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Gateway determination report – PP-2021-3744

Teneriffe - 133 Marys Mount Road, Goulburn Planning
Proposal

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Goulburn Mulwaree Council, Ordinary Council Meeting, 20 July 2021, 15.3 Planning Proposal to Rezone Land at the Teneriffe Residential Subdivision, Mary's Mount Road, Goulburn.
"Eco Logical Australia November 2017. Bushfire Protection Assessment, 133 Mary's Mount Road, Goulburn".
"Biosis (2017). Aboriginal cultural heritage due diligence and non-Aboriginal heritage assessment: Lot 28 DP 478 Marys Mount Road, Bradfordville. Report for Fraish Consulting. Authors: S Keats, Biosis Pty Ltd, Wollongong. Project no.25951."
"Biosis. 21 November 2017. Teneriffe, 133 Marys Mount Road, Bradfordville: Conservation Management Strategy."
"FRAISH Consulting 1 September 2018. Soil and Water Management Plan. Proposed Residential Subdivision 133 Marys Mount Road, Goulburn NSW".
"SPACELAB. November 2017. Statement of Environmental Effects Lot 28 DP 497 at 133 Mary's Mount Road, Goulburn".
"SPACELAB. November 2017. Landscape Masterplan. 133 Marys Mount Road, Goulburn."
"SPACELAB. November 2017. Subdivision Layout. 133 Marys Mount Road, Goulburn."
"SPACELAB. November 2017. Tree Management Plan. 133 Marys Mount Road, Goulburn."
"Capital Ecology (2017). Flora and Fauna Assessment – Lot 28 DP 479, Goulburn, NSW. November 2017. Prepared for Cappello Developments Pty Ltd. Authors: S. Reid and R. Speirs. Project no.2760."

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	Planning Proposal to rezone part of Teneriffe, 133 Marys Mount Road, Goulburn to residential (21 lots)
NUMBER	PP-2021-3744
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009
ADDRESS	133 Marys Mount Road, Goulburn
DESCRIPTION	Part of Lot 184, DP 1250044
RECEIVED	8/09/2021
FILE NO.	IRF21/3813 (EF21/13551)
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

1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to provide for the consistent application of planning provisions (zoning and minimum lot size) under the Goulburn Mulwaree LEP 2009 to an approved residential subdivision which applies to Lot 184, DP 1250044.

The objectives of this planning proposal are clear and adequate and don't require amendment prior to public exhibition.

1.3 Explanation of provisions

The planning proposal seeks to amend the Goulburn Mulwaree LEP 2009 per the changes below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	RU6 Transition	R2 Low Density Residential

Minimum lot size	20ha	700m ²
Number of dwellings	1	21
Number of jobs	N/A	N/A

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The explanation of provisions is clear and adequate and doesn't require amendment prior to public exhibition.

1.4 Site description and surrounding area

The subject site comprises part of Lot 184, DP 1250044 which is located at 133 Marys Mount Road on the northern fringe of the Goulburn urban area. A site map is provided on Figure 1 of the planning proposal document. The site is surrounded by the Marys Mount Urban Release Area to the south, rural land to the north and west and a residential subdivision to the east.

The 22.6 ha lot has a split RU6/R2 zoning. The planning proposal relates to the western 2.5ha part of the lot which is currently zoned RU6.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the applicable zoning and lot size maps, which are suitable for community consultation.

2 Need for the planning proposal

The planning proposal is needed to facilitate low density residential development on the subject site consistent with a residential subdivision approval for the lot which was granted by Goulburn Mulwaree Council on 27 September 2018 (DA/0183/1718). The subject site currently has approval for a 21-lot community title subdivision. The proposal, however, will facilitate a Torrens title subdivision of the subject site consistent with the remainder of the lot.

The site is located within the Middle Arm West Precinct which is identified for urban development in the Goulburn Mulwaree Urban and Fringe Housing Strategy. This Strategy was endorsed by the Department in December 2020. The proposal is also consistent with Council's Local Strategic Planning Statement.

The planning proposal is the appropriate mechanism to facilitate the rezoning of the site.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the South East and Tablelands Regional Plan and The Tablelands Regional Community Strategic Plan.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
<p><u>South East and Tablelands Regional Plan:</u></p> <p>Direction 25: Focus housing growth in locations that maximise infrastructure and services</p>	<p>The subject site adjoins the Marys Mount Urban Release area to the north and is part of the Middle Arm West URA which has access to infrastructure and services to support proposed residential development.</p>
<p><u>The Tablelands Regional Community Strategic Plan:</u></p> <ul style="list-style-type: none"> • Environment Strategy EN1- Protect and enhance the existing natural environment, including flora and fauna native to the region which including maintaining our rural landscapes. • Environment Strategy EN4- Maintain a balance between growth, development, and environmental protection through sensible planning. • Our Community Strategy CO5- Maintain our rural lifestyle. This includes implementing planning decisions that ensure the protection of rural and village lifestyles while planning for population growth and community sustainability. 	<p>The planning proposal will facilitate residential development adjoining the Goulburn urban area consistent with endorsed strategic planning which will accommodate population growth in Goulburn and minimise impacts on the environment as well as on rural and agricultural land.</p>

3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Goulburn Mulwaree Local Strategic Planning Statement	The planning proposal implements LSPS <i>Planning Priority 4 - Housing</i> which requires that Goulburn should continue to be the focus for housing growth in the LGA supported by relevant infrastructure consistent with the Directions and actions provided in Council's Urban and Fringe Housing Strategy.
Goulburn Mulwaree Urban and Fringe Housing Strategy (U&FHS)	The subject site is identified for urban development (serviced residential lots with a minimum lot size of 700m ²) in the U&FHS (Middle Arm West Precinct) subject to relevant site-specific environmental assessment and approval processes.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 Section 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Consistency or Inconsistency
Direction 1.2 Rural Zones	Not consistent	The planning proposal is inconsistent with the Direction because it seeks to rezone the subject site from rural RU6 Transition land to R2 Low Density Residential. The inconsistency is, however, justified by the Urban and Fringe Housing Strategy which identifies the development of the site.
Direction 1.5 Rural Lands	Consistent	The planning proposal is consistent with the Direction because it satisfies the rural planning and subdivision principles provided in the Direction including consistency with the endorsed strategic planning for the area.
Direction 2.3 Heritage Conservation	Consistent	<p>An Aboriginal Cultural Heritage and Due Diligence Assessment prepared by the proponent in 2017 to support the development application to subdivide the broader lot concluded there was low Aboriginal cultural heritage potential for the area. It did not recommend the need for further Aboriginal cultural heritage assessment. The assessment was referred to the then Office of Environment and Heritage who recommended management measures to protect the Aboriginal sites. These measures have been incorporated as conditions of Council's approval to subdivide the broader lot.</p> <p>The site is currently identified within the curtilage of the local heritage item "Teneriffe homestead" in the Goulburn Mulwaree LEP 2009. The heritage item is proposed to be removed from the site via Council's heritage housekeeping planning proposal (PP-2021-2000) which was issued a Gateway determination in 2020. The planning proposal was exhibited earlier this year and is currently being finalised.</p>
Direction 2.6 Remediation of Contaminated Land	Consistent	Council has identified the site has potential to be contaminated due to past horticultural use. A preliminary site investigation report has been prepared which identifies the site is suitable for the proposed subdivision subject to implementation of an Unexpected Finds Protocol during pre-construction work to manage any potential contamination. The preparation and implementation of this Protocol is a condition of consent of the approved subdivision of the site.
Direction 3.1 Residential Zones	Not consistent	The planning proposal is potentially inconsistent with the Direction because the proposal is seeking to rezone rural land on Goulburn's urban fringe. The inconsistency is, however, justified by Council's Urban Fringe and Housing Strategy which identifies the development of the site as part of the Middle Arm West Urban Release Area.
Direction 4.4 Planning for Bushfire Protection	Not consistent	The Rural Fire Service has issued concurrence to Council's approval to subdivide the site, which is identified as bushfire prone land, for residential development. Consultation with RFS on the planning proposal prior to public consultation is required to satisfy the requirements of the Direction.

Direction 5.2 Sydney Drinking Water Catchment	Consistent	WaterNSW has provided concurrence to Council's consent for the development of the site. WaterNSW has not raised any objections to the planning proposal during Council's pre-gateway consultations on the planning proposal. WaterNSW considers the proposed development can achieve neutral or beneficial effect on water quality.
Direction 5.10 Implementation of Regional Plans	Consistent	As discussed in section 3.1 of this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and therefore with the Direction.
Direction 6.1 Approval and Referral Requirements	Consistent	The planning proposal does not propose to add any LEP provisions requiring approval or referral to a Minister or other public authority.
Direction 6.2 Site Specific Provisions	Consistent	The planning proposal does not seek to include any additional site-specific planning controls.

3.4 State environmental planning policies (SEPPs)

With exception of SEPP (Primary Production and Rural Development) 2019, the planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Sydney Drinking Water Catchment) 2011	The SEPP requires that development consent cannot be granted on land located within the Sydney Drinking Water Catchment unless there is a neutral or beneficial effect on water quality.	Consistent	WaterNSW has issued concurrence to the Council's consent to the subdivision of the site. WaterNSW has advised Council it considers the planning proposal is consistent with the SEPP.
SEPP (Primary Production and Rural Development) 2019	Council is required to consider the aims and objectives of the SEPP when it determines development applications on rural/agricultural land.	Not consistent	The planning proposal is unlikely to be consistent with the aims and objectives of the SEPP as it seeks to facilitate urban development on rural land. The site, however, is located within a planned urban release area which Council has issued approval for residential development.

SEPP No.55 Remediation of Land	Council is required to consider whether land is contaminated and if so whether it can be remediated when it determines development applications.	Consistent	Council has considered the potential for the site to be contaminated via a preliminary site contamination report and has included relevant conditions in its consent for the development of the site to ensure any “unexpected finds” are addressed.
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4 Site-specific assessment

4.1 Environmental

Council considers the planning proposal will not result in any potential impacts on critical habitat or threatened species, populations or ecological communities or their habits. A flora and fauna assessment prepared by the proponent to accompany the subdivision application for the site identifies the site is largely cleared of vegetation due to previous agricultural activities but contains a number of existing remnant eucalyptus trees with high habitat value. These remnant trees are required to be retained under a site landscaping plan which has been approved by Council.

As previously discussed under sections 3.3 and 3.4, the site is located within the Sydney Drinking Water Catchment area and so there is potential impact on water quality as a result of urban development. WaterNSW, however, considers the proposed development will be able to achieve a neutral or beneficial effect on water quality.

There are no other environmental impacts envisaged as a result of the planning proposal.

4.2 Social and economic

The planning proposal does not identify any economic or social impacts as a result of the planning proposal. The proposal will facilitate largely positive impacts including contributing to the supply of housing (21 lots) in Goulburn and supporting jobs growth, including construction jobs, and supporting the local economy.

4.3 Infrastructure

The site is part of the Middle Arm West Urban Release Area which has access to Council’s reticulated water and sewer network as well as transport, retail, and other public services to support proposed urban development in the area.

5 Consultation

5.1 Community

Based on the planning proposal timeline, Council proposes a community consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

5.2 Agencies

Council has nominated public agencies to be consulted about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- NSW Rural Fire Service
- WaterNSW

6 Timeframe

Council proposes a 9 -11 month time frame to complete the LEP.

The Department recommends a time frame of 12 months to allow for any potential delays.

7 Local plan-making authority

As the site/planning proposal is of local significance and is consistent with endorsed strategic planning for the area the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed because it:

- will facilitate development of 21 Torrens title residential lots within a planned urban release area which adjoins the Goulburn urban area to the north.
- is consistent with the Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the development of the site.

9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.2 Rural Zones and 3.1 Residential Zones are minor or justified: and
- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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

1. Prior to community consultation, consultation is required with the following public authorities:
 - NSW Rural Fire Service
2. Prior to community consultation, the planning proposal is to be revised to address the outcomes of condition 1.
3. Consultation is required with the following public authorities:
 - WaterNSW
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



27/09/2021

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