



GATEWAY REVIEW

Justification Assessment

Purpose: To request that the Independent Planning Commission review the Gateway determination, considering the information provided by the proponent, and provide advice regarding the merit of the review request.

Dept. ref. no	IRF25/444 (GR-2025-3)	
LGA	Goulburn Mulwaree	
LEP to be amended	Goulburn Mulwaree Local Environmental Plan 2009	
Address	"Allfarthing" 2 Brisbane Grove Road, Goulburn	
Proposal	The planning proposal seeks to rezone "Allfarthing" 2 Brisbane Grove Road, Goulburn from RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation zones and establish a 2-hectare minimum lot size control under the Goulburn Mulwaree LEP 2009 (GMLEP2009) to facilitate 14 dwellings. The planning proposal also seeks to apply clause 5.22 "Special Flood Consideration" under the GMLEP2009 to limit development potential in flood prone areas, improve water quality outcomes and ensure consideration of safe occupation and efficient evacuation for future development applications.	
Review request made by	<input type="checkbox"/> The council	
	<input checked="" type="checkbox"/> A proponent	
Reason for review	<input checked="" type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background information

Details of the planning proposal

The planning proposal (**Attachment A**) seeks to rezone “Allfarthing” 2 Brisbane Grove Road, Goulburn (Lot 60 DP1090981, Lots 61-64 and 71-77 DP 976708) from RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation zones and establish a 2-hectare minimum lot size control under the Goulburn Mulwaree LEP 2009 (GMLEP2009). The proposed rezoning and minimum lot size amendments have the potential to develop 14 large lot dwellings on the site.

The 34.8 hectare rural site is located south of the Hume Highway approximately 3km from the southern edge of the Goulburn urban area and 800m south of the Mulwaree River (see Figure 1 – Site Map below).

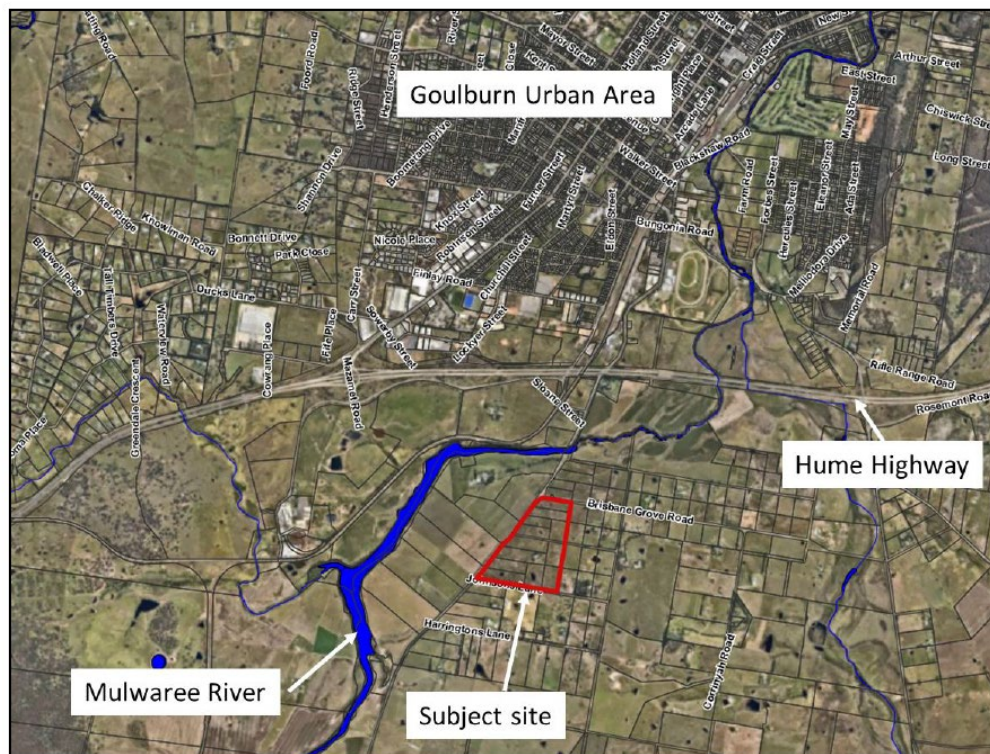


Figure 1 – Site Map (source: Goulburn Mulwaree Council, planning proposal document, April 2024)

The site is bounded on three sides by Braidwood Road to the west, Johnson's Lane to the south and Brisbane Grove Road to the north. A locally listed heritage item/dwelling 'Allfarthing' is located in the middle of the site (Lot 73 DP976708). The site is surrounded by rural land (refer Figure 2 – Site context map).



Figure 2 – Site Context Map (source: Goulburn Mulwaree Council, planning proposal document, April 2024).

The site is affected by riverine flooding from the Mulwaree River which adjoins the site to the north. The site is not located within the Flood Planning Area (1% Annual Exceedance Probability (AEP) plus freeboard) but the northern section of the site is affected by the probable maximum flood (riverine) (PMF). The southwestern corner of the site also experiences overland flow impacts.

The land affected by the overland corridor is proposed to be rezoned C2 Environmental Conservation to limit development in this area. The Flood Impact and Risk Assessment (**Attachment EC**) which was prepared in support of the planning proposal identifies that Braidwood Road, which is the evacuation route from the site to the Goulburn CBD, will be inundated for 23 hours during a 1% AEP flood, 38 hours during the PMF and that isolation of the site can occur during events rarer than 5% AEP.

The Brisbane Grove area is identified as having the potential for 132 dwellings in Council’s Housing Strategy. This includes a planning proposal on land at 137 Brisbane Grove Road (PP-2024-291) (21 lots) which was issued a Gateway Determination not to proceed in November 2024 due to concerns about safe occupation and efficient evacuation of the site during flooding events. The proponent lodged an application for a Gateway Review on 24 January 2025 (GR-2025-2) which will be reported to the Independent Planning Commission separately.

Reason for Gateway determination

A Gateway determination dated 12 November 2024 (**Attachment B**), which determined that the planning proposal shall not proceed, was issued for the following reasons:

- The planning proposal is not consistent with the South-East and Tablelands Regional Plan 2036 (Directions 16: “Increase resilience to natural hazards” and 28: “Manage rural lifestyles”) and with the draft South East and Tablelands Regional Plan 2041 (Theme 2: “Enhancing

	<p>sustainable and resilient environments” and Theme 4: “Planning for fit for purpose housing and services”) and Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding. The inconsistencies have not been sufficiently justified.</p> <ul style="list-style-type: none"> • The planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the risk associated with isolation of the site due to flooding of Braidwood Road for approximately 23 hours during the 1% AEP flood event and rarer. This isolation period is excessive and far exceeds the shelter in place period maximum in the draft State flood policy. • The planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures. <p>The Department’s Gateway Determination Report is provided at Attachment C.</p>
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Council Justification

<p>Details of justification</p>	<p>Council provided a combined response to the Gateway review applications for 2 Brisbane Road (GR-2025-3) and 137 Brisbane Grove Road Planning Proposals (GR-2025-2) on 14 February 2025 due to similarities with the proposals (Attachment D). Key points from the submission are:</p> <ul style="list-style-type: none"> • Council supports the Allfarthing 2 Brisbane Grove and 137 Brisbane Grove planning proposals as presented in the planning proposal reports submitted for Gateway determination. The overall risk from flood isolation has been considered and quantified. • The rezoning of land to provide 34 large lot residential lots with flood free dwelling pads, does not present an unacceptable risk to future residents or to emergency services workers. In addition, Council does not support DPHI's conclusion the proposals have the potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures as this is unsubstantiated. • The planning proposal is consistent with Council’s Urban and Fringe Housing Strategy and its recommendations. • Council considers that reason 1 of the Department’s refusal of the Gateway determination is covered by reasons 2 and 3. • Council does not agree with reason 2 for refusal of the Gateway determination for the following reasons: <ul style="list-style-type: none"> ○ Council did not consider the adopted Shelter-in-Place Guide when preparing the Brisbane Grove planning proposal. DPHI in their Gateway determination, have based a refusal on a document that was not published, could not be incorporated into the planning proposals, was substantially different from the initial draft exhibition version of the document and wasn’t available for appropriate scrutiny or review. ○ Council officers have a robust understanding of flood risk as it relates to these two planning proposals through flood data provided through the Goulburn Floodplain Risk Management Study and Plan and through the Flood Impact and Risk Assessment accompanying the planning proposals. ○ The proposed avoidance of all development from flood prone land (up to and including the PMF) through zoning’, dwelling placement,
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Development Control Plan provisions and the application of the Special Flood Consideration clause' to future proposals, all ensure future residents will not become inundated during any flood event including the PMF. This avoids the need for future residents to evacuate their homes during any flood event, thereby eliminating any risk of flood inundation of future properties and significantly reducing risk to future residents.

- The Flood Impact and Risk Assessment submitted in support of the planning proposals quantified this risk in numerical terms to provide an indication of the likelihood of properties being isolated and a fire and/or medical emergency occurring at the same time. The FIRA estimated the probability of a fire or medical emergency occurring whilst access roads are inundated to be a 1 in 1,000 AEP or 0.1% probability.
- Despite no dwellings being sited within any flood prone land and the relative joint risk of isolation and emergency occurring simultaneously, being low, Council have considered further residual secondary and human behaviour risk reduction measures, historical zoning decisions in the locality including secondary risks (fire emergency and medical emergency) and human behaviour (provision of adequate services and notification of flood isolation risk).
- Special Flood consideration Clause 5.22 of the GMLEP will be applied to all future development proposals to ensure no development is placed on any flood prone land and consideration for safe occupation is required for all developments proposed in the Brisbane Grove precinct.
- Future residents will therefore not only have completely flood free homes at all times but will also be advised of potential flood isolation before purchasing a property through a 10.7 planning certificate. These provisions stand alongside Development Control Plan requirements to be applied via a Section.88b instrument requiring a range of measures including a home fire safety kit, first aid kit, defibrillator and a source of on-site electricity generation, potable water and effluent management.
- These measures directly seek to reduce the occurrence, frequency and/or severity of residual secondary risks from emergencies and those of human behaviour by limiting the need for residents to call emergency services or leave their properties in search of required services or shelter. Future properties will not experience flood inundation thereby limiting electrical fires, small scale emergencies can be addressed through the first aid kit and home fire safety kit and properties will have an independent water and power supply. These measures will largely negate the need to leave the property during the rare periods of isolation and would not therefore result in unacceptable pressures or risk to emergency services workers.
- Council does not agree with reason 3 for refusal of the Gateway determination for the following reasons:
 - The Council considers refusal reason 3 to be unfounded and unsupported by any substantial evidence to justify the claim that the proposals would lead to a "significant increase" in government investment.
 - The proposals collectively will provide 34 new lots over a totalling area of 117 hectares (density of approximately 0.19 DPH). The

	<p>additional residential population resulting from the proposed rezonings is considered negligible and not of a quantum which would support the assertion the proposals would lead to significantly increased requirements for government investment.</p> <ul style="list-style-type: none">○ On a cumulative, precinct-scale, Council also considers the development potential of the Brisbane Grove precinct to be low. The Brisbane Grove precinct equates to approximately 523 hectares in total area and with an expected density of 0.19 dwellings per hectare' (due to appropriate environmental zoning for flood affected land), the overall precinct would deliver approximately 99 additional lots. When accounting for the two current planning proposals the Brisbane Grove precinct has a remaining development capacity of approximately 65 additional lots.○ The development capacity of the Brisbane Grove precinct as a whole is not considered to be of an overall quantum which would support the assertion that the proposals would lead to significantly increased requirements for government investment○ This reason for refusal appears unjustified, unevidenced and unlikely to occur for the scale of the proposals individually or on a precinct-scale. Council disputes refusal reason 3. A robust justification of what the anticipated significant additional government investment might be, how much spending is required, where it is to be spent and how it directly relates to the proposed rezoning is required to justify refusal reason 3 which is currently lacking in any material supplied to Council.
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Proponent's justification

Details of justification

The proponent request for a review of the Gateway determination was lodged on the Planning Portal on 21 January 2024 (**Attachment E**). The proponent had requested the Department provide an extension to the 42-day timeframe to lodge their application due to it falling within the Christmas/New Year holiday period which the Department agreed to.

The justification for the gateway review against the terms of refusal outlined in the Gateway determination report provided by the proponent is provided below.

Reason No.1: The planning proposal is not consistent with the South-East and Tablelands Regional Plan 2036 (Directions 16: "Increase resilience to natural hazards" and 28: "Manage rural lifestyles") and with the draft South-East and Tablelands Regional Plan 2041 (Theme 2: "Enhancing sustainable and resilient environments" and Theme 4: "Planning for fit for purpose housing and services") and Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding. The inconsistencies have not been sufficiently justified.

Proponent's response:

Cover letter from Hogan Planning (**Attachment - Cover Letter**):

- The current proposal displays strategic merit insofar that it seeks to achieve the aims and vision under the South-East and Tablelands Regional Plan 2036. The vision in this plan is for:

'New homes are located in places that make the best use of infrastructure and services. The type of new housing is more diverse and better suited to the growing and ageing population. New housing is also contributing to housing affordability and the demand for visitor accommodation'.

- The planning proposal meets the four main goals of the regional plan including providing connection to a prosperous economy by providing housing in a regional location and proximate to growth centres and local tourism. Managing the lot size to ensure the ongoing protection of the biodiversity of the area and local ecology, ensuring strong and healthy communities and providing sustainable forms of housing.

Clearly the provision of housing in an area identified in the Housing Strategy endorsed by the Council and the Department is a logical strategic outcome.

- The planning proposal displays strategic merit when considered against the Council's own strategic plan including the Housing Strategy. In this regard we note that Council's Housing Strategy provides a specific goal for the land the subject of the planning proposal. We provide an extract of Precinct 11 "Brisbane Grove" (**refer Attachment EF**).

Council has spent significant site and resources in considering land use opportunities in their local government area and have concluded that there is potential for large lot residential subdivision in Brisbane Grove.

GRC Hydro letter (**Attachment EG**):

- The reasoning prepared by DPHI fails to cite appropriate specific reference to NSW State Government planning policy to support their position. No reference is made to the relevant clauses(s) of Section 9.1 Ministerial Directions 4.1 Flooding with which the proposal is stated to be inconsistent.
- The Proposal is included in one of 11 areas for development

intensification in the 'Goulburn and Marulan Urban and Fringe Housing Strategy' (July 2020), which was developed to help Goulburn Mulwaree Council meet housing demands from anticipated population growth.

The Strategy aligns with the objectives of the South-East and Tablelands Regional Plan 2036 and was reviewed by relevant authorities, including the former Office of Environment and Heritage (OEH) and the former Department of Planning, Industry and Environment (DPIE), which are now represented by BCD and DPHI. Further, the Strategy was reviewed as part of the Goulburn Floodplain risk Management Study and Plan (GFRMSP, 2022), which deemed the site suitability for rezoning as 'fair'.

The GRRMSP was reviewed by OEH, which are noted not to have flagged the site as unsuitable for rezoning during this process. Further, a review of Regional Plan 2036 Directions 16 and 28, which focus on reducing natural hazard exposure and managing flood-prone urban growth, confirms that the Proposal complies with these objectives by ensuring that future dwellings are built outside of the Probable Maximum Flood (PMF) extent. In consideration of the above, it is clear that the Proposal is consistent with South-East and Tablelands Regional Plan 2036.

- Additionally, references to sections of the draft South-East and Tablelands Regional Plan 2041, which spans 36 pages, do not clearly identify inconsistencies. It is also noted previous post gateway correspondence did not raise perceived inconsistencies for assessment or consideration which would have enabled supporting documentation to be prepared to address any concerns.
- The Gateway determination's statement of perceived inconsistency with the Ministerial Directions and Regional Plans, is contested. The Goulburn and Marulan Urban and Fringe Housing Strategy (2020), was developed to be consistent with the 2036 Regional Plan which was reviewed by relevant authorities, who deemed the Proposal site suitable for rezoning. The draft 2041 Plan, still under review, lacks concrete references to inconsistencies, and the timing of DPHI's concerns is deemed procedurally unfair, as they were raised too late to be adequately addressed.

Sowdes Assessment (Attachment EE):

- The planning proposal was refused in November 2024 (by way of both a letter and report) based partly on the 'Draft Shelter-in-place Guideline' (December 2022) issued by the Department of Planning and Environment (DPE) noting that the document was 'not government policy'. Subsequent to the date of the refusal the 'Draft Shelter-in-place Guideline' has been replaced by the adopted 'Shelter-in-place Guideline for Flash Flooding' (January 2025) issued by the Department of Planning, Housing & Infrastructure (DPHI).
- The content within each document read quite differently hence it is difficult to know which version of the 'Guideline' to provide responses against, however on the premise that the adopted version (January 2025) is now policy and that it has expanded definitions and assessment criteria we have provided responses accordingly to this version. Throughout the remainder of this submission the 'Shelter-in-place Guideline for Flash Flooding' will be referenced as 'SIP'.
- We contest that the 'SIP' does not apply to the development site by way of definitions provided within the first two pages of the document:
 1. Shelter-in-place is the internal movement of a building's occupants to an area within the building above the probable maximum flood

level before their property becomes inundated by flood water. The land rezoning proposal and any subsequent residential dwelling development will be above the mapped probable maximum flood levels and therefore movement within a building to a place above the probable maximum flood is not applicable.

2. Flash flooding is “flooding that occurs within 6 hours of the precipitating weather event and often involves rapid water level changes and flood water velocity. The design rainfall event for the 1% AEP data presented in the FIRA submitted with the land rezoning proposal has a 36-hour duration.

From the commencement of the design rainfall event it takes approximately 26.50 hours for flood water to begin overlapping the Braidwood Road traffic corridor. Note also that the smaller event magnitudes have longer response times to flooding – if they result in flooding at all. For the PMF the PMP (probable maximum precipitation) is a 24 hour duration with a 6 hour response time until water begins to overtop Braidwood Road.

3. Flash flooding can be more dangerous than long duration flooding. This is largely due to the rapid changes in velocities and depths of water, and the very short or minimal warning time providing limited opportunity for communities to respond to a flood threat in an appropriate and timely manner. The long lag times for the more frequent to rare rainfall events suggest that the site is not subject to ‘flash flooding’.
4. The guideline considers shelter-in-place where flash flooding is the only flood risk present at the site and where people can safely shelter above the probable maximum flood level. The nominated dwelling site within each of the new allotments is above the probable maximum flood level and therefore ‘the site’ is not subject to flooding.

- It is further noted that 23 hour period of ‘isolation’ for the 1% AEP event is measured from the commencement of flood water overlapping the roadway. At either side of the peak flow the water depths are quite innocuous and are deemed passable under the flood hazard classification system.
- The period between the commencement of the rainfall event and the time that the evacuation route along Braidwood Road becomes impassable to all vehicles (therefore hazard category ‘H3’ or greater) for the 5% AEP (and smaller event magnitudes) is not applicable as it does not exceed ‘H1 with flow depths of ~300mm’; for the 1% AEP flood the period of isolation (where the flood depths on Braidwood Road exceed 0.50 metres) is estimated to be 8.5 hours; for the duration for the probable maximum flood the figure is not available at the time of the submission.
- From the commencement of the 1% AEP design rainfall event it takes approximately 26.50 hours for the flood water to begin overlapping the Braidwood Road traffic corridor.
- It is estimated that the period in which Braidwood Road is impassable to larger vehicles such as those used by emergency services agencies under ‘H2 ‘ conditions is approximately 8.5 hours which is significantly less than the 12 hour criterion.
- It is noted that communications involving NSW Ambulance at an ‘Emergency Services Meeting’ (24th August 2023) indicate that a 4WD vehicle (ambulance) can travel through waters up to 300mm deep which

would be equivalent to 'H1' flood hazard conditions, however most 4WD vehicles are able to traverse through water depths of around 450mm to 500mm which is 'H2' conditions – refer to the following summary on vehicle type classifications later in this submission.

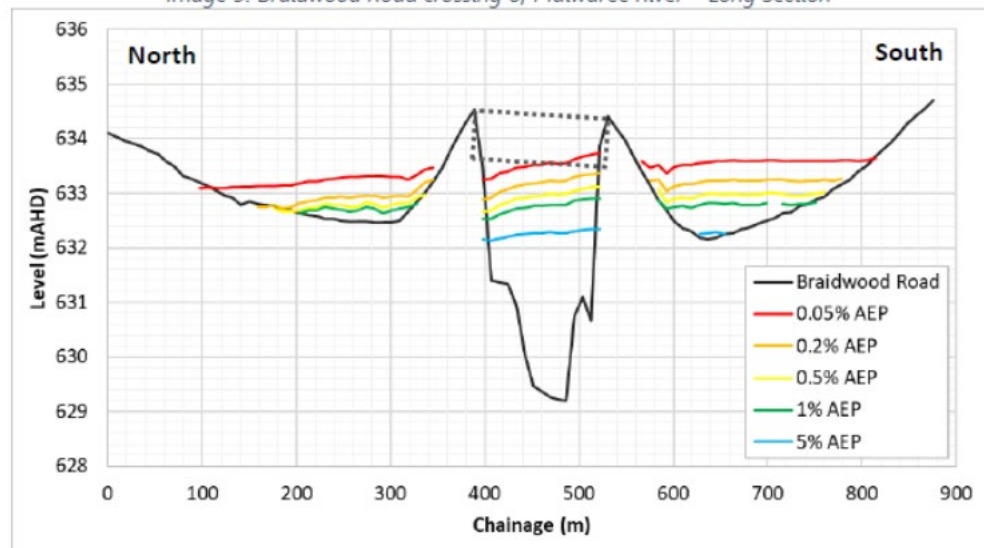
- Whilst an agency definition to 'inundation' (and therefore - isolation) may be 'any water over a roadway irrespective of the depths and velocities'; it is unlikely under a merit-based assessment of the specific land rezoning proposal that the Braidwood Road traffic corridor which is a major arterial and classified state road that services hundreds of rural land holdings, numerous rural villages and townships, is a major transport route, and is part of an important road network for emergency services would be closed at the first sight of water along the edges of the carriageway, or remain closed until every last pool of water had receded.
- The reasons for the refusal by DCCEEW are quoted from the 'Draft Shelter-in-place Guideline' which has subsequently been replaced by the 'Shelter-in-place Guideline for Flash Flooding' (January 2025) (SIP).
- The reason provided at the conclusion of the agency comments within this section quote the draft guidelines by stating that: is an emergency management response, especially when the flood warning time and duration are both less than six hours, and, noting that evacuation off-site is always preferable, but if this cannot be achieved then shelter in place may be used if the duration of flood inundation is less than six hours.
- The SIP re-defines the above to read as: "flooding that occurs within 6 hours from the commencement of the causative rain event", and "the duration of shelter-in-place due to isolation by floodwaters is less than 12 hours from commencement of the rainfall". The above criteria are coupled with additional flood hazard criterion such as the site and roadways not being subject high hazard flooding ('H5 and 'H6') that is defined in accordance the 'Flood Risk Management Guideline FB03, Flood Hazard' DCCEEW (2023).
- As stated earlier in the response submission, the time from commencement of the rain event for the 1% AEP flood (36 hour critical duration) until water begins to overlap the Braidwood Road is approximately 26.50 hours, and for the probable maximum flood (24 hour critical duration PMP) the time period is just on 6 hours (subject to further confirmation and other iterations by specific flood modelling if required).
- The mere presence of water on or over a road is of itself not an automatic transition to 'isolation' or 'impassability'. The hydraulic or flood hazard assessment system (FB03) is introduced to provide clarity around safe and unsafe water depths and velocities for people of different physical attributes and age, vehicles of different sizes, and different types of buildings and structures.
- 'H1' hazard with a water depth of 300mm or less and a velocity of less than 2.0 m/sec is safe for all groups, vehicles, and uses. 'H2' hazard with a water depth of 500mm or less and a velocity of less than 2.0 m/sec is safe for all groups, large vehicles, and uses [at 'H2' small vehicles are deemed to be unsuitable to pass through water]. Refer to the following Table retrieved from the Australian Rainfall & Runoff Revision Projects, Project 10, 'Appropriate Safety Criteria for Vehicles – Literature Review' (February 2011) for a definition of different vehicle types in flood conditions.

Table 3
Proposed DRAFT Stability Criteria for Stationary Vehicles

Class of vehicle	Length (m)	Kerb Weight (kg)	Ground clearance (m)	Limiting still water depth ¹	Limiting high velocity flow depth ²	Limiting velocity ³	Equation of stability
Small passenger	< 4.3	< 1250	< 0.12	0.3	0.1	3.0	$DV \leq 0.3$
Large passenger	> 4.3	> 1250	> 0.12	0.4	0.15	3.0	$DV \leq 0.45$
Large 4WD	> 4.5	> 2000	> 0.22	0.5	0.2	3.0	$DV \leq 0.6$

- At 'H3' able-bodied and trained persons can pass through the flood waters, at 'H4' and above all vehicles and all people are unsafe.
- Page 3 within FB03 states that categories 'H1' to 'H4' are equivalent to 'low hazard' whilst 'H5' and 'H6' are equivalent to 'high hazard' in the 2005 Floodplain Development Manual.
- It is also noted that the flood hazard on either side of the Thorns Bridge crossing along Braidwood Road is not the same with the depths and velocities on the northern side of the crossing generally being less than the southern side for the same event magnitude - refer to the following image from the FIRA prepared in support of the land rezoning planning proposal.

Image 9: Braidwood Road crossing of Mulwaree River – Long Section



- With specific reference to the last dot point in the adjoining column (issue raised by SES): “concern the entirety of the site becomes frequently isolated from vehicular access/egress in at least the 10% AEP event ..” – this has been raised for the first time amongst all other comments and responses. It is unclear where the data used for the 10% AEP reference has come from, and it is inconsistent with the FIRA submitted in support of the planning proposal, as well as the information derived for the Goulburn FRMSP.
- With reference to the above long section of the Braidwood Road crossing, flood water only begins to flow across the roadway in the events equal to or greater than the 5% AEP.
- In relation to a merit-based assessment of the proposal we submit the

following matters for consideration and comment in relation to the maximum isolation period of 12 hours and other elements within the 'SIP':

- Why 12 hours is the maximum period when the future landowners benefited by a rezoning will be occupants of newly constructed residential dwellings – not commercial or industrial sites. Most people (on average) would have an 8 to 10 hour working / school day and therefore would be at home for the remaining time – 14 to 16 hours – if not longer.
- The proposed development would yield large Lots within a rural environment where dwelling occupants are more accustomed to long stays at home (in the order of days) without the need to visit shopping centres or public transport hubs on a daily basis. There is a vast difference in lifestyle associated with the proposed development, and therefore traffic movements are not the same as a new urban land release area.
- Because all dwelling sites and access driveways will be above the probable maximum flood level not all landowners / occupants will want to leave as they feel safe and comfortable enough above the possible flood waters such that evacuation is less attractive and more disruptive.
- Given the option of evacuation to a community centre within the city compared to the comfort of their own house, most people are likely to want to stay rather than be forced or encouraged to leave given the extremely low probability of inundation by a probable maximum flood event, and certainly no impact in a 1% AEP event.
- At what water depth and velocity does isolation not become isolation, and similarly, when does inundation cease – at zero depths of water or some other pre-determined level? The transition between 'flood hazard' categories should be the driving considerations for inundation and therefore the period of 'total inundation' is not a correct measure.
- The same arguments apply to the 'extent' of flood water inundation. If 'any depth of water' is considered to be inundation then many parts of the floodplain with water depths of less than 50mm and low flows could technically become affected but is this really the intended outcome? Is a blanket approach being adopted which is not a realistic approach as it sterilises land from development that really is not adversely affected or impacted by flood.
- Other flood warning mechanisms are operative in the local community such as local radio and internet sites, BOM Flood and Storm Warning Advice notifications, 'HazardWatch' which is operated by the NSW SES. Most rural holdings rely on satellite internet services these days as fixed cable connections are being offered less by the various service providers due to low returns on the cost of asset investment.
- What is the intent of the 'SIP' document; is it intended to be applied to all land developments across the state without due process of the site-specific merits, or is it mainly targeted to new high density urban release areas where there is likely to be a large number of vehicles all seeking to evacuate at the same time – as per the description on page 3 of the guideline.
- The reason provided for the refusal does not appear to be merit-

based on the site - specific conditions which is contrary to the statement that assessment should “balance the merits, risks, and impacts of the proposal”. We do not believe that this has been adequately or fully addressed as there is no detailed reference to how the proposal does or does not meet the suite of assessment criteria; eg: what are the impacts?

- We also contest that the site is not ‘greenfield’ by definition given that it serviced by existing state and local road networks, is surrounded by established residential dwellings on similar size land holdings and has utilities of electricity and communications already passing across the frontages of the holding. The site is also not identified on the Goulburn ‘Greenfield Housing Codes Area Map’.

Goulburn ‘Greenfield Housing Codes Area Map’.



Landowner’s letter (Attachment EH):

- The 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.

Reason No.2: The planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the risk associated with isolation of the site due to flooding of Braidwood Road for approximately 23 hours during the 1% AEP flood event and rarer. This isolation period is excessive and far exceeds the shelter in place period maximum in the draft State flood policy.

Proponent’s response:

Hogan Planning (Attachment - Cover Letter):

- In respect of flooding related issues, we have obtained a response prepared by GRC Hydro (refer Attachment EG) which contains very

different conclusions to those summarised in the November 2024 Gateway report. The most marked difference is the time for 5% and 1% isolation periods noting there is no flooding event that would cause isolation in a 5% flood and the maximum isolation for emergency services for a 1% AEP event is 8.5hours.

- We suggest that the potential for isolation of the site during flood events is not a strategic concern and is more so a site-specific issue but notwithstanding the same, it is noted that the GRC Report that there is no threat to human life because of the levels of the land within the site and, what more, any concerns for secondary matters like fire and ambulance access in these isolation periods can be managed by those services for the periods of isolation.

GRC Hydro (Attachment EG):

- The Planning Proposal Flood Assessment (GRC Hydro, 20 December 2023) does not agree with this characterisation of flood risk, and through detailed consideration and documentation of the risk of isolation found that the Proposal is consistent with the Section 9.1 Direction 4.1 Flooding requirements.
- The determination does not appropriately reference relevant NSW State Government planning policies to support its position, with no reference to clause(s) of Ministerial Direction 4.1 Flooding made for perceived inconsistencies. Instead, it references 'draft State Flood Policy', which is presumably the 'Draft Shelter-in-Place Guidelines', which have not been finalised, and are stated at the top of the document to be 'not government policy'.
- The reasoning conflates the risks of isolation with those of sheltering-in-place. This is evident as the definition in the draft guidelines states, 'Shelter-in-place is the movement of occupants to a building or the occupants remaining in a location that provides vertical refuge on the site or near the site above the PMF level before their property becomes flood-affected'. As per the definition in the draft guidelines, shelter-in-place applies to properties that become 'flood-affected', and as described in the Planning Proposal Flood Assessment, future development of the site would be situated outside of the PMF extent and not subject to flooding under any conditions. Therefore, the draft guidelines are not relevant in the assessment of this planning proposal.
- The Planning Proposal Flood Assessment clearly identifies isolation risks, with a range of mitigation measures proposed that have been endorsed by Goulburn Mulwaree Council. The Proposal meets the requirements of the NSW State Government's Flood Risk Management Guideline (EM01), which states, 'The primary strategy for the NSW SES is evacuation of people to an area outside of the effects of flooding that has adequate facilities to maintain the safety of the community'. As described in the Planning Proposal Flood Assessment, future development of the site would be situated outside of the PMF extent and would have 'access to ablutions, water, power and basic first aid equipment' as described in the EM01 guidelines.

Sowdes Response (Attachment ED)

- The original reports and plans were prepared in accordance with the applicable controls and standards that were in effect at the time.

- It is highlighted that the most recent flood studies adopted by the Goulburn Mulwaree Council that included any detail for overland flows was presented as a DRAFT document in October 2021. At this time the Council's Development Control Plan was amended to include a new section of flood controls with reference to 'flood precinct constraint categories' which identified areas around the city burdened by overland flows and included the two development properties.
- Following submission of the original planning proposal documentation the Goulburn Mulwaree Council undertook an internal review of the submissions before submitting to a Council meeting in mid-2022 for endorsement to Gateway. There were some minor changes to the original proposals based on an internal review with the Council submitting the proposals via the Gateway circa August 2022.
- The main document referenced for refusal of the land rezoning proposal is the draft edition of the NSW Department of Planning and Environment (NSW SES) document titled Shelter in Place Guideline; it is noted as being written in December 2022 which is essentially 12 months after the planning proposals were initially submitted to Council and 4 months after the Council submitted the proposal to Gateway.
- To assess this proposal on a draft set of guidelines that did not exist or was not formally referenced at the time of the original or subsequent submission is considered unreasonable and irrational as the landowner who has expended a lot of money to progress their submissions have not had the benefit of hindsight to make an informed decision about the veracity and suitability of their proposals.
- Had the landowner had the knowledge of the draft SES document and the associated implications around isolation for potential future residential development they may not have continued to pursue their submissions and thereby incur more costs, or they could have possibly considered other options / pathways.
- It appears that all other agencies involved in the review of the Gateway submissions (excluding DCCEEW (formerly BSC) and the NSW SES) have either issued their in-principal support (possibly subject to conditions) or have not responded as there was generally no significant issues that warrant opposing the proposal. This essentially means that one single agency (being the NSW SES) is the source of refusal.
- As a consultant that addresses risk for other natural disasters (bush fire), it is difficult to understand how an isolation period of 'x' hours due to flooding is any different to isolation from other causes, and if there is a critical duration where isolation is deemed unacceptable why this is not documented and applied to other natural disaster events.
- Whilst a bush fire event or fire front may have a relatively quick passage through the landscape (normally measured in hours) the effects and loss of services and access are inherently no different to the same considerations associated with flooding – sometimes potentially even worse, yet they are not treated in the same manner.
- A recurring theme that will be evident in the various responses is that the period for isolation being quoted in Gateway Determination for the 1% AEP flood of 23.5 hours is not correct. Based on the flood modelling it is estimated that the period in which Braidwood Road is impassable to larger vehicles such as those used by emergency services agencies under 'H2' conditions is approximately 8.5 hours which is less than the 12-hour criterion.

- I conclude with the simple observation; if the reasons for refusal of the land rezoning proposal which are based on inherently low risks are applied consistently and uniformly to all land rezoning proposals across the state then it is very difficult to foresee how the objectives of the various Regional and State Housing Strategies and new dwelling targets will be satisfied – the guidelines are constantly shifting such that Local Councils and experienced consultants cannot keep abreast of the changes and the discrepancies in policy position and interpretation.

Landowner correspondence (Attachment EH):

- It would appear that there is issue of the purported possibility of the Braidwood Road becoming impassible for 23 hours during the 1% AEP event. This road has never been impassible in living memory, with both landowners having an intimate knowledge of the area for in excess of 40 years. The GRC modelling attached to the 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 8.5hours 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 is self-evident, as is the level of any new government funding of emergency services to cover this extremely unlikely contingency.

Reason No.3: *The planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures.*

Proponent's response:

GRC Hydro response (Attachment EG):

- Direction 4.1 Clause (3)(g) specifies that a planning proposal must not be 'likely to result in a significantly increased requirement for government spending'. The Gateway determination states that the Proposal 'has potential' to increase the need for investment but does not confirm that it is 'likely' to do so, which would be required to demonstrate that there was an inconsistency with the clause's requirements.
- The Planning Proposal Flood Assessment demonstrated that the Proposal complies with Clause (3)(g), ensuring that no significant increase in government spending will occur. Strategies to manage this include rezoning flood-prone land to C2 Environmental Conservation to limit development potential in areas likely to flood, situating future development outside the PMF extent to ensure dwellings are not at risk of flooding during any event, and implementing measures to address secondary flood risks which are only expected under very rare circumstances. These actions are in line with the EM01 guidelines and Direction 4.1 Clause (3)(g) and the Proposal will not 'significantly increase the need for government investment'.
- Additionally, the Goulburn Floodplain Risk Management Plan, adopted by the Council, recommends the implementation of a Total Flood Warning System (TFWS) to improve the management of flood risks. This system is

expected to be in place before the occupation of any future dwellings.

Sowdes Assessment (Attachment EE):

- There is no suggestion that increased government spending would be triggered by the approval to rezone the land to large Lot residential. If the relevant state agencies do not see a need presently to spend money to increase road heights, raise bridges, or undertake any other flood mitigation measures then it is very difficult to understand how the proposed rezoning alone will not change that position. The Gateway Determination refusal has not provided details to substantiate that the land rezoning proposal will actually result in increased government spending.

Sowdes Response (Attachment ED):

- The contention that an approval of the land rezoning proposal will be a trigger for increased government spending on emergency management services, flood mitigation, and emergency response measures is somewhat of 'blinkers on' approach to the existing constraints created under flood conditions and to the affected landowners.
- To simply suggest that other existing landowners, road users, and ancillary services that may become isolated in the same rain events do not warrant any consideration for increased expenditure related to risk mitigation whilst simultaneously refusing a comparatively small development of 14 rural-residential allotments is ill-considered.
- The Traffic Impact Assessment (TIA) for the planning proposal at 2 Brisbane Grove Road identified that Braidwood Road south of Garoorigang Road (therefore crossing Thorns Bridge and the Mulwaree River) had approximately 230 vehicle movements per hour each weekday morning (between 6:00am and 9:am) and approximately 280 vehicle movements per hour per weekday afternoon (between 3:00pm and 6:00pm), in addition to the regular traffic movements either side of those peak timeframes.
- If the highly used Braidwood Road which is a TfNSW classified road and is the main transit corridor between Goulburn and smaller regional villages and towns such as Tarago, Braidwood, the south coast, and all the rural holdings that lie between is not sufficient enough reason to implement any Government spending to reduce the potential for isolation during the frequent to large, and even rare flood events then it is hard to understand how this land rezoning proposal that would generate 14 rural-residential allotments would suddenly trigger the need to spend.

Landowner's response:

- 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 home sites will make a difference to the adequacy or otherwise of the Mulwaree River crossing? The Braidwood Road 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 Road

	<p>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.</p>
<p>Material provided in support of application/proposal</p>	<p>The proponent has provided the following documents as part of their application for a gateway review:</p> <ul style="list-style-type: none"> • Cover letter (Hogan Planning, 15 January 2025 – Attachment – Cover letter). • Department’s endorsement of Council’s Housing Strategy (Attachment EB) • GRC Hydro Flood Impact and Risk Assessment (Attachment EC) • Sowdes Response (Attachment ED) • Sowdes Assessment, 14 January 2025 (Attachment EE) • Brisbane Grove extract from Council’s housing strategy (Attachment EF) • GRC Hydro Response, 19 December 2024 (Attachment EG) • Correspondence from owners (Attachment EH).

Assessment summary

The Department's position regarding the planning proposal remains unchanged, and it is recommended that the planning proposal not proceed. The proposal does not demonstrate strategic and site-specific merit to justify the rezoning of the site to provide 14 dwellings where there is high risk these dwellings will be isolated for extended periods of time during 1% AEP flood events and rarer.

Reason 1: Inconsistency with the South-East and Tablelands Regional Plan and section 9.1 directions 1.1 Implementation of Regional Plans and 4.1 Flooding

The Department's assessment that the planning proposal is inconsistent with the current and draft South-East and Tablelands Regional Plans as well as Section 9.1 Directions 1.1 Implementation of Regional Plans and 4.1 Flooding, and that the inconsistencies have not be satisfactorily justified, remains unchanged.

The Department maintains its position that the planning proposal is not consistent with the following Directions of the South-East and Tablelands Regional Plan 2036 and their inconsistencies have not been sufficiently justified:

- Directions 16 "Protect the coast and increase resilience to natural hazards"
- Direction 28 "Manage Rural Lifestyles".

And is inconsistent with the following themes and objectives of the exhibited draft South East and Tablelands Regional Plan 2041:

- Theme 2 "Enhancing sustainable and resilient environments".
 - Objective 5: Protect important environmental assets
 - Objective 7: Build resilient places and communities.
- Theme 4: "Planning for fit for purpose housing and services".
 - Objective 17: "Plan for a supply of housing in appropriate locations".
 - Objective 19 "Manage Rural Living".

Based on its assessment of the planning proposal and the Flood Impact Risk Assessment report prepared in support of the proposal (**Attachment EC - FIRA**), and after considering advice from relevant agencies responsible for consideration of flooding and emergency responses (**Attachments F&G - SES and Attachments H& I - DCCEEW**) the Department does not consider that the Brisbane Grove area of Goulburn is suitable for residential development due to the high risk that the site will become isolated due to flooding of Braidwood Road during events rarer than a 5% Annual Exceedance Probability (AEP) flood event. The road is flooded for approximately 23 hours during the 1% AEP and 38 hours for the Probable Maximum Flood (PMF) event.

The Department acknowledges that the site is identified as a large lot residential "Opportunity Site" in Council's Urban and Fringe Housing Strategy (Council's Housing Strategy) which was endorsed by the Department in 2020. However, Council's Housing Strategy identifies that the Brisbane Grove precinct has a significant proportion of land that is potentially flood affected and that additional flood prone land may exist beyond Council's current flood study which may impact access. The Department's endorsement (**Attachment EB**) of Council's Housing Strategy was subject to detailed assessment of the constraints on housing opportunity sites identified in the Strategy through the planning proposal process. As such, flooding was not fully assessed in the strategy and detailed consideration was left to the Planning Proposal stage. It must also be stated that State flood policy has changed since endorsement of the strategy, including in response to the 2022 independent flood inquiry.

Inconsistent with section 9.1 Direction 4.1 Flooding

The Department maintains that the planning proposal is inconsistent with Section 9.1 Direction 4.1 Flooding and in particular with the following requirements of the Direction:

Clause 4.1(3) A planning proposal must not contain provisions that apply to the flood planning area which:

(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.

Clause 4.1(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:

(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or

(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.

The Department considers that the planning proposal is likely to affect the safe occupation and efficient evacuation of the site and increase the need for government spending and resources on emergency management and response measures including an increase in emergency/medical evacuations of residents and flood rescues by the State Emergency Service. Over time, there is also likely to be pressure on governments to improve access to these lands, particularly if other developments are approved in the precinct and the number of residents increases.

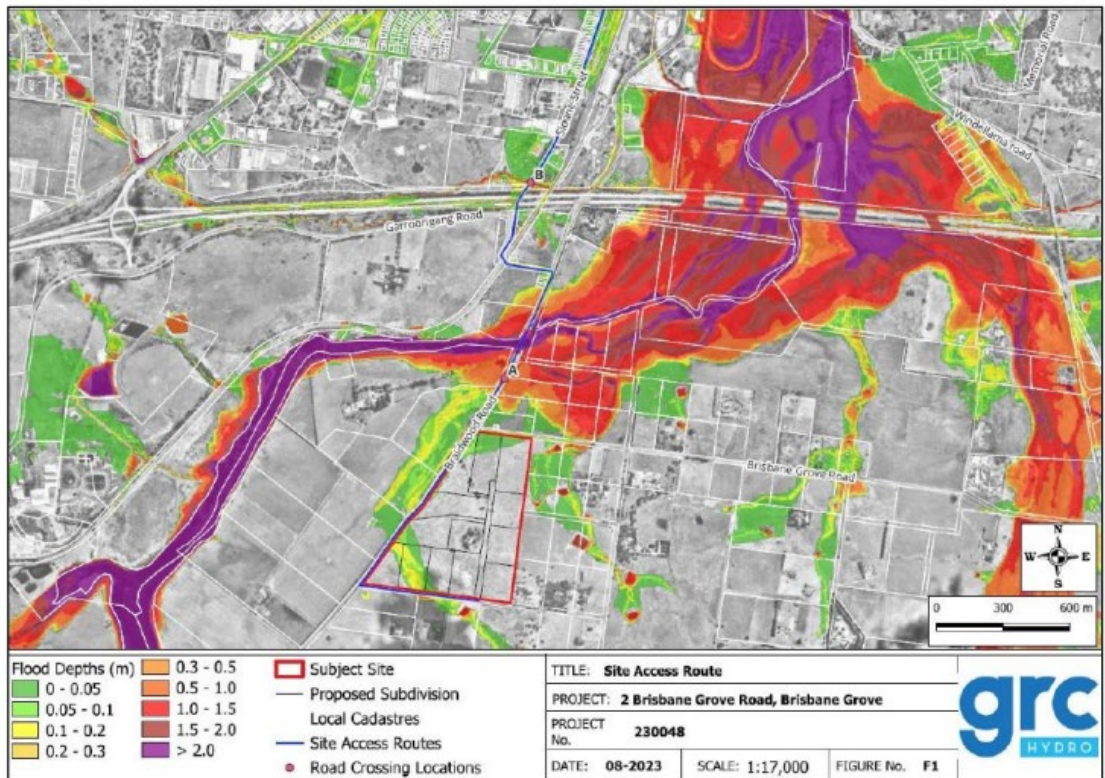
The Department maintains its view that the inconsistencies with Direction 4.1 Flooding have not been satisfactorily justified. The most appropriate primary emergency management strategy is self-evacuation of people off-site to an area not affected by flooding. However, the flood risk identified for the planning proposal, indicates that self-evacuation by future residents/occupants in the Brisbane Grove area will in most cases not be possible and relies on remaining on the sites for extended periods.

Reason 2: Risk to future residents/occupants, as well as to emergency services workers.

The Department's assessment that the planning proposal poses an unacceptable risk to future residents/occupants, as well as to emergency services workers, due to the risk associated with isolation of the site during flood events remains unchanged.

The planning proposal and FIRA states that the only realistic evacuation route from the site to the Goulburn Urban area is via Braidwood Road and over the Mulwaree River as shown in the figure below extracted from p.60 of the Planning Proposal.

Figure 30: Flood depth Map along Braidwood Road Evacuation route



The FIRA identified and assessed the frequency, severity and duration of flood inundation on Braidwood Road as presented in the table below (Table 1).

Events (AEP)	Max Depth (metres)	Duration of inundation (hours)	Duration with depth >0.5m
10%	-	-	-
5%	0.03	3.7	-
1%	0.57	22.5	8.5
0.5%	0.74	26.2	14.5
0.2%	0.98	30.2	20.5
PMF	8.62	38.4	35.7

Table 1: Depth and Duration of Flood inundation for various flood events (Source: Planning proposal document and FIRA)

The table demonstrates that access from the site to the Goulburn urban area first becomes inundated during a 5% AEP flood event with minimum depth of 0.03m. Braidwood Road becomes inundated to a hazardous extent at the 1% AEP event with a depth reaching 0.57m with a total duration of 22.5 hours and inundated to a depth of 8.6m for a duration of up to 38 hours during the PMF flood.

The planning proposal identifies that whilst all dwellings will be flood free up to and including a PMF event, residents are likely to be isolated in their homes (and immediate surrounds) for an extended period of time, because the limited available flood warning times for floods at the 1% AEP or rarer events in the local catchment would largely rule out self-evacuation as a suitable emergency management response during these flood events. The FIRA identifies that Braidwood Road is expected to be hazardous for crossing during this time as shown in Figure 3 below.

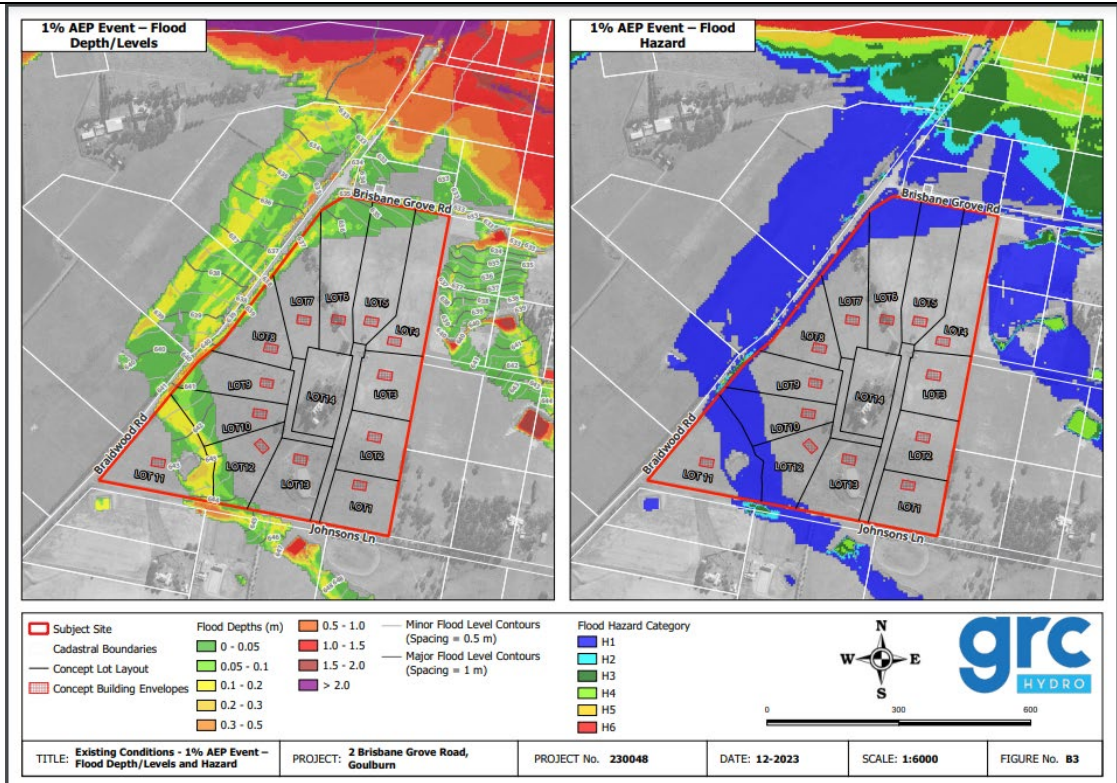


Figure 3 – 1% AEP Event – Flood Depth/Levels/Flood Hazard (Source: GRC Hydro FIRA)

In assessing whether the period of isolation for future dwellings on the site during flood events, the Department referred to the draft “Shelter-in-Place Guidelines” as an indicative guide. The draft Guideline, which was placed on public exhibition from January 2023 until February 2023, recommended that occupants should not shelter-in-place for more than six hours.

The final adopted “Shelter-In-Place Guideline for Flash Flooding” (January 2025) recommends that shelter-in-place should be limited to no more than 12 hours and that shelter-in-place is **not suitable** for greenfield areas. The site at Brisbane Grove is characterised as a greenfield area as it is rural land not yet developed for housing and residential development is proposed to be intensified under Council’s Housing Strategy.

The Department’s assessment of the planning proposal was informed by comment provided by the State Emergency Service (**Attachments F & G**) and by the Department of Climate Change, Energy, the Environment and Water (DCCEEW) (**Attachments H&I**), and from a subsequent meeting held with Council, SES and DCCEEW on 10 July 2024.

Agencies have raised strong concern on the potential of the planning proposal to increase the number of people and properties exposed to the effects of flooding and other secondary emergencies. The SES advised that development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not supported by NSW SES and are not equivalent, in risk management terms, to evacuation.

The Department notes the proposed risk mitigation measures identified in the planning proposal and supporting FIRA to allow residents/occupants to safely self-isolate during flood events. This includes the requirement that dwellings have access to a home fire safety kit, medical equipment including a first aid kit and defibrillator, have a source of on-site electricity generation, drinking water tank, and waste-water management system. However, the proposed measures will not necessarily prevent residents/occupants from deciding to enter flood waters if they choose to self-evacuate during a flood event. It is also unclear how Council will monitor and enforce the requirement that the risk management measures will be maintained in dwellings over the long term, particularly as the ownership of dwellings changes.

Reason 3: Potential increase in the need for government investment on emergency management services, flood mitigation and emergency response measures.

The Department's assessment that the planning proposal has potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures, remains unchanged.

The Department considers that increased government spending as a result of planning proposals in the Brisbane Grove area, may be required for the following:

- Emergency evacuations/rescues by the SES
- Flood warning systems and community education programs
- Monitoring/compliance/education to ensure dwellings have the required emergency measures, power, water, waste-water treatment during extended periods of flood isolation.
- Infrastructure/road and bridge upgrades to provide flood free road access.

The State Emergency Service (SES) has advised that it undertakes regular flood rescues in the Braidwood Road area, particularly motorists entering flood waters, and that it is concerned that increased development in the area facilitated by the planning proposal (as well as the planning proposal at 137 Brisbane Grove Road) would increase the need for flood rescues by the SES. The SES advised it is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to NSW SES and/or increase capability requirements of the NSW SES.

The SES has advised (**Attachment G**) that relevant to emergency management is the residual risk regarding evacuation compliance, resupply and rescue. There is no reason to conclude that the future residents of the planning proposals in Brisbane Grove and Rosemont Road will evacuate when advised to do so. If people choose not to evacuate, they will experience isolation for up to 36 hours in a large flood. This may lead to secondary emergencies not being able to be attended to, such as medical and fire and other secondary risks including loss of power, water, sewerage, telecommunication, food and other supplies. People may then choose to leave the site, entering dangerous floodwater. NSW SES resources may be required to rescue and/or resupply occupants due to less than 100% evacuation compliance, and NSW SES resources will need to be active for the duration of the isolation.

The Department has discussed with Council the potential to upgrade access roads/bridges to provide flood free access to the Brisbane Grove Road area. However, upgrading this infrastructure may not be financially feasible given the relatively small number of dwellings proposed in the area. The Brisbane Grove area is identified as having the potential for 132 dwellings in Council's Housing Strategy. This amount of development is unlikely to be able to fund substantial road upgrades but is likely to place pressure on authorities for more reliable/safer access.

In its cover letter to the gateway determination, the Department advised Council that it was unlikely it would support other similar proposals with long isolation periods relying on shelter in place, associated risks to future residents/occupants and emergency services workers and potential to significantly increase the need for government investment on emergency management services, flood mitigation and emergency response measures. The Department recommended that Council consider reviewing the suitability of the Brisbane Grove Precinct for large lot residential development in Council's Urban Fringe and Housing Strategy.

Council's Housing Strategy identifies other rural residential opportunity sites in the Goulburn and Marulan area. The Department has offered to work with Council to identify additional rural residential development opportunities in the LGA if required.

	<p>ATTACHMENTS</p> <p>A - Planning Proposal PP-2024-295</p> <p>B - Gateway determination</p> <p>C - Gateway determination report</p> <p>D - Goulburn Mulwaree Council response</p> <p>E - Proponent's application (Attachments EA-EH)</p> <p>F - SES submission</p> <p>G - SES advice</p> <p>H - DCCEW (BCS) submission1</p> <p>I - DCCEW (BCS) submission2</p>
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COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that the planning proposal should not proceed.

Recommendation	<input type="checkbox"/>	The planning proposal should not proceed past Gateway.
		<input type="checkbox"/> no amendments are suggested to original determination. <input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments: