

# **BUSINESS PAPER**

**Ordinary Council Meeting**

**19 December 2023**

**Aaron Johansson**  
**Chief Executive Officer**

We hereby give notice that an Ordinary Meeting of Council will be held on:

Tuesday, 19 December 2023 at 6pm  
in the Council Chambers, Civic Centre  
184 - 194 Bourke Street, Goulburn

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**Cr Peter Walker**  
**Mayor**

**Aaron Johansson**  
**Chief Executive Officer**

## 16.3 PLANNING PROPOSAL- 129 MARYS MOUNT ROAD AND 110-118 MIDDLE ARM ROAD, GOULBURN

**Author:** Business Manager Strategic Planning  
Director Planning & Environment

**Authoriser:** Aaron Johansson, Chief Executive Officer

**Attachments:** 1. Rezoning Request Letter [↓](#) 

<b>Reference to LSPS:</b>	Planning Priority 4: Housing – Vision 2040 - A range and diversity in housing type, which is contextual and affordable and is primarily centred around Goulburn and Marulan.
<b>PP Number:</b>	Council Ref: REZ_0002_2324 Planning Portal Ref: PP_2023_1983

### RECOMMENDATION

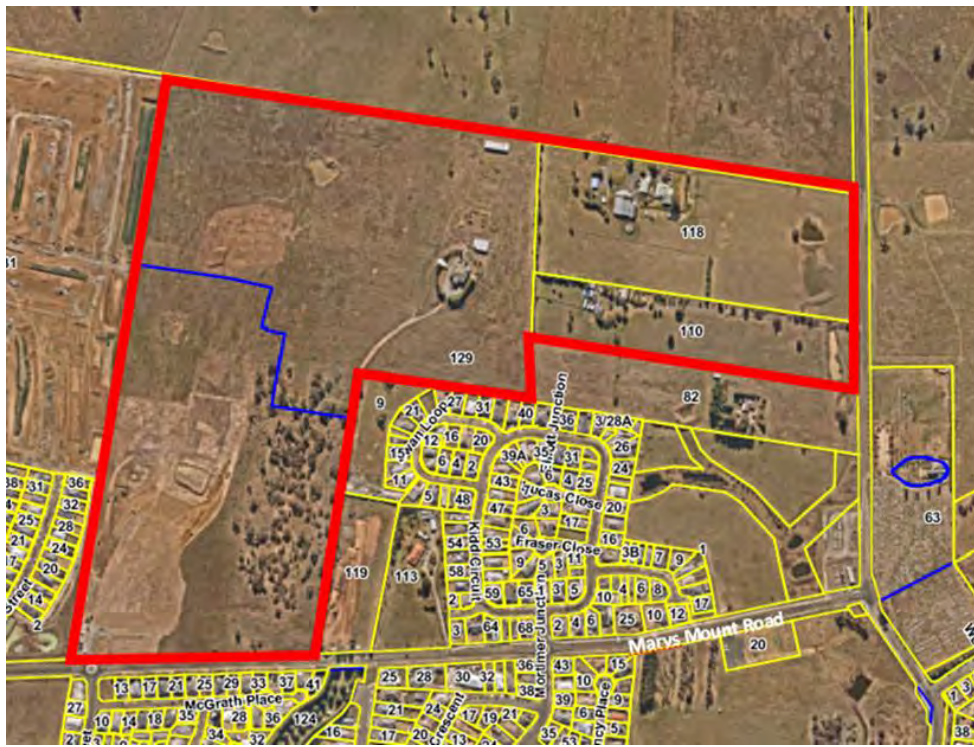
That:

1. The staff assessment report on the planning proposal to rezone parts of 129 Marys Mount Road (Lots 1/2 DP 1290900) and parts 110-118 Middle Arm Road (Lots 2/3 DP 1290193), Goulburn be received.
2. Council prepares a planning proposal to amend the Goulburn Mulwaree Local Environmental Plan 2009 by rezoning land located at 129 Marys Mount Road and 110-118 Middle Arm Road as follows:
  - a) Land zoned R2 Low Density Residential or RU6 Transition which contains significant biodiversity to be avoided to C2 Conservation with no minimum lot size.
  - b) Land zoned RU6 Transition which does not contain significant biodiversity to be avoided to R2 Low Density Residential with a minimum lot size of 700m<sup>2</sup>.
3. The planning proposal, once prepared, be submitted to the NSW Department of Planning and Environment for a gateway determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act, 1979*.
4. The NSW Department of Planning and Environment be advised that Council wishes to be identified in the gateway determination as the delegated plan making authority for this planning proposal.
5. If the Department of Planning and Environment issues a gateway determination to proceed with the planning proposal, consultation be undertaken with the community and government agencies in accordance with any directions of the gateway determination.

Section 375A of the *Local Government Act 1993* requires General Managers to record which Councillors vote for and against each planning decision of the Council, and to make this information publicly available.

### INTRODUCTION

A Planning Proposal request was submitted in September 2023 in relation to 129 Marys Mount Road (Blakely's Run) and 110-118 Middle Arm Road, Goulburn (**Figure 1**).



**Figure 1 – Subject Area, 129 Marys Mount Road and 110-118 Middle Arm Road, Goulburn**

Unusually, this Planning Proposal comes toward the end of the development assessment process for Blakely’s Run which has already been the subject of development approvals for residential subdivision. The original zonings for this precinct were identified in 2009 and considered the potential for biodiversity and topographical constraints. Subsequently, through the development assessment process and further detailed biodiversity assessment, the affected areas have been refined. This Planning Proposal is seeking to have zone boundaries better reflect the extent of avoided land for biodiversity. This will allow for the zoning to better reflect the post assessment outcomes for this site and provide for some additional residential capacity where available.

The Planning Proposal seeks to rezone land within the Subject Area from RU6 Transition to R2 Low Density Residential or C2 Environmental Conservation and some existing R2 Low Density Residential to C2 Environmental Conservation.

Amendments to the Minimum Lot Size (MLS) to 700m<sup>2</sup> (where R2 Low Density Residential proposed). The C2 Environmental Conservation Zone will not permit dwellings therefore no MLS is proposed where this zone will apply (being the avoided biodiversity significant land).

Most of the subject area is covered by an approved residential subdivision (Blakeley’s Run). The Planning Proposal does include land to the rear of 110-118 Middle Arm Road which is mostly zoned residential but includes a strip of RU6 Transition land adjoining the boundary with Blakeley’s Run.

## **BACKGROUND AND DEVELOPMENT HISTORY**

A deferred commencement development consent was granted by Council for a 205-lot residential subdivision (Development Consent No. DA/0311/1617 dated 3 July 2018) including:

- Torrens title subdivision of land zoned R2 Low Density Residential to create 156 allotments.
- Community title subdivision of land zoned RU6 Transition to create 49 allotments including one for the existing residence.
- One (1) residual allotment (containing structural woodland and derived native grassland) to be maintained in perpetuity under a plan of management.

# Appendix 1

Council subsequently amended the GM Local Environmental Plan (LEP) to require community title subdivision in the RU6 Transition Zone to meet the minimum lot size (to prevent the creation of undersized lots within this zone). Amendment No. 19 to the LEP was made on 27 November 2020.

An Operational Consent was issued on 19 April 2023 for Development Consent No. DA/0311/1617.

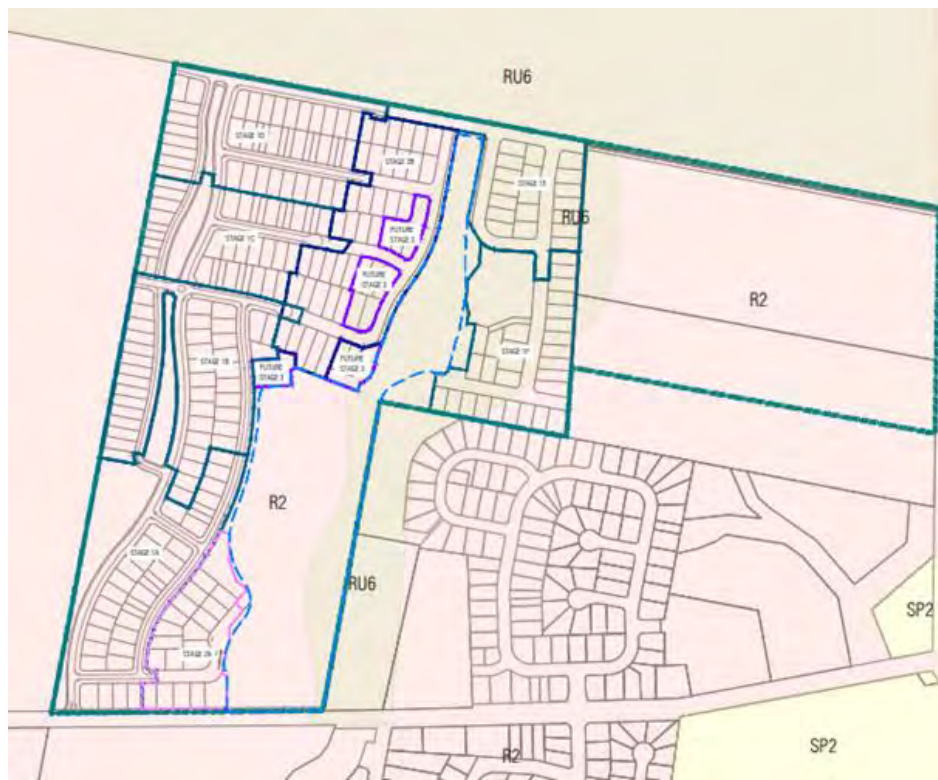
In 2022, a Modification Application (MODDA/0088/2122) was submitted to split the approved Stage 1 subdivision into six (6) stages, being Stages 1A – 1F, to augment the bulk earthworks program and to revise the timeframe for the execution of a Voluntary Planning Agreement (VPA). The Modification Application was determined (approved) on 3 May 2023.

A further Development Application (DA/0268/2223) was submitted in December 2022 and is currently being assessed for Stage 2, being:

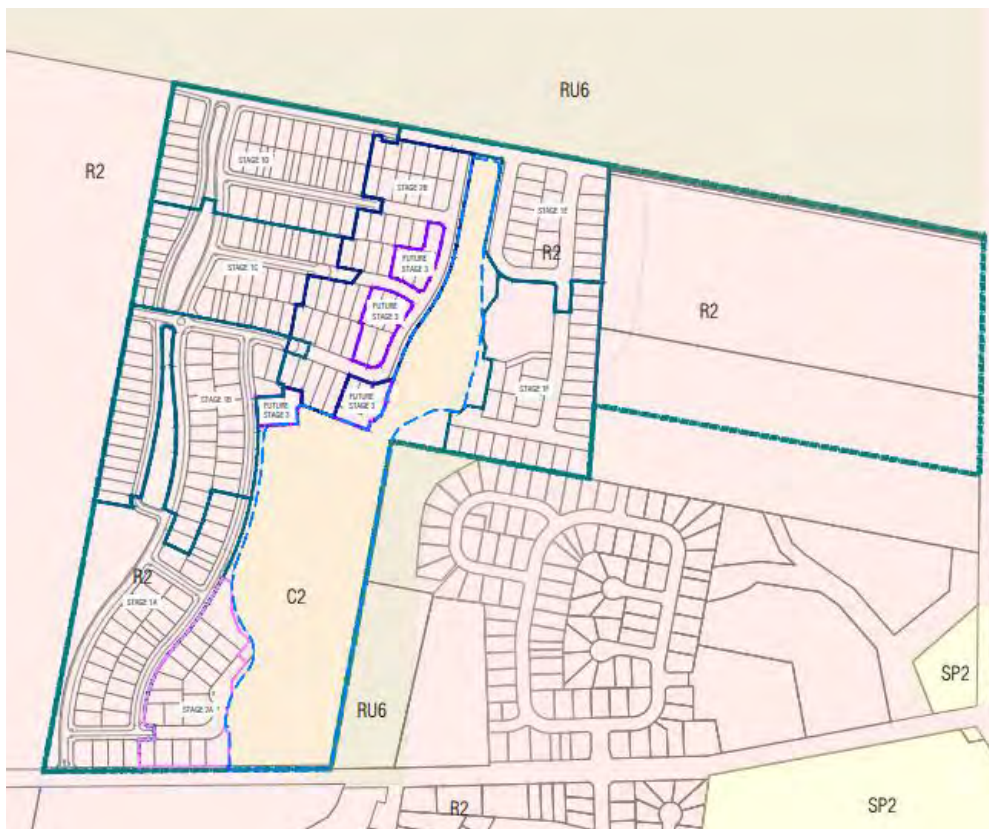
- Torrens title subdivision of land zoned R2 Low Density Residential to create 55 allotments over two (2) stages (Stages 2A and 2B) and one (1) residual allotment for future subdivision comprising land zoned R2 Low Density Residential and RU6 Transition; and
- Associated civil construction works, landscaping and fencing (including the provision of pedestrian/shared pathways and a pocket park/playground).

## THE PROPOSAL

The proposal is to amend the zoning and minimum lot size provisions of the Goulburn Mulwaree LEP to better reflect the land usage and capability. This is best demonstrated when viewing the map amendments as per Figures 2 and 3 below in relation to current R2 Low Density Residential Zone and RU6 Transition Zone extents and future R2 and C2 zone extents:



**Figure 2 -Current Zonings –light blue dashed line is the extent of the biodiversity significant land to be avoided.**



**Figure 3 -Proposed Zonings – Adjusted around blue dashed line**

A copy of the submitted rezoning request letter is provided in **Attachment 1**.

Additional site-specific technical studies have been submitted for the small area of land zoned RU6 Transition to the rear of 110-118 Middle Arm Road to ensure that this area also is suitable for residential development in relation to biodiversity, contamination etc.

## **Strategic Context**

### South East and Tablelands Regional Plan (SETRP) 2036

Goal 4 of the SETRP is “environmentally sustainable housing choices”. The relevant directions to the Plan are:

- *Direction 24: Deliver greater housing supply and choice.*

Comment: This direction involves the preparation of a local housing strategy to provide for a diversity in housing types and a surplus supply of residential land to meet projected needs. Council has prepared an *Urban and Fringe Housing Strategy*. The Strategy has identified opportunities for a diversity of housing supply with infill areas around the Goulburn CBD identified as well as an extension to a range of other residential zones. The proposed R2 Low Density Residential Zone is relatively flexible as it allows a range of housing types (excluding residential flat buildings).

- *Direction 25: Focus housing growth in locations that maximize infrastructure and services.*

Comment: It is considered that this proposal complies with the direction as it provides for a contiguous expansion of infrastructure/services. The site is located within 4km of the Goulburn CBD and hospital and within 1.5kms of Mulwaree High School, and 2km of the riverside walkways that link to regional open space such as Riverside Park. There are existing bus routes in North Goulburn and Marys Mount Road. A school bus route uses Middle Arm Road and passes the subject area to the east.

- *Direction 27: Deliver more opportunities for affordable housing.*

Comment: The planning proposal adds to the supply of residential land available in Goulburn which contributes to making housing more affordable. The proposed R2 Low Density Residential Zone is relatively flexible and permits a range of dwelling typologies except for residential flat buildings.

## Local Strategic Planning Statement (LSPS)

The LSPS vision for housing is:

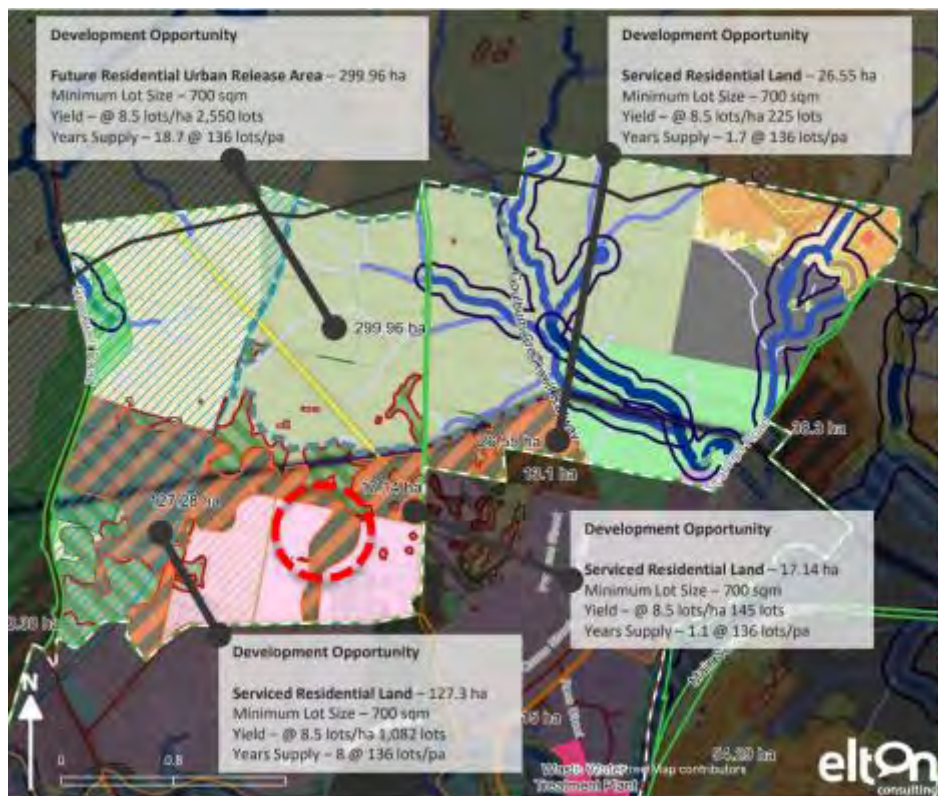
*“A range and diversity in housing type, which is contextual and affordable and is primarily centered around Goulburn and Marulan”.*

Action 4.1 is to implement and monitor the *Urban and Fringe Housing Strategy*.

Comment: The planning proposal is located on an identified opportunity site within the Strategy for urban residential development.

## Urban and Fringe Housing Strategy (UFHS)

The site is identified in the UFHS as a potential pre- 2036 opportunity area for urban infill.



**Extract from Urban and Fringe Housing Strategy – Subject Area identified in red.**

It is understood that the basis for the current RU6 Transition zoning was to avoid biodiversity significant land and to preserve land rising up to the ridgeline over the subject area. This area is relatively steeper and more visually prominent. However, this is now redundant given the existing approved subdivision extent and the preservation of land identified in the Biodiversity Development Assessment Report (BDAR) to be retained as an open space corridor.

Amendments to reflect biodiversity, reducing residentially zoned land where avoidance is required for biodiversity but adding residential land where no significant biodiversity is present, is consistent with the Strategy. It is proposed to use the C2 Conservation zone to cover the avoidance area and significant biodiversity.



# Appendix 1

To some extent the existing subdivision approval (community title lots) in the RU6 zoned portion (now part of Stage 1E) has already meant that the eventual development form of the upper portion of the site is decided (as a part of the ridgeline will be developed with approved residential lots). This would be softened in the foreground with the biodiversity avoidance area which will form a large open space corridor as part of existing approvals.

As stated in the submitted rezoning request letter:

*For those Stage 1 residential allotments approved within the RU6 Transition Zone (being the 49 allotments in proposed Stages 1E and 1F), it is noted that they are only able to be delivered under a community title scheme pursuant to the Community Land Development Act 1989. These allotments were approved in this manner as there were no minimum lot size restrictions applicable to community title subdivision in the RU6 Transition Zone at the time. The ability to undertake a community title subdivision in the RU6 Transition Zone that resulted in lots below the minimum lot size was removed from the GMLEP 2009 via Amendment No. 19, endorsed by Council on 17 November 2020 (resolution 2020/483) and made on 27 November 2020.*

*In this instance, the Proponent is seeking to re-zone these allotments R2 Low Density Residential with a 700m<sup>2</sup> minimum lot size so as to enable them to be converted from Community Title to Torrens Title and be consistent with the remainder of the 'Blakeley's Run' Estate.*

*That part of the proposed residual allotment that is located within the assessed disturbance footprint of Stage 2 is proposed to be zoned R2 Low Density Residential so as to be consistent with the remainder of the 'Blakeley's Run' Estate. It is noted that the residual allotment will be further subdivided in the future (known as Stage 3) to create 11 low density residential allotments as well as a new residual allotment comprising all of the land zoned C2 Environmental Conservation, which will be dedicated to Goulburn-Mulwara Council as part of a VPA [voluntary planning agreement].*

In addition to the above, the amended zoning extents (particularly the removal of the RU6 Transition zoning over the subject area) will result in better connectivity for roads/residential development between Blakeley's Run and the future subdivision of the Middle Arm Road properties.

It is considered that the planning proposal is consistent with the aims and objectives of the UFHS.

## Site Assessment

### Traffic and Parking

It should be noted that there is an existing approval on part of the subject area over 129 Marys Mount Road for a 205-lot subdivision.

A Traffic and Parking Assessment was undertaken primarily for the modification application to the subdivision, but this assessment also considered the impact of the rezoning of the RU6 Transition to R2 Low Density Residential. It found that:

*"...the intent of rezoning a section of the development from Ru6 to R2. This would include an additional 23 lots to be constructed, and 13 lots from the neighbouring eastern development, total of 36 lots. The additional 36 lots would have the following impacts:*

- AM Peak period – 194 vehicles to 219 vehicles (additional 26 vehicles)*
- PM Peak Period – 213 vehicles to 241 vehicles (additional 28 vehicles).*

*As the SIDRA results for stage 1 and 2 are exceptionally low, a total increase of 26 and 28 vehicles in the AM and PM peak periods respectively is not considered to impact the results. Therefore, modelling is not deemed necessary as the intersection is not deemed to reach practical capacity."*

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Assessment: The submitted assessment found that the additional development associated with the rezoning would not have a meaningful impact on the capacity of the newly constructed roundabout on Marys Mount Road (immediately to the north of Kavanagh Street/Marys Mount Road intersection). Given the low level of additional development resulting from the zoning changes proposed, this position is reasonable as it would have a minor impact on the capacity of the road network.

The amended zonings will provide for better connectivity for the design of roads and residential development between the approved subdivision of Blakely's Run and the future subdivision of 110-118 Middle Arm Road.

## Contamination

(i) 129 Marys Mount Road.

The analytical results were all within the adopted ecological based limits for residential land use. The following extract provides the conclusions and recommendations in relation to contamination for this part of the subject area:

*Douglas Partners (DP) considers that the site is suitable for the proposed residential subdivision and for permitted uses under the current site zoning, from a site contamination perspective, subject to the following measures during any future development works:*

- *A Construction Environment Management Plan should be prepared prior to construction including an 'unexpected finds protocol' (i.e. asbestos in fill, buried waste or hydrocarbon affected soils including staining and odours and evidence of heavy pesticide use) and implemented during potential future site works; and*
- *DP considers that based on current information, the fill material within the fill platform located in the north-eastern portion of the site (north of the current residence) is not suitable for on-site reuse. The fill platform area should be disposed off-site. Prior to off-site disposal, it should be subject to a waste classification with reference to NSW EPA (2014).*
- *DP understands that the fill platform area is located within Stage 1E, which is understood to be a later development stage. DP considers the site is suitable for the proposed development, however the fill material should be disposed from site. A remediation action plan should be prepared which will provide strategies for remediation of the area, management of waste and the requirement for further testing.*

Assessment: There is a Ministerial Direction for PPs that if contamination is present on land to be rezoned residential the PP must include Phase 1 Contamination Assessment (PS1), Phase 2 Contamination Assessment (PS2) and Remediation Action plan (RAP). However, the contamination falls within an area covered by the existing development consent. Council's Development Assessment team have advised:

- *Contamination is being addressed through the DA process already.*
- *Condition 38 of MODDA/0088/2122 to DA/0311/1617 requires the provision of a Remediation Action Plan (RAP) prior to the issue of a Subdivision Works Certificate for Stage 1E.*
- *The final RAP has been approved with the approval of CC/0228/2223 (Stage 1E Earthworks Only).*

Based on the above it is considered that the Proposal can demonstrate compliance with the Ministerial Direction without the submission of additional detail, as this would be unnecessary under the circumstances.

(ii) 110-118 Middle Arm Road.

The Preliminary Site Investigation (PSI) undertaken for this site found:

*“From a review of the historical information and site inspection, we are of the opinion that the risk of gross chemical contamination within the Subject Site is generally considered to be low and therefore suitable for the proposed rezoning and included as part of the adjoining residential subdivision development of No 129 Marys Mount Road Goulburn.”*

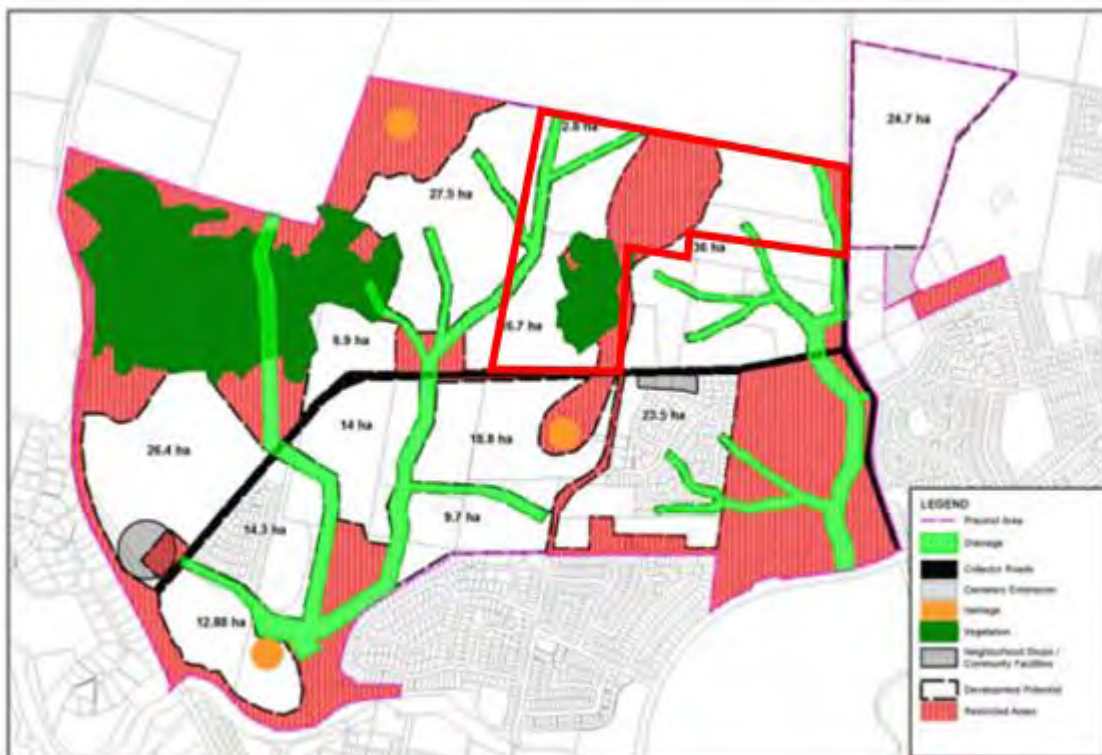
Assessment: Given the result of the PSI above and considering the extensive investigations on the adjoining site it is considered that there is sufficient information on contamination to address the Ministerial Direction on contamination.

## Flooding

The area within the subject sites proposed to be rezoned to either R2 Low Density Residential or C2 Environmental Conservation is not affected by overland flow flooding.

Flood free access to the subject area is available via the approved Marys Mount Road access to the Blakely’s Run subdivision.

Council’s Development Control Plan (DCP) provisions for Marys Mount already identify the drainage lines and requirement to provide for the overland flows, which are in the sections of the subject area **not affected by the zoning changes** as proposed (i.e., further to the east or west of the subject area which is more centrally located between 129 Marys Mount Road and 110-118 Middle Arm Road).



**Existing DCP Extract – Subject Area (red outline) and drainage corridors (light green).**

Council is currently negotiating the provision for downstream drainage with 82 Middle Arm Road and will also work with the developers for 110-118 Middle Arm Road in future to provide suitable drainage arrangements for this flow path. Existing approvals for the subdivision of both Teneriffe and Blakely’s Run provide for drainage in accordance with the DCP.

## Water/Sewer Services

The planning proposal has not been referred to Council's Utilities Directorate given the existing DAs either approved or proposed which have already covered the water/sewer provision issue for the subject area.

## Open Space (Recreational Facilities) Blakely's Run

The adjoining Teneriffe subdivision to the west is approved and under construction and includes a playground/open space area in the upcoming stages under construction.

The second Blakely's Run DA (DA/0268/2223) is currently being assessed and includes a Planning Agreement identifying recreational open space and the potential dedication of the significant biodiversity area which will form an open space corridor.

Additionally, both Blakeley's Run and Teneriffe subdivisions are within proximity to the regional open space facility at Riverside Park.

Assessment: Based on the above, it is considered that there will be ample open space provided for in this location.

## Biodiversity

- (i) 129 Marys Mount Rd.

Assessment: This site has an approved Biodiversity Development Assessment Report (BDAR) which informs the extents of the proposed zone boundaries in this planning proposal.

- (ii) 110-118 Middle Arm Rd.

The submitted report for these sites was reviewed by Council's Environment and Biodiversity Officer following a site inspection on 30 November 2023. The review found:

*The findings of the Ecological Assessment Report are broadly supported. Based on SEED Mapping (NSW SVTM), the area historically is likely to have featured PCT 3376 Southern Tableland Grassy Box Woodland. However, the area has been historically cleared and managed as grazing land.*

*Groundcover and shrub layers have been removed entirely and replaced with exotic pasture grasses and weeds. Native vegetation is present in the form of a planted tree lane/windbreak, but this contains a mix of exotic conifers and native trees, which are mostly species that are not locally indigenous, including Eucalyptus camaldulensis, Eucalyptus globulus bicostata and Callitris glaucophylla.*

*No threatened species (ecological communities, flora or fauna) have been found to be present on the land. There is a small amount of habitat present for fauna in the form of the planted windbreak, but the trees present are relatively small and do not contain any significant nesting hollows. Removal of these trees will not exceed the BOS area clearing threshold and is not likely to constitute a significant impact on biodiversity values of the area.*

Assessment: Based on the above, there are no biodiversity constraints to the removal of the RU6 Transition zone from the Middle Arm Road sites.

## Aboriginal Cultural Heritage

An Aboriginal Cultural Heritage Assessment prepared in consultation with the Aboriginal community has been submitted.

Assessment: Cultural sites have been identified within the Subject Area, but all sites are located within the proposed C2 Environmental Conservation Zone area (being within the biodiversity significant area).

## **Development Control Plan 2009**

This precinct is already incorporated into the DCP, therefore, the change in the zoning will prevail in relation to the previous excluded land areas (where identified in diagrams etc). Other issues such as drainage/overland flows are already provided for. Therefore, no additional amendments in relation to this site are proposed.

Generally, some changes to highlight the requirements to widen Middle Arm Road will be incorporated into the DCP. This is discussed in more detail in a separate report considering a rezoning of 44 Middle Arm Road. The same approach is proposed to that used with the widening of Marys Mount Road, that is the dedication of 5m of frontage on either side to create a 30m wide road reserve. This matter would be negotiated with future subdivision proposals for 110-118 Middle Arm Road.

## **Local Infrastructure Contributions Plan (LICP) 2021**

The site is identified within the Goulburn Catchment of the LICP 2021.

A roundabout has been constructed to access the Blakely's Run site off Middle Arm Road.

The LICP is also collecting funds for an upgrade to Middle Arm Road (R19). The current DCP 2009 identifies Middle Arm Road as a collector road. As such, it should have a minimum 30m wide reserve (it is currently 20m). As with Marys Mount Road, the additional width can be provided through dedication of land as a part of a Planning Agreement process. A roundabout at the intersection of Marys Mount Road and Middle Arm Road (R10) is also proposed.

No changes to the LICP 2021 are anticipated because of this proposal.

## **Ministerial Directions**

The following Ministerial (Local Plan Making) Directions under section 9.1(2) of the NSW Environmental Planning and Assessment Act would apply to this planning proposal:

- Implementation of Regional Plans
- Heritage Conservation (Aboriginal Cultural Heritage)
- Sydney Drinking Water Catchments
- Flooding
- Planning for Bushfire Protection
- Remediation of Contaminated Land
- Integrating Land Use and Transport
- Residential Zones

Assessment: In principle, it is considered that the Planning Proposal and supporting documentation can address the requirements of the relevant Ministerial Directions. Further referral

# Appendix 1

and assessment of the submitted documentation will be undertaken with the relevant State agencies which may result in the need for additional information and clarification as necessary. Council is required to undertake pre-Gateway consultation with Water NSW and is unlikely to require a referral to other agencies at this stage.

## **Conclusion and Recommendations**

The proposal meets the strategic merit test in relation to State Policy and Council's *Urban and Fringe Housing Strategy*. The subject area is also considered to be suitable and capable of residential development, with most of the subject area subject to an approved subdivision.

The planning proposal will re-align zone boundaries to better reflect biodiversity constraints and facilitate a small amount of additional land for residential development. The proposal will also safeguard significant biodiversity areas as an open space corridor and lift any contradictory residential zoning to clarify this. Additionally, the rezoning of RU6 Transition land to R2 Low Density Residential will facilitate a Torrens rather than Community Title subdivision of the affected area.

It is recommended that Council proceed to prepare a planning proposal to rezone the relevant sections of the subject area as outlined in this report.

## **FINANCIAL IMPLICATIONS**

There are no financial implications identified in association with the planning proposal at this stage in the process.

## **LEGAL IMPLICATIONS**

There are no legal implications identified in association with the planning proposal at this stage in the process.

## P L A N N E D

8 September 2023

Kate Wooll  
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Goulburn Mulwaree Council  
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Goulburn NSW 2580

By email – [kate.wooll@goulburn.nsw.gov.au](mailto:kate.wooll@goulburn.nsw.gov.au) and [council@goulburn.nsw.gov.au](mailto:council@goulburn.nsw.gov.au)

### REQUEST FOR PLANNING PROPOSAL

**Proponent:** Goulburn Estates No. 1

**Description:** Partial Re-Zoning of Land for Residential and Environmental Conservation Purposes

**Property:** Part Lots 1 and 2 DP1290900, No. 129 Marys Mount Road, and Part Lots 2 and 3 DP1290193, Nos. 110 and 118 Middle Arm Road, Goulburn NSW

Dear Kate,

We are acting on behalf of the landowner (Goulburn Estates No. 1) of Lots 1 and 2 DP120900, Marys Mount Road Goulburn, and the landowners of Lots 2 and 3 DP1290193, who are requesting that Goulburn-Mulwaree Council prepare a Planning Proposal to re-zone part of the subject landholdings.

In preparing this request, the following technical input has been referenced and is provided to Goulburn-Mulwaree Council to support the preparation of the re-zoning Planning Proposal:

- Proposed Re-Zoning 129 Marys Mount Road – NorBE Assessment, prepared by Calibre Professional Services Pty Ltd, dated 6 February 2023.
- Ecological Assessment Report for Proposal Development at 110, 118 Middle Arm Road and 129 Marys Mount Road, Goulburn, NSW, prepared by Anderson Environment and Planning, dated 24 February 2023.
- Biodiversity Development Assessment Report for 129 Marys Mount Road, Goulburn NSW, prepared by Umwelt (Australia) Pty Ltd, dated March 2022.
- Traffic Impact and Parking Report for Stage 1 and 2 – 129 Marys Mount Road, Goulburn, prepared by Calibre Professional Services Pty Ltd, dated 31 October 2022.
- Residential Subdivision – Aboriginal Cultural Heritage Assessment and Archaeological Report 129 Marys Mount Road Goulburn, prepared by Past Traces Pty Ltd, dated 20 November 2022.
- Preliminary Site Investigation Report Proposed Residential Subdivision Development Part Lot 1 DP918039 and Part Lot 1 DP919845 No. 110 and 118 Middle Arm Road Goulburn NSW, prepared by GeoEnviro Consultancy Pty Ltd, dated February 2023.
- Report on Preliminary Site Investigation (Contamination) Proposal Residential Subdivision 129 Marys Mount Road, Goulburn, prepared by Douglas Partners Pty Ltd, dated 4 August 2022.
- Bushfire Assessment Planning Proposal 129 Marys Mount Road, Goulburn, prepared by Peterson Bushfire, dated 15 February 2023.
- Existing and Proposed Land Use and Lot Size Plans prepared by Place Logic [dated 30 August 2023].

## PLANNED

### Objective of Proposed Re-Zoning Request

The objective of this request is for Goulburn-Mulwaree Council to prepare a Planning Proposal seeking to amend the Goulburn-Mulwaree Local Environmental Plan 2009 (**GMLEP 2009**) by re-zoning the subject land in Zone RU6 Transition to part R2 Low Density Residential (with a minimum lot size of 700m<sup>2</sup>) and part C2 Environmental Conservation (with no minimum lot size).

### Background Context

#### Lots 1 and 2 DP1290900, No. 129 Marys Mount Road, Goulburn

##### Site Description and Context

The subject land owned by Goulburn Estates No. 1 is described as Lots 1 and 2 DP1290900, No. 129 Marys Mount Road, Goulburn, NSW. Informally, the subject land is known as 'Blakeley's Run'.

Collectively, the subject land is a large (circa 40.8 hectare) irregular shaped parcel of land with frontages to Marys Mount Road (south) and Middle Arm Road (east) measuring approximately 370m and 10m respectively. The subject land is currently developed comprising a moderately sized dwelling house and two ancillary outbuildings. Access to the dwelling is currently via an unsealed driveway intersecting with Marys Mount Road near to the southeast corner of Lot 1 DP1290900.

The subject land is noted to have been extensively cleared and modified as a result of its long history of agricultural use, which has altered the original woodland vegetation through successive years of pasture improvement and the grazing of livestock. The topography of the subject land is undulating – rising from Marys Mount Road towards the north, reaching its highest point at the northeast corner (near to where the existing house is located) before falling to the east and west.

Under the provisions of the GMLEP 2009, the subject land is zoned R2 Low Density Residential and RU6 Transition with a prescribed minimum lot size of 700m<sup>2</sup> and 100 hectares respectively.

Land adjoining the subject site to the west is similarly zoned and is known as 'Teneriffe' Estate. That land is currently being developed for low density residential housing (circa 400 residential allotments ranging in size from 700m<sup>2</sup> to 1,000m<sup>2</sup>). Lot 1021 DP1175397, No. 119 Marys Mount Road, adjoining the subject site to the east is also similarly zoned and is the subject of Development Consent No. DA/0100/1819 (dated 5 April 2019) for a 25-lot community title subdivision. Land adjacent to the south and east generally comprises low density residential developments with the land to the north zoned RU6 Transition and currently used for agricultural pursuits.

The aerial images included at **Attachment 1** show the site in its local and site-specific context.

##### Development Approval Context

Goulburn-Mulwaree Council granted a deferred commencement development consent for the development of the land subject to the terms and conditions detailed in Development Consent No. DA/0311/1617 dated 3 July 2018.

The approved development comprises:

- Residential subdivision consisting of 205 allotments including:
  - Torrens title subdivision of land zoned R2 Low Density Residential to create 156 allotments.
  - Community title subdivision of land zoned RU6 Transition to create 49 allotments including one for the existing residence.
  - One (1) residual allotment (containing structural woodland and derived native grassland) to be maintained in perpetuity under a plan of management.
- Associated civil work, landscaping and fencing.



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- Demolition of existing shed.
- Dedication of land to Council as drainage reserve area.

Goulburn Estates No. 1 purchased the subject land in mid-2020 and has since satisfied the Deferred Commencement Conditions at Schedule A of the Development Consent. The Operational Consent was issued on 19 April 2023.

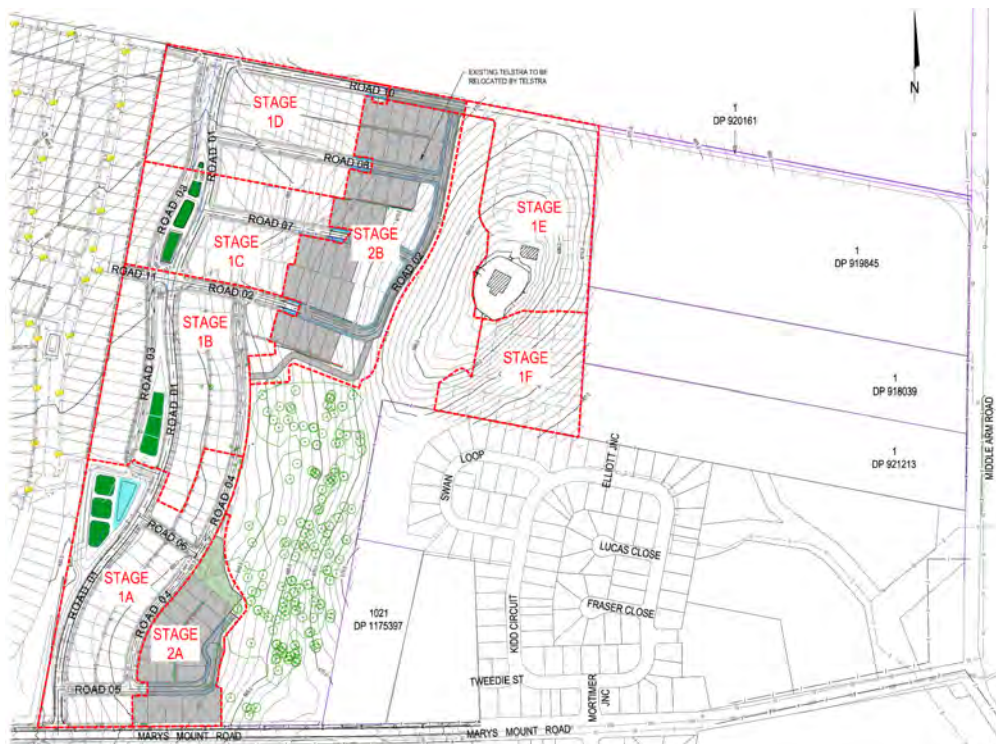
On 12 January 2022, Goulburn Estates No. 1 lodged a Modification Application (MODDA/0088/2122) to split the approved Stage 1 subdivision into six (6) stages, being Stages 1A – 1F, to augment the bulk earthworks program and to revise the timeframe for the execution of a Voluntary Planning Agreement (VPA) to be prior to the issue of a Subdivision Works Certificate for Stage 1A. The Modification Application was determined (approved) on 3 May 2023.

In relation to the remainder of the subject land, Goulburn Estates No. 1 lodged a Development Application (DA/0268/2223) on 21 December 2022 seeking approval for Stage 2, being:

- Torrens title subdivision of land zoned R2 Low Density Residential to create 55 allotments over two (2) stages (Stages 2A and 2B) and one (1) residual allotment for future subdivision comprising land zoned R2 Low Density Residential and RU6 Transition, and
- Associated civil construction works, landscaping and fencing (including the provision of pedestrian/shared pathways and a pocket park/playground).

DA/0268/2223 is currently under assessment and remains undetermined.

The general arrangement of the Stage 1 and 2 subdivisions is shown in **Figure 1** below.



**Figure 1:** Stage 1 and 2 Subdivision Arrangement (Extract from Services and Features Plan, Drawing No. 21-000488 DA-D001, prepared by Calibre Professional Services Pty Ltd)

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For those Stage 1 residential allotments approved within the RU6 Transition Zone (being the 49 allotments in proposed Stages 1E and 1F), it is noted that they are only able to be delivered under a community title scheme pursuant to the *Community Land Development Act 1989*. These allotments were approved in this manner as there were no minimum lot size restrictions applicable to community title subdivision in the RU6 Transition Zone at the time. The ability to undertake a community title subdivision in the RU6 Transition Zone that resulted in lots below the minimum lot size was removed from the GMLEP 2009 via Amendment No. 19, endorsed by Council on 17 November 2020 (resolution 2020/483) and made on 27 November 2020.

In this instance, the Proponent is seeking to re-zone these allotments R2 Low Density Residential with a 700m<sup>2</sup> minimum lot size so as to enable them to be converted from Community Title to Torrens Title and be consistent with the remainder of the 'Blakeley's Run' Estate.

In relation to the proposed Stage 2 residual allotment, the majority of the area has been identified as comprising moderate to high condition 'Yellow Box - Blakely's Red Gum Grassy Woodland on the Tablelands, South-Eastern Highlands Bioregion' as detailed in the Biodiversity Development Assessment Report (BDAR) prepared by Umwelt (Australia) Pty Ltd included with this correspondence. This land is proposed to be retained and maintained as an ecological corridor, creating a central area of open space and outlook for the future residents and visitors of 'Blakeley's Run'. To reflect this outcome, it is proposed to re-zone this land from RU6 Transition to C2 Environmental Conservation with no minimum lot size.

That part of the proposed residual allotment that is located within the assessed disturbance footprint of Stage 2 is proposed to be zoned R2 Low Density Residential so as to be consistent with the remainder of the 'Blakeley's Run' Estate. It is noted that the residual allotment will be further subdivided in the future (known as Stage 3) to create 11 low density residential allotments as well as a new residual allotment comprising all of the land zoned C2 Environmental Conservation, which will be dedicated to Goulburn-Mulwaree Council as part of a VPA.

On the basis that the proposed R2 Low Density Residential zoned areas all form part of the assessed disturbance footprints in the BDAR, the re-zoning proposal will not change the outcome of the BDAR – being that the proposed developments will not have a significant and irreversible impact (SAII) on any threatened species or endangered ecological community within the subject site.

Refer to the Existing and Proposed Land Use and Lot Size Plans prepared by Place Logic included with this correspondence, which detail the existing and proposed zoning layouts.

### **Part Lots 2 and 3 DP1290193, Nos. 110 and 118 Middle Arm Road, Goulburn NSW**

#### Site Description and Context

Lot 2 DP1290193, No. 110 Middle Arm Road, Goulburn is currently owned by B & M Evans.

Lot 3 DP1290193, No. 118 Middle Arm Road, Goulburn is currently owned by W & W Kent.

Both allotments are developed for rural residential purposes, with dwellings and ancillary structures generally positioned with large setbacks (circa 250m+) to Middle Arm Road. The balance of the allotments is vacant and predominantly comprises exotic grass species with sporadic stands of planted native and exotic trees/shrubs – consistent with historical under-scrubbing and routine management of the land. Access to the dwellings is via individual driveways intersecting with Middle Arm Road.

The topography of the land is noted to be sloping – falling from the western property boundaries towards Middle Arm Road to the east. Within the setback areas to Middle Arm Road, both properties comprise moderately sized farm dams.

Under the provisions of the GMLEP 2009, the subject land is predominantly zoned R2 Low Density Residential with a prescribed minimum lot size of 700m<sup>2</sup>. A very small portion of the subject land is zoned RU6 Transition with a prescribed minimum lot size of 100 hectares.

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Land adjoining to the west (being Lot 2 DP1290900) forms part of 'Blakeley's Run' Estate (discussed above). Land adjoining to the south (being Lot 1 DP1290193) is developed for rural residential purposes, comprising a moderately sized dwelling and ancillary structures positioned central to the allotment. Land distant to the east on the opposite side of Middle Arm Road is zoned for low density residential development, which has not yet been developed. As such, the land is currently utilised for rural/agricultural purposes. The Kenmore Cemetery, which is on land zoned SP2 Cemetery, is also located on the opposite side of Middle Arm Road generally to the southeast of Lot 2 DP1290193.

The aerial images included at **Attachment 2** show the sites in their local and site-specific context.

So as to be consistent with the proposed re-zoning at the adjoining 'Blakeley's Run' Estate as well as with the existing zoning pattern to the east and south, it is proposed to re-zone those areas of Lots 2 and 3 DP1290193 zoned RU6 Transition to R2 Low Density Residential Zone.

Refer to the Existing and Proposed Land Use and Lot Size Plans prepared by Place Logic included with this correspondence, which detail the existing and proposed zoning layouts.

### Rationale for Proposed Re-Zoning

Rezoning the subject land R2 Low Density Residential Zone is considered to be favourable outcome for all future landowners as it ensures that all allotments created within the Marys Mount Road precinct are zoned the same and that future landowners are not subject to body corporate fees or maintenance and upkeep requirements associated with any Community Title common property (community association land).

It is understood that the intent of the RU6 Transition Zone is to:

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

In relation to the Blakeley's Run and Teneriffe Estate developments as well as the land zoned R2 Low Density Residential to the east, the RU6 Transition Zone works as a buffer between the existing and future residential land uses and areas of environmental value within Zone C3 Environmental Management distant to the north.

Noting that the buffer provided by the existing RU6 Zone extends circa 2km to the north, the proposed adjustment to the zone boundary is not considered to erode the function of the RU6 Transition Zone, which is to provide a transition between rural and other land uses of varying intensities or environmental sensitivities. On this basis, the proposed re-zoning is considered to be appropriate.

The proposed re-zoning is also considered to be consistent with the recommendations of Council's adopted *Urban and Fringe Housing Strategy (UFHS)*. Specifically, the subject land is directly identified as an urban release area in the Middle Arm Precinct under the UFHS (refer to **Figure 2** below). This means that the area is identified as being suitable for subdivision to create 700m<sup>2</sup> residential allotments subject to relevant site-specific environmental assessments and development approval processes.

Additionally, and as detailed previously, the subject land is already subject to a development approval for the creation of 205 residential allotments under DA/0311/1617 and is the subject of a current Development Application (DA/0268/2223) for the creation of a further 55 residential allotments. As such, all relevant site planning considerations have been previously assessed and no further assessments, including biodiversity, contamination, Aboriginal cultural heritage, water catchment protection or bushfire risk are required for the purposes of the Planning Proposal – as it relates to the land within Blakeley's Run Estate. A copy of these previous assessments has been included with this correspondence so as to demonstrate that the land is suitable for the future residential use.

In relation to the land zoned RU6 Transition within the subject Lots 2 and 3 DP1290193, site-specific assessments have been prepared by relevant technical consultants to address matters such as biodiversity, contamination, Aboriginal cultural heritage, water catchment protection and bushfire risk.

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A summary of the key findings of these technical assessments is included below. In short, the technical assessments demonstrate that the subject land is suitable for future residential use.

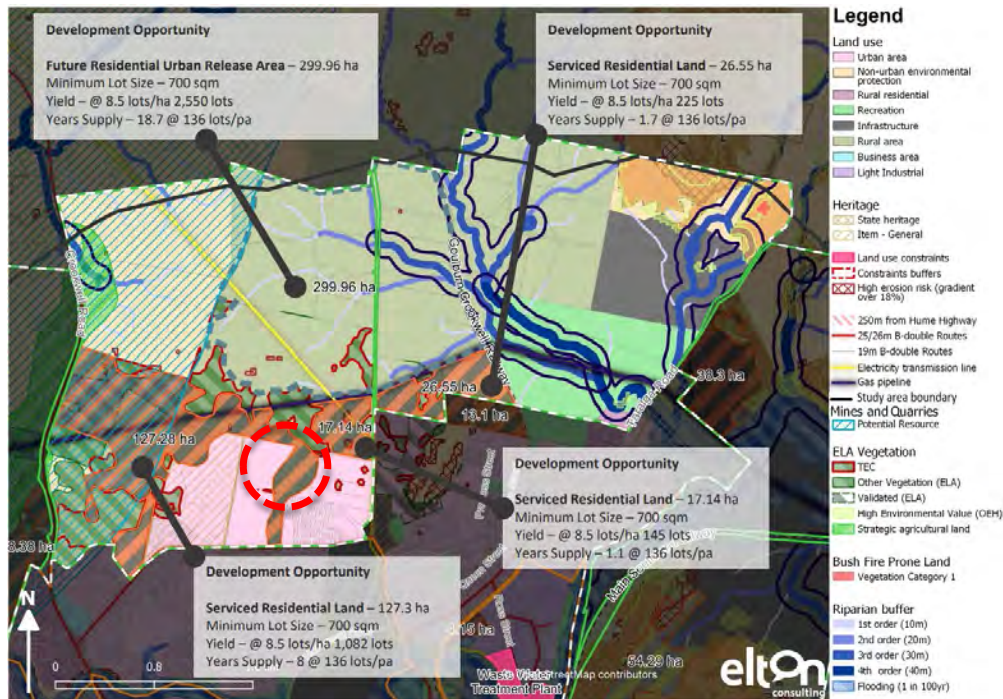


Figure 2: Extract from *Urban and Fringe Housing Strategy* (approximate location of the subject land outlined red)

## Biodiversity

An Ecological Assessment Report [dated February 2023] was prepared by Anderson Environment and Planning (AEP) so as to indicate the likelihood of the proposed re-zoning (and future residential development of the land) having a significant impact on potentially occurring threatened species or ecological communities.

The results of the targeted fieldwork and review of regional vegetation mapping confirmed historical clearing and routine management of the mid and understory (under scrubbing). A stand of planted native and exotic trees was identified within the western section of the site and was representative of a planted windbreak. A small portion of native groundcovers mixed in with predominantly exotic grass species is found throughout the remainder of the site. Importantly, no threatened flora species were identified.

Plant Community Type (PCT) 3376 – *Southern Tableland Grassy Box Woodland* is mapped in patches surrounding the site with the closest patch located to the southwest within Blakeley's Run Estate. That patch of PCT 3376 is to be retained and maintained as part of the Blakeley's Run ecological corridor, which is proposed to be zoned C2 Environmental Conservation.

The completed habitat and fauna surveys did not identify any hollows or nests or threatened fauna within the site.

Assessment under the five-part test determined that no significant impacts upon threatened entities listed under the NSW Biodiversity Conservation Act 2016 (BC Act) are likely to occur if mitigation measures are implemented. Further, consideration of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) revealed that impacts on Matters of National Environmental Significance (NES) are unlikely occur and that a referral to the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW) was not required.

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Collectively, the Ecological Assessment Report (**EAR**) and BDAR demonstrate that the proposed re-zoning (and future residential development of the land) will not significantly impact ecological value and will facilitate the protection and conservation of the majority of high-quality native vegetation within an ecological corridor. On this basis, the re-zoning proposal will satisfy the relevant Section 9.1 Ministerial Directions in relation to biodiversity and conservation as well as the relevant requirements of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

### Contamination

A Preliminary Site Investigation [dated 7 February 2023] was prepared by GeoEnviro Consultancy Pty Ltd to assess the likelihood of significant land contamination and the suitability of the subject site for future residential use. The Investigation was conducted in accordance with the guidelines set by the Australian and New Zealand Conservation Council (**ANZECC**) and NSW Environment Protection Authority (**NSW EPA**) and concluded that gross chemical contamination within the subject site was a low risk. As such, the site was deemed to be suitable for the proposed re-zoning (and future residential use).

Given the above, the re-zoning proposal will satisfy the relevant Section 9.1 Ministerial Direction No. 4.4 – Remediation of Contaminated Land and the relevant requirements of Chapter 4 – Remediation of Land of State Environmental Planning Policy (Resilience and Hazards) 2021.

### Aboriginal Cultural Heritage

Lots 2 and 3 DP1290193 were assessed as part of the Aboriginal Cultural Heritage Assessment [dated 20 November 2022] prepared by Past Traces Pty Ltd to accompany DA/0268/2223. With reference to Section 8 of the Assessment, the subject site does not contain heritage sites or areas of Potential Archaeological Deposit (**PAD**). As such, no further Aboriginal heritage investigations are required.

It is therefore considered that the re-zoning proposal will satisfy Section 9.1 Ministerial Direction No. 3.2 – Heritage Conservation and the relevant requirements of the *National Parks and Wildlife Act 1974*.

### Water Catchment Protection

Calibre Professional Services Pty Ltd have prepared a letter of advice [dated 6 February 2023] regarding the proposed re-zoning of Lots 2 and 3 DP1290193. On the basis that these allotments fall to the east towards Middle Arm Road, they are unable to be connected into the reticulated stormwater and sewer infrastructure installed as part of the development of Blakeley's Run Estate. As such, the future developer of Lots 2 and 3 DP1290193 will need to demonstrate that stormwater runoff will be treated to NorBE water quality targets to the satisfaction of Council and WaterNSW. The future developer will also need to ensure the provision for the drainage of sewer towards Middle Arm Road.

On this basis, the re-zoning proposal will satisfy Section 9.1 Ministerial Direction Nos. 3.3 – Sydney Drinking Water Catchments and 3.10 – Water Catchment Protection as well as the relevant requirements of Part 6.5 – Sydney Drinking Water Catchment of State Environmental Planning Policy (Biodiversity and Conservation) 2021.

### Bushfire

A Strategic Bushfire Assessment Report [dated 15 February 2023] was prepared by Paterson Bushfire to accompany this request for re-zoning. As detailed at Section 1.3 of the Report, the subject land includes that associated with Blakeley's Run as well as Lots 2 and 3 DP1290193. The Report concludes that the proposed re-zoning satisfies Ministerial Direction No. 4.3 – Planning for Bushfire Protection and the requirements of Planning for Bushfire Protection 2019 via the provision of compliant bushfire protection measures, including compliant asset protection zones (**APZs**), road access design and fire hydrant location.

## P L A N N E D

### Conclusion

As detailed above, the Proponent seeks Council's support for the re-zoning of land from RU6 Transition with a 100 hectare minimum lot size, to part R2 Low Density Residential with a corresponding 700m<sup>2</sup> minimum lot size and part C2 Environmental Conservation with no minimum lot size.

The purpose of the proposed re-zoning is to achieve consistency in the titling mechanism for all residential allotments within Blakeley's Run, to conserve areas identified as comprising high biodiversity value, and to rationalise the relevant Land Zoning and Lot Size Maps so as to remove small redundant areas of land zoned RU6 Transition.

The proposed re-zoning is deemed to be consistent with Council's adopted UFHS. Further to this, the land has been found to be suitable for the intended future residential use without compromising the intent of the RU6 Transition Zone adjoining to the north – which provides an almost 2km buffer to land zoned C3 Environmental Management.

We trust that the information contained herein will assist you in your consideration of the proposed re-zoning request. However, should additional information be required, please do not hesitate to contact the undersigned on 0457 786 776 or [elizabeth@planned.net.au](mailto:elizabeth@planned.net.au).

Yours sincerely,

*Elizabeth Slapp*

**Elizabeth Slapp RPIA**  
Senior Town Planner



### Attachments:

1. Aerial images of No. 129 Marys Mount Road, Goulburn.
2. Aerial images of Nos. 110 and 118 Middle Arm Road.

P L A N N E D

ATTACHMENT 1 – Aerial Images of No. 129 Marys Mount Road, Goulburn



(Source: [MapBrowser](#) | [Nearmap](#), accessed 9 September 2023)

P L A N N E D

ATTACHMENT 2 – Aerial Images of Nos. 110 and 118 Middle Arm Road, Goulburn



(Source: [MapBrowser](#) | [Nearmap](#), accessed 9 September 2023)