



IRF24/1571

## Gateway determination report – PP-2024-625

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Googong Township – Eastern Boundary Amendment

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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
Draft Planning Proposal, Eight Mile Planning, 13 June 2024
Appendix A. Extent of Technical Assessment (Plans), Spiire Australia, 27 September 2022
Appendix B. Stormwater Management Report Rev. B, Spiire Australia, 29 May 2024
Appendix C. Hydrological Assessment, SMEC Australia, 24 October 2022
Appendix D. Preliminary Site Investigation (Contamination), Geotechnique, 29 September 2022
Appendix E. Bushfire Assessment Report, Ember Bushfire Consulting, 12 July 2023
Appendix F. Traffic Transport and Access Assessment, STC Consulting, 27 June 2023
Appendix G. Aboriginal Cultural Heritage Assessment Report, Navin Officer Heritage Consultants, 1 July 2022
Appendix G1. Addendum, Googong Dam Catchment Realignment Proposal, Navin Officer Heritage Consultants, March 2024
Appendix H. Biodiversity Certification Assessment Report (BCAR), Capital Ecology, 12 March 2021
Appendix H1. Addendum, Biodiversity Considerations, Capital Ecology, 21 March 2024
Appendix I: Biodiversity Conservation and Science (BCS) Advice (collated)
Appendix J: Minutes of Ordinary Meeting of Council - Wednesday, 22 May 2024 - Item 9.2 PP-2024-625
Appendix K: NSW DCCEEW – BCS referral responses. 6 September 2024 and 29 October 2024

## Acronyms

PTWL	Pink-tailed Worm Lizard
PTWL-P&MP	Pink-tailed Worm Lizard Protection and Management Plan
GTPL	Googong Township Pty Ltd
QPRC	Queanbeyan-Palerang Regional Council's
NH-1	Neighbourhood 1 (Googong North)
NH-2	Neighbourhood 2 (Googong Central)
NH-3	Neighbourhood 3 (Googong West)

NH-4	Neighbourhood 4 (Googong South)
NH-5	Neighbourhood 5 (Googong East)
BCAR	Biodiversity Certification Assessment Repot

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	Queanbeyan-Palerang Regional Council
<b>PPA</b>	Queanbeyan-Palerang Regional Council
<b>NAME</b>	Googong Township – Eastern Boundary Amendment
<b>NUMBER</b>	PP-2024-625
<b>LEP TO BE AMENDED</b>	Queanbeyan-Palerang Local Environmental Plan 2022
<b>ADDRESS</b>	Wellsvale Drive, Googong 29 Connolly Street, Googong
<b>DESCRIPTION</b>	Lot 6 DP 1294382 Lot 11 DP 1266001 (PTWL Conservation Area)
<b>RECEIVED</b>	14/06/2024
<b>FILE NO.</b>	IRF24/1571
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	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:

- Rezone land within the Pink-tailed Worm Lizard (PTWL) Conservation Area (Lot 11) from R5 Large Lot Residential to C2 Environmental Conservation.

- Make a number of minor adjustments to the zone boundaries along the interface between Neighbourhoods 4 and 5 (NH4&5) so that the zone boundaries align with future development.
  - The intention is that the Yellow Box Reserve (Lot 6) is rezoned from R1 General Residential to C2 Environmental Conservation and
  - The boundary between residential and conservation zones adjacent to the NH4&5 aligns with the proposed development area.

The proposal will result in changes to the residential and conservation land as follows:

	Current Area	Proposed Area
Area of Residential	49.404ha	11.43ha
Area of Environmental	11.24ha	49.214ha

The Planning Proposal results in mapping amendments only. There are no changes to any existing clauses and the proposal does not introduce any new provisions.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Queanbeyan-Palerang LEP 2022 as shown below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	C2 - Environmental Conservation R1 - General Residential R5 - Large Lot Residential RE1 - Public Recreation	These zones remain and it is proposed to realign zone boundaries.
Maximum height of the building	12 m 8.5 m	Boundary realignments
Minimum lot size	15000 m <sup>2</sup> 330 m <sup>2</sup> 600 m <sup>2</sup> 80 ha	Boundary realignments
Additional Permitted Uses Map	8. Use of certain land at Googong—Zone R1 General Residential 9. Use of certain land at Googong Common, Googong	Boundary realignments
Secondary Dwelling and Dual Occupancy Map	15ha 600 m <sup>2</sup>	Boundary realignments

Local Clauses Map	Googong Reservoir Catchment Area/Boundary	Boundary realignments
Number of Dwellings*	Overall = approx. 120	Overall = approx. 174

\*EPBC Act Approval and BCAR Approvals would be required to enable residential development on the site.

The planning proposal states that it is proposed to achieve the desired intent through the following amendments:

#### Lot 11 DP 1266001

1. PTWL Conservation Area Site – rezone land from R5 Large Lot Residential to C2 Environmental Conservation.

The PTWL Protection and Management Plan (P&MP) currently provides protection to the threatened species.

The rezoning will change the zoning of 37Ha (Figure 1) of land from residential to environmental conservation, in accordance with existing technical studies, the approved PTWL-P&MP. The rezoning will allow for alignment with the PTWL-P&MP.

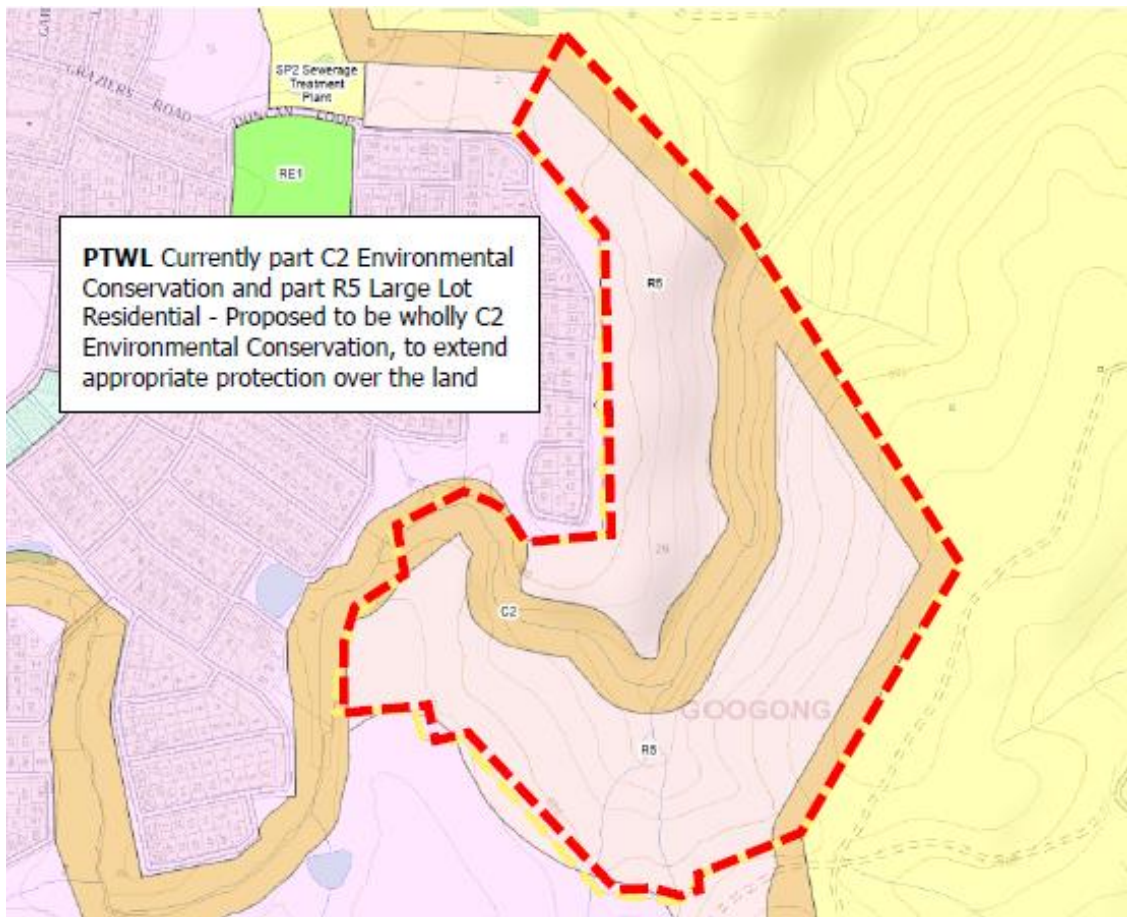


Figure 1: PTWL Current Land Zoning (Source: Planning Proposal, Eight Mile Planning, June 2024)

**Lot 6 DP 1294382 (Figure 2)**

2. Yellow Box Reserve Site (Figure 2/Sites 1 & 2) – it is proposed to realign the boundary between the R1 General Residential and C2 Environmental Protection zones and recognise the RE1 Public Recreation zone approved under DA2021-1549.

The realignment of 11.08Ha of land from R1 to C2 is in accordance with the approved Biodiversity Certification Agreement Order (BCA).

The rezoning of 0.24Ha of R1 land and 0.24Ha of C2 zoned land to RE1 Public Recreation is in accordance with DA2021-1549.

3. Eastern Boundary Alignment (Figure 2/Sites 3 & 4) – to rezone 2 areas of C2 Environmental Conservation to R1 General Residential.

Land originally zoned for Environmental Protection due to the water flows going towards Googong Dam, can be redirected so that water falls towards the Montgomery Creek Catchment. The land is of low biodiversity value and is considered suitable for residential development. Area 1 comprises of 10.4Ha and area 2 will comprise of 0.5Ha, with a total additional lot yield of approximately 98 residential lots, which will help to compensate for yield loss from the Yellow Box Reserve.

4. Eastern Boundary (Figure 2/Sites 5-8) – rezone 2 portions from R5 Large Lot Residential to C2 Environmental Conservation; rezone an area of C2 Environmental Conservation to R1 General Residential; and rezone another area from R5 large lot Residential to R1 General Residential.

The proposed rezonings apply to land identified in the approved structure plan for NH3-5 and will provide for a better urban design outcome and urban space linkages.

Two portions of R5 land measuring 0.56Ha and 0.5Ha (total of 1.05Ha) will be rezoned to C2; one area of 0.06Ha will be rezoned from C2 to R1; and one area of 5.89Ha will be rezoned from R5 to R1.

5. Minimum Lot size amendments (Figure 2/Sites 8 & 9) – make adjustments to reflect the new land zoning boundaries explained above.

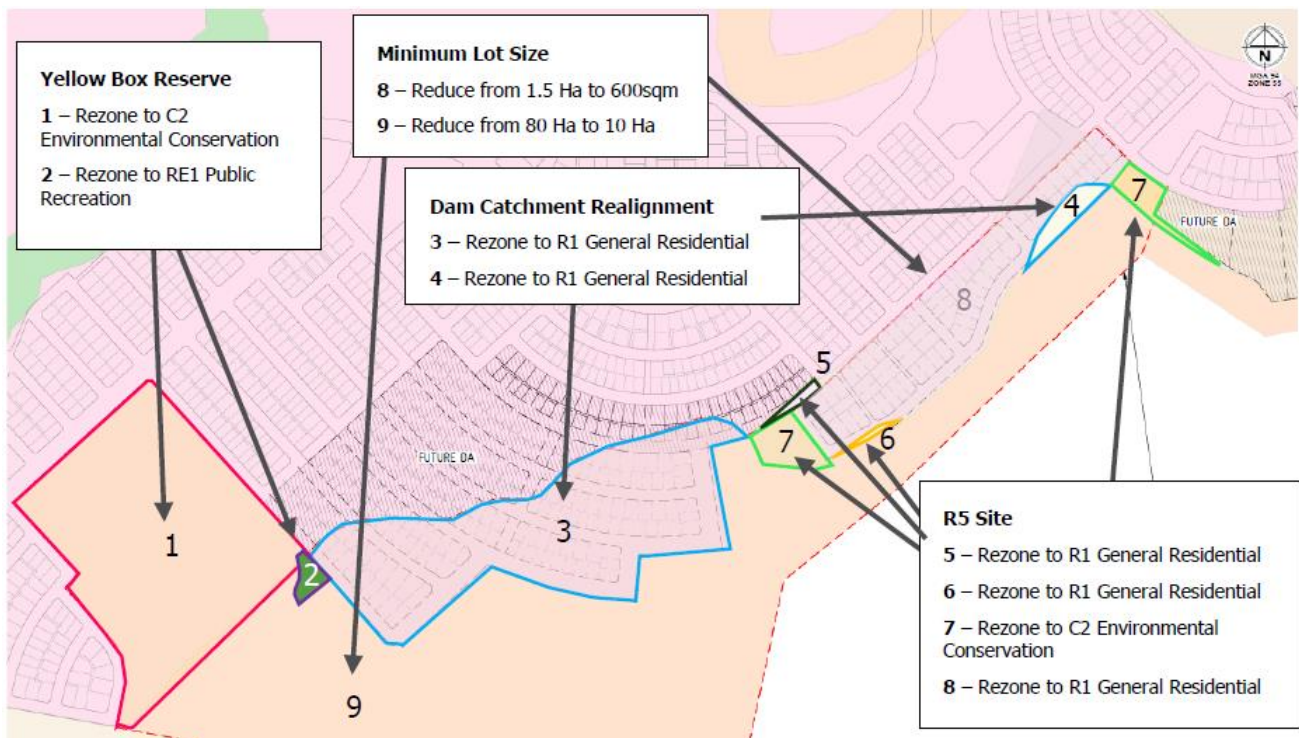
Within the R5 Large Lot Residential site the minimum lot size will be amended from 1.5Ha to 600m<sup>2</sup> to integrate with the approved subdivision to the north.

Within the C2 zone the boundaries will be amended to align with the new zoning boundaries, so that conservation lands can be created in stages as the Googong masterplan is implemented.

6. Other Mapping Amendments

- a) Additional Permitted Uses – amended to remove land proposed to be included in the C2 Environmental Conservation area.
- b) Height of Buildings – amend to align with the R1 General Residential zone. There are currently no restrictions on C2 zoned land.
- c) Local Clauses map – refers to land mapped as the ‘Googong Foreshore Buffer Area’ which follows the current residential zone boundaries. The buffer area will be aligned to meet the new residential zone boundaries.
- d) Secondary Dwelling and Dual Occupancy Map – amended to align with the proposed residential zoned land.





**Figure 2: Yellow Box Reserve, Eastern Boundary Amendments (Source: Planning Proposal, Eight Mile Planning, June 2024)**

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

Googong Township is a 25-year major urban release area being developed in partnership by Peet and Mirvac, operating as Googong Township Pty Ltd (GTPL). The emerging township is located in Southern NSW, 8km from Queanbeyan and 15km from Canberra. The Googong master plan is embedded in Queanbeyan-Palerang Regional Council's (QPRC) Googong Development Control Plan and provides the overarching structure for the township. It has been planned and is being developed as a freestanding township with five neighbourhoods, around 6,600 dwellings and a population of over 18,000 people.

Googong Township is currently being developed and comprises of five (5) neighbourhood areas (Figure 4). Neighbourhood 1 (Googong North) has been completed whilst Neighbourhood 2 (Googong Central) is currently under staged Construction. Neighbourhoods 3 (Googong West), 4 (Googong South) and 5 (Googong East), have recently been approved under DA2021-1549 and form part of the subject sites (Figure 3).

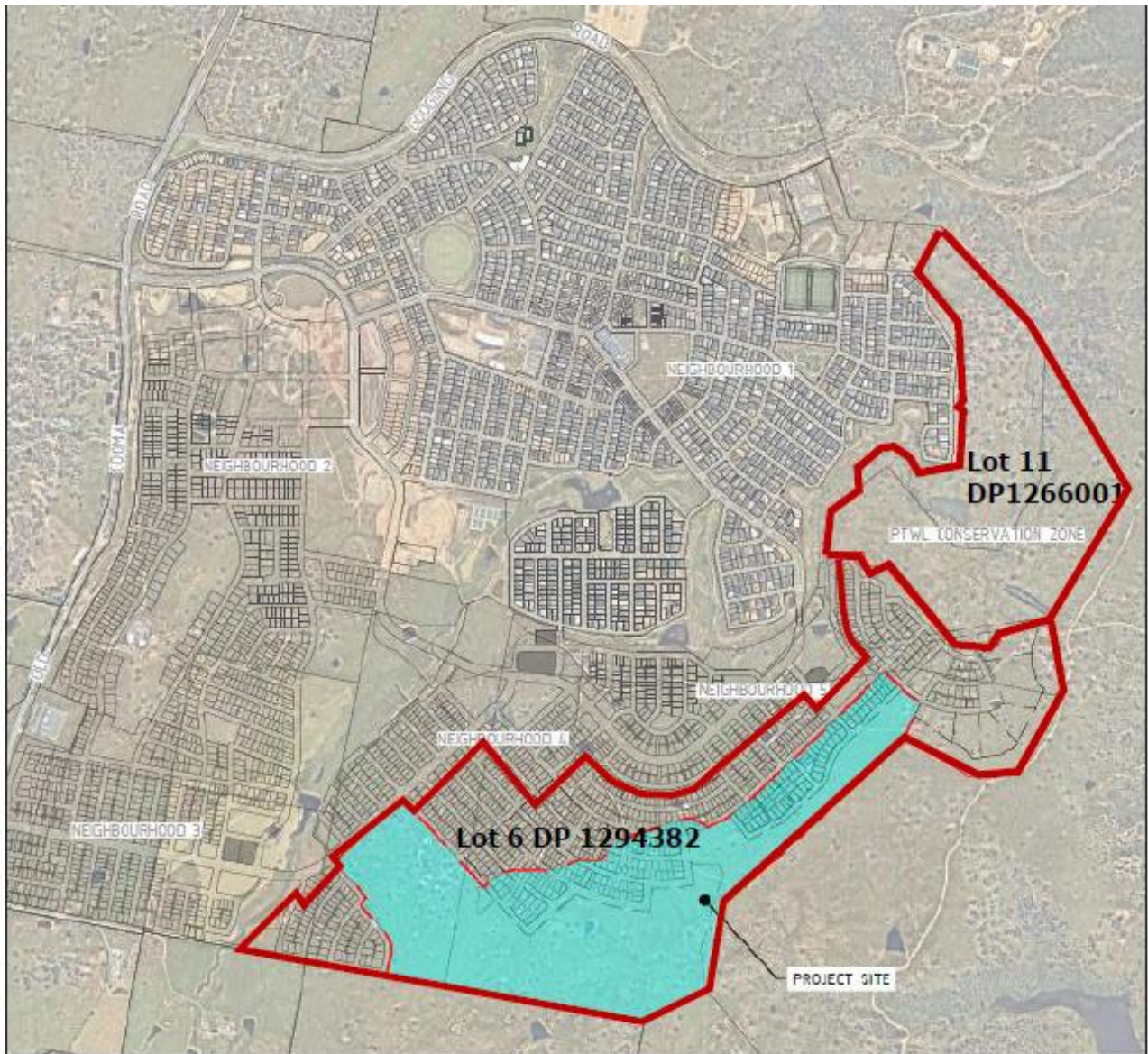
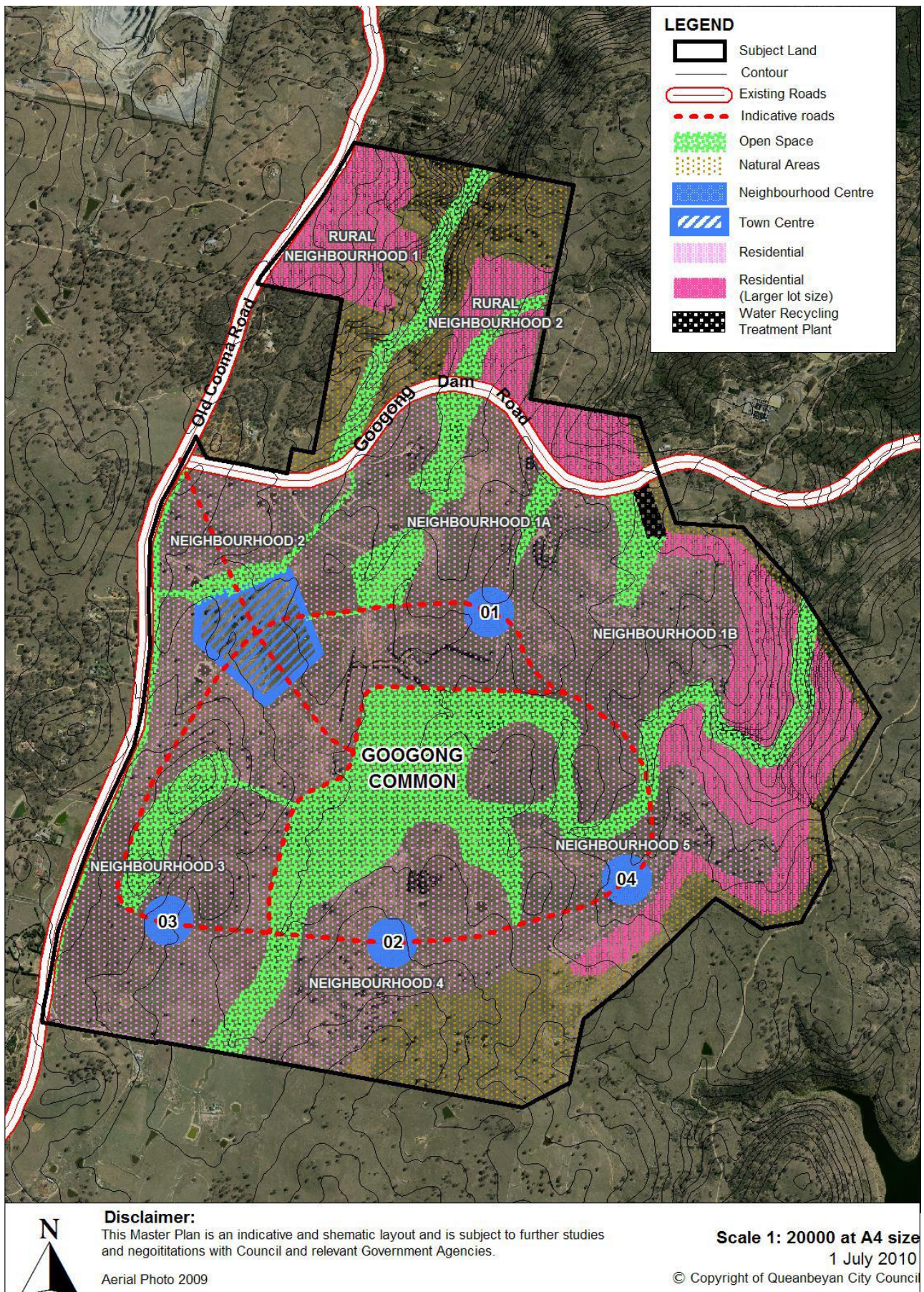


Figure 3: Subject site (source: Planning Proposal, Eight Mile Planning, June 2024)





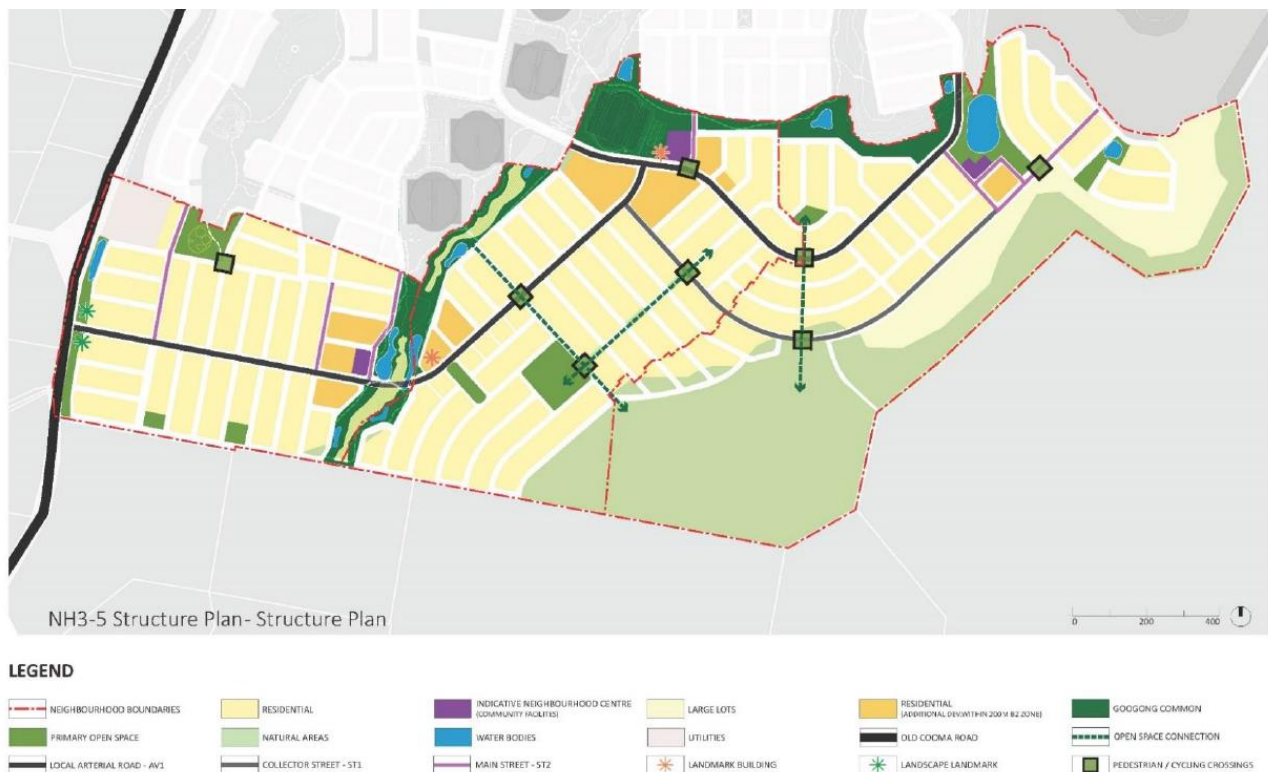
**Figure 4: Googong Masterplan showing identified Neighbourhoods (source: Googong DCP)**



The subject sites consists of two lots which are irregular in shape and cover an area of approximately 64.1ha. Lot 11 (29 Connolly Street, Googong) which is known as Pink Tail Worm Lizard Conservation Area (PTWL); and Lot 6 (Wellsville Drive, Googong) which forms the lower part of Neighbourhoods 3, 4 and 5, includes Yellow Box Reserve and provides a protection buffer between the township and Googong Dam (Googong Foreshore Buffer).

The area is characterised by a variety of land uses including, nature reserves, low intensity forestry, rural residential development, cattle and sheep grazing and recreation. Googong Dam and the Googong Foreshores (owned by the Commonwealth Government and leased to the Australian Capital Territory Government) is immediately east of the site.

The Googong DCP requires that a 'Neighbourhood Structure Plan' be prepared and approved prior to the subdivision and development of the land. A Structure Plan for Neighbourhoods 3, 4 & 5 was prepared and submitted to Council in May 2016 and was adopted on 14 December 2016 as part of the amendment to Googong DCP (Figure 5).



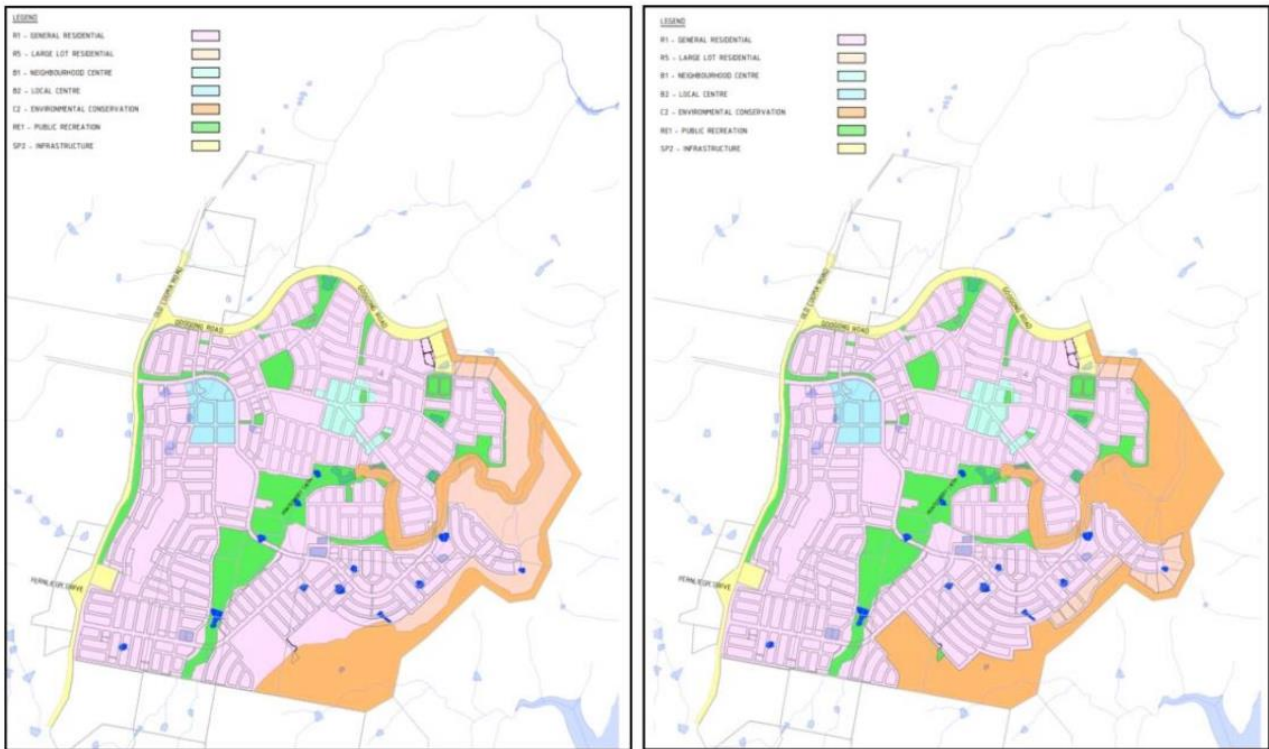
**Figure 5: NH3-5 Structure Plan (Source: Googong DCP Appendix 10)**

## 1.5 Mapping

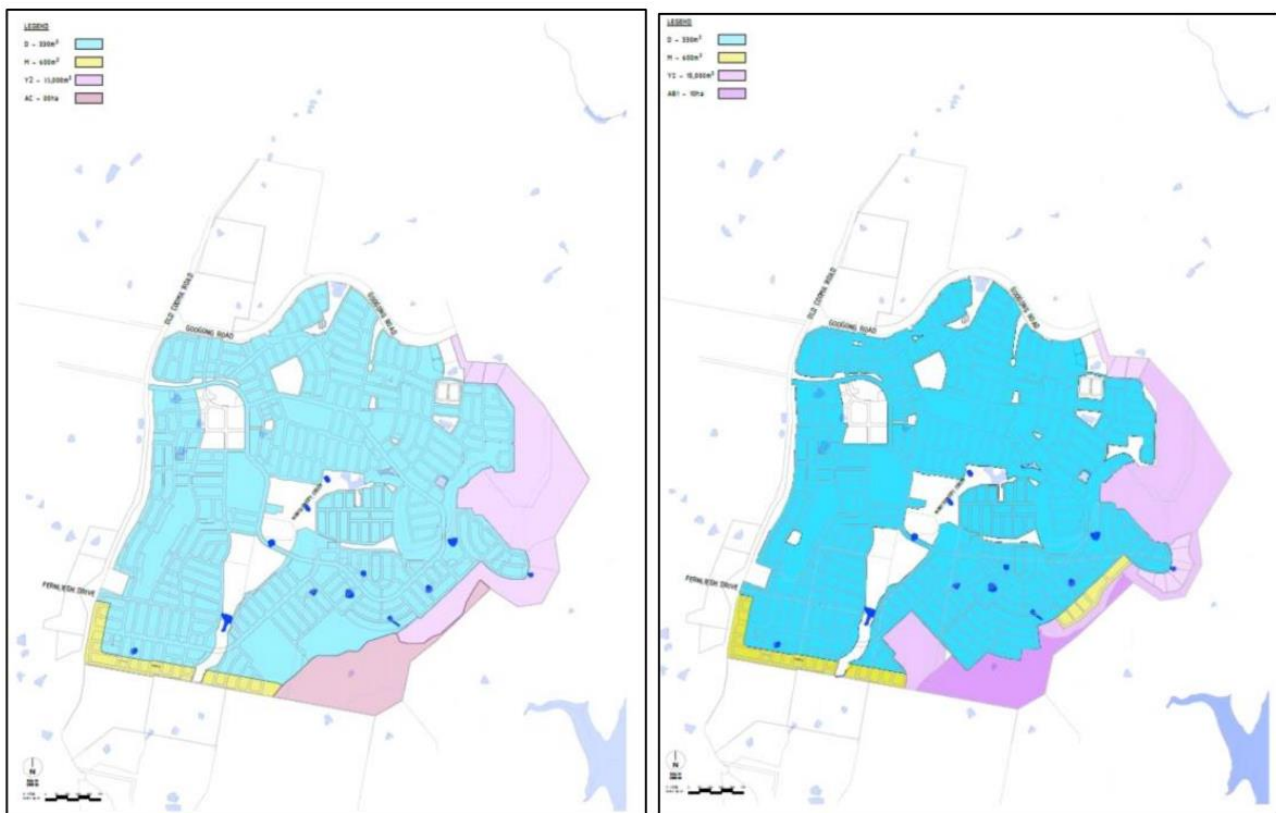
The planning proposal includes mapping showing some of the proposed changes to the following maps. Where mapping has not been supplied it will be required to be supplied prior to exhibition:

Amend Map sheets 001E as described:

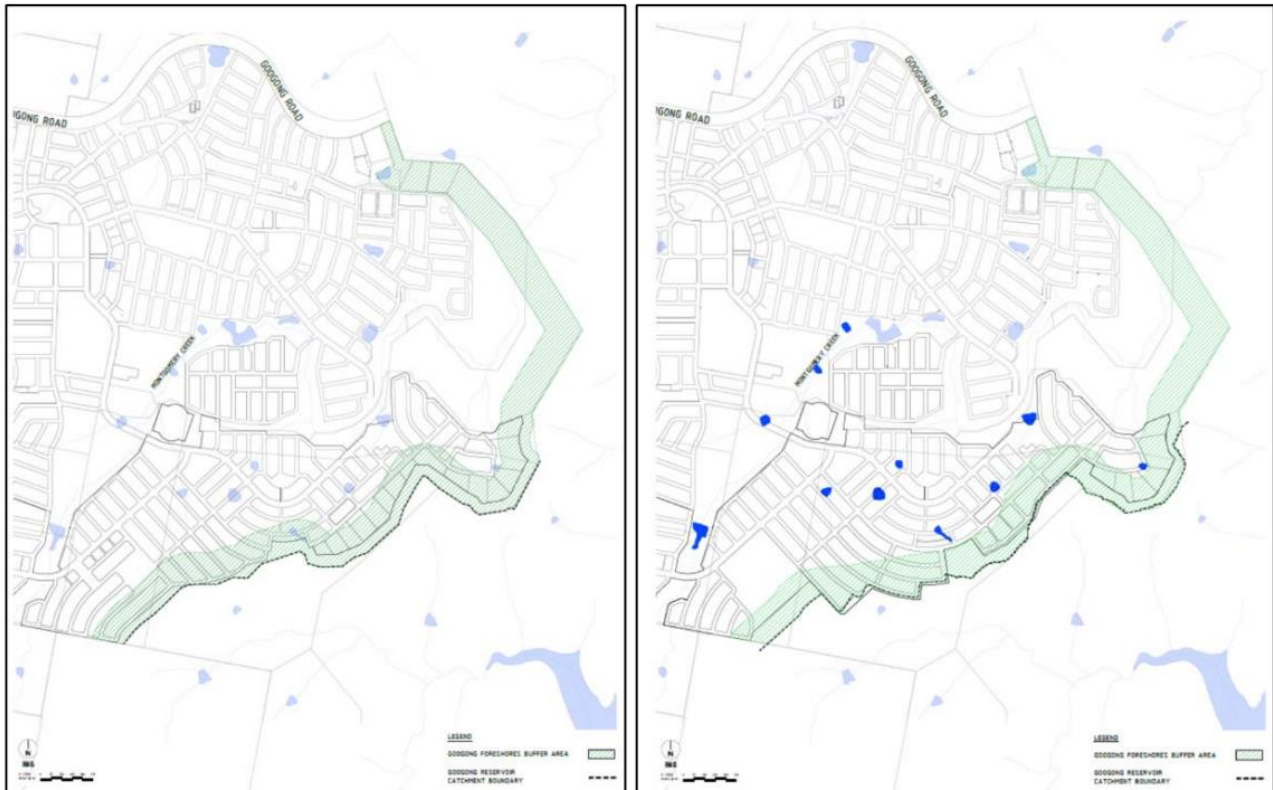
1. Additional Permitted Uses Map – Sheet APU\_001E – **Not Supplied**
2. Height of Buildings Map – Sheet HOB\_001E – **Not Supplied**
3. Land Zoning Map – Sheet\_001E – Figure 6
4. Lot Size Map – Sheet\_001E – Figure 7
5. Local Clauses Map – Sheet LOC\_001E – Figure 8
6. Secondary Dwelling and Dual Occupancy Map – Sheet SDO\_001E – **Not Supplied**



**Figure 6: Current and Proposed Zoning map (Source: Planning Proposal, Eight Mile Planning, June 2024)**



**Figure 7: Current and Proposed Minimum Lot Size Map (Source: Planning Proposal, Eight Mile Planning, June 2024)**



**Figure 8: Current and Proposed Local Clauses (Buffer) Map (Foreshore Protection map) (Source: Planning Proposal, Eight Mile Planning, June 2024)**

The supplied maps are suitable for community consultation.

## 1.6 Background

In 2002, Council identified 1,390 Ha of land at Googong for residential investigation. A Local Environmental Study (LES) was prepared that supported the rezoning of Googong. The Googong Urban Release Area (URA) was subsequently rezoned in 2009.

Ecological investigations as part of the initial Local Environmental Study (LES) for Googong resulted in a significant portion of the investigation area being excluded when the Googong Urban Release Area (URA) was rezoned in 2009.

Googong was referred to the Commonwealth under its Environment Protection and Biodiversity Conservation Act, 1999 (EPBC Act). As part of this referral, approximately 38 Ha of land zoned R5 Large Lot Residential was found to be Pink Tail Worm Lizard (PTWL) habitat. GPTL committed to setting aside this land into a conservation area.

The (NSW) Biodiversity Conservation Act, 2016 (BC Act) came into effect in 2016. The BC Act triggered an additional level of biodiversity assessment for the DA for Neighbourhoods 3-5 (NH3-5) and the need for a Biodiversity Certification Assessment Report (BCAR). In assessing the BCAR, the Department of Planning and Environment (now Department of Planning, Housing and Infrastructure DPHI) was not able to take into account the abovementioned major strategic avoidance strategies as its assessment was limited to the scope of NH3-5.

In order to demonstrate reasonable avoidance of impacts within NH3-5 under the BC Act, it was necessary to avoid residential subdivision of an area of land that is zoned R1 General Residential, that was previously assessed as suitable for residential development. This area was excluded from residential development in the NH3-5 DA that was approved by the Southern Regional Planning Panel in September 2022 (Figure 9).





**Figure 9: Approved DA2021-1549 Masterplan (source: Planning Proposal, Eight Mile Planning, June 2024)**

The Googong Foreshore Buffer Area is a 150m wide strip of land along the eastern boundary of the township. Where the catchment boundary encroaches into the Googong township the Googong Foreshore Buffer Area extends west 150m from the catchment boundary into the urban area. The buffer is referenced in Clause 6.4 *Development near Googong Dam foreshores* of QPLEP to ensure that Council considers the impact of development inside the mapped area. The Planning Proposal does not propose to amend Clause 6.4 however, the *Googong Foreshore Buffer* map is proposed to be amended to align with the land use zone and continue to provide additional protection.

Following the setting aside of the Yellow Box Reserve for conservation, GTPL has considered zoning options to recoup the yield that was originally planned in the area of the reserve, to ensure the full utilisation and maximise the sustainability of the infrastructure delivered at Googong.

## 2 Need for the planning proposal

The Planning Proposal is the result of amendments required under the *NSW Biodiversity Conservation Act 2016* (BC Act), to the Googong Township URA Planning Controls, discussed above.

The PP is seeking to amend the Queanbeyan-Palerang Local Environment Plan (QPLEP) to reflect the changes required under the BC Act which have already been adopted and endorsed in the above-mentioned DA and strategic plans. The PP is the most effective way of providing for the delivery of the Googong Masterplan.

## 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.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Goal 1: A connected and prosperous economy	There are no specific directions within the goal that are impacted by the subject PP. The PP will help support residential development within close proximity to existing and emerging commercial centres, transport links, and support services and respond to supporting economic growth within the region.
Goal 2: A diverse environment interconnected by biodiversity corridors	<p>The PP is the result of amendments required under the BC Act to protect important environmental features of the site and area.</p> <p><b>Direction 14: Protect important environmental assets</b></p> <p>Direction 14 relates to the protection of land with high environmental value and maintaining biodiversity corridors.</p> <p><b>Direction 15: Enhance biodiversity connections</b></p> <p>Direction 15 relates to maintaining and enhancing ecological and biodiversity connectivity.</p> <p>The PP will implement additional protection measures over land with high environmental value and biodiversity connectivity areas, through the rezoning of residential zoned land to conservation zoned land, namely Yellow Box Reserve and Pink Tailed Worm Lizard (PTWL) Conservation Area.</p> <p>However, aspects of the proposal are not consistent with the direction as discussed below in section 4.1.</p>
Goal 3: Healthy and connected communities	<p>The Googong Township was created to allow for the delivery of a planned connected community. The PP will not amend this intention.</p> <p><b>Direction 22: Build socially inclusive, safe and healthy communities</b></p> <p>Direction 22 relates to neighbourhoods and centres being environmentally sustainable, socially inclusive, easy to access, healthy and safe.</p> <p>The PP supports the continued delivery of the neighbourhood centres through consistency and alignment with the Masterplan, established Development Control Plan (DCP) and the approved DA.</p>



Goal 4: Environmentally sustainable housing choices

#### Direction 24: Deliver greater housing supply and choice

Direction 24 relates to the design and location of new neighbourhoods and centres which will be environmentally sustainable, socially inclusive, easy to access, healthy and safe.

The PP supports the continued delivery of the neighbourhood centres through consistency and alignment with the Masterplan, established Development Control Plan (DCP) and the approved DA.

An assessment of the planning proposal against relevant aspects of the Draft South East and Tablelands Regional Plan 2041, shows that as Googong Township is a master planned community, with existing services and community facilities, the Planning Proposal is considered to be generally consistent with the Plan.

## 3.2 Local

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
Queanbeyan Palerang Local Strategic Planning Statement.	<p>The Queanbeyan Palerang Local Strategic Planning Statement (QP LSPS) sets the long-term planning priorities for the LGA. The QP LSPS is made up of 14 planning priorities and associated actions, with the following applicable to the planning proposal:</p> <ul style="list-style-type: none"> <li>• Planning Action 4.4.9 Provide a range of housing choices at different costs to meet the changing needs of the community and consider the options for community housing provider partnerships to provide affordable housing.</li> <li>• Planning Priority 5: We consider the environmental impacts of future development.</li> <li>• Planning Priority 6: Our natural landscapes and water resources are sustainably managed.</li> <li>• Planning Priority 7: We actively promote and implement sound resource conservation and good environmental practice.</li> <li>• Planning Priority 8: We ensure the future planning for the region is well-coordinated and provides for its sustainable management.</li> </ul> <p>The Googong Township's environmental assets are protected under an Environmental Protection and Biodiversity Conservation Act (EPBC Act) approval. The approval included a number of conditions imposed to ensure the ongoing management and protection of biodiversity values on and adjacent to the development area.</p> <p>The Planning Proposal seeks to amend the boundaries approved under the EPBC Act Approval, some of which enhance environmental</p>

	<p>protection measures, but others do not and are not supported. See full discussion in section 4.1.</p> <p>The planning proposal is generally consistent with the overall QP LSPS.</p> <p>Note: A Condition of Consent will require the PP to be amended to reflect environmental protections currently in-place over the site.</p>
Googong Masterplan, DCP & Neighbourhood structure Plans	<p>The Googong Masterplan and NH3-5 Structure plans are published in Appendix 8 and Appendix 10 of the Googong DCP. The Structure Plans have not been updated to reflect the approval of the subdivision for the NH3-5 in September 2023 (Figure 9). The Structure Plan has been superseded by the Approved DA and does not account for the expansion of Yellow Box Reserve, or the amendment to the residential lot yield.</p>


### 3.3 Section 9.1 Ministerial Directions

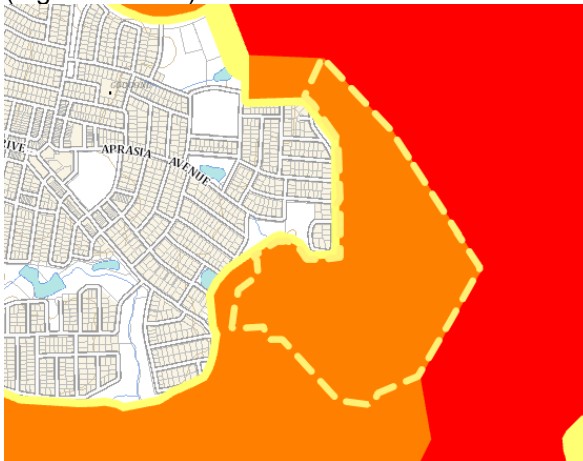
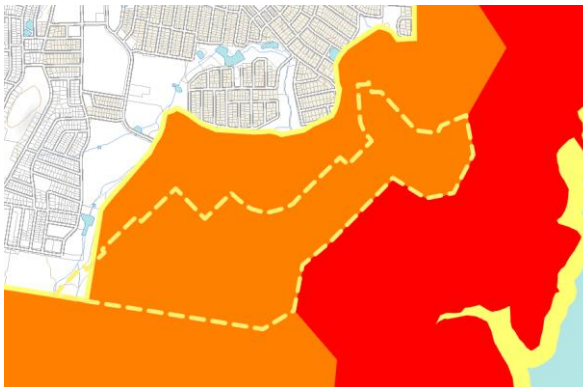
The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional plans	Consistent	See section 3.1
3.1 Conservation Zones	<p>Partially inconsistent.</p> <p>Areas of inconsistency are not supported in the Gateway Determination.</p> <p>Areas determined to be consistent with the Direction will be supported in the Gateway Determination.</p>	<p>While the PP refers to the EPBC Act Approval and BCAR Approval over the subject site, it is not considered to adequately address these or justify the proposed changes.</p> <p>The PP is supported by a Biodiversity Certification Assessment Report (Appendix H) and an Addendum (Appendix H1), prepared by Capital Ecology. These assessments are out-of-date and do not meet the requirements for assessment under the Biodiversity Assessment Methodology (BAM) Framework.</p> <p>The Planning Proposal and appendixes were referred to DECCW – BCS for review, which was unable to provide “in principle” support for the proposal in its entirety. Concerns were raised specifically in relation to Site 3</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>which is proposed to be rezoned from environmental conservation to residential.</p> <p><u>DECCW – BCS Advice</u> (Appendix I).</p> <ul style="list-style-type: none"> <li>– The subject land within Area 3 is dominated by native vegetation, which is not of minor significance.</li> <li>– The proposal in its current form does not demonstrate avoidance of any values in Area 3, it is therefore not consistent with the Ministerial directions.</li> <li>– The proposal does not seek to protect any residual biodiversity values within land currently zoned C2 Environmental Conservation.</li> <li>– Rezoning Area 1 -Yellow Box Reserve for conservation is supported by BCS as it was a requirement for the conferral of the Biodiversity Certification signed on 8 July 2022.</li> <li>– The planning proposal needs to demonstrate avoidance on land that is developable not land that is already under existing conservation protection. i.e. cannot use Yellow Box Reserve to offset rezoning of site 3.</li> <li>– Do not support reduced minimum lot sizes in Area 9.</li> </ul> <p>As the PP cannot be justified fully in relation to Direction 3.1, it is considered the sites which can meet the requirements should be supported, whilst the sites/aspects of the proposal which are inconsistent with the Direction are excluded from the gateway. See further discussion in section 8.</p>
3.2 Heritage Conservation	Consistency not yet known	<p>The subject site is not identified as containing any items of historical significance.</p> <p>The PP is supported by an Aboriginal Cultural Heritage Assessment (Appendix G) and Addendum (Appendix G1), prepared by Navin Officer, Heritage Consultants, which identified a number of Aboriginal sites and potential archaeological deposits (PAD) within the subject area. Mitigation measures have been proposed as part of the reporting which are consistent with the requirements identified in the <i>National Parks and Wildlife Act 1974</i>.</p> <p>This Direction has not been addressed in the planning Proposal. A Condition in the Gateway will require the inclusion of this Direction to be addressed.</p>
3.6 Strategic Conservation Planning	Consistency not yet known	<p>The site includes areas of Certified Avoided land. The Planning Proposal seeks to rezone land identified as Avoided land from R1 Residential to C2 Environmental Conservation and RE1 Public Recreation. There are no</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		<p>constraints in the Direction which prevent Avoided land being rezoned to Conservation or Public Recreation.</p> <p>This Direction has not been addressed in the planning Proposal. A Condition in the Gateway will require this Direction to be addressed.</p>
3.10 Water Catchment Protection	Consistency not yet known	<p>Lot 6 is identified as Water Catchment Protection (Figure 10).</p>  <p><b>Figure 10: Water Catchment Lot 6</b></p> <p>This Direction applies when a planning proposal authority prepares a planning proposal which will affect land within a regulated catchment.</p> <p>The PP is supported by a Stormwater Management Report (Appendix B) and a Hydrological Assessment (Appendix C).</p> <p>The Stormwater Management Report, prepared by Spiire, includes information specific to the GFIMS area, and determines that water quality can be maintained within the designated area. Furthermore, the report considered the NORBE guidelines, as required by Water NSW and determined that as the proposal falls outside of Module 3 (sewered, large/multiple lot, residential developments) requirements.</p> <p>The Hydrological Assessment prepared by SMEC Australia, which looked at the potential impact to groundwater within the GFIMS area. The report concluded that any potential impacts can be mitigated, and any change in recharge is considered negligible.</p> <p>This Direction has not been addressed in the planning Proposal. A Condition in the Gateway will require this Direction to be addressed.</p> <p>Further consultation with Water NSW is also recommended to ensure consistency with this Direction.</p>

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
4.1 Flooding	N/A	The subject site is not identified as flood prone land.
4.3 Planning for Bushfire Protection	Further justification required	<p>The subject site is identified as Bush fire prone land (Figure 11 &amp; 12).</p>  <p><b>Figure 11: Bushfire mapping Lot 11</b></p>  <p><b>Figure 12: Bushfire mapping Lot 6</b></p> <p>A Strategic Bushfire Study was undertaken by Ember Bushfire Consulting (Appendix E), which assessed only part of the subject sites associated with the PP. The Report determined that the concept subdivision can satisfy the performance criteria for residential subdivisions.</p> <p>This direction requires that RFS is consulted following the receipt of a Gateway determination. This has been included as a condition of the Gateway.</p>
4.4 Remediation of Contaminated Land	Consistent	The site is not identified on any mapping that it could be impacted by Potentially Contaminated Land or Acid Sulphate Soils.
4.5 Acid Sulphate Soils	N/A	The PP has been supported by a Preliminary Site Investigation Report (Appendix D), which concludes that there is contaminated material on-site, which can be

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
		mediated via a Remedial Action Plan (RAP) to make the site suitable for future residential development.
5.2 Reserving land for Public Purposes	Consistent	<p>The PP includes the provision of reserving land for public purposes. Land within the PTWL Conservation area and Yellow Box Reserve is to be rezoned from residential zones to C2: Environmental Conservation and RE1: Public Recreation. The rezoning will allow for the long-term management and protection of the sites.</p> <p>Council Resolved to support the proposal during the Ordinary Meeting of the Queanbeyan-Palerang Regional Council on Wednesday 22 May 2024 (Appendix J). This resolution confirms that the proposal has been approved by the relevant public authority.</p>
6.1 Residential Zones	Consistent	<p>The PP proposes to rezone 11.43ha of land to R1 General Residential land and protect a total of 49.214ha of land as conservation lands by rezoning from residential.</p> <p>All residential land will be developed in consistency with the established DCP which covers the Googong Township. It is noted that part of the Council resolution discussed above, is that a review of the Googong structure plans in Appendix 8 (Updated Master Plans and Neighbourhood Structure Plans, Neighbourhood 2) and Appendix 10 (Neighbourhood Structure Plans, Neighbourhoods 3-5) of the Googong DCP is to be reviewed with consideration of the subdivision approval in DA.2021.1549. This review has no significant impact on the PP.</p>

### 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
Biodiversity and Conservation 2021	Chapter 13 Strategic Conservation Planning	Consistency unknown	<p>The site is subject to Biodiversity Certification under the EPBC Act.</p> <p>This SEPP has not been considered in the Planning Proposal. A Condition in the Gateway will require the inclusion of this SEPP to be addressed.</p>

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
Resilience and Hazards 2021	Chapter 4 Remediation of Land	Consistent	The PP has been supported by a Preliminary Site Investigation Report (Appendix D), which concludes that there is contaminated material on-site, which can be addressed via a Remedial Action Plan (RAP) to make the site suitable for future development.

## 4 Site-specific assessment

### 4.1 Environmental

Due to the environmental significance of the site and protection measures in place, Department of Climate Change, Energy, the Environment and Water (DCCEEW), Biodiversity Conservation and Science (BCS), along with the Commonwealth Department of Climate Change, Energy, the Environment and Water (Cwth DCCEEW) were consulted as part of the Gateway Assessment, particularly in relation to the Googong Dam Catchment Realignment.

The Googong development triggered the requirement for approval under the (Cwth) *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which was assessed and approved in 2011 (Decision reference [EPBC 2011/5829](#)). This approval created the Pink Tailed Worm Lizard Conservation Area.

The developers entered into a local planning agreement (VPA) with council in 2011 at which point they dedicated land to council for open space, including the PTWL Conservation Area (38.07 ha zoned R5 – Large lot residential and 15.93 ha zoned C2 – Environmental conservation).

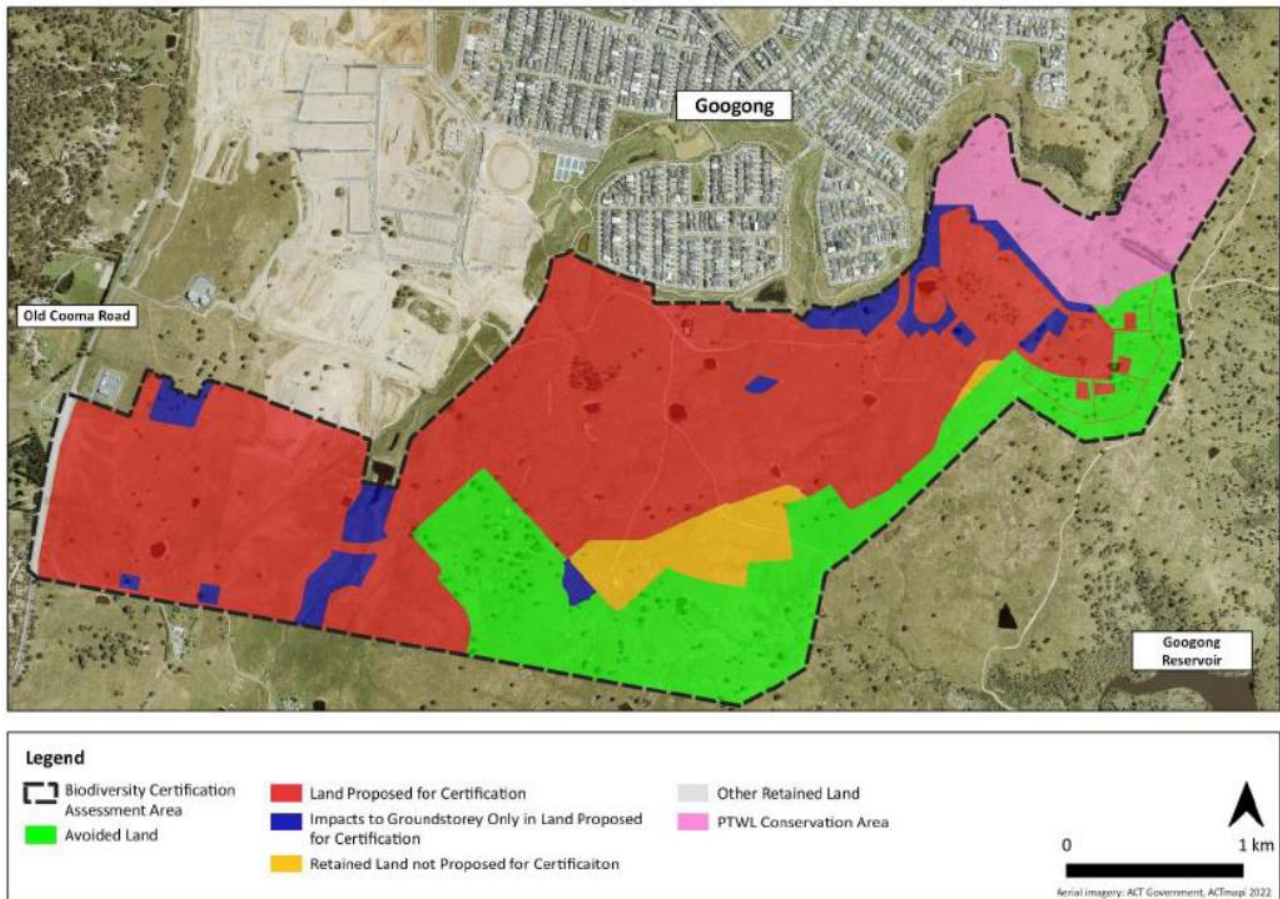
In 2016 the (NSW) *Biodiversity Conservation Act, 2016* (BC Act) came into effect which triggered an additional level of Biodiversity Assessments against the latest DA for Neighbourhoods 3-5, and the need for a Biodiversity Certification Report (BCAR) to be produced. The BCAR Approval was issued on 8 July 2022 and applied only to land already zoned residential within neighbourhoods 3-5. No land currently zoned C2 Conservation Management was assessed as part of the application and was characterised as 'retained land not proposed for certification'. The extent of land assessed in the BCAR is shown in Figure 13.

Retained land is land that does not have conferral under the BC Act and is not necessarily subject to long-term or in perpetuity protection measures. Retained land is land available for potential future development, subject to further assessments and approvals. Sites 3 and 4 are identified in the BCAR Approval as retained land. Site 3 is approximately 10.4ha and site 4 is approximately 0.5ha. The submitted Biodiversity Certification Report (Appendix H) and Addendum (Appendix H1) do not meet the requirements under the BC Act for currency of fieldwork under the Biodiversity Assessment Methodology (BAM), as such the submitted documentation cannot be relied upon to support the proposal for rezoning in accordance with BC Act. As such the sites cannot be assessed under this application and do not form part of this gateway determination.

It is noted that for any DA the requirements of the BC Act would need to be satisfied as Council can't determine applications which depend on the outcome of a BC Act approval.

The subject Planning Proposal impacts three areas of ecological significance being the Pink-tailed Worm Lizard (PTWL) Conservation Area, the Googong Foreshore Interface Management Strategy (GFIMS), and Yellow Box Reserve.





**Figure 13: Biodiversity Certification Areas (Source: Planning Proposal pg.13)**

#### 4.1.1 PTWL Conservation Area

The EPBC Act Approval required the area identified in current Lot 11, to be established as the Pink Tailed Worm Lizard (PTWL) Conservation Area (identified as 'pink' in Figure 13) and for the ongoing management of the area. The area has been identified as "very high" quality habitat (24.20 hectares), with the additional area of approximately 15ha to be restored, and the area to be protected as a conservation area in perpetuity.

The PP seeks to rezone land within the identified area from R5 Large Lot Residential to C2 Conservation management. This part of the proposal is supported as no development can occur within the lot due to the 'in perpetuity' protection of the site.

#### 4.1.2 Googong Foreshore Interface Management Strategy

Googong Foreshores and Googong Reservoir's primary function is for urban water supply, however, is open to the public for recreational use (predominantly for walking, sight-seeing, picnicking, boating and fishing). The proposed Googong Township is likely to result in increased human use of the Googong Foreshores.

Due to the potential for impacts upon Matters of National Environmental Significance (MNES) and Commonwealth land (Googong Foreshore), the Googong urban release area (URA) was referred under the Environmental Protection and Biodiversity Conservation Act (EPBC Act). The approval conditions of the EPBC Act Approval required the establishment of the Googong Foreshores Interface Management Strategy (GFIMS).

The GFIMS was established to provide details of Googong Development Corporation's proposed mitigation measures and financial commitments for the protection of Commonwealth land. The



strategy incorporates measures specific to the protection of Commonwealth land, including listed threatened species and ecological communities, water resources, environmental attributes, and heritage values. The GFIMS was endorsed by the Minister in 2014 and remains in place until the final lot within the URA has been developed.



**Figure 14: Googong Foreshore Buffer Area (Green) (Source: Planning Proposal pg.11)**

The QPRLEP includes two specific measures to protect the Googong Foreshore within the Googong township: the Googong Foreshore Buffer Area and C2 Environmental Management zoning.

- A 50m wide strip of land along the eastern boundary of the township, where the catchment boundary encroaches into the Googong township, restricts development. This land is also currently zoned C2 to further protect the area from unnecessary development.
- The Googong Foreshore Buffer Area (Figure 14) extends west 150m from the catchment boundary into the urban area. The buffer is referenced in Clause 6.4 of QPRLEP to ensure that council considers the impact of development for the purposes on any building inside the mapped area.

A significant part of the retained land subject to this PP is currently contained within the GFIMS area with a current zoning of C2. Due to existing, in perpetuity, protection measures in place over

the area, NSW DCCEEW – BCS was consulted on the project and provided the following advice (Appendix K):

‘BCS is reluctant to support an application to re-zone C2 Environmental Conservation land that currently forms part of a biodiversity protection mechanism for matters relating to protecting biodiversity values listed under both Commonwealth and NSW legislation’.

As stated above, the submitted documentation does not meet the requirements for a Biodiversity Assessment, and Sites 3 and 4 cannot be adequately assessed at this time.

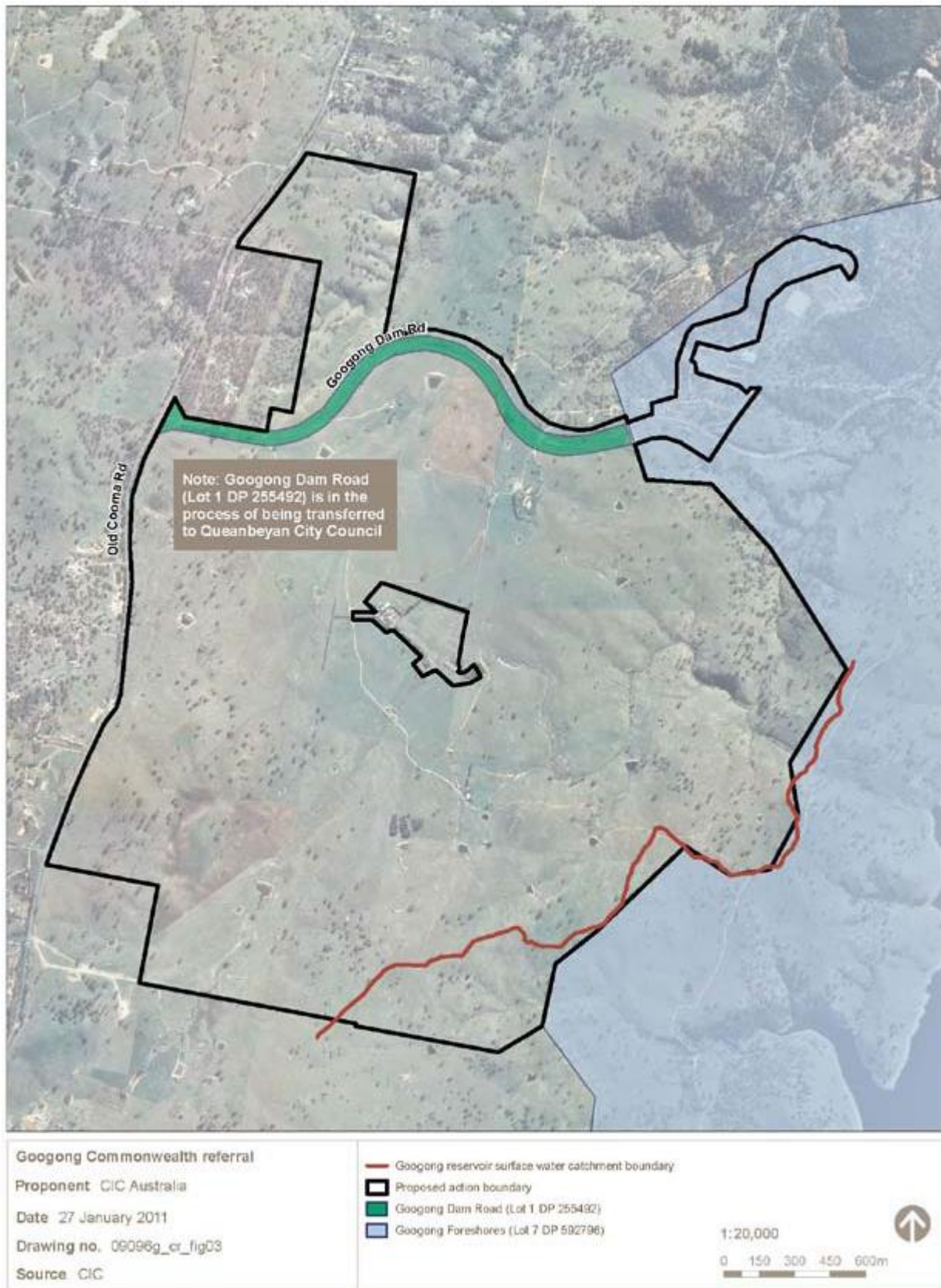
#### 4.1.3 Yellow Box Reserve Site

As part of the BCAR Assessment, Yellow-Box Reserve, which is currently zoned R1 General Residential, was assessed as an area of high biodiversity value and was classed as land to be avoided. This required 10.96ha of Yellow- Box Reserve to be enhanced and protected in perpetuity. This site was originally proposed to house approximately 190 dwellings within the R1 zone. The PP proposes to recoup the yield lost to the certification of Yellow-Box Reserve through rezoning land currently zoned C2, within Sites 3 and 4, which would result in an approximate yield of 98 lots. This land was originally zoned C2 due to water flows shedding towards Googong Dam. The PP suggests that these drainage lines can be rediverted towards Montgomery Creek catchment, and that the site is of low biodiversity value.

As these sites were not assessed in the original BCAR assessment, and the land is located partially within the ‘Googong reservoir surface water catchment boundary’ (Figure 15) in the BC Act Approval, NSW DCCEEW – BCS was consulted on the project and provided the following information (Appendix K):

‘The proposal in its current form does not demonstrate avoidance of any values in the Area 3, Yellow Box Reserve was created in the biodiversity certification process to demonstrate the avoid principle for that proposal and to reduce the impact on the critically endangered ecological community, box-gum woodland. Area 1 is now under an in-perpetuity biodiversity certification agreement. The land cannot be used to justify developing Conservation Zoned land as lands already under a form of conservation agreement, or zoning, cannot be considered for the purpose of demonstrating avoidance. Rezoning Area 1 -Yellow Box Reserve for conservation is supported by BCS as it was a requirement for the conferral of the Biodiversity Certification signed on 8 July 2022. Given we do not support the rezoning of C2 Environmental Conservation, we also do not support changes to minimum lot sizes in Area 3’.

As stated above, no land currently zoned C2 Conservation Management was assessed as part of the BCAR and was characterised as ‘retained land not proposed for certification’ The submitted documentation does not meet the requirements for a BAM Assessment, and Sites 3 and 4 cannot be adequately assessed. Due to the size of Site 3 and the location within the surface water catchment boundary for Googong Dam, the site has been deemed not suitable for residential development at this stage with further, up-to-date assessment required. Site 4 is considered to have minimal impact, due to the small size of the area, and as such can be supported to be rezoned for residential purposes. Site 4 will be required to undergo further BCAR Assessment as part of any future application for development.



**Figure 15: The location of Googong Foreshores (Commonwealth land) in relation to the Googong Township site (Source: EPBC 2011/5829 Recommendation Report pg.11)**



## 4.2 Social and economic

The proposal is not considered to trigger any significant social impacts. The proposal states that as Yellow Box Reserve was originally planned to accommodate 190 dwellings that now needs to be set aside for conservation purposes “GTPL has considered zoning options to recoup the yield that was originally planned in and around the area of the reserve” (pg.5).

## 4.3 Infrastructure

The proposal does not require any significant amendments to existing infrastructure, however amendments to proposed stormwater management and access may be required.

### 4.3.1 Stormwater Management and Groundwater

The proposal has been supported by a Stormwater Management Report prepared by Spiire (Appendix B) and a Hydrological Assessment prepared by SMEC (Appendix C). The Stormwater Management Report draws strongly on data provided in the Hydrological Assessment for impacts on groundwater within the GFIMS area. The Hydrological Assessment concluded that any potential impacts on groundwater can be mitigated, and any change in recharge is considered negligible.

The Stormwater Management Report identifies a number of natural drainage channels within the subject area and determines that water quality can be maintained through the implementation of sediment control measures during construction and permanent bunding embankment alongside roadways to redirect stormwater away from drainage channels which feed into Googong Dam and into an appropriately treated system towards Montgomery Creek. The report concludes that with correct implementation there will be no impact on the GFIMS area.

### 4.3.2 Traffic, Transport and Access

The proposal has been supported by a Transport, Traffic and Access Assessment prepared by SCT Consulting (Appendix F). The report works off the assumption that an additional 160 dwellings would be permissible throughout the remaining stages of development, and the PP states the rezoning will reduce the total planned dwelling yield by 190 dwellings.

The report discusses the provision of the public transport network, with minimal changes, if any, required to facilitate the new site layout. Active transport is provided through dedicated cycleways and walking paths. 1.5m wide paths will be provided on at least one side of every street, with dedicated cycle lanes on both sides of proposed sub-arterial roads and collector streets.

The report concludes that “there is minimal change to the road alignment and road hierarchy across the Site” (pg.34). it is therefore considered that there will be no significant impacts on existing or proposed traffic, transport or access requirements across the site.

## 5 Consultation

### 5.1 Community

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

### 5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

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

- Commonwealth Department of Climate Change, Energy, the Environment and Water
- NSW Department of Climate Change, Energy, the Environment and Water - Biodiversity, Conservation and Science
- Water NSW
- Heritage NSW
- Icon Water

## 6 Timeframe

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

The Department recommends an LEP completion date of 12 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.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

## 7 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site/planning proposal is standard, 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, in part, to proceed with conditions for the following reasons:

### Lot 11 DP 1266001

1. PTWL Conservation Area Site – to rezone land from R5 Large Lot Residential to C2 Environmental Conservation. Supported to reflect the environmental significance of the land.

### Lot 6 DP 1294382 (Figure 2)

2. Yellow Box Reserve Site (Figure 2/Sites 1 & 2) – to realign the boundary between the R1 General Residential and C2 Environmental Protection zones and confirm the RE1 Public Recreation zone approved under DA2021-1549. Supported.
3. Eastern Boundary Alignment (Figure 2/Sites 3 & 4) – to rezone 2 areas of C2 Environmental Conservation to R1 General Residential.  
Site 3 – Rezone to R1 General Residential. **Not supported** as the rezoning has not been justified. See discussion above.  
Site 4 – Supported as the site is a small area and is classed as a minor impact.
4. Eastern Boundary (Figure 2/Sites 5-8)– to rezone 2 portions from R5 Large Lot Residential to C2 Environmental Conservation; rezone an area of C2 Environmental Conservation to R1 General Residential; and rezone another area from R5 large lot Residential to R1 General Residential. Supported  
Minimum Lot size amendments (Figure 2/Sites 8 & 9)

Site 8 – Within the R5 Large Lot Residential site the minimum lot size will be amended from 1.5Ha to 600m<sup>2</sup> to integrate with the approved subdivision to the north. Supported.

Site 9 – Within the C2 zone the boundaries will be amended to align with the new zoning boundaries. **Not supported** as the change has not been justified and would impact on an area that is protected under the BCAR Approval. See discussion above.

#### 7. Other Mapping Amendments

- a) Additional Permitted Uses – amended to remove land proposed to be included in the C2 Environmental Conservation area. Supported with required amendments noted above.
- b) Height of Buildings – amend to align with the R1 General Residential zone. There are currently no restrictions on C2 zoned land. Supported with required amendments noted above.
- c) Local Clauses map – refers to land mapped as the ‘Googong Foreshore Buffer Area’ which follows the current residential zone boundaries. The buffer area will be aligned to meet the new residential zone boundaries. Supported with required amendments noted above.
- d) Secondary Dwelling and Dual Occupancy Map – amended to align with the proposed residential zoned land. Supported with required amendments noted above.

As discussed in the previous sections 3, 4 and 5, the proposal should be updated to:

- Remove the request for an amendment in zoning to Site 3.
- Remove the request for an amendment in minimum lot size to Site 9.
- Provide amended proposed mapping.

Based on the assessment outlined in this report, the proposal must be updated before consultation and forwarded to the Department for review and approval.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the inconsistency with section 9.1 Directions, 3.1 Conservation Zones, has been resolved through the amendment of the PP under the Gateway Determination to exclude the area identified as Site 3 and the reduction in minimum lot size in Site 9 which have not been justified.
- Note that the consistency with section 9.1 Directions 3.2 Heritage Conservation, 3.6 Strategic Conservation Planning, 3.10 Water Catchment Protection and 4.3 Planning for Bushfire Protection, are unresolved and will require justification.

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

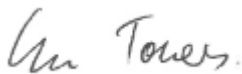
The following conditions are recommended to be included in the Gateway determination:

1. The planning proposal is to be updated to:
  - Remove the amendment to zoning in Site 3.
  - Remove the amendment to minimum lot size in Site 9.
  - Provide amended proposed mapping which clearly identifies the subject site on:
    - Additional Permitted Uses Map – Sheet APU\_001E
    - Height of Buildings Map – Sheet HOB\_001E
    - Land Zoning Map – Sheet\_001E

- Lot Size Map – Sheet\_001E
- Local Clauses Map – Sheet LOC\_001E
- Secondary Dwelling and Dual Occupancy Map – Sheet SDO\_001E
- Amend Table 6: 9.1 Directions, to include assessment against the following Directions:
  - Direction 3.2 Heritage Conservation – specifically in relation to the items identified in the Aboriginal Cultural Heritage Assessment (Appendix G).
  - Direction 3.6 Strategic Conservation Planning – the site includes areas of Certified Avoided land which need to be addressed.
  - Direction 3.10 Water Catchment Protection – The site lies within the Googong Catchment which is regulated and needs to be addressed.
- 2. Prior to community consultation, consultation is required with the following public authorities:
  - Rural Fire Service (RFS)
- 3. Prior to community consultation, the planning proposal is to be revised to address conditions 1 and forwarded to the Department for review and approval.
- 4. Consultation is required with the following public authorities:
  - Commonwealth Department of Climate Change, Energy, the Environment and Water
  - NSW Department of Climate Change, Energy, the Environment and Water - Biodiversity, Conservation and Science
  - Heritage NSW
  - Water NSW
  - Icon Water
- 5. The planning proposal should be made available for community consultation for a minimum of 20 working days.

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 timeframe of 12 months be included on the Gateway.

The timeframe for the LEP to be completed is on or before 10 February 2026.



29/11/24

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24/1/2025

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