



## **Goulburn Mulwaree Council**

### **Planning Proposal – Rezoning of E4 Environmental Living Zone, “Mistful Park” 408 and 412 Crookwell Road, Goulburn to R2 Low Density Residential Local Environmental Plan 2009**

**4 November, 2020**

Version	Comment	Date
1	Gateway	4 November, 2020

# Introduction

Urbanism on behalf of Ganter Constructions Pty Ltd is seeking an amendment to the *Goulburn Mulwaree Local Environmental Plan 2009* (GMLEP). The amendment involves the rezoning of approximately 32.5 hectares of land known as Mistful Park, No. 408 and 412 Crookwell Road, Goulburn currently zoned E4 Environmental Living to R2 Low Density Residential and reducing the minimum lot size from 10 hectares to 700m<sup>2</sup>.

The planning proposal application was initially submitted to Council in late 2017, with a subsequent report being presented to Council on 6 March, 2018. Council resolved at that meeting that:

- *The Planning Proposal to rezone the 'Mistful Park' property is supported in principle but deferred at this time pending the outcome of the Urban & Fringe Housing Strategy.*
- *The Planning Proposal to rezone the 'Mistful Park' property be included on a list of properties to be considered in the Urban & Fringe Housing Strategy and the applicant be encouraged to investigate the concerns raised by the State Government Departments.*

On 21 July 2020, Council adopted the *Urban and Fringe Housing Strategy* which identified that the site may be suitable for urban residential housing in the short to medium term, given its proximity to existing urban development but also identifies that the site has potential biodiversity constraints. Council considered a further report on the planning proposal at its meeting of 15 September, 2020 and resolved (2020/357) that:

1. *The report from the Business Manager Strategic Planning regarding the Proposal to rezone Mistful Park (Lot 1 & 4 DP 1223269 and Lot 214 DP 1231260) be received.*
2. *Council resolve to prepare a Planning Proposal to amend Goulburn Mulwaree Local Environmental Plan 2009 (GMLEP) 2009 which will:*
  - a) *Rezone land being Lot 1 & 4 DP 1223269 and Lot 214 DP 1231260 from E4 Environmental Living to R2 Low Density Residential under GM LEP 2009 and*
  - b) *Amend the minimum lot size map on the subject lands to 700m2.*
3. *When the Planning Proposal is prepared, a request for a Gateway Determination be forwarded to the Department of Planning, Industry and Environment.*
4. *The proposed R2 Low Density Residential Zoning and 700m2 minimum lot size are to be further assessed following the outcome of site specific investigations/studies identified in this report following a Gateway Determination, which in this case may significantly impact development yields. The Planning Proposal is to be updated prior to public exhibition following the outcome of various site specific assessments, in particular the Biodiversity Assessment Method and Biodiversity Assessment Report.*
5. *The Department of Planning, Industry and Environment be requested to issue delegations so that Council is the Relevant Planning Authority to process the subject Planning Proposal.*

6. *The Council fees for the processing of this Planning Proposal be applied at the rates applicable when the Planning Proposal was originally submitted in the 17/18 financial year.*

As identified in the *Urban and Fringe Housing Strategy* and Council reports dated 6 March, 2018 and 15 September, 2020, the site is identified as having potential biodiversity constraints which will necessitate further assessment before determining overall capacity for urban residential development, zone boundaries and lots sizes. A copy of the relevant Council Reports is provided in **Attachment 1**.

The proponent has previously submitted a Flora and Fauna Study for the site which does not meet the standardised criteria for a Biodiversity Assessment Method under the *Biodiversity Conservation Act 2016*. The proponent is seeking a Gateway Determination prior to proceeding with a further biodiversity assessment. Council has supported this position as it is considered that by initially identifying the site as a whole for residential, a Biodiversity Assessment Method will be undertaken over the site as a whole. This approach will provide a basis for further refinement of zoning, zone boundaries and minimum allotment sizes and therefore clarify actual residential capacity and yields.

## Part 1 – Objectives

The intended outcome of the instrument proposed by this Planning Proposal is to identify additional suitable land for urban residential development which is contiguous to existing urban residential areas in order to meet ongoing supply of residential land as identified in the *Urban and Fringe Housing Strategy*.

The Planning proposal seeks to rezone land currently zoned E4 Environmental Living in Marys Mount, Goulburn to R2 Low Density Residential. This would also include reducing the current minimum lot size from 10 ha to 700m<sup>2</sup> under *Goulburn Mulwaree Local Environmental Plan 2009*.

The subject area comprises the properties as identified in Map 1 below:

- Lot 1 DP 1223269
- Lot 4 DP 1223269
- Lot 214 DP 1231260



**Map 1 – Subject Area**

Potential residential yields have not been provided as the Planning Proposal initiates the need for further site specific studies/investigation in order to determine the capacity of the land for residential development. These studies are likely to result in further refinements to proposed zoning, zone boundaries and minimum lot sizes. This is also reflected in preliminary feedback from State agencies.

Refer to **Appendix 1** for Locality Maps.

## Part 2 – Explanation of Provisions

The *Goulburn Mulwaree Local Environmental Plan 2009* will be amended by:

- Altering the land use zone from E4 Environmental Living to R2 Low Density Residential as it applies to the following properties:
  - Lot 1 DP 1223269
  - Lot 4 DP 1223269
  - Lot 214 DP 1231260.
- Amending the minimum lot size maps from 10 ha (E4 Environmental Living Zone) to 700m<sup>2</sup> (R2 Low Density Residential) as it applies to the following properties (as shown on the maps below):
  - Lot 1 DP 1223269
  - Lot 4 DP 1223269
  - Lot 214 DP 1231260.

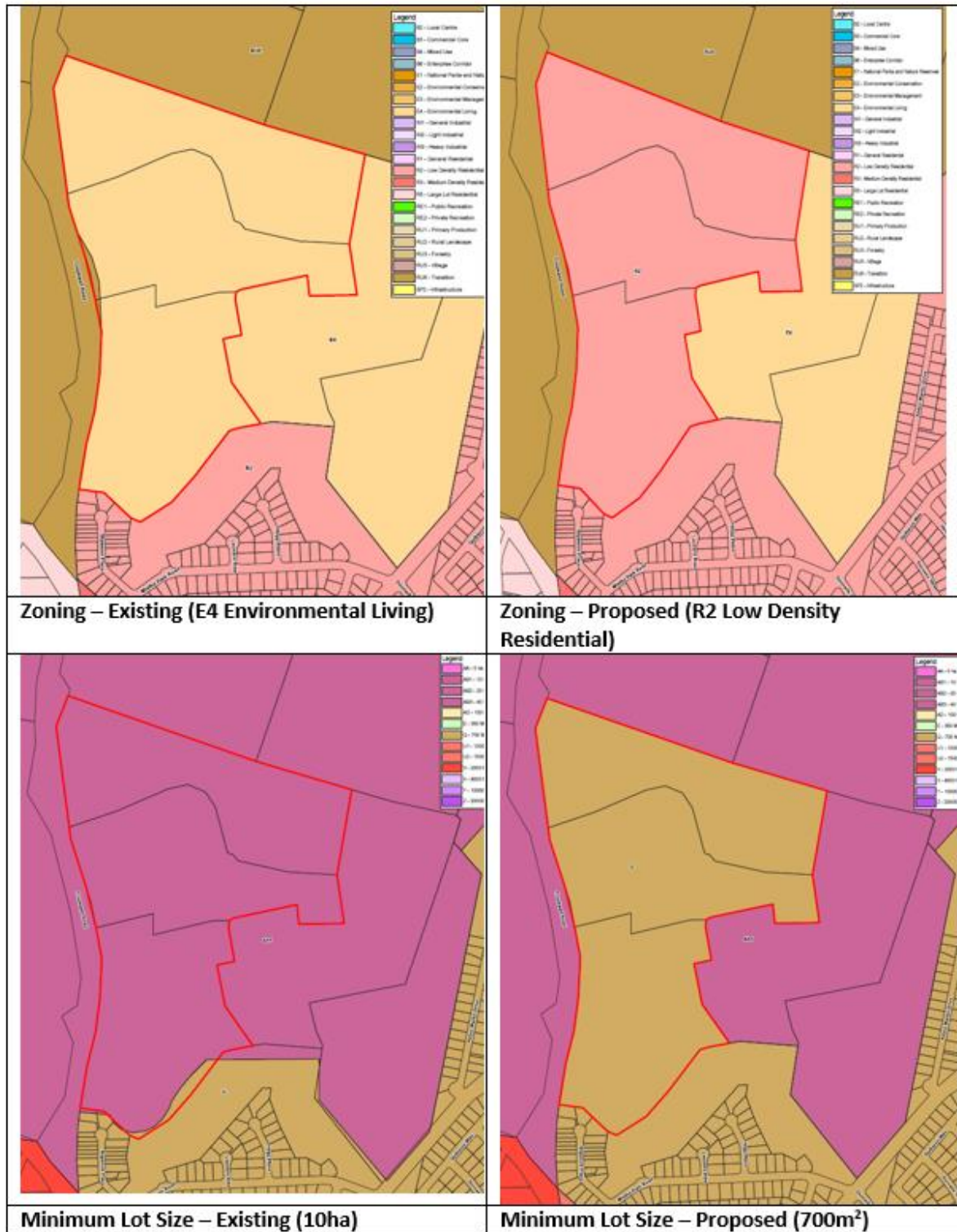
In preparing the maps associated with this Proposal it was noted that there are two mapping anomalies being:

1. A small section of the western boundary of the subject area along Crookwell Road is zoned RU6 Transition Zone – this is due to a realignment of Crookwell Road with the residue incorporated into the subject area.
2. Following the most recent subdivision the minimum lot size map does not exactly align with the southern boundary of the subject area, so a small portion of the subject area along the southern boundary already contains some land with a minimum lot size of 700m<sup>2</sup>.

Both of the above anomalies are only visible when the maps are enlarged (Refer **Appendix 2**).

The following maps detail the changes to zone and minimum lot size.





**Map 2 – Amendments to GM LEP Maps**

## Part 3 – Justification

### Section A – Need for Planning Proposal

#### 3.1 Is the Planning Proposal a result of any strategic study or report?

Yes, there have been two relevant strategic studies which have considered the urban development of this site being the *Goulburn Mulwaree Strategy 2020 (August 2006)* and more recently the *Goulburn Mulwaree Urban and Fringe Housing Strategy (July 2020)*.

Both of these strategies have considered the site to have some potential but have also identified constraints such as biodiversity. Consistency of the Planning Proposal with the most recent strategy is discussed in Section B below.

#### 3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The site is currently zoned E4 Environmental Living with a minimum lot size of 10ha, therefore, the current zoning and minimum lot size is not consistent with urban residential development. Furthermore, the objectives of the E4 Environmental Living zone are not consistent with supporting significantly increased density of development. The only mechanism to change the zone and minimum lot size provisions in *Goulburn Mulwaree Local Environmental Plan 2009* is via a planning proposal.

Notwithstanding the above, however, there are identified site constraints necessitating further site specific investigations and study. In addition to this, the recommendations and the input of State agencies also needs to be considered.

Once the site specific constraints are fully identified, it is considered that there may be significant changes to the planning proposal to reflect these constraints (through a mix of zoning and lots size requirements).

### Section B – Relationship to Strategic Planning Framework

#### 3.3 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The Planning Proposal is consistent with the strategic directions contained within the *South East and Tablelands Regional Plan 2036* specifically, in relation to the following directions:

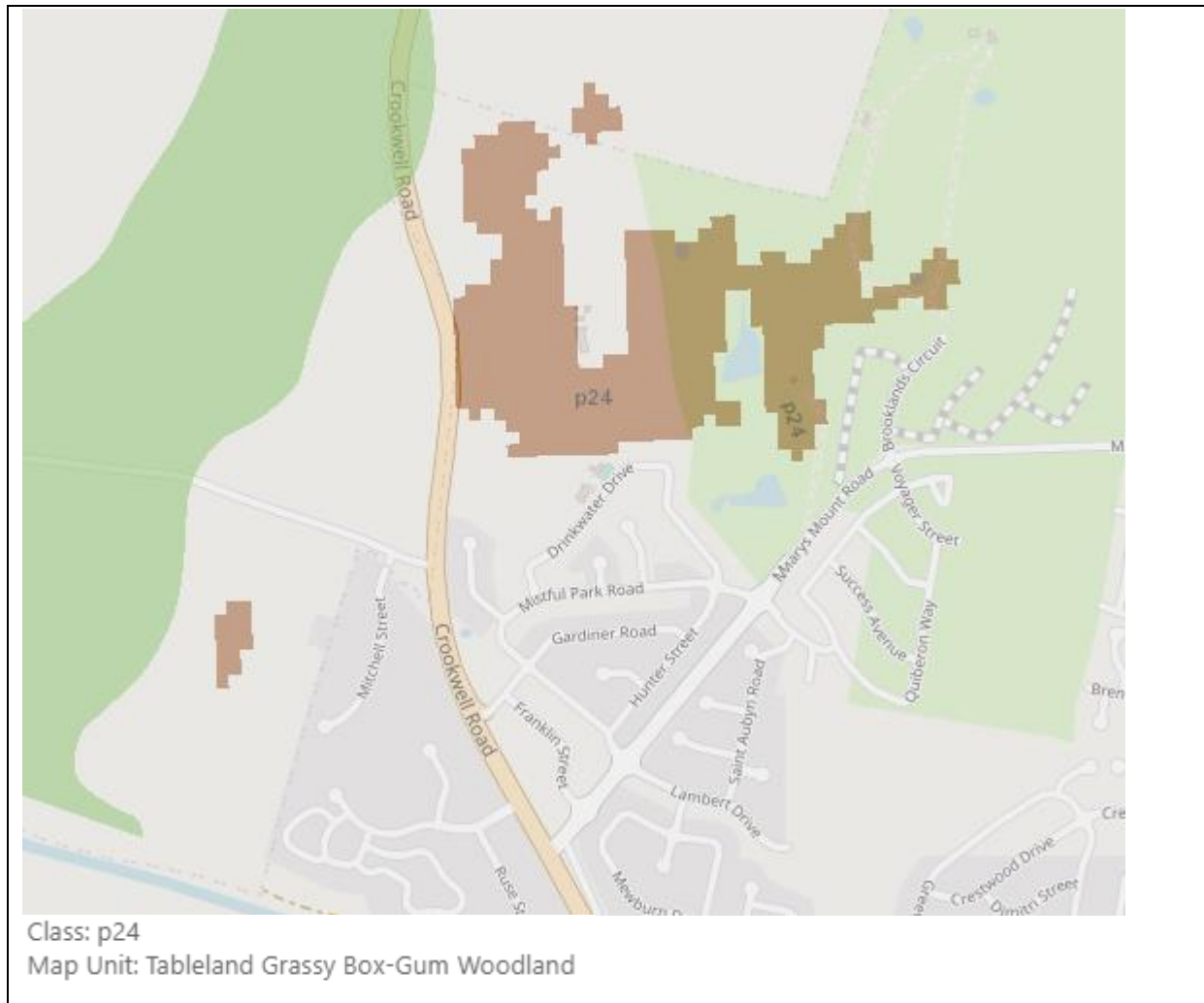
- Direction 24: Deliver greater housing supply and choice
- Direction 25: Focus housing growth in locations that maximise infrastructure and services
- Direction 27: Deliver more opportunities for affordable housing

The Regional Plan requires that Council continues to diversify the housing market to respond to demographic change and pre-empt housing affordability pressures.



Council's recently adopted *Urban and Fringe Housing Strategy* (discussed in Part 2) has been prepared in order to deliver on the directions of the Regional Plan and the planning proposal will assist council implement the Strategy.

The planning proposal is identifying that additional site investigations/studies are required to further refine zoning and minimum lot sizes nominated. The site is identified as having potential biodiversity value as identified on the map below.



**Map 3 - Source: SEED – DPIE SE NSW Native Vegetation Classification & Mapping**

The SE Tablelands Regional Strategy also includes the following directions in relation to the protection of the environment:

- Direction 14: Protect important environmental assets.
- Direction 15: Enhance Biodiversity Connections.

The Planning Proposal is identifying that there are potential biodiversity constraints for the identified area and as a next step, a Biodiversity Assessment Method (BAM) needs to be undertaken for the site. This is necessary to determine site capability for residential development and is intended to be used to inform zoning and lot sizes for the area. The Planning Proposal currently identifies the

whole site for residential for the purposes of the BAM, therefore ensuring the site and zoning is considered in totality.

### **3.4 Is the Planning Proposal Consistent with a council's local strategy or other local strategic plan?**

Yes – refer to the responses below.

#### **3.4.1 Goulburn Mulwaree Local Strategic Planning Statement**

Council adopted its *Local Strategic Planning Statement* for Goulburn Mulwaree on 18 August, 2020.

The *Local Strategic Planning Statement* (LSPS) sets out the 20 year vision for land-use in the local area with visions, objectives and planning priorities providing the rationale for how land-use decisions will be made to achieve the community's broader goals.

The LSPS identifies the following relevant visions in relation to this planning proposal:

- 1. Infrastructure – Infrastructure meets the needs of a growing community.*

Site yields or capability is currently dependant on the outcome of a further Biodiversity Assessment Method, but will be required to determine the level of infrastructure likely to be required.

It is intended that the site will be serviced by Council's reticulated water and sewer services. Roads and access will need to be assessed based on likely yields also, therefore it is too early to clearly address this matter.

- 4. Housing – A range and diversity in housing type, which is contextual and affordable and is primarily centred on Goulburn and Marulan.*

The site is located on the fringe of existing urban in Goulburn and has been identified as a potential urban expansion area subject to constraints in the *Goulburn Mulwaree Urban and Fringe Housing Strategy*. The R2 Low Density Residential zone under *Goulburn Mulwaree Local Environmental Plan 2009* provides a relatively flexible land use table which provides for a range of housing type.

- 8. Natural Hazards – Natural hazards are identified, planned for and mitigated where possible throughout the planning process.*

The site is located on bushfire prone land as identified on Council's bushfire prone land mapping. This Planning Proposal identifies the need for further site specific assessment of bushfire hazard following the completion of a Biodiversity Assessment Method being undertaken, to better understand the extent of biodiversity constraints. Once determined a Strategic Bush Fire Study will

be required to determine capacity for compliance with the requirements of the NSW Rural Fire Services' *Planning for Bushfire Protection 2019*.

In relation to flooding, the site contains a watercourse which may result in localised flooding. Similar to bushfire above, the completion of a Biodiversity Assessment Method is required to better understand the extent of biodiversity constraints. Existing vegetated areas are partly concentrated on the watercourse and therefore, are likely to be excluded from residential zoning following the outcome of the Biodiversity Assessment Method (BAM).

*10. Natural Environment – Protection and enhancement of the quality of natural environments and systems.*

The site is located within the Sydney drinking water catchment and contains a watercourse. In addition to this the site is identified as containing a critically endangered ecological community being the Yellow Box – Blakely's Red Gum Woodland (Box Gum Woodland) Critically Endangered Ecological Community (CEEC). As per the requirements of the *Biodiversity Conservation Act 2016* a Biodiversity Assessment Method assessment of the full site is required to determine whether clearing of the Box Gum Woodland would result in a 'serious and irreversible impact' (SAIL). The data collected is also intended to inform further decision making around zoning and zone boundaries and in relation to site yields etc.

### **3.4.2 The Tablelands Community Strategic Plan 2012 – 2022**

The Community Strategic Plan (CSP) was adopted by Council on the 17 April 2015.

The Plan seeks to provide opportunities for rural lifestyle, settlement, housing, sustainable farming and natural resource protection.

The following are the relevant strategic pillars in relation to this Planning Proposal:

*Strategy EN1 – Protect and enhance the existing natural environment including flora and fauna native to the region.*

As discussed in this Planning Proposal the site is identified as having White Box – Yellow Box – Blakely's Red Gum Grassy Woodland (commonly referred to as Box-Gum Woodland) was listed as a Critically Endangered Ecological Community (CEEC) on July 17, 2020. The CEEC status applies to both NSW and Commonwealth legislation.

A Biodiversity Assessment Method (BAM) analysis is required for the site to determine its suitability for development. The data from this analysis will be used to determine capability, identify sensitive areas and further refine planning and zoning provisions.

The data from the BAM will also be required to determine if development of the site will constitute a serious and irreversible impact (SAIL) to the Box Gum Woodland in accordance with in accordance with principles set out in clause 6.7 of the *Biodiversity Conservation Regulation 2017*.

### *Strategy EN3 – Protect and rehabilitate waterways and catchments*

As stated in relation to Strategy EN1 above, a Biodiversity Assessment Method (BAM) analysis of the site is required to determine capacity for residential development. It is noted that a first order water course is located along the south western section of the subject area, which is potentially subject to flooding. This area also appears to contain Box Gum Woodland. Following the BAM assessment, it is likely that this area will be identified as being environmentally sensitive and require a change to the proposed zoning to reflect environmental sensitivity, flood hazard and water quality objectives.

### *Strategy EN4 – Maintain a balance between growth, development and environmental protection through sensible planning.*

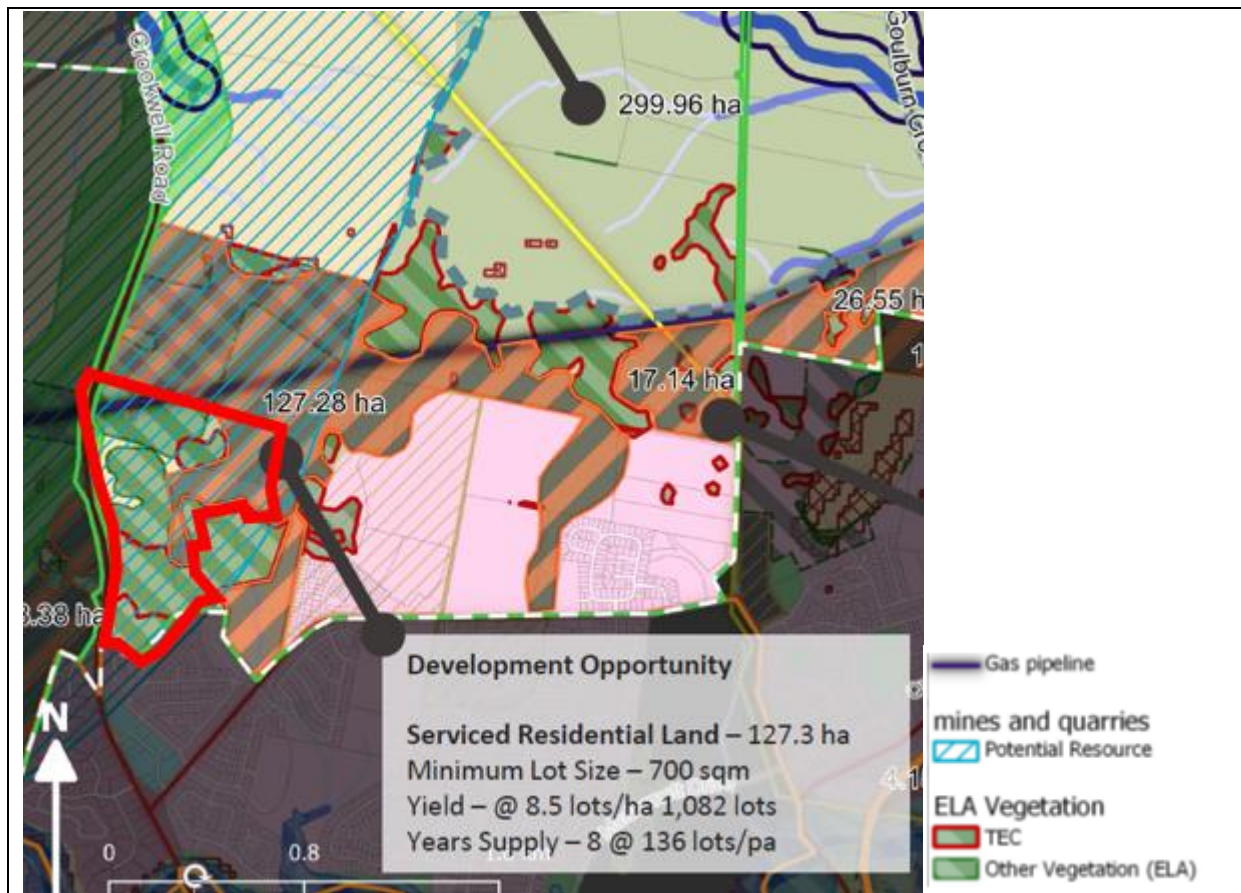
The site is contiguous with existing urban and has the potential for hard infrastructure servicing (water/sewer) as such it was identified in the *Urban and Fringe Housing Strategy* as an opportunity site. However, the site does contain Box Gum Woodland which is a critically endangered ecological community and now includes derived grasslands. The development potential of this site needs to be assessed against the data provided from a Biodiversity Assessment Method and potentially a Biodiversity Assessment Report. Further to this an assessment of serious and irreversible impacts on a critically endangered ecological community will be required.

#### **3.4.3 Goulburn Mulwaree Urban and Fringe Housing Strategy**

This Strategy investigates and identifies areas suitable for the provision of additional housing to assist Goulburn Mulwaree Council (Council) meet the housing demands generated by expected continued population growth. The Strategy has been prepared in response to both the limited supply of residential land available to meet the short and medium term needs of the community and the directions of the *South East and Tablelands Regional Plan 2036*.

The scope of the Strategy included consideration of the urban areas of Goulburn and Marulan, to determine opportunities for an additional recommended 3,500 dwellings identified over the next 16 years to 2036, and further land potentially suitable for residential development post 2036. The *Urban and Fringe Housing Strategy* (the Strategy) was adopted by Council on the 21 July 2020 and is pending endorsement from the NSW Department of Planning, Industry and Environment.

The site is located within Precinct 5 – Middle Arm West, within the Strategy. The precinct is generally identified as being constrained by biodiversity (Yellow Box – Blakely's Red Gum Woodland Critically Endangered Ecological Community (CEEC – since July 2020)), with the subject site specifically identified as having biodiversity constraints except within the north eastern corner. The subject site is also identified as being constrained by the high pressure gas pipeline within an area of extractive resource potential (limestone). The following is an extract of the opportunities and constraints map from the Strategy for this precinct.



**Maps 4 – Extract Precinct 5 Opportunity and Constraint Map, Urban and Fringe Housing Strategy**

Broader constraints identified for this precinct included:

- *Not currently serviced by water and sewer infrastructure.*
- *Water infrastructure is available with areas constrained due to water pressure.*
- *A designated service reservoir and delivery main would be required to service this precinct.*
- *Sewer is available with likely requirement for a localised pumping station and some enlargement of downstream collection network is likely to be necessary (subject to network modelling).*
- *The area is constrained by the gas pipeline which significantly impacts development immediately adjacent.*
- *A high voltage transmission line also runs north south through the area.*
- *Area to the North West is zoned E3 Environmental Management and drains to Sooley Dam*

The Strategy recommendations for this precinct included the rezoning of land immediately adjoining the urban fringe in the short to medium term to urban residential, to include urban release area provisions and have a detailed master plan and comprehensive Aboriginal cultural heritage assessment.

The landowner has made submissions to the two exhibitions of the Strategy. These submissions were particularly focused on the identification of biodiversity land on the subject site in relation to

the site specific Flora and Fauna Assessment prepared for the landowner in support of the original planning proposal application. The Consultation Report comments on the submissions recognised the opportunity for proponent led planning proposals and identified that this site would require a Biodiversity Assessment Report to be prepared to determine the impact of development on biodiversity.

On 29 March 2019, Council also received specific advice from the former Office of Environment and Heritage in relation to the inclusion of a number of landowner nominated sites in the Strategy. This submission did not address the Mistful Park site (known as Site 26). Verbal advice from the Office of Environment and Heritage was that it referred back to the site specific advice provided to Council in preliminary consultation in relation to the Planning Proposal dated 6 February 2018 for this site. This advice was:

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 area of Box Gum Woodland.*
3. *Council or the proponent could also consider the biodiversity certification as a way of providing greater certainty to any future development of parts of the site.*

*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.*

A copy of all pre Gateway State agency submissions is provided in **Attachment 2**.

It is considered that the planning proposal is consistent with the Strategy as it is exploring urban residential potential but doing so subject to Biodiversity Assessment Method data being provided to inform further planning and development of this Planning Proposal prior to public exhibition.

### **3.5 Is the Planning Proposal consistent with the applicable State Environmental Planning Policies (SEPP)?**

<b>SEPP</b>	<b>Consistency</b>
SEPP (Primary Production and Rural Development) 2019	<p>The aims of this policy are:</p> <p><i>(a) to facilitate the orderly economic use and development of lands for primary production,</i></p> <p><i>(b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</i></p> <p><i>(c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i></p> <p><i>(d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in</i></p>

	<p><i>irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</i></p> <p><i>(e) to encourage sustainable agriculture, including sustainable aquaculture,</i></p> <p><i>(f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</i></p> <p><i>(g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</i></p> <p>The land is not identified as State significant agricultural land under Schedule 1 of the SEPP.</p> <p>The land is currently zoned E4 Environmental Living and is used for extensive agriculture. However, the site is only 32 ha in area and is adjoining existing urban residentially zoned land. The surrounding land is identified within the <i>Goulburn Mulwaree Urban and Fringe Housing Strategy</i> as being an urban residential opportunity area. The Strategy seeks to concentrate new residential development within and around Goulburn and Marulan, and thereby both provide supply of housing in these serviced area but will also protect the rural areas from pressure from residential development.</p> <p>The Planning Proposal based on the above is consistent with this SEPP.</p>
SEPP (Sydney Drinking Water Catchment) 2011	<p>The aims of this Policy are:</p> <p><i>(a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and</i></p> <p><i>(b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and</i></p> <p><i>(c) to support the maintenance or achievement of the water quality objectives for the Sydney drinking water catchment.</i></p> <p>This policy applies to the subject area but generally applies to development applications. Planning Proposals are required to address the requirements of Ministerial Direction 5.2 in relation to assessing the water quality impacts. Further discussion is provided in the table to Section 3.6 of this Planning Proposal below.</p>
SEPP (Vegetation in Non-Rural Areas) 2017	<p>The aims of this Policy are:</p> <p><i>(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</i></p> <p><i>(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</i></p>



Biodiversity is the most significant issue in relation to the future planning for this site. As pointed out by the Office of Environment and Heritage in February 2018, the site capability and yields will largely be determined by the requirement to undertake a Biodiversity Assessment Method (BAM) investigation and Biodiversity Assessment Report (BDAR).

It is noted that the Planning Proposal is seeking a R2 Low Density Residential zone with 700m<sup>2</sup> minimum allotment size across the whole site. The initial Flora and Fauna Report by Woodlands Environmental Management dated August, 2017 (**Attachment 3**) does identify the presence of White Box - Yellow Box – Blakely's Red Gum Woodland Threatened Ecological Community (TEC)



Source: SIX Maps

A – Yellow Box - Blakely's Red Gum grassy woodland  
B – Highly modified and disturbed vegetation

**Map 6 – Biodiversity, Source Flora and Fauna Assessment by Woodlands Environmental Management**

The report's author and Council's Vegetation Officer (in 2018) agreed that the Threatened Ecological Community was highly disturbed, furthermore, under the current management regime of grazing, cultivation and private recreation use it would likely become extinct in the foreseeable future. However, the site could be remediated or rehabilitated under the following recommendations:

	<ul style="list-style-type: none"> <li>• Any future subdivision layout be designed to avoid the clearance and disturbance of remnant EEC, and</li> <li>• Remnant patches of EEC should be included in as few lots as possible to facilitate future rehabilitation and conservation management, and</li> <li>• Within any lot supporting remnant vegetation, a building envelope, Asset Protection zone and associated infrastructure should be located to avoid the clearance or disturbance of EEC, and</li> <li>• A Vegetation Management Plan be prepared for each lot containing EEC to guide rehabilitation and conservation and to protect from potential direct, indirect and cumulative impacts during construction, establishment and occupational phases of development, and</li> <li>• Generally, any subdivision be conditioned for inclusion of an 88B Instrument over each lot containing EEC to protect the EEC in accordance with the above Vegetation Management Plan (or a PVP Property Vegetation Plan be registered on the title - Officer).</li> </ul> <p>This advice suggests that the presence of a Threatened Ecological Community (TEC) does not prevent development of the site. However, the intention of the <i>NSW Biodiversity Conservation Act, 2016</i> is to legislate the principles of avoidance, mitigation and offsetting (in priority order) in relation to the development of biodiversity significant areas. The Planning Proposal is the main opportunity to identify areas of biodiversity significance so that these areas can be <u>avoided</u> through zoning, minimum allotment size, etc. Furthermore, the White Box – Yellow Box Blakely’s Red Gum Grassy Woodland and Derived Native Grassland has since been listed as a Critically Endangered Ecological Community since 17 July, 2020.</p> <p>The Planning Proposal currently does not address avoidance, due to the identification of the whole site as being of residential development potential. Notwithstanding this, it is considered that the most appropriate approach for a Biodiversity Assessment Method (BAM) and Biodiversity Assessment Report (BDAR) assessment would be to undertake <u>a whole of site assessment</u> in accordance with the new assessment method to determine capability. It is considered that this is an essential first step before other steps in the assessment process can be undertaken.</p> <p>The proponent has been aware of the advice concerning the need for a Biodiversity Assessment Method (BAM) and Biodiversity Assessment Report (BDAR) since the previous report to Council in 2018 and from further constraint identification in the <i>Urban and Fringe Housing Strategy</i>. The preferred approach being the identification of environmental capacity and sensitive areas prior to establishing zone boundaries and minimum allotment sizes, as expressed in all feedback provided to date by State agencies and Council.</p> <p>The Planning Proposal as submitted by the proponent does state (p.8) that a Biodiversity Assessment Method (BAM) investigation is to be undertaken <u>following</u> a Gateway Determination. It is noted that the BAM could be undertaken prior to the Gateway Determination, however, the proponent has indicated a preference</p>
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	<p>for specific input from the Department of Planning, Industry and Environment (Environment) prior to undertaking the Biodiversity Assessment Method process.</p> <p>The proponent has undertaken a Flora and Fauna Assessment but this was prepared under the former legislation. Given that the proponent had already undertaken a report, the request to support the Planning Proposal proceeding is supported on the understanding that it will be informed and refined based on the outcome of a Biodiversity Assessment Method (BAM) and Biodiversity Assessment Report (BDAR). The BAM and BDAR will also be required to undertake an assessment of serious and irreversible impact (SAII) on the now Critically Endangered Ecological Community (as listed July 2020).</p>
SEPP No. 55 – Remediation of Land	<p>This Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment—</p> <p><i>(a) by specifying when consent is required, and when it is not required, for a remediation work, and</i></p> <p><i>(b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and</i></p> <p><i>(c) by requiring that a remediation work meet certain standards and notification requirements.</i></p> <p>This SEPP relates to the assessment of development applications and does not address the planning proposal phase. However, Ministerial Direction 2.6 – <i>Remediation of Contaminated Land</i> is required to be addressed as a part of a Planning Proposal, and a Phase 1(PSI) report is required to comply with the assessment of this direction. The Planning Proposal as submitted by the proponent did provide some background history being:</p> <p><i>“The subject site is used for agricultural activities as a feedlot for sheep and cattle. The site has remained in family ownership for many decades and as such a good historical account of any potential for contamination is available. The site has not been used for sheep dip or cattle dips at any time. Pasture is improved by exotic grasses but no chemical treatments are applied. There are several clearings on the site for motor bike tracks and jumps but not dumping areas or imported fill is present.</i></p> <p><i>It is not considered that contamination is present to warrant and formal investigation at this stage. It should be noted that SEPP 55 – Remediation of Lands continues to apply to land as described here when a Development Application is made.”</i></p> <p>Given the proposed residential zoning, the above advice does not demonstrate a complete knowledge/history of the land use of the site (i.e. previous ownership, site assessment including identification of potential hot spots such as farm fuel tanks etc). Urban residential is a sensitive land use so ideally a Phase 1(PSI) report should occur at the planning proposal stage (which may negate the need to do so at</p>

	DA stage). On this basis a Phase 1(PSI) Contamination Assessment is to be undertaken following the Biodiversity Assessment Method analysis.
SEPP (Koala Habitat Protection) 2019	<p>This Policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline.</p> <p>This policy mainly relates to the development assessment process. It should be noted, however, that the Biodiversity Assessment Method as per the <i>Biodiversity Conservation Act 2016</i>, when applied should also include the identification of plant community types which support koalas (this includes species such as Yellow Box which is present on site).</p> <p>The Planning Proposal is identifying that a Biodiversity Assessment Method (BAM) analysis is to be applied to the site to determine constraints. The BAM should identify plant community types and address this SEPP.</p>

### 3.6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Direction	Justification	Consistent (yes or No)
<b>Direction 1.2 - Rural Zones</b>	<p><i>A planning proposal must:</i></p> <p>(a) <i>not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i></p> <p>(b) <i>not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village)</i></p> <p>The Planning Proposal will not alter significantly alter any rural zones or alter the density of future development. It is consistent with this direction.</p> <p>A very small section of Crookwell Road was incorporated into the subject area following a road realignment. This section is zoned RU6 Transition Zone but is relatively small and obviously now anomalous.</p> <p>The zone change to Residential is considered to be of minor significance in relation to this matter and is identified in the <i>Urban and Fringe Housing Strategy</i>.</p>	Yes

<b>Direction 1.5</b> <b>– Rural Lands</b>	<p>Applies when:</p> <p><i>(a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary), or</i></p> <p><i>(b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.</i></p> <p>A planning proposal to which clauses (a) and (b) apply must:</p> <p><i>(a) be consistent with any applicable strategic plan, including regional and district plans endorsed by the Secretary of the Department of Planning and Environment, and any applicable local strategic planning statement.</i></p> <p><i>(b) consider the significance of agriculture and primary production to the State and rural communities</i></p> <p><i>(c) identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</i></p> <p><i>(d) consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i></p> <p><i>(e) promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p> <p><i>(f) support farmers in exercising their right to farm</i></p> <p><i>(g) prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land uses</i></p> <p><i>(h) consider State significant agricultural land identified in State Environmental Planning Policy (Primary Production and Rural Development) 2019 for the purpose of ensuring the ongoing viability of this land</i></p> <p><i>(i) consider the social, economic and environmental interests of the community.</i></p> <p>The Planning Proposal is considered in relation to the <i>South East and Tablelands Regional Plan 2036</i> (SETRP, 2036) in Section 3.3 of this document.</p> <p>This Planning Proposal is considered in relation to the <i>Goulburn Mulwaree Local Strategic Planning Statement</i> refer to Section 3.4.1 of this document.</p>	<p>Yes</p>
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	<p>The <i>NSW Right to Farm Policy</i> is primarily concerned with managing the interface issues (land use conflict) between farming and other land uses. The site is not identified as State significant agricultural land under <i>State Environmental Planning Policy (Primary Production and Rural Development) 2019</i>.</p> <p>The site is not considered to be of agricultural and primary production value. The land is located within an urban opportunity area as identified in the <i>Urban and Fringe Housing Strategy</i>. Whilst the site is currently used for extensive agriculture (grazing), it is relatively small (approximately 32 ha) and its location is adjoining existing urban residential. On this basis it is considered that this site has a limited capacity for any significant contribution to agriculture at either a local or State level.</p> <p>The Planning Proposal considers the social, economic and environmental values – refer to Section C.</p> <p>The Planning Proposal is consistent with this direction.</p>	
<b>Direction 2.1</b> – <b>Environment Protection Zones</b>	<p><i>A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</i></p> <p><i>A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.</i></p> <p>The site is within an Environmental Zone.</p> <p>The Planning Proposal is not currently consistent with this Direction but through the conditional progression of the development of (this proposal being subject to further biodiversity assessment) and subsequent refinement of planning and zoning provisions it is anticipated that the proposal will be consistent following further data being provided.</p>	No
<b>Direction 2.3</b> – <b>Heritage Conservation</b>	<p><i>A planning proposal must contain provisions that facilitate the conservation of:</i></p> <p><i>(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in</i></p>	Yes

	<p><i>relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,</i></p> <p>The preliminary advice from the Office of Environment and Heritage (now Department of Planning, Industry and Environment – Environment) dated 6 February 2018 objected to the Planning Proposal based on the potential for impacts to Aboriginal Cultural Heritage:</p> <p><i>A number of Aboriginal objects have been found within 1 km of the site. It also appears that the site might be identified as a place of Aboriginal significance on Figure 3-2 of the Goulburn Mulwaree DCP 2009.</i></p> <p>The Office of Environment and Heritage concluded, based on the above, that 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.</p> <p>The adopted <i>Urban and Fringe Housing Strategy</i> includes as an action (J1-1) requiring preparation of an Aboriginal Cultural heritage Assessment in consultation with Aboriginal people prior to public exhibition of a planning proposal.</p> <p>Given the need to undertake further biodiversity assessment to underpin the planning of the site it is recommended that the biodiversity assessment occur first as there may be feasibility issues associated with proceeding. Subject to the outcome of the biodiversity assessment, an Aboriginal Cultural Heritage Assessment is also to be undertaken prior to public exhibition of the Planning Proposal to ensure appropriate zone boundaries and minimum allotment sizes are identified.</p>	
<p><b>Direction 2.6</b></p> <p>–</p> <p><b>Remediation of Contaminated Land</b></p>	<p>This direction applies to:</p> <p>(a) land that is within an investigation area within the meaning of the <i>Contaminated Land Management Act 1997</i>,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p>	Yes



	<p>(c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <p>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</p> <p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p> <p><i>A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:</i></p> <p><i>(a) the planning proposal authority has considered whether the land is contaminated, and</i></p> <p><i>(b) if the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and</i></p> <p><i>(c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</i></p> <p><i>In order to satisfy itself as to paragraph (4)(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</i></p> <p>Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p> <p>In order to address Ministerial Direction 2.6 – <i>Remediation of Contaminated Land</i>, a Phase 1(PSI) report is required to comply with the assessment of this direction. There is insufficient or incomplete information available for the site given the proposed residential zoning. Urban residential is a sensitive land use so a Phase 1(PSI) report should occur following the biodiversity assessment.</p>	
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<p><b>Direction 3.1</b> <b>– Residential</b> <b>Zones</b></p>	<p>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</p> <ul style="list-style-type: none"> <li>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</li> <li>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</li> </ul> <p>A planning proposal must include provisions that encourage the provision of housing that will:</p> <ul style="list-style-type: none"> <li>(a) broaden the choice of building types and locations available in the housing market, and</li> <li>(b) make more efficient use of existing infrastructure and services, and</li> <li>(c) reduce the consumption of land for housing and associated urban development on the urban fringe, and</li> <li>(d) be of good design.</li> </ul> <p>A planning proposal must, in relation to land to which this direction applies:</p> <ul style="list-style-type: none"> <li>(a) contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</li> <li>(b) not contain provisions which will reduce the permissible residential density of land.</li> </ul> <p>This Planning Proposal follows Council’s adoption of the <i>Urban and Fringe Housing Strategy</i> which identifies land which may be suitable for urban expansion. This site is identified within the Strategy as having some potential (due to location and servicing) but also having biodiversity constraints.</p> <p>The residential capacity or likely yields for this site are not known as yet due to the need to undertake a Biodiversity Assessment Method over the site. Accordingly infrastructure planning may be affected depending on the likely development capacity. If developed for urban residential it is intended that the area will be serviced by reticulated water and sewer services.</p> <p>Council has flagged in the report dated 15 September, 2020, that the use of GM LEP 2009 Part 6 – Urban Release Area provisions may also be likely following the outcome of the biodiversity assessment.</p>	<p>Yes</p>
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	<p>The site is likely to require master planning and a site specific development control plan (DCP) or DCP Chapter. It is within the Section 64 – Developer Servicing Plan area for Water and Sewer. It is within the current Section 7.11 Contributions Plan area for Marys Mount.</p>	
<p><b>Direction 3.4 – Integrating Land Use and Transport</b></p>	<p><i>A planning proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of: (a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and (b) The Right Place for Business and Services – Planning Policy (DUAP 2001).</i></p> <p>The Planning Proposal is consistent with <i>Improving Transport Choice – Guidelines for planning and development</i>. The site is contiguous with other urban development and is in close proximity to the B2 Local Centre zone within Marys Mount which has an existing child care centre, café and approval for a shopping centre. The site is within 800m distance of Riverside Park which is a regional level facility with bicycle/pedestrian connectivity to the riverside walkway system in Goulburn which is extensive. The site has the capacity for a local park to be included. The site is located within 3km of the Goulburn CBD as well as other significant infrastructure such as schools and hospital.</p> <p>PBC Buses has a route (824) which runs from the shopping area at Marys Mount into the CBD as shown on the map below.</p>  <p><b>Map 7 – PBC Bus Route to Marys Mount Road</b></p> <p>Given that the overall capacity of the site for residential is not yet known (in relation to likely density and yields) it is too early to undertake a traffic impact assessment or road hierarchy assessment.</p>	<p>Yes</p>

	<p>Preliminary consultation was undertaken in 2017/18 with the former Roads and Maritime Services (now Transport for NSW) which advised:</p> <p><i>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.</i></p> <p><i>RMS believes the planning proposal must:</i></p> <ul style="list-style-type: none"> <li><i>- Consider the likely lot yield.</i></li> <li><i>- 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.</i></li> <li><i>- Preserve land required for future road infrastructure upgrades, including internal links with the planning proposal to connect to the existing local road network.</i></li> <li><i>- Identify necessary road upgrades on Crookwell Road (e.g. the intersection of Marys's Mount Road with Crookwell Road).</i></li> <li><i>- Consider how the necessary road infrastructure will be funded and ensure there is an appropriate planning mechanism in place.</i></li> </ul> <p><i>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.</i></p> <p>The planning proposal will need to be further developed pending the outcome of the biodiversity assessment. The overall capacity of the site will determine the need for further consideration of traffic and access issues.</p>	
<p><b>Direction 4.3 – Flood Prone Land</b></p>	<p><i>A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).</i></p> <p><i>A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.</i></p>	

	<p><i>(6) A planning proposal must not contain provisions that apply to the flood planning areas which:</i></p> <ul style="list-style-type: none"> <li><i>(a) permit development in floodway areas,</i></li> <li><i>(b) permit development that will result in significant flood impacts to other properties,</i></li> <li><i>(c) permit a significant increase in the development of that land,</i></li> <li><i>(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, or</i></li> <li><i>(e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.</i></li> </ul> <p><i>A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</i></p> <p><i>For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).</i></p> <p>The site includes a first order water course which DPIE has advised in its pre Gateway advice dated 15 October 2020:</p> <p><i>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.</i></p> <p><i>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:</i></p> <ul style="list-style-type: none"> <li><i>· the impact of flooding on the development - including local overland flows and the range of possible floods up to the Probable Maximum Flood (PMF);</i></li> <li><i>· the impact of the development on flood behaviour – particularly adverse impacts of existing communities downstream of the site;</i></li> <li><i>· the impact of flooding on the safety of people for the full range of possible floods;</i></li> <li><i>· the implications of climate change on flooding - particularly</i></li> </ul>	
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	<p><i>increased rainfall intensity on flood behaviour; and;</i></p> <ul style="list-style-type: none"> <li><i>· 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.</i></li> </ul> <p><i>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:</i></p> <ul style="list-style-type: none"> <li><i>· 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)</i></li> <li><i>· 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</i></li> </ul> <p><i>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.</i></p> <p><i>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.</i></p> <p>The following map is an extract of the Draft Overland Flow Mapping for the subject area. The map identifies flooding within the first order water course on the eastern side of the subject area near Crookwell Road (note that flooding detailed on the western side of the map falls outside the subject area).</p>	
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**Map 8 - GMC Draft Overland Flow Mapping – 1% AEP Depths and Levels – prepared by GRC Hydro**

This area containing the western water course was also identified as containing Box Gum Woodland (CEEC). So it is likely that in addition to the watercourse there is potential to zone this area to a suitable environment zone such as E2 Environmental Conservation so as to prevent the disturbance of this area, reduce the risk of development being impacted by flooding and to achieve better water quality outcomes.

Furthermore, as previously discussed the biodiversity assessment to be undertaken will determine capacity for residential and therefore potential yields. This will information will then inform the likely downstream impacts of future development depending on the likely

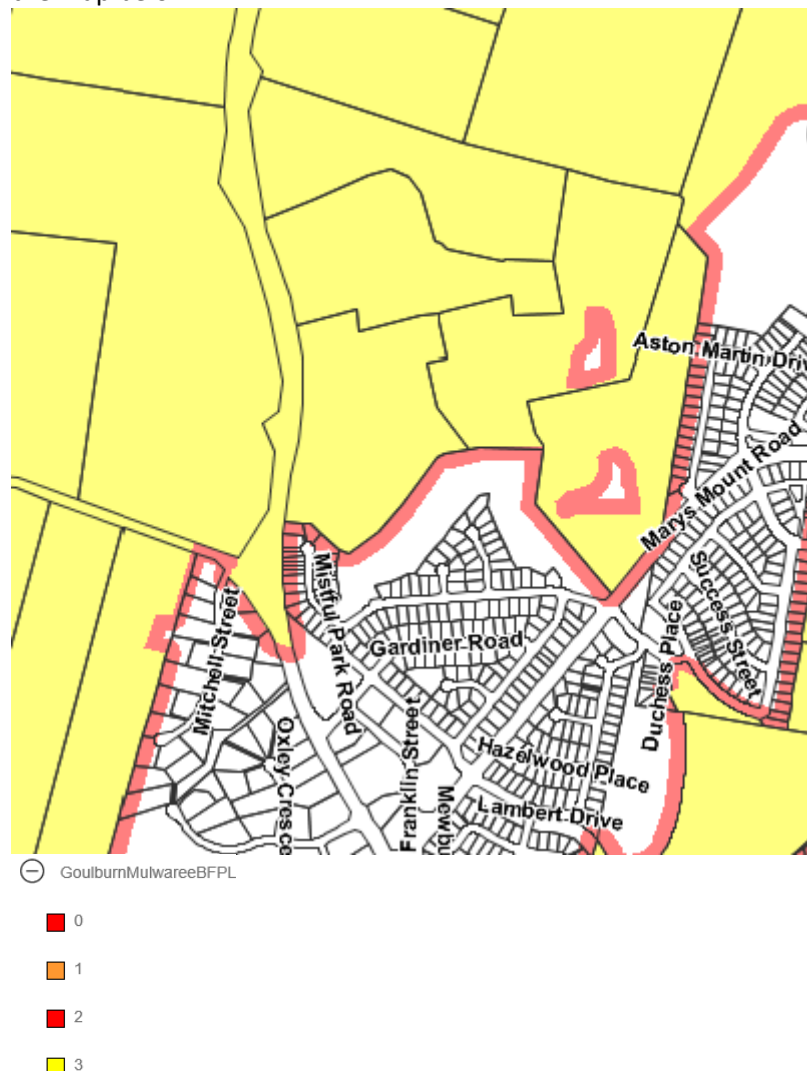


	<p>density.</p> <p>Council is currently seeking grant funding to extend overland flow/flood study to include the PMF, should Council not be in a position to provide this information the proponent will be required to undertake this further flood study.</p>	
<p><b>Direction 4.4</b> – Planning for Bushfire Protection</p>	<p><i>Applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</i></p> <p><i>In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.</i></p> <p><i>A planning proposal must:</i></p> <ul style="list-style-type: none"> <li><i>a) have regard to Planning for Bushfire Protection 2019,</i></li> <li><i>b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</i></li> <li><i>c) ensure that bushfire hazard reduction is not prohibited within the APZ.</i></li> </ul> <p><i>A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</i></p> <p><i>(a) provide an Asset Protection Zone (APZ) incorporating at a minimum:</i></p> <ul style="list-style-type: none"> <li><i>(i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and</i></li> <li><i>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</i></li> </ul> <p><i>(b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the Rural Fires Act 1997), the APZ provisions must</i></p>	

be complied with,

- (c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,
- (d) contain provisions for adequate water supply for firefighting purposes,
- (e) minimise the perimeter of the area of land interfacing the hazard which may be developed,
- (f) introduce controls on the placement of combustible materials in the Inner Protection Area.

The site is identified as Category 3 bushfire prone land as shown on the map below.

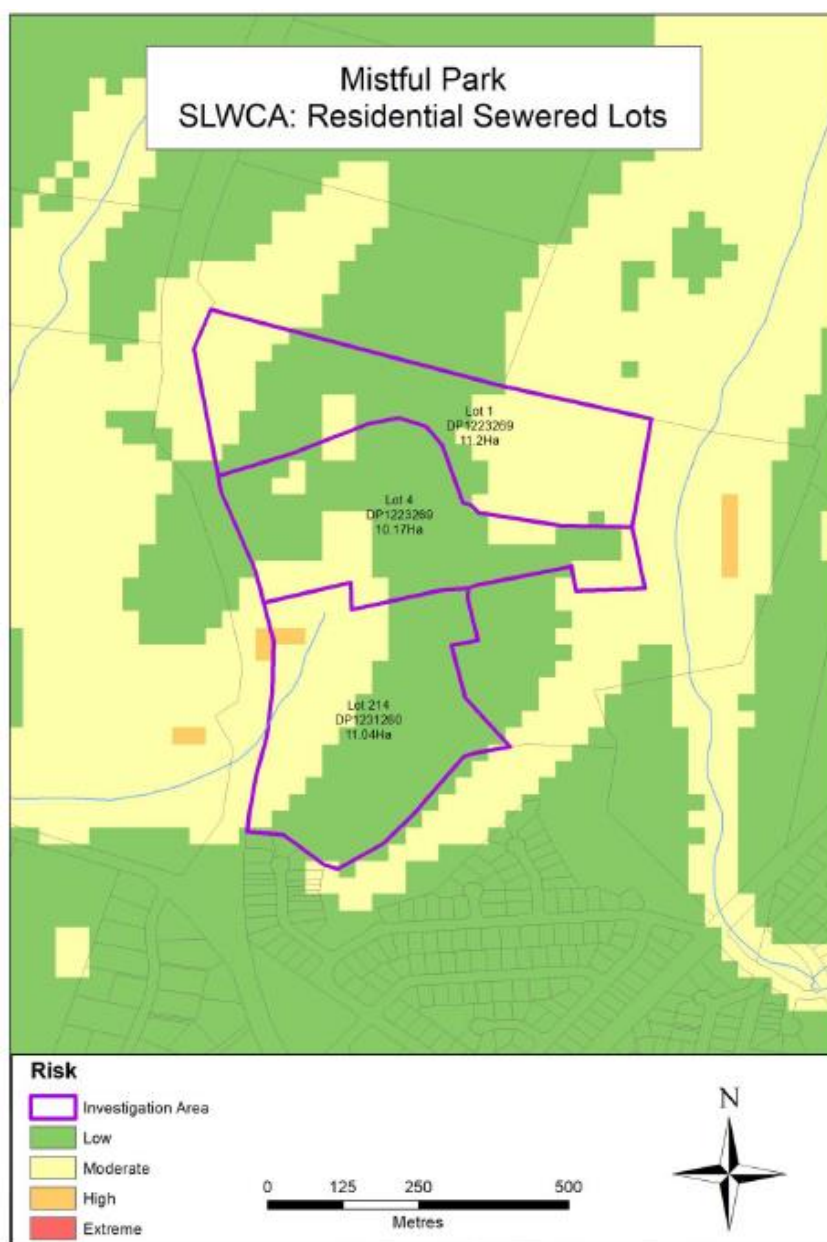


A specific development is not proposed as part of this Planning Proposal as there are further biodiversity assessments to be undertaken in consultation with the Department of Planning, Industry

	<p>and Environment (Environment, Energy and Science). This will inform future residential capacity, areas of environmental sensitivity, road networks and subdivision layout which will ensure that adequate Asset Protection Zones are established.</p> <p>Following the provision of the data from a Biodiversity Assessment Method analysis, a Strategic Bushfire Study will be required as per the requirements of the NSW Rural Fire Service's <i>Planning for Bushfire Protection 2019</i>.</p> <p>Consultation with the NSW Rural Fire Service is to be undertaken in the preparation of the Planning Proposal.</p>	
<p><b>Direction 5.2 – Sydney Drinking Water Catchment</b></p>	<p>Applies when a relevant planning authority prepares a planning proposal that applies to the hydrological catchment.</p> <p>The Planning Proposal affects land within the Sydney Drinking Water Catchment. Development within the catchment is to have a neutral or beneficial effect on water quality.</p> <p>Council has undertaken preliminary consultation with Water NSW which advised by letter dated 14 October, 2020 (<b>Attachment 2</b>):</p> <p><b><i>Direction 5.2 Sydney Drinking Water Catchment</i></b></p> <p><i>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 Water NSW's Strategic Land and Water Capability Assessment (SLWCA).</i></p> <p><i>WaterNSW has prepared a SLWCA for the site based on the entire site being sewerage [refer map below]. 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 sewerage.</i></p> <p><i>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</i></p>	

	<p><i>under Direction 5.2 is required pre-gateway rather than post-gateway as stated.</i></p> <p><b>Sewer, Water and Stormwater</b>  <i>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.</i></p> <p><b>Water Features</b>  <i>The site contains a 1st 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 farms 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.</i></p> <p><b>Biodiversity and Other Studies</b>  <i>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. This may expand the extent of the community across the site.</i></p>	
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*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.*



**Map 10 - Water NSW Strategic land and Water Capability Assessment – Extract for Mistful Park**

The Planning Proposal is predicated on the land being connected to town water and sewer services.

The first order water course is noted in this Planning Proposal in relation to potential flooding hazard and in relation to biodiversity values present on the site. It is considered that further development of site capacity and planning/zoning controls will occur following the

	<p>outcome of the Biodiversity Assessment Method data becoming available. This data will then refine likely residential lot yields and will inform the level of additional planning required for all infrastructure: water, sewer, drainage, roads, open space etc.</p> <p>Council will continue to consult with Water NSW as further data becomes available and the Planning Proposal is refined. It is envisaged that a likely outcome will be a zoning for the water course area that has appropriate objectives in relation to environmental sensitivity, water quality and flood risk.</p>	
<b>Direction 6.1</b> <b>– Approval</b> <b>and Referral</b> <b>Requirements</b>	<p><i>A planning proposal must:</i></p> <p><i>(a) minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and</i></p> <p><i>(b) not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:</i></p> <p><i>(i) the appropriate Minister or public authority, and</i></p> <p><i>(ii) the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act, and</i></p> <p><i>(c) not identify development as designated development unless the relevant planning authority:</i></p> <p><i>(i) can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the class of development is likely to have a significant impact on the environment, and</i></p> <p><i>(ii) has obtained the approval of the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) prior to undertaking community consultation in satisfaction of section 57 of the Act.</i></p> <p>The Planning Proposal does not contain a provision that requires concurrence, consultation or referral of development applications beyond the requirements already in place under <i>Goulburn Mulwaree Local Environmental Plan 2009</i>.</p> <p>Consultation with the community and relevant Government Agencies will occur should a positive Gateway Determination be received under section 3.34 of the Act.</p>	

**3.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

**3.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?**

Adjoining E4 Environmental Living Land

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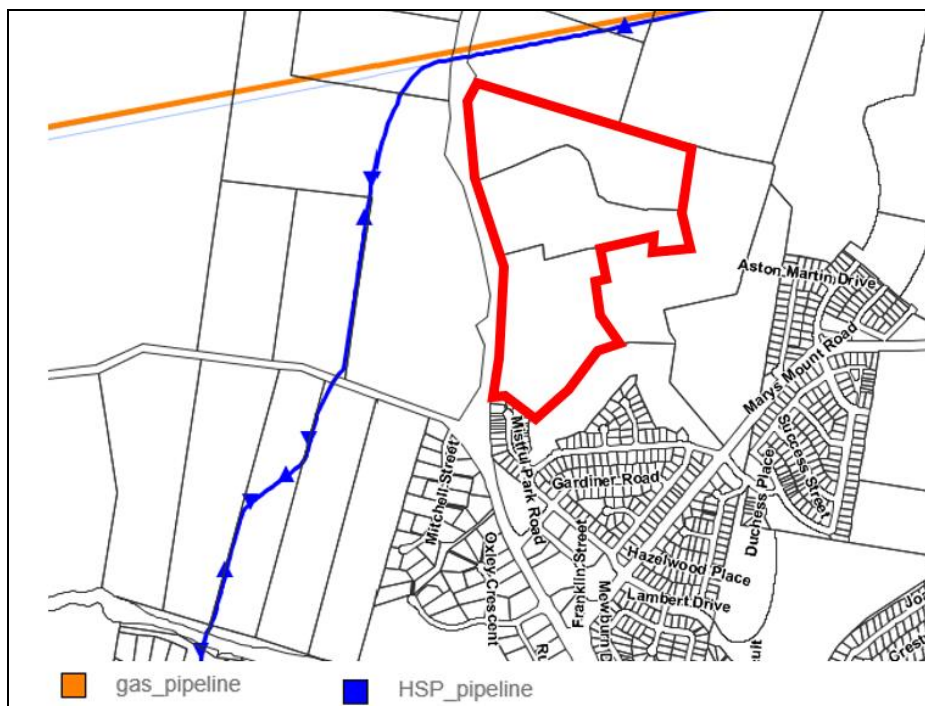
Both lots are constrained due to drainage with a watercourse and dams and the presence of remnant native vegetation/biodiversity. On this basis these lots have not been included within this Planning Proposal despite being identified within the Urban and Fringe Housing Strategy (due to being contiguous to existing urban but also identified as being affected by biodiversity).

#### Aboriginal Cultural Heritage

An Aboriginal cultural assessment is to be undertaken post Gateway determination and prior to public exhibition of the Planning Proposal.

#### Proximity to High Pressure Gas Pipeline and Highland Source Water Pipeline

The High Pressure Gas Pipeline (Licences 15 and 16) is located to the north of the subject area (Figure 3) and a significant portion of the site is within the 675m buffer area, which will necessitate a safety management study to be prepared with certain land uses to be excluded from this area including: child care centres, detention facilities, education facilities, function centres, health care services, hospitals, tourist and visitor accommodation, places of public worship, residential care facilities, aged care facilities, service stations, retail premises, supermarkets and theatres.



**Map 12 – High Pressure Pipelines**

The site is in proximity to the Highland Source water pipeline but falls outside of the easement for the pipeline. It is considered that the development of this site for residential will not impact upon the operation of the water pipeline, nor will it present a risk to future residents.

Low density residential as proposed may be located within the 675m buffer but a safety management study will still be required. A safety management study should ideally be prepared prior to the zone boundaries and minimum allotment size being finalised and will need to be prepared as a part of the master planning and DCP preparation for the site. The risk assessment is

largely based around density and yields, which again needs to be determined following the biodiversity assessments.

### Infrastructure

It is intended that if developed for urban residential that the site will be connect to Council's reticulated water and sewer network. Road access and local open space will also need to be provided. Given the uncertainty around residential yields due to biodiversity constraints, the capacity of existing road, drainage, water and sewer networks have not been further investigated at this stage.

Council's Utilities section have advised that there is some service capacity up to approximately the 690m height level for water supply before low pressure becomes an issue. The highest point of the site is around the 690m elevation but is located near the northern boundary of the subject area (therefore the majority of the site is below this level). Sewer is likely to require provision of a pumping station/s in this precinct. Further investigation around water and sewer servicing may be required dependant on yields following biodiversity assessment.

As flagged by Transport for NSW (former Roads and Maritime Services - RMS), further traffic and road hierarchy assessments will be required. As identified by DPIE (BCD – Flooding) and Water NSW submissions further consideration of drainage will also be required.

### Visual Impact/Topography

The topography of the site is undulating being located on higher ground above the existing Marys Mount urban release area. The lowest section of the site is located along the southern boundary at an elevation of around 670m, with the highest point located along the northern boundary atop a ridgeline which runs north-south through the centre of the subject area. Scattered remnant native woodland is located around the steeper areas and water course. The following map provides an aerial photo which is overlaid with 2m contours.



**Map 13 - Subject Area – 2m Contours and Aerial Photo**

The visual impact of the development of the site will vary from different vantage points. Currently when approaching Goulburn from the north along Crookwell Road the site provides a rural landscape before passing through a saddle and dropping down into the Marys Mount area and urban environment. The impact of development upon the approach to Goulburn along the northern section of the subject area should be considered in any future master plan for the site.

The site provides a backdrop to the north west of the Marys Mount urban release area (refer to locality photos in **Appendix 3**).

A visual impact assessment is required to provide recommendations on appropriate development controls (for a DCP Chapter and master plan) to mitigate the visual impact of future development from certain vantage points

### **3.9 Has the planning proposal adequately addressed any social and economic effects?**

As discussed the subject site was identified as a release area for housing growth in the Goulburn Mulwaree *Urban and Fringe Housing Strategy 2020*. Council in adopting this Strategy has determined that the subject site can potentially play an important role in supporting the social and economic welfare of the Goulburn community by contributing to housing supply. This will ensure that an adequate supply of a range of housing types is supplied over time to meet the changing needs of the community.

## **Section D – State and Commonwealth interests**

### **3.10 Is there adequate public infrastructure for the planning proposal?**

It is intended that if developed for urban residential that the site will be connect to Council's reticulated water and sewer network. Road access and local open space will also need to be provided. Given the uncertainty around residential yields due to biodiversity constraints, the capacity of existing road, drainage, water and sewer networks have not been further investigated at this stage.

Council's Utilities section have advised that there is some service capacity up to approximately the 690m height level for water supply before low pressure becomes an issue. The highest point of the site is around the 690m elevation but is located near the northern boundary of the subject area (therefore the majority of the site is below this level). Sewer is likely to require provision of a pumping station/s in this precinct. Further investigation around water and sewer servicing may be required dependant on yields following biodiversity assessment.

As flagged by Transport for NSW (former Roads and Maritime Services), further traffic and road hierarchy assessments will be required. As identified by DPIE (BCD – Flooding) and Water NSW submissions further consideration of drainage will also be required.

### **3.11 What are the views of State and Commonwealth public authorities' consultation in accordance with the gateway determination?**

Preliminary or pre Gateway referrals were undertaken for this Planning Proposal both prior to the presentation of this Planning Proposal to Council on 6 March 2018 and following

Council's resolution to proceed on 15 September, 2020 (**Attachment 2 – State Agency Submissions**). Council has consulted:

- Water NSW
- Transport for NSW
- Department of Planning, Industry and Environment (Biodiversity Conservation Division)
- Department of Planning, Industry and Environment (Environment – Flooding)

Further consultation will be required with each of the above State agencies and will also include:

- NSW Rural Fire Service
- NSW Premier and Cabinet (Heritage NSW - Aboriginal Cultural Heritage)

The preparation of a Safety Management Study for the high pressure gas pipeline will need to be undertaken in consultation with APA.

## Part 4 – Mapping

The *Goulburn Mulwaree Local Environmental Plan 2009* maps will be amended by:

- Altering the land use zone maps (LZN 001C and LZN 001D) from E4 Environmental Living to R2 Low Density Residential as it applies to the following properties:
  - Lot 1 DP 1223269
  - Lot 4 DP 1223269
  - Lot 214 DP 1231260
- Amending the minimum lot size maps (LSZ 001C and LSZ001D) from 10 ha (E4 Environmental Living Zone) to 700m<sup>2</sup> (R2 Low Density Residential) as it applies to the following properties (as shown on the maps below):
  - Lot 1 DP 1223269
  - Lot 4 DP 1223269
  - Lot 214 DP 1231260

As previously mentioned in Part 2, there are anomalies in zone along the Crookwell Road frontage of the area due to a road realignment and subsequent land sales to adjoining owners. Therefore there are small sections of RU6 Transition Zone which appear along the Crookwell Road boundary. These sections only appear when the maps are enlarged.

Refer to the map amendments in **Appendix 2**.

## Part 5 – Community Consultation

Notification of the exhibited Planning Proposal will include:

- A newspaper advertisement that circulates in the area affected by the Planning Proposal;
- The website of Goulburn Mulwaree Council

Written notice will be provided to the land owner and to adjoining owners and will:

- Provide a brief description of the objectives or intended outcomes of the Planning Proposal;
- State where and when the Planning Proposal can be inspected; and
- Provide details of how members of the community can make a submission.

Exhibition Material:

- The Planning Proposal, in the form approved for community consultation by the Director General of the Department of Planning, Industry and Environment (DPIE); and
- The NSW DPIE Gateway Determination, and
- Report to Council titled *Planning Proposal to Rezone 'Mistful Park' to Residential* dated 15 September, 2020 with attachments and resolution; and
- Pre and post Gateway Determination (pre public exhibition) submissions from State Agencies (**Attachment 2 – Pre Gateway submissions**).
- Environmental Assessment prepared by Woodlands Environmental management dated 7 August, 2017.
- Any site specific technical studies/assessments.

## Part 6 – Project Timeline

<b>Gateway Determination</b>	November 2020
<b>Timeframe for completion of technical studies</b>	Biodiversity Assessment Method (BAM) to be undertaken November/Early December 2020 or Spring 2021 – other technical studies to follow the outcome of the BAM/Biodiversity Assessment Report (BDAR). If BAM completed in 2020 – other studies to be completed by March 2021.
<b>Timeframe for agency consultations</b>	Subject to completion of BAM April 2021
<b>Public exhibition</b>	May 2021
<b>Public hearing</b>	Not applicable
<b>Consideration of submission</b>	June 2021
<b>Date of submission of LEP to DPIE</b>	August 2021
<b>Anticipated date of plan made</b>	November, 2021
<b>Anticipated date plan forwarded to DPIE for notification</b>	December, 2021

## Conclusion

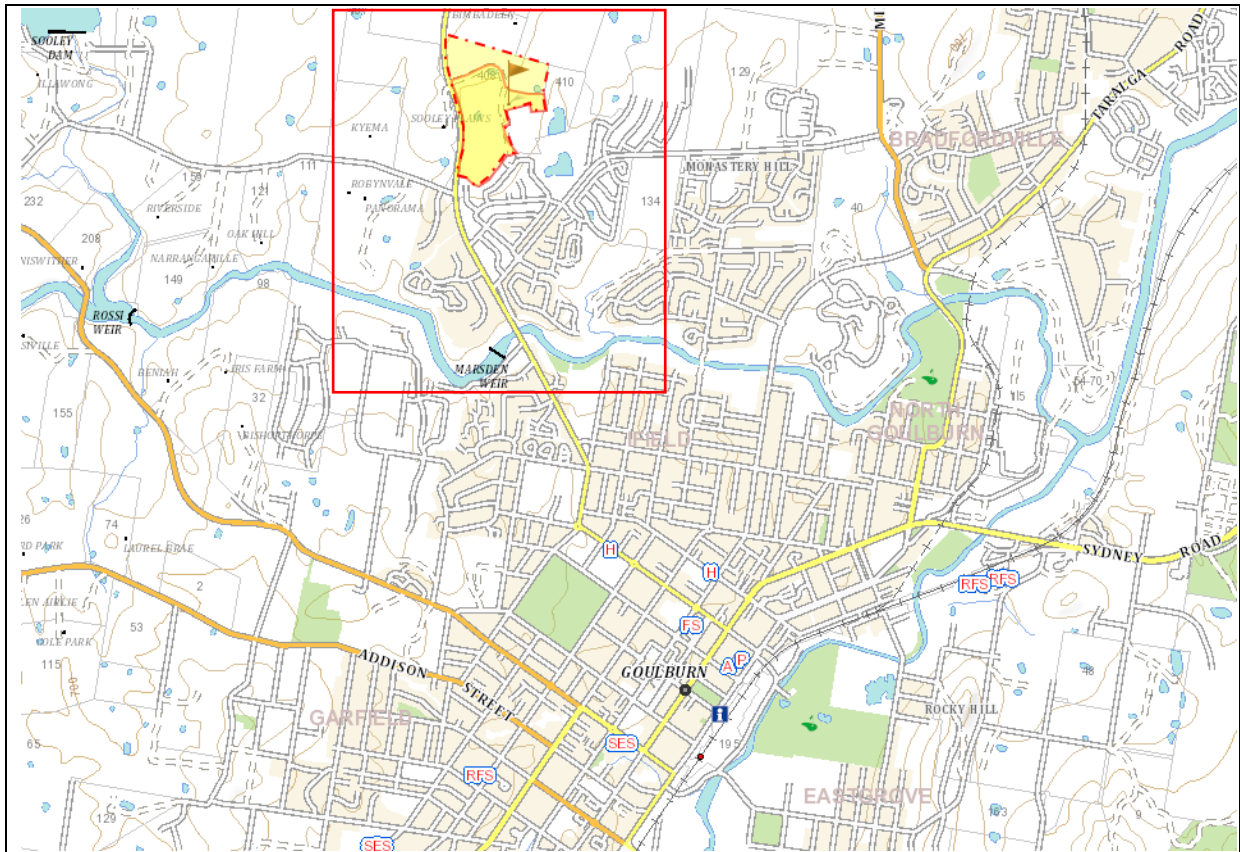
In conclusion, the subject site was identified as a release area for housing growth in the Goulburn Mulwaree *Urban and Fringe Housing Strategy 2020*. Council in adopting this Strategy has determined that the subject site can potentially play an important role in supporting the social and economic welfare of the Goulburn community by contributing to housing supply. This will ensure that an adequate supply of a range of housing types is supplied over time to meet the changing needs of the community.

The *Urban and Fringe Housing Strategy* has also identified this site as being potentially constrained due to biodiversity – specifically the presence of the now Critically Endangered Ecological Community (CEEC) - White Box – Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland, which needs to be assessed. Accordingly a Biodiversity Assessment Method (BAM) and Biodiversity Assessment Report (BDAR) is required to provide data to inform further decision making on planning and zoning provisions. This data will also be required to determine whether development of the site will result in a serious and irreversible impact on the CEEC.

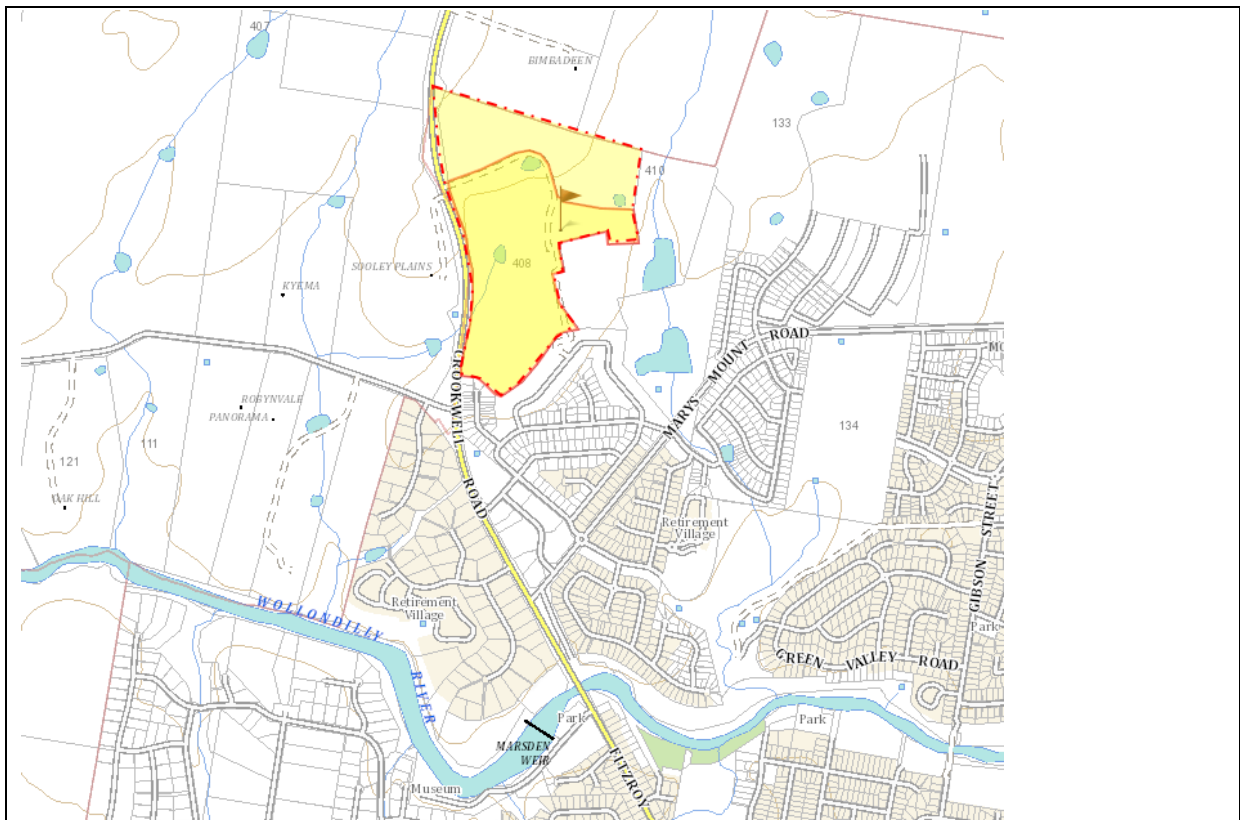
The outcome of the biodiversity assessment will potentially have an impact on a number of different aspects to this proposal such as overall site capacity for development, likely residential yields, infrastructure and bushfire planning matters. It is likely that the Planning Proposal will require amendment prior to public exhibition as a minimum to include the outcome of various studies and to better reflect environmentally sensitive areas and natural hazards such as flooding once further information is available on baseline biodiversity data.



## Appendix 1 – Locality Maps

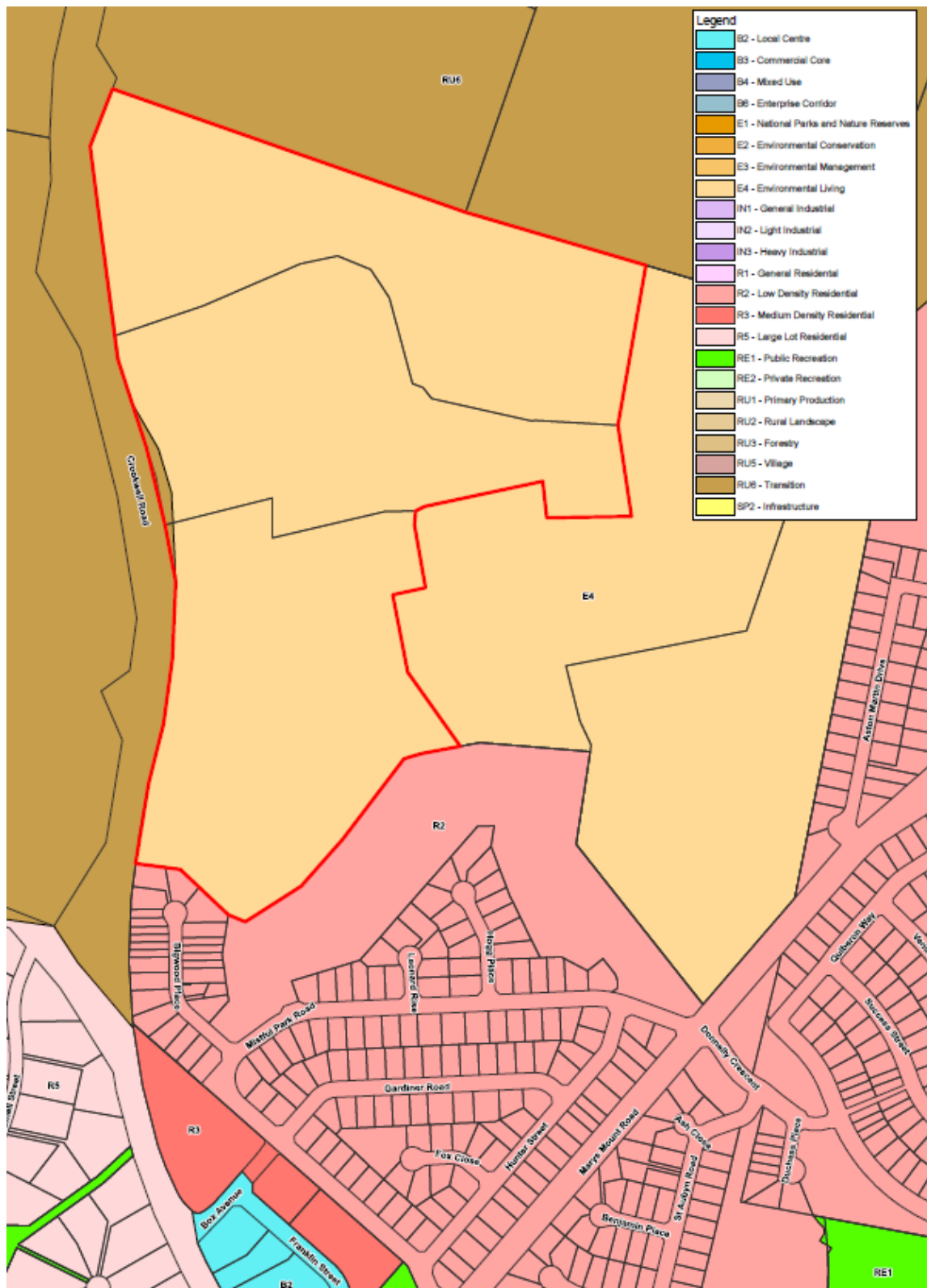


*Subject area in relation to Goulburn*

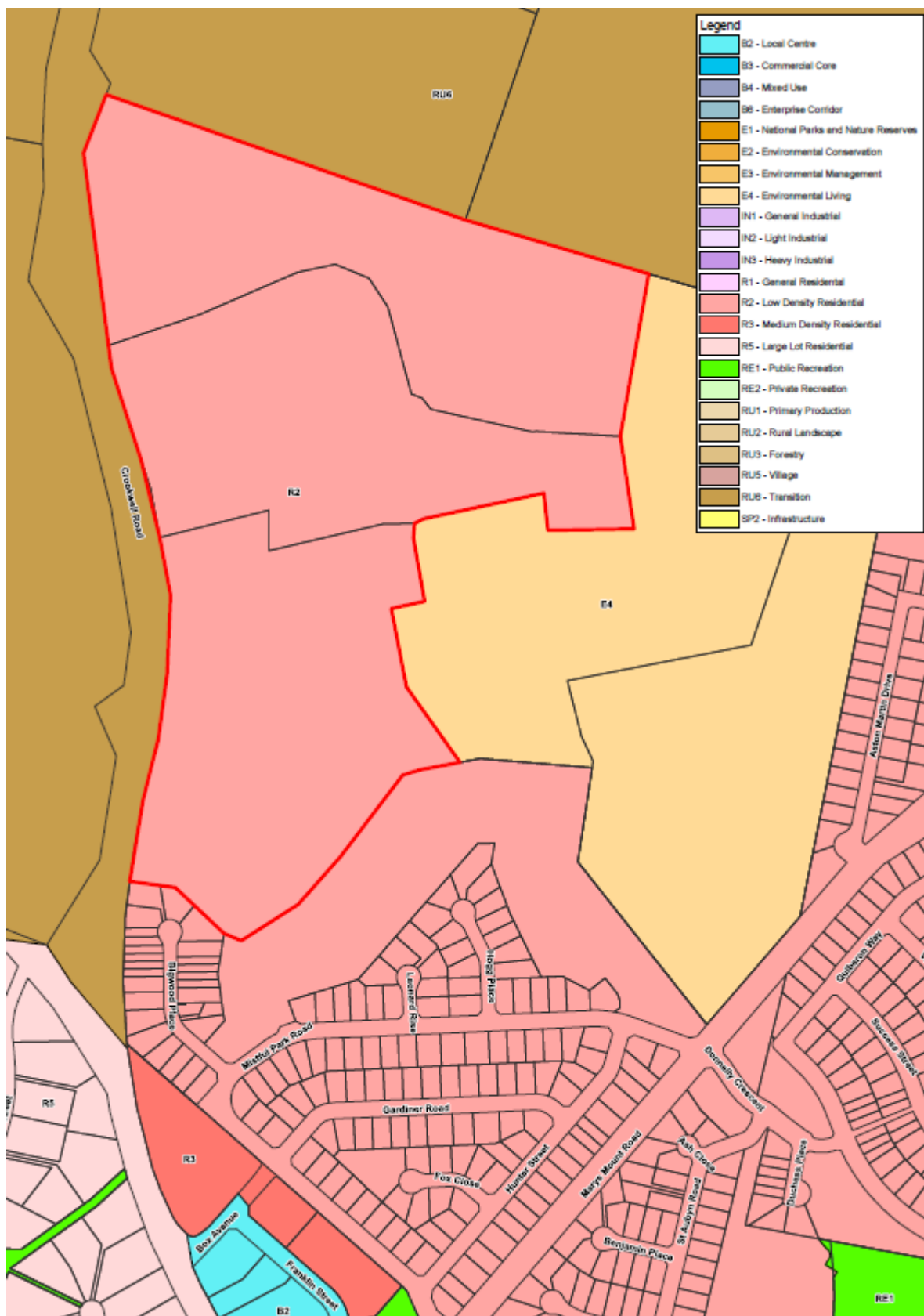




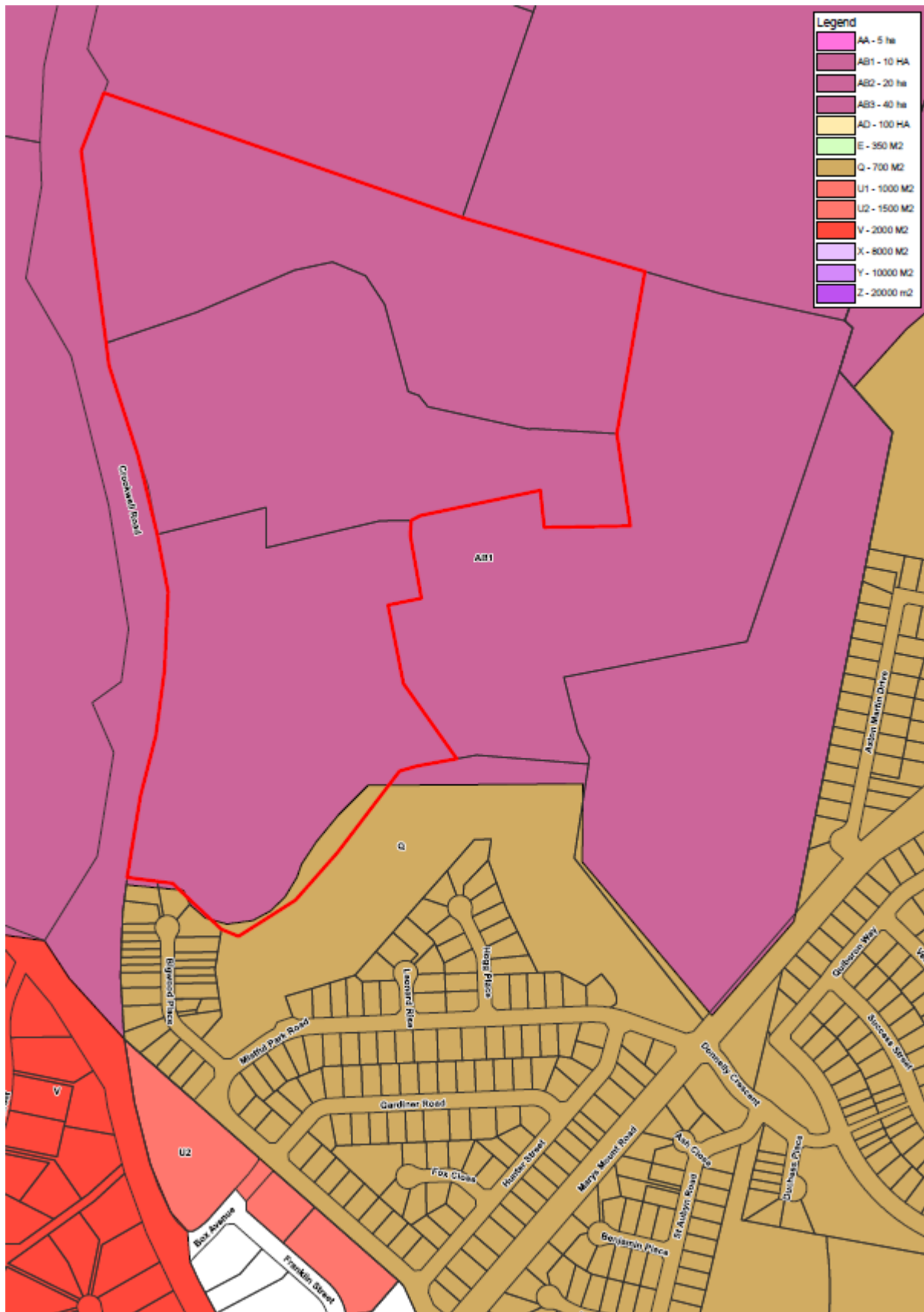
## Appendix 2 – GMLEP 2009 Map Amendments



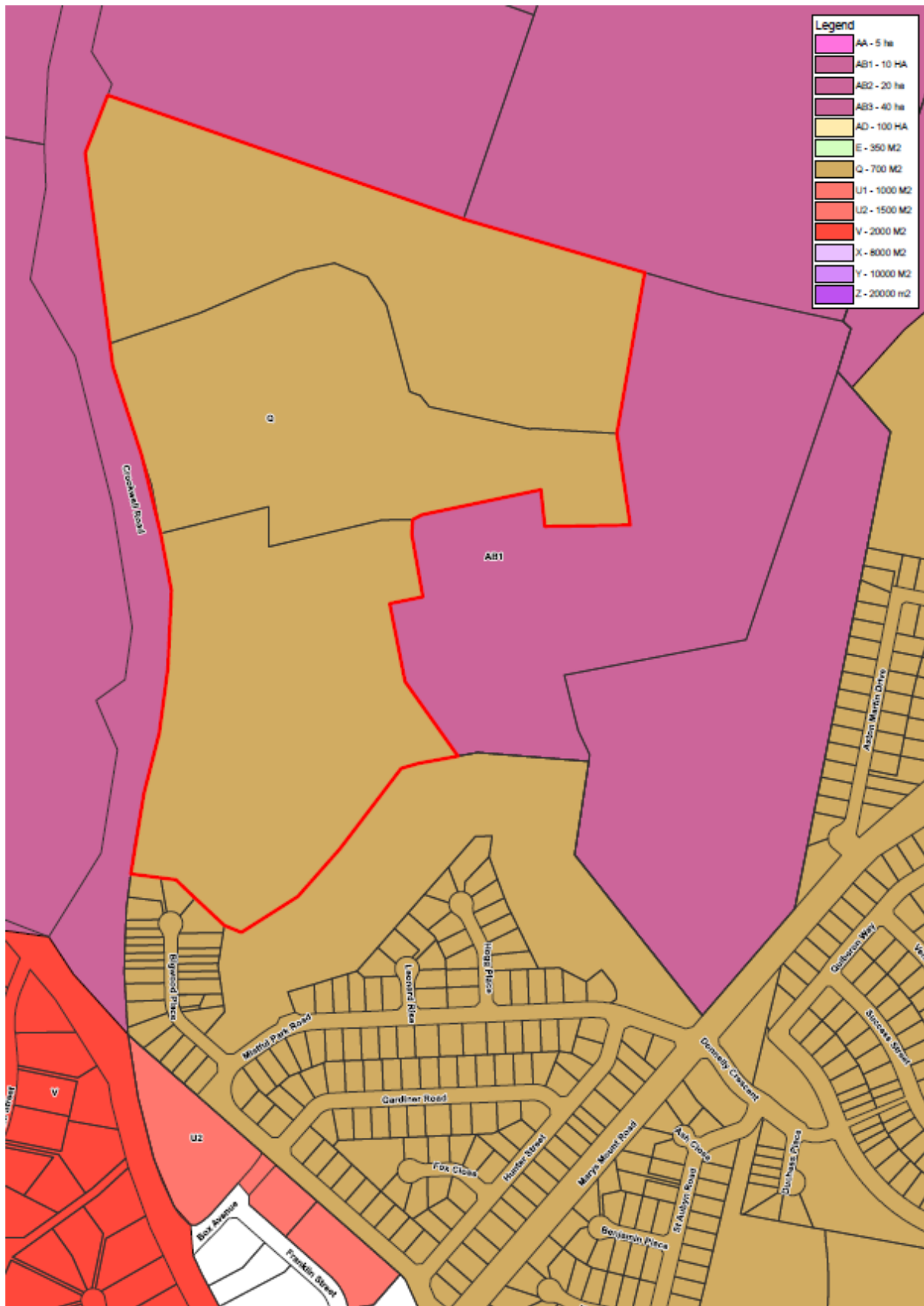
**Existing Zone – E4 Environmental Living [Note small section of RU6 Transition Zone on Crookwell Rd boundary – NSW Legislation Mapping shows some additional anomalies of this type along the Crookwell Road frontage]**



***Proposed Zone – R2 Low Density Residential***



**Existing Minimum Lot Size AB1 – 10ha [Note - small area with Q – 700m2 minimum lot size along the southern boundary of the subject area]**



**Proposed Minimum Lot Size Q – 700m<sup>2</sup> [Note - small area with Q – 700m<sup>2</sup> minimum lot size along the southern boundary of the subject area]**



## Appendix 3 – Locality Photos



PHOTO 1: A VIEW OF THE SUBJECT SITE AS OBSERVED FROM FITZROY STREET



PHOTO 2: A VIEW FROM MARYS MOUNT ROAD TOWARD ROCKY HILL



PHOTO 3: A VIEW FROM MARYS MOUNT ROAD TOWARDS THE FORMER CATHOLIC MONASTERY AT 124 MARYS MOUNT ROAD



PHOTO 4: A VIEW FROM MISTFUL PARK ROAD WEST TOWARDS WEST GOULBURN



PHOTO 5: A VIEW OF THE SUBJECT SITE AS OBSERVED FROM MISTFUL PARK ROAD



PHOTO 6: A VIEW FROM CROOKWELL ROAD TOWARDS GOULBURN (ARROW SHOWING APPROXIMATE NORTHERN MOST BOUNDARY OF SUBJECT SITE)





**PHOTO 7: A VIEW (DISTANT) OF THE SUBJECT SITE IN THE FOREGROUND WITH GOULBURN BEYOND AS OBSERVED FROM CROOKWELL ROAD**



**PHOTO 8: A VIEW OF THE SUBJECT SITE IN THE FOREGROUND WITH GOULBURN BEYOND AS OBSERVED FROM CROOKWELL ROAD**