



IRF24/2119

Gateway determination report – PP-2024-291

Proposal to rezone and amend minimum lot size on
lots along 137 Brisbane Grove Road, Goulburn

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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.

Contents

1	Planning proposal.....	1
1.1	Overview	1
1.2	Objectives of planning proposal.....	1
1.3	Explanation of provisions.....	1
1.4	Site description and surrounding area	2
1.5	Mapping	3
1.6	Background	4
2	Need for the planning proposal	5
3	Strategic assessment	5
3.1	Regional Plan	5
3.2	Local Strategies.....	8
3.3	Section 9.1 Ministerial Directions.....	9
3.4	State environmental planning policies (SEPPs)	16
4	Site-specific assessment	16
4.1	Environmental	16
4.2	Social and economic	17
4.3	Infrastructure	17
5	Consultation.....	18
5.1	Community	18
5.2	Agencies	18
6	Timeframe	18
7	Local plan-making authority	18
8	Assessment summary	18
9	Recommendation.....	19

Relevant reports and plans

Draft Brisbane Grove and Mountain Ash Precinct -Specific Development Control Plan Chapter (Appendix 1)

Proponent's Submitted current Planning Proposal (Appendix 2)

Concept Subdivision Layout Plan (Appendix 3)

Original Planning Proposal document (Appendix 4)

Original concept plan layout (Appendix 5)

Council Reports and Resolutions – 2 November 2021, 15 March 2022, 20 September 2022 (Appendix 6a, 6b, 6c)

29 November 2022 Gateway determination (Appendix 7a)

29 October 2023 Alteration of Gateway Determination for previous planning proposal (Appendix 7b)

Aboriginal Due Diligence Assessment (Appendix 8a)

Aboriginal Cultural Heritage Assessment (Appendix 8b)

Heritage Impact Statement (Appendix 9a)

Council's Heritage Consultant Advice (Appendix 9b)

Water Cycle Management Study (Appendix 10a)

Waste Water Management Site Plan (Appendix 10b)

Stormwater Management Site Plan (Appendix 10c)

Water NSW referral responses on previous planning proposal - 9 May 2022, 26 September 2022, 17 January 2023 (Appendices 10d, 10e and 10f)

Water NSW pre-gateway referral responses on current planning proposal 5 April 2024 (Appendix 10g)

Native Vegetation and Habitat Survey (Appendix 11a)

Council's Biodiversity Officer referral comments (Appendix 11b)

Preliminary Site Investigation (Contamination) – June 2021 (Appendix 12a) and Updated Site Investigation August 2022 (Appendix 12b)

Strategic Bush Fire Study (Appendix 13a) and Strategic Bush Fire Site Plan (Appendix 13b)

Rural Fire Service post-gateway comments on previous planning proposal (Appendix 13c)

Traffic and Access Assessment Report (Appendix 14)

Flood Impact and Risk Assessment (Appendix 15a)

Flood Assessment Site Plan with subdivision layout (Appendix 15b)

DCCEEW (Biodiversity and Conservation Division) post gateway submissions on previous planning proposal (Appendix 15c and 15d)

Presentation given to the Goulburn Flooding Technical Working Group (Appendix 15e)

Development Control Plan Flood Policy (Appendix 15f)

1 Planning proposal

1.1 Overview

Table 1 Planning proposal details

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	137 Brisbane Grove Goulburn Planning Proposal (21 homes, 0 jobs)
NUMBER	PP-2024-291
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	11/04/2024
FILE NO.	EF24/5498, IRF24/2119
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 the subdivision of land identified in the Urban and Fringe Housing Strategy for large lot residential development.

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 overleaf.

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 (R5 zoned land) and zero (C2 zoned land)
Number of dwellings	0	21
Number of jobs	N/A	N/A

The planning proposal also seeks to apply clause 5.22 “Special Flood Considerations” of the Goulburn Mulwaree LEP 2009 to the site to elevate flood considerations in the area beyond the current requirements and generally improve the overall flood risk considerations.

A draft Brisbane Grove and Mountain Ash Precinct-specific development control chapter has been prepared to support the planning proposal (Appendix 1).

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 with part of the northern site boundary located adjacent the Mulwaree River (**Figure 1 - Site Map**). It contains 22 existing lots with all but one located to the north of Brisbane Grove Road.

The site is currently used for grazing. It does not contain any residential buildings but several farm dams are located on the property. The site is surrounded by rural/grazing land in the east, west and south.

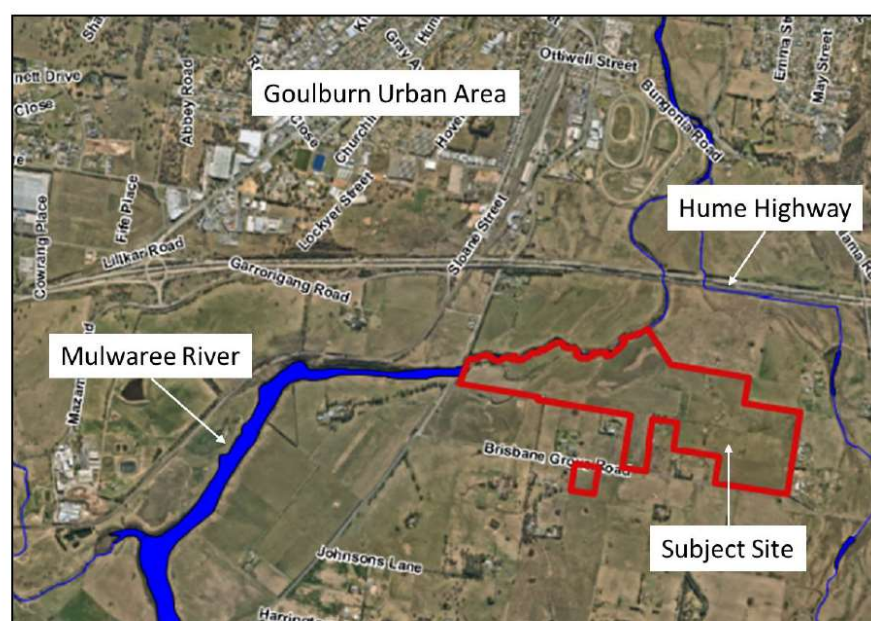


Figure 1 – Site map (source: planning proposal document, Goulburn Mulwaree Council, 2024)

A locally listed heritage item/dwelling 'Sofala' stands in proximity to the site on Lot 1, DP 1279715 which is proposed to be surrounded on three sides by the future subdivision but is not included within the subject site. There are six additional local heritage listed 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 (**Figures 2-5 – Mapping**).

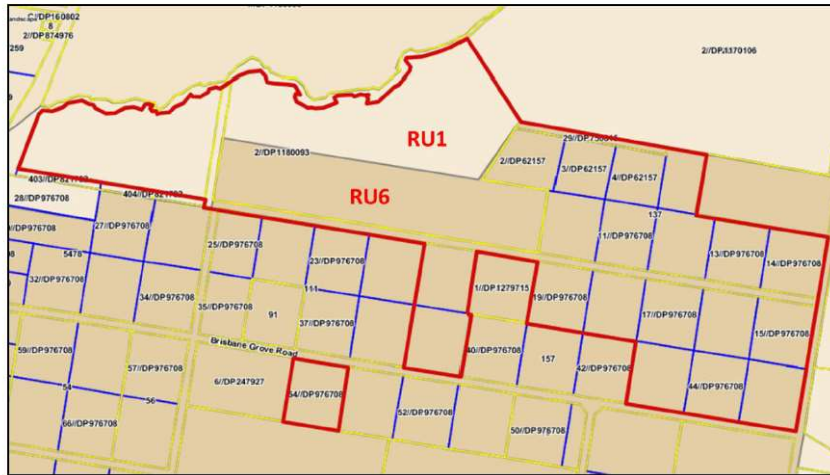


Figure 2 - Current zoning map (source: planning proposal document, Goulburn Mulwaree Council, 2024)

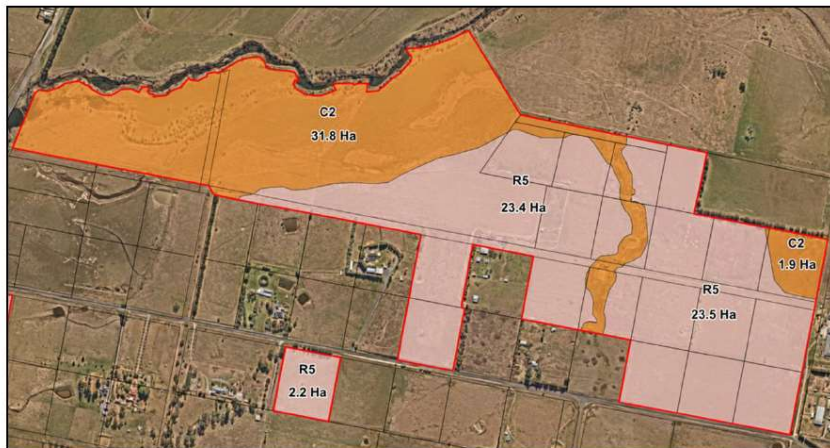


Figure 3 – Current and proposed zoning map (source: planning proposal document, Goulburn Mulwaree Council, 2024)

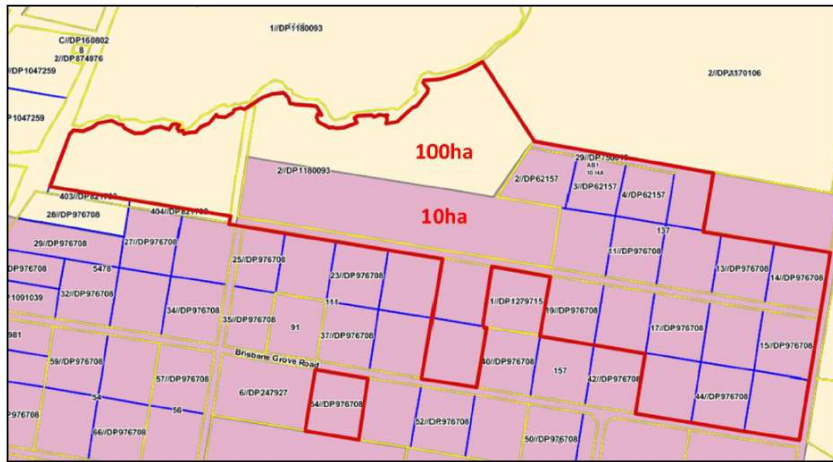


Figure 4 – Current minimum lot size map (source: planning proposal document, Goulburn Mulwaree Council, 2024)

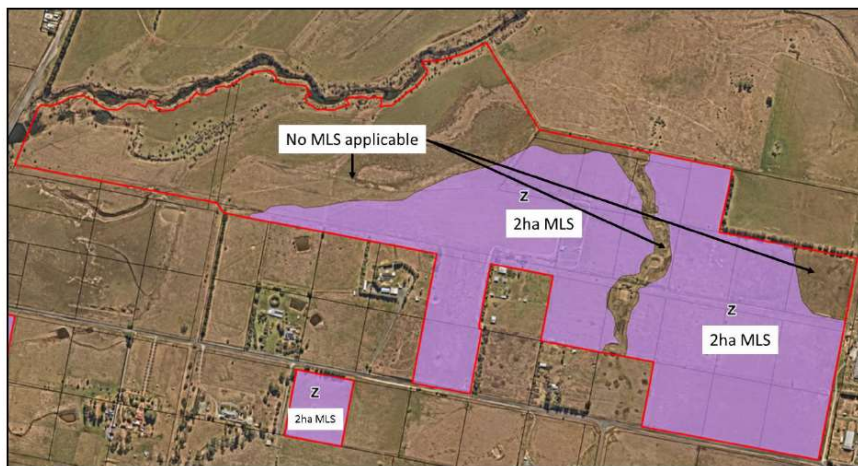


Figure 5 – Proposed minimum lot size map (source: planning proposal document, Goulburn Mulwaree Council, 2024)

1.6 Background

The planning proposal (Appendix 3) is a revision and resubmission of a previous planning proposal (PP-2021-7390) (Appendix 4). The previous planning proposal, which sought to facilitate a 27 lot subdivision on the site, received a Gateway Determination on 29 November 2022 requiring the planning proposal be finalised within 12 months or 29 November 2023.

The former Department of Planning and Environment – Biodiversity and Conservation Division (BCD) objected to the previous planning proposal in its pre-exhibition submission provided to Council based on concerns about consistency with Ministerial Direction 4.1 Flooding, concerns a flood impact risk assessment had not been prepared nor consultation undertaken with the State Emergency Service (Appendix 15c).

To address BCD's concern, Council requested the proponent prepare a Flood Impact and Risk Assessment (FIRA) and also met with the NSW State Emergency Service (SES) in March 2023. The proponent commenced the preparation of a FIRA. However, as the FIRA had not been completed by October 2023, the Department issued an alteration of the Gateway Determination on 29 October 2023 which determined that the planning proposal does not proceed (Appendix 7b).

The Department's cover letter indicated the FIRA should be finalised and considered by Council before seeking a new Gateway Determination.

The proponent has completed the FIRA (Appendix 15a) and has revised the original concept layout plan to assist in flood risk management by:

- Reducing the number of lots from 27 to 21.
- Locating all dwelling pads outside of flood prone land including the Probable Maximum Flood (PMF) and overland flow corridor.
- Replacing the internal connection road with two cul-de-sac internal roads.

These changes are reflected in the current planning proposal.

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.

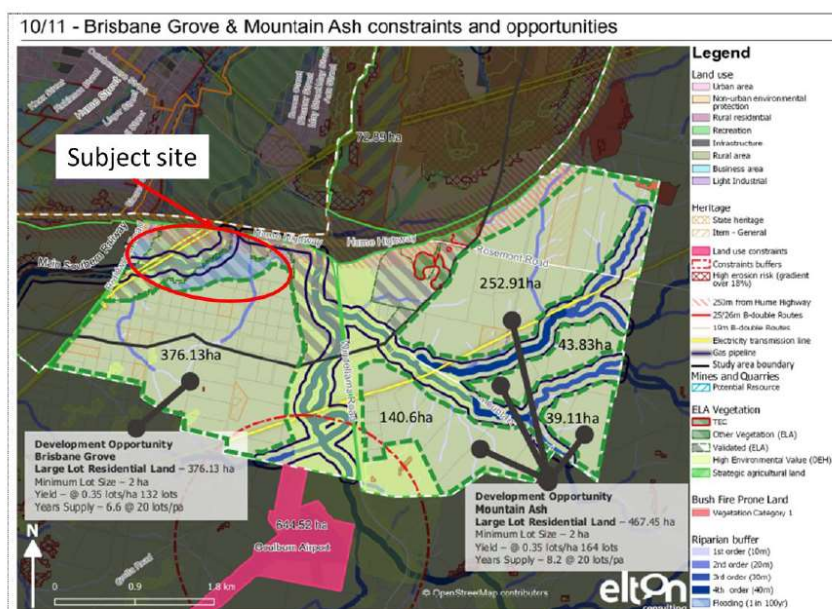


Figure 6 – Extract from Goulburn Mulwaree Urban and Fringe Housing Strategy 2020
(source: Goulburn Mulwaree Council)

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 to enable Council to consider a proposed 21 lot subdivision of the site.

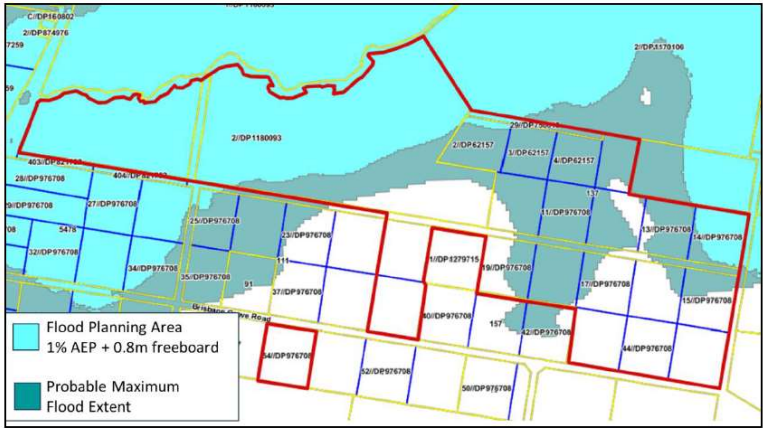
3 Strategic assessment

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 2036 as well as the draft South East and Tablelands Regional Plan 2041 which was publicly exhibited from 9 December 2022 to 31 January 2023.

Table 4 Regional Plan assessment

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>The planning proposal states it is consistent with Direction 16 by:</p> <ul style="list-style-type: none"> Locating development away from known hazards wherever possible and mitigating against hazards where avoidance is not possible or practical. Implementing the requirements of the NSW Floodplain Development Manual (now the Flood risk Management Manual and Toolbox) through the Goulburn Floodplain Risk Management Study and Plan and overland flow modelling and incorporate this available hazard information in the Goulburn LEP 2009 as the C2 Environmental Conservation Zone. This seeks to manage the risks of future residential growth in flood prone areas. <p><u>Comment:</u></p> <p>The subject site is within a category 3 (medium bushfire risk) landscape. The proposal includes suitable bushfire prone land measures to mitigate potential impacts and increase resilience.</p> <p>The planning proposal identifies that the northern part of the site is affected by the Flood Planning Area (1% Annual Exceedence Probability + 0.8m freeboard) while the eastern part of the site is affected by the Probable Maximum Flood (PMF) (Figure 7 – Flood map).</p>  <p>Figure 7 – Flood Map (Source: planning proposal document, Goulburn Mulwaree Council, 2024)</p> <p>Flood prone areas are proposed to be zoned C2 Environmental Conservation to limit development in these areas and all proposed dwellings will be flood free up to and including a Probable Maximum Flood (PMF) event.</p>

Regional Plan Objectives	Justification
	<p>The Flood Impact Risk Assessment (FIRA) (Appendix 15a), which was prepared by the proponent in support of the planning proposal, identifies that Braidwood Road, which is the only access road from the site to the Goulburn urban area, becomes inundated to a hazardous extent at the 1% Annual Exceedence Probability (AEP) flood event with a depth reaching 0.57metres with a total duration of 22.5hours. During the worst possible Probable Maximum Flood (PMF) event, Braidwood Road becomes inundated to a depth of 8.6m for a duration of up to 38 hours.</p> <p>The site is located within a flash flood catchment (defined as occurring within 6 hours of the weather event) which would provide little warning to enable safe evacuation of residents, which would mean residents would need to shelter-in-place for extended periods of time.</p> <p>The FIRA identifies flood risk management measures to manage isolation risk including fire and medical emergency measures, provision of adequate services, flood warning signage and notification of flood isolation risk on property and 88b certificates. Council has prepared a DCP chapter to incorporate these flood risk management measures in the future development of the site.</p> <p>It is, however, considered that due to the extended isolation of proposed dwellings during flood events, the planning proposal is not consistent with direction 16 of the Regional Plan. Further assessment of flood risk is provided in sections 3.3 and 4.2 of this report.</p>
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 (Appendix 8a), Cultural Heritage Assessments (ACHA) (Appendix 8b) and a Heritage Impact Statement (Appendix 9a) were 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 in proximity to the site and four additional local heritage items are located in the surrounding area.</p> <p>The heritage assessments/impact statement identify that the proposal will not have any impact on cultural heritage and provide recommendations and management actions 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	<p>The planning proposal is located within the Brisbane Grove Precinct which is identified in the Goulburn Mulwaree Urban and Fringe Housing Strategy as a location suitable for large lot residential development. The Strategy was conditionally endorsed by the Department in December 2020. The site is located within 2km of Goulburn is not constrained by high value agricultural land, important biodiversity or potential land use conflicts. However, as previously discussed the Brisbane Grove Road precinct has severe flooding and access issues which pose a risk to future residents/occupants of dwellings.</p>

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>The planning proposal does not provide an assessment of consistency with the draft South East and Tablelands Regional Plan 2041 (SE&T Regional Plan).</p> <p>As discussed regarding the current SE&T Regional Plan, there is concern the planning proposal may result in future residents/occupants of dwellings being isolated in their homes for extended periods of time during a 1% AEP flood events and rarer.</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>As discussed regarding the current SE&T Regional Plan, there is concern that the Brisbane Grove Road area is not suitable for additional large lot residential development due to flooding and access constraints.</p>

3.2 Local Strategies

The proposal states 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 Local Strategic Planning Statement	<p>The planning proposal states it is consistent with the planning priorities, vision, principles and actions of the Goulburn Mulwaree Local Strategic Planning Statement, including Planning Priority 4: Housing, 8: Natural Hazards, 9: Heritage and 10: Natural Environments.</p> <p><u>Comment:</u></p> <p>The proposal may not be consistent with planning priority 8 Natural Hazards, as the proposal seeks to facilitate development in an area that will be isolated during a 1% AEP flood event and rarer which may pose an unacceptable risk to health and safety of future residents/occupants and to emergency services work.</p>
Goulburn Mulwaree Urban and Fringe Housing Strategy	<p>The site is located within the Brisbane Grove Precinct in the Urban and Fringe Housing Strategy (local housing strategy) which is identified for investigation for large lot residential development (Figure 6). The local housing strategy identifies 376.13 ha of land in the Brisbane Grove Precinct with potential to supply 132 dwellings (p.xv). The UFHS identifies on p.129 “the (Brisbane Grove) precinct has a significant portion of land that is potentially flood affected, between Brisbane Grove</p>

Local Strategies	Justification
	<p>Road and the Hume Highway; additional flood prone land may exist beyond the current Flood Study and impact access.”</p> <p>The recommendations for the precinct are:</p> <ul style="list-style-type: none"> • Rezone land that is least constrained by topography and environmental constraints to large lot residential zone (un-serviced); • A comprehensive Aboriginal Cultural Heritage Assessment is required; • Consider suitable environmental zone for flood affected land; • Any development within the Sydney drinking water catchment must have a neutral or beneficial effect (NorBE) on water quality; and • High priority. <p>In addition to the current planning proposal, the Department is also considering a planning proposal to rezone land at 2 Brisbane Grove Road (“Alfarthing”) (PP-2024-295) to facilitate 14 large lot residential dwellings and Council has indicated other landowners in the area are considering preparing applications to Council to rezone and develop their land in the vicinity.</p> <p><u>Comment:</u></p> <p>Although the site is identified for large lot development within the local housing strategy, this is subject to investigating and addressing flooding and other issues. The FIRA (Appendix 15a) prepared to support the planning proposal indicates that occupants/residents will not be able to safely evacuate their homes during 1% AEP flood events and rarer and would need to shelter in place in their homes for up to 38 hours depending on the flood event. Neither the planning proposal, nor the housing strategy identifies any upgrades to Braidwood Road to ensure flood free access to the Goulburn CBD. As such, this proposal together with other proposals will have unacceptable risks in terms of flooding.</p>

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	No	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.

Directions	Consistent	Reasons for Consistency or Inconsistency
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 (Appendix 11a) was prepared by the proponent in support of the area proposed to be developed found that the site is significantly modified/disturbed and has no or limited native vegetation and biodiversity value. Council's Biodiversity Officer reviewed and confirmed the findings of the Biodiversity Assessment (Appendix 11b).</p> <p><u>Comment:</u></p> <p>The Brisbane Grove Precinct was reviewed and endorsed by the former DPE 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 a Heritage Impact Statement (Appendix 9a), an Aboriginal Due Diligence Report (Appendix 8a) and an Aboriginal Cultural Heritage Assessment (Appendix 8b). These reports conclude that Aboriginal and non-Aboriginal heritage is unlikely to be impacted as a result of the planning proposal. The precinct-specific draft DCP chapter that has been prepared by Council (Appendix 1) includes relevant controls to protect Aboriginal and non-Aboriginal heritage.</p>
Direction 3.3 Sydney Drinking Water Catchments	Yes	<p>A Water Cycle Management Study (Appendix 10a), which was prepared by the proponent in support of the planning proposal, concludes the concept subdivision meets the Neutral or Beneficial Effect on water quality (NorBE) criteria which is a requirement of the Direction. Council consulted WaterNSW on the planning proposal as required by the Direction who generally agree the conceptual subdivision is able to meet NorBE on water quality requirement with each new lot being able to accommodate appropriate on-site wastewater management.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
Direction 4.1 Flooding	No – justification not satisfactory	<p>The proposal identifies the direction applies as the site is flood affected. Council considers the proposal is consistent with the direction for the following reasons:</p> <ul style="list-style-type: none"> • The proposal is supported by a Flood Impact and Risk Assessment (FIRA); and considered the NSW Flood Prone Land Policy, the Floodplain Development Manual and the Toolkit. • The proposal seeks to ensure no development is sited within any flood prone land including the PMF flood extent through application of the C2 Environmental Conservation Zone as well as application of the Special Flood Consideration clause and development control plan provisions which will ensure the following: <ul style="list-style-type: none"> ○ Not permitting development in floodways or high hazard areas. ○ Not result in significant impacts to other properties. ○ Will not permit any increase in development/dwelling density on flood prone land. ○ Will not permit (sensitive) land uses where the occupants would not be able to safely evacuate. ○ Does not permit development to be carried out without development consent. ○ Is not likely to result in significantly increased requirement for government spending. ○ Would not permit hazardous industries or storage establishments. <p>The FIRA identified and assessed the frequency, severity and duration of flood inundation on Braidwood Road which is the only access road from the site via Brisbane Grove Road, to the Goulburn CBD (Figure 8).</p> <p>The FIRA identifies that isolation of the site can occur due to flooding of Braidwood Road during events rarer than a 5% Annual Exceedence Probability (AEP), with the road flooded for approximately 23 hours during the 1% AEP and 38 hours up to the Probable Maximum Flood (Table 7a).</p>

Direction 4.1
Flooding (cont')

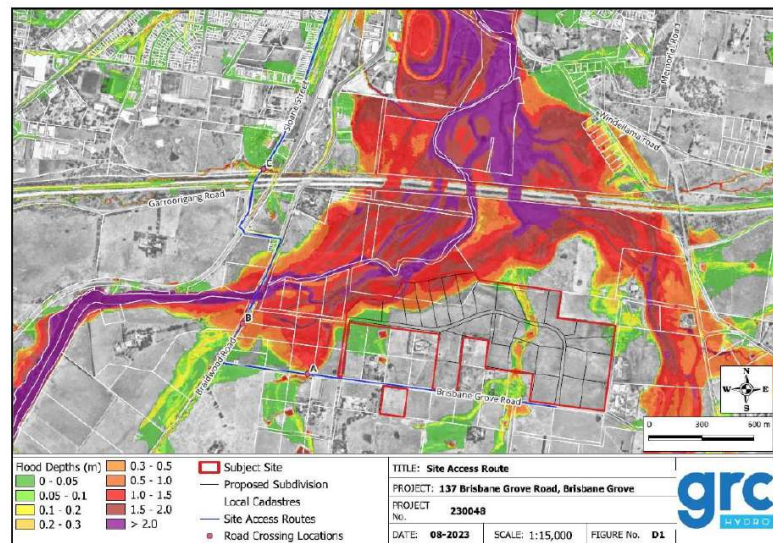


Figure 8 – Flood Depth Map Along Braidwood Road Evacuation Route (Source: planning proposal, GMC, and FIRA , grc Hydro, August 2023)

Events (AEP)	Max Depth (metres)	Duration of Inundation (hours)	Duration with depth >0.5m
10%	-	-	-
5%	0.03	3.7	-
1%	0.57	22.5	8.5
0.5%	0.74	26.2	14.5
0.2%	0.98	30.2	20.5
PMF	8.62	38.4	35.7

Table 7a - Depth and Duration of Flood Inundation of Braidwood Road for various flood events (Source FIRA, grc Hydro, August 2023).

The limited available flood warning times for the site largely rules out evacuation as a suitable emergency management response during these flood events. Council proposes that residents shelter in their own flood-free homes until flood waters subside.

The FIRA identifies flood risk management measures to manage isolation risk including fire and medical emergency measures, provision of adequate services, flood warning signage and notification of flood isolation risk on property and 88b certificates. Council has prepared a DCP chapter to incorporate these flood risk management measures in the future development of the site.

The FIRA considers the joint probability of the site being isolated by flood waters during a 1% AEP and fire or medical emergencies occurring at the same time is 1 in 1,000 AEP or 0.1% which Council considers an acceptable risk. Council therefore considers the proposal is not likely to result in a significantly increased requirement on emergency management services, flood mitigation or emergency response measures.

Comment:

The NSW SES and DCCEEW raised significant concern about flooding issues in written comments on the proposal received by the Department on 29/4/2024 from the SES (**Attachment 1**) and on 25/6/2024 from the DCCEEW Water Floodplains and Coasts Team (**Attachment 2**) as well as raised by agencies during a meeting with Council and the Department held on 10 July 2024 to discuss the proposal namely:

SES concerns raised:

- Concern that in the PMF event several lots which are proposed to be zoned R5 Large Lot Residential are impacted by high hazard floodwaters.
- Concern the entirety of the site becomes isolated from vehicular access/egress in at least the 5% Annual Exceedance Probability (AEP) event. Therefore, the proposed development would increase the number of people and properties exposed to the effects of flooding and other secondary emergencies.
- Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood waters are not supported by NSW SES and are not equivalent, in risk management terms, to evacuation.
- NSW SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to NSW SES and/or increase capability of the NSW SES.

DCCEEW concerns raised:

- The FIRA has not demonstrated that new residential sites can be evacuated prior to becoming isolated and the advice from the NSW SES should be considered by the planning authority.
- Given the increased number of similar planning proposals in the area south of the Hume Highway at Goulburn, the planning authority needs to consider the cumulative impacts associated with the increased occupation of land for residential use and issues linked to flood isolation.
- Although the FIRA supporting the planning proposal indicate that new houses may be above the PMF, the flood isolation issue has not been addressed and is likely to result in an increase in government spending on emergency management services, flood mitigation and emergency response measures, particularly flood free road access.

Based on the concerns raised by SES and DCCEEW, it is considered the planning proposal is not consistent with the following requirements of the Direction:

(3) A planning proposal must not contain provisions that apply to the flood planning area which:

(g) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.

Directions	Consistent	Reasons for Consistency or Inconsistency
		<p><i>(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:</i></p> <p><i>(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</i></p> <p><i>(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.</i></p> <p>The Department has prepared and exhibited a draft Shelter-in-Place Guideline (draft guide) which seeks to provide clear and consistent guidance to councils and consent authorities about when shelter-in-place can be used as an alternative to off-site evacuation for emergency management in flood events.</p> <p>The Department's draft guide states that shelter-in-place, which is proposed by Council for the site, is an emergency management response, especially when the flood warning time and duration are both less than six hours. These flooding events are dangerous because of the short timeframes, as well as the flood speed and depth.</p> <p>Under such circumstances, evacuation via a vehicle may not be possible and so shelter in place is the last resort evacuation option for development in green field and infill areas. The draft guide identifies that when considering whether to apply shelter in place controls, noting that evacuation off-site is always preferable, but if this cannot be achieved then shelter in place may be used if the duration of flood inundation is less than six hours.</p>
Direction 4.3 Planning for Bushfire Protection	To be determined	<p>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 the requirement of 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.</p>

Directions	Consistent	Reasons for Consistency or Inconsistency
Direction 4.4 Remediation of Contaminated Land	Yes	<p>Given the past agricultural use of the site, a Preliminary Site Investigation (PSI) (Appendix 12a and 12b) was 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 grazing agriculture at the site.</p> <p>The PSI concludes that the likelihood that the site is contaminated is low but recommends that waste material should be removed from the site and disposed at a licensed waste disposal facility prior to development occurring. WaterNSW commented on an earlier version of the Preliminary Site Investigation Report which the proponent has updated to address WaterNSW comments.</p>
Direction 5.1 Integrating Land Use and Transport	No- justified	The site is located approximately 2km from the Goulburn CBD. The proposed large lot development 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- justified	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 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 - justified	The planning proposal seeks to rezone the site from RU6 Transition and RU1 Primary Production 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) (DPI) was consulted during the Department'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 - justified	The planning proposal is potentially inconsistent with the Direction, as it may facilitate the fragmentation of rural land, but any inconsistency is considered to be 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 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.
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, a preliminary site investigation (Appendix 12a and 12b) 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 3.1-3.5 of this report, the planning proposal is unlikely to impact on any critical habitat or threatened species, populations or ecological communities.
Water quality	As discussed in sections 3.1-3.5 of this report, the planning proposal is unlikely to have a negative impact on water quality.
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 has been 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.

4.2 Social and economic

The planning proposal does not identify any known social or economic effects as a result of the proposal. The planning proposal, however, is considered to have potentially significant negative social and economic impacts due to the isolation of future residents/occupants due to flooding of Braidwood Road during events rarer than a 5% Annual Exceedence Probability (AEP), with the road flooded for approximately 23 hours during the 1% AEP and 38 hours up to the Probable Maximum Flood. This may place future residents/occupants and emergency services workers at risk if residents require evacuation or rescue if they enter floodwaters. This may also increase requirement for government spending on emergency services and management measures.

The proposal is likely to provide positive benefits including providing 21 additional homes in a planned growth area of Goulburn which will support local jobs and services. However, it is unlikely these benefits outweigh the social and economic impacts and costs described above.

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 (Appendix 14), which was prepared by the proponent in support of the planning proposal, did not identify any upgrades to existing road infrastructure would be required to accommodate the proposed development. A new internal road from Brisbane Grove Road is, however, proposed to access the proposed lots.

Infrastructure	Assessment
Water and sewer	The site is not connected, 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 served by 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.

It is, however, not recommended that the planning proposal proceed to community consultation.

5.2 Agencies

Council consulted Water NSW on the planning proposal pre-Gateway stage as required by the s.9.1 direction for the Sydney Drinking Water Catchment. Council has consulted the State Emergency Service (SES) and the DCCEEW during the preparation of the Flood Impact and Risk Assessment (FIRA) (Appendix 15a). The Department has sought comment from SES and DCCEEW on the planning proposal and met with agencies and Council on 10 July 2024 to discuss the flooding issues further.

The proposal indicates that further consultation will be undertaken in accordance with the directions of the Gateway Determination. It is, however, not recommended that the planning proposal proceed to further agency consultation.

6 Timeframe

Council proposes a 9-11 month time frame to complete the LEP. It is, however, not recommended that the planning proposal proceed.

7 Local plan-making authority

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

It is, however, not recommended that the planning proposal proceed.

8 Assessment summary

The planning proposal is not supported to proceed with the following reasons:

- The planning proposal is not consistent with the South East and Tablelands Regional Plan 2036 (Directions 16: "Increase resilience to natural hazards" and 28: "Manage rural lifestyles") and with the draft South East and Tablelands Regional Plan 2041 (Theme 2: "Enhancing sustainable and resilient environments" and Theme 4: "Planning for fit for purpose housing and services"), and Section 9.1 Ministerial Directions 1.1 Implementation

of Regional Plans and 4.1 Flooding, and the inconsistencies with the Regional Plan and directions have not been justified to the satisfaction of the Secretary (or their nominee).

- The planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the identified risk associated with isolation of the site due to flooding of Braidwood Road for approximately 23 hours during the 1% AEP flood event.
- The planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures.
- The NSW State Emergency Service and Department of Climate Change, Energy, the Environment and Water have raised significant concerns about the planning proposal, particularly the ability for future residents/occupants to safely occupy and/or evacuate the site during flood events as well as the potential increased need for government investment on emergency management services, flood mitigation and emergency response measures.

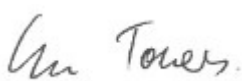
9 Recommendation

It is recommended the delegate of the Secretary:

- agree that the planning proposal is not consistent with section 9.1 Directions 1.1 Implementation of Regional Plans and 4.1 Flooding and that any inconsistency with the direction is not satisfactorily justified under the terms of the direction.

It is recommended the delegate of the Minister determine that the planning proposal should not proceed for the following reasons:

1. The planning proposal has not demonstrated strategic and site specific merit for the following reasons:
 - The planning proposal is not consistent with the South East and Tablelands Regional Plan 2036 (Directions 16: “Increase resilience to natural hazards” and 28: “Manage rural lifestyles”) and with the draft South East and Tablelands Regional Plan 2041 (Theme 2: “Enhancing sustainable and resilient environments” and Theme 4: “Planning for fit for purpose housing and services”) and Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding, and the inconsistencies have not been justified to the satisfaction of the Secretary (or their nominee).
 - The planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the identified risk associated with isolation of the site due to flooding of Braidwood Road for approximately 23 hours during the 1% AEP flood event and rarer.
 - The planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures.
 - The Department of Climate Change, Energy, the Environment and Water and the State Emergency Service have raised significant concerns about the planning proposal regarding flooding.



20/9/2024

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8/11/2024

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