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Planning proposal, 2 Brisbane Grove Road, REF-1857

Dear Mr Kiernan

Thank you for the opportunity to comment on the planning proposal for 2 Brisbane Grove Road, Brisbane Grove under the *Goulburn Mulwaree Local Environmental Plan 2009*.

We understand that the planning proposal seeks to rezone approximately 34 hectares from RU6 Transition to RU5 Large Lot Residential with a minimum lot size of 2 hectares. We note that the gateway determination issued by the Department of Planning and Environment (dated 22 November 2022) requires consultation with Heritage NSW.

We have prepared the following comments in relation to Aboriginal cultural heritage assessment and environmental heritage matters.

Considerations under the *National Parks and Wildlife Act 1974*

Heritage NSW supports the preparation of an Aboriginal cultural heritage assessment report (ACHAR) to inform planning proposals. We are pleased that an Aboriginal cultural heritage assessment prepared by Black Mountain Projects Heritage Consultants (dated June 2022) has been prepared and provided with the referral. This is particularly important because the planning proposal explains that the subject land is within that area mapped as having Aboriginal cultural heritage sensitivity in the Goulburn Mulwaree Development Control Plan (DCP).

The Black Mountain (2022) report does not identify any Aboriginal objects within the planning proposal and recommends no further works. Aboriginal community consultation has occurred with Pejar Local Aboriginal Land Council.

We do however note some limitations of the Aboriginal cultural heritage assessment for Council to consider:

- The documented consultation process does not demonstrate how clause 80 of the *National Parks and Wildlife Regulation 2019* has been addressed.
- The survey results lack some of the reporting set out under Requirements 5, 9 and 10 of the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW 2010).

If the planning proposal is approved and development proceeds, future proponents will need to consider potential Aboriginal cultural heritage impacts within their environmental assessments. Under the draft Brisbane Mountain Ash DCP, we note that due diligence assessments are required to support future development applications. We support this measure as well as noting that, in

accordance with Heritage NSW guidelines, the results of a search of the Aboriginal Heritage Information Management System (AHIMS) may be relied upon for 12 months for the purposes of exercising due diligence.

Further information about the Aboriginal cultural heritage assessment process is available in Heritage NSW guidelines that are available on our website: <https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/aboriginal-objects-and-places/apply-for-an-ahip>.

Local heritage considerations under the *Environmental Planning and Assessment Act 1979*

We note that the planning proposal has the potential to impact on local heritage listed under Council's LEP. As Local heritage is protected under the *Environmental Planning and Assessment Act 1979* and under Council LEPs, Council is the consent authority, and the assessment and consideration of impacts on this local heritage rests with Council.

The Heritage Council of NSW, and Heritage NSW as its Delegate, do not have a role in the assessment of impacts to local heritage listed under LEPs. As such, Heritage NSW does not provide advice on planning matters that may affect local heritage.

If you have any questions about this advice please contact:

- Rose O'Sullivan in relation to Aboriginal cultural heritage matters by phone on 4224 4177 or by email at rose.osullivan@environment.nsw.gov.au, or
- Lara Goldstein in relation to environmental and historic heritage matters by phone on 9895 6408 or by email at lara.goldstein@environment.nsw.gov.au.

Yours sincerely



Rose O'Sullivan
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20 December 2022