



Goulburn Mulwaree Council

Planning Proposal to add Wingello Park to Schedule 5

of

Goulburn Mulwaree Local Environmental Plan 2009

21 January, 2020

Introduction

Goulburn Mulwaree Council (GMC) issued on 30 October, 2019 Interim Heritage Order (IHO) No. 1 which applies to the property known as Wingello Park, No. 14597 Hume Highway Marulan (Lot 2 DP 1138469). The IHO will lapse within six months from the date it is made unless Council passes a resolution before that date and:

1. In the case of an item which , in the Council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
2. In the case of an item which, in the Council's opinion, is of State significance, the resolution requests to the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register.

In response to the above, Council resolved at its meeting of 17 December, 2019 (Resolution No. 2019/520) that:

1. *The report to amend the provisions of Schedule 1 Items of Environmental Heritage in Goulburn Mulwaree Local Environmental Plan 2009 Business Manager Strategic Planning be received.*
2. *Council resolve to prepare a Planning Proposal to amend Schedule 5 of Goulburn Mulwaree Local Environmental Plan 2009 Highway, Marulan (Lot 2 DP 1138469) as an item of environmental heritage.*
3. *When the Planning Proposal is prepared, a request for a Gateway Determination be forwarded to the NSW Department of Planning, Industry and Environment.*
4. *The NSW 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.*
5. *Council request the Heritage Council make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act, 1977 to include the item on the State Heritage Register.*
6. *Council prepare a State Heritage Register (SHR) nomination form for submission to the NSW Heritage Council nominating Wingello Park for inclusion on the State Heritage Register.*
7. *No fee is applicable for this Planning Proposal as it is being initiated by Council.*

The Planning Proposal seeks to amend *Goulburn Mulwaree LEP 2009* as outlined in Table 1:

Table 1 Proposed LEP amendments and supporting rationale

Amendment Proposed	Rationale
Add Wingello Park, No. 14597 Hume Highway Marulan (Lot 2 DP 1138469) as an item of environmental heritage to Schedule 5 of the Goulburn Mulwaree Local Environmental Plan 2009.	The intention of this amendment is to provide a heritage listing under <i>Goulburn Mulwaree Local Environmental Plan 2009</i> to a property which is considered to have local significance and potentially Stage heritage significance.

As noted in Part 4 of the Council resolution, Council is seeking delegation from the NSW Department of Planning, Industry and Environment (DPIE) to make – and determine not to make – the proposed LEP under section 3.36 of the *NSW Environmental Planning and Assessment Act, 1979*. In *Circular PS 16 -005*, the following types of draft LEPs were identified with the intention of being routinely delegated to councils to prepare and make following a Gateway determination that the planning proposal can proceed:

- mapping alterations
- section 73A matters (e.g. amending references to documents/agencies, minor errors and anomalies)
- reclassifications of land
- heritage LEPs related to specific local heritage items supported by an Office of Environment and Heritage endorsed study
- spot rezoning consistent with an endorsed strategy and/or surrounding zones, and
- other matters of local significance as determined by the Gateway.

In this case, it is considered that the amendment is consistent with the above criteria, Council does have an endorsed Heritage Study in place, however it is noted that Wingello Park was not identified within this study. Council's Consultant Heritage Advisor has advised that the property is of local significance with the potential upon further investigation to be of State significance.

Part 1 – Objectives

1.1 Intended Outcomes

The intended outcome of this Planning Proposal is to amend *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP 2009) to add Wingello Park, No. 14597 Hume Highway, Marulan (Lot 2 DP 1138469) as an item of environmental heritage to Schedule 5 of the Goulburn Mulwaree Local Environmental Plan 2009.

Council wishes to protect and appropriately manage this site which is considered to be of heritage significance in line with the strategic heritage framework and criteria set out by Federal, State and Local Government.

As outlined in the attached Council Report, a development application (DA/0335/1819) was lodged with Council on 16 May 2019 for alterations and additions to the existing residence at Wingello Park. The DA (DA/102/1415) through the assessment process under Section 4.15 of the *NSW Environmental Planning and Assessment Act, 1979* was found by Council to have a potential negative impact on the heritage significance of Wingello Park which was not listed under Council's local environmental plan. The development application was subsequently determined by refusal by Council on 27 November, 2009.

Goulburn Mulwaree Council (GMC) issued on 30 October, 2019 Interim Heritage Order (IHO) No. 1 which applies to the property known as Wingello Park, No. 14597 Hume Highway Marulan (Lot 2 DP 1138469) (**Attachment 1**). The IHO lapses within six months from the date it is made unless Council passes a resolution before that date and:

- i. In the case of an item which , in the Council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
- ii. In the case of an item which, in the Council's opinion, is of State significance, the resolution requests to the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register.

Further to the above, Council resolved at its meeting of 17 December, 2019 Resolution No. 2019/520) (**Attachment 2**) that:

1. *The report to amend the provisions of Schedule 1 Items of Environmental Heritage in Goulburn Mulwaree Local Environmental Plan 2009 Business Manager Strategic Planning be received.*
2. *Council resolve to prepare a Planning Proposal to amend Schedule 5 of Goulburn Mulwaree Local Environmental Plan 2009 Highway, Marulan (Lot 2 DP 1138469) as an item of environmental heritage.*
3. *When the Planning Proposal is prepared, a request for a Gateway Determination be forwarded to the NSW Department of Planning, Industry and Environment.*

4. *The NSW 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.*
5. *Council request the Heritage Council make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act, 1977 to include the item on the State Heritage Register.*
6. *Council prepare a State Heritage Register (SHR) nomination form for submission to the NSW Heritage Council nominating Wingello Park for inclusion on the State Heritage Register.*
7. *No fee is applicable for this Planning Proposal as it is being initiated by Council.*

This Planning proposal will ensure that the IHO will not lapse and that a more permanent, appropriate and accessible heritage listing of the property is applied. The Planning Proposal process will also facilitate public consultation for the proposed listing.

Part 2 – Explanation of Provisions

The planning proposal seeks to amend the *Goulburn Mulwaree Local Environmental Plan (LEP) 2009* by amending Schedule – Items of Environmental Heritage by adding *Wingello Park*.

The amendment would mean that the provisions of Clause 5.10 Heritage Conservation under the LEP will apply to Wingello Park as follows:

5.10 Heritage conservation

Note.

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of Goulburn Mulwaree,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

(2) Requirement for consent Development consent is required for any of the following—

- (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)—*
 - (i) a heritage item,*
 - (ii) an Aboriginal object,*
 - (iii) a building, work, relic or tree within a heritage conservation area,*
- (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*
- (c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*
- (d) disturbing or excavating an Aboriginal place of heritage significance,*
- (e) erecting a building on land—*
 - (i) on which a heritage item is located or that is within a heritage conservation area, or*
 - (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*

(f) subdividing land—

(i) on which a heritage item is located or that is within a heritage conservation area, or

(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

(3) When consent not required However, development consent under this clause is not required if—

(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development—

(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and

(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or

(b) the development is in a cemetery or burial ground and the proposed development—

(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and

(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Effect of proposed development on heritage significance

The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) Heritage assessment The consent authority may, before granting consent to any development—

(a) on land on which a heritage item is located, or

(b) on land that is within a heritage conservation area, or

(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(6) Heritage conservation management plans The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Archaeological sites The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the [Heritage Act 1977](#) applies)—

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(8) Aboriginal places of heritage significance The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and

(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.

(9) Demolition of nominated State heritage items The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item—

(a) notify the Heritage Council about the application, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(10) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—

(a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and

(b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and

(c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and

(d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and

(e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

The Goulburn Mulwaree Local Environmental Plan 2009 provides the following definitions in relation to heritage:

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Public Service agency responsible to the Minister administering the [Heritage Act 1977](#) that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of—

(a) a statement demonstrating the heritage significance of a heritage item or heritage conservation area, and

(b) an assessment of the impact that proposed development will have on that significance, and

(c) proposals for measures to minimise that impact.

heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

Note.

An inventory of heritage items is also available at the office of the Council.

heritage management document means—

(a) a heritage conservation management plan, or

(b) a heritage impact statement, or

(c) any other document that provides guidelines for the ongoing management and conservation of a heritage item, Aboriginal object, Aboriginal place of heritage significance or heritage conservation area.

Heritage Map means the [Goulburn Mulwaree Local Environmental Plan 2010 Heritage Map](#).
heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value

The heritage listing is proposed to cover the entirety of Wingello Park (Lot 2 DP 1138469), as there is potential for other parts of the property to have heritage significance upon further investigation.

This statutory amendment is considered the best way to achieve the desired outcome of protecting and managing items of environmental heritage.

Part 3 – Justification

Section A – Need for Planning Proposal

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

No - A report titled *Planning Proposal to Amend Goulburn Mulwaree (GM) LEP 2009 to Include Wingello Park as an Item of Environmental Heritage in Schedule 5* dated 17 December, 2019 was provided to Council (**refer Attachment 3**) highlighting the need to list the site in Goulburn Mulwaree Local Environmental Plan (LEP) 2009 in order to protect the heritage significance of the site from potentially damaging development and to provide the most appropriate form of ongoing management within the planning system.

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

The proposed amendments to the *GM LEP 2009* is the most effective way to achieve the desired outcome of protecting environmental heritage for the following reasons:

- Interim Heritage Orders under the *NSW Heritage Act, 1977* are only considered to be a temporary means of protection. These orders and Council's delegations for the use of such orders are limited in time span to six months unless Council resolves to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or in the case of an item which, in the Council's opinion, is of State significance, the resolution requests to the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register.
- There is a Section 9.1 Local Planning Direction requiring LEPs to contain appropriate provisions for the management of heritage items. Council's LEP contains such provisions in Clause 5.10 heritage Conservation. The provisions will apply to Wingello Park if included in Schedule 5 of the LEP.
- LEP listing will result in a publicly accessible and established platform for the identification of heritage items within a local government area (LGA).
- LEP listing will result in the property being identified as an item of environmental heritage on Section 10.7 Planning Certificate so that any potential purchaser or developer is informed of its status.
- Listing in a Development Control Plan (DCP) does not offer the same protection as LEP listing from a legal perspective or under planning legislation.
- Listing in non-statutory lists such as those kept by non-government organisations does not provide the same legislative protection.

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?

Yes. The Planning Proposal is consistent with the *South East and Tablelands Regional Plan 2036* (SETRP, 2036).

Goal 3 of the SETRP, 2036 seeks to achieve **healthy and connected communities** with a specific direction to protect heritage of the region:

Direction 23: Protect the region's heritage - Council is acting to protect this site in line with the Regional Plan.

This planning proposal is consistent with the *South East and Tablelands Regional Plan 2036* as it seeks to protect and manage the heritage significance of Wingello Park.

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

3.4.1 Goulburn Mulwaree Strategy 2020

Yes - The Planning Proposal is consistent with the *Goulburn Mulwaree Strategy 2020* in terms of the community vision and environmental themes outlined in the strategy.

3.4.2 The Tablelands Regional Community Strategic Plan 2036

Yes - The Planning Proposal is consistent with the *Tablelands Regional Community Strategic Plan (TRCSP) 2030*. Strategy C04 – Recognise and celebrate our diverse cultural identities, and protect and maintain our community's natural and built heritage.

The planning proposal seeks to protect an identified item of potential local and State heritage significance by including it within Schedule 5 of the *Goulburn Mulwaree Local Environmental Plan, 2009*.

3.4.3 Goulburn Mulwaree Heritage Study Review

Yes - The *Goulburn Mulwaree Heritage Study Review* (2018) undertook a review of the existing heritage studies undertaken to date for the Goulburn Mulwaree LGA. The objectives of the Study Review were to:

1. *Identify and record items of heritage significance considered worthy of conservation within the context of an historical, architectural and environmental assessment of Goulburn Mulwaree LGA.*
2. *Draw together existing information to identify and describe the particular environmental*

qualities of Goulburn Mulwaree LGA, its unique and typical areas, assessing the relationships of physical landscape, built environment and townscape which contribute to its recognised character. Include all towns and villages.

3. *Review existing heritage items for worthiness for retention as listed on Schedule 5 Environmental Heritage of Council's LEP 2009. Highlight any existing and potential conflicts.*
4. *Review and where relevant recommend amendments to conservation objectives, policies and strategies for inclusion in Council's Local Environmental Plan and Development Control Plan.*
5. *Propose priorities for heritage conservation action in Goulburn Mulwaree LGA.*

The Study Review identified a number of additional potential heritage items for assessment including the Wingello Stockade (which is located nearby and associated with Wingello Park). The Study did not identify Wingello Park for inclusion, which would appear to be an error of omission rather than a considered exclusion. The site is located at some distance from a public road and has not been nominated for consideration for listing by any heritage groups nor by the general public. The site is listed in 'Appendix 2 - Recommended Listings for the GMLEP 2009' in the *Goulburn Mulwaree Archaeological Management Plan* prepared by Edward Higginbotham and Associates Pty Ltd dated 2010 and has been mentioned in some local history works.

The history of Wingello Park aligns and further develops the story of the development of the early colony of NSW and its expansion into the Southern Tablelands as discussed in the Heritage Study Review.

The Planning Proposal is consistent with the Goulburn Mulwaree Study Review by seeking to add Wingello Park as an item of environmental heritage.

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

Most SEPP's are not applicable to this planning proposal. The Planning Proposal is consistent with the relevant SEPP's outlined below in **Table 2**.

Table 2 Planning Proposal compliance with relevant State Environmental Planning Policy's

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
SEPP (Rural lands) 2008	This Planning Proposal is intended to add Wingello Park as an item of environmental heritage. No new rural or residential housing will result from this Planning Proposal. It is consistent with the rural planning principles in the SEPP. See below. s.117 1.5 Rural Lands (page 16).
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	The SEPP requires that development consent cannot be granted unless there is a neutral or beneficial effect on water quality. It is unlikely that the proposed amendment in this Planning Proposal will result in a negative effect on water quality. It is likely that this planning proposal will have a beneficial effect on water quality as it will limit exempt and

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
	complying development due to the heritage listing.

3.6 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)?

The planning proposal is consistent with all relevant s.9.1 directions, consistency with all directions is outlined in table 3 below;

Table 3 – s9.1 Directions

Direction	Justification	Consistent (yes or No)
Direction 1.1 – Business and Industrial Zones	Not applicable as this Planning Proposal does not seek to amend or effect Business or Industrial zoned land.	N/A
Direction 1.2 - Rural Zones	<p><i>A planning proposal must:</i></p> <p><i>(a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</i></p> <p><i>(b) 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 any zones or alter the density of future development. It is consistent with this direction.</p>	N/A
Direction 1.3 – Mining Petroleum and Extractive Industries	Not applicable	N/A
Direction 1.4 – Oyster Aquaculture	Not applicable.	N/A
Direction 1.5 – Rural Lands	<p><i>Applies when:</i></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</i></p>	Yes - Consistent

	<p><i>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><i>A planning proposal to which clauses (a) and (b) apply must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p><i>A planning proposal to which clause (b) applies must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.</i></p> <p>The Rural Planning Principles are as follows:</p> <ul style="list-style-type: none"> (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas, (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State, (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development, (d) in planning for rural lands, to balance the social, economic and environmental interests of the community, (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land, (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities, (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing, (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General. <p>The Planning Proposal seeks to add Wingello Park as an item of environmental heritage to Schedule 5 of the LEP. By doing so, the heritage values of the land will be protected from potentially incompatible development. The heritage listing, however, does not affect the range of permissible land uses which currently apply to the RU2 – Rural Landscape zone</p>	
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	The Planning Proposal is consistent with this direction.	
Direction 2.1 – Environment Protection Zones	<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 not within an Environmental Zone.</p> <p>The Planning Proposal is consistent.</p>	N/A
Direction 2.2 – Coastal Management	Not applicable.	N/A
Direction 2.3 – Heritage Conservation	<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 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 planning proposal is intended to expand the existing heritage provisions under Goulburn Mulwaree Local Environmental plan 2009 to include the Wingello Park site. This is intended to ensure appropriate consideration of the heritage significance of the site when assessing development applications and also to identify the site as being of significance to the community which may facilitate opportunities for grant funding and protection as appropriate.</p>	Yes the planning proposal is consistent.
Direction 2.4 – Recreational Vehicle Areas	Not applicable	N/A
Direction 2.5 – Application of E2 and E3 Zones and	Not applicable	N/A

Environmental Overlays in Far North Coast LEPs		
Direction 3.1 – Residential Zones	Not applicable	N/A
Direction 3.2 – Caravan Parks and Manufactured Home Estates	Not applicable	N/A
Direction 3.3 – Home Occupations	Not applicable	N/A
Direction 3.4 – Integrating Land Use and Transport.	Not applicable	N/A
Direction 3.5 – Development Near Licensed Aerodromes	Not applicable	N/A
Direction 4.1 – Acid Sulphate Soils	Not applicable	N/A
Direction 4.2 – Mine Subsidence and Unstable Land	Not applicable	N/A
Direction 4.3 – Flood Prone Land	Not applicable	N/A
Direction 4.4 – Planning for Bushfire Protection	<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>	Yes the planning proposal is consistent

	<p><i>A planning proposal must:</i></p> <ul style="list-style-type: none"> <i>a) have regard to Planning for Bushfire Protection 2006,</i> <i>b) introduce controls that avoid placing inappropriate developments in hazardous areas, and</i> <i>c) ensure that bushfire hazard reduction is not prohibited within the APZ.</i> <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"> <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> <i>(ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road,</i> <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 be complied with,</i></p> <p><i>(c) contain provisions for two-way access roads which link to perimeter roads and/or to fire trail networks,</i></p> <p><i>(d) contain provisions for adequate water supply for fire fighting purposes,</i></p> <p><i>(e) minimise the perimeter of the area of land interfacing the hazard which may be developed,</i></p> <p><i>(f) introduce controls on the placement of combustible materials in the Inner Protection Area.</i></p> <p><i>The Planning Proposal seeks to add Wingello Park as an item</i></p>	
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	<p>of environmental heritage under Schedule 5 of the Goulburn Mulwaree Local Environmental Plan 2009. The site is identified as being bush fire prone land as such, this Direction applies to this Planning Proposal. The Planning Proposal is consistent with <i>Planning for Bushfire Protection 2006</i>, as it does not facilitate the placement of additional inappropriate development in a hazardous area and will not prohibit bushfire hazard reduction within any APZ's.</p>	
<p>Direction 5.2 – Sydney Drinking Water Catchment</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. It is unlikely that this Planning Proposal will result in a negative effect on water quality as heritage listing only is proposed.</p> <p>Council has undertaken preliminary consultation with Water NSW which advised by email dated 20 December, 2019 (Attachment 4):</p> <p><i>We provide the following comments as a preliminary response to the Proposal:</i></p> <ul style="list-style-type: none"> • <i>The Planning Proposal will need to take into account and respond to State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 and s 9.1 Ministerial Direction 5.2 Sydney Drinking Water Catchment, having regard to any implications for water quality.</i> • <i>With regard to Direction 5.2, and on the understanding that the Proposal involves a heritage listing only (and no changes in zoning or minimum lot size, etc), Strategic Land and Water Capability Assessment (SLWCAs) will not be applicable.</i> • <i>Based on the boundaries of the Interim Heritage Order Curtilage Map, the area includes Uringalla Creek and associated drainage features. These will need to be afforded consideration in the Planning Proposal.</i> <p><i>This a preliminary response only and we seek for the Planning Proposal to be formally referred to us when exhibited.</i></p> <p>The site is not connected to town water/sewer services with the existing development serviced by an on-site effluent disposal system. The main dwelling is located within 100m to</p>	<p>Yes the planning proposal is consistent.</p>

	<p>Uringalla Creek. Future development may allow for further assessment of the adequacy of the existing system in relation to the neutral or net beneficial requirements under the SEPP.</p> <p>Essentially the Planning Proposal is seeking to only amend the heritage layer of mapping and to add Wingello Park into Schedule 5 of the <i>Goulburn Mulwaree Local Environmental Plan 2009</i>. There is no proposed change to the zoning, nor to the minimum allotment size. Essentially from a water management perspective, a heritage listing will tighten the planning provisions for this site as it will rule out complying development.</p> <p>The planning proposal is likely to have a beneficial impact on water quality (given it will exclude exempt/complying development) and further consultation with Water NSW will occur should a positive Gateway Determination be received under section 3.34 of the Act.</p>	
Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable	N/A
Direction 5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable	N/A
Direction 5.8 – Second Sydney Airport: Badgerys Creek	Not applicable	N/A
Direction 5.9 – North West Rail Link Corridor Strategy	Not applicable	N/A
Direction 5.10 – Implementation of Regional	<i>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or</i>	Yes the planning proposal is consistent

Plans	<p><i>an officer of the Department nominated by the Secretary), that the extent of inconsistency with the Regional Plan:</i></p> <p><i>a) is of minor significance, and</i></p> <p><i>b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.</i></p> <p>The Planning Proposal is consistent with all parts of the plan and will facilitate the implementation of Goal 3, Direction 23 Protect the region's heritage as per the <i>South East and Tablelands Regional Plan 2036</i>. As such the planning proposal achieves the overall intent of the Regional Plan and is consistent with the direction.</p>	
Direction 6.1 – Approval and Referral Requirements	<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 Clause 5.10 Heritage Conservation under Goulburn Mulwaree Local Environmental Plan 2009.</p>	Yes the planning proposal is consistent.

	Consultation with the community and relevant Government Agencies will occur should a positive Gateway Determination be received under section 3.34 of the Act.	
Direction 6.2 Reserving Land for Public Purposes	Not applicable	N/A
Direction 6.3 – Site Specific Provisions	Not applicable - the planning proposal seeks to amend <i>Schedule 5 – Items of Environmental Heritage</i> only and does not propose adding land uses outside of those already within the RU2 Rural Landscape zone under the GM LEP 2009.	N/A
Directions Part 7 – Local Plan Making	Not applicable	N/A

Section C – Environmental, social and economic impact.

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?

No. The Planning Proposal seeks to protect the environmental heritage significance of Wingello Park. The listing of Wingello Park as an item of environmental heritage will not adversely affect critical habitat or threatened species, populations or ecological communities, or their habitats.

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

There are no environmental effects identified as a part of this Planning Proposal apart from:

- additional provisions relating to heritage management of the site; and
- a limitation on the application of exempt and complying provisions of environmental planning instruments due to the heritage listing.

The following is a locality and context map for Wingello Park. It is noted that the site is considerably large in size with Lot 2 DP 1138469 being comprised of a number of parcels of land.

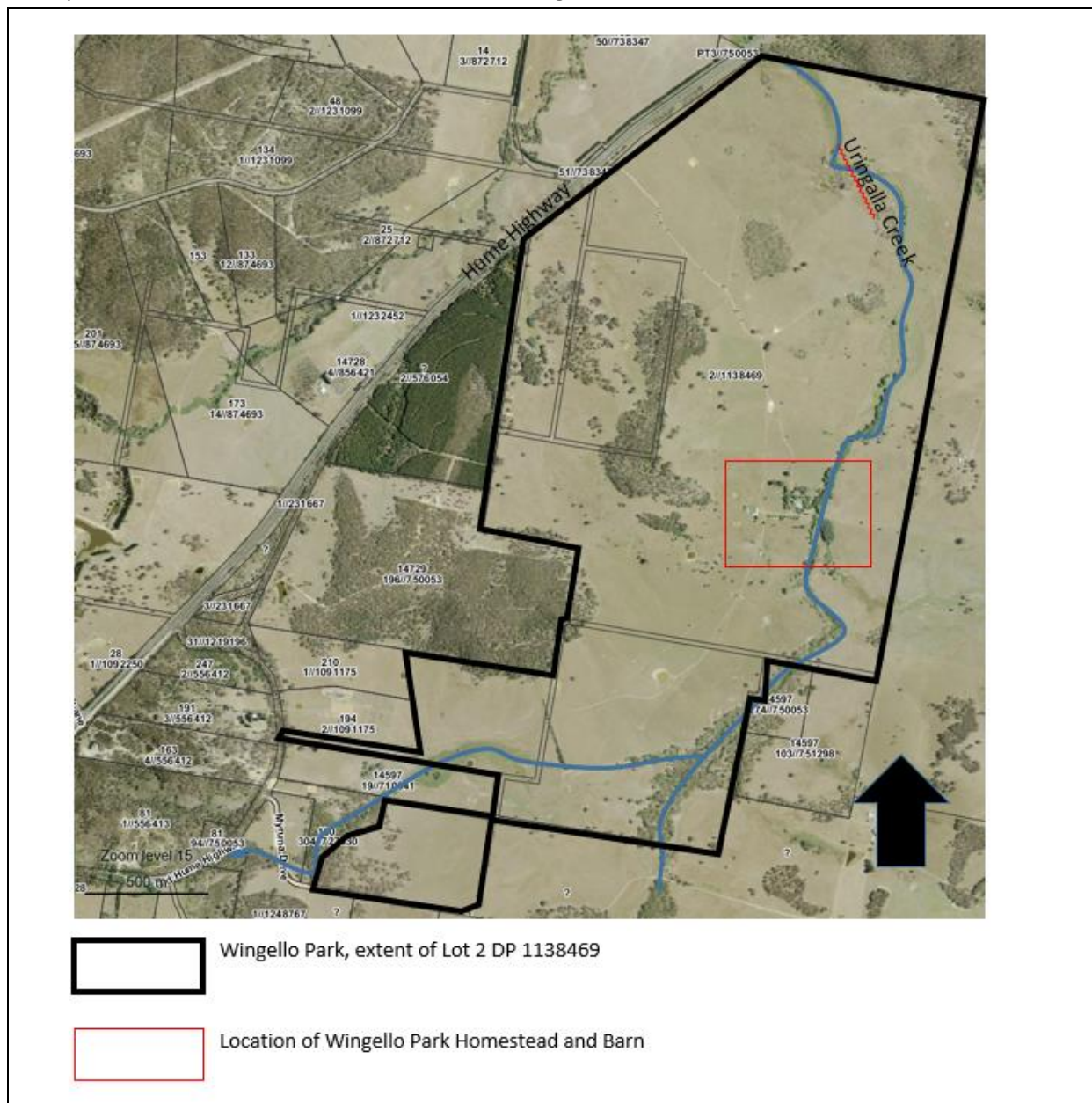
The site is predominantly cleared grazing land with tracts of remnant native vegetation along water courses and on higher sections of hills.

Uringalla Creek traverses the property in a predominantly north – south direction with associated drainage features branching off in an east – west direction.

The site is developed with two dwellings, sandstone barn, yards and paddocks.

The property is not connected to town water and sewer services.

The predominant land use of the site is extensive agriculture.



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

It is considered that the site has social significance associated with the heritage significance of the site.

A preliminary assessment of heritage significance by Council's Consultant Heritage Advisor, Mr David Hobbes has provided sufficient evidence on which to base a local heritage listing (**Attachment 5**).

Council is also of the opinion that the site may be of State heritage significance and is separately nominating the site for consideration for listing on the State Heritage Register. The preliminary assessment mainly considers the European heritage significance of the site. The site does, however, potentially also contain sites of Aboriginal archaeological and cultural heritage significance. An AHIMS search has been undertaken (**Attachment 6**) which identifies that 5 Aboriginal sites are located in or near the Wingello Park Property (Lot 2 DP 1138469).

A 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. Furthermore, Clause 5.10(3) of the *Goulburn Mulwaree Local Environmental Plan 2009* allows some flexibility in terms of Council being able to advise which activities will not require development consent if the property is listed as an item of environmental heritage.

Section D – State and Commonwealth interests

3.10 Is there adequate public infrastructure for the planning proposal?

No further public infrastructure provision is necessitated by this planning proposal.

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

Commonwealth public authorities have not been formally involved in this particular Planning Proposal as it is yet to receive a Gateway Determination. At this early stage it appears unlikely that there will be any issues of interest to Commonwealth authorities.

Preliminary consultation has been undertaken with Water NSW which advised via email dated 20 December, 2019:

We provide the following comments as a preliminary response to the Proposal:

- *The Planning Proposal will need to take into account and respond to State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 and s 9.1 Ministerial Direction 5.2 Sydney Drinking Water Catchment, having regard to any implications for water quality.*
- *With regard to Direction 5.2, and on the understanding that the Proposal involves a heritage listing only (and no changes in zoning or minimum lot size, etc), Strategic Land and Water Capability Assessment (SLWCAs) will not be applicable.*
- *Based on the boundaries of the Interim Heritage Order Curtilage Map, the area includes Uringalla Creek and associated drainage features. These will need to be afforded consideration in the Planning Proposal.*

This a preliminary response only and we seek for the Planning Proposal to be formally referred to us when exhibited.

The subject Planning Proposal will be referred to the following State Agencies prior to the public exhibition:

- Department of Planning, Industry and Environment (Heritage)
- Water NSW.

Part 4 – Mapping

The heritage map layer of Goulburn Mulwaree Local Environmental Plan 2009 requires amending to add Wingello Park as shown below.

LEP 2009 - Current Heritage Items



LEP 2009 - Proposed Heritage Items



Part 5 – Community Consultation

Council will commence community consultation post-Gateway Determination. For the purposes of public notification, Council considers that a twenty-eight (28) day (public exhibition period is appropriate.

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 and the Department of Planning and Environment.

Written notice will be provided to the affected land owner of Wingello Park 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 and Environment; and
- The Gateway Determination, and
- Report to Council titled *Planning Proposal to Amend Goulburn Mulwaree LEP 2009 to Include Wingello Park as an Item of Environmental Heritage in Schedule 5* dated 17 December, 2019 and resolution.

The Gateway Determination will confirm the public consultation requirements.

Part 6 – Project Timeline

Gateway Determination	February 2020
Timeframe for completion of technical studies	April 2020 (if required)
Timeframe for agency consultations	May 2020
Public exhibition	June 2020
Public hearing	Not required.
Consideration of submissions	July 2020
Date of submission of LEP to DoPI	October 2020
Anticipated date of plan made	November 2020
Anticipated date plan forwarded to DoPI for notification	December 2020

Conclusion

Goulburn Mulwaree Council has initiated a planning proposal to modify its *Local Environmental Plan 2009* to add Wingello Park to Schedule 5 – Items of Environmental heritage under *Goulburn Mulwaree Local Environmental Plan 2009*. This follows the making of an *Interim Heritage Order No. 1* upon the site and assessment of potential site heritage significance undertaken with DA/0335/1819 for alterations and additions to the existing residence.

The subject planning proposal is broadly consistent with the *South East and Tablelands Regional Strategy* (SETRS, 2036) and SEPPs. It is also generally consistent with the relevant Local Planning Directions. It is not considered that this planning proposal raises any issues that require further studies or detailed assessment. It is noted that a separate resolution of Council is to nominate the site for consideration for listing on the State Heritage Register under the *NSW Heritage Act, 1977*.

As noted in Part 4 of the Council resolution, Council is seeking delegation from the NSW Department of Planning, Industry and Environment (DPIE) to make – and determine not to make – the proposed LEP under section 3.36 of the *NSW Environmental Planning and Assessment Act, 1979*. The proposed amendments are consistent with adopted strategies and the zone objectives, furthermore, the plan is only of local significance (subject to assessment by Heritage NSW as to the potential State Heritage Register listing). The resolution only seeks delegation for the Council and does not specify that the delegation will extend to a specific officer (such as the General Manager or Director).

