

## Megan Trotter

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**From:** MILLET Chris <Chris.MILLET@rms.nsw.gov.au>  
**Sent:** Monday, 8 January 2018 1:45 PM  
**To:** Council  
**Subject:** FW: Rezoning Marys Mount/Crookwell Road, Goulburn (RMS ref: STH17/00230)

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**From:** MILLET Chris  
**Sent:** Monday, 8 January 2018 1:43 PM  
**To:** 'Bennett.Kennedy@goulburn.nsw.gov'  
**Subject:** Rezoning Marys Mount/Crookwell Road, Goulburn (RMS ref: STH17/00230)

Bennett

I refer to your email below.

RMS is not satisfied the planning proposal has adequately considered the traffic and safety implications of future development on the land to be rezoned and on this basis, RMS does not support the planning proposal in its current form.

RMS believes the planning proposal must:

- Consider the likely lot yield.
- Identify an appropriate road hierarchy and access strategy that minimises access to Crookwell Road. This must include consideration of the topography in the area and the ability to provide constructible links.
- Preserve land required for future road infrastructure upgrades, including internal links with the planning proposal to connect to the existing local road network.
- Identify necessary road upgrades on Crookwell Road (e.g. the intersection of Marys's Mount Road with Crookwell Road).
- Consider how the necessary road infrastructure will be funded and ensure there is an appropriate planning mechanism in place.

Without the above, RMS is concerned development would compromise Crookwell Road, particular development of lots with frontage to Crookwell Road and no alternate local road access.

Cheers

Chris Millet  
Acting Manager, Network & Safety  
Southern Region  
Roads and Maritime Services

P – (02) 4221 2459

## Megan Trotter

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**From:** George Curtis <George.Curtis@planning.nsw.gov.au>  
**Sent:** Thursday, 25 January 2018 3:52 PM  
**To:** Bennett Kennedy  
**Cc:** Alexandra Adkins  
**Subject:** FW: Planning Proposal - Rezoning of E4 Environmental Living Lands at Marys Mount Road, Goulburn

**From:** George Curtis  
**Sent:** Thursday, 25 January 2018 3:49 PM  
**To:** 'Bennett Kennedy' <Bennett.Kennedy@goulburn.nsw.gov.au>  
**Cc:** Alexandra Adkins <Alexandra.Adkins@goulburn.nsw.gov.au>  
**Subject:** FW: Planning Proposal - Rezoning of E4 Environmental Living Lands at Marys Mount Road, Goulburn

Hello Bennett.

I have the following preliminary comments on the planning proposal based on a quick review:

- Section 117 Ministerial Directions 2.1 Environment Protection Zones, 3.1 Residential Zones 4.4 Planning for Bushfire Protection, 5.2 Sydney Drinking Water Catchments and 5.10 Implementation of Regional Plans appear to be particularly relevant to the proposal.
- In relation to consistency with the strategic planning framework, it is noted that the subject site is located within the Marys Mount area which is identified for urban development (future R2 Low Density Residential Zone) in Council's Goulburn Mulwaree Strategy 2020. It is also noted that the site can be serviced with reticulated water.
- In relation to Direction 2.1 Environmental Protection Zones, it is understood from the planning proposal, that the site supports remnant Yellow Box – Blakeley's Red Gum grassy woodland which is listed as a Critically Endangered Ecological Community. The flora and fauna study that was undertaken by the applicant in support of the PP states that the subject land is suitable for rezoning to R2 Low Density Residential and R5 Large Lot Residential with proposed minimum lot sizes of 700sq.m and 2,000sq.m respectively. Further this study recommends that the EEC could be managed by its retention in as few lots as possible and plans of management being required for these lots. It is unclear how the proposal, and particularly an R2 Zone and 700sq.m minimum lot size will better protect identified EECs than the current E4 Zone and 10ha minimum lot size.
- The South East and Tablelands Regional Plan states that the 'avoid, minimise and offset' hierarchy will be applied to areas identified for new or more intensive development (p.35). The hierarchy requires that development avoid areas of validated high environmental value and considers appropriate offsets or other mitigation measures for unavoidable impacts.
- It is understood that under the new OEH biodiversity offset scheme, if a planning proposal seeks to rezone areas that contain validated EECs for development then these areas would be required to be offset using the Biodiversity Assessment Methodology (BAM).

- The Regional Plan provides mapping of high environmental value lands which have been prepared by OEH. The OEH has also prepared criteria to map lands with high environmental value.
- If Council sends the proposal to the Department for Gateway determination, the Department may consider the need for the following studies/assessments to be undertaken as conditions of Gateway determination:
  1. Additional biodiversity survey work to be undertaken to identify and validate the location and condition of the EEC on the subject site in accordance with OEH validation criteria.
  2. Where land containing EECs is proposed to be zoned for development, the preparation of a biodiversity offset strategy to be prepared by an accredited biodiversity assessor in consultation with the OEH.
- It is noted that other undeveloped areas within the Marys Mount DCP area may also contain threatened species and/or endangered ecological communities. There may be merit discussing with OEH the option of undertaking an biodiversity offset strategy for a broader area rather than on a site by site basis.

Don't hesitate to contact me in relation to this matter.

Regards

**George Curtis** | Senior Planner | **Department of Planning and Environment Southern Region**  
 P: 02 4224 9465 | F: 02 4224 9470 | E: [george.curtis@planning.nsw.gov.au](mailto:george.curtis@planning.nsw.gov.au)  [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

PO Box 5475  
 Wollongong NSW 2520

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Office of  
Environment  
& Heritage

DOC18/5961  
DOC968258

Mr Bennett Kennedy  
Senior Strategic Planner  
Goulburn Mulwaree Council  
bennett.kennedy@goulburn.nsw.gov.au

Dear Mr Kennedy

**RE: Planning Proposal - Rezoning of E4 Environmental Living Lands at Marys Mount Road, Goulburn**

Thank you for providing this proposal to the Office of Environment and Heritage (OEH) prior to the application for a gateway. We have reviewed the draft planning proposal and object to the proposed zonings in their current form. This position is based on the potential impacts of the proposed rezoning on the environment, biodiversity (see detailed comments in Attachment 1) and Aboriginal cultural heritage (see detailed comments in Attachment 2).

We recommend the following actions for Council and the proponent to complete, prior to lodging their gateway application:

1. A full site assessment using the Biodiversity Assessment Method (BAM). This will allow Council to determine whether the clearing of Box Gum Woodland would result in a 'serious and irreversible impact' (SAIL). An SAIL would mean that impacts could not be approved by Council and may impact on the economic viability of the development of the site.
2. The data collected using the BAM, should be used to design a more appropriate zoning layout that avoids impacts on the best quality areas of Box Gum Woodland.
3. Council or the proponent could also consider biodiversity certification as a way of providing greater certainty to any future development of parts of this site.
4. At a minimum, if this planning proposal is submitted to DPE, it should identify this site as an urban release area, which would require a site specific development control plan to be developed.

Yours sincerely

ALLISON TREWEEK  
Senior Team Leader - Planning  
Regional Operations - South East

6/2/18



## Attachment 1 – Detailed comments on the environment and biodiversity

This site is part of the largest remnant patch of Box Gum Woodland within 3 km. The current zoning of E4 – Environmental Living with a 10 ha minimum Lot size (MLS) was intended by Council to protect this remnant as a way of mitigating the cumulative impacts of development within the R2 Low density residential zonings in the broader Marys Mount Area. The impact of removing the protections created by the E4 zone must therefore be considered in the broader context rather than the site itself.

According to the definition of paddock trees under the former Native Vegetation Act, the *Local Land Services Amendment Act 2016* and the Biodiversity Assessment Method (BAM) the areas containing trees with a non-native groundcover should still be mapped as a patch, rather than individual trees and would still meet the NSW definition of Box Gum Woodland Endangered Ecological Community. This means that any future subdivision of this site would trigger an assessment using the Biodiversity Assessment Method (BAM). Given that Box Gum Woodland is a candidate 'serious and irreversible impact' (SAII) entity, there is a risk that development over parts of the site may not be able to be approved by Council.

The information provided concludes the rezoning will not have a significant effect, due to the Box Gum Woodland being protected in larger Lots by a vegetation management plan, registered on title under s.88B of the *Conveyancing Act 1919*. This approach is likely to lead to the long term loss of the box gum woodland due to incremental clearing. A more strategic approach, would be the alternative zoning (Figure 1), we have recommended which could achieve some residential Lot yield, but retaining the remnant Box Gum Woodland in 2 Large lots.

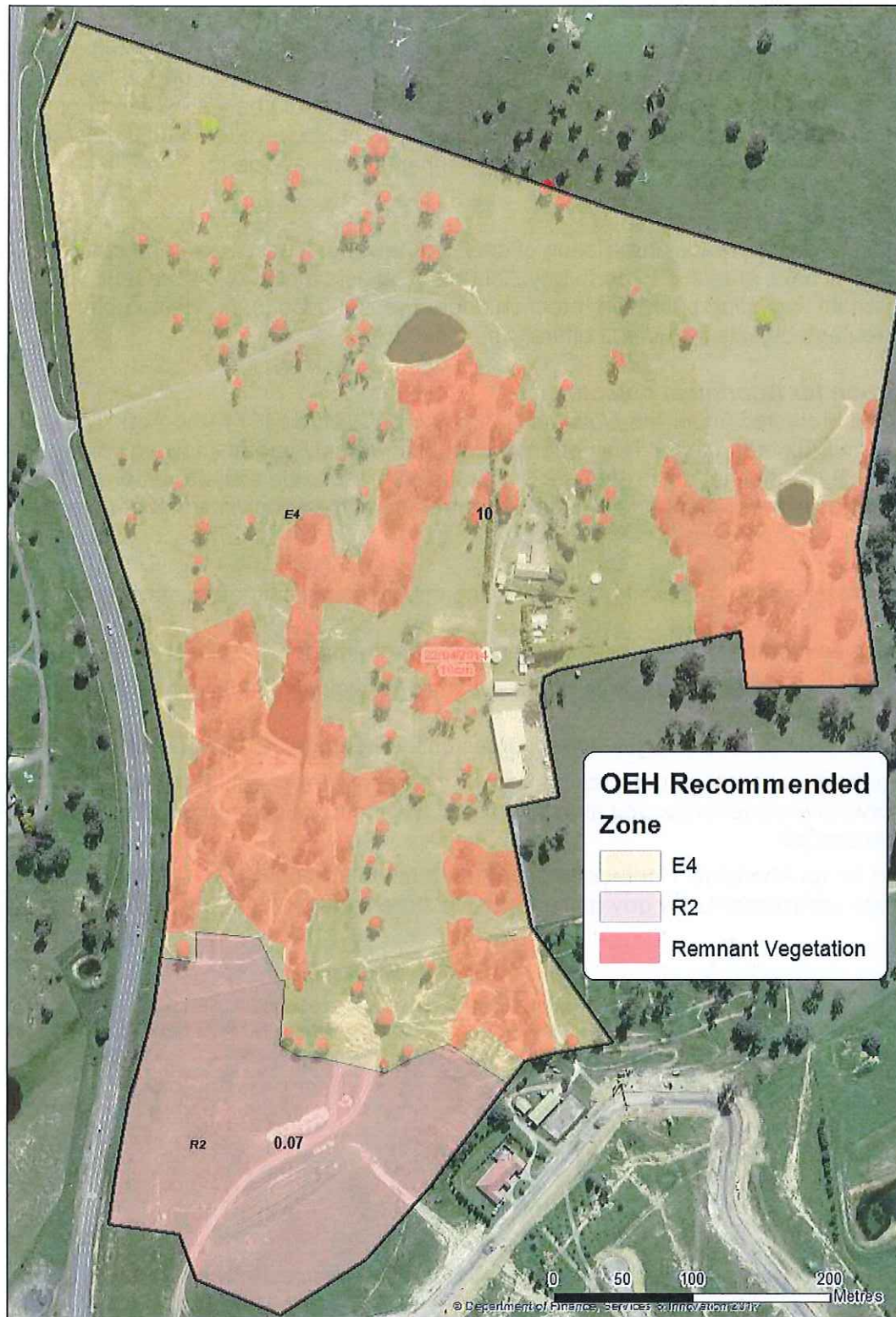
There is no justification for why this remnant Box Gum Woodland EEC should be allowed to be cleared when there appears to be plenty of other cleared land within the RU6 – Transition zone that could contribute to land supply. There is also no discussion or analysis of how much of the existing land release in the area is contributing to the projected housing supply needs of the City of Goulburn over the medium to long term.

The estimates of potential Lot yield that would result from this planning proposal (based on similar subdivisions in the area) are for 186 new Lots to be created. It therefore seems unrealistic to claim in Section D, that:

*"the planning proposal will not*

- *result in residential subdivisions in excess of 150 lots*
- *substantial urban renewal*
- *infill development*
- *development that will result in additional demand on infrastructure (such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services).*

We note that the draft planning proposal states that the 'Neutral or Beneficial Effect on Water Quality Assessment' would only be done at the development application (DA) stage. This creates the risk that the land may be zoned for development, but that future development potential may not be able to be realised if it can't meet the Neutral or Beneficial Effect test. Council should have this information prior to submitting the Planning Proposal for gateway.



**Figure 1 OEH Proposed zoning to protect the Box gum woodland and concentrate development on the fringes of the remnant vegetation**



## Attachment 2 – Aboriginal Cultural Heritage

A number of Aboriginal objects have been found within 1 km of the site. It also appears that this site might be identified as a place of Aboriginal significance on Figure 3-2 of the Goulburn Mulwaree DCP 2009. If this is the case an Aboriginal Cultural Heritage Assessment should be completed prior to submitting the planning proposal to identify any Aboriginal cultural heritage values and if these are present, apply an appropriate zoning that would allow for impacts to be avoided.

### **Potential harm to Aboriginal objects**

Construction of houses, access roads, installation of services, fencing, landscaping and other ground disturbance activities all have potential to harm any Aboriginal objects that may be present.

Vegetation management, including bushfire protection under the 10/50 Code, may also potentially impact Aboriginal heritage objects including culturally modified trees.

### **Legislative protection for Aboriginal objects**

Aboriginal objects are protected under the *National Parks and Wildlife Act 1974* (the Act). The strict liability provisions of the Act mean that it is an offence to both knowingly and unknowingly harm Aboriginal objects. This means that the proponent must take all reasonable steps to determine whether Aboriginal objects are present or are likely to be present in the subdivision area.

### **OEH Guidelines**

- Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW. OEH 2011.  
<http://www.environment.nsw.gov.au/resources/cultureheritage/20110263ACHguide.pdf>
- Code of practice for archaeological investigation of Aboriginal objects in New South Wales, DECCW 2010.  
<http://www.environment.nsw.gov.au/resources/cultureheritage/10783FinalArchCoP.pdf>
- Aboriginal cultural heritage consultation requirements for proponents 2010. DECCW 2010.  
<http://www.environment.nsw.gov.au/resources/cultureheritage/commconsultation/09781ACHconsultreq.pdf>
- Applying for an Aboriginal Heritage Impact Permit guide for applicants, OEH (2011).  
<http://www.environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapp>



The General Manager  
Goulburn Mulwaree Council  
Locked Bag 22  
Goulburn NSW 2580

[council@goulburn.nsw.gov.au](mailto:council@goulburn.nsw.gov.au)

Attention: Kate Wooll

30 September 2020

Our ref: DOC20/777832-4

Your ref:

Dear Kate

**Subject: Mistful Park Planning Proposal – Rezone E4 Environmental Living to R2 Low Density Residential**

Thank you for referring this planning proposal to the Biodiversity Conservation Division (BCD) for our review and comments.

We consider the planning proposal is inconsistent with Ministerial Directions 2.1 and 5.10. Further information should be provided to inform the back zoning and justify the inconsistencies with these directions.

BCD considers the Biodiversity Assessment Method (BAM) should be used to develop a constraints layer and determine if a Serious and Irreversible Impact (SII) will occur to the Critically Endangered Ecological Community, White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland in the NSW North Coast, New England Tableland, Nandewar, Brigalow Belt South, Sydney Basin, South Eastern Highlands, NSW South Western Slopes, South East Corner and Riverina Bioregions commonly referred to as Box gum woodland CEEC. .

We therefore continue to object to the planning proposal until further information is provided to address these concerns, and we reiterate our recommendations from our letter dated 6 February 2018. These are provided with further detailed information on our concerns in Attachment 1 and 2.

In addition, we strongly recommend that the proponent engage an accredited assessor as soon as possible to carry out the BAM assessment as spring/early summer is the optimum time to carry out an assessment of Box-gum woodland.

If you wish to discuss the contents of this letter further, or arrange a meeting, please contact Lyndal Walters on 02 6229 7157.

Yours sincerely,

**ALLISON TREWEEK**

**a/ Director**

**South East, Biodiversity Conservation Division**

Enc: Attachment 1 - Detailed comments on the Planning Proposal

Attachment 2 – Detailed comments from letter dated 6 February 2018



## **Attachment 1 – Detailed comments on the Planning Proposal**

We continue to object to the planning proposal in its current form for the following reasons;

1. The Planning Proposal does not demonstrate how inconsistencies with Ministerial Direction 2.1 – Environmental Protection Zones and Ministerial Direction 5.10 – Implementation of Regional Plans are justified. Back zoning from E4 to R2 will reduce the environmental protection mechanisms of the land, and the *South East and Tablelands Regional Plan 2036* requires that validated High Environmental Value land, including land containing threatened ecological communities be protected in local environmental plans.
2. The proponent has not provided an assessment in accordance with the Biodiversity Assessment Method (BAM) and a Biodiversity Assessment Development Report (BDAR) (which includes a Serious and Irreversible Impact (SAIL) assessment), to inform the impacts of the planning proposal on the critically endangered *White Box – Yellow Box – Blakely's Red Gum Grassy Woodland and Derived Native Grassland* (Box-gum woodland).

Accordingly, we reiterate our previous recommendations from our letter dated 6 February 2018, but set out below for ease of reference:

1. A full site assessment using the Biodiversity Assessment Method (BAM).
2. The data collected using the BAM, should be used to design a more appropriate zoning layout that avoids impacts on the best quality areas of Box Gum Woodland.
3. A full BAM assessment will allow Council to determine whether the clearing of Box Gum Woodland would result in a 'serious and irreversible impact' (SAIL). An SAIL would mean that impacts could not be approved by Council and may impact on the economic viability of the development of the site.
4. At a minimum, if this planning proposal is submitted to DPE, it should identify this site as an urban release area, which would require a site specific development control plan to be developed.

### **Survey timing**

In addition, we strongly recommend that the proponent engage an accredited assessor as soon as possible to carry out the BAM assessment as spring/early summer is the optimum time to carry out an assessment of Box-gum woodland. The BAM requires that surveys are conducted at the optimum time for detecting species. For Box-gum woodland, native perennial forbs are generally most evident during spring/early summer (October to December) while grass species are typically best differentiated when they are fruiting during summer (December to February). The recent high rainfall is particularly important as it will have led to increased native vegetation cover. The BAM Operational Manual provides further guidance on survey methodology and timing.

**Attachment 2 – Previous Detailed comments on the environment and biodiversity from letter dated 6 February 2018**

This site is part of the largest remnant patch of Box Gum Woodland within 3 km. The current zoning of E4 – Environmental Living with a 10 ha minimum Lot size (MLS) was intended by Council to protect this remnant as a way of mitigating the cumulative impacts of development within the R2 Low density residential zonings in the broader Marys Mount Area. The impact of removing the protections created by the E4 zone must therefore be considered in the broader context rather than the site itself.

According to the definition of paddock trees under the former Native Vegetation Act, the *Local Land Services Amendment Act 2016* and the Biodiversity Assessment Method (BAM) the areas containing trees with a non-native groundcover should still be mapped as a patch, rather than individual trees and would still meet the NSW definition of Box Gum Woodland Critically Endangered Ecological Community. This means that any future subdivision of this site would trigger an assessment using the Biodiversity Assessment Method (BAM). Given that Box Gum Woodland is a candidate 'serious and irreversible impact' (SAIL) entity, there is a risk that development over parts of the site may not be able to be approved by Council.

The information provided concludes the rezoning will not have a significant effect, due to the Box Gum Woodland being protected in larger Lots by a vegetation management plan, registered on title under s.88B of the *Conveyancing Act 1919*. This approach is likely to lead to the long term loss of the box gum woodland due to incremental clearing. A more strategic approach, would be the alternative zoning (Figure 1), we have recommended which could achieve some residential Lot yield, but retaining the remnant Box Gum Woodland in 2 Large lots.

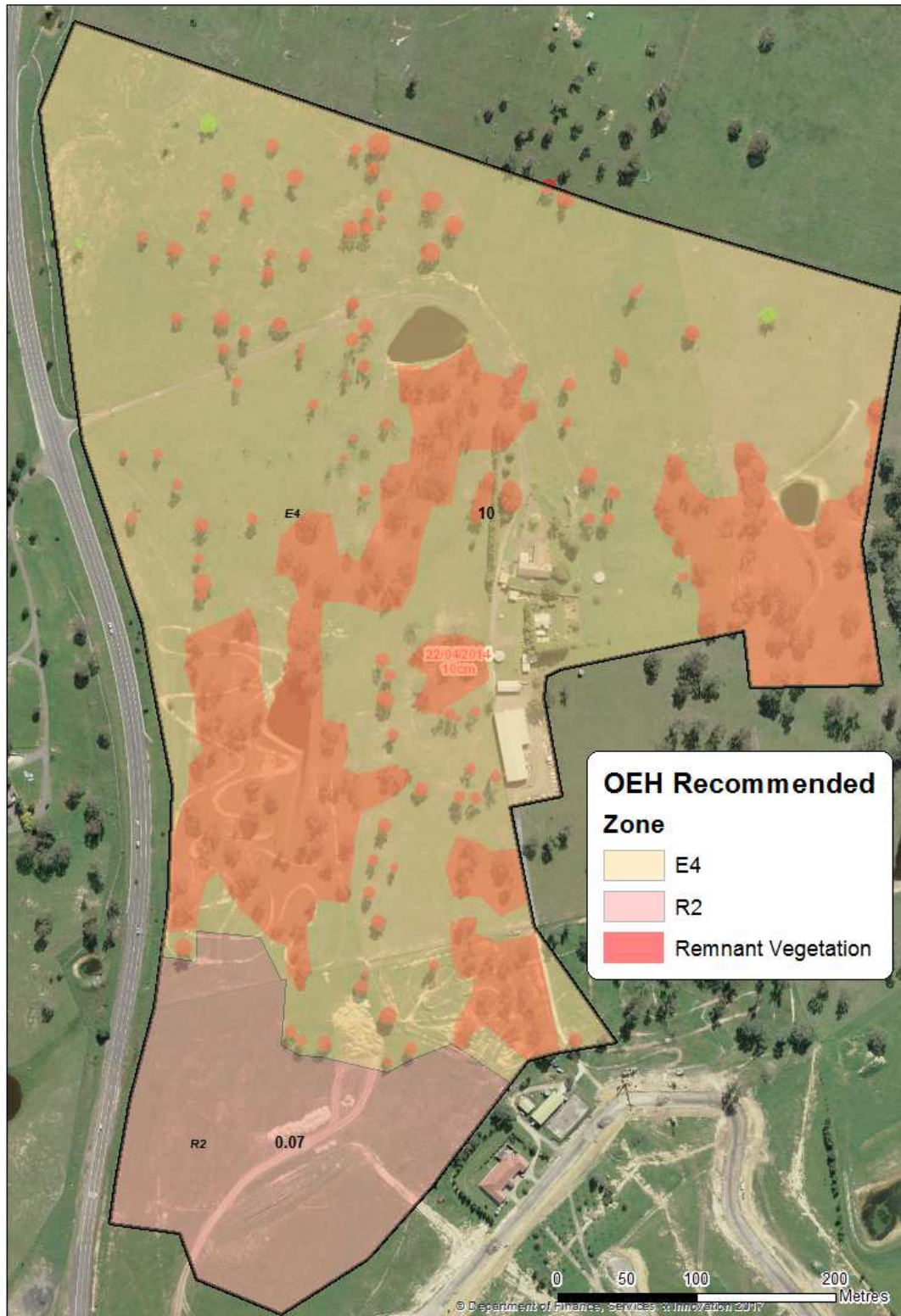
There is no justification for why this remnant Box Gum Woodland EEC should be allowed to be cleared when there appears to be plenty of other cleared land within the RU6 – Transition zone that could contribute to land supply. There is also no discussion or analysis of how much of the existing land release in the area is contributing to the projected housing supply needs of the City of Goulburn over the medium to long term.

The estimates of potential Lot yield that would result from this planning proposal (based on similar subdivisions in the area) are for 186 new Lots to be created. It therefore seems unrealistic to claim in Section D, that:

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- result in residential subdivisions in excess of 150 lots*
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- development that will result in additional demand on infrastructure (such as public transport, roads, utilities, waste management and recycling services, essential services such as health, education and emergency services).*

We note that the draft planning proposal states that the 'Neutral or Beneficial Effect on Water Quality Assessment' would only be done at the development application (DA) stage. This creates the risk that the land may be zoned for development, but that future development potential may not be able to be realised if it can't meet the Neutral or Beneficial Effect test. Council should have this information prior to submitting the Planning Proposal for gateway.



**Figure 1 OEH Proposed zoning to protect the Box gum woodland and concentrate development on the fringes of the remnant vegetation**



14 October 2020

Kate Wooll  
Business Manager Strategic Planning  
Goulburn Mulwaree Council  
Locked Bag 22  
GOULBURN NSW 2580

Contact: *Stuart Little*  
Telephone: *02 9865 2449*  
Our ref: *D2020/109763*

Dear Ms Wooll,

### **PLANNING PROPOSAL TO REZONE 'MISTFUL PARK' TO RESIDENTIAL**

I refer to your email of 16 September 2020 regarding a revised Planning Proposal to rezone land at 'Mistful Park' to Residential. The Proposal seeks to rezone Lots 1 & 4 DP 1223269 and Lot 214 DP 1231260 from E4 Environmental Living to R2 Low Density Residential under the Goulburn Mulwaree Local Environmental Plan (LEP), and to amend the Minimum Lot Size (MLS) from 10 ha to 700m<sup>2</sup>. We also understand that the proposed R2 Low Density Residential Zoning and 700m<sup>2</sup> MLS are to be re-assessed following the outcomes of further site-specific investigations/studies including further detailed biodiversity investigations and assessment. Proposed lot yields will be determined following the preparation of a Biodiversity Assessment Report in accordance with the NSW *Biodiversity Conservation Act 2016*.

The change in zoning from E4 to R2 and the accompanying reduction in MLS represents a significant intensification of development in the area and will remove environmental objectives currently associated with the E4 zone. It is therefore important that natural features and site constraints that influence water quality protection are given due consideration in the rezoning process.

The site contains a 1<sup>st</sup> order watercourse which appears to overlap with the areas occupied by the critically endangered Yellow Box – Blakeley's Red Gum grassy woodland community. Additional environmental zoning controls may be needed around the watercourse, but this would best be informed by the outcomes of the Biodiversity Assessment Report. We also note that the name and gazettal of this ecological community appears to have been updated in July 2020 to include derived native grassland.

Our submission operates on the premise that the site will be connected to the sewer. However, the site presents some challenges in terms of steep slopes, elevation, and servicing capacity, influencing how water, sewerage, and stormwater will be provided and managed. We believe that a supplementary report addressing water, sewerage and stormwater management should be prepared as part of the Planning Proposal. This should occur once the development capability assessment of the site is more advanced and following the preparation of the proposed Biodiversity Assessment Report. We also believe that development of the site would be assisted by a masterplan and a supporting site-specific development control plan (DCP) to ensure that the servicing of water, sewer and stormwater responds adequately to the site constraints and capacity of the site for development.

Detailed comments are provided in Attachment 1 while Attachment 2 includes the relevant Strategic Land and Water Capability Assessment (SLWCA) map. WaterNSW requests that we are consulted on any updates to the Proposal, including if zoning types, zoning boundaries or

MLSs change as a result of further studies including the proposed biodiversity assessment and report.

If you have any questions regarding the issues raised in this letter, please contact Stuart Little at [stuart.little@waterNSW.com.au](mailto:stuart.little@waterNSW.com.au).

Yours sincerely

A handwritten signature in black ink that reads "Evans". The signature is written in a cursive, flowing style.

**JESSIE EVANS**  
**A/Manager Catchment Protection**

## **ATTACHMENT 1 – DETAIL**

### **Background**

The site has a total area of approximately 32 ha and adjoins an approved subdivision at 'Mistful Park' (to the south) on Crookwell Road, adjacent to Chinaman's Lane and Bigwood Place. The site is currently zoned E4 Environmental Management as an initial assessment of Mary's Mount Development Area identified site constraints such as ridgelines (steep land), vegetation and the limits of water supply operating on the land. The Proposal indicates that since that assessment was undertaken, there have been significant augmentations to water supply infrastructure while the ridgeline only affects part of the site. The initial biodiversity assessment identified that the site supported the critically endangered remnant Yellow Box – Blackley's Gum grassy woodland community. This led to an initial Planning Proposal proposing R5 Large Lot Residential land with a MLS of 2,000 m<sup>2</sup> for Lots 1 and 4. No comments were sought from WaterNSW on the earlier version of the Proposal. The earlier Planning Proposal was considered by Council at its meeting of 6 March 2018, which decided to defer the matter pending the outcome of the Urban and Fringe Housing Strategy. The current revised Proposal (dated August 2020) follows on from the adoption of Council's Urban and Fringe Housing Strategy (UFHS) in July 2020. The revisions include removal of proposed R5 Large Lot Residential zoned land with its associated 2,000m<sup>2</sup> MLS. A blanket R2 zoning and 700 m<sup>2</sup> MLS now applies across the site.

### **Direction 5.2 Sydney Drinking Water Catchment**

The Planning Proposal responds to Direction 5.2 noting that the Proposal is generally consistent with the principle that water quality within the Sydney Drinking Water Catchment (SDWC) will be protected. It identifies that the site has a 'moderate' to 'high' land use capability based on WaterNSW's Strategic Land and Water Capability Assessment (SLWCA).

WaterNSW has prepared a SLWCA for the site based on the entire site being sewered (Attachment 2). This identifies that the water quality risks from the development varies from High to Low, with most of the site having a Moderate to Low Risk. The small area of High risk is associated with land near the watercourse. The information in the response to Direction 5.2 should be updated to reflect this. We would emphasise that the outcomes of this SLWCA are predicated on the land being connected to reticulated sewerage infrastructure (see below). To this end, the Proposal would benefit by more explicitly stating that it is expected that the proposed zoning and MLS is based on the residential development being sewered.

The Proposal notes that a Neutral of Beneficial Effect (NorBE) assessment will be undertaken at the development application stage to meet the requirements of the Sydney Drinking Water Catchment SEPP 2011 and to ensure that there is a NorBE on water quality. WaterNSW agrees with this statement. Consultation with WaterNSW under Direction 5.2 is required pre-gateway rather than post-gateway as stated.

### **Sewer, Water and Stormwater**

The site is not currently serviced by water and sewer infrastructure. Any urban development would need to be supported by adequate provisions for sewer, water, and stormwater management. While water and sewer connections are apparently available, there appears to be some challenges associated with sewer and water connectivity. This includes a reduction in water pressure at higher elevations and that a local sewerage pumping station may be required for the site.

WaterNSW believes that the Proposal needs to be accompanied by a supporting report on proposed sewerage, water and stormwater servicing. This should be informed by the Biodiversity Assessment Report as this is likely to influence revised lot yields, subdivision design as well as potential zoning controls. Stormwater management would also need to address impacts arising from roads, services, and easements as well as the proposed residential allotments.



## **Water Features**

The site contains a 1<sup>st</sup> order natural watercourse in the south-west of the site, and three farm dams. The natural watercourse appears to overlap with areas of the critically endangered Yellow Box – Blakely's Red Gum grassy woodland as identified in the initial flora and fauna study. Additional protection of the watercourse through zoning controls may be warranted, although this would best be informed following the proposed Biodiversity Assessment Report.

The Planning Proposal would benefit by recognising the presence of the natural watercourse and the farm dams on the site. It would also benefit by explaining how and whether the watercourse and farm dams will be retained and managed, or whether this is subject to further investigations. This is relevant as urban development may directly impact the watercourse. Urban development will also significantly increase the imperviousness of the site, leading to greater runoff and overland flow reaching the farm dams and the watercourse.

## **Biodiversity and Other Studies**

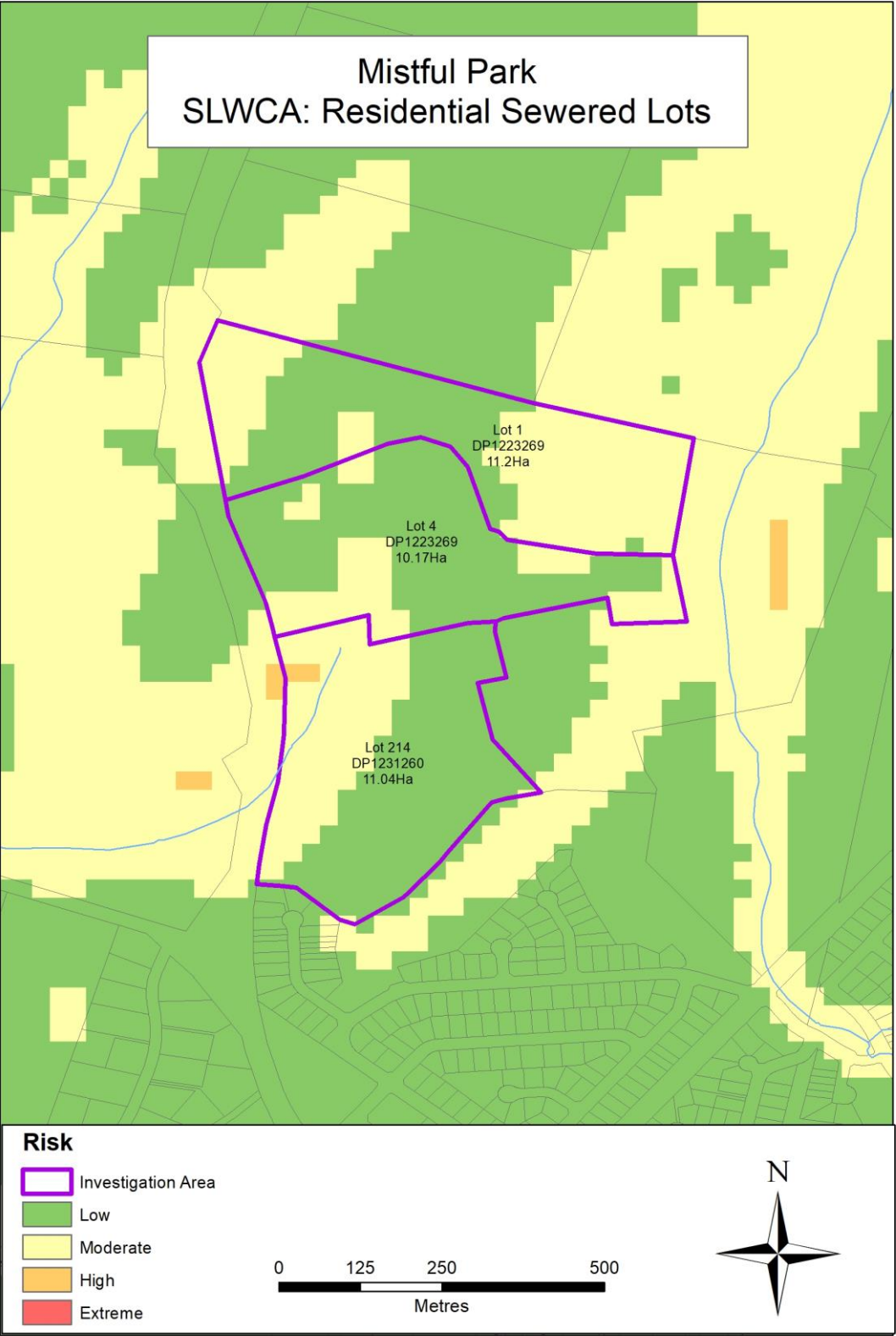
The site contains the critically endangered Yellow Box - Red Gum Woodland ecological community. We understand that the biodiversity of the site requires further assessment to understand the conservation value of the vegetation and the constraints it may present to development. This is likely to significantly affect the expected lot yields but may also influence zoning and other controls. Lot yields might also be affected by apparent recent changes to the definition of the community. This includes the name of the community which now includes reference to derived native grassland.<sup>1</sup> This may expand the extent of the community across the site.

WaterNSW would like to be further consulted if the zoning type or zoning boundaries change, or other changes to the MLS are proposed as a result of the proposed biodiversity studies. Biodiversity impacts will also need to consider development footprints, roads, easements and Asset Protection Zones for bushfire protection.

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<sup>1</sup> See <https://www.environment.nsw.gov.au/threatenedspeciesapp/profile.aspx?id=10837>; <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2020/white-box-yellow-box-critically-endangered-ecological-community-listing>).

**ATTACHMENT 2 – SWLCA MAP**



**Map 1.** Mistful Park, Goulburn - SLWCA for Residential Sewered development.



The General Manager  
Goulburn Mulwaree Council  
Locked Bag 22  
Goulburn NSW 2580  
[council@goulburn.nsw.gov.au](mailto:council@goulburn.nsw.gov.au)  
Attention: Kate Wooll  
15 October 2020

Our ref: DOC20/777832-5

Your ref:

Dear Kate

**Subject: Mistful Park Planning Proposal – Rezone E4 Environmental Living to R2 Low Density Residential**

Thank you for referring this planning proposal to Biodiversity and Conservation Division (BCD) for our review and comments.

Following our letter of 30 September 2020, we wish to provide an additional response from the Water, Floodplains and Coast team.

As the planning proposal involves the rezoning of flood prone land it should be considered in accordance with Section 9.1 Direction 4.3 Flood Prone Land and the NSW Government's Flood Prone Land Policy as set out in the Floodplain Development Manual, 2005 (FDM).

We also note that the planning proposal will result in a watercourse and riparian corridor being zoned as Low Density Residential. These sensitive environmental areas are unsuitable for the proposed land-use and consideration should be given to zoning riparian areas for their intended land use function such as an environmental zoning. Further detailed comments are provided in Attachment 1.

If you wish to discuss the contents of this letter further, please contact Lyndal Walters on 02 6229 7157.

Yours sincerely,

**ALLISON TREWEEK**  
**Senior Team Leader Planning**  
**South East, Biodiversity and Conservation Division**

Enc: Attachment 1 - Detailed comments on the Planning Proposal



## **Attachment 1 – Detailed comments on the Planning Proposal Floodplain Risk Management**

As the planning proposal involves the rezoning of flood prone land it should be considered in accordance with Section 9.1 Direction 4.3 Flood Prone Land and the NSW Government's Flood Prone Land Policy as set out in the Floodplain Development Manual, 2005 (FDM). The policy aims to reduce the impact of flooding and flood liability on individual owners and occupiers, and to reduce private and public losses resulting from flooding utilising ecologically positive methods wherever possible.

The approving body for the planning proposal should consider and be satisfied that the following matters have been adequately addressed with relation to floodplain risk management:

- the impact of flooding on the development - including local overland flows and the range of possible floods up to the Probable Maximum Flood (PMF);
- the impact of the development on flood behaviour – particularly adverse impacts of existing communities downstream of the site;
- the impact of flooding on the safety of people for the full range of possible floods;
- the implications of climate change on flooding - particularly increased rainfall intensity on flood behaviour; and;
- The implications of landform modifications to the natural environment including spatial requirements for natural waterway functions including impacts to watercourse stability and associated flood impacts.

We have reviewed the planning proposal and note that the proposed site contains an identified watercourse and is therefore considered to be flood affected. The site is also identified as flood affected in the DRAFT Goulburn Overland Flow Modelling report. In addition, we note the following:

- Although the flooding is identified in the Overland Flow report, the flood extents are predominantly contained within the watercourse which is considered riverine flooding (as explained in the report)
- It is unclear if the entire flood extents of the site are included in the Overland Flow report, it appears as though they have been trimmed, therefore further modelling may be required by the proponent

We also note that the planning proposal will result in a watercourse and riparian corridor being zoned as Low Density Residential. It is suggested that these sensitive environmental areas are unsuitable for the proposed land-use and consideration should be given to zoning riparian areas for their intended land use function such as an environmental zoning.

If the application is modified such that the riparian land is zoned as a suitable environmental zoning (no dwelling entitlement) and no earthworks are proposed on the flood affected land then a site specific flood study would likely not be required as council will have suitable flood information from the Overland Flow report. If modification to the floodplain is proposed then a site specific flood study will be required to demonstrate compliance with the Section 9.1 Direction 4.3.

If further technical advice is required on floodplain risk management issues, council should not hesitate to contact the South East Water Coast and Floodplain team, DPIE-Biodiversity & Conservation Division.