

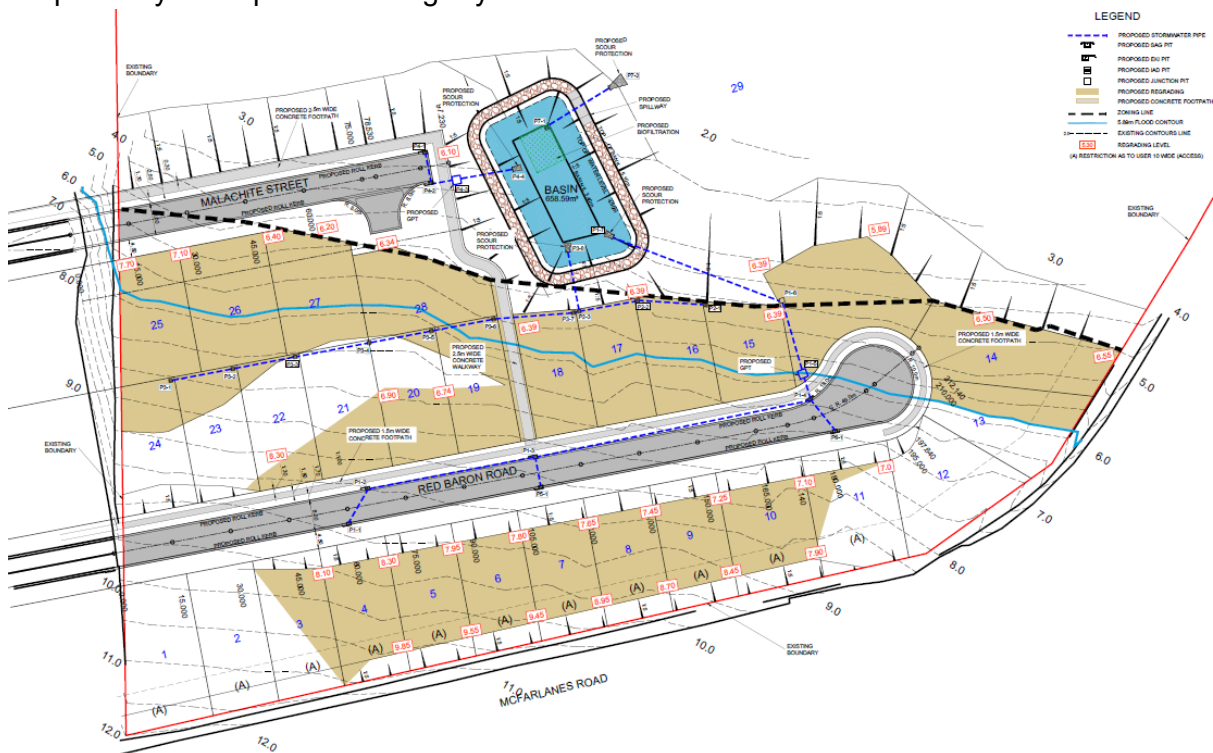


STATEMENT OF ENVIRONMENTAL EFFECTS FOR

**STAGED TORRENS TITLE SUBDIVISION (ONE INTO 29 LOTS),
CIVIL WORKS AND DEMOLITION OF EXISTING STRUCTURES**

AT 349 MCFARLANES ROAD BERRY PARK, NSW, 2321
(LOT 44, DP 1117263)

Prepared by Perception Planning Pty Ltd on behalf of Drew Lumsden



Above: Proposed development plan

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Document Versions and Control

Statement of Environmental Effects, 349 McFarlanes Road, Berry Park, NSW, 2321

No:	Date:	PP Ref:	Author:	Reviewed by:
Version 1 (Draft)	03/02/2022	SEE_349 McFarlanes Road Park, NSW	KW	ED / Client

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EXECUTIVE SUMMARY

Perception Planning Pty Ltd has been engaged by Drew Lumsden (the client) to prepare a Statement of Environmental Effects (SoEE) for a staged Torrens title subdivision (one into 29 lots), over 349 McFarlanes Road, Berry Park, NSW, 2321 (LOT: 44 DP: 1117263). The land consists of a split land use zone including zones:

- R1 General Residential;
- RU2 Rural Landscape; and
- C2 Environmental Conservation.

The residential zoned land forms part of the Thornton North urban release area. The site adjoins the existing residential land release to the south and seeks to connect to the existing road terminals in accordance with the overall masterplan.

The characteristics of the development include:

1. Demolition of existing dwelling and ancillary structures.
2. One into 29 Lot Torrens title subdivision, including Lots with the R1 zoned land ranging in size between 516m² and 754m²
3. The residual land identified as Lot 29 measures 11 hectares and contains 508m² R1 zoned land for the construction of a future dwelling and the balance of the RU2 and C2 zoned land.
4. The size and shape of each Lot has been designed to accommodate future residential development.
5. Civil works including:
 - a. Extension of existing street network, being Meadowhawk Street and Red Baron Road.
 - b. Construction of 1.5m wide concrete footpaths.
 - c. Extension and construction of stormwater infrastructure within street network, to discharge into the proposed water detention basin to the west.
 - d. Bulk earthworks to establish site outside of 1 in 100 ARI flood event and regrading of site to establish residential allotments.
 - e. Preparation of landscape easement 10m wide along McFarlanes Road.

The development proposal consists of two stages:

Stage 1 works to include:

1. Extension of Meadowhawk Street with part construction of connecting pedestrian footpath;

2. Construction of detention basin; and
3. Establish proposed Lots 25 through to 29 with connection essential services.

Stage 2 works to include:

1. Extension of Red Baron Road and construction of remaining pedestrian footpaths;
and
2. Establish proposed Lots 1 through to 24 with connection to essential services.

The proposed development is consistent with the Maitland Local Environment Plan 2011 (MLEP) and Maitland Development Control Plan 2011 (MDCP). Where non-compliances exist, management or mitigation measures have been provided. From a qualitative perspective the development will not result in a significant adverse impact on the streetscape and will contribute to regional population growth and job creation throughout the construction of the subdivision and housing development.

The key reasons why the proposed development is appropriate are as follows;

- The proposed subdivision is permissible on the site with consent, with all Lots meeting the minimum Lot size requirement;
- No adverse impact on the existing character or amenity of the area will result;
- The proposed subdivision is consistent with the layout of the existing area, without burdening the essential services supply;
- The proposed subdivision is a logical extension of the existing residential development to the south and is an effective use of the land in accordance with the overarching Urban Release Development Control Plan; and
- Subdivision of the land will directly benefit the community through providing additional developable and saleable lots which are largely unconstrained to meet the housing needs of the growing community population.

The proposal has been analysed in terms of all relevant planning framework to identify and address the key planning requirements and site constraints. These issues have been addressed throughout the SoEE to ensure optimal consideration has been afforded to the development of the site.

The SoEE will expand on those matters that have been summarised above to assist Council in completing a detailed assessment of the proposal development.

TERMS AND ABBREVIATIONS

AHIMS	Aboriginal Heritage Information Management System
EPA	Environment Protection Authority
EP&A Act	Environmental Planning & Assessment Act 1979
DA	Development Application
DCP	Development Control Plan
LGA	Local Government Area
SoEE	Statement of Environmental Effects
EPI	Environmental Planning Instrument
ASS	Acid Sulphate Soils

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PLANS AND SUPPORTING DOCUMENTATION

This SoEE is supported by the following plans and documentation:

Attachment	Document	Prepared by
1	EP&A Regulation Compliance Table	Perception Planning
2	DCP Compliance Table	Perception Planning
3	Certificate of title and DP	LRS
4	Pre-DA Meeting Minutes	Maitland City Council
5	Dial Before You Dig Search	DBYD
6	Draft Plan of Subdivision	High Definition Design
7	Aboriginal and Cultural Heritage Preliminary Assessment	Myall Coast Archaeological Services
8	Bushfire Assessment Report	Perception Planning
9	Hunter Water Corporation Stamped Plan	Hunter Water Corporation
10	Flood Impact Study	Torrent
11	Stormwater Management Plans	High Definition Design
12	Preliminary Site Investigation	Qualtest
13	Traffic Impact Assessment	SECA Solutions
14	Cut and Fill Plan	High Definition Design
15	Landscape Plan	Green Space Planning Co
16	Waste Minimisation Management Plan	Perception Planning
17	Acoustic Report	RAPT Consulting

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1 BACKGROUND

1.1 PURPOSE

The purpose of this Statement of Environmental Effects (SoEE) is to assist Council in their assessment and determination and to assist the community in understanding the proposed development.

This SoEE has been prepared in coordination with Drew Lumsden (the client) and other sub-consultants to demonstrate the relevant matters associated with in the proposed development. The SoEE examines the existing development and site location, how the proposed development relates to the location and the environment, as well as the planning merits of the development with respect to the relevant legislation, regulation and other requirements. The SoEE examines the applicable site attributes and the specifics of the development proposal that are appropriate to the development application stage. The SoEE seeks to provide all the relevant data to give a suitable level of certainty to the consent authority that the proposal has a positive impact on the immediate area and the wider surrounds.

This SoEE has been prepared in accordance with best practice principles, applicable aspects of the Development Assessment Framework and the Department of Planning and Infrastructure's (now the Department of Planning and Environment) guide to the *Environmental Planning and Assessment Act (EP&A Act) 1979 (s4.15)*.

The objectives of this SoEE are as follows:

- To provide a description of the site, existing development and the surrounding locality;
- To provide a description of the proposal and the key issues;
- To provide a discussion of the relevant Environmental Planning Instruments (EPI)s; and
- To provide an assessment of the potential environmental impacts, having regard to the matters for consideration pursuant to the EP&A Act (s4.15) and other State, Regional and Local environmental planning policies and guidelines.

1.2 SITE DETAILS

TABLE 1 below details the site particulars, environmental constraints and legislative controls.

Table 1: Site details

Property Address	349 McFarlanes Road, Berry Park, NSW, 2321
Lot and DP	LOT: 44 DP 1117263
Current Use	Dwelling and ancillary structures
Zoning	R1 – General Residential RU2 Rural Landscape C2 Environmental Conservation
Site Constraints	Bushfire prone land – vegetation category 3 and buffer Acid sulfate soils – classes 2, 4 and 5 Flood prone land Urban release area Minimum lot size – 450m ² and 40 ha
Owner	Owners consent has been provided on the Application Form for the DA.
DP and 88B Instrument	Nothing on the DP or 88B instrument prohibits the proposed development. No existing easements are identified within the DP or 88B instrument (ATTACHMENT 3) .

1.3 SITE DESCRIPTION

The site is located at 349 McFarlanes Road, Berry Park, NSW, 2321 (**'the site'**) and has a total area measuring approximately 13.7 ha (**FIGURE 1**). The site is located within the township of Berry Park, within the Maitland Local Government Area (LGA) and forms part of the Thornton Urban Release Area. The land to the south adjoining the site has been developed for residential purposes under this precinct plan.

The site is bound to the east by McFarlanes Road with small rural residential development located further east of the road. New residential development as part of the Thornton North Urban Release Area is located to the south. Environmental conservation land is located to the west which includes Four Mile Creek. Agricultural land is located to the north through to east.

Vegetation on the site generally consists of grasses with scattered trees (predominantly planted exotic and non-native species) surrounding the dwelling. The site slopes from McFarlanes Road to west boundary toward Four Mile Creek. The west of the site is identified as flood prone land, which extends toward the residentially zoned land.

The site contains a dwelling house and outbuildings / ancillary structures associated with agricultural industry. The site currently maintains direct vehicular access from McFarlanes

Road, however the subdivision proposed will be accessible from newly established public roads, Meadowhawk Street and Red Baron Road within the existing Thornton North Urban Release Area. Access from the site to McFarlanes Road will be closed. All roads are identified as local roads under the maintenance of Maitland City Council.

A dial before you dig search was conducted on 4 February 2022, results are contained in **ATTACHMENT 5**. The search identified that the site has the ability to connect to:

- Reticulated water and sewer;
- Underground electricity;
- Natural Gas; and
- Telecommunications.

As detailed in **TABLE 1** above, the subject site is mapped with three land use zones being:

- R1 General Residential;
- RU2 Rural Landscape; and
- C2 Environmental Conservation.

FIGURE 2 shows the land use zones across the site.

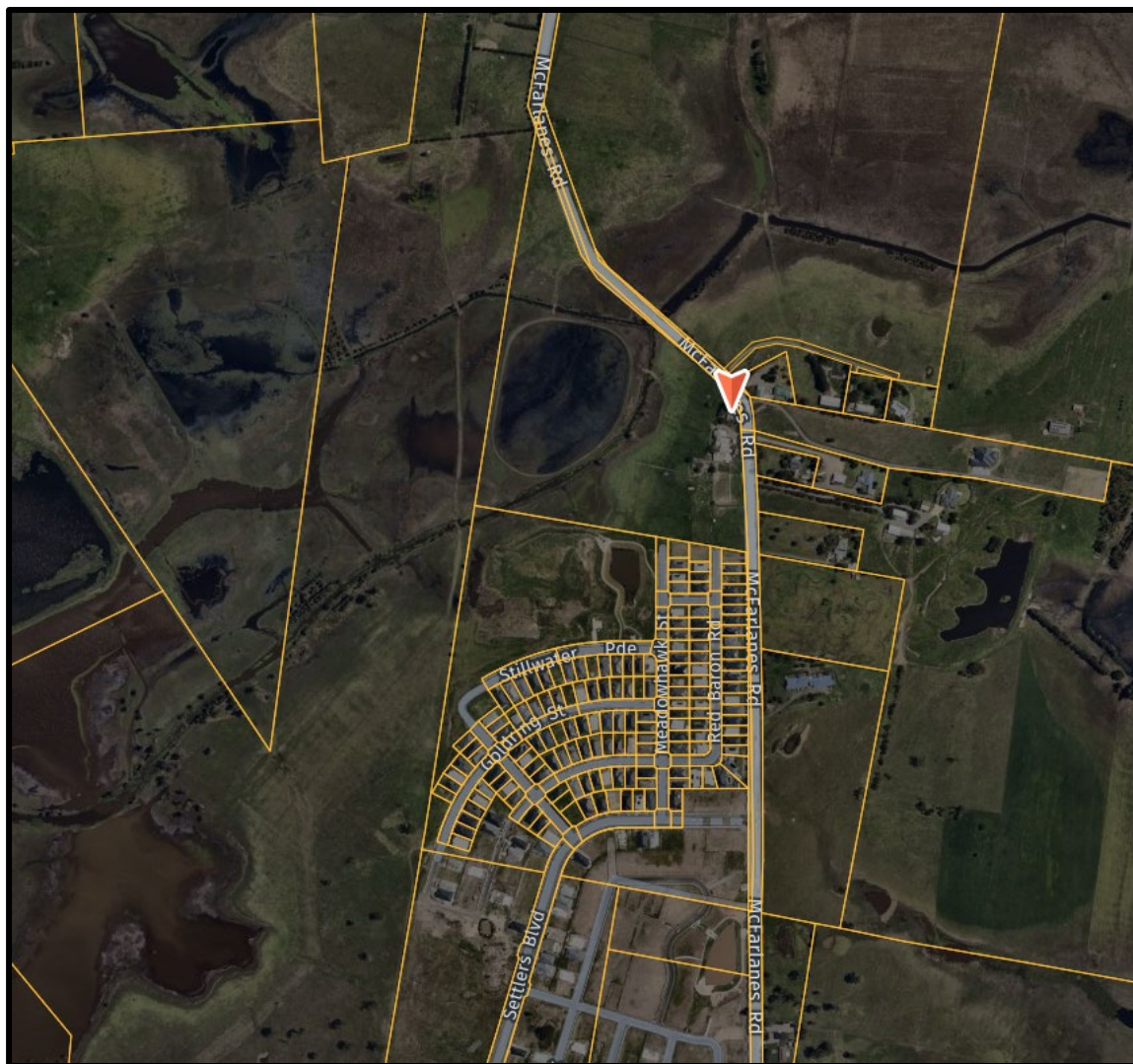


Figure 1: Subject site within the surrounding locality (NearMaps, 2022)



Figure 2 – Land use mapping across the site: Purple – R1; Light brown – RU2; Dark brown – C2 (NSW Planning Portal, 2022).

1.4 CURRENT USE AND EXISTING DEVELOPMENT DETERMINATIONS

The site is currently occupied by a dwelling house and ancillary structures under historic approval. The Maitland City Council Development Application Tracker website does not identify any recent or historic approvals and therefore it is assumed that approval was granted pre-dating 1980.

No known compliance matters exist over the site which would pose issues for the proposed development.

The site is located within Stage 2 of the Thornton North Urban Release Area (URA) part of Waterford County North Precinct 5. A pre-lodgement meeting was held with Council to discuss the proposed subdivision on 10 June 2021 (**ATTACHMENT 4**). The initial subdivision plan was not supported by Council due to the non-compliance to the minimum Lot size requirements under the Maitland Local Environmental Plan 2011. The submitted development has been designed to respond to the matters identified and discussed within the meeting, specifically:

- Development footprint to be wholly contained within the R1 zone with Council considering minor encroachments of the road reserve into the RU2 zone given the existing road geometry; and
- Consideration of a cul-de-sac road arrangement to address access to proposed allotments.

It was suggested by Council that the amended subdivision plan was submitted to Council for preliminary comment. A copy of the current proposed plan of subdivision was submitted via email to Council on 19 October 21, however no comment was made.

It is noted within the pre-DA advice the Council recommended consultation be held with the adjoining neighbours. Consultation with the neighbouring properties will occur in accordance with Maitland City Council Development Control Plan requirements.

2 DESCRIPTION OF THE DEVELOPMENT

2.1 PROPOSED DEVELOPMENT

The objective of the proposed development is to obtain development consent for a staged Torrens title subdivision (one into 29 lots) (**FIGURE 3**) and (**ATTACHMENT 5**). The characteristics of the development include:

The characteristics of the development include:

1. Demolition of existing dwelling and ancillary structures.
2. One into 29 Lot Torrens title subdivision, including Lots with the R1 zoned land ranging in size between 516m² and 754m²
3. The residual land identified as Lot 29 measures 11 hectares and contains 508m² R1 zoned land to enable future dwelling construction and the balance of the RU2 and C2 zoned land.
4. The size and shape of each Lot has been designed to accommodate future residential development.
5. Civil works including:
 - a. Extension of existing street network, being Meadowhawk Street and Red Baron Road.
 - b. Construction of 1.5m wide concrete footpaths.
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 - e. Preparation of landscape easement 10m wide along McFarlanes Road.

The development proposal consists of two stages:

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Stage 2 works to include:

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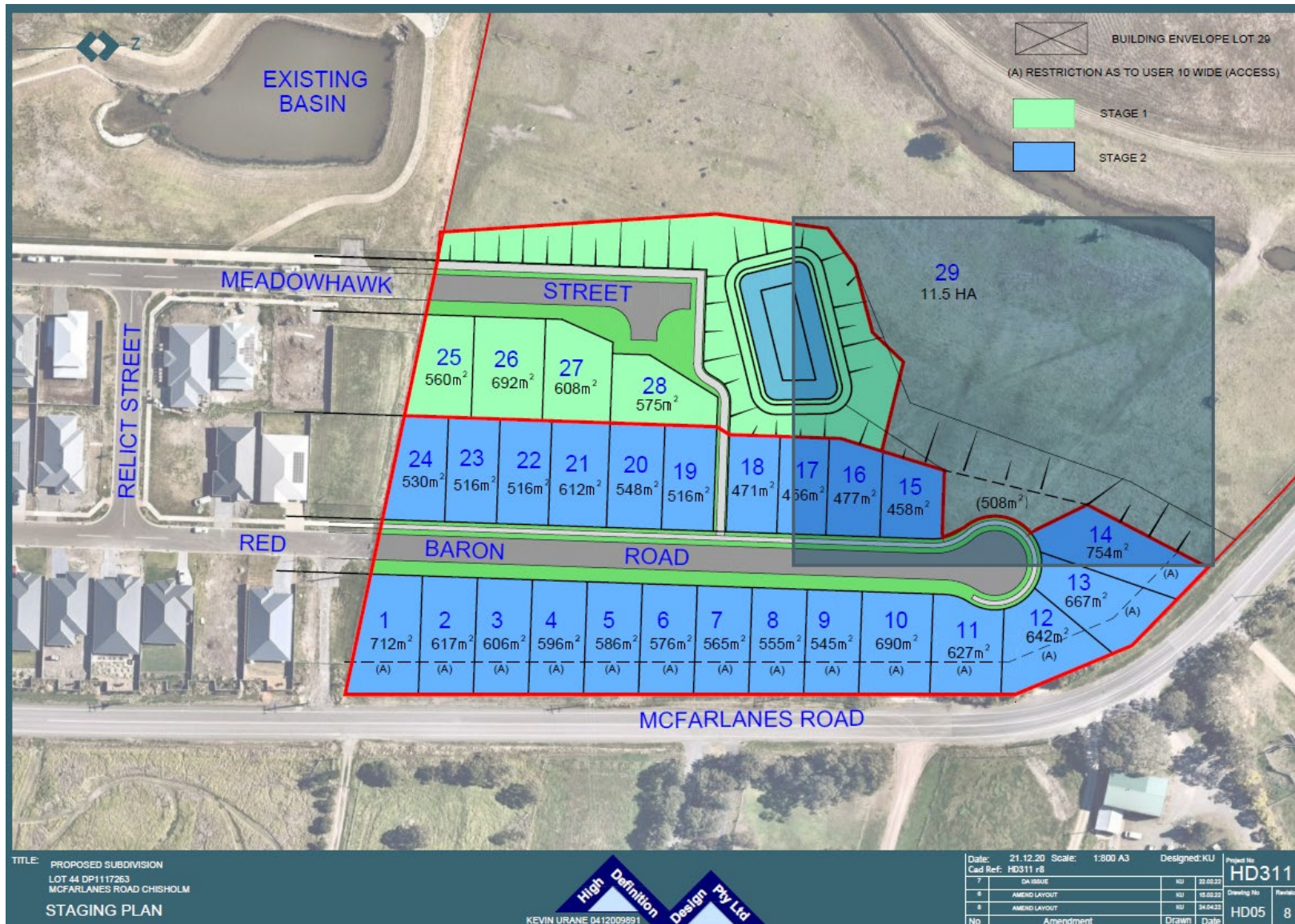


Figure 3 - Proposed subdivision layout and staging (High Definition Design, 2021)

3 PLANNING CONTROLS

3.1 ACTS

The following Acts are considered relevant to the proposed development:

3.1.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The Environmental Planning and Assessment Act 1979 (EP&A Act) is the principal planning and development legislation in NSW and is applicable to the proposed development. Section 4.15 of the EP&A Act specifies the matters which a consent authority must consider when determining a DA. The relevant matters for consideration under Section 4.15 are addressed in further detail in separate sections of this SoEE below.

Section 4.46 – What is integrated development?

The proposed development is defined as integrated development and requires consent from the RFS as identified in **TABLE 2** below. The subject site is identified as bushfire prone, vegetation category buffer. The development includes a subdivision that will result in land that can lawfully be used for residential purposes, and therefore requires referral to the NSW Rural Fire Service as 'integrated development', requesting the issue of a Bushfire Safety Authority. A Bushfire Assessment Report (BAR) has been prepared in accordance with 'Planning for Bushfire Protection' 2019 (PBP) and is provided at **ATTACHMENT 8** to enable referral.

Section 7.11 – Development Contributions

Development contributions will be calculated and charged in accordance with Table 1 in the Maitland City Council Thornton North Section 94 Contributions Plan 2008 (TNCP).

The TNCP includes item TN57 –Fringe Road (additional 6.0m reserve, 1.5m for shared way and 2.5m parking lane) with a capital value in the plan of \$2,583,849. The linear metres rate for the item is estimated to be \$483 in accordance with pre-DA advice. The proponent is requesting that a works-in-kind agreement is arranged as part of this Development Application for the Fringe Road extension and shared way.

3.1.2 HUNTER WATER ACT 1991

The subject site is not located within a Drinking Water Catchment. To this effect, a referral to HW is not required under Section 51 of the HW Act. Stamped plans and Formal Notice of Requirements in accordance with Section 49 of the HW Act are provided as **ATTACHMENT 9** to this application.

3.1.3 BIODIVERSITY CONSERVATION ACT 2016

The purpose of this Act is to maintain a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development.

Applicants are to supply evidence relating to the triggers for the Biodiversity Offsets Scheme (BOS) Threshold and the test of significance when submitting a development application to the consent authority.

The subject site is substantially clear of vegetation. The development area on the subject site is away from the area identified on the Biodiversity Values Map as land with high biodiversity value and sensitive to impacts from development and clearing, shown in **FIGURE 4**.

Minor vegetation removal is required to facilitate Stage 2 of the proposed development. However, the vegetation removal is not mapped under the BC Act nor does the vegetation removal exceed the threshold. As such a Biodiversity Development Assessment Report is not triggered. A detailed landscape plan has been prepared and contained in **ATTACHMENT 10**. It is considered that the landscaping with the 10m buffer along McFarlane's Road and the streets results in a net zero impact with respect to biodiversity. To this extent, it is considered that assessment of the BC Act is not warranted.



Figure 4: *Vegetation with mapped biodiversity values in the local area (Biodiversity Values Map and Threshold Tool, 2021)*

3.1.4 RURAL FIRES ACT 1997

Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land unless the consent authority:

- (a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or*
- (b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.*

A Bushfire Assessment Report (BAR) has been prepared in accordance with 'Planning for Bushfire Protection' 2019 (PBP) and is provided at **ATTACHMENT 8** to enable referral. The BAR identifies that the predominant bushfire hazard is located to the west of the site, being grassland. The report identifies the subdivision can achieve a BAL29 rating with the provision of an additional 25m APZ along the boundary between Lots 14 and 15 with Lot 29. The development is compliant with the PBP 2019 Guidelines thus ensuring risk to life as a result of a bushfire event can be suitably managed.

Table 2: Integrated development

Integrated development	Proposed Development	
Fisheries Management Act 1994	<ul style="list-style-type: none"> ○ s 144 ○ s 201 ○ s 205 ○ s 219 	N/A
Heritage Act 1977	<ul style="list-style-type: none"> ○ s 58 	<p>N/A</p> <p>The site is not identified as being a heritage item or located within a heritage conservation area.</p> <p>An AHIMS search conducted on 10 November 2021 (ATTACHMENT 7) identified seven Aboriginal sites within a 1km buffer of the subject site. As requested by the Maitland City Council during the pre-DA meeting, an Aboriginal and Cultural Heritage Preliminary Assessment was undertaken. The report (ATTACHMENT 7) identified it is unlikely that any object would be uncovered as a result of the development and the proposal is unlikely to have any direct or indirect impacts on the identified objects. The report concludes that that an Aboriginal Heritage Impact Permit is not required.</p>
Coal Mine Subsidence Compensation Act 2017	<ul style="list-style-type: none"> ○ s 22 	<p>N/A</p> <p>The site is not mapped within a mine subsidence district.</p>
Mining Act 1992	<ul style="list-style-type: none"> ○ s 63, 64 	N/A
National Parks & Wildlife Act 1974	<ul style="list-style-type: none"> ○ s 90 	N/A
Protection of the Environment Operations Act 1997	<ul style="list-style-type: none"> ○ ss 43(a), 47, 55 ○ ss 43(b), 48, 55 ○ ss 43(d), 55, 122 	N/A
Roads Act 1993	<ul style="list-style-type: none"> ○ s 138 	N/A

		The proposed development seeks to extend Meadowhawk Street and Red Baron Road. Both roads are identified as local government roads. As such referral to Transport for NSW is not triggered in this instance. A Section 138 Permit to extend the local roads as part of a future Construction Certificate.
Rural Fires Act 1997	<ul style="list-style-type: none"> ○ s 100B 	The development includes a subdivision that will result in land that can lawfully be used for residential purposes, and therefore requires referral to the NSW Rural Fire Service as 'integrated development'.
Water Management Act 2000	<ul style="list-style-type: none"> ○ ss 89, 90, 91 	N/A Four Mile Creek is located to the west of the development area. The construction works will be in excess of 40m from the waterway. Accordingly, the development proposal does not trigger referral to NRAR.

3.2 STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

All State Environmental Planning Policies (SEPPs) have been considered. The following SEPPs are considered relevant to the proposed development and discussed in further detail below.

- *State Environmental Planning Policy (Coastal Management) 2018*
- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Koala Habitat Protection) 2021*

3.2.1 SEPP (COASTAL MANAGEMENT) 2018

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by—

(a) managing development in the coastal zone and protecting the environmental assets of the coast, and

(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and

(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

As shown in **FIGURE 5** the subject site is not mapped as being in proximity to coastal wetland or littoral rainforests; however, the site is mapped as being subject to a coastal environment area. As such, the provisions of Section 13 apply to the development. Assessment against the provisions is detailed in **TABLE 3** below.

Table 3: Assessment of SEPP (Coastal Management) 2018, Clause 13

Clause	Comment	Compliance
(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—		
(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment	<p>It is not anticipated that the proposed development will significantly impact upon the integrity and resilience of the biophysical and ecological environments.</p> <p>The hydrological environment (surface and ground water) will be altered as a result of the proposed earthworks and future development of the residential allotments.</p>	Yes

	<p>With respect to surface water, the earthworks are required lift the residential zoned land above the 1 in 100 ARI flood level to facilitate safety to property and life. A flood impact assessment has been prepared (ATTACHMENT 11) to address the impact of the development on the flood character and behaviour. The report determines that risk to life in a 1 in 100 ARI event can be suitably managed. Further the proposed development does not result in substantial changes to the flood behaviour which would increase risk on adjoining properties.</p> <p>With respect to ground water, a stormwater management plan has been prepared (ATTACHMENT 12). The proposed stormwater management plan identifies that stormwater can be successfully managed. The stormwater philosophy includes:</p> <p>The stormwater drainage management strategy involves:</p> <ul style="list-style-type: none"> • Roof areas of residences will drain to rainwater tanks/harvesters within each lot for re-use. Water Tanks will overflow through a piped connection to IAD or street drainage system. • Output of the captured stormwater from drainage pipe system to gross pollutant traps (GPT's) for primary treatment prior to the discharge into the proposed bioretention basin for further treatment. • Capture of stormwater from lot and road reserve areas by a convectional pit and pipe drainage network located in the street or in IAD easements where required. • Discharge from the catchment's outlets will be conveyed overland towards the existing waterways or piped where required, generally similar to the discharge from the undeveloped catchments. • Creation of stormwater bioretention basin, in accordance with Maitland City Council's standards Detail drainage 	
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	<p>design of the piped system will be provided during the Construction</p> <p>To this extent, it is considered that the proposed development can suitably manage stormwater to avoid adverse impact to the hydrological environment.</p>	
(b) coastal environmental values and natural coastal processes,	The proposed development will not alter the coastal environmental values or the natural processes.	Yes
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The development will not adversely impact any marine estate nor is it located near or on any of the sensitive coastal lakes.	N/A
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	The proposed development removes minimal vegetation from the allotment. As described under the BC Act, the proposed development is not anticipated to have any adverse biological impact with relation to flora and fauna.	Yes
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	The site is not near existing open space, nor will it alter access to and along any foreshore area, beach, headland or rock platform	NA
(f) Aboriginal cultural heritage, practices and places,	As detailed under TABLE 2 an Aboriginal and Cultural Heritage Impact Statement has been prepared. The report identifies that there are no anticipated adverse impacts associated with the development on any nearby Aboriginal objects.	Yes
(g) the use of the surf zone.	The development will not impact upon the use of the surf zone.	NA



3.2.2 SEPP No.55 – REMEDIATION OF LAND

SEPP No.55 provides a State-wide planning approach to the remediation of contaminated land. Clause 7 of SEPP No.55 provides that a consent authority must not consent to the carrying out of development on land unless it has given consideration to whether the land subject to the development is contaminated. Where the land is contaminated a consent authority must determine if the land is suitable in its contaminated state for the development, or alternatively determine that the land would be suitable once remediated.

A Preliminary Site Investigation (PSI) assessment and report has been undertaken address the matters of SEPP No.55 to ensure the site is suitable for the intended purpose of residential subdivision and future occupation. The PSI, contained in **ATTACHMENT 12**, identifies that the site has a history residential accommodation and associated farming and horse training practices. Three areas of environmental concern were identified during the site visit which related to the current and former buildings across the site, storage of waste materials across the site and the existing septic tanks and associated overflow/soak aways. The site is not identified as contaminated land in accordance with the EP&A Register or the Section 10.7 Certificate.

As identified in the PSI, the land has the potential to hold contaminants that may require remediation as part of the future subdivision to ensure the land is fit for purpose. Further investigation may be requested by Council as recommended by the report to meet the objectives of SEPP No.55.

3.2.3 SEPP (INFRASTRUCTURE) 2007

The purpose of the Infrastructure SEPP is to facilitate the effective delivery of infrastructure across the state and identifying matters to be considered in the assessment of developments adjacent to particular types of development.

Subdivision 2 Development likely to affect an electricity transmission or distribution network

Section 45 – Determination of development applications – Other development

As described in Section 1.3 of this SoEE, the site is connected to overhead reticulated electricity. The proposed subdivision will connect to the underground electricity located in the road corridor of Meadowhawk Street and Red Barron Road. The extension of the existing roads and connection to the electricity network will result in penetration of the ground within 2m of an underground electricity line, as such referral to the electricity supply company is triggered in this instance pursuant to Section 45(1)(a).

Subdivision 2 Development adjacent to pipeline corridors

Section 66C – Determination of development applications

The proposed development is not in the vicinity of a pipeline corridor as defined under Section 66C (2). Accordingly, the proposed development does not trigger referral to any pipeline operator pursuant to Clause 66C.

Subdivision 2 Development in or adjacent to road corridors and road reservations

Section 104 – Traffic Generating Development

As described in Section 1.3 of this SoEE, the surrounding road network consists of local roads under the maintenance of Maitland City Council. As such, referral or Transport for NSW (TfNSW) under Sections 100, 101 or 102 of the ISEPP is not triggered.

In accordance with Section 104 of the ISEPP, development listed in Schedule 3 is identified as traffic-generating development. Pursuant to Schedule 3, subdivision which creates 200 or more allotments or 200 or more motor vehicle movements per hour is considered traffic generating development. The proposed subdivision creates 29 allotments and less than 200 vehicle movements per hour. As such, the proposal is not considered traffic-generating development and referral to TfNSW is not triggered.

Despite the above, a Traffic Impact Assessment (TIA) (**ATTACHMENT 13**) has been prepared to assist Council in their determination. The TIA identified that the proposed subdivision would have minimal impact on the surrounding road network and would not compromise the safety of surrounding intersections.

The assessment against the ISEPP has identified that the proposed development is unlikely to have any adverse impacts on local and state infrastructure. Referral to the electricity supply authority is required under Section 45.

3.2.4 SEPP (KOALA HABITAT PROTECTION) 2021

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. Section 6 and Schedule 1 of the SEPP identify the Maitland Local Government Area as land to which the policy applies and subject to the Central Coast Koala Management Area.

The key threats within the Central Coast Koala Management Area have been identified as:

- Habitat clearing and fragmentation;
- Vehicle strike and dog attack;
- Bushfire;
- Invasive plant species;
- Disease;
- Reduction in feed trees; and
- Sea level rise.

MCC does not have a Comprehensive Koala Plan of Management to guide development and support the viability of the free-living koala population. As such the provisions of Section 11 of the Koala SEPP 2021 apply.

As described in Section 1.3 of this SoEE, the site has minimal vegetation across the site. The vegetation surrounds the existing dwelling and ancillary structures. The development proposal will require the removal of the vegetation to facilitate the construction of the proposed road network. Considering the vegetation located on site is isolated and provides no vegetation corridor for koala movement, the proposal is not anticipated to substantially impact the local koala population, nor impact their foraging ability. As such, taking into consideration the existing residential development to the south of the subject site and the limited vegetation on site, the localised impact to the koala population is believed to be negligible.

3.3 LOCAL ENVIRONMENTAL PLAN (LEP)

The following parts of the Maitland LEP 2011 apply to the proposed development:

- **Clause 2.3 – Zone Objectives and Land Use Table**

The subject site is split zoned R1 General Residential, RU2 Rural Landscape and C2 Environmental Conservation. The proposed development includes a Torrens title subdivision, which is permissible with consent in the zone in accordance with Clause 2.6 below. The proposed subdivision creates residential allotments across the R1 zoned land with a single allotment containing the balance of the RU2 and C2 zoned land. It is considered that the proposed subdivision, maintains the rural landscape and maintains and allows for the conservation of the C2 zoned land in perpetuity.

The Land Use Table of the LEP identifies the following objectives for the R1 zone:

- *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 development provides additional Lots within the Thornton North Urban Release Area to accommodate future residential accommodation within a general residential environment that caters for the housing needs of the community, whilst protecting and enhancing the existing residential amenity and rural character of the area. To this extent, the proposed development meets the objectives of the R1 zone.

- **Clause 2.6 – Subdivision**

The application includes subdivision, resulting in 29 Torrens title lots at the conclusion of the development which is permissible under this clause.

- **Clause 2.7 – Demolition**

The application includes demolition of the existing residential dwelling and ancillary structures on the land.

- **Clause 4.1 – Minimum Lot Size**

The objective of this clause applicable to the proposed development is to ensure that lot sizes are able to accommodate development that is suitable for its purpose and that it is consistent with the relevant development controls. The size of any lot resulting from the subdivision of land to which this clause applies is not to be less than the minimum size shown on the lot size map in relation to that land.

The minimum lot size varies between the different land use zoned in accordance with **TABLE 3** below.

Table 3: Land use zone and correlating minimum Lot sizes

Land Use Zone	Minimum Lot Size
R1 General Residential	450m ²
RU2 Rural Landscape	40ha
C2 Environmental Conservation	40ha

The proposed subdivision creates residential Lots between 516m² and 712m² consistent with the minimum Lot size requirements for the R1 Zone. The existing land zoned RU2 and C2 is currently below the minimum 40ha Lot size and will remain in the current form post subdivision. Considering that the land subject to the RU2 and C2 land use zones are below the minimum Lot size, the provisions of Clause 4.2C apply.

- **Clause 4.2C – Minimum subdivision lot sizes for certain split zones**

The objectives of the clause are to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1 and ensure that the subdivision promotes sustainable land use and development. The clause applies to land in a residential zone and land that is identified as one for the following:

Zone RU1 Primary Production,

Zone RU2 Rural Landscape,

Zone E2 (C2) Environmental Conservation or

Zone E3 (C3) Environmental Management.

Accordingly, the site is land to which the clause applies. Accordingly, despite Clause 4.1, development consent may be granted if:

3(a) one of the resulting lots will contain—

(i) land in a residential, business or industrial zone that has an area that is not less than the minimum lot size shown on the Lot Size Map in relation to that land, and

(ii) all the land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone E2 Environmental Conservation or Zone E3 Environmental Management that was in the original lot, and

3(b) all other resulting lots will contain land that has an area that is not less than the minimum lot size shown on the Lot Size Map in relation to the land.

The proposed subdivision creates Lot 29 which has a minimum 450m² area of R1 zone and contains the balance of the RU2 and C2 zoned land in accordance with Clause 3(a). All other allotments within the R1 zoned land meet the minimum lot size as shown on the Lot Size Map.

To this extent, the proposed subdivision meets the provisions of Clause 4.2C to enable to the proposed subdivision. It is considered that the proposed subdivision promotes the sustainable development of the land in accordance with the Thornton North URA and maintains the rural landscape and environmental values of the site. The proposed lots are suitable for their intended residential purpose and are consistent with the development controls, as detailed within the DCP section of this report.

- **Clause 5.10 – Heritage conservation**

The site is not identified as being a heritage item, nor within a Heritage Conservation Area.

As detailed in **TABLE 2** an AHIMS search conducted on 10 November 2021 (**ATTACHMENT 7**) identified seven Aboriginal sites within a 1km buffer of the subject site. As requested by the Maitland City Council during the pre-DA meeting, an Aboriginal and Cultural Heritage Preliminary Assessment was undertaken. The report identified it is unlikely that any object would be uncovered as a result of the development and the proposal is unlikely to have any direct or indirect impacts on the identified objects.

To this extent, it is considered that the proposed subdivision is unlikely to have any adverse impacts on Aboriginal or European cultural heritage.

- **Clause 5.16 – Subdivision of, or dwellings on, land in certain rural, residential or conservation zones**

The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or conservation zones. Considering the proposed subdivision creates a lot containing RU2 and C2 land, the consent authority must take into consideration the following matters:

- (a) the existing uses and approved uses of land in the vicinity of the development,*
- (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

The proposed development creates Lot 29 which allows for a residential development on the allotment. The proposal is consistent with Clause 4.2C and the Thornton North URA DCP. Therefore, it is considered that the future residential development of this lot will be consistent with the existing surrounding uses and will not result in adverse environmental impacts that could not be managed or mitigated.

- **Clause 5.21- Flood planning**

Clause 5.21 seeks to manage flood impacts and minimise risk to life and property by ensuring development is compatible to the flood hazard. The site is identified as flood prone land. The Flood Impact Assessment (**ATTACHMENT 10**) that forms part of the Development Application, recommends that the Flood Planning Level is set around 7.0AHD to manage the potential flood risk to hazard. The Report assesses the impact of the development on the flood behaviour and concludes that the proposal will not result in adverse impacts on surrounding property owners.

The cut and fill plan contained in **ATTACHMENT 14** identifies that the majority of the allotments will have a finished site level above 7.0AHD. Approximately five allotments (Lots 14, 15, 27-29) are identified having a finished site level between 6.3-6.5AHD. The proposed finished site levels are consistent with the recommendations of the Flood Impact Assessment. To this extent, it is considered that the development proposal can suitably manage flood impacts within acceptable tolerance limits.

The Flood Impact Assessment identifies that at a flood emergency response plan is prepared for the site with the recommended floor evacuation route from the Site is north along McFarlanes Road to Morpeth. It is requested that this is conditioned on the approval of the development application.

The flood impact on the site has been taken into consideration to aid the design proposal. The development is believed to be able to successfully manage risk to life and property in a flood event and is suitable for approval.

- **Clause 6.1 – Arrangements for designated State public infrastructure**

Clause 6.1 requires satisfactory arrangements to be made for the provision of designated State public infrastructure before the subdivision of land in an Urban Release Area (UBA) to satisfy the needs that arise from development on the land, but only if the land is developed intensively for urban purposes.

The proposed subdivision will be developed for urban purposes and does not incorporate any Lots lower than the minimum Lot size. Consultation with the Department of Planning, Infrastructure and Environment will occur to obtain confirmation of satisfactory arrangements for the development.

- **Clause 6.2 – Public utility infrastructure**

Clause 6.2 prescribes that development consent must not be granted for development on land in a UBA unless the Council is satisfied that any public utility infrastructure is available or that adequate arrangements have been made to make that infrastructure available. All necessary public infrastructure is to be made available to the proposed lots, utilising the existing infrastructure available in the area.

- **Clause 6.2 – Development control plan**

Clause 6.3 prescribes that development consent must not be granted for development on land in a UBA unless a development control plan has been prepared for the land. The site is identified within the Thornton North URA is in Part F – Urban Release Areas DCP chapter. The precinct plan provides development controls for the area to ensure development of the URA occurs in a logical and cost-effective manner. Detailed assessment against the controls of the DCP is provided below.

- **Clause 7.1 – Acid sulfate soils**

The site is identified as containing class 2, 4 and 5 acid sulfate soils (ASS) as shown in **FIGURE 5**. The residential zoned land marked for future development is within the class 5 ASS.



Figure 5: Acid sulfate soils mapping (ePlanning Spatial Viewer, 2022)

The subject site is located within 500m of adjacent class 4 ASS however the proposed development does not include any excavation below 5m of the natural ground level or works by which the water table is likely to be lowered more than 1m on adjacent class 4 land. To this extent, an ASS Management Plan is not required to be prepared for the proposed development.

- **Clause 7.2 – Earthworks**

The application proposes earthworks on the site to establish infrastructure, detention basin and regarding of the proposed lots to be outside the flood planning level. Earthworks are not anticipated to result in any negative impacts on the subject or adjoining land, or any public place. The proposed earthworks will be consistent with those carried out in the existing Waterford County North residential estate from a visual perspective and will incorporate suitable erosion and sediment controls during works to ensure no negative impact on the drainage patterns or soil stability occurs.

Any material that is proposed to be imported or exported from the subject site will consist of Virgin Excavated Natural Materials (VENM), Excavated Natural Materials (ENM) or other certified material. Accordingly, the development complies with the requirements of this clause.

3.4 DEVELOPMENT CONTROL PLAN (DCP)

Consideration of compliance and/or consistency with the relevant provisions of the Maitland Development Control Plan 2011 is provided in the Table of Compliance provided at **APPENDIX 2**. The Table of Compliance identifies that the proposed development demonstrates compliance with the relevant provisions of the DCP or overarching objectives where variations are proposed.

3.5 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

This Statement has been prepared to support a development application, as described in Section 2, to Maitland Council in accordance with s.50 of the *Environmental Planning Assessment Regulations 2000* (EPA Regulations). Assessment against Schedule 1 of the Regulations is provided in **APPENDIX 1**.

3.6 PROPOSED ENVIRONMENTAL PLANNING INSTRUMENTS

Section 4.15(1)(a)(ii) requires the consent authority to consider:

Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

At the time of lodgement of this development application there were no draft environmental planning instruments that are relevant to the proposed development or subject site; that should be considered as part of this development application.

4 LIKELY IMPACTS OF THE DEVELOPMENT

The likely impacts of the proposed development and constraints affecting the subject site have been explored throughout this SoEE. The following sections detail the major potential impacts and constraints in greater detail, in accordance with Section 4.15(1) of the EP&A Act 1979.

4.1 BUILT ENVIRONMENT

4.1.1 CONTEXT, SETTING AND VISUAL IMPACT

The proposed development will reinforce the residential nature of the locality and is characteristic of other developments in both the local and wider community, consistent with the Waterford County North Estate. The application includes relevant construction methods and services such as an on-site stormwater management system that will prevent adverse impacts on adjoining properties. The proposal addresses the street and provides logical and convenient connections to the road network and pedestrian facilities in the locality. There are no anticipated adverse impacts on the built environment as a result of the proposed development.

4.1.2 ACCESS, TRANSPORT AND TRAFFIC

Access to each Lot will be from either Meadowhawk Street or Red Baron Road. As identified in the Traffic Impact Assessment (**ATTACHMENT 13**) any additional traffic from the proposed development will be minor in nature and will not result in a detrimental impact to the existing street network. The vehicular access crossings will be conditioned as part of the approval.

4.1.3 PUBLIC DOMAIN

The proposed development will not have an impact on any public domain. The development contributions derived from this development in providing infrastructure and public domain improvements in accordance with the Maitland City Development Contributions Framework.

4.1.4 SERVICES

The subject site is serviced by reticulated water, electricity and sewer and will be extended to service the proposed development without burdening the public supply. In addition, the application demonstrates that stormwater drainage resulting from future roof and hard stand areas can be catered for in accordance with Council's requirements.

4.1.5 NOISE AND VIBRATION

The Acoustic Report provided with the application (**ATTACHMENT 17**) concludes that elevated noise from road traffic on McFarlanes Road has the potential to create adverse impacts at some sections of the land. An outline of generic minimum architectural modifications has been outlined within Section 4.1 of the report to enable an assessment of the minimum requirements that may need to be implemented to ensure the acoustic amenity of future residents. Provided the recommendations related to design and fencing are implemented, future noise amenity can be achieved.

Construction noise will be as per normal construction times and processes and will cease once construction is completed.

4.2 NATURAL ENVIRONMENT

4.2.1 ECOLOGICAL

The proposed development includes a stormwater water system that manages stormwater in accordance with Council's quantity and quality requirements. In addition, the installation and maintenance of erosion and sedimentation controls will occur during construction. It is noted that no significant vegetation is proposed to be removed and that the proposal includes a landscaping plan that utilises native species.

4.2.2 LANDSCAPING

The proposed landscaping plan provides a range of landscape species to be selected in accordance with Maitland City Council's requirements. The landscape buffer will provide adequate screening and noise mitigation from McFarlanes Road and will assist in increasing the aesthetics of the street network.

4.2.3 ARCHAEOLOGY

As detailed in **TABLE 2** an AHIMS search conducted on 10 November 2021 (**ATTACHMENT 7**) identified seven Aboriginal sites within a 1km buffer of the subject site. As requested by the Maitland City Council during the pre-DA meeting, an Aboriginal and Cultural Heritage Preliminary Assessment was undertaken. The report identified it is unlikely that any object would be uncovered as a result of the development and the proposal is unlikely to have any direct or indirect impacts on the identified objects.

The site is not a heritage item, nor located within a Heritage Conservation Area.

To this extent, it is considered that the proposed subdivision is unlikely to have any adverse impacts on Aboriginal or European cultural heritage.

4.2.4 ACID SULFATE SOILS

The site is identified as containing class 2, 4 and 5 acid sulfate soils (ASS) as shown in **FIGURE 5**. The residential zoned land marked for future development is within the class 5 ASS. The subject site is located within 500m of adjacent class 4 ASS however the proposed development does not include any excavation below 5m of the natural ground level or works by which the water table is likely to be lowered more than 1m on adjacent class 4 land. To this extent, an ASS Management Plan is not required to be prepared for the proposed development

4.2.5 FLOODING

The site is identified as flood prone land. The Flood Impact Assessment (**ATTACHMENT 10**) that forms part of the Development Application, recommends that the Flood Planning Level is set around 7.0AHD to manage the potential flood risk to hazard. The Report assesses the impact of the development on the flood behaviour and concludes that the proposal will not result in adverse impacts on surrounding property owners.

As detailed under Section 3.3 of this SoEE, specifically Clause 4.21, the development can suitably manage risk to property and life in a flood event. The Flood Impact Assessment identifies that a flood emergency response plan is prepared for the site with the recommended floor evacuation route from the Site is north along McFarlanes Road to Morpeth. It is requested that this is conditioned on the approval of the development application.

To this extent and the consistency with the URA Master Plan, the development is considered to be appropriate.

4.2.6 BUSHFIRE

The site is identified as bushfire prone land, as such the development must meet the provisions of *Planning for Bushfire Protection 2019* (PBP). A Bushfire Threat Assessment has been prepared, contained in **ATTACHMENT 8**. The report identifies that the site can achieve compliance with the PBP and risk to life as a result of a bushfire event can be successfully managed. In order to reach compliance, an additional APZ of 25m is required between the boundaries of Lots 14 and 15 with Lot 29. As such an 88B Instrument is required to establish the provision of the APZ burdening Lot 29 in favour of Lots 14 and 15 in accordance with the recommended APZs within the BAR.

Accordingly, provided the recommendations of the BAR are implemented, the proposed subdivision can minimise risk to life as a result of bushfire and comply with PBP 2019.

4.3 SOCIAL AND ECONOMIC

The proposed development provides additional Torrens Title Lots within the Waterford County North Estate, which will provide the ability for construction of additional housing to service the needs of the community. The subdivision will be serviced by suitable facilities and services without burdening the existing supply available within the area. The construction of the proposed development will provide employment opportunities in the locality and support the local building and development industries. This will have direct

monetary input to the local economy, and the increased number of residents in the locality will provide ongoing economic input through daily living activities. There are no anticipated adverse social or economic impacts as a result of the proposed development.

4.3.1 SAFETY, SECURITY AND CRIME PREVENTION

No safety, security for crime prevention measures are required as a result of the proposed development. The proposed development will not create any safety, security or crime concerns on or around the site. Additional residential development on the site will help to further enhance the passive surveillance of the adjoining streets from the site and may contribute to increased safety and security in the area.

5 SUITABILITY OF THE SITE

The subject site is located within an existing residential area and is relatively clear of vegetation. The site has access to all relevant services and the proposed development makes good use of the available land within the Waterford County North Estate and Thornton North Urban Release Area. The application design includes all elements required under the relevant planning instruments and policies, particularly Chapter F.7 of the Thornton North Urban Release Area, and there are no anticipated negative impacts on the locality as a result of the development. To this extent, the site is suitable for development.

6 ANY SUBMISSIONS AND CONSULTATION

As part of the DA consideration process it is envisaged Council may place the proposal on public exhibition and send neighbor notification letters to adjoining or adjacent properties. We welcome the opportunity to respond to any submissions made throughout the exhibition period.

7 PUBLIC INTEREST

The proposal represents additional residential Lots to accommodate residential development in the locality to service the needs of the community, whilst not anticipated to have any significant adverse impacts on surrounding properties or the amenity of the locality. The proposed development reinforces the residential nature of the land and is in keeping with the character of surrounding developments. The proposed development is in the public interest.

8 CONCLUSION

This SoEE has shown that the development is within the public interest, from a social, economic and environmental perspective. The proposed subdivision development is the most suitable option for the development of the site. Any relevant matters have been addressed through this SoEE.

The key reasons why the proposed development is appropriate are as follows;

- The proposed subdivision is permissible on the site with consent, with all Lots meeting the minimum Lot size requirement;
- No adverse impact on the existing character or amenity of the area will result;

- The proposed subdivision is consistent with the layout of the existing area, without burdening the essential services supply;
- The proposed subdivision is a logical extension of the existing residential development to the south and is an effective use of the land in accordance with the overarching Urban Release Development Control Plan; and
- Subdivision of the land will directly benefit the community through providing additional developable and saleable lots which are largely unconstrained to meet the housing needs of the growing community population.

It is considered that the proposal will have no significant impacts on the surrounding properties to that it is likely to adversely affect their enjoyment or amenity. We look forward to Councils determination of this matter. If we can provide any further information or clarity, please don't hesitate to contact us.



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