

## Gateway determination report – PP-2023-1983

129 Marys Mount Road and 110-118 Middle Arm Road

July 24



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Subtitle: Rezone part 129 Marys Mount Road and part 110-118 Middle Arm Road to R2 Low Density Residential Zone and C2 Environmental Conservation Zone 129 Marys Mount Road and 110-118 Middle Arm Road

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## **Acknowledgment of Country**

The Department of Planning, Housing and Infrastructure 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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#### Table 1 Reports and plans supporting the proposal.

#### Relevant reports and plans

Appendix 1 Council Business Paper - 19 December 2023

Appendix 2 Council Minutes – 19 December 2023

Appendix 3 Planned -Planning Proposal Request Letter - 8 September 2023

Appendix 4 Existing and Proposed Land use Plans (including subdivision layout for 129 Marys Mount Road).

Appendix 5 Aboriginal Cultural Heritage Assessment Report – past traces 20 November 2022

Appendix 6 NorBE Assessment Letter – Calibre – 6 February 2023

Appendix 7 Biodiversity Development Assessment Report (129 Marys Mount Road)

Appendix 8 Ecological Assessment Report – AEP February 2023

Appendix 9 Preliminary Site Investigation – 129 Marys Mount Road – Douglas Partners August 2022

Appendix 10 Preliminary Site Investigation – 110 – 118 Middle Arm Road – Geo Enviro February 2023

Appendix 11 Preliminary Flood Impact and Risk Assessment - GMC May 2024

Appendix 12 Strategic Bushfire Assessment – 15 February 2023

Appendix 13 Pre-Gateway advice NSW Water

Traffic Impact and Parking Assessment Calibre October 2022

## 1 Planning proposal

#### 1.1 Overview

**Table 2 Planning proposal details** 

LGA	Goulburn Mulwaree	
PPA	Goulburn Mulwaree Council	
NAME	Rezone part 129 Marys Mount Road and 110-118 Middle Arm Road to R2 Low Density Zone and C2 Environmental Conservation Zone	
NUMBER	PP-2023-1983	
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009	
ADDRESS	Part 129 Marys Mount Road and part 110-118 Middle Arm Road, Goulburn	
DESCRIPTION	Part lot 1-2 DP 1290900 and part lot 2-3 DP 1290193	
RECEIVED	11/06/2024	
FILE NO.	EF24/7969 and IRF24/138	
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required	
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal	

## 1.2 Objectives of planning proposal

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

The objectives of the planning proposal are to:

- Enable the subdivision of land identified in the Goulburn Mulwaree Urban Fringe Housing Strategy for residential development.
- Rezone an area of high biodiversity significance to a zone that reflects the conservation values of the land.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

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

**Table 3 Current and proposed controls** 

Control	Current	Proposed
Zone and minimum lot size	R2 Low Density Residential Zone (700 sqm MLS)	C2 Environmental Conservation Zone (Nil MLS)
	RU6 Transition Zone (100 hectare MLS)	R2 Low Density Residential Zone (700 sqm MLS)
Number of dwellings  The rezoning will generate an addition 3 hectares of land Density Residential Zone that will accommodate approximately dwellings.		

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

Table 4 Area of current and proposed zones (Source: Planning Proposal)

Existing Areas of Zoned Land Over Subject Area (Total)			
R2 Low Density Residential 44 ha			
RU6 Transition	12 ha		

Proposed Areas of Land Over Subject Area (Total)		
R2 Low Density Residential	47 ha	
C2 Environmental Conservation	8.9 ha	

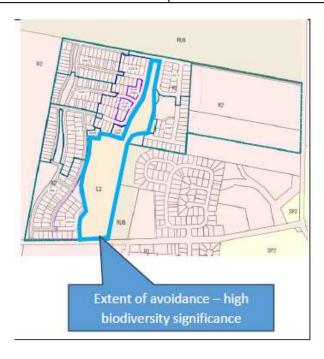


Figure 1 Proposed Land Use Zoning showing subdivision layout (source: Planning Proposal )

## 1.4 Site description and surrounding area

The site comprises four existing lots (Lots 1-2 DP 1290900 and Lots 2-3 DP 1290193) at 129 Marys Mount Road, 110 Middle Arm Road, and 118 Middle Arm Road with access via Marys Mount Road (Figure 2). The majority of the land is cleared except for an area of native vegetation (Box Gum Woodland). Land to the west is being developed for residential development and existing urban areas adjoin the property to the east and south.



Figure 2 Subject site (source: Planning Proposal)



Figure 3 Site context (source: SIXMap)

### 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the Land Zoning and Lot Size maps, which are suitable for community consultation (Figure 4).

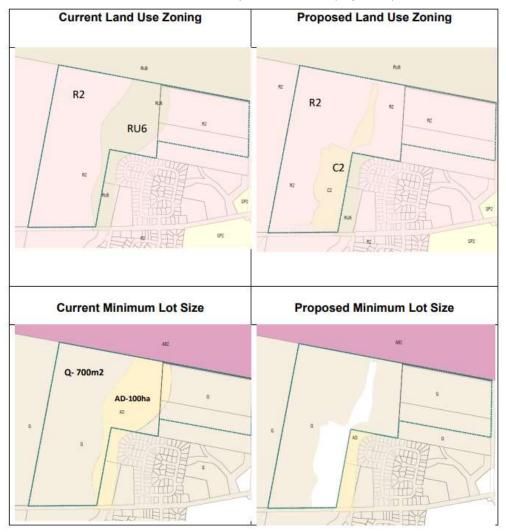


Figure 4 Current and proposed Land Zoning and Lot Size map (Source: Planning Proposal)

## 2 Need for the planning proposal

Q1. Is the planning proposal a result of an adopted local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?

The site subject to the planning proposal is identified in Council's adopted Goulburn Mulwaree Urban and Fringe Housing Strategy 2020 as a housing opportunity area (Figure 5). Council's adopted local housing strategy was endorsed by the former Department of Planning and Environment in 2020.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Goulburn Mulwaree LEP 2009 via a planning proposal is the best means to facilitate proposed residential development (R2 Low Density Residential Zone) and to protect areas identified as having high conservation value on the site.

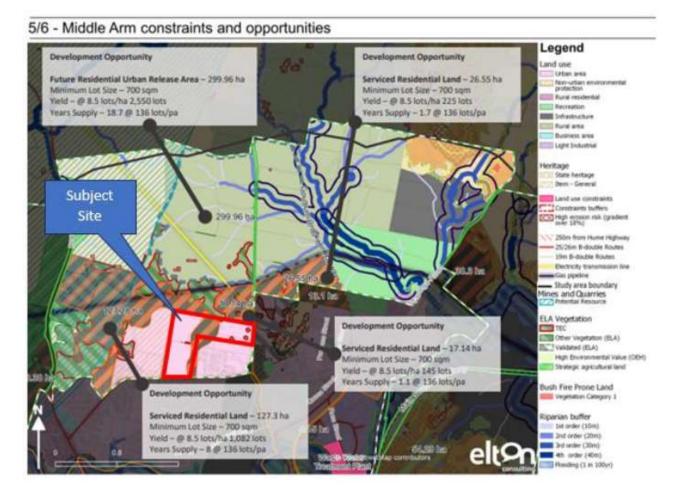


Figure 5 Proposed Land Use Zoning showing subdivision layout (source: Planning Proposal)

## 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 and Regional Plan.

Table 5 South East and Tablelands Regional Plan assessment

Regional Plan Objectives	Justification
South East and Tablelands Regional Plan 2036:	Site comprises almost entirely of grassland and is identified as category 3 Medium bushfire risk. Portion of category 3 is within an approved residential subdivision, including NSW Rural Fire Service approval. Most of 110-118 Middle Arm Road is not identified as Bushfire Prone Land.
Direction 16: Protect the coast and increase resilience to natural	The site is not identified as being affected by riverine or major tributary flooding for any event. Councils overland flood model has identified a drainage channel along the Middle Arm frontage.
hazards	The proposal is consistent with Direction 16 and related actions by;  - Locating development away from known hazards where possible and

# Regional Plan Objectives

#### **Justification**

- mitigating against hazards where avoidance is not possible or practical, and
- Implementing the requirements of the NSE Floodplain Manual (now the Flood Risk Management Manual and Toolkit) through the Goulburn Floodplain Risk Management Study and Plan and overland flow modelling by avoiding development in areas identified as being flood prone land or floodway.

#### Comment

A Strategic Bushfire Assessment, Contaminated Lands Assessment and flood impact risk assessment (FIRA) accompanies the planning proposal which identifies the site is suitable for residential development. The FIRA identifies that safe occupation and efficient evacuation can be achieved for all future dwellings.

The proposal indicates that Council will consult with NSW Rural Fire Service, DCCEEW Biodiversity and Science (Flood Unit) and State Emergency Services. These agencies will therefore provide comment on the proposal and relevant accompanying detailed assessment/studies to provide comment on consistency with both the reginal plan and draft regional plan.

#### Direction 23: Protect the region's heritage.

The proposal states there are no European cultural heritage items within the site and no identifiable impact on any nearby items.

An Aboriginal Cultural Heritage Assessment and Archaeological Report accompanies the planning proposal. The project area has two Aboriginal heritage sites, and these are within the area proposed to be zoned C2 Environmental Protection Zone.

#### Comment

The proposal indicates that Council will consult NSW Heritage on the planning proposal. It is also recommended that Council also consult with the Local Aboriginal Land Council. Both of these groups will therefore provide comment on the proposal and relevant accompanying cultural heritage assessment/studies.

Draft South East and Tablelands Regional Plan 2041. The Planning proposal does not include commentary on the consistency with the draft South East and Tablelands Regional Plan. In 2022-23 the former Department of Planning and Environment (DPE) undertook a review of the South East and Tablelands Regional Plan 2036 and publicly exhibited a revised version which extended its reach by 5 years.

As the draft regional plan has been publicly exhibited, the Department of Planning, Housing and Infrastructure acknowledge that both the South East and Tablelands Regional Plan 2036 and the draft regional plan are to be considered in the future planning for the region, including planning proposals.

It is recommended that any Gateway determination for the planning proposal include a requirement that the planning proposal is updated to include commentary on the consistency of the proposal with the draft South East and Tablelands Regional Plan prior to consultation with agencies or the community.

## 3.2 Local

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

Table 6 Local strategic planning assessment

Local Strategies	Justification		
Goulburn Mulwaree Local Strategic Planning Statement	The planning proposal states that it is consistent with Planning Priority 4 Housing, Planning Priority 8 Natural Hazards, Planning Priority Heritage, and Planning Priority 10 Natural Hazards of Council's LSPS. It also states that "overall, the planning proposal is consistent with planning priorities, vision, principles, and actions of the LSPS.		
	Comment		
	The proposal is considered consistent with Council's LSPS.		
Goulburn Mulwaree Urban and Fringe Housing Strategy (Adopted July 2020,	The proposal states that the Goulburn Mulwaree Urban Fringe Housing Strategy identifies the precinct as suitable for residential development subject to site specific environmental assessments.		
endorsed by Department	Comments		
in November 2020)	The proposal is accompanied by a number of detailed site studies and assessments. Consultation with relevant state agencies will provide feedback on the adequacy of site specific environmental assessments.		

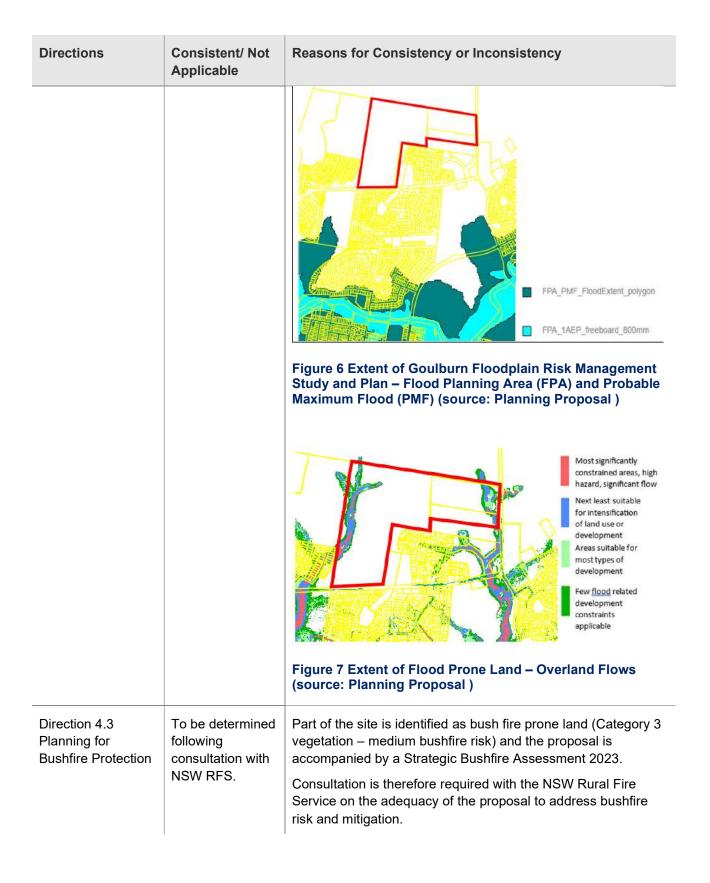
## 3.3 Section 9.1 Ministerial Directions

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

Table 7 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency	
Direction 1.1 Implementation of Regional Plans	Yes	The proposal indicates that it is consistent with the South East and Tablelands Regional Plan, particularly Directions 16 and 23 (see Table 4). However, the proposal does not include commentary on the draft exhibited South East and Tablelands Regional Plan. It is recommended that the planning proposal be updated to address consistency with the draft regional plan.	
Direction 1.3 Approval and Referral Requirements	Yes	The proposal does not seek to include approval or referral requirements.	
Direction 1.4 Site Specific Provisions	Yes	The proposal does not seek to include site specific provisions.	

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Direction 3.1 Conservation Zones	Unknown until consultation with DCCEEW Biodiversity and Science.	The planning proposal will increase the area of C2 Environmental Conservation Zone to protect areas identified as having high conservation value. Consultation with DCCEEW Biodiversity and Science will determine consistency with Direction 3.1.
Direction 3.2 Heritage Conservation	Unknown until consultation with NSW Heritage.	The proposal states that there are no European cultural heritage items within the site and no identifiable impact on any nearby items. It also states that the project area has two Aboriginal heritage sites, and these are within the area proposed to be zoned C2 Environmental Protection Zone.  Consultation with NSW Heritage will determine consistency with Direction 3.2.
Direction 3.3 Sydney Drinking Water Catchments	Yes	Council has consulted WaterNSW on the planning proposal as required by the direction. WaterNSW did not object to the proposal progressing. Residential development within the site will be serviced by Goulburn's reticulated water and sewerage system. The Strategic Land and Water Capability Assessment (SLWCA) map for sewered sites prepared by WaterNSW indicates that the site ranges from low to moderate risk in relation to water quality impacts.
		The proposal increases the area of residential zoned land (R2) from 44 ha to 47 ha, an increase of 3 ha which is considered a minor increase in potential water quality impact.
Direction 4.1 Flooding	To be determined following consultation with DCCEEW.	The site is not subject to riverine flooding under the Goulburn Floodplain Risk Management Study and Plan. The proposal states that the site is within an area where overland flow modelling has also been undertaken by Council. Portions of the site are inundated by overland flooding, but this aligns with the approved drainage infrastructure under construction.
		The proposal seeks to rezone flood prone land (overland flow) to R2 Zone and technically inconsistent with the Direction. As discussed under section 3.1 of this report, Council has prepared a FIRA to support the proposal which identifies that safe occupation and efficient evacuation can be achieved for all future dwellings.
		Consultation with DCCEEW Biodiversity and Science will consider justification for the inconsistency with Direction 4.1.



Directions Consistent/ Not Applicable		Reasons for Consistency or Inconsistency	
		Figure 8 Bushfire Risk Category Map (source: Planning Proposal )	
Direction 4.4 Remediation of Contaminated Land	Yes	The proposal is accompanied by a Stage 1 Preliminary Site Investigation of potential land contamination. The proposal indicates that it has sufficient information on contamination to address the requirements of the Direction. This information includes assessing the potential for contamination on site and identifying remedial requirements. Remedial works have already been approved for a subdivision works certificate on part of the site.	
Direction 5.1 Integrating Land Use and Transport	Yes	The planning proposal has considered the requirements of this Direction including availability of bus services and provision of pedestrian/bicycle shared pathways.	
Direction 6.1 Residential Zones	Yes	The land subject of the planning proposal adjoins existing residential development and is consistent with the Goulburn Mulwaree Urban and Fringe Housing Strategy. The proposal will also ensure serviced urban development avoids an area of high conservation value proposed to be zoned C2 Environmental Conservation Zone.	
Direction 9.1 Rural Zones	No - Justified	Part of the site is zoned RU6 Transition Zone which is proposed to be zoned R2 Low Density Residential which is inconsistent with Direction (1) (a) of the Direction. The inconsistency is justified because the site is identified for housing by the Goulburn Mulwaree Urban and Fringe Housing Strategy, which is an endorsed strategy. Given the relatively small amount of rural land proposed to be rezoned (12ha), any inconsistency with the direction is considered of minor significance.	
Direction 9.2 Rural Lands	No - Justified	The planning proposal has addressed the requirements outlined in (1) (a) –(i) and (2) of the Direction. The site is identified for housing with the Goulburn Mulwaree Urban and	

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency		
		Fringe Housing Strategy and the proposed reduction in rural land is considered of minor significance.		

## 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 6: Part 6.5 Sydney Drinking Water Catchment	The SEPP requires that development consent to a DA cannot be granted within the Sydney Water Catchment unless there is a neutral or beneficial effect on water quality.	Not Applicable	The proposal is not a development application however it will rezone land to create an additional 3 ha of R2 zoned land. This is considered a minor increase in the urban footprint. Furthermore, the proposed residential development on the site will be serviced by Council's reticulated water and sewerage supply and will protect approximately 9ha of land identified as having high conservation value.
SEPP Primary Production 2021	The SEPP sets out requirements as part of assessing development applications.	Not Applicable	The proposal is not a development application however it will rezone RU6 Transition zoned land to create an additional 3 ha of R2 zoned land and approximately 9 ha of C2 Environmental Conservation Zone. The site is also identified for housing with the Goulburn Mulwaree Urban and Fringe Housing Strategy and the proposed reduction in rural zoned land is considered of minor significance.
SEPP Resilience and Hazards 2021. Chapter 4 Remediation of and	Chapter 4 of the SEPP states that land contamination and remediation is to be considered in determining development applications.	Not Applicable	The proposal is not a development application. Requirements for considering land contamination in the preparation of a planning proposal are outlined in Ministerial Direction 4.4 Remediation of Contaminated Land. See Table 7.

## 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	The planning proposal is accompanied by ecological studies/assessments that identifies approximately 9ha of land with high conservation value will be protected via a proposed C2 Environmental Conservation Zone. Consultation with DCCEEW – Biodiversity and Science will determine the adequacy of the ecological assessments and protection measures.
Flooding	Flood assessments accompany the planning proposal including a flood impact risk assessment (FIRA). Portions of the site are affected by overland flooding, but this aligns with the approved drainage infrastructure under construction. The proposed areas identified for rezoning to residential are in the central portion of the subject site and are not impacted either directly or indirectly by flooding. The FIRA identifies that safe occupation and efficient evacuation can be achieved for all future dwellings.
	Consultation with DCCEEW – Biodiversity and Science will determine the adequacy of the flood assessments and proposed mitigation measures.
Sydney Drinking Water Catchment	There will be a minor increase in residential development within the site (3 ha) and all R2 zoned land will be serviced by Goulburn's reticulated water and sewerage system. NSW Water will consider impacts of the proposal on the Sydney Drinking Water Catchment.
Land Contamination	The proposal is accompanied by a report on potential land contamination. The report indicates that it has sufficient information to address any contamination to make the site suitable for residential development.

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 10 Social and economic impact assessment

Social and Economic Impact	Assessment
Heritage	There are no European cultural heritage items within the site and no identifiable impact on any nearby items. An Aboriginal cultural heritage assessment accompanies the proposal. The project area has two Aboriginal heritage sites, and these are within the area proposed to be zoned C2 Environmental Protection Zone.

	Consultation with NSW Heritage will consider the adequacy of this assessment.
Social impacts	The proposal is unlikely to create any adverse social impacts. The increase in housing supply will likely generate a positive social impact by increasing housing supply in Goulburn.
Economic impacts	The proposal is unlikely to create any adverse economic impacts. The increase in housing supply will likely generate a positive economic impact.

### 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
Water and sewerage supply	The proposed residential development adjoins existing residential areas and will be serviced by Council's reticulated water and sewerage supply.
Roads.	The site adjoins existing residential development and local road access is available to gain vehicular access to the site.

### 5 Consultation

### 5.1 Community

Council proposes a community consultation period of one month but will rely on the Department to outline the consultation period as part of the Gateway determination.

The planning proposal is categorised as standard under the LEP Making Guidelines (September 2022). Accordingly, a community consultation period of at least 20 working days is recommended and this forms part of the conditions to the Gateway determination.

## 5.2 Agencies

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

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

- WaterNSW
- NSW Rural Fire Service
- DCCEEW Biodiversity and Science
- NSW State Emergency Service
- NSW Heritage

Consultation with these agencies is supported.

### 6 Timeframe

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

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 9 months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a local plan-making authority.

As the planning proposal is of minor/local significance and is consistent with Council's local housing strategy the Department recommends that Council be authorised to be the local planmaking authority for this proposal.

## 8 Assessment summary

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

- The proposal will facilitate additional housing supply in the Goulburn area.
- The proposal is consistent with the South East and Tablelands Regional Strategy, and draft Strategy, and with Council's local housing strategy.
- The proposal seeks to protect approximately 9ha of land that is identified as having high conservation value.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

• Provide an assessment of consistency of the planning proposal with the draft exhibited South East and Tablelands Regional Plan 2041.

### 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 9.1 Rural Zones and 9.2 Rural Lands are minor and have been justified.
- Note that the justification for consistency with section 9.1 Directions 3.1 Conservation Zones, 3.2 Heritage Conservation, 4.1 Flooding and 4.3 Planning for Bushfire Protection will be confirmed after consultation with state agencies.

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

The following conditions are recommended to be included on the Gateway determination:

- 1. The planning proposal is to be updated prior to community consultation to:
  - Provide an assessment of consistency of the planning proposal with the draft exhibited South East and Tablelands Regional Plan 2041.
- 2. Prior to community consultation, consultation is required with the following public authorities:
  - NSW Rural Fire Service
- 3. Consultation is required with the following public authorities:

- WaterNSW
- DCCEEW Biodiversity and Science
- NSW State Emergency Service
- NSW Heritage
- Pejar Local Aboriginal Land Council
- 4. The planning proposal should be made available for community consultation for a minimum of 20 working days.
- 5. Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date of 9 months or by 24 April 2025 be included on the Gateway.

9 July 2024

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