



IRF22/4053

Gateway determination report – PP-2021-7390

Proposal to rezone and amend minimum lot size on
lots along Brisbane Grove Road, Goulburn

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Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Relevant reports and plans

Draft Brisbane Grove and Mountain Ash Precinct -Specific Development Control Plan Chapter

Concept Subdivision Layout Plan

Council Reports and Resolutions - 15 March 2022 and 20 September 2022

Aboriginal Due Diligence Assessment

Aboriginal Cultural Heritage Assessment

Heritage Impact Statement

Council's Heritage Consultant Advice

Water Cycle Management Study

Waste Water Management Site Plan

Stormwater Management Site Plan

Stormwater Drainage and Flood Impact Site Plan

Water NSW Pre-gateway referral responses – 9 May 2022 and 26 September 2022

Native Vegetation and Habitat Survey

Council's Biodiversity Officer referral comments

Preliminary Site Investigation (Contamination) – June 2021

Revised Site Investigation (Contamination) – August 2022

Development Control Plan Flood Policy

Strategic Bushfire Study and Site Plan

Traffic and Access Assessment Report

1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	Brisbane Grove Road, Goulburn Planning Proposal (27 homes, 0 jobs)
NUMBER	PP-2021-7390
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009
ADDRESS	Brisbane Grove Road, Goulburn
DESCRIPTION	Lots 2-5, DP 62157, Lot 2, DP 1180093, Lots 10-19, 39, 43-45 and 54 DP 976708, Lot 29, DP 750015 and Lot 2, DP 1279715.
RECEIVED	2/11/2022
FILE NO.	IRF22/14293
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

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

The objective of the planning proposal is to enable large lot residential development at Brisbane Grove Road, Goulburn as identified in the Urban and Fringe Housing Strategy.

The objective of this planning proposal is clear and adequate.

1.3 Explanation of provisions

The planning proposal seeks to amend the Goulburn Mulwaree LEP 2009 as per the changes in Table 4 below:

Table 3 Current and proposed controls

Control	Current	Proposed
Zone	Part RU6 Transition and part RU1 Primary Production	Part R5 Large Lot Residential and part C2 Environmental Conservation
Minimum lot size	Part 10 ha and part 100ha	2 ha
Number of dwellings	0	27
Number of jobs	N/A	0

A precinct-specific development control chapter has also been prepared to support the planning proposal.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The 83.8ha rural site is located on Brisbane Grove Road, south of the Hume Highway and approximately 2km from the southern edge of the Goulburn urban area. The site is surrounded by rural/grazing land in the east, west and south and by the Mulwaree River which forms part of the northern site boundary. A locality map is provided in the planning proposal (Figure 1).

A locally listed heritage item/dwelling 'Sofala' stands within the site on Lot 1, DP 1279715 which would be surrounded on three sides by the future subdivision but is not included within the subject site for rezoning. There are six additional local heritage items located in the surrounding area.

1.5 Mapping

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

2 Need for the planning proposal

The site is located within the northern edge of 'Precinct 11: Brisbane Grove' of the Goulburn Mulwaree Urban and Fringe Housing Strategy for rezoning to large lot residential with a minimum lot size of 2 hectares. The Department conditionally endorsed the Strategy in December 2020 which included endorsement of the proposed development in the Brisbane Grove Precinct subject to detailed assessment via a planning proposal.

The planning proposal is the appropriate mechanism to facilitate the amendment of the Goulburn Mulwaree LEP 2009 to make the proposed zoning and lot size changes.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the South East and Tablelands Regional Plan as well as the draft updated South East and Tablelands Regional Plan which is currently being finalised by the Department. The draft was publicly exhibited from 8 August to 23 September 2022.

Table 4 Regional Plan assessment

Draft South East and Tablelands Regional Plan 2041

Regional Plan Objectives	Justification
<p>Theme 2: Enhancing sustainable and resilient environments</p> <p>Objective 5: Protect important environmental assets</p> <p>Objective 7: Build resilient places and communities</p>	<p>Part of the site adjoining the Mulwaree River is identified in the Biodiversity Values and Terrestrial Biodiversity maps. These areas are proposed to be zoned C2 Environment Conservation.</p> <p>The subject site stands within a category 3 (medium bushfire risk) landscape. A Strategic Bushfire Assessment was prepared by the proponent in support of the planning proposal which identifies how bushfire risks to residents can be minimised. Council intends to consult the Rural Fire Service on the planning proposal prior to public exhibition.</p> <p>The planning proposal seeks to limit development on flood prone areas on the northern part of the site adjacent the Mulwaree River, as well as a riparian corridor running north south through the site, by applying a C2 Environmental Conservation Zone.</p>
<p>Theme 4: Planning for fit for purpose housing and services</p> <p>Objective 17: Plan for a supply of housing in appropriate locations.</p> <p>Objective 19: Manage rural living</p>	<p>The proposal seeks to provide 27 homes in the urban fringe of Goulburn in the Brisbane Grove Precinct that is identified in the Goulburn Mulwaree Urban and Fringe Housing Strategy for large lot residential development. The housing strategy was conditionally endorsed by the Department in December 2020.</p> <p>The site is located within 2km of Goulburn Centre and is not constrained by high value agricultural land, important biodiversity or potential land use conflicts. The proposed 2ha minimum lot size is suitable for provision of onsite waste management.</p>

South East and Tablelands Regional Plan 2036

Regional Plan Objectives	Justification
<p>Direction 16: Protect the coast and increase resilience to natural hazards</p>	<p>As discussed in relation to Theme 2 of the draft South East and Tablelands, the planning proposal adequately addresses flooding and bushfire risk to proposed new residents.</p>

Regional Plan Objectives	Justification
Direction 23: Protect the region's heritage	<p>The site stands within a Potential Aboriginal Artefacts layer and within an area identified as places of Aboriginal significance.</p> <p>An Aboriginal Due Diligence and Aboriginal Cultural Heritage Assessment (ACHA) have been prepared by the proponent in support of the planning proposal. The Pejar Local Aboriginal Land Council were consulted during the preparation of the ACHA.</p> <p>The locally listed "Sofala" heritage item stands within but is not included in the site for rezoning. Four additional local heritage items are located in the surrounding area. A Heritage Impact Statement has been prepared by the proponent in support of the planning proposal.</p> <p>The heritage assessments/impact statement identify that the proposal will not have any impact on cultural heritage and provides recommendations and management actions on how heritage items and heritage values of the site can be protected at the DA stage. These measures have been included in a precinct-specific DCP chapter.</p>
Direction 28: Manage Rural Lifestyles	As discussed in relation to Theme 4, Objective 19 of the draft South East and Tablelands Regional Plan, the planning proposal is consistent with the Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the site for large lot residential development.

3.2 Local Strategies

The proposal states that it is consistent with the following local plans and endorsed strategies. It is also consistent with the strategic direction and objectives, as stated in the table below:

Table 6 Local strategic planning assessment

Local Strategies	Justification
Goulburn Mulwaree Community Strategic Plan 2042	The planning proposal is consistent with the strategic priorities of Council's Community Strategic Plan (CSP), as they relate to the environment (particularly priorities C1, C3, C11 and C13) and infrastructure (priority D8). The planning proposal balances residential development and environment protection, it will not significantly impact on cultural heritage and avoids flood impacts.
Goulburn Mulwaree Local Strategic Planning Statement	The planning proposal is consistent with several of the planning priorities identified in Council's LSPS including Planning Priority 5: Housing, 8: Natural Hazards, 9: Heritage and 10: Natural Environments.

Goulburn Mulwaree Urban and Fringe Housing Strategy	The site is located within the Brisbane Grove Precinct, which adjoins the Goulburn urban area to the south, and is identified in Council's Urban and Fringe Housing Strategy as suitable for un-serviced large lot residential lots with a minimum lot size of 2 hectares.
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3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent	Reasons for Consistency or Inconsistency
Direction 1.1 Implementation of Regional Plans	Yes	Refer section 3.1 of this report.
Direction 1.3 Approval and Referral Requirements	Yes	The planning proposal does not seek to introduce additional concurrence, consultation or referral requirements and nor does it seek to include provisions relating to designated development.
Direction 1.4 Site Specific Provisions	Yes	The planning proposal does not seek to include site specific provisions or additional permitted uses on the subject site.
Direction 3.1 Biodiversity and Conservation	Yes	<p>Part of the site adjoining the Mulwaree River is identified in the Biodiversity Values and Terrestrial Biodiversity maps. These areas are proposed to be zoned C2 Environment Conservation.</p> <p>A Native Vegetation and Habitat Survey was prepared by the proponent in support of the area proposed to be developed. It found that the site is significantly modified/disturbed and has no or limited native vegetation and biodiversity value. Council's Biodiversity Officer has reviewed and confirmed the findings of the Biodiversity Assessment. The Brisbane Grove Precinct was also reviewed and endorsed by the Department's Biodiversity and Conservation Division, as part of the Department's endorsement of the Urban and Fringe Housing Strategy subject to more detailed environmental assessment be undertaken at the planning proposal stage.</p>
Direction 3.2 Heritage Conservation	Yes	<p>As discussed in section 3.1 of this report, the site stands within a Potential Aboriginal Artefacts layer and within an area identified as places of Aboriginal significance. The locally listed "Sofala" heritage item stands in proximity to the site and four additional local heritage items are located in the surrounding area.</p> <p>The planning proposal is supported by an Aboriginal Due Diligence Report, ACHA and a Heritage Impact Report. These reports conclude that Aboriginal and non-Aboriginal heritage is unlikely to be impacted as a result of the planning proposal. The precinct-specific DCP chapter includes relevant controls to protect Aboriginal and non-Aboriginal heritage.</p>

Direction 3.3 Sydney Drinking Water Catchments	Yes	A Water Cycle Management Study was prepared by the proponent in support of the planning proposal. Council has consulted with WaterNSW on the draft planning proposal, as required by the Direction. WaterNSW generally agree that the conceptual subdivision design provided in support of the planning proposal is able to meet the neutral or beneficial effect on water quality requirement with each new lot being able to accommodate appropriate on-site wastewater management.
Direction 4.1 Flooding	Yes	The Water Cycle Management Study prepared by the proponent provides an assessment of the potential or likelihood for overland stormwater drainage and flood impacts to affect the proposed subdivision. Areas of the site that are subject to overland flow flooding hazard or flooding from the Mulwaree River are proposed to be zoned C2 Environmental Conservation Zone which will limit development in these areas. The planning proposal states the proposal is consistent with the NSW Flood Prone Land Policy, Floodplain Development Manual 2005 and the Goulburn Floodplain Risk Management Study and Plan. It is recommended Council consult the Department of Planning and Environment – Biodiversity and Conservation Division (Floodplain Management) on the planning proposal.
Direction 4.3 Planning for Bushfire Protection	Unknown	As discussed in section 3.1 of this report, the site is mapped as Category 3 vegetation with a medium bushfire risk. A Strategic Bushfire Study was prepared by the proponent in support of the planning proposal. The Study identifies how the proposal meets the requirements of 'Planning for Bushfire Protection 2019' including the provision of suitable Asset Protection Zones, internal access roads and farm dams for firefighting purposes. The planning proposal is seeking an exemption from the RFS on the requirement in the guideline to provide a perimeter road due to concerns about flood constraints. Council intends to consult with the RFS on the planning proposal post-gateway as required by the Direction.
Direction 4.4 Remediation of Contaminated Land	Yes	<p>Given the past agricultural use of the site, a Preliminary Site Investigation (PSI) has been prepared by the proponent in support of the planning proposal. The PSI identified two potential sources of contamination on site, namely waste materials scattered across the site surface and potential use of pesticides associated with previous grazing agriculture at the site.</p> <p>The PSI concludes that the likelihood that the site is contaminated is low, but recommends the preparation of a waste management plan that includes the removal of waste material from the site and disposal at a licensed waste disposal facility prior to development occurring.</p>

Direction 5.1 Integrating Land Use and Transport	No	The proposed large lot development, which is located approximately 2km from the Goulburn CBD, is unlikely to be serviced by public transport which will increase dependence on the private car. Any inconsistency with the Direction is, however, justified by the Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the development of the site for large lot residential and considers the objectives of the Direction.
Direction 6.1 Residential Zones	No	The planning proposal will not reduce the consumption of land for housing and associated development on the urban fringe of Goulburn. Any inconsistency with the Direction, however, is justified by the endorsed Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the development of the site for large lot residential to contribute to housing diversity/choice in the Goulburn area.
Direction 9.1 Rural Zones	No	The planning proposal seeks to rezone the site from RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation. Any inconsistency with the Direction, however, is justified by the Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the development of the site. The Department of Primary Industries (Agriculture) was consulted during DPE's review and endorsement of the Strategy. DPI did not raise any objection/concerns regarding the Brisbane Grove Precinct.
Direction 9.2 Rural Lands	No	The planning proposal is potentially inconsistent with the Direction but any inconsistency is justified by the Goulburn Mulwaree Urban and Fringe Housing Strategy which identifies the development of the site.

3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 8 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Biodiversity and Conservation) 2021 – Chapter 8: Sydney Drinking Water Catchment	Development consent cannot be granted unless there is a neutral or beneficial effect (NorBe) on water quality.	Yes	As previously discussed in section 3.3 of this report, a Water Cycle Management Study was prepared by the proponent in support of the planning proposal which demonstrates that future development proposals will be able to achieve NorBe as required under the SEPP. WaterNSW did not raise any objections to the planning proposal during Council's consultations.

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP Primary Production) 2021	Provides aims and objectives to facilitate the orderly economic use and development of lands for primary production and to protect State significant agricultural land.	Yes	The planning proposal is consistent with the Urban and Fringe Housing Strategy which considered the aims and objectives of the SEPP during its preparation. The site is not identified as State significant agricultural land.
SEPP (Resilience and Hazards) 2021 Chapter 4: Remediation of Land	Provides a state-wide approach to the assessment and remediation of contaminated land during the rezoning and development of land.	Yes	As previously discussed in section 3.3 of this report, a PSI was prepared by the proponent in support of the planning proposal. The investigation identified two potential sources of contamination. Council considers these sources are relatively minor and can be addressed at the development application stage.

4 Site-specific assessment

4.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 9 Environmental impact assessment

Environmental Impact	Assessment
Biodiversity	As discussed in sections 3.1-3.4 of this report, the planning proposal is unlikely to impact on any critical habitat or threatened species, populations or ecological communities. Important environmental areas of the site associated with the Mulwaree River and an overland flow path across the site are proposed to be protected from development by applying a C2 Environmental Conservation Zone.
Water quality/flood	As discussed in sections 3.1-3.4 of this report, the planning proposal is unlikely to have a negative impact on water quality. Flood affected areas of the site associated with the Mulwaree River and an overland flow path are proposed to be protected from development by applying a C2 Environmental Conservation Zone.

Noise	The site is potentially impacted by four possible noise sources namely the railway line (275m to the west), the Hume Highway (300m and 600m to the north), Goulburn Airport (2 km to the south-east) and Wakefield Park Raceway (6.5km to the south). Potential noise impacts from the Goulburn Airport and Wakefield Park Raceway on the Brisbane Grove Precinct were considered during the preparation of the Urban and Fringe Housing Strategy. A precinct-specific DCP chapter, which was prepared to support the planning proposal, provides development controls to address noise at the DA stage. This includes an internal noise limit of 35dbL which can be achieved via design, orientation, landscaping, earthworks or built solutions.
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4.2 Social and economic

The planning proposal is unlikely to have any negative social or economic impacts. Rather the proposal is likely to provide positive social and economic benefits by providing twenty seven additional homes within 2km of the Goulburn CBD which will support local businesses and services.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 11 Infrastructure assessment

Infrastructure	Assessment
Traffic	The subject site is serviced by Brisbane Grove Road and Braidwood Road. A Traffic and Access Assessment Report, which was prepared by the proponent in support of the planning proposal, did not identify that any upgrades to existing road infrastructure would be required to accommodate the proposed development. A new internal road from Brisbane Grove Road is proposed to access the new lots.
Water and sewer	The site is not connected to or proposed to be connected to Council's reticulated water and sewer network. Lots will be required to provide their own on-site water storage and wastewater disposal.
Power	Council has advised the area is currently serviced with electricity along Brisbane Grove Road. There is no identified impediment to providing additional electricity connections to newly created lots in this area.
Telecommunications	An optical fibre cable runs parallel to the site's western boundary with Braidwood Road which provides opportunity for connection to proposed new lots.

5 Consultation

5.1 Community

Council proposes a community consultation period of 30 days.

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

5.2 Agencies

The proposal identifies that Council intends to consult WaterNSW and the Rural Fire Service on the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 30 days to comment:

- WaterNSW
- Rural Fire Service
- Department of Planning and Environment – Biodiversity and Conservation Division (Floodplain Management)

6 Timeframe

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

The Department recommends a time frame of 12 months is appropriate to complete the planning proposal process. It is also recommended Council update Part 6 Project Timeline section of the planning proposal.

Conditions to the above effect are recommended in the Gateway determination.

7 Local plan-making authority

Council has requested delegation to be the Local Plan-Making authority.

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

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It will facilitate development of 27 homes in the Brisbane Grove Precinct, Goulburn which is identified for large lot residential development in the endorsed Goulburn Mulwaree Urban and Fringe Housing Strategy.

9 Recommendation

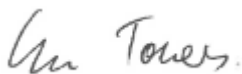
It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 5.1 Integrating Landuse and Transport, 6.1 Residential Zones, 9.1 Rural Zones and 9.2 Rural Lands are minor or justified and;

- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

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

1. Consultation is required with the following public authorities:
 - Rural Fire Service
 - WaterNSW
 - Department of Planning and Environment – Biodiversity and Conservation Division (Floodplain Management)
2. The planning proposal should be made available for community consultation for a minimum of 30 days.
3. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



28/11/22

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29/11/2022

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