

Planning and Assessment

IRF20/541

Gateway determination report

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| LGA | Goulburn Mulwaree |
| PPA | Goulburn Mulwaree Council |
| NAME | Planning Proposal - Wingello Park (0 homes, 0 jobs) |
| NUMBER | PP_2020_GOULBURN_002_00 |
| LEP TO BE AMENDED | Goulburn Mulwaree LEP 2009 |
| ADDRESS | No. 14597 Hume Highway, Marulan |
| DESCRIPTION | Lot 2 DP 1138469 |
| RECEIVED | 21 January 2020 |
| FILE NO. | EF19/31505 |
| 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 include 'Wingello Park', No. 14597 Hume Highway Marulan (Lot 2 DP1138469) as a heritage item in Schedule 5 "Environmental Heritage" of the Goulburn Mulwaree Local Environmental Plan 2009.

1.2 Background

On 16 May 2019, the landowner of Wingello Park lodged a development application (DA/0335/1819) for alterations and additions to an existing residence located on site.

On 30 October 2019, Council issued an Interim Heritage Order (IHO) over the property and on 27 November 2019, refused DA/0335/1819 because the development would have a potentially negative impact on the heritage significance of Wingello Park.

At its meeting of 17 December 2019, Council resolved to prepare a planning proposal to heritage list Wingello Park based on the findings of an in-house heritage assessment which concluded the site meets several criteria for local and potentially State heritage listing.

This report provides an assessment of the planning proposal prepared in response to Council's resolution of 17 December 2019.

The applicant has appealed the refusal of the development application and issuing of the IHO. These matters will be considered separately by the NSW Land and Environment Court (NSW LEC). Given that this proposal could directly affect the outcome of the case, a gateway condition has been included requiring the planning proposal to be updated to include a reference to a savings provision to apply to any development application lodged but not determined.

1.3 Site description

The site (known as 'Wingello Park') is located at No. 14597 Hume Highway, Marulan, approximately 7km north-west of Wingello and 14km north-east of Marulan in the Goulburn Mulwaree local government area (**Figure 1**).



Figure 1: Site Map (Source: Google Maps)

The site contains two dwellings, a sandstone barn, yards and paddocks. The site is not connected to town water and sewer services.

1.4 Existing planning controls

The site is zoned RU2 Rural Landscape Zone with a 100ha minimum lot size under the Goulburn Mulwaree LEP 2009 (**Figure 2**).

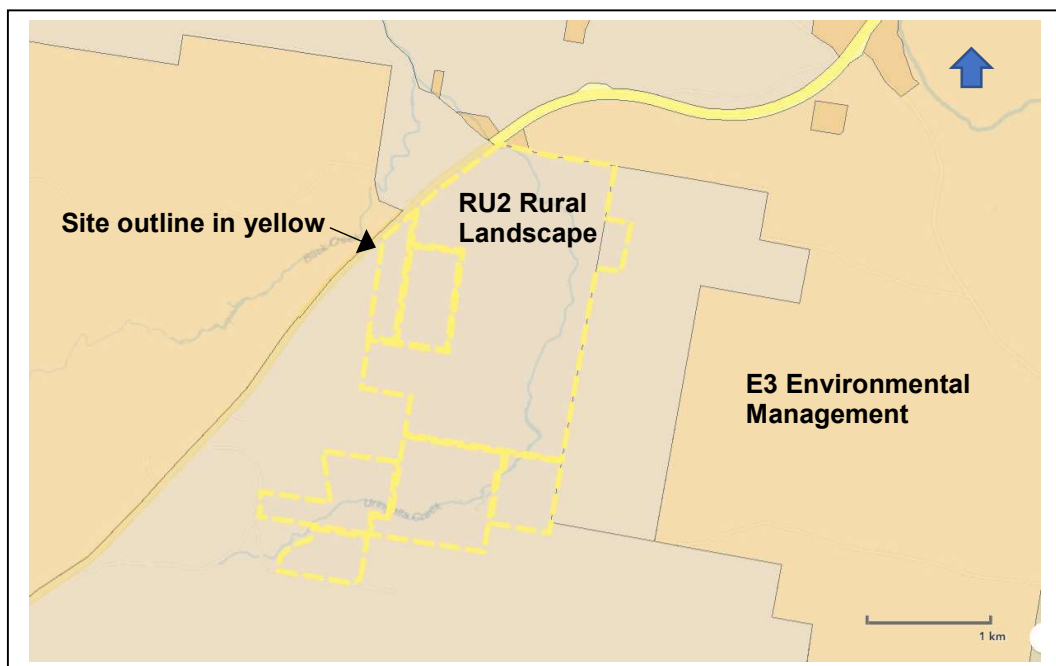


Figure 2: Zoning Map (Source: NSW Planning Portal)

1.5 Surrounding area

The site is surrounded by the Hume Highway and rural/forested land to the west and north and rural land to the south and east (**Figure 3**).

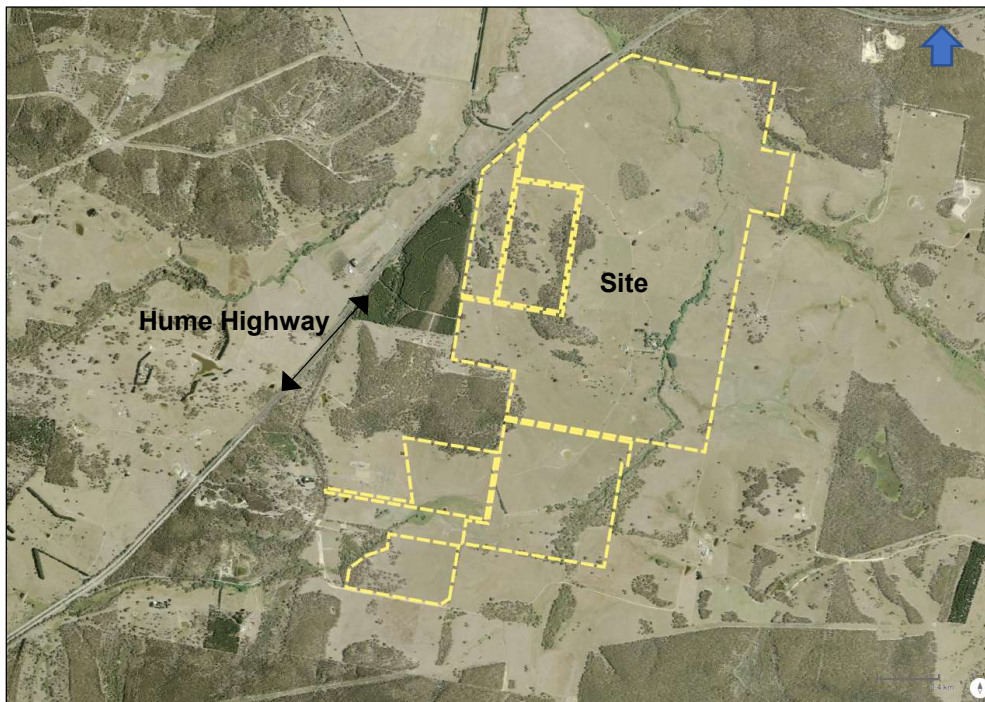


Figure 3: Surrounding Uses Map (Source: Planning Proposal)

1.6 Summary of recommendation

It is recommended that the proposal proceed as per submitted because it will facilitate protection of a property which has been identified by Council's heritage advisor as having local and potentially State Heritage value.

2. PROPOSAL

2.1 Objectives or intended outcomes

The intended outcome of the planning proposal is to amend the Goulburn Mulwaree LEP 2009 to the site as an item of environmental heritage to Schedule 5 of the Goulburn Mulwaree LEP 2009.

It is considered that the intended outcome provided is clear and does not require amendment prior to community consultation.

2.2 Explanation of provisions

The planning proposal seeks to amend Goulburn Mulwaree LEP 2009 to add the site to Schedule 5 - Environmental Heritage. The relevant heritage map in the Goulburn Mulwaree LEP would also be amended to add the site.

Except for the omission of the relevant schedule number (i.e. 5), the explanation of provisions provided in the proposal is clear.

Recommendation: That Council update the explanation of provisions prior to community consultation to refer to Schedule 5.

2.3 Mapping

A draft heritage map is included in the planning proposal. The map is clear and does not require updating prior to community consultation.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is needed to protect the heritage significance of Wingello Park.

The planning proposal is supported by a heritage assessment undertaken by Council's heritage advisor/consultant which concludes that Wingello Park meets several criteria for local and potentially State heritage listing. Notably, the degree of intactness of the buildings which date from the early period of settlement in the area make the property likely to be relatively rare.

Council considers that the planning proposal is the best means of achieving the objectives or intended outcomes for the following reasons:

- The interim heritage order only provides temporary (up to 6 months) means of protection;
- Section 9.1 Ministerial Direction 5.10 Heritage Conservation requires LEPs to contain appropriate provisions for the protection of heritage items;
- Inclusion of the site on Schedule 5 of the LEP is the appropriate publicly accessible and established location for the identification of heritage items within an LGA;
- LEP listing will result in the property being identified as an item of environmental heritage on planning certificates;
- Listing a heritage item in a DCP does not provide the same level of protection as listing on an LEP; and
- Listing the item on non-statutory heritage lists kept by non-government organisations does not provide the same legislative protection.

It is considered that the planning proposal process is the most appropriate means of achieving Council's objectives for the reasons provided by Council.

4. STRATEGIC ASSESSMENT

4.1 Regional

The proposal states that it is consistent with the South East and Tablelands Regional Plan, in particular Goal 3, which seeks to achieve health and connected communities with a specific Direction 23 to protect heritage of the region.

The proposal is considered consistent with Goal 3 and Direction 23 of the Regional Plan because it seeks to protect and manage the heritage significance of Wingello Park.

The proposal is also considered consistent with the local narrative for Goulburn-Mulwaree provided in the Regional Plan which identifies the need to conserve the area's unique built heritage.

4.2 Local

The proposal states that it is consistent with the following relevant local strategies:

Goulburn Mulwaree Strategy 2020

The proposal states that it is consistent with the Goulburn Mulwaree Strategy 2020 in terms of the community vision and environmental heritage themes outlined in the strategy.

Council's view that the proposal is consistent with the Goulburn Mulwaree Strategy 2020 is supported. The proposal will facilitate the protection of an item that has demonstrated local and potentially State heritage value.

The Tablelands Regional Community Strategic Plan 2036

The proposal states that it is consistent with the Tablelands Regional Community Strategic Plan 2036, particularly Strategy CO4 – “Recognise and celebrate our diverse cultural identities and protect and maintain our community’s natural and built heritage.”

Council's view that the proposal is consistent with the Tablelands Regional Community Strategic Plan is supported because it seeks to protect an item which has demonstrated local and potentially State heritage value.

4.3 Section 9.1 Ministerial Directions

The proposal identifies that it is consistent with all applicable Ministerial Directions, namely:

- Direction 1.5 – Rural Lands
- Direction 2.3 – Heritage Conservation
- Direction 4.4 – Planning for Bushfire Protection
- Direction 5.2 – Sydney Drinking Water Catchment
- Direction 5.10 – Implementation of Regional Plans
- Direction 6.1 Approval and Referral Requirements

With the exception of Direction 4.4, Council's view that the proposal is consistent with the above Directions is supported. The proposal states that the site is mapped as bushfire prone land. It states that the proposal is consistent with *Planning for Bushfire Protection 2006* as it does not facilitate the placement of additional inappropriate development in a hazardous area and will not prohibit bushfire hazard reduction within asset protection zones.

Council's view that the proposal is consistent with Planning for Bushfire Protection 2006 is supported for the reasons provided. Direction 4.4, however, requires that Council consult with the NSW Rural Fire Service on all proposals that will affect or is in proximity to mapped bushfire prone land following Gateway determination and prior to exhibition. Council will be required to provide additional information to demonstrate that it has consulted with the RFS, prior to the proposal being finalised.

Recommendation: That:

1. the Secretary's delegate can be satisfied that the proposal is consistent with all relevant Ministerial Directions.
2. Council provide further information to demonstrate compliance with Direction 4.4 Planning for Bushfire Protection.

4.4 State environmental planning policies (SEPPs)

The proposal identifies the following SEPPs as particularly relevant:

SEPP (Rural Lands) 2008

The SEPP (Rural Lands) 2008 has been repealed and is replaced with the SEPP (Primary Production and Rural Development) 2019.

It is considered that the proposal is not inconsistent with SEPP (Primary Production and Rural Development) 2019. The site is not mapped as state significant agricultural land.

Recommendation: That Council update the planning proposal to remove reference to the repealed SEPP (Rural Lands) 2008 and provide an assessment of the proposal against the SEPP (Primary Production and Rural Development) 2009.

SEPP (Sydney Drinking Water Catchment) 2011

The site is in the Sydney Drinking Water Catchment.

The planning proposal states it is likely to have a positive impact on water quality as it will limit exempt and complying development due to the proposed heritage listing.

Council's view that the proposal is consistent with the SEPP is supported. The proposal is unlikely to facilitate development that will not be able to achieve a neutral or beneficial effect on water quality as required by the SEPP.

The Department considers heritage listing of the site would introduce development controls which are likely to reduce the potential for water quality impacts.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal states that Wingello Park has social significance associated with the heritage of the site. The heritage assessment supporting the planning proposal identifies the site:

- is an excellent and very early example of a colonial homestead and barn;
- has important association with the history of the area including the Great Southern Road, convict labour, policing, pastoralism, agriculture, animal husbandry, coaching stops and hospitality;
- has strong or special association with several famous Australians including:
 - Robert Campbell (former Liverpool Magistrate);
 - Thomas Holt (wool merchant, financier, politician) and; and
 - Paul Cullen (highly decorated Major General).

The preliminary assessment concludes that Wingello Park meets several criteria for local and potentially State heritage listing. The proposal also identifies there are several Aboriginal cultural heritage sites in and in proximity to the site.

The proposal states that it will facilitate protection of the heritage and social significance of the site.

Council's view that the proposal will have positive social impacts is supported for the reasons provided in the proposal.

5.2 Environmental

The proposal states that the site is predominantly cleared grazing land with tracts of remnant native vegetation along Uringalla Creek, which flows through the site, and on higher sections of hills. The proposal will not adversely affect critical habitat or threatened species, populations or ecological communities or their habitats.

Council's view that the proposal will have a minimal environmental impact is supported for the reasons provided in the proposal. The proposal will facilitate protection of the environmental/cultural heritage values of the property.

5.3 Economic

The proposal states that the proposed heritage listing need not impact upon the predominant land use of the site which is extensive agriculture. Exemptions within heritage listings can be made for agricultural activities therefore not impacting on the economic viability of the property.

It is considered that the proposal could potentially have an economic impact on the landowner by making it more difficult/expensive to develop the property as a result of a heritage listing.

Some individual economic and social impact is considered reasonable in the context of the broader public interest and protecting the heritage significance of the site.

It is noted that the proposal may also have a positive economic impact on the broader Goulburn Mulwaree area as it could contribute to heritage tourism.

6. CONSULTATION

6.1 Community

Council intends to exhibit the proposal for a 28-day period and to notify the exhibition via local media, Council's website and via DPIE's LEPs Online website. The adjoining landowners would also be directly notified of the exhibition.

It is considered that community consultation as proposed by Council is appropriate.

Recommendation: That the proposal is exhibited for a 28-day period.

6.2 Agencies

Council has undertaken preliminary consultation with WaterNSW who have not raised any major concerns with the proposal. Council intends to consult with the NSW Rural Fire Service as the site is mapped as bushfire prone. Council has also resolved to lodge a nomination application with the NSW Heritage Council to include the site/item on the State Heritage Register.

The Department considers there would be merit Council consulting with the Department of Premier and Cabinet (Heritage) in relation to the proposed NSW State Heritage listing.

Recommendation: That Council consult with WaterNSW, NSW RFS and Department of Premier and Cabinet (Heritage) on the planning proposal.

7. TIME FRAME

Council intends to complete an LEP by December 2020. It is considered that, given delays in consulting with the NSW Rural Fire Service during the current bushfire period, a 15-month period is appropriate timeframe to complete an LEP.

Recommendation: That Council complete the LEP within 15 months of the Gateway determination (May 2021).

8. LOCAL PLAN-MAKING AUTHORITY

The Department has considered Council's request to be the local plan-making authority. While the proposed listing is primarily a local matter, it has been

determined not to condition the Gateway for Council to be the local plan-making authority for the following reasons:

- there is a dispute between the landowner and Council in relation to the heritage listing; and
- retaining the plan making function will allow the Department to independently finalise the proposal taking into consideration all views.

Recommendation: That Council's request to be the local plan-making authority is not supported.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed because it will facilitate protection of a property which has been identified by Council's heritage advisor as having local and potentially State Heritage value. The planning proposal is also consistent with local and regional strategic planning objectives to protect heritage.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

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;
 - NSW Rural Fire Service; and
 - Department of Premier and Cabinet (Heritage).
3. The time frame for completing the LEP is to be 15 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.
5. That Council update the planning proposal, prior to community consultation, as follows:
 - Update explanation of provisions provided in the planning proposal to refer to including Wingello Park on Schedule 5 – Environmental Heritage;
 - Remove reference to SEPP (Rural Lands) 2008, which is repealed, and replace with an assessment of the proposal against SEPP (Primary Production and Rural Development) 2019; and
 - Include a reference to a savings provision to apply to any development application lodged but not determined.



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17 February 2020

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