

Planning and Assessment

IRF19/6135

Gateway determination report

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	Planning proposal to rezone 59-61 Hovell Street Goulburn (14 homes) and to update Schedule 4 "Classification and reclassification of public land" of the Goulburn Mulwaree LEP 2009
NUMBER	PP 2019 GOULBURN 005 00
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009
ADDRESS	59-61 Hovell Street and 20 Hercules Street Goulburn
DESCRIPTION	Lot 8 DP 832816 and Lot 2 Section 9 DP979849
RECEIVED	28 August 2019
FILE NO.	EF19/25680 (IRF18/6135)
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to:

- rezone 59-61 Hovell Street Goulburn from RE1 Public Recreation to R1 General Residential under the Goulburn Mulwaree LEP 2009.
- amend Schedule 4 "Classification and reclassification of public land" of the LEP to list the Hovell Street site as well as another site at 20 Hercules Street Goulburn, to reflect Goulburn Mulwaree Council's 4 June 2019 resolution to reclassify the subject lands from community to operational under provisions of the *Local Government Act 1993*.

1.2 Site description

The planning proposal applies to land at 59-61 Hovell Street Goulburn (Lot 8 DP 832816) and to 20 Hercules Street Goulburn (Lot 2 Section 9 DP 979849) (Figure 1 – Site map).

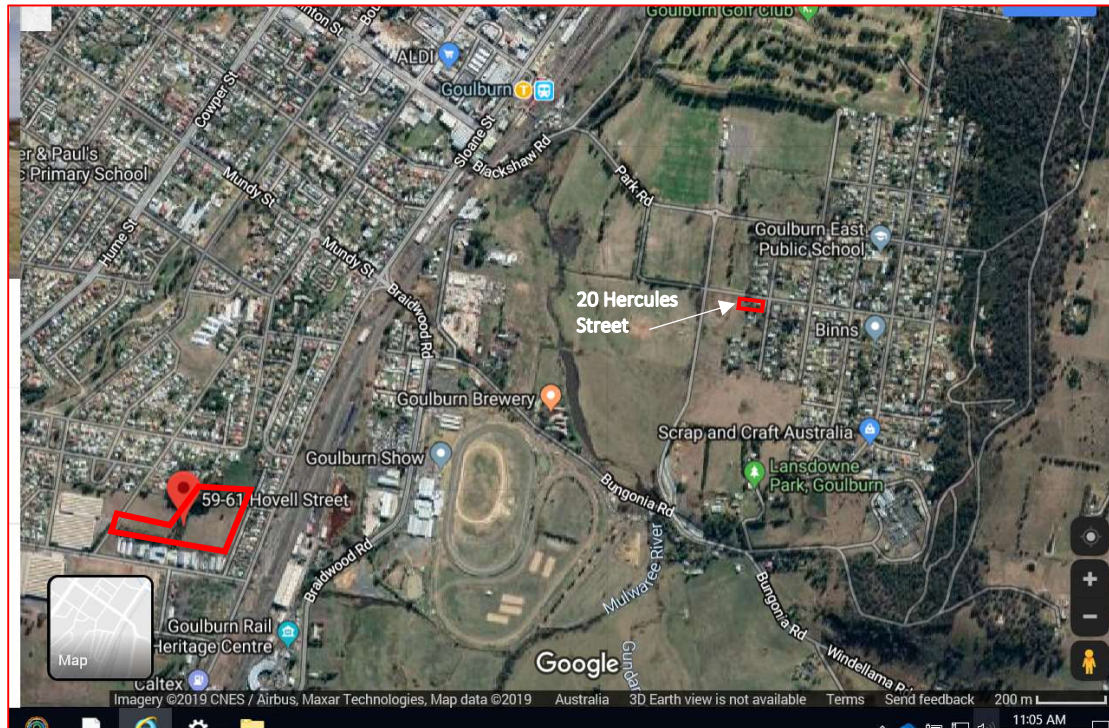


Figure 1 – Site map Hovell Street Goulburn (source: Google maps)

1.3 Existing planning controls



Figure 2 – Zoning map (Source: NSW Planning Portal)

The Hovell Street site is zoned RE1 Public Recreation under the Goulburn Mulwaree LEP 2009 (Figure 2 – Zoning map). The Hercules Site, which Council is not seeking to rezone, is currently zoned RU2 Rural Landscape Zone.

1.4 Surrounding area

The Hovell Street site is surrounded by vacant and developed residential land to the north, east, and west and light industrial development (predominantly storage uses) to the south (Figure 3 – Surrounding uses map).



Figure 3 – Surrounding uses map (source: Google Maps)

1.5 Summary of recommendation

It is recommended that the planning proposal proceed with conditions for the following reasons:

- The Hovell Street site has been identified as surplus to need for public open space in Council's exhibited draft Recreational Needs Strategy.
- The Hovell Street site does not have any record of having public reserve status or dedication as public reserves and so these interests, or any others, are not required to be removed via the planning proposal process to enable Council to pursue the sale of the sites.
- The Hovell Street site is considered suitable for residential rezoning as it adjoins vacant and developed residential land and has access to infrastructure and services.
- The proposal is consistent with strategic planning for the area.

- The proposal will support housing supply in the Goulburn area, including potentially affordable housing, support the local economy and has minimal environmental impact.

A Gateway condition is recommended requiring Council to update the planning proposal to remove the proposal to update Schedule 4 “Classification and reclassification of public land” of the Goulburn Mulwaree LEP 2009 to include the Hovell and Hercules Street sites. The inclusion of the sites in Schedule 4 is considered unnecessary because the sites have already been reclassified by resolution of Council under the Local Government Act 1993.

2. PROPOSAL

2.1 Objectives or intended outcomes

The stated objectives of the planning proposal are:

- To amend the Goulburn Mulwaree LEP 2009 to facilitate a zoning change for the Hovell Street site being Lot 8 DP 832816 from RE1 Public Recreation to R1 General Residential.
- To amend Schedule 4 “Classification and reclassification of public land” of the LEP to reflect the reclassification of the Hovell and Hercules Street sites from community to operation land (no interests changed) which occurred separately under the *Local Government Act 1993*.

It is considered that the objectives of the proposal are clear. The Department’s practice note PN 16-001 “Classification and reclassification of public land through a local environmental plan”, however, states that Schedule 4 of the Standard Instrument LEP is not intended to refer to any land that is already classified or reclassified. As both sites were reclassified from community to operation land by resolution of Council on 4 June 2019, it is not considered necessary to list the Hovell and Hercules Street sites under Schedule 4 of the LEP.

Council has advised that it intends to sell the Hovell and Hercules Street sites, which are currently owned by Council, and to use the funds towards Council’s Public Open Space Program and aquatic centre. Council has advised that neither lot has had “public reserve” added as a statement to the deposited plan and there is no evidence of the publication of the public reserve status in the NSW Government Gazette. It is therefore not required to remove the public reserve status, or any other interests, from the land via the planning proposal process to enable Council to dispose of the land.

Recommendation: That Council amend the planning proposal to remove reference to including the Hovell and Hercules Street sites in Schedule 4 of the LEP prior to community consultation.

2.2 Explanation of provisions

The planning proposal states it is proposed to amend the Goulburn Mulwaree LEP 2009 to:

1. Change the land use zone of the Hovell Street site from RE1 Public Recreation to R1 General Residential Zone.
2. Amend the applicable Lot Size Maps for the Hovell Street site.

3. Amend Schedule 4 “Classification and reclassification of public land” to include the Hovell and Hercules Street sites under Part 1 “Land classified or reclassified as operational land – no interests changed”.

Comment: It is not clear from the explanation of the provisions in the planning proposal that a 1000m² minimum lot size is proposed for the Hovell Street site. This information is, however, provided in the proposed Lot Size Maps provided at the end of the planning proposal. It is recommended that the explanation of the provisions section of the planning proposal is revised to specify the proposed minimum lot size for the Hovell Street site.

As discussed under section 2.1, it is unnecessary to list sites that have already been classified or reclassified in Schedule 4 of a Principal LEP and so it is recommended that Council remove this matter from the planning proposal.

The planning proposal does not propose to rezone or change any other controls for the Hercules Street site which is currently zoned RU1 Primary Production under the Goulburn Mulwaree LEP 2009.

Recommendation: That Part 2 Explanation of the Provisions of the planning proposal is updated to specify the proposed 1000m² minimum lot size for the Hovell Street site.

2.3 Mapping

The proposal includes amendments to LEP zoning and lot size maps. Current and proposed LEP maps are provided in the proposal. The maps are considered adequate for the purposes of community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the reclassification, rezoning and disposal of the Hovell Street site is based on a recommendation of Council’s exhibited draft Recreational Needs Strategy. Both the Hovell and Hercules Street sites are identified as surplus to need in the Draft Strategy.

The planning proposal states that a planning proposal is the appropriate mechanism to facilitate the proposed rezoning of the Hovell Street site.

Comment: It is considered that the planning proposal is needed to facilitate the rezoning of the Hovell Street site from its current RE1 Public Recreation Zone to a suitable zone that will allow Council to progress the sale of the land.

The site has been identified by Council as surplus to need for public open space purposes and it is considered to be suitable for residential use because it adjoins vacant and developed residential land and has access to infrastructure and services. The proposal is also considered to be consistent with the South East and Tablelands Regional Plan, Goulburn Mulwaree Strategy 2020 and draft Urban and Fringe Housing Strategy which support infill housing in the Goulburn area.

It is considered that a planning proposal is the appropriate mechanism to facilitate a rezoning of the Hovell Street site.

4. STRATEGIC ASSESSMENT

4.1 Regional

South East and Tablelands Regional Plan

The proposal states that it is consistent with the South East and Tablelands Regional Plan, particularly:

- Goal 4 “Environmentally sustainable housing choices”; and
- Direction 25 “Focus housing growth in locations that maximise infrastructure and Services”, for the following reasons:
 - The proposed development at the Hovell Street site is infill; the site is surrounded by older housing stock and there is existing infrastructure and services that do not require significant augmentation.
 - The proposed R1 zoning of the land will provide for a variety of housing types including affordable housing.

Comment: It is considered that the planning proposal is consistent with the South East and Tablelands Regional Plan, particularly the following Goals and Directions:

- Goal 3 “Healthy and connected communities” and Direction 22: “Build socially inclusive, safe and healthy communities”.

The proposal will facilitate development of a planned residential precinct which is in proximity to the Goulburn CBD, public transport and recreation including parks and the Goulburn showground.

- Goal 4: Environmentally sustainable housing choices” and Direction 25: “Focus housing growth in locations that maximise infrastructure and Services”

The planning proposal will provide approximately 14 lots in an infill area of Goulburn that adjoins existing urban development and has access to infrastructure and services.

The proposal is also considered to be consistent with the local narrative for Goulburn Mulwaree which identifies the need to provide additional dwellings in Goulburn to accommodate forecast population growth.

The Tablelands Regional Community Strategic Plan 2016-2036

The proposal states that it is consistent with the Tablelands Regional Community Strategic Plan, namely:

- Environment: Strategy EN4 “Maintain a balance between growth, development and environment protection through sensible planning”.

The site is located within an urban area and is suitable for development. The proposal will have minimal impact to native flora and fauna. The site contains grassland with native trees along the south western boundary which will need to be assessed as part of a future development application process.

- Community: Strategy C03 “Foster and encourage positive social behaviours to maintain our safe, health and connected community”.

Council proposes to prepare a masterplan/DCP for the site which will consider how the site will be future developed to provide a positive social impact to

future residential properties. The proposal also provides an opportunity to provide a safe thoroughfare between Sloane and Hovell Streets.

Comment: Council's view that the proposal is consistent with the Tablelands Regional Community Strategic Plan is supported. It is considered that the Hovell Street site is suitable for infill residential development and will provide environmental and community benefits.

4.2 Local

Goulburn Mulwaree Strategy 2020

The proposal states that it does not contradict the Goulburn Mulwaree Strategy 2020 which identifies that for "new development areas, minimisation of rural land use conflict, land capability and the creation of liveable communities are important". The proposal states that any potential land use conflict with adjoining light industrial uses located to the south of the Hovell Street site will be minimised via the proposed 1,000m² minimum lot size control as well as the provision of a proposed vegetated buffer area and preparation of a masterplan/DCP for the site.

The proposal will facilitate a liveable community because the site adjoins existing residential, has access to infrastructure and services including water, sewer, public transport, parks and recreation.

Comment: It is considered that the proposal is consistent with the Goulburn Mulwaree Strategy 2020 because it will facilitate new development in Goulburn in a suitable location adjoining existing residential development.

Community Strategic Plan 2012-2022

Council's Community Strategic Plan seeks to provide opportunities for rural lifestyle, settlement, housing, sustainable farming and natural resource protection. The proposal states that it is consistent with Council's Community Strategic Plan because the proposed rezoning will provide for infill residential development within an area which is serviceable.

Comment: Council's view that the proposal is consistent with the Community Strategic Plan is supported because the Hovell Street site adjoins residential and industrial zoned land, does not have any significant environmental constraints and has access to infrastructure and services.

Draft Recreational Needs Strategy

The proposal states that the Hovell Street site is identified within Council's exhibited Draft Recreational Needs Strategy as land that is surplus to the recreational needs of the community because there is public open space available in the surrounding area. The draft Strategy identifies that the site is suitable for investigation for residential development. Council has advised that it expects to finalise the Strategy early in 2020.

Comment: Council's view that the planning proposal is consistent with the draft Recreational Needs Strategy is supported.

Draft Goulburn Mulwaree Urban and Fringe Housing Strategy

The Hovell Street site is identified as located within Goulburn's "Garfield Precinct" within Council's exhibited draft Urban and Fringe Housing Strategy. The Strategy supports opportunities for infill development as the area's services and infrastructure do not require significant augmentation.

Comment: It is considered that the proposal is consistent with Council's draft Urban and Fringe Housing Strategy because the proposal will facilitate development of an infill site that is surplus to the recreational needs of the local area and will provide additional housing supply in the Goulburn area.

4.3 Section 9.1 Ministerial Directions

The proposal states that it is consistent with the following applicable Section 9.1 Directions:

Direction 3.1 Residential Zones

The planning proposal states that it is consistent with the Direction because it will allow for a variety of housing types, including affordable housing, which will have access to infrastructure and services.

Comment: Council's view that the proposal is consistent with the Direction is supported. The site adjoins vacant and developed land to the north, east and west that is currently zoned R1 General Residential. The proposal will provide for a variety of housing types in an area that has access to infrastructure and services. Council proposes to prepare a masterplan/DCP for the site, and vacant residential land which adjoins the site to the west, to ensure that development of the land is well designed and any potential land use conflicts are minimised. The proposed 1,000m² minimum lot size is considered appropriate to help minimise land use conflict with light industrial development (predominantly storage facilities) which adjoins to the south.

Direction 4.4 Planning for Bushfire Protection

The planning proposal states that the site is not mapped, or adjoins, bushfire prone land and so the Direction does not apply.

Comment: The Direction applies to land that is located in or in proximity to land mapped as bushfire prone. Although the Hovell Street site is not mapped as bushfire prone land, the site is located approximately 200m from bushfire prone land to the south. The site is, however, separated from bushfire prone land by light industrial development (approximately 50 metres wide) which adjoins the site to the south. It is therefore considered that the Direction does not apply to the planning proposal because it is not in proximity to land mapped as bushfire prone.

Direction 5.2 Sydney Drinking Water Catchment

The planning proposal states that the proposal was referred to WaterNSW as required by the Direction. WaterNSW's 25 March 2019 letter to Council does not raise objection to the proposal but advises that:

- the majority of the Hovell Street site has a moderate risk for water quality for seweraged residential development; and
- all future development applications on the land must be referred to WaterNSW for concurrence and must demonstrate a neutral or beneficial effect on water quality including the management of water quality during construction and the ongoing management of stormwater from future impervious areas.

Comment: It is considered that the planning proposal is consistent with the terms of the Direction. It is recommended that Council consult further with WaterNSW during the public exhibition of the planning proposal.

Recommendation: that Council consult further with WaterNSW during the public exhibition of the planning proposal.

Direction 5.10 Implementation of Regional Plans

As discussed in section 4.1 of this report, Council's view that the proposal is consistent with the Illawarra Shoalhaven Regional Plan is supported.

Direction 6.1 Approval and Referral Requirements

Council's view that the planning proposal will not introduce any concurrence or referral requirements is supported.

Direction 6.2 Reserving Land for Public Purposes

The planning proposal states that it is consistent with the Direction.

Council has resolved that, based on an exhibited draft Recreational Needs Strategy, the Hovell Street site is surplus to needs. Council has reclassified the site from community to operational land to enable its disposal. Council has advised that although zoned RE1 Public Recreation under the Goulburn Mulwaree LEP 2009, the site has never been named, used or embellished as a public park. It is simply vacant land maintained by Council. During the Public Hearing that was undertaken for the reclassification no user group or interest from the public in any way was registered in association with this area.

Comment: The Direction requires that a planning proposal must not create, alter or reduce existing zonings of land for public purposes without the Secretary's approval. It is considered that the removal of the RE1 Public Recreation Zone from the Hovell Street site and rezoning to a residential zone has planning merit because:

- The site is identified as surplus to need in Council's exhibited Draft Recreational Needs Strategy. The Strategy identifies that there is suitable public open space nearby to meet the recreational needs of the community.
- Council has, following a Public Hearing process, reclassified the site to operational land by resolution which allows Council to progress the potential sale of the site.

- The site is considered suitable for residential development as it adjoins vacant and developed residential land and has access to infrastructure and services.

Council's assessment of the Direction provided in the planning proposal needs to be updated to clarify that the Hovell Street site was reclassified by resolution of Council in June 2019 from community to operational land.

Recommendation: That:

1. the Secretary's delegate approve the reduction of the RE1 Public Recreation Zoning of the Hovell Street site.
2. Council update the information provided for Direction 6.2 to clarify that Council has reclassified the Hovell Street site from community to operational land.

Direction 6.3 Site Specific Provisions

The planning proposal identifies that it is consistent with the Direction because the proposal will not result in the creation of site specific provisions to allow specific developments to be carried out on the land.

Comment: Council's view that the planning proposal is consistent with the Direction is supported. The proposal seeks to apply an R1 General Residential zoning to the Hovell Street site which is an existing zone that already applies in the Goulburn Mulwaree LEP 2009. This is consistent with the terms of the Direction.

4.4 State environmental planning policies (SEPPs)

The planning proposal states that it is consistent with applicable SEPPs namely:

SEPP No 55 – Remediation of Land

The planning proposal states that the Hovell Street site is not identified as being contaminated or potentially contaminated.

SEPP (Sydney Drinking Water Catchment) 2011

As discussed in section 4.3 of this report, Council has consulted with WaterNSW on the planning proposal and WaterNSW has not raised any objections. Future development applications will need to be referred to WaterNSW for concurrence, and demonstrate neutral or beneficial impact on water quality in accordance with the SEPP.

Comment: Council's view that the proposal is consistent with the above SEPPs is supported.

SEPP (Vegetation in Non-Rural Areas) 2017

The planning proposal states that the Hovell Street site contains some native vegetation comprising a mix of young trees including Cootamundra Wattle, River She Oak and Southern Blue Gum, located on the northern, southern and western boundaries of the site. The vegetation is, however, not identified in the Goulburn Mulwaree DCP 2009 as having important biodiversity value and may be suitable for removal.

Comment: Future development applications will need to meet the requirements of the SEPP and Council's DCP in relation to any proposed removal of trees along the site boundaries. There would be merit for Council to consult with the Department's Biodiversity and Conservation Team on the planning proposal and specifically any offset requirements for future development applications.

Recommendation: That Council consult with the Department's Biodiversity and Conservation Team on the planning proposal.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposal states that it will not impact on any European heritage items or Aboriginal significant locations. The proposal will create an opportunity for infill development within an existing urban residential area which will increase community surveillance and safety in the area as well as increase housing supply, including potentially affordable housing.

The proposal states that any potential for landuse conflict with adjoining light industrial development which adjoins the Hovell Street site to the south will be minimised via the preparation of a masterplan/DCP which will include a vegetated/stormwater buffer area.

The proposal states that the loss of the Hovell Street site as public open space will not be detrimental to the social needs of the local community. The sale of the land will provide opportunities for improving public open space in the broader area.

Comment: Council's view that the proposal will have positive social benefits is supported. The sale of the site, which has been identified as surplus to need for public open space, will provide opportunities for Council to improve other public open space in the area. The proposed residential rezoning of the site will facilitate additional housing opportunities, including potentially affordable housing, in Goulburn.

The proposal provides an opportunity for Council to masterplan the development with vacant urban land which adjoins to the west to provide positive urban design outcomes and to address any potential landuse conflict issues with adjoining light industrial development to the south.

5.2 Environmental

The planning proposal states that the Hovell Street site is located within an urban area and future development proposals are unlikely to adversely impact critical habitat, threatened species, populations, ecological communities or their habitats. The land is not identified as a biodiversity hotspot nor within the Terrestrial Biodiversity Maps in the Goulburn Mulwaree LEP 2009. As discussed in section 4.4 of this report, native vegetation is located along the southern, northern and western boundaries of the site. Council, however, considers the vegetation is low value and may be suitable for removal.

Comment: It is considered that the environmental impacts of the proposal are likely to be minimal. As previously discussed, there would be merit for Council to consult with the Department's Biodiversity and Conservation team on the proposal particularly in relation to any potential native vegetation offset requirements for future development applications.

5.3 Economic

The planning proposal states that the proposed residential development will have positive economic benefits.

Comment: Council's view that the proposal will have positive economic benefits is supported. The proposal is likely to support the local economy and jobs. The proposed development of the site will utilise existing infrastructure and services in the area.

6. CONSULTATION

6.1 Community

Council proposes a 28 day public consultation period on the planning proposal and intends to notify the exhibition via local media, Council's website and a written notice to affected landowners.

It is considered that Council's proposed public consultation on the planning proposal is appropriate.

6.2 Agencies

The planning proposal states that preliminary consultation has been undertaken with WaterNSW on the planning proposal. Council does not identify any additional agency consultation would be undertaken.

Comment: It is considered that Council consult further with WaterNSW on the planning proposal. There would also be merit for Council to consult with the Department's Biodiversity and Conservation team on the planning proposal in relation to the native vegetation located on the site boundary.

Recommendation: That Council consult with the following agencies on the planning proposal:

- WaterNSW
- Department of Planning, Industry and Environment – Biodiversity and Conservation Team

7. TIME FRAME

Council has proposed a 6 month timeframe for completing the LEP. It is, however, considered that a 12 month timeframe to complete the LEP may be more realistic.

Recommendation: That Council is given a 12 month timeframe to complete the LEP.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority.

It is considered appropriate for Council to be authorised to be the local plan-making authority because the proposal is of local significance and is consistent with strategic planning for the area. Council has advised that the Hovell or Hercules Street sites do not have any public reserve status or other interests and so the Governor's approval to remove interests in the land is not required prior to Council pursuing the sale of the land.

Recommendation: That Council is authorised to be the local plan-making authority for the planning proposal.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed for the following reasons:

- The subject land has been identified as surplus to need for public open space in Council's exhibited draft Recreational Needs Strategy.
- The Hovell Street site is considered suitable for residential rezoning as it adjoins vacant and developed residential land and has access to infrastructure and services.
- The proposal is consistent with strategic planning for the area.
- The proposal will support housing supply in the Goulburn area, including potentially affordable housing, support the local economy and has minimal environmental impact.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Approve the removal of the RE1 Public Recreation Zoning of the Hovell Street site under Section 9.1 Direction 6.2 Reserving Land for Public Purposes.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - WaterNSW
 - Department of Planning, Industry and Environment – Biodiversity and Conservation Team
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority to make this plan.
5. Council shall update the planning proposal prior to public consultation as follows:
 - a. Remove reference to including the Hovell and Hercules Street sites in Schedule 4 "Classification reclassification of public land" of the Goulburn Mulwaree LEP 2009 as the sites have already been reclassified by Council resolution;
 - b. Clarify that an 1000m² minimum lot size is proposed for the Hovell Street site in Part 2 Explanation of the Provisions section; and
 - c. Update the information provided for Direction 6.2 "Reserving Land for Public Purposes" to clarify that Council has reclassified the Hovell Street site from community to operational land

Gm Towers

28/10/2019

Graham Towers
A/Director, Southern Region
Local and Regional Planning

Assessment officer: George Curtis
Senior Planner, Southern Region, Phone: 4247182