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Davies Nominees (NSW) Pty Ltd ATF
The Goulburn Property Trust

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Titheradge Superannuation Fund

14 January 2024

Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

Dear Sir/Madam,

**Re: Gateway determination refusals for planning proposals for:
2 Brisbane Grove Rd, Goulburn (DPT Ref: PP-2024-295); and
137 Brisbane Grove Rd, Goulburn (DPT Ref: PP-2024-291)**

We, the applicants, are both long held private landowners in the area affected and are not professional developers.

Davies Nominees (NSW) Pty Ltd ATF The Goulburn Property Trust is the owner of 2 Brisbane Grove Rd, Brisbane Grove being DPT ref: PP-2024-295.

Titheradge Superannuation Fund Pty Ltd ATF Titheradge Superannuation Fund is the owner of 137 Brisbane Grove Rd, Brisbane Grove being DPT ref: PP-2024-291.

Both landowners have been participants by way of multiple submissions within Goulburn Mulwaree Council's LEP 2009 Planning amendments and were subsequently made aware that the respective lands were determined as being within that area rated 'high priority' by Goulburn Mulwaree Council and the NSW State Govt as suitable for rezoning in the Goulburn Urban and Fringe Housing Strategy of 2020.

This Housing Strategy was developed at a time where NSW was starting to feel the squeeze of the housing crisis and that has only continued to intensify. The sentiment of the community as seen in public discourse and polls is that a concerted approach to the provision of housing must be endorsed and acted upon to ensure that some downward pressure be put on housing prices by way of supply chain fulfillment.

The applicants entered into the Gateway process in good faith in 2020 based on the rules and requirements of these bodies prevailing at the time of application.

Both applicants then expended a large amount of money and time on consultants and studies initially to comply with the Gateway requirement to provide all reports and studies up front, and received an initial positive gateway determination dated 21st November 2022.

Concurrently after the major flood events of 2022 that impacted the entire state - the applicants were advised that the state government was introducing a suite of new flood planning policy between July 2021 and April 2024. The new standards introduced greater weight to the Probable Maximum Flood (PMF) which is rarer than 1 in 1 million years, and in reality, have no impact on areas proposed for development on the applicant lands. However, they also ushered in a number of policy changes since that date which we have been required to continually adapt to and comply with.

To this end further consultants were engaged to address the new requirements – including the actual consultant who undertook the original Goulburn Mulwaree Council flood studies that were developed for their planning strategy. Both proposals were completely restructured to cope with the new PMF requirements, with overall lot numbers reduced from 43 to 35. It is important to note that the new policy requirements – moreover the inordinate delays experienced by Goulburn Mulwaree Council as the applicant in gaining responses from the department - made it impossible to complete the initial Gateway by the due date, and we were advised by GMC to withdraw it and submit a new Gateway application to give all parties more time. We followed this advice and thereafter both of our main consultants believed strongly that all new planning requirements had been satisfied in the new Gateway applications that were subsequently submitted.

However, in response the applicants have received a refusal with scant detail and generic references to policy which fails to specifically point out where the proposal does not have the relevant site specific or strategic merit.

In response we have engaged Boskovitz Lawyers, experts in planning and property law to assist with our appeal.

As mentioned previously, this refusal is very much at odds with the gateway assessment of the Department in 2022 that resolved that there was strategic and site specific merit for the provision of housing on these sites consistent with the Council's 2020 housing strategy that the department endorsed in writing. We submit that:-

- it would appear therefore that there is issue of the purported possibility of the Braidwood Rd becoming impassable for 23 hours during the 1% AEP event. This road has never been impassable in living memory, with both landowners having an intimate knowledge of the area for in excess of 40 Years. The GRC modelling attached in this submission shows that flood access to the site is feasible for all vehicle types for events up to and including the 5% (1 in 20) AEP Flood, and that **emergency vehicle access is only expected to be limited to the site for a duration of 8.5 hours during a 1% (1 in 100) AEP event.** In any case we are referencing the **possible risk of a member of only 30 households having an emergency event in this rare 23 hour period justifying the refusal of this application.** The odds of this occurring, and the miniscule level of risk being taken on is self-evident, as is the level of any new government funding of emergency services to cover this extremely unlikely contingency.
- we would also refute the proposal having the potential to significantly increase the need for government spending on flood mitigation as the only rational assumption is that this is a reference to needing to raise the bridge and/or Braidwood Road approaches over the Mulwaree Ponds river. ***Is it really being suggested that just 35 new homesites will make a difference to the adequacy or otherwise of the Mulwaree River crossing?*** The Braidwood Rd is the main Southerly roadway into Goulburn, and the river acts as the city boundary with residences commencing immediately one crosses the bridge into Goulburn. Moreover, there are hundreds - if not thousands - of existing residences along Braidwood Rd and adjoining roadways that are as vulnerable to any such perceived risk of a flood event cutting the road at the bridge, so it is either adequate as is or it needs to be raised regardless of this proposal. **Our few blocks, all above the PMF (which many existing residences are not) will make scant difference to any future funding requirements re this major river crossing.**

We understand that the Department must give consideration to safety and human life, but the documentation provided by our experts make clear that the levels of the land and prospective building policies protect human life and will cause no critical danger.

We respectfully request that the Minister and Department reverse the refusal of the submission as not being consistent with existing guidelines given: -

- the actual risk of the rare event and the concurrent small probability of an emergency event at the time given the small number of sites proposed.
- the true likelihood of any additional government funding for this small number of sites above and beyond any already necessary for the safety of the large number of existing residents already existent along Braidwood Rd.

Notwithstanding the above, we contend that as our gateway proposal was well underway before these new policies were drafted and not yet adopted that it is a denial of procedural fairness to retrospectively apply requirements that were not in place at the time.

We note also that GMC has at all times supported the proposal, and we are advised continues to do so as identified as 'high priority' of the Goulburn Urban Fringe Housing Strategy.

The concerns of isolation are without foundation on this basis and we do not consider that a 1 in 100 year event that might create isolation for a period of 8.5 hours (nor indeed 23 hours) would facilitate the danger that is outlined in the Department's original rejection of the planning proposals.

We implore the Minister and Department to reconsider this matter and to re-endorse the planning proposal by allowing gateway thereby achieving the Council's intended housing strategy and taking proactive and pragmatic steps to ease the housing crisis in NSW.

Yours faithfully,



Tim Titheradge
Director
Titheradge Superannuation Fund Pty Ltd ATF
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Kieran Davies
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