

8 September 2023

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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].

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 700m²) 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 700m² 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 700m² to 1,000m²). 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.

- 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)

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 700m² 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 700m². A very small portion of the subject land is zoned RU6 Transition with a prescribed minimum lot size of 100 hectares.

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 700m² 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.

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.

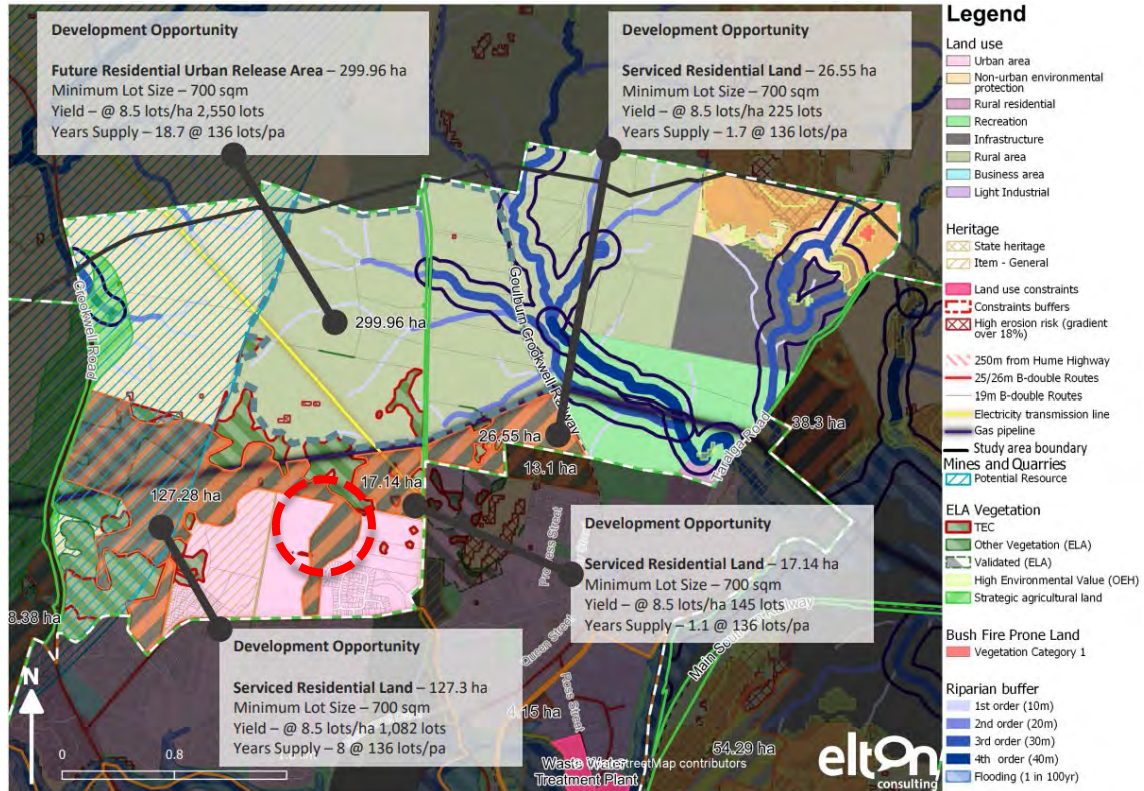


Figure 2: Extract from *Urban and Fringe Housing Strategy* (approximate location of the subject land outlined red)

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.

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.

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 700m² 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.

Yours sincerely,

Elizabeth Slapp

Elizabeth Slapp RPIA
Senior Town Planner

**Attachments:**

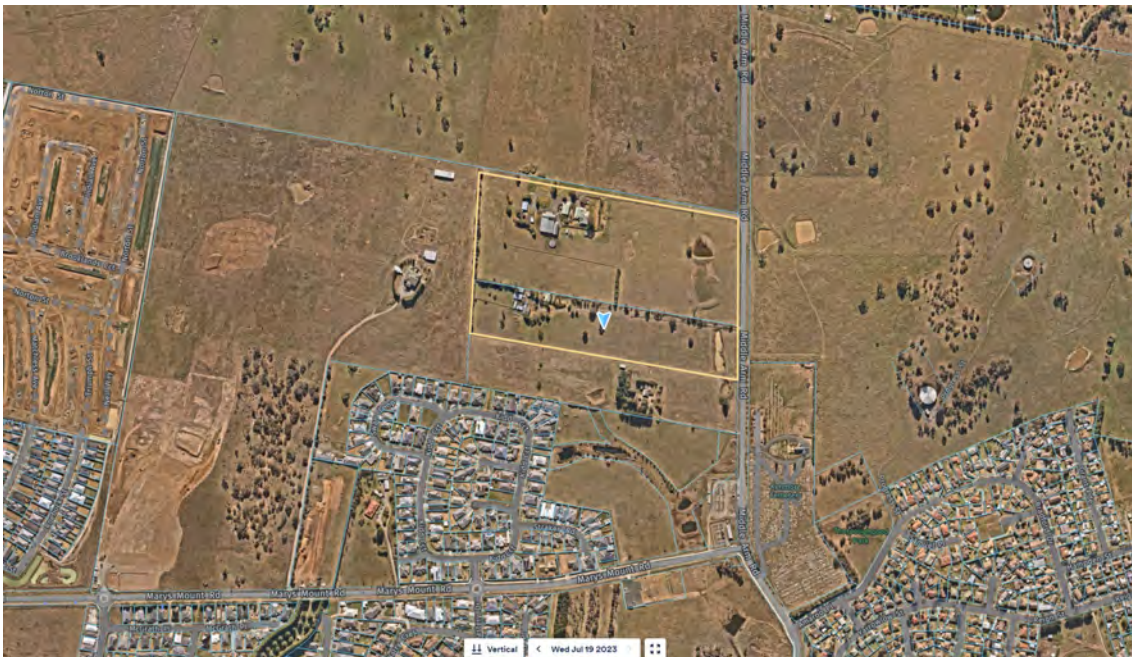
1. Aerial images of No. 129 Marys Mount Road, Goulburn.
2. Aerial images of Nos. 110 and 118 Middle Arm Road.

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



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

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



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