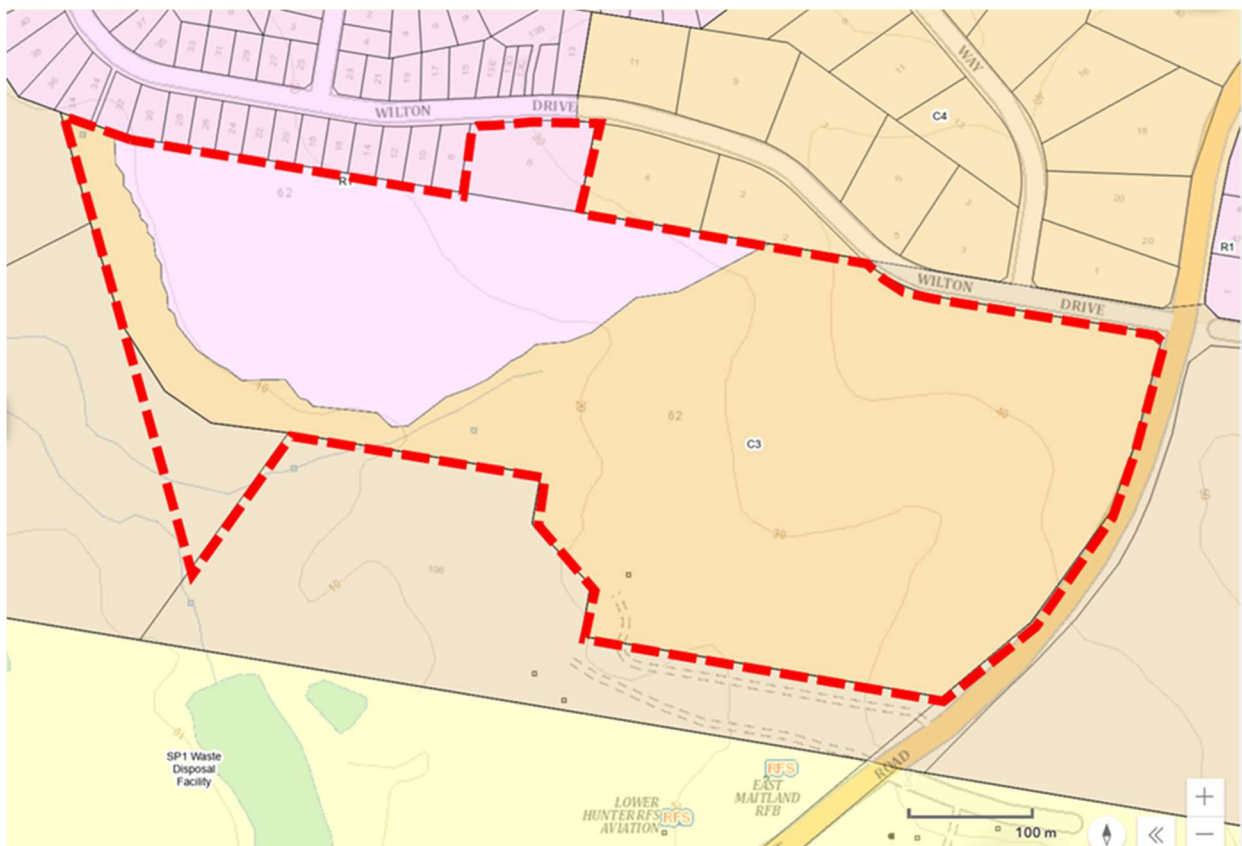


Figure 4 – Land Use Zoning (Maitland LEP 2011)

2.2.1. Flooding

The area of the Land zoned R1 – General Residential is flood free. Part of the zone boundary, in the west was established based on the mapping of flood liable land. See Figure 5 below.



Figure 5 – Extent of Flood Prone Land (Maitland LEP 2011)

2.3. Bushfire Risk

See attached *Bush Fire Assessment Report* by Peak Land Management (July 2024).

The Assessment has been prepared in accordance with “Planning for Bush Fire Protection (PBP) 2019” guidelines (PBP, 2019).

Council will refer the DA and the Assessment to the Rural Bushfire Service for General Terms of Approval.

Bush Fire Assessment Report / Conclusions and Recommendations

From Page 27 -

The development complies with PBP, 2019:

- *Serviced by reticulated water supplies - complies with PBP, 2019.*
- *Serviced by above and underground electricity power - complies with PBP, 2019.*
- *Serviced by public road, and internal primary access road, and secondary access fire trail - Alternate solution presented, subject to NSW RFS approval.*
- *Asset Protection Zone - An Asset Protection Zone is provided over the subject site and surrounding curtilage - complies with PBP, 2019.*
- *Future dwellings shall comply with AS 3959 & PBP, 2019 - complies with PBP, 2019.*
- *Landscaping - The Landscape Plan (Appendix 2) is considered to comply with the principles of Appendix 4 Asset Protection Zone requirements of 'Planning for Bush Fire Protection 2019'.*

The Assessment concludes (page 29) that bush fire risk is adequately managed through the recommendations made and meets PBP, 2019.

2.4. Acid Sulfate Soils

The Land is mostly Class 5 under ASS Mapping (shown as Yellow in **Figure 6 below**). The entire area zoned R1 – General Residential is Class 5.

A portion of the Land (within Lot 142) is Class 2. This land is in proximity to the proposed stormwater detention basin. An ASS Management Plan has been prepared for that part of the development by EP Risk Management Pty Ltd and is attached.

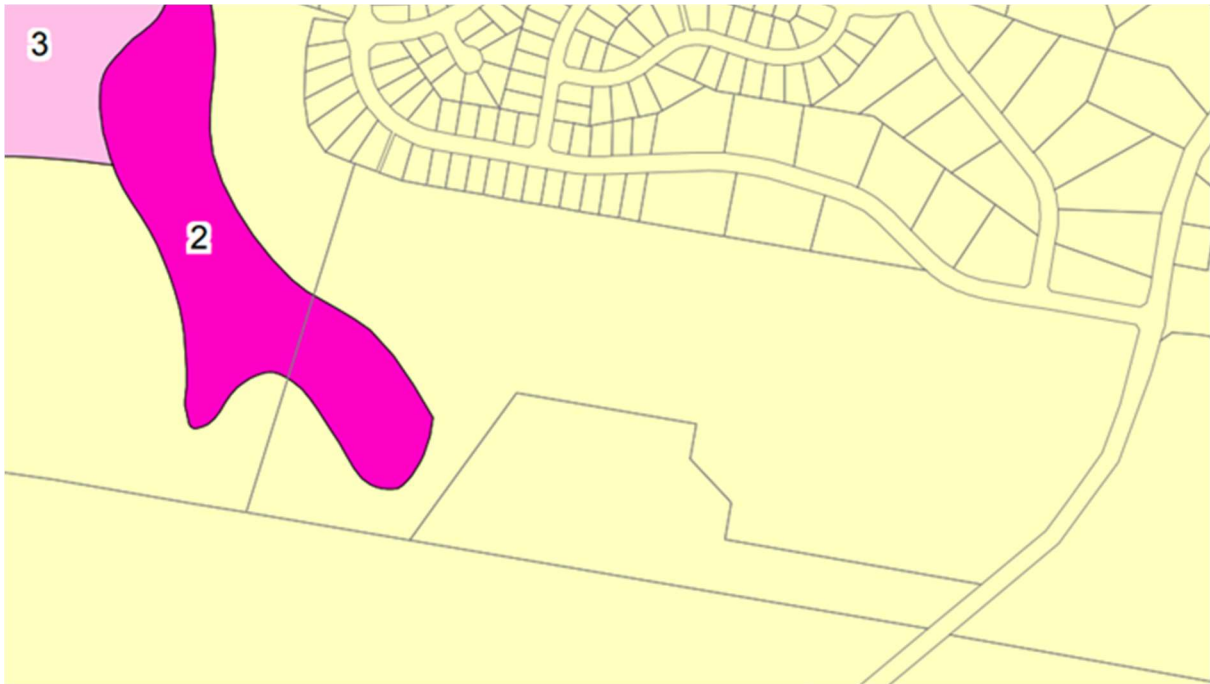


Figure 6 –Acid Sulfate Soils Classes (Maitland LEP 2011)

2.5. Mine Subsidence

Background

The Land is located within the East Maitland Mine Subsidence District (proclaimed 20 February 1974) and Subsidence Advisory NSW's approval is required for subdivision and surface development.

The approximate extents of the Land affected by past underground mine workings are shown below. Figure 7.

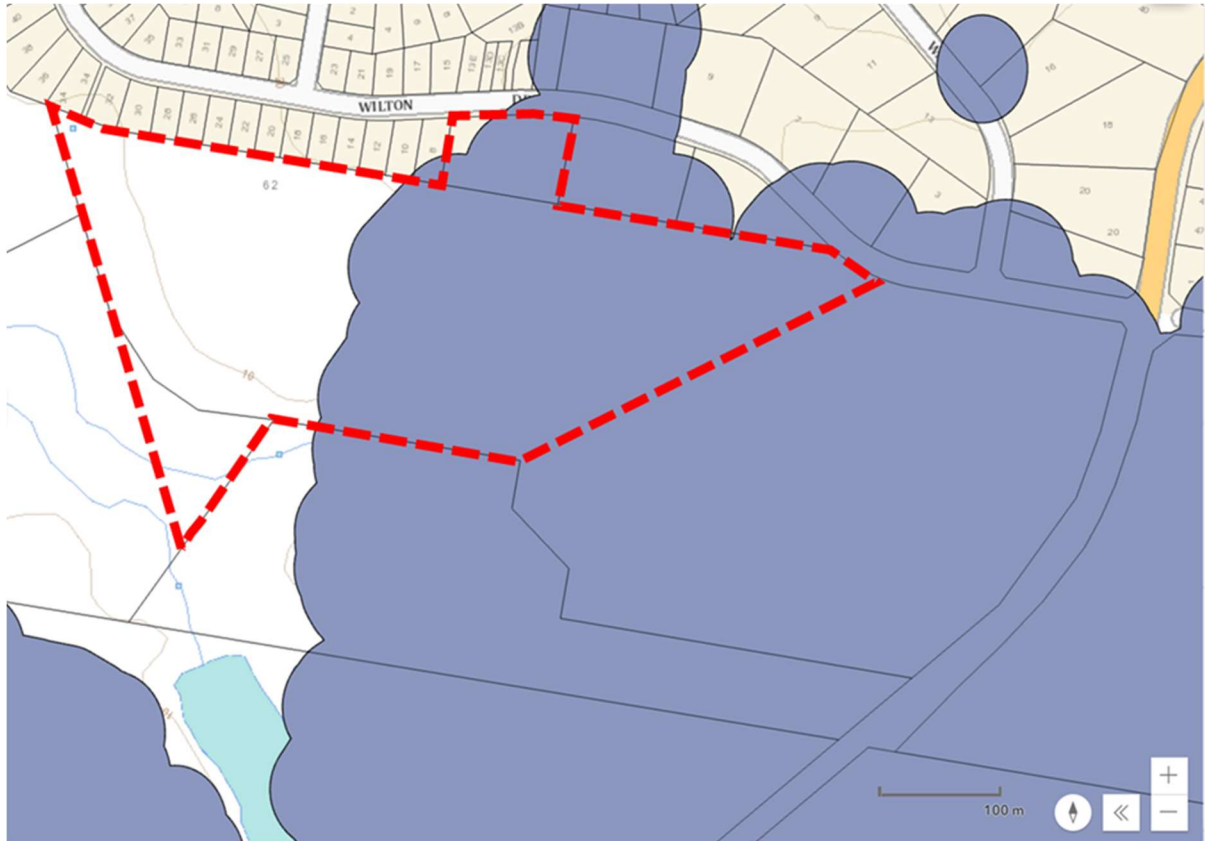


Figure 7 – Approximate extent of former underground coal mining
(Source: ePlanning Spatial Viewer 2024_02_09)

At the time of the Planning Proposal, Subsidence Advisory NSW advised Council:

1. The Land is in the East Maitland Mine Subsidence District. Records indicate that the site is undermined by historic mine workings in the Rathluba Seam with depths of cover ranging from 5m – 65m. Pothole risk would require a condition of approval to eliminate risk via grouting of mine workings.
2. Additional geotechnical investigations will be required to confirm the mine subsidence risk for future subdivision applications.

As reported in the Planning Proposal, Page 19

Grouting is proposed as a form of remediation for the land subject to shallow mine workings with depths of cover <20m and has previously been considered as an acceptable remediation method for the site by Subsidence Advisory NSW.

A staged release of land is recommended to allow for the orderly development and concurrent investigations into appropriate remediation measures for areas with depths of cover >20m and for those areas which require further investigation.

There remains a risk for pillar instability in areas that are not proposed to be grouted. As such ongoing consultation with Subsidence Advisory NSW will be required at each proposed stage of surface development.

Updated Investigations / Recommendations

See attached report by Mine Subsidence and Mining Engineering Pty Ltd (MS&ME) which addresses the proposed subdivision.

The Report confirms that detailed site investigation has already been undertaken and a report provided to Subsidence Advisory NSW, which resulted in them providing a previous approval for surface development.

The report concludes (page 13):

Stage 1 of the proposed development includes Lot 8 and an area along the northern boundary of Lot 141. The Stage 1 area includes shallow mine workings that can be remediated by grouting to enable surface development. The grouting of Stage 1 will remediate the access road leading into Stage 2, which the Record Tracing does not show to be undermined. Stage 3 is partially undermined and the area where shallow mined workings are present will require grouting prior to surface development of this stage.

2.6. Land Contamination

Background

Prior to the rezoning of part of the Land the Planning Proposal outlined past site investigations relating to potential site contamination.

On page 26 of the Planning Proposal, the potential sources of contamination from initial investigations were listed as:

1. *Areas of filling/stockpiling and the stored items around a rural shed.*
2. *The potential fill/Coal Waste Refuse /overburden related to the adjacent mine infrastructure.*
3. *Observed minor amounts of fibrous cement sheeting which may contain asbestos, and*
4. *Possible contamination due to previous rural practices for which the land was generally used.*

Further testing was undertaken to determine the extent of the contaminants described above and to ascertain whether the site would be suitable for its proposed residential use. This assessment found that:

1. *The fill in the gully line was found to contain total recoverable hydrocarbons (TRH), limited testing has not fully quantified its extent.*
2. *Asbestos containing material (ACM) remains on the site in the form of a telecommunication pit and minor stockpiling.*
3. *Arsenic and zinc were found in onsite dam sediments. Levels were between the low- and high-level screening criteria for sediment quality guidelines.*
4. *The dam waters also exceeded freshwater criteria for copper, nickel, naphthalene, faecal coliforms/e-coli.*

Arising from the above, Council's recommendation was:

The following actions to confirm the suitability of the site would be required prior to residential development.

1. *Additional sampling in the former gully area will be required to validate the removal of TRH and confirm suitability of remaining material for residential development in that area.*
2. *Confirmation of the removal and appropriate disposal of the ACM telecommunication infrastructure and known ACM material found on the site.*
3. *Decommissioning of the onsite dams and validation that they have been appropriately remediated once dewatering has occurred.*
4. *Preparation of an unexpected finds protocol to address any further findings within the site.*
5. *Preparation of a Remedial Action Plan should identification of any material that would pose a potential risk to a residential land use be found.*

Updated Contamination Investigations / Recommendations

Attached to this SEE is a *Land Contamination Review* by EP Risk Management Pty Ltd (14th August 2024)

EP Risk Management has concluded there is generally a low risk of contamination from on-site and off-site activities.

EP Risk Management has recommended:

- *Review of Subsidence Advisory NSW records to review potential for historical mine workings at the Proposed Development.*
- *Removal of anthropogenic materials (shed and stockpiled and any non-friable ACM fragments scattered materials). Inspection and clearances following removal of any ACM and preparation and implementation of an unexpected finds protocol (UFP) during redevelopment.*
- *Targeted surface sampling under the shed and disused drums following removal.*
- *Implementation of the ASSMP (EP Risk 2024) during basin bulk earthworks.*
- *Manage topsoil materials during basin bulk earthworks (on part of Lot 142 DP1225076) in accordance with the preliminary PFAS assessment (EP Risk 2024a), which recommended surface topsoil is appropriately banded and stored during basin construction and is not used within the basin or proposed drainage swales and that topsoil is preferentially used beneath handstand areas where possible.*

3.0 Proposed Development

3.1. Subdivision

The DA is for consent to:

1. 77 residential lots.
2. A residual lot.
3. Staging of the subdivision, in 3 stages.

Table 1 – Summary of Subdivision by Stages

Stage #	# Lots
1	28
2	25
3	24 + residual lot
Totals	78

3.2. Subdivision works

Proposed subdivision works include vegetation removal; relocation of overhead electricity transmission line; erosion and sediment control during construction; earthworks; mine subsidence related works; contamination investigations and remediation; construction of intersection, internal roads and fire trail, pathways and stormwater drainage; stormwater detention basin; installation of civil infrastructure (electricity, street lighting, telecommunications, water supply and wastewater reticulation); and landscaping.

3.2.1. Engineering Concept Design

Attached is a Stormwater Strategy and Engineering Concept Design by Fisher Consulting Engineers. The Stormwater Strategy is illustrated below in Figure 8.

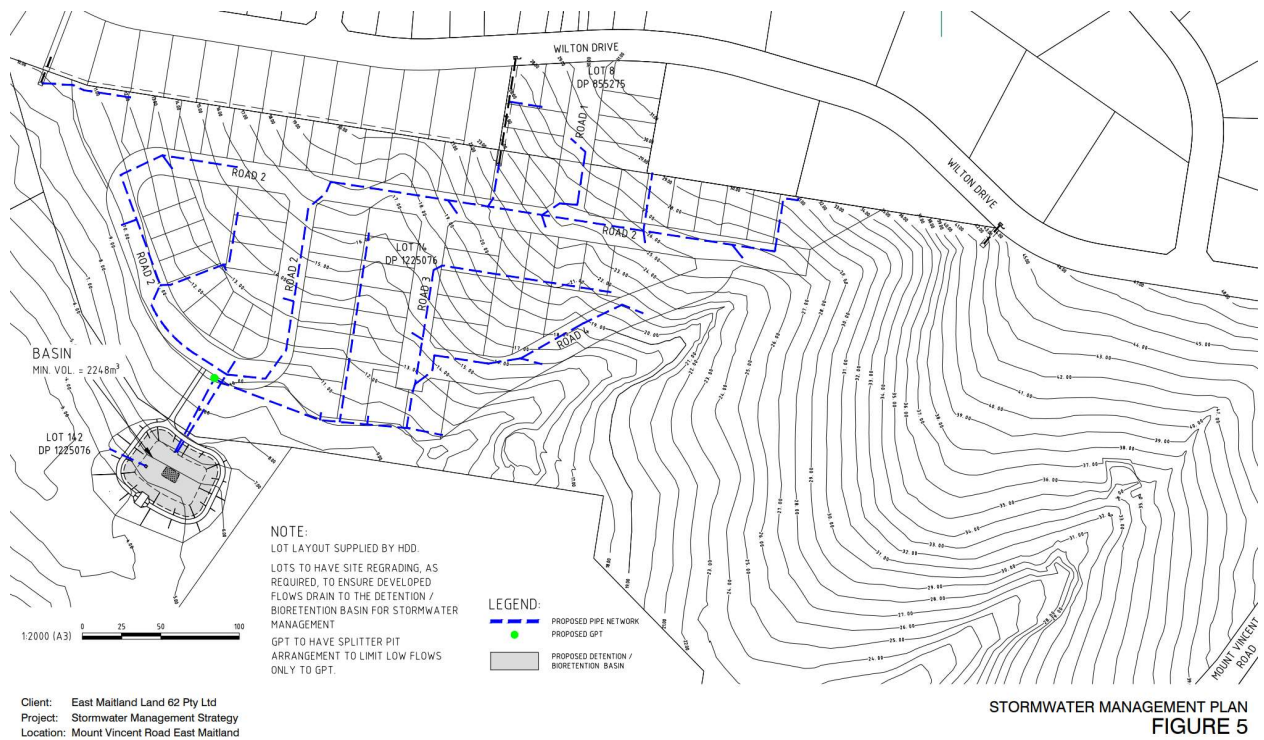


Figure 8 – Stormwater Management Plan

3.2.2. Landscape Design

The submitted Landscape Design shows planting within road reserves and the stormwater basin.

3.3. Plans to be approved

The Plans which are submitted for approval are:

- 1) The following plans by High Definition Design Pty Ltd - Project No HD374:
 - a) **Subdivision Plan** Ref HD01 Rev 9 dated 16.07.24
 - b) **Overall Plan** Ref HD02 Rev 9 dated 16.07.27
 - c) **Staging Plan** Ref HD03 Rev 9 dated 16.07.24
- 2) The following plans by Paul Scrivener Landscape – Job Ref 24/2689:
 - a) **Landscape Site Plan and Details** in 3 sheets Rev C dated 15.7.24
- 3) The following document and plans by Fisher Consulting Engineers:
 - a) **Stormwater Management Strategy** Rev 1 dated 08.08.2024
 - b) **Engineering Concept Design Drawings** (30 sheets) Rev 1 dated 16th July 2024

4.0 Planning Assessment

4.1. Introduction

The proposal is categorised as *local development*, under the *Environmental Planning and Assessment Act 1979* (EPA Act).

The proposal is also *integrated development* under Section 4.46 of the EPA Act.

4.2. Environmental Planning Instrument Provisions (4.15(1)(a)(i))

4.2.1. State Environmental Planning Policy (Resilience and Hazards) 2021 Chapter 4

This SEPP provides a State-wide planning approach to the remediation of contaminated land. The SEPP requires that where land is contaminated, the Consent Authority must not consent to the carrying out of any work or development on the land unless it is satisfied that the land is suitable for the development or will be suitable for the development once remediated. Further, the SEPP requires that the land be remediated before it is used for any such purpose.

Attached to this SEE is a Land Contamination Review by EP Risk Management Pty Ltd (14th August 2024).

EP Risk Management has concluded there is generally a low risk of contamination from on-site and off-site activities.

EP Risk Management has recommended:

- *Review of Subsidence Advisory NSW records to review potential for historical mine workings at the Proposed Development.*
- *Removal of anthropogenic materials (shed and stockpiled and any non-friable ACM fragments scattered materials). Inspection and clearances following removal of any ACM and preparation and implementation of an unexpected finds protocol (UFP) during redevelopment.*
- *Targeted surface sampling under the shed and disused drums following removal.*
- *Implementation of the ASSMP (EP Risk 2024) during basin bulk earthworks.*
- *Manage topsoil materials during basin bulk earthworks (on part of Lot 142 DP1225076) in accordance with the preliminary PFAS assessment (EP Risk 2024a), which recommended surface topsoil is appropriately banded and stored during basin construction and is not used within the basin or proposed drainage swales and that topsoil is preferentially used beneath handstand areas where possible.*

It is concluded that the development area can be made suitable for the proposed residential development and accordingly the SEPP is satisfied.

4.2.2. State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)

The following Transport and Infrastructure SEPP provisions have been considered in relation to the proposal:

- *Section 2.48 (2)(b)* relates to determination of development applications within or immediately adjacent to an easement for electricity purposes (whether the electricity infrastructure exists or not). The Land contains one low voltage transmission line that will be relocated and another which is not affected by the development.
- *Section 2.48 (2)(d)* relates to development involving the placement of power lines underground. The proposed subdivision intends to provide underground power to all residential lots.
- *Section 2.122*, relating to traffic generating development applies to this DA.

The intersection of Mt Vincent Road and Wilton Drive was improved in 2022-23 for the turning of vehicles and movement of cyclists.

A Traffic Impact Assessment (Intersect Traffic, July 2024) is attached. The TIA for the subdivision application concludes that it will not adversely impact on the local road network and complies with all relevant Maitland City Council, Austroads, Australian Standards and TfNSW traffic and parking related requirements.

Before approval, Council will consult with TfNSW with regards to the traffic and transport impact assessment.

4.2.3. State Environmental Planning Policy (Biodiversity and Conservation) 2021

A Biodiversity Development Assessment Report (BDAR) is attached to the SEE (Wildthing, August 2024). The BDAR includes examination of the presence of Koala under 'Chapter 4 Koala Habitat Protection 2021' of the SEPP (Biodiversity and Conservation) 2021. The following quote is from page (iv) of the BDAR:

Koala

The subject land was found to fall under 'Chapter 4 Koala Habitat Protection 2021' of the SEPP (Biodiversity and Conservation) 2021.

Habitat on site was considered suitable koala habitat due to the presence of a number of species of Koala Use Trees.

Considering this and nearby koala records the subject land could be considered Core Koala Habitat.

Further surveys were undertaken for Koala as a species credit species including three Koala Spot Assessment Technique surveys.

No evidence of koalas was found during any surveys conducted.

4.2.4. Maitland Local Environmental Plan 2011 (MLEP)

The Land is zoned R1 General Residential, RU2 – Rural Landscape and E3 – Environmental Management under Maitland LEP 2011.

The proposed development is defined as *Subdivision* under the LEP which is a type of development permitted with consent under Clause 2.6 of this instrument.

The proposal is consistent with the zone objectives for the R1 – General Residential zone by providing a new residential subdivision to contribute to housing stock, within proximity to facilities and services.

The land zoned RU2 – Rural Landscape is to be used for a stormwater detention basin that will be landscaped. The basin is part of the road infrastructure and is permissible as “roads” and / or “environmental protection work”, which are permitted in the zone with consent.

The land zoned C3 - Environmental Management, which fringes the R1 zoned land will include batter slopes as part of the earthworks and roads. Roads are permissible in the C3 zone as are earthworks.

The development’s earthworks are addressed under consideration of Clause 7.2 – Earthworks, below.

Clause 4.1 – Minimum subdivision lot size

The minimum lot size within the R1 General Residential zone is 450 sq m. All proposed residential lots are above the minimum lot size.

Clause 5.10 – Heritage Conservation

There are no European heritage items to consider in relation to the proposed development.

Management of Aboriginal Heritage Impact is to be undertaken in accordance with the recommendations of the Aboriginal Cultural Heritage Assessment report being:

- 1) The persons responsible for the management of onsite works will ensure that all staff, contractors and others involved in construction and maintenance related activities are made are of the statutory legislation protecting sites and places of significance.*
- 2) Should any Aboriginal objects be uncovered during works, all work will cease in that location immediately and the Environmental Line contacted; and*
- 3) A project based AHIP that includes site 38-4-1969 will be required prior to works commencing within the potential archaeological deposit.*

The proposed R1 – General Residential zone boundary was situated to avoid impacting the site.

Part 6 – Urban Release Areas

Part of the Land that is the subject of this DA i.e. R1 – General Residential on Lot 141 DP 1225076, is an Urban Release Area under MLEP 2011.

See Figure 2 above.

Urban Release Areas are subject to the provisions under Clauses 6.2 and 6.3 of the MLEP.

Clause 6.2 Public utility infrastructure

This clause requires Council to be satisfied that necessary public infrastructure is available to the development when required to service proposed residential lots.

Hunter Water Corporation (HWC) has issued its stamp on the DA Plans dated 19th July 2024. These plans are attached.

4.3. Clause 6.3 – Development control plan

This clause (quoted below) requires a Development Control Plan (DCP) to be in force that addresses the relevant matters for consideration under 6.3(3) before development consent can be issued.

6.3 Development control plan

(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

(3) The development control plan must provide for all of the following—

(a) a staging plan for the timely and efficient release of urban land, making provision for necessary infrastructure and sequencing,

(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists,

(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain,

(d) a network of passive and active recreational areas,

(e) stormwater and water quality management controls,

(f) amelioration of natural and environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected,

(g) detailed urban design controls for significant development sites,

(h) measures to encourage higher density living around transport, open space and service nodes,

(i) measures to accommodate and control appropriate neighbourhood commercial and retail uses,

(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking.

4.3.1. Response

The proponent submitted a draft DCP for Council's consideration on 14th December 2023. See attached.

Council responded by email dated 12th January 2024. See attached.

The proponent provided a revised draft DCP on 12th February 2024. See attached.

At the time of the submission of this DA, a DCP has not been prepared, exhibited or adopted by Council. See email responses from Council in April and June attached.

As the Council has taken more than 60 days to make a decision on whether to make the DCP, the DA has been submitted, as allowed by Section 3.44 (5) (a) of the Environmental Planning and Assessment Act (see extract below).

3.44 Development control plans required or authorised by environmental planning instruments

(cf previous s 74D)

(1) An environmental planning instrument may require or permit a development control plan to be prepared before any particular development or kind of development may be carried out (and make provision with respect to the preparation and content of any such plan).

(2) Any such development control plan may outline the development of all the land to which it applies.

(3) Any such development control plan may be prepared (and submitted to the relevant planning authority) by the owners of the land to which it applies or by such percentage of those owners as the environmental planning instrument concerned allows. A person authorised by those owners may act on their behalf for the purposes of this subsection.

(4) The relevant planning authority may make a development control plan submitted to it under this section, including with such changes as it thinks fit.

(5) If the relevant planning authority refuses to make a development control plan submitted to it under this section (or delays by more than 60 days to make a decision on whether to make the plan)—

(a) the owners may make a development application despite the requirement of the environmental planning instrument concerned for the preparation of a development control plan, or

(b) the Minister may act in the place of the relevant planning authority to make the plan (with or without modification), but only if the environmental planning instrument concerned authorises the Minister to do so.

(6) The regulations may extend the period of 60 days referred to in subsection (5) in connection with any failure by the owners to provide further information required by the relevant planning authority for the purposes of making the plan.

Clause 7.1 – Acid Sulfate Soils

The objective of this Clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

See Figure 6 above.

The Land is mostly classified Class 5 but there is some Class 2 land on Lot 142. The Class 2 land is in proximity to the proposed detention basin and the basin crosses the 5 metre AHD contour.

An ASS Management Plan is required for Class 5 land that will have works that are 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.

An ASS Management Plan has been prepared addressing the proposed detention basin and is attached.

The ASSMP by EP Risk Management concludes (page 17):

Based on the results of this assessment, ASS was identified at the Site to depths of <2 m which trigger the implementation of this ASSMP for bulk earthworks. The ASSMP outlines suitable methods for treatment and construction management controls for disturbance of natural silty and sand clay ASS during construction of the Proposed Development.

The laboratory recommended liming rates ranging between 1 kg CaCO₃/t to 3 kg CaCO₃/t. A liming rate of 3 kg CaCO₃/t was adopted for neutralisation of ASS. Monitoring and verification should be conducted as per the ASSMP and liming adjusted as required based on screening and testing results.

Provided this ASSMP is implemented, it is considered that ASS can be readily managed and would not preclude the Proposed Development.

Clause 7.2 – Earthworks

Earthworks are defined as excavation or filling. They require consent.

The development will require excavation and filling to enable the construction of internal roads and stormwater drainage and for the laying of sewer pipes. The extent of cutting and filling is illustrated in the Stormwater Concept Design drawings.

The matters to be addressed by subclause (3) are addressed below:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

Comment: The development will not alter the overall drainage patterns or stability of soils. The development design incorporates stormwater drainage design via detention basin to existing low-lying land. Erosion and sediment controls will be implemented during construction and soils will be stabilised ultimately by landscaping. See attached Stormwater Drainage Strategy and Engineering Concept Design drawings by Fisher Consulting Engineers.

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

Comment: The subdivision is necessary to facilitate the future development for residential purposes.

(c) the quality of the fill or the soil to be excavated, or both,

Comment: The development area is suitable for residential development. Conditions will be included in the consent that any fill imported must be VENM certified.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

Comment: Earthwork forms part of the development of the subdivision and does not impact on the existing and likely amenity of adjoining properties.

(e) the source of any fill material and the destination of any excavated material,

Comment: Conditions will be included in the consent that any fill imported must be VENM certified.

(f) the likelihood of disturbing relics,

Comment: It is unlikely that any relics will be disturbed, as discussed in the section on *Heritage and Archaeology* below.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Comment: The development will not impact any drinking water catchment. Stormwater and runoff during construction will be managed so that there is no adverse impact on watercourses or wetlands in accordance with attached Stormwater Drainage Strategy and Engineering Concept Design drawings by Fisher Consulting Engineers.

4.4. The provisions of any proposed instrument that is or has been the subject of public consultation (4.15(1)(a)(ii))

There are no draft environmental planning instruments applicable to this proposal.

4.5. The provisions of any development control plan (4.15(1)(a)(iii))

4.5.1. Maitland Development Control Plan 2011 (MDCP)

Chapter C.10 of Maitland Development Control Plan 2011 (MDCP) is relevant to this proposal.

As explained above, the Land currently does not have a site specific DCP applicable to it.

Chapter C.10 guides the design and assessment of impacts of new subdivisions on all land to which the Maitland Local Environmental Plan 2011 applies.

The relevant requirements of the MDCP are discussed below.

Section 3 – Design Elements

Environmental Considerations (EC)

EC.1 Flora and Fauna

The main objective of this component is to protect remnant bushland, significant flora and fauna habitats and wildlife corridors from the impacts of subdivision and subsequent development.

A Biodiversity Development Assessment Report (BDAR) has been prepared which addresses the subdivision proposal and is attached.

The BDAR concludes (page v):

The proposal will result in an incremental loss of habitat for a number of the addressed threatened species occurring within the local area. Taking into account the recommendations to minimise and manage impacts within the report and the offsetting obligation it is believed that the proposal is unlikely to have a significant impact of threatened communities, endangered populations or threatened species.

EC.2 Heritage and Archaeology

The main objective of this component is protecting heritage items, buildings with heritage significance and known and potential archaeological relics from damage or destruction because of subdivision works.

The heritage and archaeological values of the Land were examined as part of the Planning Proposal.

Management of Aboriginal Heritage Impact is to be undertaken in accordance with the recommendations of the Aboriginal Cultural Heritage Assessment report being:

- 1) The persons responsible for the management of onsite works will ensure that all staff, contractors and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance;
- 2) Should and Aboriginal objects be uncovered during works, all work will cease in that location immediately and the Environmental Line contacted; and
- 3) A project based AHIP that includes site 38-4-1969 will be required prior to works commencing within the potential archaeological deposit.

The proposed R1 – General Residential zone boundary was situated to avoid impacting the site so the development will not impact it.

European Heritage

The Historical Assessment for the Land did not identify any items of historical heritage significance.

EC.3 Hazards

The main objective of this component is to minimise risk to life and property from hazards such as bush fires, flooding, landslip, land contamination, salinity and acid sulfate soils.

The attachments include assessments of mine subsidence, site contamination, bushfire risk and acid sulfate soils. All assessments conclude that these risks are manageable within the relevant guidelines.

All proposed residential lots are on land zoned for residential purposes and are therefore above the flood planning level.

B.7 – Riparian Land and Waterways

No watercourses are identified on the Land by Council's Watercourse Land mapping (Maitland LEP 2011, Watercourse Map - Sheet WCL_004).

An ephemeral watercourse (unnamed) running adjacent to the south-eastern boundary of the subdivision will be unaffected by stormwater drainage from the subdivision. The stormwater drainage from the subdivision will be conveyed by pipes to a Gross Pollutant Trap (GPT) and to a proposed stormwater detention and water quality basin.

DC.1 – Lot Size and Dimension	
<i>General</i>	
<i>Lot boundaries should follow natural features such as water courses and ridges (rather than cut across them) to minimise the potential for soil erosion.</i>	The proposed layout is determined by the zone boundary to the south which is the flood line (low elevation), by a drainage line to the south-east and the existing residential development to the north (higher ground). Lots are arranged within this boundary so that stormwater flows to the proposed GPT and detention and water quality basin.
<i>Lot boundaries should take account of any requirement for screening or buffering from adjoining land uses.</i>	The adjoining land uses are either low density residential or rural. There are no requirements for buffers. The development area lies at a lower elevation to existing residential development and there are no screening issues.
<i>Lot size and dimensions are to be suitable for the existing or proposed use, including any requirement for building envelopes, ancillary buildings, farm dams, access, parking, landscaping, solar access, provision of services and/or other requirement of any existing Council development consent.</i>	The proposed lot sizes achieve the minimum lot size for the R1 zone and are suitable for the future use of residential development.
<i>Specific Controls:</i>	
<u>Residential</u>	

<p><i>A suitable building envelope with minimum dimensions of approximately 15 metres by 10 metres shall be provided behind the building line.</i></p>	<p>Consistent. All lots can accommodate a building envelope of this dimension.</p>
<p>DC.2 – Solar Access and Energy Efficiency</p>	
<p><i>Performance Criteria:</i></p>	
<p><i>80% of new lots are to have 5 star solar access, as defined by an analysis determined from the “Possible Design Solutions – Solar Access” booklet, and the remainder a 3 or 4 star rating.</i></p>	<p>Consistent. The lots have either east-west axes or adequate width for living areas to obtain a satisfactory amount of sunlight.</p>
<p><i>Lot sizes are to reflect reasonable consideration of the impact of topography, aspect and other constraints so as to maximize solar access.</i></p>	<p>Lots have been arranged with consideration to access and topography.</p>
<p><i>Where possible lots should be oriented to provide one axis within 30 degrees east and 20 degrees west of true solar north.</i></p>	<p>Where possible, the subdivision has been designed to comply with this control.</p>
<p><i>Where a northern orientation of the long axis is not possible, lots should be wider to allow private open space on the northern side of the dwelling.</i></p>	<p>All lots within the proposed subdivision have sufficiently wide frontages to provide for solar access opportunities to the north.</p>
<p><i>Proposals for street planting or open space planting are to take account of the potential for shading, provision of adequate solar access to dwellings and, if necessary, protection from winter winds.</i></p>	<p>A Landscape Plan has been prepared to show street tree planting with trees to be in the centre of each lot. Each lot features a frontage which can adequately accommodate street trees and driveways.</p>
<p>DC.3 – Drainage, Water Quality & Soil Erosion</p>	<p>Stormwater runoff will be managed to minimize erosion and pollution of downstream waterways and wetlands through the preparation and execution of a Construction Environmental Management Plan (CEMP) and through permanent stormwater works, including a GPT and detention basin. The Concept Design for Stormwater, including Erosion and Sediment Control during construction are attached.</p>
<p>DC.4 – Landscape, Streetscape & Visual Impact</p>	<p>The internal amenity of the subdivision and street frontages will be supplemented with street tree plantings, per Landscape Plan.</p> <p>While the development will result in visual changes to the locality, the area of residential development is zoned R1 – General Residential and in the character of adjoining development.</p>

DC.5 – Effluent Disposal	The development will require a connection to reticulated sewerage system. DA Plans have been stamped by HWC.
DC.6 – Roads & Access, Pedestrians & Cycleways	
<i>Specific Controls:</i>	
<i>Public road access is required to all new lots in Torrens Title subdivision.</i>	Complies. All proposed lots will have suitable vehicular access to a public road.
<u>Residential Subdivisions</u>	
<i>A network of constructed (i.e. not grass) footpaths and cycleways will be required in all residential subdivisions, located, designed and constructed in accordance with Council's Manual of Engineering Standards, and in view of streets wherever possible to allow surveillance.</i>	Complies. All internal access roads will be constructed with a minimum 8m pavement and 4.5 m road reserve either side to provide for footpaths and shared pathways in accordance with Council Manual of Engineering Standards (MOES).
<i>Pedestrian links between residential cul- de-sacs or other road layouts.</i>	Complies. The proposed subdivision includes a footpath network to connect the subdivision both internally and externally to Wilton Drive.
<i>Particular attention should be paid to pedestrian links to schools, with regard to their width, lighting (to Australian Standard) and the appropriateness of landscaping and related safety issues.</i>	The proposed subdivision in this location does not have direct access to schools. However, the subdivision provides connectivity to Wilton Drive where the existing road network can be utilized for this purpose.
<i>The road, footpath and cycleway network should facilitate walking and cycling throughout neighbourhoods and provide links to schools, community facilities and other activity centres.</i>	Complies. As addressed above, the development proposes a footpath network within the subdivision, and connected to external pedestrian networks.
DC.7 Crime Prevention – Safer By Design	The Landscape Plan provides for street trees to provide shading, while maintaining opportunities for surveillance. Appropriate lighting is to be installed within the development.
DC.8 Site Filling	Concept design showing approximate extent of cutting and filling is attached. Regrading will include filling to ensure future dwellings are adequately connect to utility infrastructure. Cut and fill design will be based on a geotechnical investigation and according to Australian Standard's 1289 and 3798.

<p><i>DC.9 Reticulated Services (Water/Sewer/Electricity/Telecommunications)</i></p>	<p>Evidence of satisfactory arrangement will be required to be provided to Council prior to issue of subdivision certificate. The submitted plans indicate inter- allotment drainage (IAD) is required where lots are unable to achieve stormwater drainage to the street. Conditions will be included in the consent to ensure the IAD is appropriately registered on the 88B instrument prior to issue of subdivision certificate.</p>
<p><i>IC.1 Entry Features</i></p>	<p>No entry feature is proposed as part of this application.</p>
<p><i>IC.2 Street Names</i></p>	<p>No street names have been proposed at this stage.</p>
<p><i>IC.3 House/Lot Numbering</i></p>	<p>Street numbering will be in accordance with accepted practices.</p>

**4.6. The provisions of any planning agreement or draft planning agreement
(4.15(1)(a)(iiia))**

Not applicable to this Development Application.

4.7. The likely impacts of the development (4.15(1)(b))

4.7.1. Impact on the Natural Environment

The subdivision works will impact on the natural landscape through vegetation clearing, earthworks and construction of roads and stormwater drainage facilities.

Biodiversity Impact

Wildthing Environmental Consultants undertook a Biodiversity Development Assessment Report (BDAR) for the proposed subdivision (attached), prepared in accordance with the Biodiversity Assessment Method (BAM) to assess the biodiversity impact and offsetting obligation of the proposal under the Biodiversity Conservation Act 2016 (BC Act) and Biodiversity Conservation Regulation (BC Regulation).

The BDAR report (page 62) highlights a history of disturbance to vegetation on the Land, namely:

The vegetation within the east of the study area had been subject to disturbances from past vegetation clearance, cattle grazing, historical coal mining activity and weed invasion particularly in the form of Lantana camara (Lantana) and introduced grasses. Native vegetation in the form of open forest/woodland covered the majority of the eastern portion of the subject land. The lower western portion of the subject land had undergone a high level of disturbance and was largely composed of grassland/pasture with some remnant trees and has been subject to ongoing cattle grazing.

Avoidance and Minimisation of Impact

The BDAR highlights that “... the 9.20ha operational footprint and construction footprint (subject land) is positioned within the west of the study area within areas that have previously been subjected to high levels of disturbance.” (page iii).

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7.1 Avoid and minimise direct and indirect impacts

7.1.1 Project location

The project has been located for the majority over areas of non-native vegetation and derived grassland forms of native vegetation. This has avoided impacting areas of better quality vegetation within the east of the study area. This has also minimised the number of trees requiring removal for the proposal.

7.1.2 Project design

The design of the proposed development is such a large portion of APZ is over non-native vegetation or the existing electrical easement. This has minimised the impact to native vegetation and the amount of trees requiring removal for the APZ. The proposal has also been designed such that the shape follows existing boundaries of patches of habitat/ forest. This minimises the creation of new edges of the patches and edge effects.

7.2 Avoid and minimise prescribed impacts

7.2.1 Project location

The development site has been positioned within a location that has been previously subject to disturbances such as likely past agricultural practices. The proposed location of the subdivision allows for the retention of native vegetation in the east of the study area. This minimises impact to the vegetation corridor running north/south through the study area.

7.2.2 Project design

The proposal has been designed such that the shape follows existing boundaries of patches of habitat/ forest. This has avoided cutting into existing patches of habitat and minimised impacts to connectivity through the site.

Table 7.1 of the BDAR details all the avoidance and minimisation measures for direct, indirect and prescribed impacts. These are matters that are to be addressed during detailed design and construction phases.

The proposed stormwater detention basin will manage stormwater quality over the long term to prevent pollution of downstream streams and wetlands.

The BDAR addresses the matter of the “serious and irreversible impact” (SAIL) guidance document released (NSW Gov 2017) which identifies the species and ecological communities (SAIL entities) that are likely to be the subject of serious and irreversible impacts. Three candidate SAIL entities *Falsistrellus tasmaniensis* (Eastern False Pipistrelle), *Miniopterus orianae oceanensis* and *Miniopterus australis* were recorded within the subject land, however no preferred breeding habitat was present. Therefore, the proposal was not found to impact these SAIL entities. No other candidate SAIL entities were found to be present within the study area thus no obligation for proposal refusal would be applicable to this proposed subdivision area from relevant regulatory bodies.

Habitat connectivity

The BDAR, page 156 concludes in relation to habitat connectivity –

Minimisation and mitigation measures have been detailed within Table 7.1 which prioritizes the retention of trees in the APZ on the eastern side of the proposal. It is recommended that trees be retained within the APZ such that the largest distance between any two trees is no more than 30m. Gaps of more than 35m wide have been considered a potential barrier to crossing (LMCC 2015). Existing connections to habitat north of Wilton Drive and east across Mount Vincent Road will not be impacted and contain gaps (less than?) on 20m between canopies. Therefore, the corridor will not be narrowed to the point that it will have significant impact on the species using it and there is no residual prescribed impact.

Mitigation of Impact

The BDAR highlights mitigation measures in the design of the subdivision and in construction and operation, including:

Clearing limits will be clearly marked to prevent unnecessary clearing beyond the extent of the development footprint. Tree clearing and disturbance will be limited to the development site

A suitably qualified and experienced ecologist should be engaged to supervise removal of all significant habitat features (habitat trees, dams, ground habitat)

Habitat salvage within the development footprint should be undertaken prior to and during clearance activities

A Vegetation Management Plan (VMP) has been recommended for the retained vegetation within the study area outside the area of the proposed future Stage 4 area. It will prioritise the ongoing ecological viability of the retained areas of vegetation by protecting the ecological biodiversity and habitat values of the land.

(page v).

Offset

The BDAR calculates offset requirements in Chapters 10 and 11.

The BDAR states that up to 3.95ha native vegetation will require clearing. Consequently, the proposed development will exceed the biodiversity offsets scheme threshold regarding Section 7.2(b) of the BC Act.

Conclusion

The BDAR concludes (page v):

The proposal will result in an incremental loss of habitat for a number of the addressed threatened species occurring within the local area. Taking into account the recommendations to minimise and manage impacts within the report and the offsetting obligation it is believed that the proposal is unlikely to have a significant impact of threatened communities, endangered populations or threatened species.

Management of Stormwater Runoff

The management of potential impacts of construction of the stormwater detention basin and the Stormwater Strategy to mitigate potential impacts of stormwater runoff are detailed in the attached Stormwater Management Strategy, Concept Engineering Design, Acid Sulfate Soils Management Plan and PFAS Assessment.

The subdivision development will be managed to minimise any impact during construction to adjoining residential development. The proposed erosion and sediment controls during construction are included in the Engineering Concept Design attached. A Construction Environmental Management Plan (CEMP) will assist in managing impacts during construction.

4.7.2. Impact on the Built Environment

The subdivision development will be managed to minimise any impact during construction to adjoining residential development. A Construction Environmental Management Plan (CEMP) will assist in managing impacts during construction.

Impacts on utility infrastructure and the road system have been addressed in specialist assessments accompanying this DA. These assessments generally conclude that the systems are capable of being upgraded to meet the demands of the subdivision proposal.

4.7.3. Social and Economic Impacts on the Locality

The proposal will have a positive social and economic impact, both through the engagement of economic resources and creation of serviced residential land that is needed for increasing the housing stock in the City of Maitland.

The construction of the subdivision and subsequent housing will provide direct business and employment benefits and the serviced residential land will facilitate new housing to address a lack of supply.

4.8. The suitability of the site for the development (4.15(1)(c))

The development area is suitable for the proposed residential subdivision because:

1. The area of residential development is zoned for residential purposes under the LEP.
2. Assessments of risk associated with land contamination, mine subsidence, bushfire risk, traffic impact and biodiversity impact have concluded that the development as proposed will meet the accepted standards applying to those assessments.
3. All proposed residential lots will be flood free.

4.9. The public interest (4.15(1)(e))

Justification in the public interest for the development includes:

1. Contribution to housing supply targets through the delivery of serviced residential land (see 4.9.1 below).
2. Compatibility with the relevant planning instruments and the DCP.
3. The employment and economic benefits arising from the development, and
4. The biodiversity impacts offsets that have been proposed.

4.9.1. National Housing Accord

The NSW Government has committed to building 377,000 **new** homes across the State in the next 5 years to align with the National Housing Accord.

Councils in Greater Sydney, Illawarra-Shoalhaven, Central Coast, Lower Hunter and Greater Newcastle have a target and one shared across regional NSW.

The targets are intended to address the housing shortage and prioritise more diverse and well-located homes in areas with existing infrastructure capacity.

Maitland's target is 5,300 new completed homes by 2029.

This Development Application, to be implemented through the period between now and 2029 could deliver an estimated 77 new dwellings. Critically, the proponent has engaged in commencing the process of delivering critical infrastructure (water supply and sewerage) to provide for that potential to be realised.

5.0 Conclusion and Recommendation

This Statement of Environmental Effects has been prepared to accompany the Development Application to the City of Maitland for approval of a proposed:

1. 77 lot residential subdivision to be constructed in 3 stages, and
2. Related subdivision works, including a vehicular access from Wilton Drive, internal streets and pathways, fire trail, landscaping and a stormwater basin.

The development is permissible under the zonings and consistent with the zone objectives.

The development meets the requirements of Council's DCP.

The development will be connected to the necessary infrastructure to facilitate housing construction and occupancy.

The development will provide the benefits of increasing the housing supply in the City of Maitland.

It is concluded that the DA submission, including the provision of specialist report assessing mine subsidence issues, bushfire risk, contamination risk, traffic impact and biodiversity impact adequately addresses the key matters for assessment under the EPA Act.

It is recommended that the development be approved by Council. It is expected that Council will apply conditions of consent that will be based on its and other authority requirements for the submission of detailed designs, leading to the Construction Certificate and the Subdivision Certificate.

6.0 List of Attachments

1. Subdivision Plans for Approval
 - a. Master Plan Ref HD02 Rev 9 dated 16.07.27
 - b. Subdivision Plan Ref HD01 Rev 9 dated 16.07.24
 - c. Staging Plan Ref HD03 Rev 9 dated 16.07.24
2. Landscape Site Plan and Details in 3 sheets Rev C dated 15.7.24
3. Stormwater Management Strategy Rev 1 dated 08.08.2024
4. Engineering Concept Design Drawings (30 sheets) Rev 1 dated 16th July 2024
5. Bushfire Risk Assessment Report July 2024
6. Acid Sulfate Soils Management Plan August 2024
7. Mine Subsidence Assessment Report August 2024
8. Land Contamination Review including PFAS Investigation August 2024
9. Transport Impact Assessment Report July 2024
10. Biodiversity Development Assessment Report August 2024
11. HWC Stamped Plans July 2024
12. Draft DCP for land documents and Council responses (December 2023 – June 2024)