

25 October 2022

Maitland City Council  
285–287 High Street  
PO Box 220  
Maitland NSW 2320

**Attention:** General Manager

Dear Sir/Madam,

## Statement of Environmental Effects

### Paper Subdivision - Lot 17 DP 245953

#### INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared to accompany the submission of a development application (DA) for a two-lot paper subdivision at 11 Beacon Hill Road, Windella NSW (Lot 17 DP 245953). The application is proposed under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This application is simply for paper subdivision with works not proposed. The existing structures on Lot 17 DP 245953 (shed and shipping container) are proposed to remain in-situ, and with any future dwelling on the proposed lot and existing dwelling on Lot 17 DP 245953 maintaining access to Beacon Hill Road with no additional road works required.

#### SITE CONTEXT

The site comprising Lot 17 DP 245953 is shown below in **Figure 1**. The site is bound exclusively by large lot residential development and is located within the Maitland City Local Government Area (LGA). Major road connections include the east-west New England Highway, with further connections to the Hunter Expressway and Pacific Motorway providing access to Sydney.

The immediate surrounds specifically comprise:

- North –existing dwellings and residential land;
- East – existing dwellings and residential land, with Maitland Airport Russell Field) beyond;
- South – existing dwellings and residential land;
- West – existing dwellings and residential land.



Figure 1 Site Location (Lot 17 DP 245953) Aerial Excerpt

Source: NearMap, 2022

## SITE ANALYSIS

Lot 17 DP 245953 comprises an irregular shaped parcel with a predominantly north-south alignment. The parcel fronts Beacon Hill Road to the south and is used for residential purposes with an existing dwelling and associated shed infrastructure. The lot is bound on the north, east, and west by other residential lots, and Beacon Hill Road on the south. Remnant vegetation and planted trees occur sparsely across the lots.

The portion of the site to be subdivided from the main lot is located on the western extent and is primarily cleared, with most existing vegetation along the Beacon Hill Road frontage boundary and contains shed infrastructure that would remain in-situ.

## PROPOSED DEVELOPMENT

The development comprises a two-lot paper subdivision of Lot 17 DP 245953 to decouple the existing residential dwelling from saleable land within the lot. The proposed subdivision of Lot 17 DP 245953 would result in two lots comprising:

- Lot 172 DP 245953 – 1.15 ha; and
- Lot 171 DP 245953 – 9,000 m<sup>2</sup>.

The layout of the resultant lots is illustrated by the Draft Plan of Subdivision submitted with this DA.

## RATIONALE

Lot 172 would be retained in the ownership of the existing landowner, as it contains a dwelling and concreted driveway, as well as the majority of existing mature vegetation and dam located to the northern extent. The lot would retain the existing access to Beacon Hill Road and services to the lot would be retained.

Lot 171 is proposed to be sold along with the shed infrastructure in-situ to reduce impacts of unnecessary ground disturbance. The lot would retain access to Beacon Hill Road once a dwelling and driveway is constructed, and services to the lot would be connected as part of the future DA.

The line of subdivision follows a natural arc generally aligning with the existing driveway on Lot 172 which would be retained and utilised by the residents.

In summary, the proposed subdivision will facilitate residential subdivision as per the zoning of the area, whilst retaining the large lot residential character of the street and surrounds, which suits with existing smaller subdivision in the immediate vicinity of the site as approved under the previous LEP. Consequently, the subdivision aligns with the strategic intent for the land as articulated within the LEP.

## LEGISLATIVE AND POLICY REVIEW

### COMMONWEALTH LEGISLATION

#### ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is administered by the Commonwealth Department of Agriculture Water and Environment, providing a legal framework to protect and manage nationally important flora, fauna, ecological communities, and heritage places defined as matters of national environmental significance. An action that “*has, will have or is likely to have a significant impact on a matter of National Environmental Significance*” may not be undertaken without prior approval of the Commonwealth Minister, as provided under Part 9 of the EPBC Act.

A Protected Matters Search was undertaken on the Department of Agriculture Water and Environment’s website dated 6 August 2021 to ascertain if any matters of national environmental significance protected by the EPBC Act had been identified as occurring in or relating to, the development site. The results of the search revealed the site does not contain world or national heritage properties or places, wetlands of international importance or commonwealth marine area. Five threatened ecological communities, 81 listed threatened species and 55 listed migratory species are recorded within a 10 km buffer area.

The subdivision does not include physical works and would not impact on any MNES under the EPBC Act.

### NSW LEGISLATION

#### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The EP&A Act legislates the planning process for consideration of all developments within NSW.

#### OBJECTS OF THE EP&A ACT

**Table 1** lists the objects of the Act and how the proposal is consistent with such objects.

**Table 1** EP&A Act Objects Review

EPA Objects	Compliance
<i>a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources</i>	The proposed subdivision maintains the environmental value of the land and facilitates the future large lot residential development of the site, aligning with the intent of the planning controls.
<i>b) To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment</i>	Ecologically sustainable development would not be impacted by the paper subdivision.
<i>c) To promote the orderly and economic use and development of land</i>	The subdivision is orderly and rational, being consistent with the applicable planning controls and surrounding existing smaller subdivision and helps to facilitate future residential development.

EPA Objects	Compliance
d) <i>To promote the delivery and maintenance of affordable housing</i>	The proposal facilitates future housing provision.
e) <i>To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats</i>	The subdivision does not include physical works, with clearing not proposed.
f) <i>To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)</i>	No heritage items are located within the site or in the vicinity of the site.
g) <i>To promote good design and amenity of the built environment</i>	The subdivision does not include physical works.
h) <i>To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants</i>	The subdivision does not include physical works.
i) <i>To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i>	Referrals to State agencies is not required.
j) <i>To provide increased opportunity for community participation in environmental planning and assessment.</i>	Community participation will be provided through Council's advertising procedures.

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## APPROVALS PATHWAY

The development is permissible as discussed below at **Section 3.3**. Development consent is required under Part 4 of the EP&A Act for the subdivision, with Council as the consent authority.

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## BIODIVERSITY CONSERVATION ACT 2016

The proposed paper subdivision does not propose physical works. Consequently, the clearing of vegetation is not required, nor is the land identified on the Biodiversity Values Map. Consequently, a Biodiversity Development Assessment Report (BDAR) is not required under the *Biodiversity Conservation Act 2016* (BC Act).

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## BUSHFIRE LEGISLATION AND SPECIFICATIONS

The subject site does not contain areas of mapped bushfire affectation.

Section 4.46 of the EP&A Act outlines the definition of "integrated development" inclusive of development on bushfire affected land:

*"Authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes."*

The Section 100B of the *Rural Fires Act 1997* requires a Bushfire Safety Authority to be obtained prior to undertaking subdivision on bushfire prone land. Section 5.1 of *Planning for Bushfire Protection 2019* (PBP) identifies controls for subdivision.

The site is not identified as bushfire prone, with the land located over 150 m to the south-east. Consequently, a bushfire safety authority will not be required.

## MAITLAND LOCAL ENVIRONMENTAL PLAN

The Maitland Local Environmental Plan 2011 (LEP) provides the local planning controls for the site. The SLEP also establishes development permissibility and environmental constraints.

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### CLAUSE 2.1 LAND USE ZONES

The site is subject to one zone as illustrated by **Figure 2**, comprising R5 - Large Lot Residential.

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### CLAUSE 2.3 ZONE OBJECTIVES AND LAND USES

Clause 2.3 Zone Objectives and Land Use Table identifies the objectives and permissibility of uses within particular zones. The line of subdivision follows a natural arc generally aligning with the existing driveway on Lot 172 which would be retained and utilised by the residents.

A review of the zone controls is below.

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#### R5 – LARGE LOT RESIDENTIAL

The objectives of the R5 zone are:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

The subdivision would facilitate the sale of Lot 171 for future residential development in the vicinity whilst impacting minimally on environmentally sensitive locations and scenic quality of the surrounds.

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### CLAUSE 4.1 MINIMUM SUBDIVISION LOT SIZE

The objective of the clause is to control the density of subdivision and ensure lots are of sufficient size to accommodate the intended purpose.

Clause 4.1(3) states:

*“The size of any lot resulting from a 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.”*

Lot 17 DP 245953 comprises the minimum lot size of 1 hectare (ha). Lot 17 DP 245953 is currently approximately 2.05 ha in size and meets the minimum lot size for the R5 zone and would remain so following subdivision as approximately 1.15 ha, however new parcel of land would be under 1 ha in size. Consequently, Clause 4.6 requires consideration.

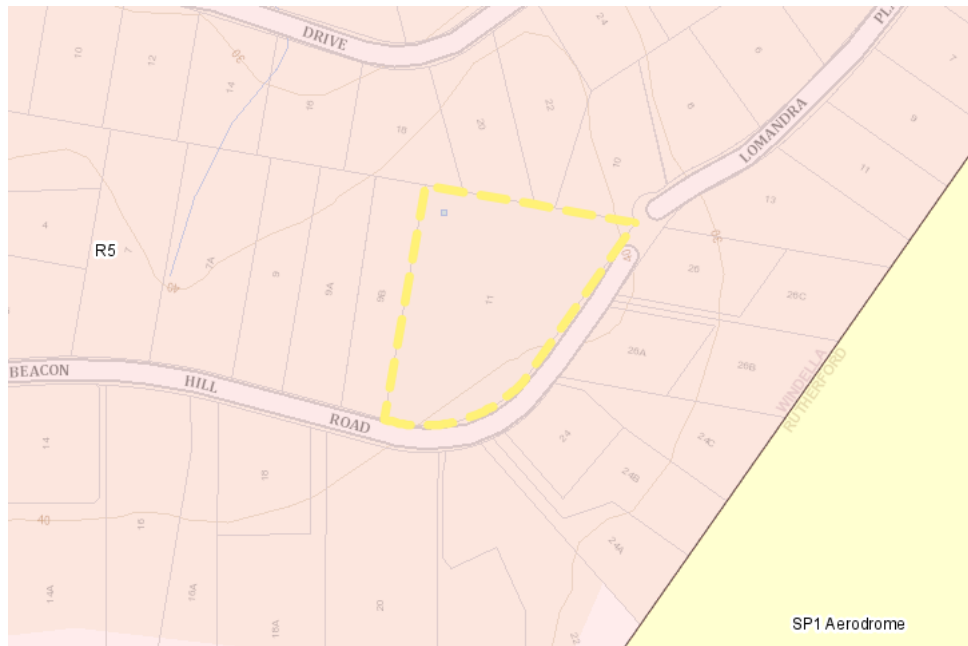


Figure 2 Maitland Local Environmental Plan 2011 – Land Use Zoning Excerpt

Source: ePlanning, 2022

#### CLAUSE 6.4 EXCEPTIONS TO DEVELOPMENT STANDARDS

Clause 4.6 of the LEP aims to provide an appropriate degree of flexibility in applying certain development standards to development. Specifically, Clause 4.6 (6) states:

*“(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—*

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.”*

It is noted that the site is zoned R5 – Large Lot Residential and therefore Clause 4.6(6) applies. The proposed subdivision has ensured it complies with this clause, with Lot 17 DP 245953 currently 2.05 ha in size and complying with the minimum lot size for the R5 zone following subdivision (where Lot 172 DP 245953 would equal 1.15 ha), and the new parcel of land (being Lot 171 DP 245953) not resulting in a lot that is below 90% of the minimum lot size.

A Clause 4.6 Variation letter has been prepared to support this proposed subdivision and is submitted with this application for consideration.

## MAITLAND DEVELOPMENT CONTROL PLAN 2011

The Maitland Development Control Plan 2011 (DCP) applies to all land within Maitland LGA and provides the additional planning frameworks for development within the LGA, including design and environmental guidelines, locality plans, special precincts, and urban release areas.

The relevant sections of the DCP are assessed below in **Table 2**.

**Table 2** Relevant DCP Controls

DCP Advice	Assessment	Compliance
Part C – Design Guidelines		
C.8 Residential Design		
2. Design Criteria	No dwelling is proposed as part of this paper subdivision DA. A Site Analysis Plan would be prepared as part of a future DA for a dwelling on the subdivided lot.	Yes
4. Bulk Earthworks and Retaining Walls	No earthworks are proposed as part of this paper subdivision DA. Any future earthworks to facilitate a dwelling on the subdivided lot would be considered as part of a future DA.	Yes
5. Street Building Setbacks	Building line setbacks in zones other than urban residential zones are identified. R5 Large Lot Residential is noted as 50 m from principal frontage. No dwelling is proposed as part of this paper subdivision DA, however any future DA for a dwelling on the subdivided lot would be able to accommodate this setback provision due to the generous size of the lot, and an approximately 60 m from the frontage to the existing in-situ shed infrastructure.	Yes
6. Side and Rear Setbacks	Building line setbacks in zones other than urban residential zones are identified. R5 Large Lot Residential is noted as 6 m from side and rear boundaries. No dwelling is proposed as part of this paper subdivision DA, however any future DA for a dwelling on the subdivided lot would be able to accommodate this setback provision due to the generous size of the lot and approximate 100 m between the east and west boundaries.	Yes
7. Site Coverage and Unbuilt Areas	Dwelling house maximum site coverage is detailed as 60% for all zones. No dwelling is proposed as part of this paper subdivision DA, however any future DA for a dwelling on the subdivided lot would be able to accommodate this site coverage provision due to the generous size of the lot.	Yes
15. Driveway Access and Carparking	Driveways are required to be located no closer than 900 mm from any side boundary. No dwelling is proposed as part of this paper subdivision DA, however any future DA for a dwelling on the subdivided lot would be able to accommodate this driveway provision due to the generous side boundary setbacks available.	Yes
18. Stormwater Management	No dwelling is proposed as part of this paper subdivision DA.	Yes
C.10 Subdivision		



DCP Advice	Assessment	Compliance
2. Title Systems For Subdivision	This paper subdivision DA is for a Torrens title subdivision.	Yes
3. Subdivision Design Process	This SEE has been prepared to sufficiently detail the site assessment and proposed subdivision.	Yes
4. Design Elements	<p><i>EC.1 Flora and Fauna - Rural and environmental zones (including land zoned R5 Large Lot Residential)</i></p> <p>The subdivision does not include physical works, with clearing not proposed.</p> <p><i>EC.2 Heritage and Archaeology</i></p> <p>No heritage items are located within the site or in the vicinity of the site. No Aboriginal sites are recorded within the site.</p> <p><i>EC.3 Hazards</i></p> <p>The site is not mapped as affected by bushfire or flood.</p> <p>The site does not contain any records of contaminated land within the POEO Public Register.</p> <p><i>DC.1 Lot Size and Dimensions - Rural and environmental protection zones (including land zoned R5 Large Lot Residential)</i></p> <p>Both lots resulting from the proposed subdivision will maintain acceptable solar access, road access, etc. and will maintain the existing character of subdivision along Beacon Hill Road and within the immediate vicinity.</p> <p>Lot 172 meets the minimum lot size, and Lot 171 is 90% of the minimum lot size, and therefore this DA is accompanied by a Clause 4.1 variation letter.</p> <p><i>DC.4 Landscape, Streetscape &amp; Visual Impact</i></p> <p>The subdivision does not include physical works, with clearing and planting not proposed.</p> <p><i>DC.6 Roads &amp; Access, Pedestrian &amp; Cycleways</i></p> <p>Both lots resulting from the proposed subdivision will maintain existing access from Beacon Hill Road.</p>	Yes
Part D - Locality Plans		
The Locality Plans provide a framework that enables development potential to be realised for a specific Locality while recognising the need to integrate the development of these sites within existing urban areas, or within rural landscapes.	No Locality Plan applies to the site.	Yes

## ENVIRONMENTAL ASSESSMENT

### BUSHFIRE

The subject site is not mapped within a bushfire affected area, with no further requirement for assessment, as discussed in **Section 3.2.3**.

### ECOLOGY

Lot 17 DP 245953 does not contain any mapped environmental protection lands under the LEP, with vegetation consisting of planted and native vegetation across the lot, all of which is to be retained.

### HERITAGE

The site does not contain any local heritage items, and the subdivision would not impact the curtilage of any heritage item.

A search of the Aboriginal Heritage Information Management System (AHIMS) Web Services on 25 October 2022 determined there were no Aboriginal sites or Aboriginal places recorded in or near the site. The subdivision does not propose works, with no associated impact to any unrecorded Aboriginal sites. Prior to future development, a due diligence investigation and potentially an Aboriginal Cultural Heritage Assessment (ACHA) would be undertaken to establish the potential for impact and identify management measures where necessary.

## CONCLUSION

This Statement of Environmental Effects supports a paper subdivision at 11 Beacon Hill Road, Windella (Lot 17 DP 245953). The application is proposed under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This application is for a two-lot paper subdivision only, with works not proposed. Both the primary parcel (Lot 17 DP 245953) and the newly subdivided lot will retain frontage to Beacon Hill Road on the southern boundary and allow continued access to the current and future residents.

No bushfire mapping is located within the site. Works are not proposed, and consequently, Aboriginal heritage and non-Aboriginal heritage would not be impacted.

In summary, the subdivision will not result in any unacceptable impacts to the environment, while aligning with both the Council and State government intent for the area. The subdivision retains the large lot residential zoning character of the area, and specifically long Beacon Hill Road, whilst facilitating the future provision of residential land to house the growing population.

Yours sincerely,

Kiera Plumridge



*Environmental Planner (Affil. PIA)*

Contact: +61 0423 621 038

Email: kieramaree@gmail.com