



## **Goulburn Mulwaree Council**

**Planning Proposal to Rezone Lot 10 DP 1247119  
Lansdowne Street Goulburn to R5 Large Lot  
Residential under the Goulburn Mulwaree Local  
Environmental Plan 2009**

**18 December 2019**

<b>Version</b>	<b>Comment</b>	<b>Date</b>
<b>1</b>	<b>For Water NSW Consultation</b>	<b>18 October 2019</b>
<b>2</b>	<b>Revision</b>	<b>15 November 2019</b>
<b>3</b>	<b>For Gateway Determination</b>	<b>15 November 2019</b>
<b>4</b>	<b>Post Gateway Agency Referral</b>	<b>18 December 2019</b>

# Part 1 – Objective and intended outcome

## 1.1 Objective

The objective of this Planning Proposal is to rezone the subject land from B6 Enterprise Corridor to R5 Large Lot Residential, apply a Minimum Lot Size (MLS) of 1,000 square metres and remove an existing Floor Space Ratio control of 0.8:1. The subject land was deferred from a previous planning proposal (Amendment 12) made to the *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP 2009) on 12<sup>th</sup> January 2019 following additional considerations. The subject site of this Planning Proposal is Lot 10 DP 1247119 (see **Figure 1**), which is located at the corner of Lansdowne Street and Robinson Street Goulburn (a locality map is provided as Appendix A).

On 3<sup>rd</sup> September 2019 Council resolved to support the subject Planning Proposal as follows:

**That**

- 1. The report from the Graduate Strategic Planner regarding the planning proposal at Lot 10 Lansdowne Street be received.**
- 2. Council endorse the planning proposal to amend the *Goulburn Mulwaree Local Environmental Plan 2009* to rezone Lot 10 DP1247119 from B6 Enterprise Corridor with a floor space ratio of 0.8:1 to R5 Large Lot Residential with no floor space ratio and a minimum lot size of 1000m<sup>2</sup>.**
- 3. Council forward the planning proposal to the Department of Planning, Industry and Environment for a gateway determination.**
- 4. In the event that the NSW Department of Planning, Industry and Environment issues a gateway determination to proceed with the planning proposal, consultation be undertaken with the community and government agencies in accordance with any directions of the gateway determination.**
- 5. The Department of Planning, Industry and Environment be advised that Council wishes to be issued with an authorisation to use delegation for this planning proposal.**
- 6. Council refund the \$2,600 lodgement fee paid and waive any future planning proposal fees applicable.**
- 7. The site specific amendment to the *Goulburn Mulwaree Development Control Plan 2009* attached to this report be discussed at a Council Briefing before being placed on public exhibition.**

**CARRIED**

This subject Lot was deferred from Amendment 12 (see Part 3) of the GM LEP 2009, due to concerns raised in submissions by landowners and business operators in the vicinity of the subject site (the subject site originally formed part of the land included in Amendment 12).

The Council Resolution from 18<sup>th</sup> December 2018 follows:

*That*

- 1. The report of the Senior Strategic Planner regarding the Lansdowne Street Planning Proposal be received.*
- 2. Council endorse the current Planning Proposal to amend the Goulburn Mulwaree Local Environmental Plan 2009 to:*
  - a) Rezone land being Lots 11- 27 DP1247119 (Theatre Drive Subdivision), 150 Lansdowne Street Goulburn (Lot 1 DP 1018281)*
  - b) Rezone lot 28 DP 1247119 from B6 Enterprise Corridor to zone E3 Environmental Management;*
  - c) Remove existing Floor Space Ratio (FSR) controls for lots no longer proposed to be rezoned B6 Enterprise Corridor; and*

**d)** *Apply a Minimum Lot Size of 1000 m<sup>2</sup> (in R5 Large Lot Residential) and a 1 Hectare Lot Size (E3 Environmental Management) under Goulburn Mulwaree Local Environmental Plan 2009.*

- 3.** *The decision on any zoning matter for Lot 10 DP 1247119 be deferred at this time.*
- 4.** *A Draft Instrument be prepared that is consistent with the above Amendment;*
- 5.** *The Planning Proposal and relevant documentation be forwarded to the Department of Planning and Environment for making as soon as possible.*
- 6.** *Council thank those who made a submission and advise the proponent accordingly.*
- 7.** *Future development applications for development on land in DP1247119 (Theatre Drive Subdivision), Lot 1 DP 1018281 (150 Lansdowne Street) and Lot 28 DP 1247119 include restrictions on the title of each lot as generally outlined in this report and in Attachment 2 pursuant to Section 88B of the Conveyancing Act, 1919.*
- 8.** *In pursuance of paragraph 2 and 6 of this resolution, site specific development control plan (DCP) provisions are developed to ensure that the mitigation measures are considered as applicable in future development application assessment including:*
  - a)** *Construction standards for all development and boundary fencing in relation to noise and vibration.*
  - b)** *Restrictions on the title of lots on land identified in paragraph 7 above.*
- 9.** *The DCP provisions in paragraph 4 are publicly exhibited.*

**CARRIED**

In support of this Planning Proposal, and to respond to concerns raised in submissions during exhibition of Amendment 12, additional information was provided by the applicant including:

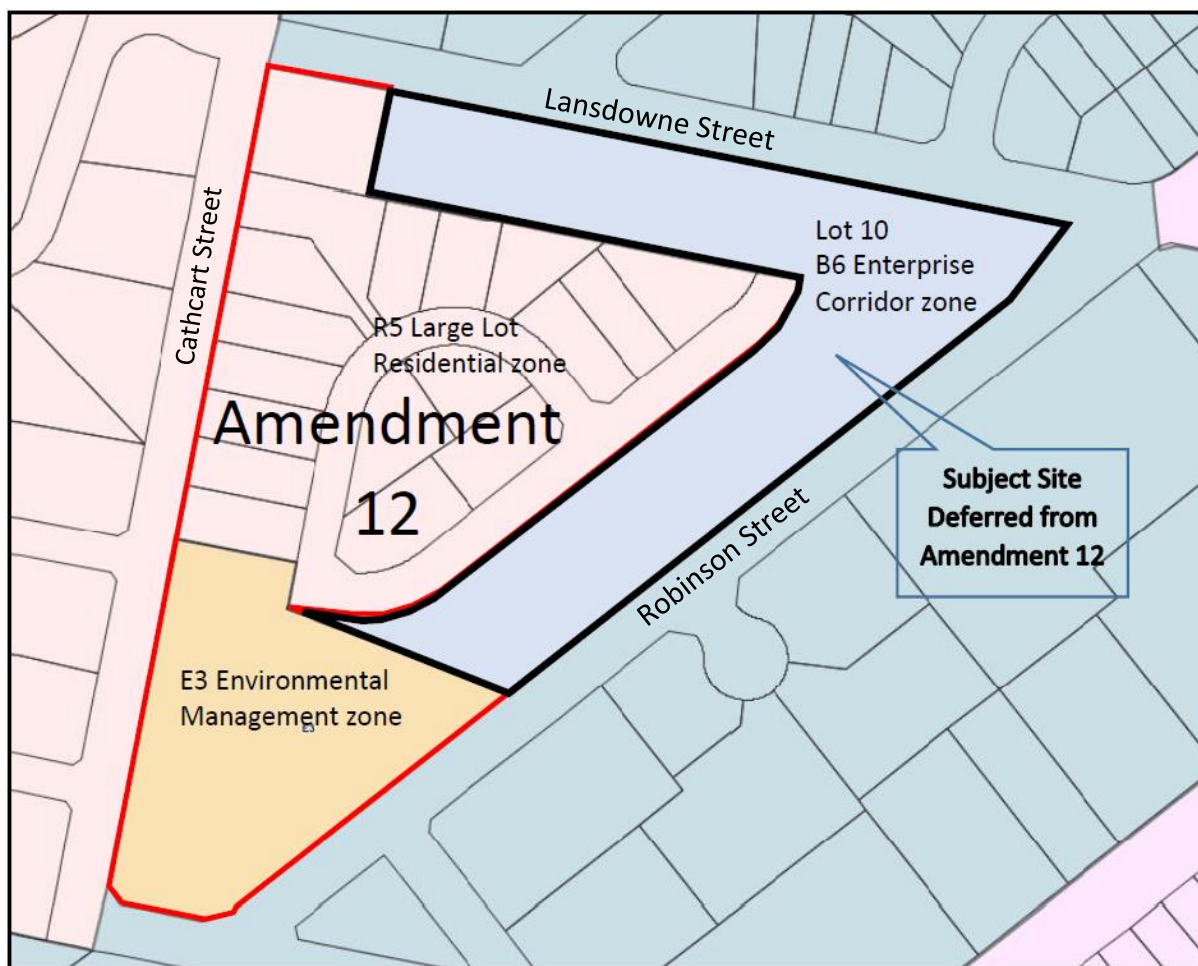
- *Industrial Noise Intrusion Assessment Proposed Planning Proposal – Land Rezoning for Residential Subdivision prepared by Harwood Acoustics (5 March 2019), and*
- *Traffic count data provided by Austraffic for 18 February – 24 February 2019 (1 week)*

In addition to Part 3 of the Council resolution deferring the subject lot from Amendment 12, Council also resolved the following supplementary resolution on 18<sup>th</sup> December 2018 requesting the applicant consider a proposed alternate access to the subdivision of Theatre Drive as a measure to address concerns raised regarding vehicular conflict by businesses opposite the subject site as follows:

*That the applicant be requested to consider a proposed alternate access to this subdivision directly on to both Cathcart and Robinson Streets and to consider proposing the closure of Theatre Drive access onto Lansdowne Street.*

**CARRIED**

The additional information provided by the proponent in response to the supplementary resolution included a concept subdivision plan (Appendix C) which details an alternative vehicular access to the subdivision of Theatre Drive directly on to Robinson Street, a pedestrian access to Cathcart Street and the closure of the access from Lansdowne Street to Theatre Drive. The new access to Cathcart Street is for pedestrian use only to protect the environmental integrity of the Cathcart Street as a fauna movement corridor which forms part of the *South Goulburn Endangered/Threatened Species Management Plan 2004*.



**Figure 1:** Subject site outlined in black (the remainder outlined in red is land rezoned as Amendment 12)

## 1.2 Intended Outcome

The intended outcome of the subject Planning Proposal is to facilitate a concept 20 lot residential subdivision (Appendix C) intended by the applicant for Lot 10. The reason for the amendment is because *residential accommodation* is currently prohibited under the existing B6 Enterprise Corridor zone. The rezoning of the site to R5 Large Lot Residential will enable residential accommodation while the application of the 1,000 square metre Minimum Lot Size (MLS), and the creation of building envelopes, will ensure that sufficient land is provided on site to allow for adequate buffer distance for separation from developed land opposite the site that is zoned B6 Enterprise Corridor.

As a result of this proposed amendment, the further intended outcome is to remove an existing Floor Space Ratio (FSR) of 0.8:1 of the GM LEP 2009 where one exists under the current B6 Enterprise Corridor zoning. Floor Space Ratios are normally applied to commercial development to ensure that land uses that are permissible in the B6 Enterprise Corridor zone do not exceed the capacity of the land for these uses. The removal of this development standard will remove an unnecessary control to the residential development of the proposed lots.

The revision of the maps is detailed later in Part 2 of this report and delineated as Appendix B.



**Figure 2:** The subject site shown on the opposite corner, with new dwellings being constructed on the approved subdivision in the background. The subject site is virtually devoid of any vegetation.

## Part 2 – Explanation of Provisions

To achieve the intended outcome, the following amendments are proposed to the maps appended to *GM LEP 2009*:

- **Land Zoning Map Sheet LZN\_001D:** Amend the zoning of the subject lot from B6 Enterprise Corridor to R5 Large Lot Residential zone under GM LEP 2009 (R5).
- **Lot Size Map Sheet LSZ\_001D:** Amend the minimum lot size of the subject lot to apply a Minimum Lot Size of 1,000 square metres (U1).
- **Floor Space Ratio Map FSR\_001D:** Remove an existing Floor Space Ratio of 0.8:1 from the subject lot.

## Part 3 – Justification

### Section A – Need for Planning Proposal

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

Yes, in the *Employment Lands Strategy 2016* (ELS 2016, p.17) adopted by Council in 2016, it is recommended that the subject land be rezoned to R5 Large Lot Residential. Acting on this recommendation, Council resolved to amend the GM LEP 2009 by Amendment 12. The subject site formed part of the original land included as Amendment 12 to the GM LEP 2009. The rezoning of the subject land was deferred by Council but later supported as a result of the report of 3<sup>rd</sup> September 2019 which addresses the outstanding areas of concern from Amendment 12.

Although the subject site was deferred from the resolution of 18<sup>th</sup> December 2019, the subject planning proposal would fulfil the recommendations of the *ELS 2016*.

To minimise further land use conflict and provide a mechanism for enforcing commitments made by the developer, Council also resolved at Part 7 of the 3<sup>rd</sup> September 2019 to consider a draft amendment to the *Goulburn Mulwaree Development Control Plan 2009* (GM DCP 2009) at a Council Briefing prior to public exhibition. The draft amendment to the GM DCP 2009 is attached (Appendix D - under separate cover).



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

The Planning Proposal to amend the zoning of the subject land from B6 Enterprise Corridor to R5 Large Lot Residential, applying the minimum lot size of 1,000 square metres and remove the Floor Space Ratio is the only way of amending the statutory provisions of the GM LEP 2009 so that the statutory controls over any future subdivision are consistent with other R5 Large Lot Residential zones and the intended outcome of Council's Resolutions and the recommendations of Council's *Employment Land Strategy 2016*.

Council's resolution of 3<sup>rd</sup> September 2019 recommended proceeding with the amendment to the GM LEP 2009 as proposed (including attachments) for this site.

The retention of the existing B6 Enterprise Corridor zone is not recommended because this zone provides a range of land uses that are *permissible with consent* including but not limited to *Business premises, Commercial premises* and *Light Industries*. However this zone also prohibits *Residential Accommodation* (which includes 'shop top' housing) therefore effectively bringing business, commercial and light Industrial land uses closer to the existing approved residential development. This would also limit the opportunity for an appropriate 'zone of transition (or buffer)' between the established businesses opposite and the approved residential development located around Theatre Drive.

Proceeding with the proposed rezoning as submitted, is the best way of achieving the desired outcome of Council's *Draft Urban and Fringe Housing Strategy* (Housing Strategy) and the adopted *Employment Lands Strategy* by providing an opportunity for residential development on large lots that are close to employment opportunities.

The land use conflicts between existing business, commercial and industrial land uses opposite the subject site were considered during the processing of Amendment 12 and the proponent has responded to the concerns raised in submissions received by the submission of additional information and a revised road configuration. The additional information lodged with the subject application has been considered satisfactory by Council by the resolution of 3<sup>rd</sup> September 2019 (at page 1). Potential land use conflicts have also been addressed by way of the proposed Site Specific Amendment to the GM DCP 2009 (attached).

Lot 10 is a long shallow lot with wide frontage to both Lansdowne and Robinson Streets but is only 50m deep between the main street frontages. The shallow depth of Lot 10 makes it difficult to achieve good land use interface design outcomes for this site. Setbacks from any future buildings associated with a business/commercial zoning would be close to residences. Furthermore, it is likely that car parking would need to be between buildings rather than along the Lansdowne/Robinson Street frontages.

An indication of the demand for residential development in this location is provided in the number of lots that have been sold with dwelling construction commenced (see **Figure 2**).

It should also be mentioned that immediately to the west of the subject site, along Cathcart Street is a flora and fauna corridor and residential development is consistent with the intended use of this area as a corridor.

The potential impact from land use conflicts are further discussed in Section 3.8 of this report.

## 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?

#### 3.3.1 South East and Tablelands Regional Plan

The Planning Proposal is consistent with the relevant goals of the *South East and Tablelands Regional Plan*.

##### **Goal 1: A connected and prosperous economy.**

Increasing the supply of residential land to nearby businesses means more sustainable transport options and reduced travel time to employment opportunities will therefore enjoy the benefits of a connected and prosperous community.

The proposed Site Specific Development Control Plan amendment to the GM DCP 2009 provisions are intended to protect existing businesses while maintaining the amenity of future residential development.

##### **Goal 2: A diverse environment interconnected by biodiversity corridors.**

*Direction 15: Enhance biodiversity connections:* As part of Amendment 12, part of the subject site proposal was rezoned to E3 Environmental Management identified in the *South Goulburn Endangered/Threatened Species Management Plan 2004*. The site as whole therefore has made a contribution to enhancing biodiversity connections. The subject site (Lot 10) is devoid of any vegetation and contains no identified biodiversity connections (see **Figure 2**).

Council's current GM DCP 2009 restricts access to unmade roads (as per Cathcart Street in the revised subdivision Plan) and also applies to land zoned E3 Environmental Management.

By restricting access to Cathcart Street to pedestrians, the revised subdivision Plan also has regard to the *South Goulburn Endangered Threatened Species Management Plan 2004*.

*Direction 18: Secure water resources:* The subject Planning Proposal has responded to Action 18.1 to 'locate, design, construct and manage new developments impacts on water catchments...' by providing land uses that can be readily connected to the existing water and sewer reticulation network and that would pose minimal risk to water quality by reliance on the existing stormwater network (in addition to water savings measures imposed as part of a BASIX Certificate requirement for individual dwellings).

##### **Goal 3: Healthy and connected communities**

*Direction 22: Build socially inclusive, safe and healthy communities.* The proposed amendment is considered consistent with action 22.1 by incorporating appropriate development control measures for high demand large lot residential development into the proposed site specific amendment to GM DCP 2009. It is also considered consistent with the Planning Principles provided at Appendix A of the SETRP.

#### **Goal 4: Environmentally sustainable housing choices.**

*Direction 24: Deliver greater housing supply and choice:* Providing additional R5 Large Lot residential development is considered consistent with Action 24.4 of the SETRP and Settlement Planning Principles provided under this Direction.

*Direction 25: Focus housing growth in locations that maximise infrastructure and services:* The proposed rezoning to R5 Large Lot Residential will make use of existing infrastructure (reticulated sewer, water and stormwater). It also provides infill development in a location within the existing urban area

#### **Local Narratives (Goulburn-Mulwaree)**

##### **HOUSING**

The main residential land use zones in Goulburn are R1 General Residential and R2 Low Density Residential areas, which are very flexible and provide a wide range of housing options. R5 Large Lot Residential is less flexible but is considered appropriate given it provides a lower density of development and adjoins R5 zoned land to the west and being opposite land zoned B6 Enterprise Corridor zone and industrial land uses. The R5 Large Lot Residential zoning is preferable to keep density low in this instance as it would not be suitable for a greater residential density that would be permissible in other residential zones near industrial type businesses.

### **3.3.2 The Tablelands Regional Community Strategic Plan 2016-2036**

The *Tablelands Regional Community Strategic Plan 2016-2036* was adopted by Council on 21<sup>st</sup> February 2017 and identifies the community aspirations via the strategic priorities that achieve the future visions for the region. These include:

- Environment
- Economy
- Community
- Infrastructure
- Civic Leadership

Each relevant strategic pillars are identified below:

#### **Environment:**

*EN1 Protect and enhance the existing natural environment, including flora and fauna native to the region:* The development site as a whole (as identified in Amendment 12) will protect and enhance the existing natural environment including flora and fauna native to the region and specifically part of a corridor for fauna movement identified in the *South Goulburn Endangered/Threatened Species Management Plan 2004*.

*EN4 Maintain a balance between growth, development and environmental protection through sensible planning.* It is considered that the approach taken to achieve this objective, including consideration of environmental constraints, the amendment to the zoning and minimum lot size of the subject land and drafting Site Specific Amendments to the GM DCP 2009 is consistent with this objective.

#### **Economy:**

*EC3 Support and foster conditions that enable local and small/home-based businesses to grow.* The rezoning of land will maintain the momentum for the rezoning aimed at achieving

this objective. This is anticipated by the ample lot size and the location of the site near existing businesses in the locality to encourage *Home occupations* (permitted without consent) and *Home Industries* (permitted with consent) to establish in this location.

**Community:**

*CO5 Maintain our rural lifestyle.* The subject Planning Proposal is aimed at achieving this objective by providing residential lots within the urban boundary, and thereby reducing pressure on rural land for housing.

**Infrastructure:**

*Strategy IN3 Maintain and improve road infrastructure and connectivity.* There is considered adequate Infrastructure to support the proposed residential development.

The revised concept plan of subdivision submitted for the subject site (Lot 10) relocates the existing vehicular entrance to Theatre Drive from Lansdowne Street to Robinson Street. Council considers this has addressed the concerns raised in submissions for Amendment 12 of the potential for traffic conflicts envisaged with the existing access configuration.

The proposed site specific amendment to the GM DCP 2009 will incorporate provisions to ensure design elements in the concept plan are reflected in the construction of new dwellings.

**Leadership**

*Strategy CL4* requires our civic leadership to ‘*Actively investigate and communicate funding sources and collaboration opportunities that can strengthen the region*’. The provision of R5 Large Lot residential Land will be funded by Developer Contributions and Water, Sewer and Stormwater charges via Council’s adopted Contributions Plans and Developer Servicing Plans.

**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**

The Planning Proposal does not contradict the *Goulburn Mulwaree Strategy 2020*.

The Strategy identifies the subject land (South Goulburn) on the map at page 22 as an area of land zoned partly R5 Large Lot Residential and partly B6 Enterprise Corridor. It specifically states:

*“Areas west and south west of Goulburn also present the potential to accommodate large lot residential development and provide an alternative residential choice to Mary’s Mount.” It also states that future employment areas need to be located to provide “adequate separation from sensitive land uses.....to minimise potential for land use conflict and enable extended hours of operations for freight and distribution facilities.”* This is achieved by the proposed Site Specific provisions to be incorporated into the GM DCP 2009 and the reconfigured access to the site.

On balance the planning proposal will reduce the likelihood that the subject land will generate employment opportunities but will enable the residential use of an approved subdivision. This can be best achieved by applying the R5 Large Lot Residential zone to the land and this is consistent with the Goulburn Mulwaree Strategy 2020.

### **3.4.2 Goulburn Employment Lands Strategy 2016**

The *Goulburn Employment Lands Strategy (ELS) 2016* recommends that the site at 150 Lansdowne Street be rezoned to R5 Large Lot Residential (p17) in the short term. The ELS 2016 identified the subject site as being underutilised and noted the adjoining land to the north, east and west on Mary, Knox and Cathcart Street was an older established residential area. It considered that business requiring larger lots (where the subject land had an existing approved subdivision) would likely locate along Hume, Lockyer and Sowerby Streets with better access to the main arterial roads and the Hume Highway. It is for this reason that the *ELS 2016* recommends that the subject land be rezoned to R5 Large Lot Residential land uses. The subject Planning Proposal is consistent with the recommendations of the *Employment Lands Strategy 2016*.

### **3.4.2 Community Strategic Plan 2030**

The Community Strategic Plan (CSP) was adopted by Council on the 2 July 2013 and revised in September 2014. The Plan seeks to provide opportunities for rural lifestyle, settlement, housing, sustainable farming and natural resource protection.

The Planning Proposal is consistent with the Goulburn Mulwaree Community Strategic Plan 2030 as follows:

Relevant Strategies:

Key Direction 2 – Business and Industry

2.4.1 to provide opportunity for residential and rural residential development and encourage affordable housing.

Key Direction 4 – Sustainable Environment

4.2.1 to protect, maintain and improve the diversity of our native fauna and flora provided there is a balance between environmental protection, population growth and development

Given the relatively small size of Lot 10, the planning proposal will contribute to the achievement of Council's performance indicators, via: P5 Adequate supply of housing is provided within the local planning framework

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

The Planning Proposal is consistent or justifiably inconsistent with the following applicable State Environmental Planning Policies (SEPPs):

#### **SEPP 55 – Remediation of Land**

A preliminary site investigation (PSI) was supplied to Council and publicly exhibited with the initial Planning Proposal (now Amendment 12). The preliminary site investigation concluded that no further investigations are required during the planning proposal stage.

#### **SEPP (Sydney Drinking Water Catchment) 2011**

The Sydney Drinking Water Catchment (SDWC) SEPP 2011 operates to protect water quality in the SDWC. Under the SDWC SEPP all future development on the site will need to be assessed against the neutral or beneficial effect test (NorBE) and have a NorBE effect on water quality.

The subject land will be connected to the reticulated water and sewer system. Rainwater collected will be used in rain gardens and it will be necessary to store rainfall as part of any

BASIX Certification. Any excess run off can be directed to Council's existing stormwater drainage network.

**State Environmental Planning Policy 44 (Koala Habitat Protection)**

The SEPP 44 applies to the site as it applies to the State however the site is devoid of vegetation (see figure 2) therefore it is considered there will be minimal impact on the presence of *Phascolarctos cinereus*. The areas of the land that contain appropriate trees for the *Phascolarctos cinereus* are protected by either E3 Environmental Management zone or are along Cathcart Street (part of the fauna corridor) under Amendment 12.

**SEPP (Exempt and Complying Development Codes) 2008**

These Codes, specifically Part 3 the Housing Code, applies to the subject land. The SEPP (Exempt and Complying Development Codes) 2008 is a State policy and would permit dwelling construction on the subject land irrespective of any controls placed on the subject site (aside from those under s88B of the Conveyancing Act). Any residential development controls imposed under a Development Control Plan would be secondary and may be disregarded for the purpose of the Exempt and Complying Development Codes under the SEPP.

In the subject proposal's circumstances for example, for the purpose of determining setbacks from the **primary road** of the 2 nearest dwellings, the following are not to be included –

- (a) Dwelling houses on battelaxe blocks (Lots 32-38)
- (b) Any attached development or detached development on other lots
- (c) Building elements in the articulation zone

This means that dwellings on Lots 32-39 do need to have regard to the setback from the **primary street frontage** of Lansdowne Street so building envelopes need to be considered to maintain a separation distance from the industrial uses in the vicinity (separation distances were discussed in the processing of Amendment 12). These have been considered by the applicant as demonstrated in Sheet 2 of the revised plan of subdivision but would be given more detailed assessment at the subdivision application stage.

**3.6 Is the planning proposal consistent with applicable Ministerial Directions (s 9.1 Directions)?**

<b>Applicable Direction</b>	<b>Justification</b>	<b>Compliant</b>
1.1 Business and Industrial Zones	<p><i>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).</i></p> <p><i>A planning proposal must:</i></p> <ul style="list-style-type: none"> <li><i>(a) give effect to the objectives of this direction,</i></li> <li><i>(b) retain the areas and locations of existing business and industrial zones,</i></li> <li><i>(c) not reduce the total potential floor space area for employment uses and related public services in business zones,</i></li> <li><i>(d) not reduce the total potential floor space area for industrial uses in industrial zones, and</i></li> <li><i>(e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</i></li> </ul> <p>This planning proposal is inconsistent with this direction. However, the inconsistency is justified because it is a minor matter and further potential land use conflicts have been addressed via a reconfigured vehicle access to Theatre Drive from Robinson Street (see Appendix) and the proposed amendment to the GM DCP 2009 via Site Specific provisions.</p> <p>The planning proposal is consistent with the adopted <i>Employment Lands Strategy</i>.</p>	Justifiably Inconsistent
1.2 Rural Zones	This Direction does not apply because the subject land is not located in a Rural Zone	NA
1.5 Rural Lands	This Direction does not apply because the subject land is not located in a Rural Zone	NA
2.3 Heritage Conservation	This Direction does not apply because the subject land is not located within the vicinity of any heritage item listed in GM LEP 2009.	NA
3.1 Residential Zones.	<p><i>This direction applies when a relevant planning authority prepares a planning proposal that will affect land within:</i></p> <ul style="list-style-type: none"> <li><i>(a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),</i></li> <li><i>(b) any other zone in which significant residential development is permitted or proposed to be permitted.</i></li> </ul> <p><i>A planning proposal must include provisions that encourage the provision of housing that will:</i></p>	Yes

	<p>(a) <i>broaden the choice of building types and locations available in the housing market, and</i></p> <p>(b) <i>make more efficient use of existing infrastructure and services, and</i></p> <p>(c) <i>reduce the consumption of land for housing and associated urban development on the urban fringe, and</i></p> <p>(d) <i>be of good design.</i></p> <p>The planning proposal will broaden the housing choice and will be an efficient use of existing infrastructure and services in this locality. It will provide for housing within the Goulburn urban area and be subject to existing design controls in relevant DCP's and Draft Site Specific provisions proposed as an amendment to the GM DCP 2009.</p> <p><i>A planning proposal must, in relation to land to which this direction applies:</i></p> <p>(a) <i>contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), and</i></p> <p>(b) <i>not contain provisions which will reduce the permissible residential density of land.</i></p> <p>Goulburn LEP already contains a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it). This land has been fully serviced for some time. It does not contain provisions which will reduce the permissible residential density of land. The proposed MLS reflects the existing lot size in the approved subdivision.</p> <p>It is consistent with this direction.</p>	
3.4 Integrating Land Use and Transport	<p>This Direction applies as the PP alters zones relating to Residential, Industrial and Environmental zoned land.</p> <p>The subject PP is not inconsistent with the terms of this Direction.</p>	Yes
4.1 Acid Sulphate Soils	This Direction does not apply as the subject land is not mapped as susceptible to acid sulphate soil risk by the NSW Office of Environment and Heritage mapping.	NA
4.2 Mine Subsidence and Unstable land	The subject land is not located in a proclaimed Mine Subsidence District nor is it identified as unstable land.	NA
4.3 Flood Prone Land	<p>The subject land is not identified on Council's Flood prone maps appended to the GM LEP 2009.</p> <p>Note: Council is reviewing its Flood Plain Risk Management Study and Plan to consider overland flow, however Lot 10 is</p>	NA



	a residual lot from a recent subdivision which had been assessed under evaluation criteria of EP&A Act at DA Stage.	
4.4 Planning for Bushfire Protection	This Direction does not apply as the subject land is not identified as bushfire prone on Council's and the NSW Rural Fire Service Bushfire Prone Lands Maps 2019.	NA
5.2 Sydney Drinking Water Catchments	<p>The Planning Proposal is occurring on land which is within the Sydney Drinking Water Catchment (SDWC).</p> <p>This Direction operates to protect water quality in the SDWC.</p> <p>The subject PP has been referred to Water NSW for preliminary comments and has been updated accordingly.</p> <p>The subject site will be connected to the reticulated water and sewer network.</p> <p>Strategic Land and Water Capability Assessment data for sewer residential development is provided below at Figure 4. The data present for sewer residential development presents a predominantly Moderate Risk to water quality. The environmental impacts of development are further discussed below in Section 3.8 of this Planning Proposal.</p> <p>The connection of any proposed development to the existing reticulated water, sewer and stormwater drainage system is therefore considered appropriate to mitigate the risk to and to have a Neutral or Beneficial Effect on water quality.</p> <p>Strategic Land and Water Capability Assessment data for stream proximity is provided at Figure 7. This demonstrates that there is minimal risk to water quality entering water courses. Further, Council's reticulated stormwater network will further mitigate any risk to water quality from overland flow entering the SDWC.</p> <p>The subject PP is consistent with this Planning Direction.</p>	Yes
5.10 Implementation of Regional Plans	<p>Addressed above and at Section 3.3.1 of this report.</p> <p>The subject PP is not inconsistent with the Regional Plan.</p>	Yes
6.1 Approval and Referral Requirements	<p>This Direction applies to the PP. The PP does not propose any provisions that will require additional concurrence or referral requirements of the future development of the subject site.</p> <p>The subject PP is not inconsistent with this Direction</p>	Yes.
6.2 Reserving Land for Public Purposes	No land is proposed to be reserved for public purposes as part of this Planning Proposal. The proponents submission does however include the installation of playground equipment adjacent to the pedestrian access to Cathcart Street on existing Lot 28 created from the original subdivision approval and rezoned E3 environmental	NA

	Management under Amendment 12. It is understood that Lot 28 also has a 'dwelling entitlement'. At some future point, this circumstance may require the separation of the area for a future dwelling from the area where the playground equipment is to be installed.	
6.3 Site Specific Provisions	<p>This Direction applies to the PP. The proposed amendment does not propose any statutory site specific provisions to the subject land that will require additional referral to external agencies.</p> <p>The proposed amendment is therefore consistent because only the statutory LEP maps will be amended.</p>	Consistent
7.0 Metropolitan Planning	The subject land is not located in a metropolitan area.	

## 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?

Despite the notation below delineating that the land contains High Environmental Values (HEV) from the HEV map accompanying SETRP, the subject site is largely devoid of any vegetation (See Figure 3). The revised subdivision plan provides pedestrian access through the subject site to Cathcart Street. This access is restricted to pedestrians to minimise the impact of heavier traffic and maintain the integrity of the identified fauna corridor.

The proposed Site Specific provisions to be incorporated into the Goulburn Mulwaree DCP 2009 (GM DCP 2009) includes recommendations that seek to locate a dwelling on Lot 28 so as to retain the integrity of an area to the south of the site (on the previously rezoned land under Amendment 12 of the GM LEP 2009). This area is to be protected because it contains remnant Eucalypt woodland that is a significant contributor to biodiversity in this locality. It is a Box Gum Woodland (White –Yellow Box – Blakely's Red Gum) that is listed as an Endangered Ecological Community (EEC) under the *NSW Biodiversity Conservation Act, 2016*.

A condition of the current subdivision plan for the whole site requires a conservation management plan be prepared for Lot 28. This has been submitted to Council.

The subject site is notated as having High Environmental Values (HEV) which accompanies the South East and Tablelands Regional Plan (SETRP) 2036. The southern portion of the site was considered as part of the originally approved subdivision of the subject land to remain whole and was zoned E3 Environmental Management zone as part of Amendment 12. As shown in figure 3 however, the balance of the site and in particular Lot 10, is virtually devoid of any vegetation and substantially discounts the validity of the current HEV mapping notation.



**Figure 3:** High Environmental Values map notation of the subject site (SETRP 2036)

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

Issues raised during processing of Amendment 12 of the GM LEP 2009 included traffic impacts and noise generation from existing land use on Lansdowne Street and Robinson Street opposite the subject site. Although the subject site, Lot 10, was deferred from that amendment, the proponent has submitted with the subject Planning Proposal two reports in support. These include:

- *Industrial Noise Intrusion Assessment Proposed Planning Proposal – Land rezoning for Residential Subdivision* prepared by *Harwood Acoustics* (5 March 2019), and
- *Traffic count data* provided by *Austraffix* for 18 February – 24 February 2019 (1 week)

In addition to this information, Council has developed a Site Specific Amendment to the Goulburn Mulwaree Development Control Plan (GM DCP) 2009 which will provide a mechanism for compliance with the commitments made by the proponent while mitigating impacts from nearby businesses.

#### **Noise**

The supporting *Harwood Acoustics: Industrial Noise Intrusion Assessment Proposed Planning Proposal – Land Rezoning for Residential Subdivision* found that the land is significantly constrained by noise with some recorded readings of 56 dBA. The assessment does concur with Council's existing approach of including restrictions on the title of the land relating to dwelling construction and fencing requirements. However this assessment also recommends a 2.1 metre lapped and capped timber fence along Lansdowne Street and that other noise attenuation development controls be explored.

The Draft Site Specific Development Control amendment to the GM DCP 2009 attached to the report to Council of 3<sup>rd</sup> September 2019, states at:

#### *Section 8.10.5 Noise Management for Residential Development:*

*Residential dwellings are to be designed to meet Australian Standards for noise (AS 2107) and to provide appropriate measures to ensure that the following LAeq levels are not exceeded:*

- a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,*
- b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

*Bedrooms in dwellings should be located at the furthest point from noise sources in the B6 Enterprise Corridor zone.*

*All boundary fencing in land zoned R5 Large Lot Residential must consist of hard wood timber lapped and capped fencing to a height of no less than 1.8m except for any fencing adjacent to Lansdowne Street, where it must be built to a height of no less than 2.1m.*

*An acoustic report is to be submitted with each development application for a dwelling to address the controls above.*

Council considered this a satisfactory measure to address noise concerns however the resolution of 18<sup>th</sup> December 2019 required any Draft DCP provisions for future development be placed on exhibition in conjunction with the exhibition of the proposed LEP Amendment.

The applicant has considered separation from noise sources by the imposition of Building envelopes on Sheet 2 of the revised plan of subdivision (Appendix C). These however, particularly lots 29-31,

would be given more detailed consideration at the development application for the proposed subdivision.

### **Traffic Count**

The supporting traffic count data, provided by *Austraffic* demonstrates that there is indeed a high volume of heavy vehicle traffic on Lansdowne Street during daylight hours and less heavy vehicle traffic on Robinson Street with minimal heavy vehicle movement between 6am and 6pm and on weekends.

The proponent suggests that traffic movements are not significant enough to warrant particular concern for the proposal. The assertion is not supported by the noise assessment that demonstrates the significant amount of noise levels being generated from heavy vehicles. Notwithstanding this, the noise constraint assessment assessed the noise impact of heavy vehicle movements in its findings and some of the recommended mitigation measures have been included in the provisions of the Site Specific Development Control Plan (above).

To avoid the circumstance where future dwellings are assessed under the Exempt and Complying SEPP, thereby avoiding consideration of Council's Site Specific Development Control Plan provisions, it is also recommended that an 88B Restriction be placed on any future subdivision plan of Lot 10 to include the following:

*"All future dwellings on burdened lots are to be designed and constructed such that external noise intrusion will achieve the recommended internal noise levels in accordance with AS 2107"*

It is further recommended that similar restrictions be placed on any future subdivision to that imposed under Amendment 12 with regard to fence height and construction materials (2.1 metres and 1.8 metres on Lansdowne Street and Robinson Street respectively and constructed of lapped and capped timber) to further mitigate vehicle noise and achieve acceptable ambient noise levels in dwellings.

### **Traffic Conflicts**

In response to the Supplementary Resolution of 18<sup>th</sup> December (Page 4), and vehicular traffic conflict concerns raised under Amendment 12, the revised Subdivision Plan (Appendix C) has substantially addressed potential traffic conflicts on Lansdowne Street between residential vehicles having direct access to Lansdowne Street and heavy vehicles associated with existing businesses.

Direct Access to Lansdowne Street from Theatre Drive is proposed to be closed (this is to be included in the DCP chapter controls). The closure of the Theatre Drive access to Lansdowne Street will result in only 3 lots (29-31) having direct access with the remaining lots along Lansdowne Street having access via a Right of Carriageway to Theatre Drive.

### **Draft Site Specific Development Control Plan Provisions**

To minimise land use conflict and to provide a mechanism for enforcing commitments made by the developer, a proposed amendment to the *Goulburn Mulwaree Development Control Plan 2009* (GM DCP 2009). This site specific development control chapter contains provisions that:

- Requires dwellings to provide acoustic reports, which demonstrate that noise levels will be kept to an acceptable level; and
- Requires direct access to Robinson Street to be completed prior to dwellings being erected on Lot 10 with closure of the Lansdowne Street access (to Theatre Drive)

It should be noted as a condition of the subdivision which created DP 1247119, the titles of lots within the approved subdivision, had restrictions imposed for all future dwellings to comply with AS 2107 for noise levels within existing residences under s88B of the *Conveyancing Act 1919*.

Although the drafting of site specific Development Control Plan provisions to address potential land use conflicts for a site specific rezoning to R5 Large Lot Residential is unusual, the circumstances of this particular site are unique. They are unique in that the subdivision was originally approved well before (2007) gazettal of the current Standard Instrument and Council's adopted *Employment Lands Strategy 2016 (ELS 2016)*. The reason for this anomaly is that the original statutory instrument (GM LEP 2009) approved residential accommodation in the B6 Enterprise Corridor zone and the adopted ELS 2016 at p17 supported rezoning of the site to R5 Large Lot Residential. A later Amendment to the GM LEP 2009, unrelated to the subject site, prohibited *Residential Accommodation* in the *B6 Enterprise Corridor* zone.

### **Contamination**

The proponent provided a preliminary site investigation (PSI) for the previously considered amendment to the *GM LEP 2009* (Amendment 12). This preliminary site investigation detailed previous uses operating on the whole of the site, primarily as a Drive-In Theatre, however concluded that no further investigations (Stage 2 Investigations) is required. Council is satisfied that no remediation works will be required with the subject planning proposal stage. The assessment of the approved subdivision corroborated this advice. It is considered that the subject site will have similar minimal risk of contamination. Any future development application for subdivision of the subject site will consider the risk to be addressed at that stage of the development process.

### **Water Quality**

Strategic Land and Water Capability Assessment (SLWCA) data is provided below (at **Figure 4**) for Sewered Residential Development on the subject site.

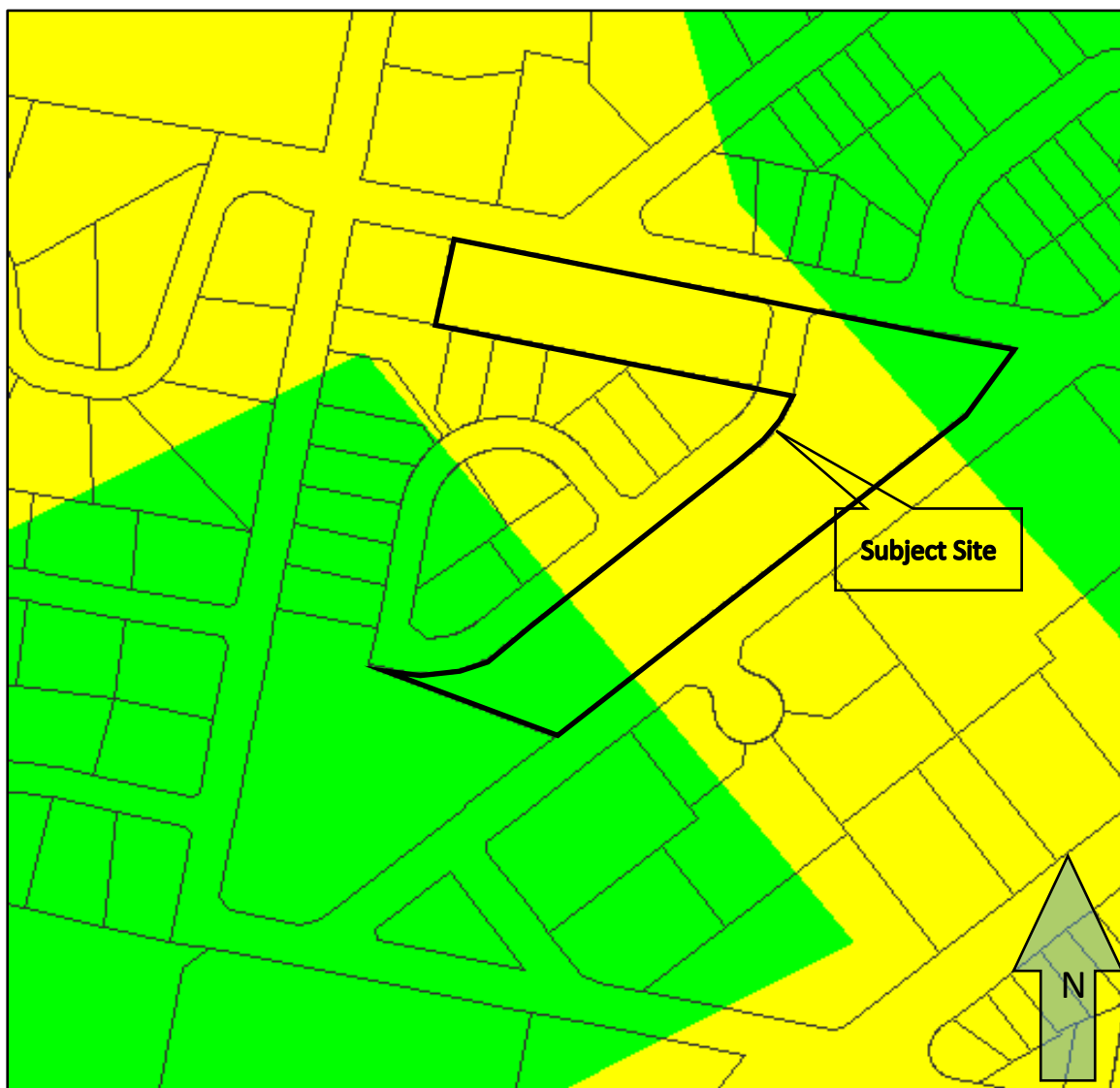
This data demonstrates that the subject site presents a predominantly moderate risk to water quality.

To retain and mitigate the effects of residential development, the subject site is serviced by reticulated sewer, to which all future residences will be connected (**Figure 5**).

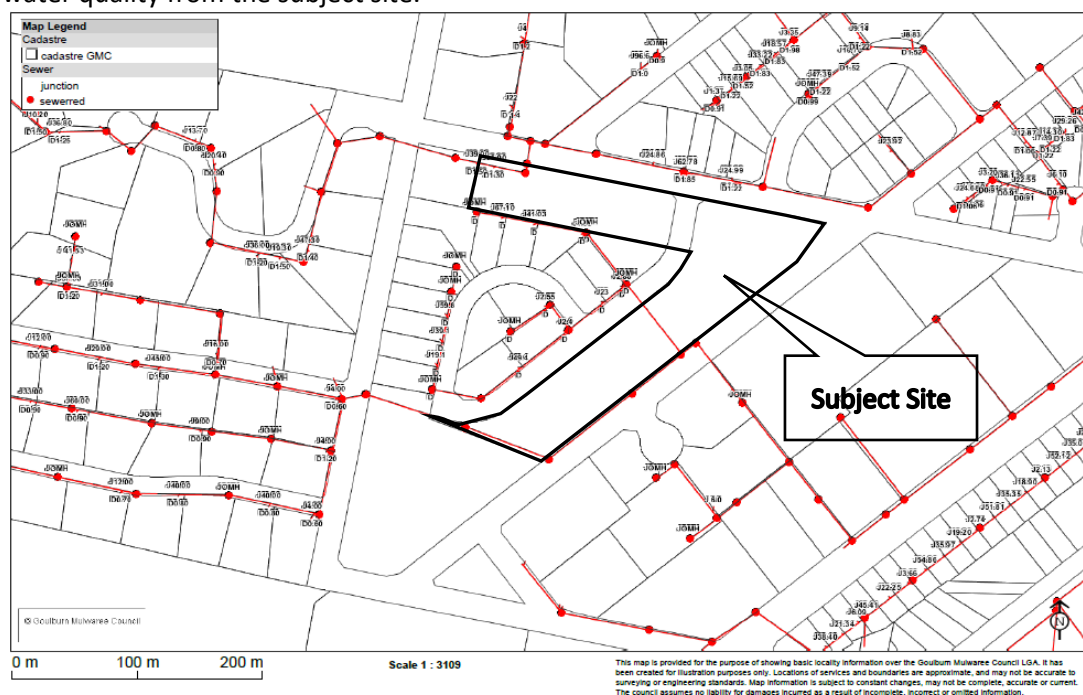
Overland flow and run off from the subject site will be directed towards Council existing reticulated stormwater network (**Figure 6**).

The response from Water NSW advised that their mapping identifies a water course traversing the subject site Lot 10. While this may have been historically correct, the subsequent development of the area, and particularly the installation of kerb and guttering and a reticulated stormwater system has addressed this issue. To support the dated nature of Water NSW's advice in this regard, the Stream Proximity SLWCA data (Figure 7) does not identify any streams within proximity to the subject site. As a consequence of the historic water course data used by Water NSW, and how it was used to develop the risk data of land use categories (in this case sewer residential development), the inclusion of the historic water course resulted in the yellow (Moderate Risk) classification given across the site.

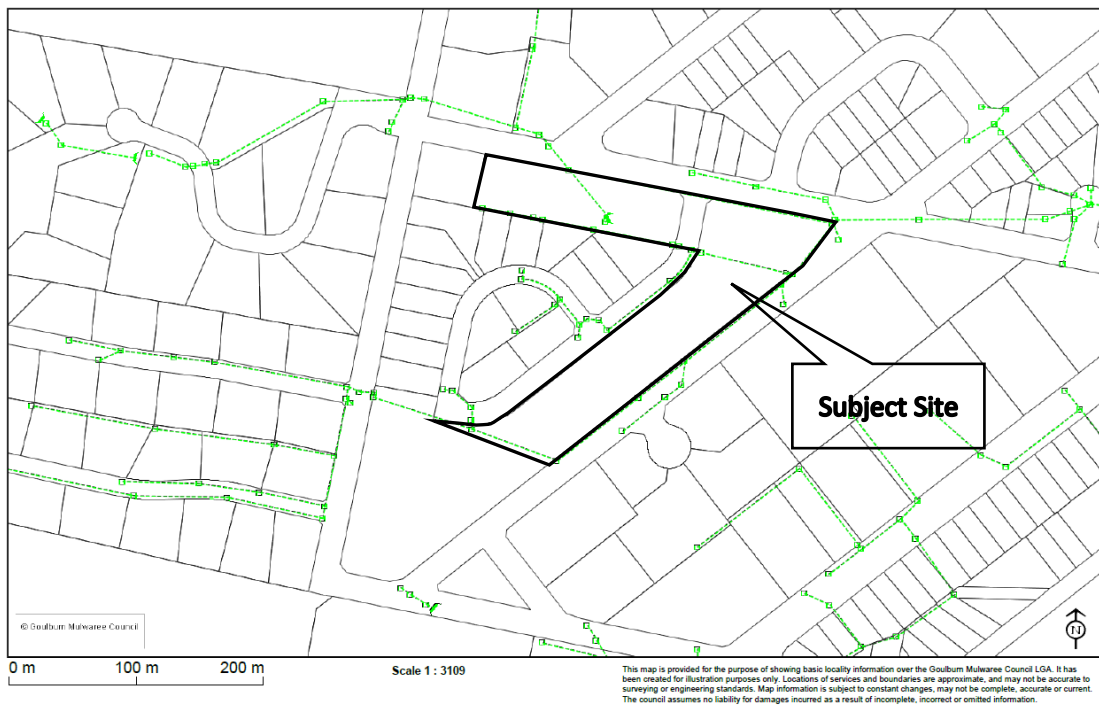
Council has since had discussions with Water NSW to validate and provide their water course data sets to Council's GIS branch for inclusion in our mapping platform.



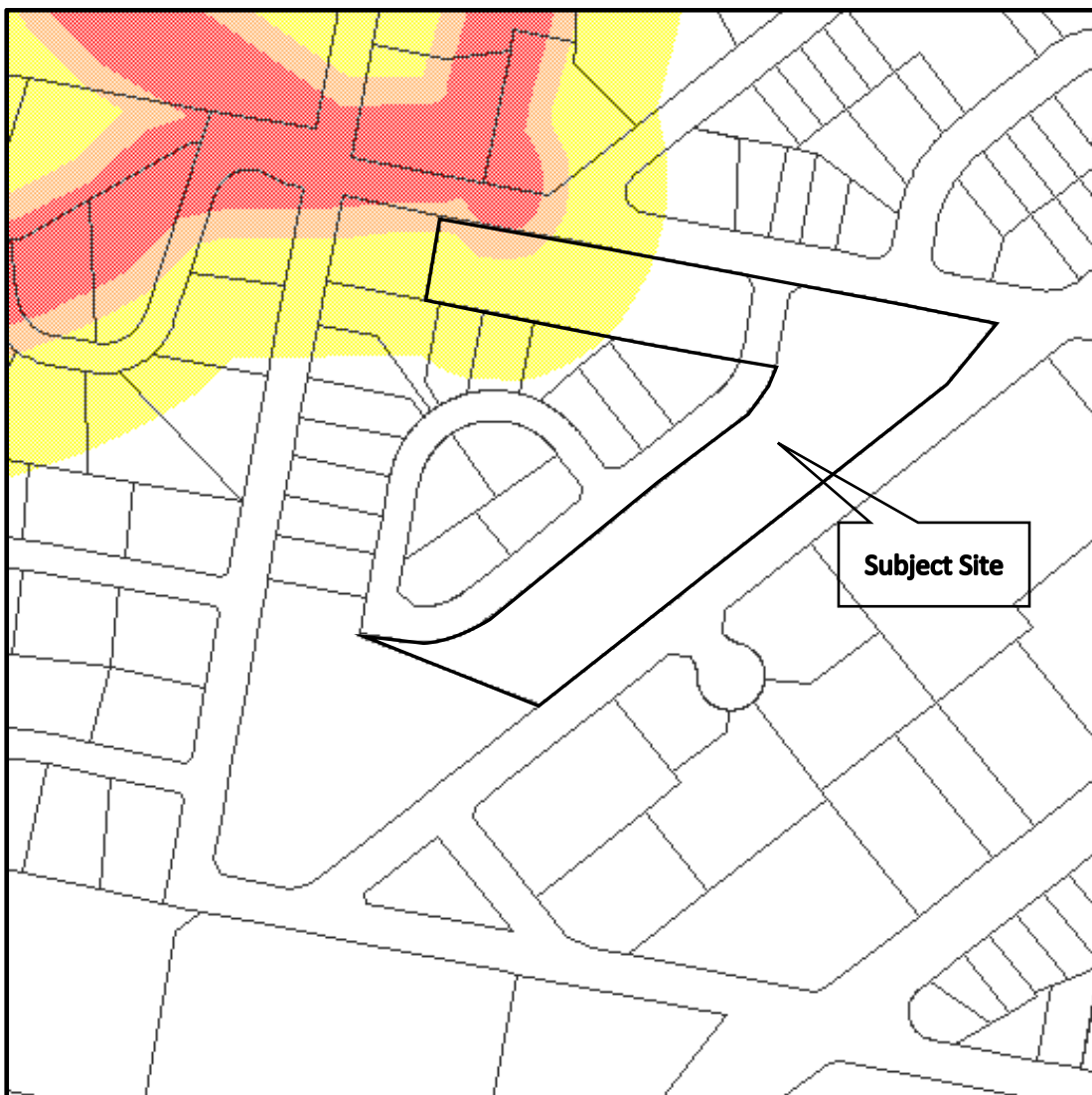
**Figure 4:** Shows that Sewered Residential development presents a predominantly Moderate risk to water quality from the subject site.



**Figure 5:** Council's reticulated sewer network mapping (shown red).



**Figure 6:** Council's reticulated stormwater network (shown green).



**Figure 7:** SLWCA Stream Proximity data demonstrating the sites proximity to water courses.



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

During the processing of Amendment 12 adjoining the subject land, 12 submissions were received raising concern regarding land use conflict with businesses opposite, with particular regard to residential development on the subject site. To address these concerns, the proponent has submitted an acoustics report and an analysis of traffic data to substantiate, or refute, the claims raised in previous submissions in the form of:

- *Industrial Noise Intrusion Assessment Proposed Planning Proposal – Land Rezoning for Residential Subdivision* prepared by *Harwood Acoustics* (5 March 2019), and
- *Traffic count data* provided by *Austraffic* for 18 February – 24 February 2019 (1 week)

Both reports make recommendations as to appropriate mitigation measures and these have been incorporated into the Draft Site Specific Development Control Plan provisions (Appendix D) attached. The Draft Site Specific Development Control Plan provisions were endorsed by Council at its meeting on the 3<sup>rd</sup> September 2019 to be discussed at a Councillor briefing session. These provisions were discussed on 21<sup>st</sup> October 2019 and will be exhibited concurrently with the subject Planning Proposal following receipt of a Gateway Determination.

To address the supplementary resolution of 18<sup>th</sup> December 2018, the proponent has also lodged a revised plan of subdivision (Appendix C) identifying an alternative vehicular access to Theatre Drive from Robinson Street and pedestrian access from Cathcart Street.

The reconfigured access to Theatre Drive from Robinson Street is intended to address vehicular conflicts with the commercial and business traffic generated by land uses opposite on Lansdowne Street.

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

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

Clause 7.3 of GM LEP 2009 requires Council to be satisfied that any development application for the subdivision of land for residential purposes in the R5 Large Lot Residential zone will have public utility infrastructure (water, sewer) available or that adequate arrangements have been made to make that infrastructure available when required. This includes consideration of water quality associated with the management of effluent and stormwater and the provision of an adequate supply of water for drinking and firefighting purposes.

Council's Contribution Plan and Developer Servicing Plan apply to the subject land. Based on these Plans adequate public infrastructure will be available to the proposed lots.

Reticulated sewer and water is available to the subject site (and future lots). The land adjoins a large lot residential area to the west along Cathcart Street and employment lands to the north (along Lansdowne Street) and east (along Robinson Street).

In response to Council's Supplementary resolution of 18<sup>th</sup> December 2018, the revised subdivision configuration provides closes the direct access from Theatre Drive to Lansdowne Street and provides a vehicular access to Robinson Street intended to reduce vehicular traffic conflict and maintain access to the road network.

Stormwater is available and any future development consent for subdivision will be conditioned for connection prior to the release of a linen plan.

There is adequate public infrastructure to support the planning proposal.

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

The subject Planning Proposal has been referred to Water NSW for Pre-Gateway consultation. Despite the anomalous data discussed in Section 3.8 Water NSW generally supports the proposed amendment.

The subject Planning Proposal is not State or Commonwealth significant.

Following a Gateway Determination (if supported) any consultation requirements will be met prior to exhibition.

Council is also making application to exercise its delegations to be the Relevant Planning authority for this Planning Proposal.

## Part 4 – Mapping

The planning proposal will amend the Goulburn Mulwaree LEP 2009 zone, minimum lot size and floor space ratio maps for Lot 10 of DP 1247119 located at the corner of Lansdowne Street and Robinson Street, Goulburn. The details of the mapping amendments are outlined in Part 2 of this planning proposal.

This will be achieved by amending Goulburn Mulwaree LEP 2009 map sheets:

- Land Zoning Map - Sheet LZN\_001D
- Lot Size Map - Sheet LSZ\_001D
- Floor Space Ratio Map - Sheet FSR\_001D

Refer to **Appendix B** for the proposed LEP Maps.

## 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:

- An advertisement in a local newspaper that circulates in the area affected by the Planning Proposal;
- Uploading to the Goulburn Mulwaree Council and the Department of Planning and Environment websites.

Written notice will be provided to affected land owners including:

- 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:

- Planning Proposal, in the form approved for community consultation by the Director General of the Department of Planning and Environment; and
- Gateway Determination, and
- Council Report and Resolution dated 3<sup>rd</sup> September 2019; and

Supporting Studies if required.

The Gateway Determination will confirm the duration of public consultation required.

## Part 6 – Project Timeline

<b>Water NSW Pre-Consultation</b>	November 2019
<b>Gateway Determination</b>	December 2019
<b>Timeframe for completion of technical studies</b>	February 2020 (No technical studies identified as required)
<b>Timeframe for agency consultations</b>	March 2020
<b>Public exhibition</b>	April 2020
<b>Public hearing</b>	NA
<b>Consideration of submission</b>	June 2020
<b>Date of submission of LEP to PC</b>	August 2020
<b>Date plan forwarded to DPE for notification</b>	Sept 2020
<b>Anticipated Date of PC Plan made</b>	October 2020

## Conclusion

This Planning Proposal is supported by a current Council resolution to rezone the subject land from B6 Enterprise Corridor to R5 Large Lot Residential zone, removal of an existing floor space ratio (FSR) control of 0.8:1 over the site and introduction of a minimum lot size of 1,000 square metres for any future subdivision.

The subject Planning Proposal is considered consistent with relevant Planning Directions. Where the subject proposal is justifiably inconsistent, the inconsistency is considered minor in nature and supported.

The subject Planning Proposal is also considered consistent with State and Local Planning Strategies and relevant State Environmental Planning Policies.

It is recommended that the proposed Draft Site Specific provisions intended as a proposed amendment to the GM DCP 2009, and presented to Council on 3<sup>rd</sup> September 2019, be publicly exhibited concurrently with the subject Planning Proposal

Council is requesting to exercise its delegations to be the Relevant Planning Authority for the purpose of this proposed amendment and envisages a favourable gateway determination.

## Appendix A – Locality Map

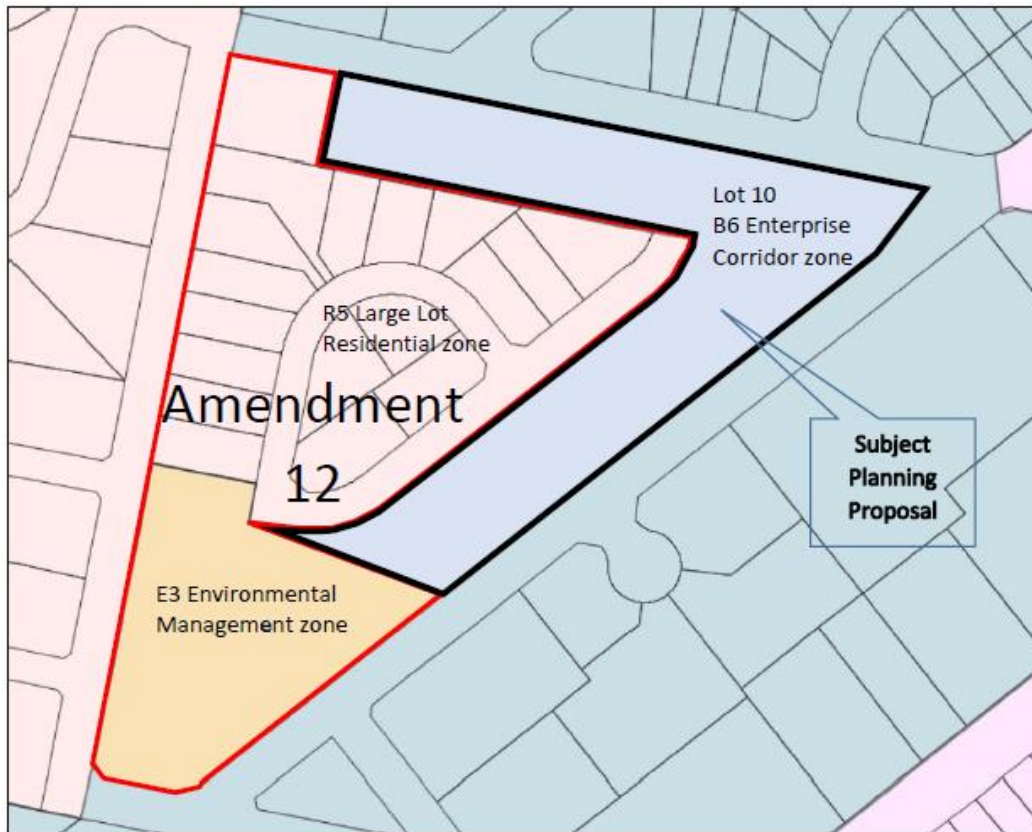




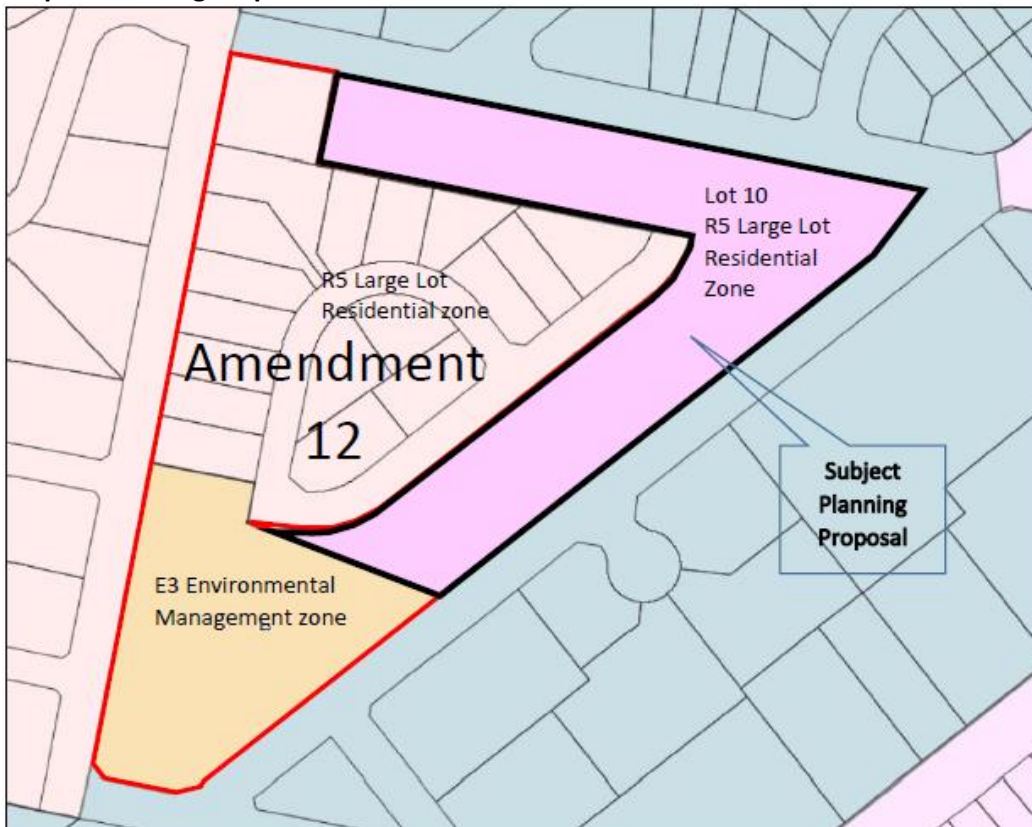
## Appendix B – LEP Map revisions

**Note:** Mapping data sets to be updated to planning portal separately

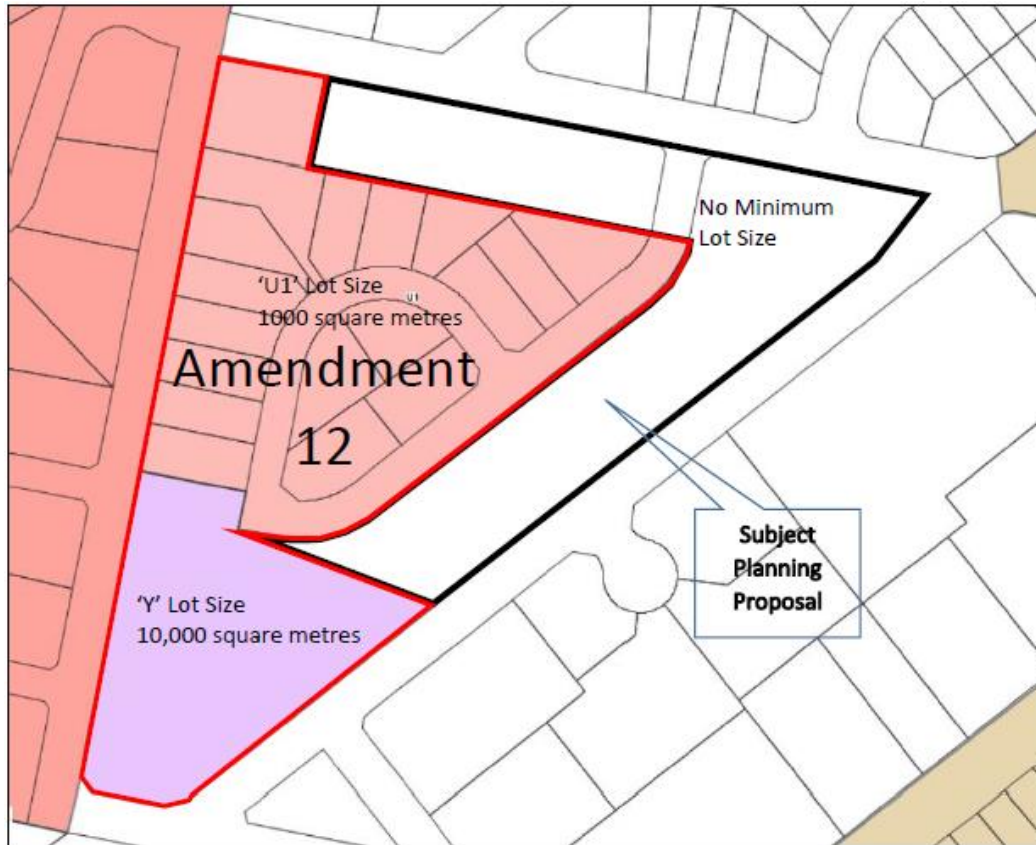
### Existing Zoning Map



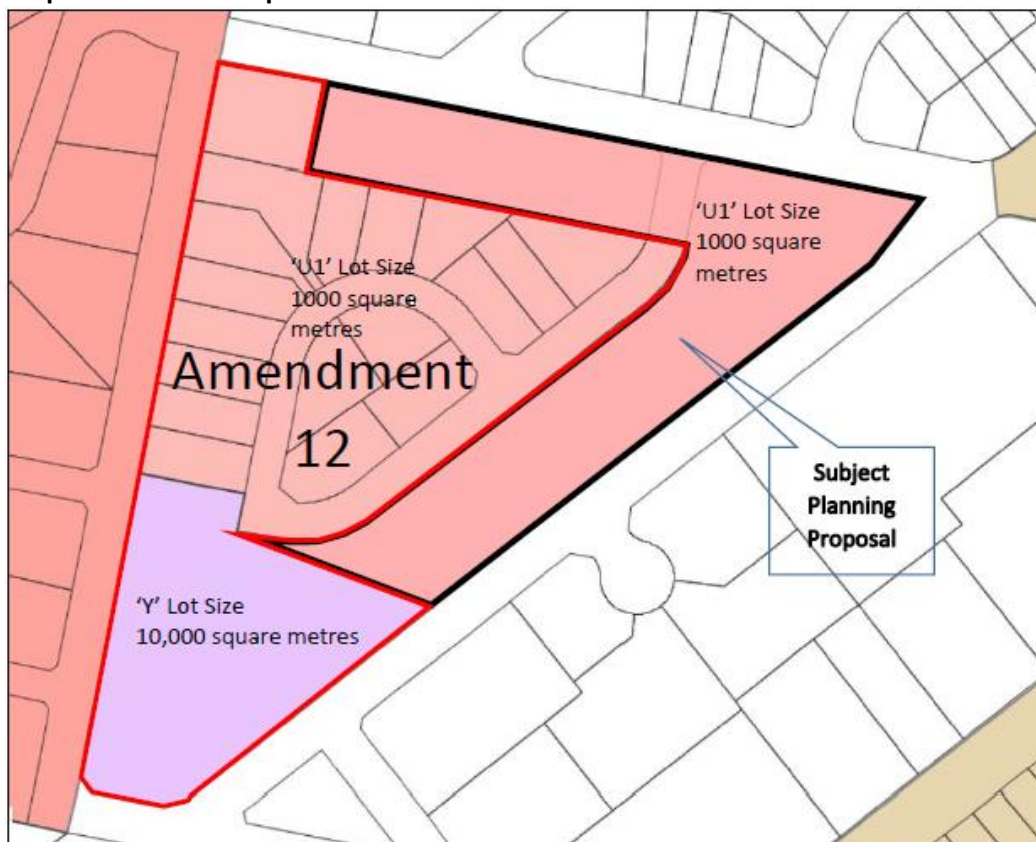
### Proposed Zoning Map



**Existing Lot Size Map**

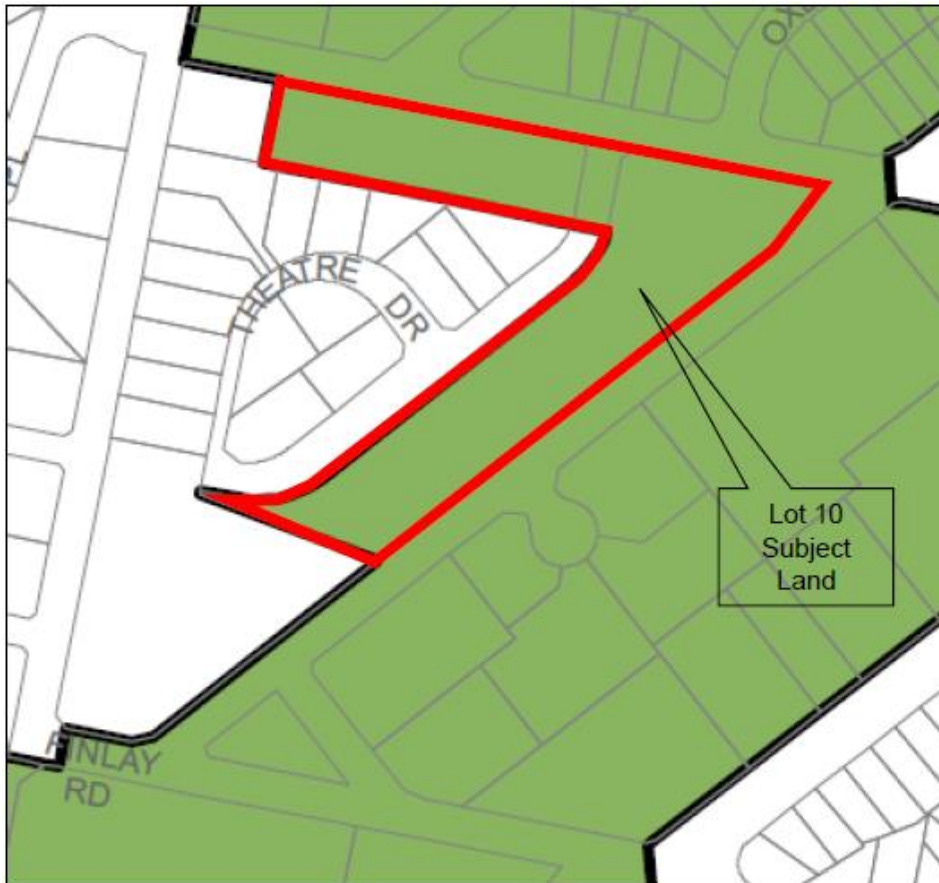


**Proposed Lot Size Map**

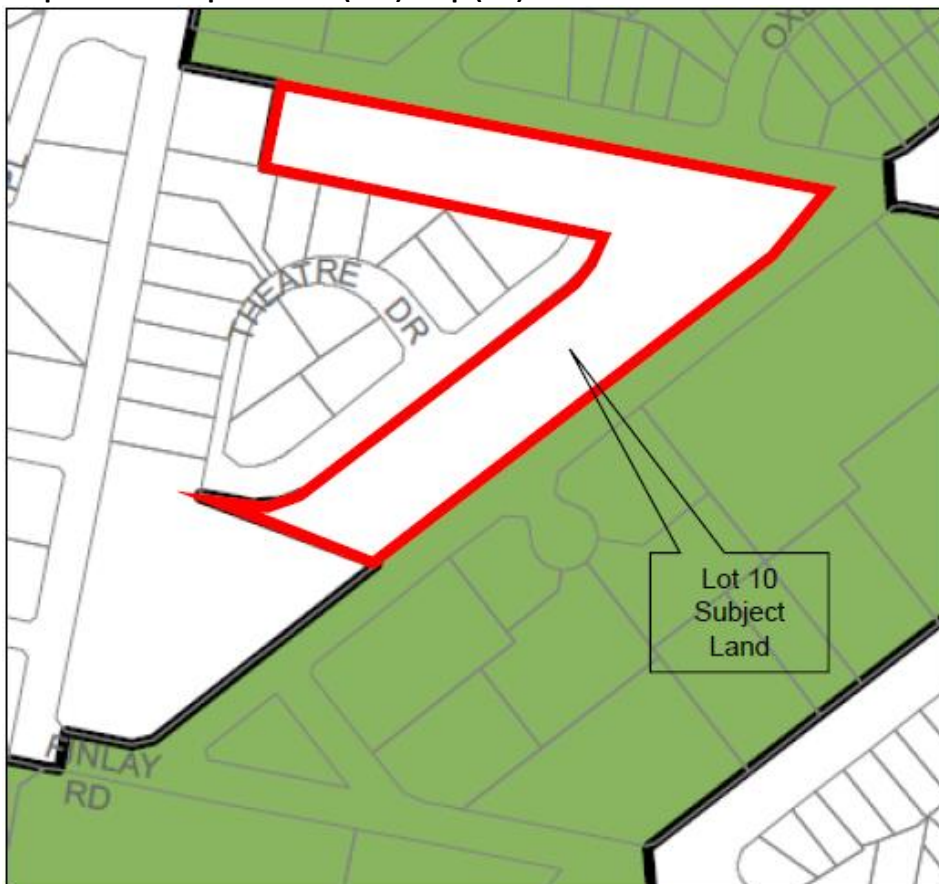




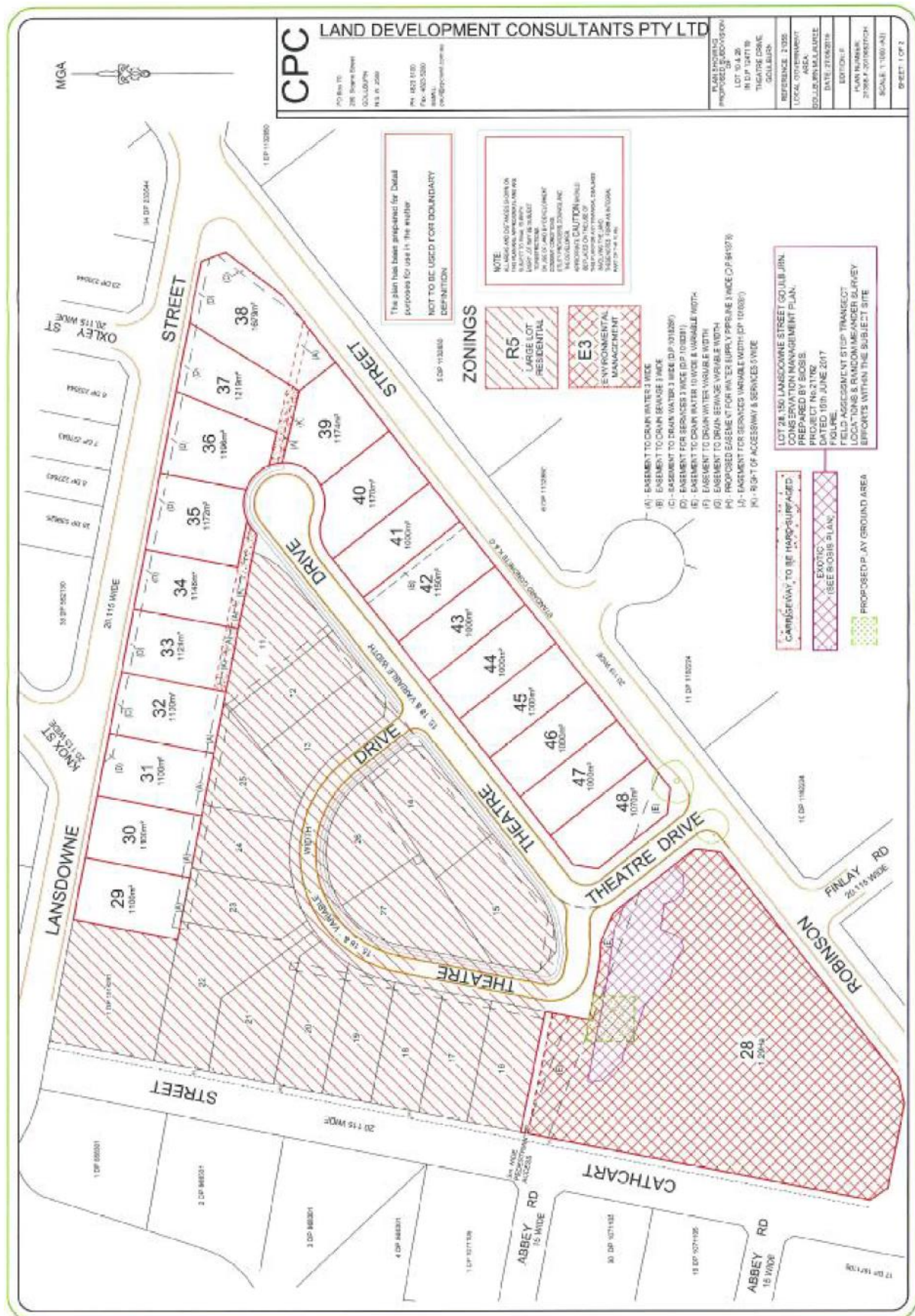
**Existing Floor Space Ratio (FSR) Map (0.8:1)**



**Proposed Floor Space Ratio (FSR) Map (Nil)**



# Appendix C – Concept Plan of Subdivision







# **Appendix D – Draft Site Specific Development Controls**

**(Under Separate Cover)**

Doc # 1184561