Your Ref: PP-2021-6932
Our ref: DOC23/117423

David Kiernan - Senior Strategic Planner
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

By email: David.kiernan@goulburn.nsw.gov.au

Dear Mr Kiernan

Subject: PP-2021-6932 to amend Goulburn Mulwaree Local Environmental Plan 2009

The Department of Planning and Environment (DPE), Biodiversity and Conservation Division (BCD) has reviewed the documents provided with this application.

We advise that as the planning proposal involves the rezoning of flood prone land, it needs to be considered in accordance with *Local Planning Direction 4.1 Flooding*, issued under section 9.1(2) of the *Environmental Planning and Assessment Act 1979*, and the NSW Government's Flood Prone Land Policy as set out in the *Floodplain Development Manual* (2005). The policy aims to reduce the impact of flooding and flood liability on individual owners and occupiers, and to reduce private and public losses resulting from flooding utilising ecologically positive methods wherever possible.

As significant parts of the area covered by this planning proposal can be impacted by flooding and many sites have the potential to be full inundated, it will pose a significant flood risk to future occupants. It is not clear if flood access or evacuation is possible, there is no evidence of consultation with the NSW State Emergency Service (SES) and the planning proposal has not addressed the requirements of the section 9.1(2) Local Planning Direction 4.1 and the *Floodplain Development Manual*.

As such, BCD **objects** to the planning proposal as presented. Attachment A sets out detailed comments on the planning proposal including guidance to enable the planning proposal to be progressed in a manner consistent with the requirements of the section 9.1(2) *Local Planning Direction 4.1* through the preparation of a Flood Impact and Risk Assessment.

With regards to biodiversity, the two hollow bearing remnant snow gum (*Eucalyptus pauciflora*) trees on site should be retained and not impacted by future development. This is to meet the objectives of the *Biodiversity Conservation Act 2014* (the BC Act) which are to avoid impacts to biodiversity in the first instance.

If you have any further questions about this issue, please contact Mr John Bucinskas, Senior Team Leader, Water, Floodplains and Coast, South East, Biodiversity and Conservation Division on 02 4224 4153 or by email john.bucinskas@environment.nsw.gov.au.

Yours sincerely

16/02/2023

MICHAEL SAXON
Director South East
Biodiversity and Conservation Division

ATTACHMENT A – Detailed comments on planning proposal - 3 Brisbane Grove Rd, Goulburn

The DPE-BCD, Water, Floodplains and Coastal (WFC) team has reviewed the documentation associated with this Planning Proposal and offers the following advice for consideration by Council in progressing the matter.

Floodplain Risk Management Comments:

The planning proposal involves the rezoning of flood prone land and therefore needs to be considered in accordance with Section 9.1(2) Direction 4.1 and the NSW Government's Flood Prone Land Policy as set out in the *Floodplain Development Manual*, 2005 (FDM). The policy aims to reduce the impact of flooding and flood liability on individual owners and occupiers, and to reduce private and public losses resulting from flooding utilising ecologically positive methods wherever possible.

We have reviewed the Planning Proposal dated November 2022 (Post Gateway Version) and Water Cycle Management Study dated 19 October 2021 (supplied as Appendix 7a of the proposal) and have identified issues relating to the adequacy of flood investigations and consistency with Section 9.1(2) Direction 4.1 and the principles of the FDM. We note that there is no Flood Impact and Risk Assessment (FIRA) accompanying the proposal and the following key flood risk issues have not been assessed:

- the impact of flooding on the proposed development across a full range of flood events up to the Probable Maximum Flood (PMF)
- the impact of the proposed development on flood behaviour (particularly downstream flood impacts as a result of potential encroachment into the floodplain, land use and land form changes)
- the impact of flooding on the safety of people for the full range of floods including issues linked with evacuation
- the implications of climate change on flooding.

The Water Cycle Management Study does not demonstrate consistency with the local planning direction. While the proposal seeks to apply a C2 Environmental Conservation Zone to the southern drainage corridor to maintain the biodiversity in the area, the Water Cycle Management Study has not addressed the requirements of Section 9.1(2) Direction 4.1.

We note that the Water Cycle Management Study considered the 1 per cent Annual Exceedance Probability (AEP) local tributary design event. However, the assessment is not clear in demonstrating flooding from the larger Mulwaree River catchment or the interaction of flooding from both catchments. As such, the modelling is inadequate in assessing flood behaviour for the 1 per cent AEP design flood event, establishing a flood planning area and incomplete in assessing flood behaviour over the range of events up to the PMF.

It is also unclear if the flood modelling considered the range of factors that affect flood behaviour. The study should address the potential for flood impacts to be caused by the development in accordance with the requirements of Section 9.1(2) Direction 4.1. The study should also consider rehabilitation of the riparian corridor to ensure longer term ecologically sustainable outcomes for the waterway and their implication on flood extents as well as impacts of climate change. Council should also consult further with NSW Department of Natural Resources Access Regulator (NRAR) on the suitability of land-use zones for watercourses and establish suitable development setback requirements from watercourses and riparian lands in addition to flood hazard considerations.

The Water Cycle Management Study has elected to use Australian Rainfall and Runoff: A Guide to Flood Estimation (2019) methodologies to model the local catchment. The assessment lacks rigorous investigation into the suitability of this methodology and into the consequent implications

on flood risk. Council should ensure that any Flood Impact and Risk Assessments supporting a planning proposal are appropriately compared with best available information including Council's adopted flood studies and plans prepared under the Floodplain Management Program.

Based on Council's adopted FRSMP, Council is aware that parts of the proposal area and access roads (Braidwood Road, Brisbane Grove and Johnsons Lane) are inundated in the PMF. This has implications to the safety of future occupants of that land including any emergency management requirements and the need to evacuate. The planning proposal provides no evidence or information regarding evacuation of the floodplain or consultation with the NSW State Emergency Service (SES) and as such, public safety implications of the planning proposal is not clear and requires further assessment.

To address the flood related issues, we suggest that this planning proposal be supported by a FIRA that demonstrates consistency of the planning proposal with the requirements of the section 9.1(2) Local Planning Direction 4.1 Flooding and the Floodplain Development Manual. Further guidance material for preparing a FIRA can be found at https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/flood-risk-management-impact-risk-assessment-220057.pdf.

Further to our recent advice to other planning proposals referred on large areas of nearby lands, the cumulative impact of floodplain development involving significantly increased residential use of the floodplain requires strategic consideration by council and the NSW State Emergency Service (SES). Flood emergency access and evacuation planning is not clear and numerous lots with residential elements will be fully inundated. It is therefore considered prudent for Council to have in place an overall plan of future proposed growth areas to support its planning proposals and to address the impacts of flooding on the safety of future residents via an update of its Floodplain Risk Management Study and Plan (FRMS&P) and in accordance with advice from the SES on flood emergency management arrangements.

Summary:

As parts of the area covered by this planning proposal is impacted by flooding up to the PMF, there is a significant flood risk posed to future occupants of the flood prone land. It is not clear if evacuation is possible, there is no evidence of consultation with the SES and the planning proposal has not demonstrated consistency with the section 9.1(2) *Local Planning Direction 4.1 Flooding* and the Floodplain Development Manual. As such the Department has no choice but to object to the planning proposal as presented and trusts that this advice provides sufficient guidance upon which to enable a Flood Impact and Risk Assessment to support this planning proposal.

If further technical advice is required on floodplain risk management issues, council or the determining authority for this planning proposal should not hesitate to contact the South East WFC team, DPE-BCD.

Biodiversity Comments:

We have the following comments regarding the application for consideration.

- The development does not occur on land identified by the Biodiversity Values Map.
- The development proposes to impact on less than 0.1 hectares (ha) of native vegetation. This does not exceed the Biodiversity Offset Scheme Entry Threshold.
- The report provides sufficient evidence that there is no significant threatened species habitat on the site.
- As such, the development does not require a Biodiversity Development Assessment Report (BDAR).

Given the above and based on the information presented in the application, the conclusion presented that there is minimal risk of harm to threatened species and communities, appears

reasonable. We do however recommend that the two remnant Snow Gum (*Eucalyptus pauciflora*) trees be retained and protected. As hollow bearing trees in an otherwise cleared landscape, they have significant habitat value for local threatened species.