



Goulburn Mulwaree Council

B2 Local Centre Review Planning Proposal

Goulburn Mulwaree Local Environmental Plan 2009

22 May 2019

Version	Comment	Date
1	For Preliminary Advice	28 March 2019
2	For Preliminary Advice (Revised)	1 May 2019
3	For Gateway Determination	7 May 2019
4	For Gateway Determination (Revised)	22 May 2019

Introduction

This planning proposal resulted from the combination of a direct recommendation out of the *Employment Lands Strategy* and the identified need to resolve the B1 Neighbourhood Centre zoning in Mistful Park, Goulburn, which is both large enough in size to theoretically replicate one of the major shopping centres in Goulburn and restrictive enough to only allow a maximum retail floor area of 1000m² for **neighbourhood shops** per lot on seven (7) hectares of land. It was also identified that the maximum retail floor space allowable for neighbourhood shops, which is permitted in both the R1 General Residential and R2 Low Density Residential zones, is too high for Goulburn to effectively enforce the concentration of commercial activity in commercially zoned areas. The subject land at Mistful Park also contains some remnant R5 Large Lot Residential zoning over part of some of the lots, which should be removed.

Council considered this issue at its meeting held on 19 March 2019 and resolved (2019/70):

That:

- 1. The report from the Graduate Strategic Planner on the review of the B2 Local Centre zoning in Marulan and Mistful Park be received.***
- 2. Council draft a planning proposal to amend the Goulburn Mulwaree Local Environmental Plan 2009 to:***
 - a) Rezone lots 6-8 DP 1220973 in the Mistful Park locality from B1 Neighbourhood Centre to R3 Medium Density Residential with a minimum lot size of 1500m²;***
 - b) Rezone the detention pond (Lot 9 DP 1220973) in the Mistful Park locality from B1 Neighbourhood Centre to RE1 Public Recreation;***
 - c) Rezone lots 1-5 DP 1220973 in the Mistful Park locality from B1 Neighbourhood Centre and part R5 Large Lot Residential to B2 Local Centre with a floor space ratio of 0.5:1;***
 - d) Add 'tourist and visitor accommodation', 'camping ground' and 'caravan park' as an additional permitted use for Lot 6 DP 1220973 in the Mistful Park locality;***
 - e) Amend the floor space restriction for 'neighbourhood shops' from 1000m² to a maximum of 250m².***
 - f) Rezone the land currently zoned B2 Local Centre with a floor space ratio of 1.2:1, north of the rail line in Marulan to B6 Enterprise Corridor with a floor space ratio of 0.8:1.***
 - g) Rezone lots 3-12 section 1 DP 3012 and lots E, F and G DP26410 in Marulan from B2 Local Centre with a floor space ratio of 1.2:1 to R1 General Residential with a 700m² minimum lot size and no floor space ratio.***
- 3. The planning proposal once drafted, be submitted to the Minister of NSW Planning and Environment for a gateway determination in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979.***
- 4. The Department of Planning and Environment be advised that Council wishes to be issued with an authorisation to use delegation for the planning proposal.***

- 5. In the event that NSW Planning and Environment issues a gateway determination to proceed with the planning proposal, consultation be undertaken with the community and government agencies in accordance with any directions of the gateway determination.**
- 6. The amendment to the Goulburn Mulwaree Development Control Plan 2009 attached to this report relating to commercial and medium density residential development at Mistful Park be placed on public exhibition for a minimum period of 28 days commencing the same day as the public exhibition period for the aforementioned planning proposal and a notice be placed in a local newspaper advising the period of exhibition and how submissions may be made.**
- 7. Following the exhibition period of the draft amendment to the Goulburn Mulwaree Development Control Plan 2009 and planning proposal, a report will be presented to Council advising of the outcomes of the consultation and any amendments made to the document as a result of consultation.**
- 8. Council waive any standard lodgement and processing fee payable under Council's fees and charges in relation to the planning proposal and amendment to the Goulburn Mulwaree Development Control Plan 2009.**

It is not expected that any development will occur as a direct result of this planning proposal in Marulan as the planning proposal at it applies to that subject site is intended to conform with existing uses operating there and prevent potentially unsuitable development occurring as a result of the current land use zone.

It is expected that development will occur at Mistful Park as a direct result of this planning proposal. While plans have not been submitted by the landowner, it is reasonable to assume that anywhere between 10 and 30 dwellings may be erected in the proposed R3 Medium Density zone, depending on whether townhouse style development or residential flat buildings are proposed. It is also possible that the rezoning of part of the land at Mistful Park to B2 Local Centre may support up to 254 jobs. This job creation figure is sourced from an earlier economic impact assessment completed in 2012 as part of amendment 5 to the *Goulburn Mulwaree Local Environmental Plan 2009*, in which the landowner previously proposed to allow a similarly sized supermarket and shopping centre as what would be allowable under the draft amendment to the *Goulburn Mulwaree Development Control Plan 2009* attached (MacroPlanDimasi, 2012 p.37). This previous planning proposal did not proceed as the method that was proposed to achieve this outcome was inconsistent with the *Standard Instrument (Local Environmental Plans) Order 2006*.

Part 1 – Objectives

To amend the *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP) to:

- Support the future development of a mixed use precinct at Mistful Park, Goulburn, supporting a small retail centre, medium density housing and visitor accommodation to service the current and future population living on Marys Mount;
- Ensure the zoning along Thoroughfare Street, Railway Parade and Austin Street, Marulan is consistent with the residential nature of the area;
- Ensure that land currently zoned B2 Local Centre, north of the rail line in Marulan, is rezoned to another zone that is more suited to the kind of development that would be supported so close the Hume Highway; and
- Ensure that large scale retail developments are limited to commercially zoned land.

Part 2 – Explanation of Provisions

This planning proposal involves amending the GM LEP as described in **Table 1** below (refer to **Part 4-Mapping** for existing and proposed zone, minimum lot size and floor space ratio maps):

Table 1: Summary of Amendments

Location of Amendment	Details
Nil (everywhere <i>neighbourhood shops</i> are permitted)	<p>Clause 5.4 of the GM LEP will be amended to change to total allowable retail floor space for <i>neighbourhood shops</i> from 1000m² to 250m². This would mean that any shop with a retail floor space of larger than 250m² would only be permissible if <i>shops</i> is a permitted use in that zone. The amended clause would be as follows:</p> <p>(7) Neighbourhood shops</p> <p>If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 250 square metres.</p>
Marulan B2 Local Centre zone, north of the rail line (Figure 1)	Rezone the land currently zoned B2 Local Centre with a floor space ratio of 1.2:1, north of the rail line in Marulan to B6 Enterprise Corridor with a floor space ratio of 0.8:1.
Marulan B2 Local Centre zone on Thoroughfare Street, Railway Parade and Austin Street (Figure 1)	Rezone lots 3-12 section 1 DP 3012 and lots E, F and G DP26410 from the B2 Local Centre zone with a floor space ratio of 1.2:1 to the R1 General Residential zone with no floor space ratio and a 700m ² minimum lot size.
Mistful Park (Figure 2)	<p>Rezone lots 6-8 DP 1220973 from B1 Neighbourhood Centre to R3 Medium Density Residential with a minimum lot size of 1500m²</p> <p>Rezone the detention pond lot 9 DP 1220973 from B1 Neighbourhood Centre to RE1 Public Recreation;</p> <p>Rezone lots 1-5 DP 1220973 from B1 Neighbourhood Centre and part R5 Large Lot Residential to B2 Local Centre with a floor space ratio of 0.5:1 (Note: this will remove the B1 Neighbourhood Centre zone from the GM LEP);</p> <p>Add <i>tourist and visitor accommodation, camping ground</i> and <i>caravan park</i> as additional permitted uses for Lot 6 DP 1220973. Lot 6 DP</p>

Location of Amendment	Details
	1220973 is indicated in blue in Figure 2 (Note: Council does not wish to provide a Schedule 1 map for the purposes of this amendment).

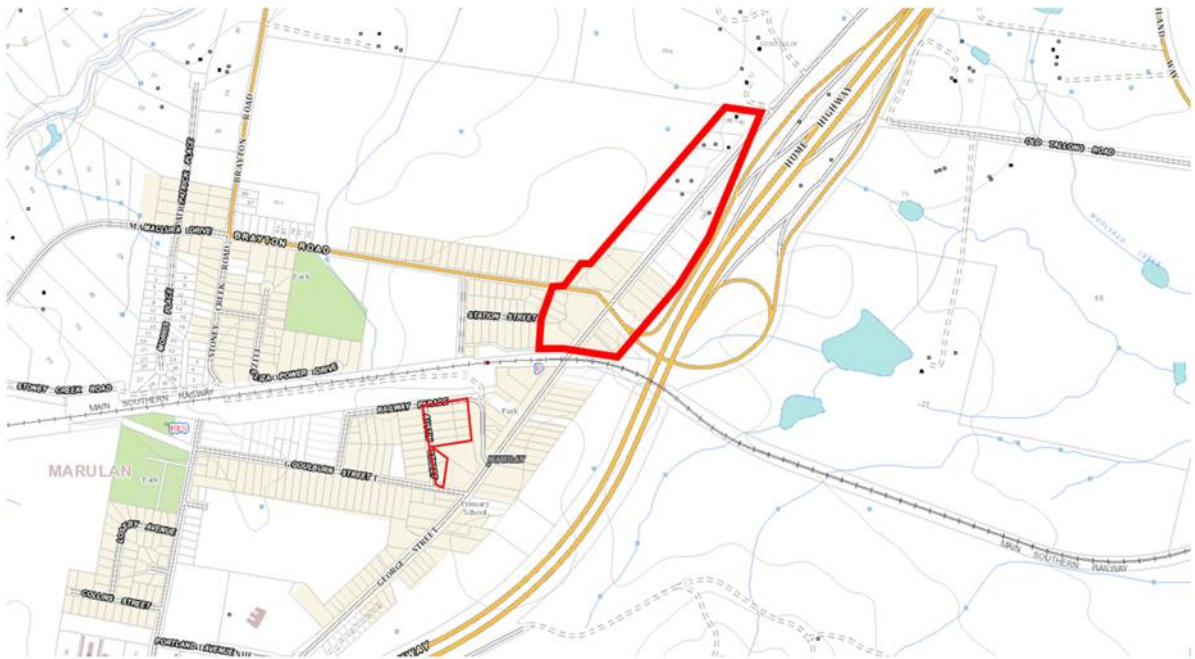


Figure 1: Affected lands at Marulan



Figure 2: Affected land at Mistful Park, Goulburn (Lot 6 DP 1220973 is indicated in blue)

As the R3 Medium Density Residential zone is not currently in the GM LEP, it is proposed to be introduced with the following land use table:

Zone R3 Medium Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage development that considers the medium density amenity of existing and future residents.

2 Permitted without consent

Home occupations, roads, Environmental protection works

3 Permitted with consent

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Environmental facilities; Flood mitigation works; Group homes; Home based childcare, Home businesses; Home industries; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (outdoor); Residential flat buildings; Respite

day care centres; Semi-detached dwellings; Seniors housing; Serviced apartments; Shop top housing; Tank-based aquaculture.

4 Prohibited

Pond-based aquaculture, Dwelling houses, Any development not specified in item 2 or 3

Part 3 – Justification

Section A – Need for the Planning Proposal

3.1 Is the planning proposal a result of any strategic study or report?

This planning proposal is partially the result of the *Employment Land Strategy* and an identified need to rectify the B1 Neighbourhood Centre zoning at Mistful Park and retail floor space restriction for **neighbourhood shops**.

The planning proposal, as it applies to the Marulan B2 Local Centre zone, follows the direct recommendations of the *Employment Land Strategy*. The justification given for the land to be rezoned from B2 Local Centre to R1 General Residential was that it is more consistent with current land use patterns, while the land to be rezoned to the B6 Enterprise Corridor is more appropriate to encourage the kind of uses that would be supported so close to the Hume Highway (p. 122).

The planning proposal, as it applies to the Mistful Park B1 Neighbourhood Centre zone and the retail floor area for **neighbourhood shops** did not result from any strategy, however it was identified that it was illogical and counterproductive to have over seven (7) hectares of land commercially zoned outside of Goulburn's CBD that is incapable of supplying more than 1000m² of retail floor area in the form of **neighbourhood shops**. It was also identified that the retail floor space restriction for **neighbourhood shops**, which is also permitted in all R1 General Residential and R2 Low Density Residential land, is too high to effectively concentrate retail development in existing commercially zoned land.

3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

It is considered that there is no better means of achieving the intended outcomes of this planning proposal other than what has been proposed for the following reasons:

- The planning proposal, as it relates to the Marulan B2 Local Centre, follows the direct recommendation out of the *Employment Land Strategy*. The recommendations for Marulan are also more consistent with the current and future expected developments in the subject areas.
- Amending the retail floor space restriction for **neighbourhood shops** from 1000m² to 250m² will limit the ability for large commercial developments to occur outside of commercially zoned land in Goulburn. Not amending this restriction would not be conducive to maintaining a functional retail hierarchy or preserving the economic integrity of Goulburn's existing CBD.
- Rezoning lots 6-8 DP 1220973 from B1 Neighbourhood Centre to R3 Medium Density Residential with a minimum lot size of 1500m² is considered the best way to encourage medium density development. Rezoning to another residential zone with a smaller minimum lot size is considered to be unreasonable as it would permit single detached housing on unconsolidated lots. Doing this would squander the opportunity to develop a medium density mixed use precinct on Marys Mount, with the opportunity to provide a diversity of housing choices in that location. Leaving the zoning as it currently is would constitute an inefficient use of the land, as the residential development permitted is **shop top housing** and the only

retail development permitted is **neighbourhood shops** with a retail floor space of no more than 1000m².

- Rezoning the detention pond on lot 9 DP 1220973 from B1 Neighbourhood Centre to RE1 Public Recreation is more consistent with its current use as public land dedicated to Council.
- Rezoning lots 1-5 DP 1220973 from B1 Neighbourhood Centre and part R5 Large Lot Residential to B2 Local Centre with a floor space ratio of 0.5:1 is required in order to facilitate further commercial development in the subject area without permitting commercial development of such a scale that it would unduly compete with Goulburn's existing CBD. The alternative of not rezoning at all would severely limit the ability of Mistful Park to provide commercial services to nearby residents on Marys Mount and is therefore also not considered appropriate.
- Adding **tourist and visitor accommodation, camping ground** and **caravan park** as an additional permitted use for Lot 6 DP 1220973 under Schedule 1 of the GM LEP is considered the best means of facilitating these uses. This will enable the landowner to develop a **camping ground** or **caravan park** in the near term with the possibility of redeveloping into **tourist and visitor accommodation** or medium density housing under the R3 Medium Density Residential zone in the long term without allowing these uses to be permitted in all proposed and future R3 Medium Density Residential zones, where they may incite land use conflict.

Section B – Relationship to Strategic Planning Framework

3.3 Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

This planning proposal is consistent with the applicable actions under Direction 12 of the South East and Tablelands Regional Plan detailed in **Table 1**.

Table 1 Consistency with applicable regional plan actions

Applicable Actions	Compliance of Planning Proposal
12.2 Encourage mixed use developments that cater for commercial, retail, residential and tourism uses through local planning controls.	This planning proposal will allow all of those uses mentioned in the action to be permissible in Mistful Park through a combination of commercial zoning, residential zoning and the use of Schedule 1 in the GM LEP to allow tourist and visitor accommodation, camping ground and caravan park as additional permitted uses.
12.3 Reinforce the role and function of centres as the primary places for commerce, retail, social activity	This planning proposal will further enhance centres as the primary places for commerce, retail, social activity and regional services by creating a new mixed use precinct at Mistful Park whilst limiting commercial and retail development outside Goulburn's established centres by reducing the retail floor space allowable for neighbourhood shops from 1000m ²

Applicable Actions	Compliance of Planning Proposal
and regional services through local strategies and local environmental plans.	to 250m ² , which are permissible in both the R1 General Residential and R2 Low Density Residential zones.
12.4 Focus future commercial and retail activity in existing commercial centres, unless there is a demonstrated need and positive social and economic benefits to locate this activity elsewhere.	<p>This planning proposal is considered to fulfil this action at Mistful Park by up-zoning the existing B1 Neighbourhood Centre zone to a B2 Local Centre zone. Additionally, this up-zoning will act to support the current and future expected residential growth on Marys Mount under the current residential zoning and the zoning proposed under the <i>Draft Urban and Fringe Housing Strategy</i>. The site specific amendment to the <i>Goulburn Mulwaree Development Control Plan 2009</i> also acts to limit the total amount of commercial development that is acceptable without requiring further justification as to the economic impacts of the development on Goulburn's existing CBD.</p> <p>The proposed amendment to the allowable retail floor space of neighbourhood shops and rezoning at Marulan also acts to consolidate commercial activities to Goulburn and Marulan's respective town centers.</p>
<p>12.5 Require proposals for new retail development to demonstrate how they:</p> <ul style="list-style-type: none"> • respond to retail supply and demand needs; • respond to innovations in the retail sector; • maximise the use of existing and planned infrastructure (including public transport and community facilities) commensurate with the scale of the proposal; and 	<p>This planning proposal fulfils this action by supplying more intensively zoned commercial land at Mistful Park, in an area where the residential population is expected to increase in the coming years, as a result of current residential zoning and the recommendations of the <i>Draft Urban and Fringe Housing Strategy</i>. The land to be rezoned at Mistful Park is also largely undeveloped, allowing for greenfield retail development in an area that already has access to reticulated water and sewer as well as access to a local bus service. The commercially zoned land will also act to be a gathering place for nearby residents to enjoy.</p>

Applicable Actions	Compliance of Planning Proposal
• enhance the value of the public realm.	

3.4 Is the planning proposal Consistent with Council's local strategy or other local strategic plan?

This planning proposal is consistent with the Council strategies listed below. Strategies that are irrelevant to the planning proposal have been excluded.

Goulburn Mulwaree Strategy 2020

It is considered that this planning proposal is beyond the scope of this strategy given that it builds upon the recommendations of the later *Draft Urban and Fringe Housing Strategy* and *Employment Lands Strategy*, which both supersede or elaborate on this strategy's recommendations for residential zoning and commercial zoning respectively.

The Tablelands Regional Community Strategic Plan 2036

This planning proposal is consistent with Strategy EC3 'Support and foster conditions that enable local and small/home-based businesses to grow' of the *Tablelands Regional Community Strategic Plan 2036*. The land to be rezoned at Mistful Park will allow a limited amount of new businesses to develop in a location that is not as constrained by heritage as Goulburn's existing CBD. By rezoning land at Marulan to B6 Enterprise Corridor, Council will also support a range of businesses already existing there as well as new local businesses that may benefit from the zone change.

Employment Land Strategy

The *Employment Lands Strategy* is Goulburn Mulwaree Council's principle strategy relating to employment lands and retail needs. This planning proposal is considered consistent with the *Employment Lands Strategy*.

The planning proposal as it relates to the Marulan B2 Local Centre zone was a direct recommendation of the *Employment Lands Strategy*. The strategy justifies this recommendation by explaining that the R1 General Residential zone is more suited to the existing uses on Thoroughfare Street, Railway Parade and Austin Street while the B6 Enterprise Corridor zone is more suitable for the kind of development that would be supported so close the Hume Highway (pp.122-123).

The planning proposal as it relates to the total retail floor area allowable for **neighbourhood shops** is consistent with this strategy as it limits large scale retail development outside of commercially zoned land, principally Goulburn's CBD. This reinforces the CBD's role as the primary commercial precinct in Goulburn (p.117) by reducing the total allowable floor space for **neighbourhoods shops** from 1000m² to 250m², meaning that a shop with a retail floor space of more than 250m² is limited to zones that also permit **shops**. Given that both the R1 General Residential zone and the R2 Low Density Residential

zone permit ***neighbourhood shops*** but not ***shops***, this would massively limit the ability for large retail development outside of commercially zoned land in Goulburn.

The planning proposal as it applies to Mistful Park, Goulburn is consistent with this strategy in so far that it addresses the predicted retail undersupply of 14,000m² expected to occur in Goulburn by 2030 (p.118). While the planning proposal does support more intense retail development outside of the CBD, it is considered that the floor space ratio of 0.5:1 and site specific amendment to the *Goulburn Mulwaree Development Control Plan 2009* chapter will ensure that the total retail development allowable will have a minimal impact on the CBD's ongoing viability and status as the primary commercial centre of Goulburn. Supporting larger retail development at Mistful Park is also considered a necessary inclusion to support the direction and implications of the *Draft Urban and Fringe Housing Strategy*.

Draft Urban and Fringe Housing Strategy

It is considered that the recommendations of the draft strategy give merit to this planning proposal as it applies to Mistful Park. The recommendations of the draft strategy to continue focusing much of Goulburn's residential development northwards is considered to necessitate the need for further commercial development at Mistful Park. The commercial development allowable under this planning proposal at Mistful Park will provide current and future nearby residents with commercial services in a central location on the corner of Marys Mount Road and Crookwell Road (**Figure 3**).

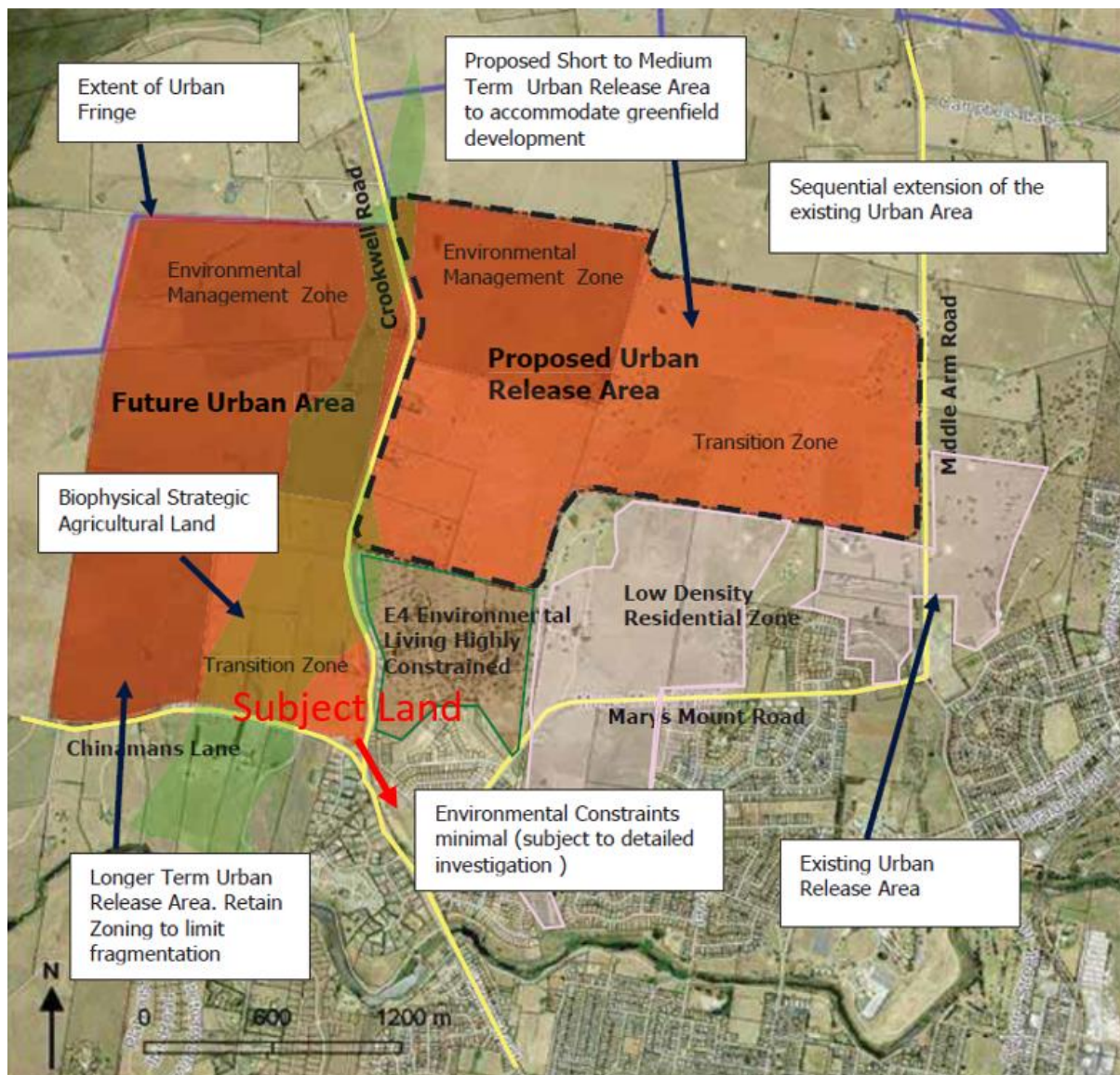


Figure 3: Subject land in relation to existing and newly proposed urban areas.

The planning proposal is also consistent with the draft strategy in that it provides infill development near what will be commercial services in the form of the R3 Medium Density Residential zone, easing housing pressure on urban release areas.

3.5 Is the planning proposal consistent with the applicable State Environmental Planning Policies (SEPP)?

The planning proposal is consistent with the applicable SEPP's as detailed in **Table 2**.

Table 2 Planning proposal compliance with the applicable SEPP's

State Environmental Planning Policy (SEPP)	Compliance of Planning Proposal
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	<p>This SEPP will require any future development on site to demonstrate a neutral or beneficial impact on water quality in line with the requirements of the SEPP and the <i>Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015</i>. It is anticipated that this planning proposal will demonstrate a neutral or beneficial impact on water quality given the presence of the SEPP and guidelines (refer to 3.11 of this planning proposal for further commentary relating to Water NSW preliminary concerns).</p>
State Environmental Planning Policy (Infrastructure) 2007	<p>It is acknowledged that planning proposal, as it applies to Marulan and Mistful Park, occurs adjacent or nearby to classified roads and a rail lines and may facilitate development subject to this SEPP (in Marulan). It is not anticipated that the development that this planning proposal will allow will have a negative effect on classified roads given that development approval is subject to Roads and Maritime Services' concurrence for all traffic generating development near classified roads, in accordance with Schedule 3 of this SEPP. The SEPP also contains mandatory guidelines for development near rail and road corridors to adhere to as part of the development assessment process.</p> <p>It is also considered the part of the B2 Local Centre zone in Marulan, north of the rail line, to B6 Enterprise Corridor with a lower floor space ratio of 0.8:1 will encourage development that is more suited to the locations proximity to the highway and rail corridor.</p>
State Environmental Planning Policy No 55—Remediation of Land	<p>It is not anticipated that any of the subject sites will require preliminary site investigation in accordance with this SEPP for the following reasons:</p> <ul style="list-style-type: none"> • The land to be rezoned from B2 Local Centre to B6 Enterprise Corridor in Marulan will allow for less retail and more semi-industrial uses. • The land to be rezoned from B2 Local Centre to R1 General Residential in Marulan consists entirely of existing dwelling houses that have remained on site since before the creation of the GM LEP. • The land to be rezoned at Mistful Park, including the land to be rezoned to R3 Medium Density Residential, has also been padded with clean fill from onsite since a prior subdivision approval in 2015 (DA/0329/1415).

3.6 Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)?

The planning proposal is consistent with the s9.1 Ministerial directions as detailed in **Table 3** (formerly known as s117 directions).

Table 3: Planning proposal compliance with s9.1 Ministerial Directions.

Direction	Compliance of Planning Proposal
Direction 1.1 – Business and Industrial Zones	<p>This planning proposal partially inconsistent with this direction. This planning proposal will result in land being rezoned from B1 Neighbourhood Centre to R3 Medium Density Residential in Mistful Park and land being rezoned from B2 Local Centre with a floor space ratio of 1.2:1 to B6 Enterprise Corridor with a floor space ratio of 0.8:1 and R1 General Residential with no floor space ratio. This is considered justified for the following reasons:</p> <ul style="list-style-type: none"> • The remaining area of Mistful Park, excluding the lot being rezoned to RE1 Public Recreation, will be up-zoned from B1 Neighbourhood Centre to B2 Local Centre. This zoning will facilitate the development of shops with a retail floor space in excess of the 1000m² restriction for neighbourhood shop in the B1 Neighbourhood Centre zone, where shops are prohibited. This provides a net increase of retail floor space allowed over the entire subject area, which is consistent with 4(c) of the direction. • The alternative of either not rezoning the Mistful Park B1 Neighbourhood Centre or up-zoning the entire subject area was considered inappropriate. Not rezoning the land would massively limit the capability of the land to be used efficiently and service the surrounding community, given that the maximum retail floor space was restricted to 1000m² for neighbourhood shops. Up-zoning the entire subject without further restrictions would allow approximately seven (7) hectares of commercially zoned land to unduly compete with Goulburn's established CBD, against the recommendations of the ELS. This is enough land to replicate a large shopping centre, similar to those found in Goulburn's CBD. • The rezoning at Marulan is consistent with the recommendations of the ELS, satisfying 5(a) of the direction. • The floor space ratio of 0.8:1 for the B6 Enterprise Corridor proposed in Marulan is consistent with the floor space ratio of other similarly zoned areas in the Goulburn Mulwaree local government area. This floor space ratio is suitable for maintaining an appropriate bulk and scale for the subject area, given its proximity to Marulan's town centre. It is also highly unlikely that any development would be supported beyond a 0.8:1 floor space

Direction	Compliance of Planning Proposal
	<p>ratio due to any potential visual impacts on Marulan's town centre, irrespective of what the legislated floor space ratio restriction is.</p> <ul style="list-style-type: none"> The land to be rezoned to R1 General Residential is composed entirely of single dwellings and shows no signs of developing in the future. The massive extent of even the remaining B2 Local Centre zone will ensure that Marulan has a large enough supply of commercially zoned land in its town centre for the foreseeable future.
Direction 1.2 - Rural Zones	Not applicable. This planning proposal does not involve rural lands.
Direction 1.3 – Mining Petroleum and Extractive Industries	Not applicable. This planning proposal does alter the permissibility of mining and extractive resources.
Direction 1.4 – Oyster Aquaculture	Not applicable to the Goulburn Mulwaree local government area.
Direction 1.5 – Rural Lands	Not applicable. This planning proposal does not involve rural lands.
Direction 2.1 – Environment Protection Zones	Not applicable. This planning proposal does not involve an environmental protection zone or area.
Direction 2.2 – Coastal Management	Not applicable to the Goulburn Mulwaree local government area.
Direction 2.3 – Heritage Conservation	Not applicable. This planning proposal does not affect any items, places or areas of Aboriginal or non-Aboriginal heritage.
Direction 2.4 – Recreational Vehicle Areas	Not applicable. The land does not enable the establishment of a recreational vehicle area.
Direction 2.5 – Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Not applicable to the Goulburn Mulwaree local government area.
Direction 3.1 – Residential Zones	<p>The planning proposal, as it applies to Mistful Park, is consistent with this direction as it will:</p> <ul style="list-style-type: none"> Broaden the choice of building types and locations by allowing medium density living under the R3 Medium Density Residential zone in a predominately low density housing area, with access to commercial services in the proposed B2 Local Centre zone (4(a)). Utilise existing road, water and sewer infrastructure (4(b)).

Direction	Compliance of Planning Proposal
	<ul style="list-style-type: none"> • Reduce housing pressure on Goulburn's urban fringe by providing medium density housing in the existing urban footprint (4(c)). • Be introduced alongside a draft Development Control Plan amendment that will ensure any medium density housing in the subject area has ample landscaping and appropriate bulk and scale (4(d)). • Not reduce the amount of residential development allowable on the land (5(b)). <p>The GM LEP already contains clause 6.2 Public utility infrastructure that does require public utility infrastructure to be available for urban release areas in accordance with 5(a) of this direction. However this is not relevant to the planning proposal as the clause only applies to urban release areas and the subject area at Mistful Park has already been serviced in accordance with that clause.</p>
Direction 3.2 – Caravan Parks and Manufactured Home Estates	This planning proposal is considered consistent with this direction as the land that may permit a manufactured home estates by allowing caravan parks as an additional permitted use under Schedule 1 of the GM LEP is not located in any land specified under Schedule 2 of SEPP 36- Manufactured Home Estates, in accordance with the direction. Subdivision by community title will also be permissible with consent on the site and all applicable development applications shall be made under SEPP 36- Manufactured Home Estates, in accordance with this direction
Direction 3.3 – Home Occupations	This planning proposal is consistent with this direction as home occupations are permitted in the land use table.
Direction 3.4 – Integrating Land Use and Transport.	<p>The planning proposal is considered to be consistent with this direction as the land to be rezoned at Mistful Park already contains an active bus service that is capable of servicing any future residents, visitors and any commercial activity.</p> <p>The planning proposal, as it applies to Marulan, will not likely be supported by public transport, given that Marulan does not have the population or urban footprint to support public transport. The rezoning at Marulan will otherwise be in close proximity to the town centre.</p>
Direction 3.5 – Development Near Licensed Aerodromes	Not applicable. This planning proposal does not relate to any land near a regulated airport.
Direction 3.6 – Shooting Ranges	Not applicable. This planning proposal does not relate to or affect any land on or near shooting ranges.
Direction 4.1 – Acid Sulphate Soils	Not applicable to the Goulburn Mulwaree local government area.

Direction	Compliance of Planning Proposal
Direction 4.2 – Mine Subsidence and Unstable Land	Not applicable to the Goulburn Mulwaree local government area.
Direction 4.3 – Flood Prone Land	Not applicable. This planning proposal does not relate to any flood prone land.
Direction 4.4 – Planning for Bushfire Protection	Not applicable. This planning proposal does not relate to any bushfire prone land.
Direction 5.2 – Sydney Drinking Water Catchment	Refer to 3.11 of this planning proposal.
Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable to the Goulburn Mulwaree local government area.
Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to the Goulburn Mulwaree local government area.
Direction 5.9 – North West Rail Link Corridor Strategy	Not applicable to the Goulburn Mulwaree local government area.
Direction 5.10 – Implementation of Regional Plans	This planning proposal is consistent with the direction. Refer to Part 3-Justification for compliance with regional strategies.
Direction 6.1 – Approval and Referral Requirements	<p>This planning proposal is consistent with this direction as it is considered that input from other government agencies, other than preliminary advice from Water NSW, are not necessarily required for the following reasons:</p> <ul style="list-style-type: none"> • Water NSW may be referred to at the development assessment stage to demonstrate compliance with the <i>State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011</i> if a neutral or beneficial impact on water quality cannot be demonstrated using the NorBe tool. • Concurrence from Roads and Maritime Services is required to issue development approval at the development assessment stage for all traffic generating development near classified roads pursuant to Schedule 3 of the <i>State Environmental Planning Policy (Infrastructure) 2007</i>. The planning proposal also does not require any additional access to a classified road.

Direction	Compliance of Planning Proposal
	<ul style="list-style-type: none"> Referral to the Office of Environment and Heritage should not be required as the land to be rezoned in Mistful Park has already been padded with clean fill over the entire subject area, with no signs of Aboriginal artefacts being identified and no significant vegetation remaining, except for the vegetation fronting Crookwell Road which would not likely be removed for any subsequent development. The land to be rezoned in Marulan is already largely built upon and is unlikely to be subjected to significant future development as a result of this planning proposal. Referral to the Rural Fire Service should not be required as the planning proposal will not affect any bushfire prone land.
Direction 6.2 - Reserving Land for Public Purposes	<p>It is acknowledged that approval from the Department of Planning and Environment is required to rezone land at Mistful Park to RE1 Public Recreation (Lot 9 DP 1220973) in order to satisfy this direction. It is considered that this approval should be provided, given that the land is mostly comprised of a stormwater retention basin unsuitable for further development and is already dedicated to Council for community use.</p>
Direction 6.3 – Site Specific Provisions	<p>The planning proposal is inconsistent with this direction in so far that it introduces the R3 Medium Density Residential zone to the GM LEP and accompanies a site specific amendment to the <i>Goulburn Mulwaree Development Control Plan 2009</i> applying to Mistful Park. However this is considered justified as the R3 Medium Density Residential zone is most suited to encouraging the kind of medium density development supported at the subject location.</p> <p>The site specific amendment <i>Goulburn Mulwaree Development Control Plan 2009</i> is considered necessary to preserve and protect the retail hierarchy in Goulburn as well as facilitate residential development in a guided manner.</p> <p>It is also worth noting that the <i>Draft Urban and Fringe Housing Strategy</i> also proposes the introduction of the R3 Medium Density Housing zone.</p>
Directions Part 7 – Local Plan Making	<p>This part is not applicable to the Goulburn Mulwaree local government area.</p>

Section C – Environmental, social and economic impact.

3.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

It is considered highly unlikely that any critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected by this planning proposal as it only affects already commercially zoned land. Mistful Park has been padded with clean fill since the prior subdivision on the land was approved in 2015 (DA/0329/1415) and the land to be rezoned in Marulan is already mostly developed and occupied. It is also worth noting that the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* also ensures that any new development is required to demonstrate a neutral or beneficial impact on water quality.

3.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is unlikely that any other adverse environmental effects will occur as a result of this planning proposal for the same reasons mentioned in the previous question.

3.9 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal as it relates to the Marulan B2 Local Centre zone is considered to have a positive economic and social impact as the subject lands will be rezoned to zones that are more consistent with the current and future expected development. The land being rezoned to R1 General Residential on Thoroughfare Street, Railway Parade and Austin Street is consistent with the current nature of development operating on the land and the land being rezoned to B6 Enterprise Corridor, north of the railway, is consistent with the kind of development that would be suitable for land so close to the Hume Highway. This will limit the possibility of development applications being received that are partly or wholly inappropriate for the heritage and streetscape character of Marulan and ensure that the zoning of the site gives more certainty for developers wishing to develop the site. It is not expected that any development will occur in Marulan as a direct result of this planning proposal.

The planning proposal as it relates to Mistful Park and **neighbourhood shops** is considered to have a positive social and economic impact. The planning proposal at Mistful Park will help secure commercial services for those living on Marys Mount, including those living in the two aged care facilities within walking distance of the subject site. By imposing a strict floor space ratio of 0.5:1, reducing the extent of commercially zoned land, reducing the retail floor space allowable for **neighbourhood shops** to 250m² and introducing a site specific amendment to the *Goulburn Mulwaree Development Control Plan 2009*, this planning proposal will also ensure that commercial development at Mistful Park and land that permits **neighbourhood shops** will not risk the economic viability of Goulburn's established CBD.

It is expected that development will occur at Mistful Park as a direct result of this planning proposal. While plans have not been submitted by the landowner, it is reasonable to assume that anywhere between 10 and 30 dwellings may be erected in the proposed R3 Medium Density zone, depending on whether townhouse style development or residential flat buildings are proposed on some or all of the lots. It is also possible that the rezoning of part of the land at Mistful Park to B2 Local Centre may support up to 254 jobs. This job creation figure is sourced from an earlier economic impact

assessment completed in 2012 as part of amendment 5 to the GM LEP, in which the landowner previously proposed to allow a similarly sized supermarket and shopping centre as what would be allowable under the draft amendment to the *Goulburn Mulwaree Development Control Plan 2009* attached (MacroPlanDimasi, 2012 p.37). This previous planning proposal did not proceed as the method that was proposed to achieve this outcome was inconsistent with the *Standard Instrument (Local Environmental Plans) Order 2006*.

Section D – State and Commonwealth interests

3.10 Is there adequate public infrastructure for the planning proposal?

All sites have direct access to sealed roads are located near to state classified roads.

All lots in Mistful Park have access to reticulated water and sewerage infrastructure. Lot 9 DP 1220973 acts as a stormwater detention pond for all lots at the subject site except for lot 6 DP 1220973, which retains an existing farm dam. The stormwater detention pond was created following the approval of the subdivision of the subject site in October 2015 (DA/0329/1415). It is anticipated that the land owner will lodge a modification to that development application depending on the success of this planning proposal to expand the total retail floor area of the supermarket, ancillary shops and two (2) medical centres also approved under that application. No plans currently exist for Lot 6 DP 1220973 and its existing farm dam as the developer has only expressed an interest in developing the site in the future **as tourist and visitor accommodation** with the opportunity to develop **camping grounds** or **caravan parks** in the near term.

The subject site at Marulan is partially sewerred with the following lots remaining unsewered (**Figure 4**):

- Lots 2-3 DP1160604
- Lots 17-19 DP701704
- Lots 1, 3-5 DP17363
- Lots 20-21 DP522273



Figure 4: Unsewered lots in Marulan.

It should be noted however that lots 1, 3-5 DP17363 and lots 20-21 DP522273 have been identified in Council's *Development Servicing Plan for Water Supply, Sewerage and Stormwater (2017)* for connection to the sewerage network (**Figure 5**). The remaining unsewered lots may also be able to be connected to this sewerage infrastructure, given they would just be on the other side of the street to the lots that would be sewered. It should also be noted that the planning proposal, as it applies to Marulan, did not arise out of any specific development pressure, but rather the need to maintain the existing character of the subject areas in accordance with the recommendations of the *Employment Lands Strategy*. It is therefore unlikely that a development application will be received in the near term after this planning proposal, as a direct result of this planning proposal.



Figure 5: The Development servicing plan, as it relates to Marulan, the outline in blue is intended to show the future extent of sewerage servicing (please note that the sewer infrastructure overlay has incorrectly been shifted to the west, refer to **Figure 4** for accurate overlay)

It should be noted that Council is not supportive of unsewered development in a serviceable area.

3.11 What are the views of State and Commonwealth public authorities' consultation in accordance with the gateway determination?

Water NSW provided their preliminary response to this planning proposal on 23 April 2019, in accordance with direction 5.2 of the Ministerial directions made under s9.1 (formerly s117) of the *Environmental Planning and Assessment Act 1979* (refer to separate enclosure). Concerns raised by Water NSW have been addressed below:

Camping grounds and caravan parks as an additional permitted use for Lot 6 DP1220973

Water NSW raised the concern that it is not clear whether or not the farm dam on lot 6 DP 1220973 will be retained or removed as a part of future development and that the planning proposal does not state if a connection to sewer would be required for the development of a camping ground or caravan park.

It is considered that these concerns can be deferred until the development assessment stage due to the legislated requirement to demonstrate a neutral or beneficial impact on water quality for all developments requiring consent under the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* and *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015* anyway. Any development associated with the creation of a **camping ground** or **caravan park**, whether interpreted as a 'Tourist / recreation / religious / education establishment or facility' or 'Other development' under the aforementioned guidelines, must be determined under a Module 5 assessment, which requires an assessment and concurrence from Water NSW prior to issue development consent (p. 24). It is through this process that Water NSW itself may require a prior sewer connection and plans to be submitted for the retainment or removal of the farm dam. Other, lower intensity developments that may be granted assumed concurrence under the NorBe tool would occur in an area that Water NSW has identified as a low risk to water quality under its Strategic Land and Water Capability Assessment (SLWCA) mapping. Even under assumed concurrence, Council would not be supportive of unsewered development in an urban area.

It is acknowledged that the existing dam on lot 6 DP 1220973 has been identified as a site constraint that would need to be factored into any large scale development in the future, with the possibility of modifying it for stormwater treatment purposes subject to further planning being undertaken. However it is also considered that providing plans on whether or not the dam will be removed or modified as a piece of stormwater infrastructure is too onerous at this stage given that the landowner has not declared any intention to develop the land in the near term and that this will need to be considered at the development assessment stage anyway, as explained above.

Sewer Infrastructure in Marulan

Water NSW provided their support for the rezoning's proposed in Marulan, provided that that the eleven (11) unsewered lots that are proposed to be rezoned from B2 Local Centre to B6 Enterprise Corridor are sewerred prior to any development.

Council agrees with this and does not support unsewered development in areas capable of being sewerred. Most significant and unsewerred development would also require Water NSW assessment and concurrence under *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*, which would ensure that Water NSW itself may be able to enforce it. Other, lower intensity developments that may be granted assumed concurrence under the NorBe tool would occur in an area that Water NSW has identified as a low to moderate risk to water quality under its SLWCA mapping.

Local Planning Direction 5.2 Sydney Drinking Water Catchments

Water NSW argued that this direction is best met by addressing other concerns raised by Water NSW and ensuring that appropriate stormwater management controls are put in place.

Council considers that Water NSW's concerns have been addressed and that the combination of controls under the *Goulburn Mulwaree Development Control Plan 2009*, standard consent conditions and development assessment under the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011* and *Neutral or Beneficial Effect on Water Quality Assessment Guideline 2015* ensure that appropriate stormwater management controls and practices are put in place.

It is also worth noting that all subject sites have been identified as low risk on Water NSW SLWCA mapping for all proposed zoning types, with the exception of light industrial zoning in Marulan, which has a low-moderate risk on SLWCA mapping.

Other Comments

This planning proposal has been amended to better explain the infrastructure relating to each site, reassert Council's view to not support unsewered development in serviceable areas and to summarise the amendments being made in this planning proposal in accordance with Water NSW comments.

Water NSW commented on the possibility of dual occupancy development occurring under the *State Environmental Policy (Exempt and Complying Development Codes) 2008* and suggested that Council consider introducing a minimum lot size clause for dual occupancies in the GM LEP. This is considered beyond the scope of this planning proposal, however it has nonetheless been noted for future reviews of the GM LEP.

Water NSW also provided feedback on the draft amendment to the *Goulburn Mulwaree Development Control Plan 2009* proposed. This feedback will be considered separately to this planning proposal as a submission to the draft amendment.

Updated Water NSW Response (6 May 2019)

On 6 May 2019 Water NSW issued a letter to Council confirming that this planning proposal, as amended, has adequately addressed their concerns thereby fulfilling the requirements under the s9.1 Ministerial Directions (refer separate enclosure).

Part 4 – Mapping

Indicative maps of the existing and proposed new zoning, minimum lot size and floor space ratio maps are below (refer to **Part 2 - Explanation of Provisions** for a summary of amendments). Mapping data, for the purposes of replacing the map sheets in the GM LEP, will be uploaded separately to the NSW Planning Portal at a later point in time. Please note that Council does not wish to provide an application map for Schedule 1.

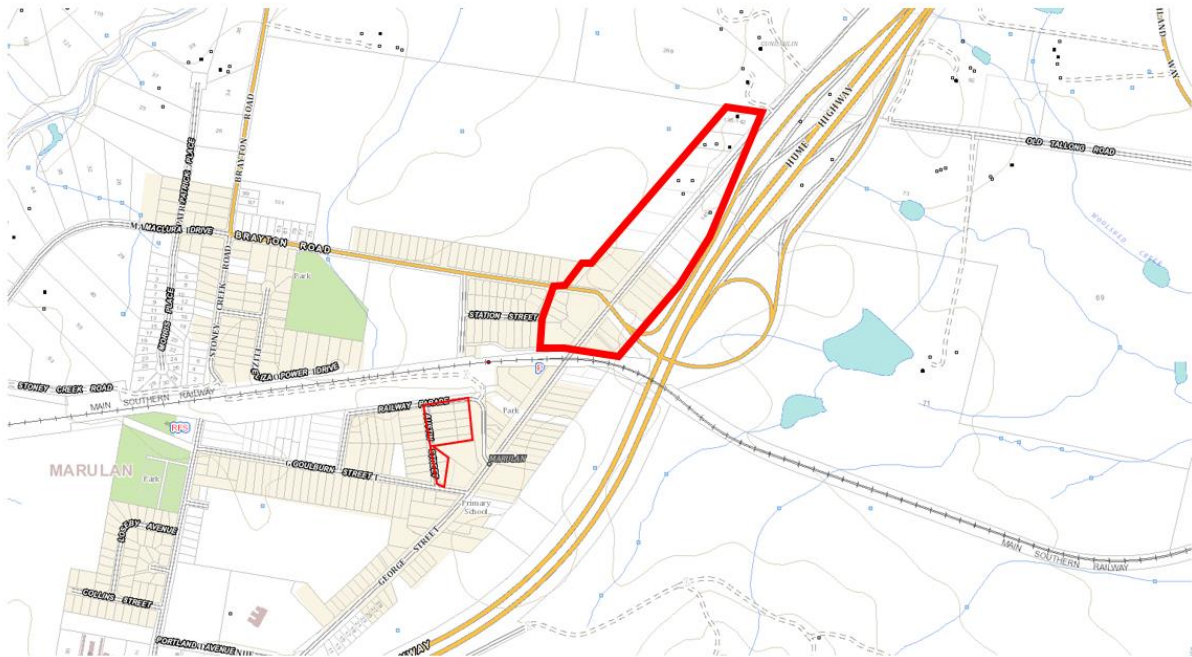


Figure 6: Subject land at Marulan

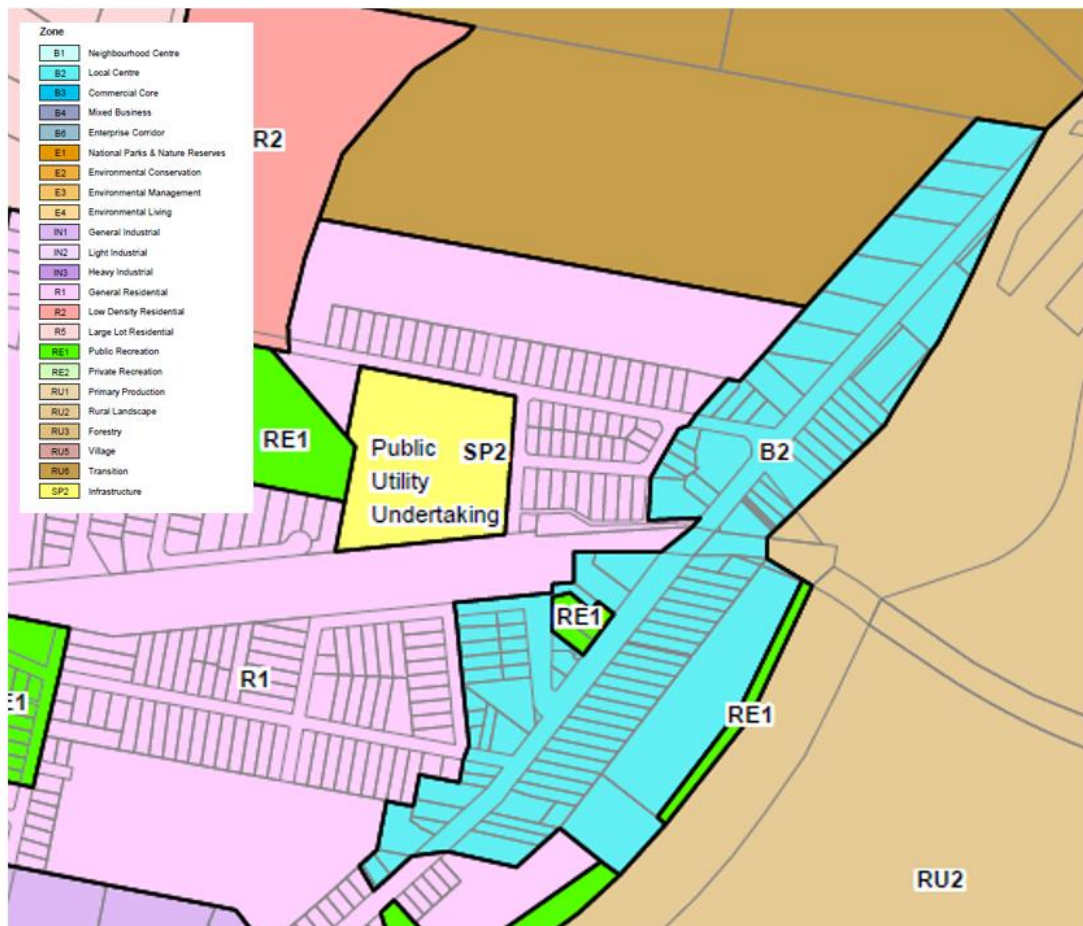


Figure 7: Current zoning for Marulan

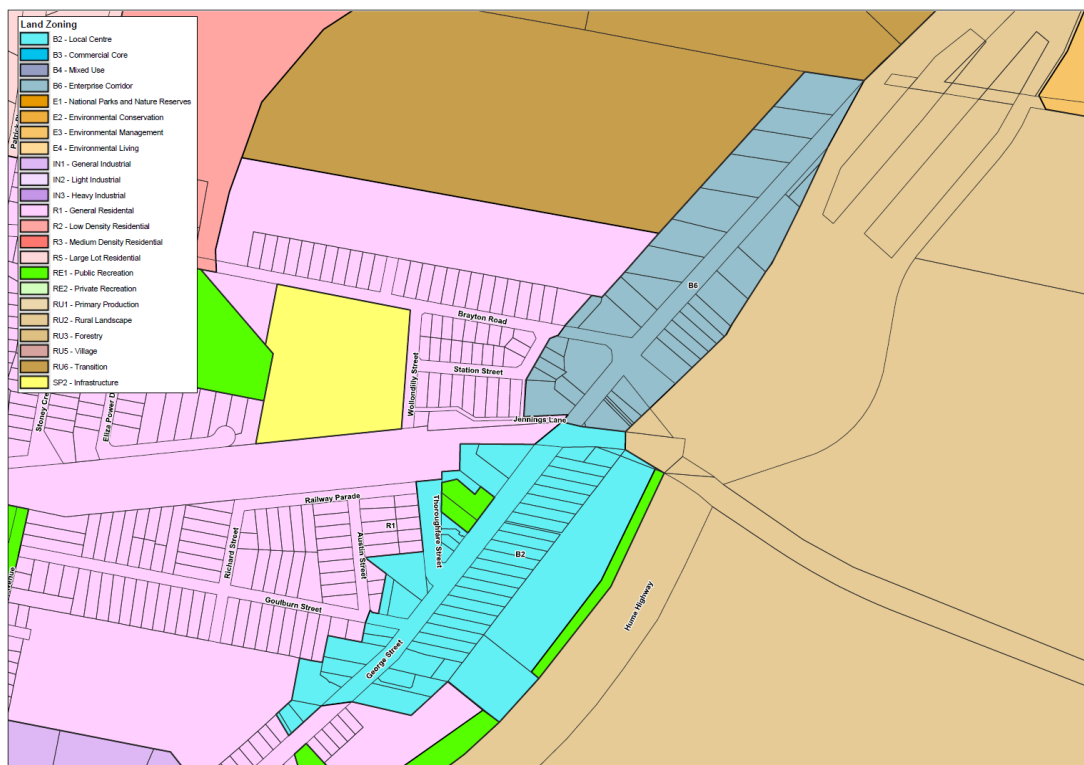


Figure 8: Proposed zoning for Marulan

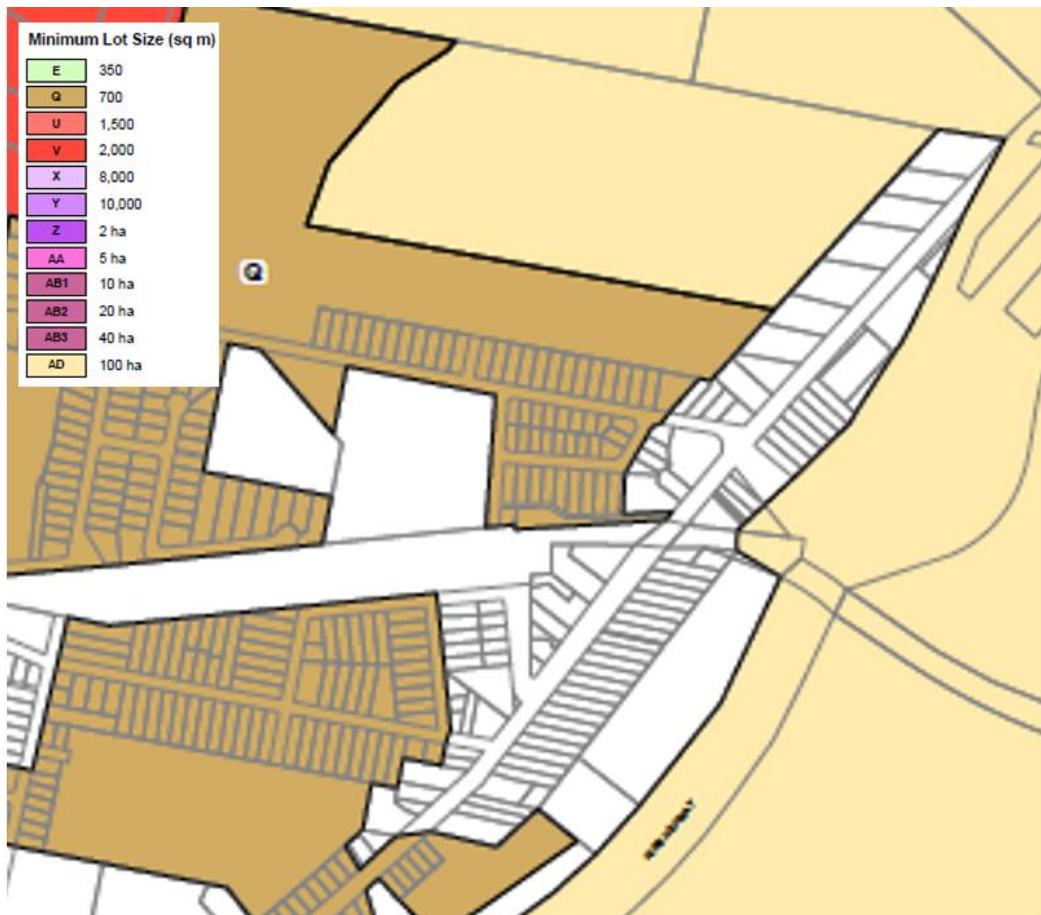


Figure 9: Current minimum lot sizes for Marulan

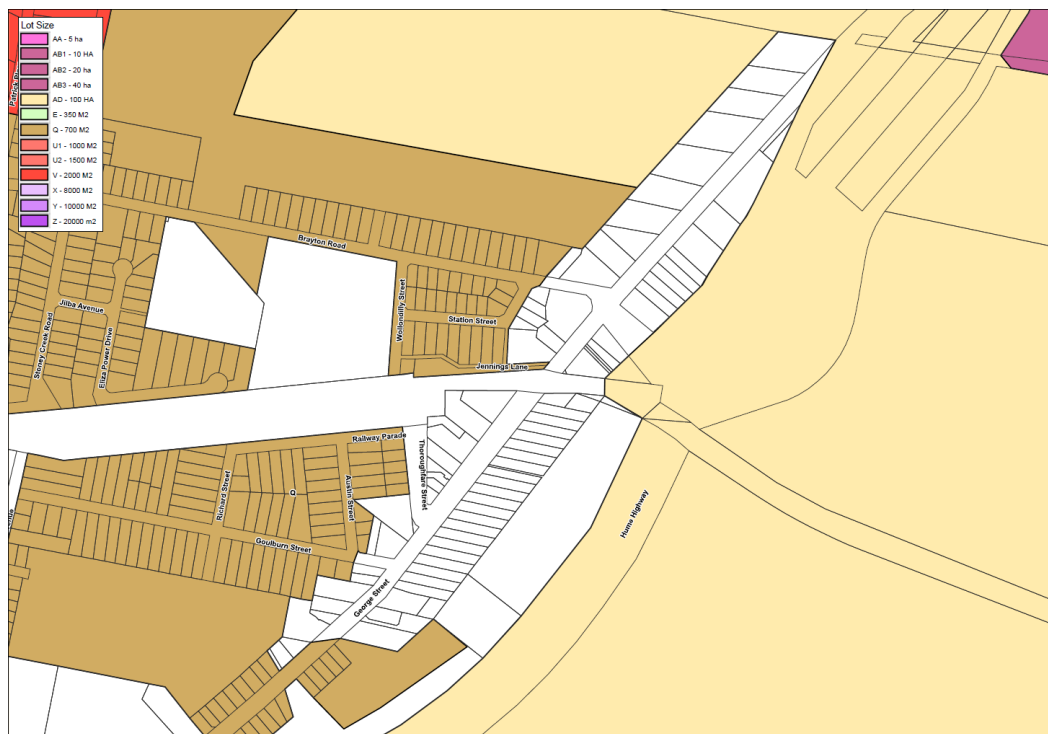


Figure 10: Proposed minimum lot sizes for Marulan



Figure 11: Current floor space ratios for Marulan



Figure 12: Proposed floor space ratios for Marulan



Figure 13: Affected land at Mistful Park, Goulburn (Lot 6 DP 1220973 is indicated in blue)

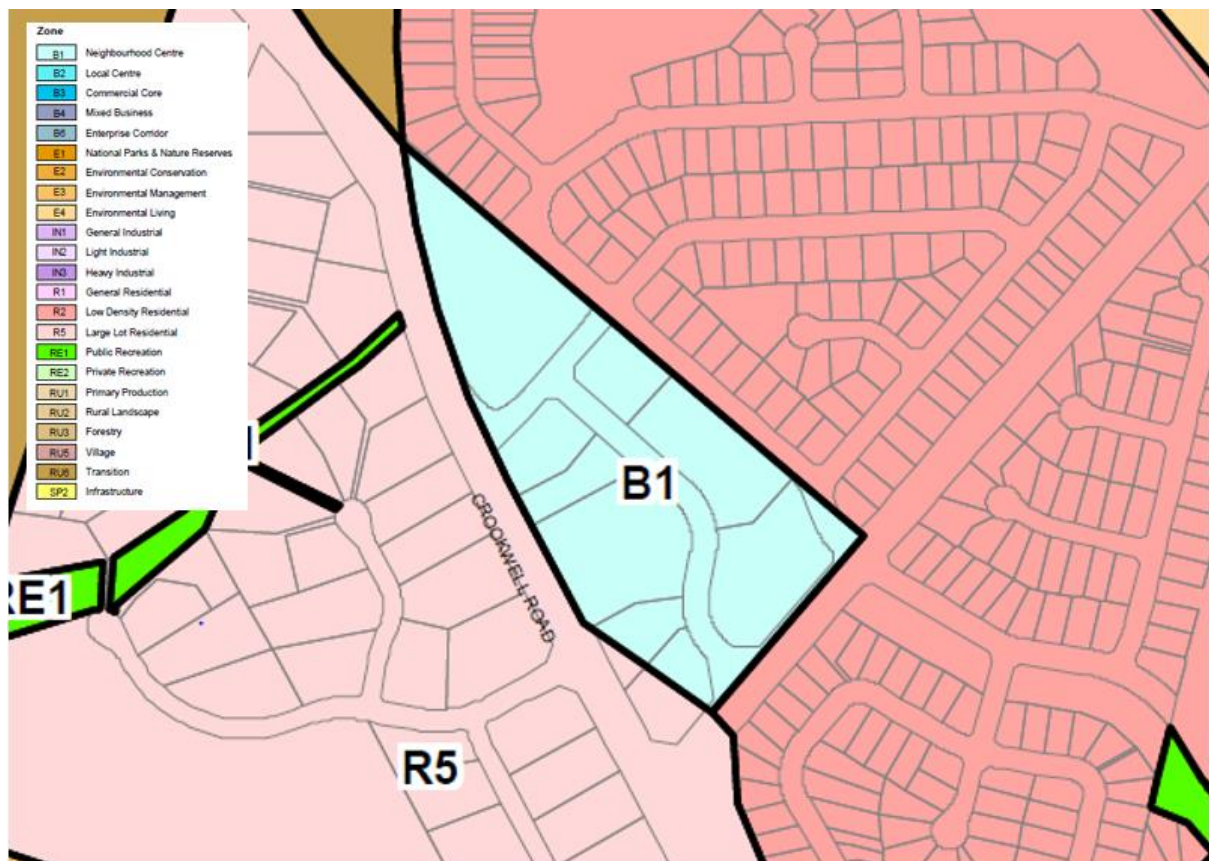


Figure 12: Current zoning for Mistful Park, Goulburn

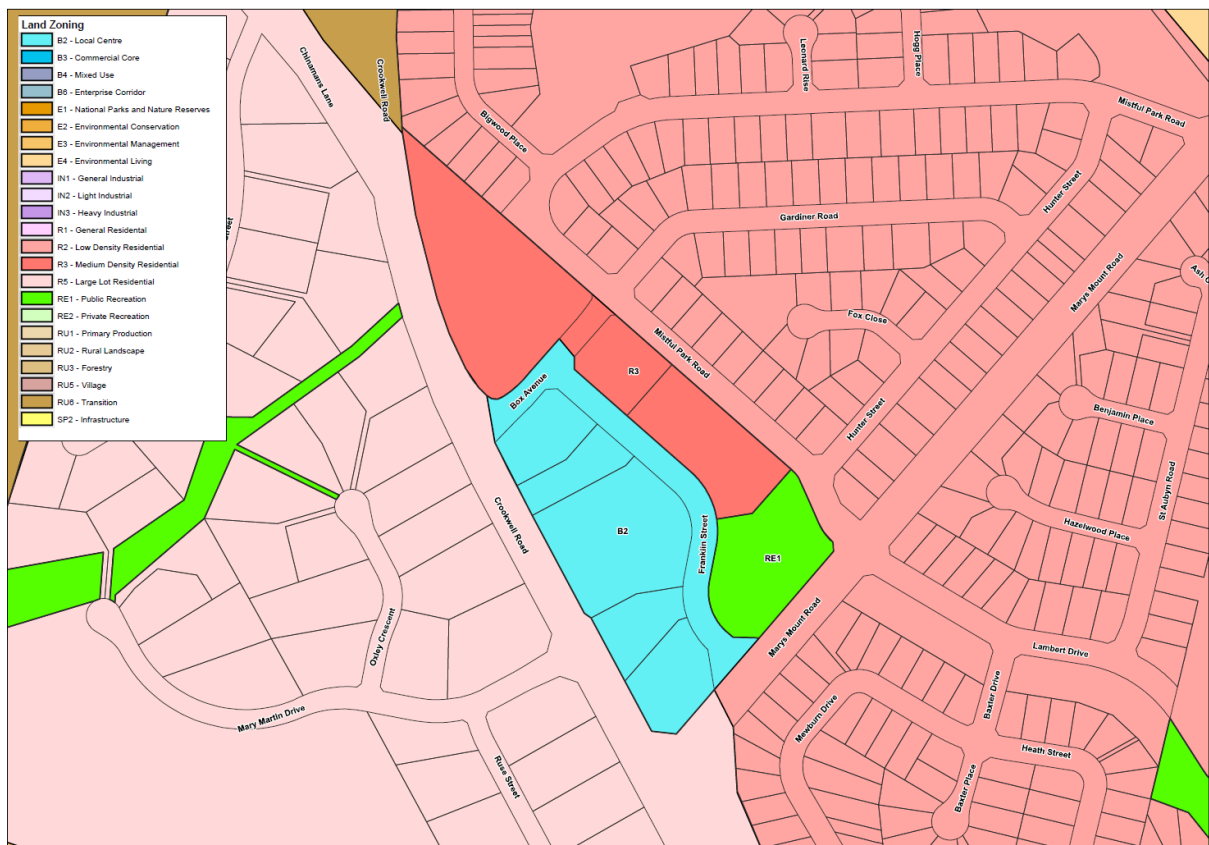


Figure 13: Proposed zoning for Mistful Park, Goulburn

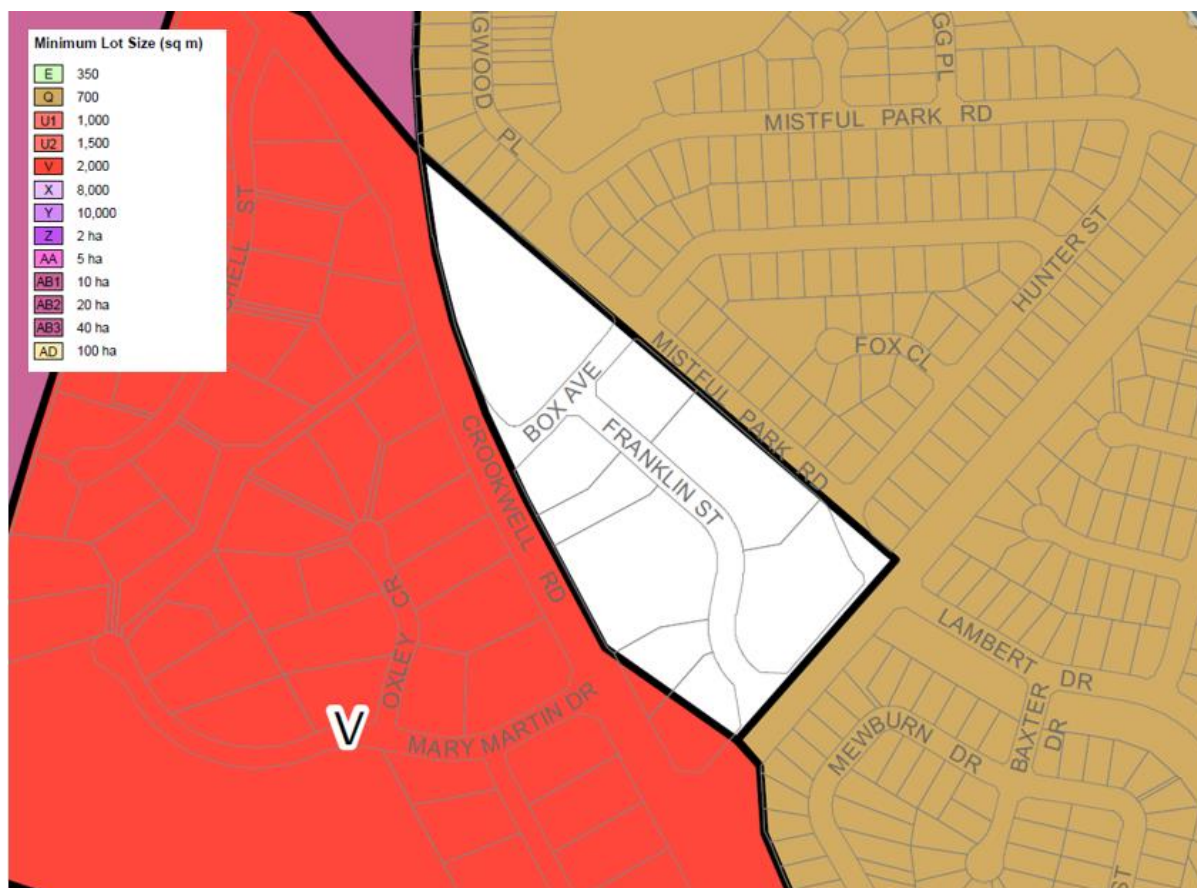


Figure 14: Current minimum lot sizes for Mistful Park, Goulburn

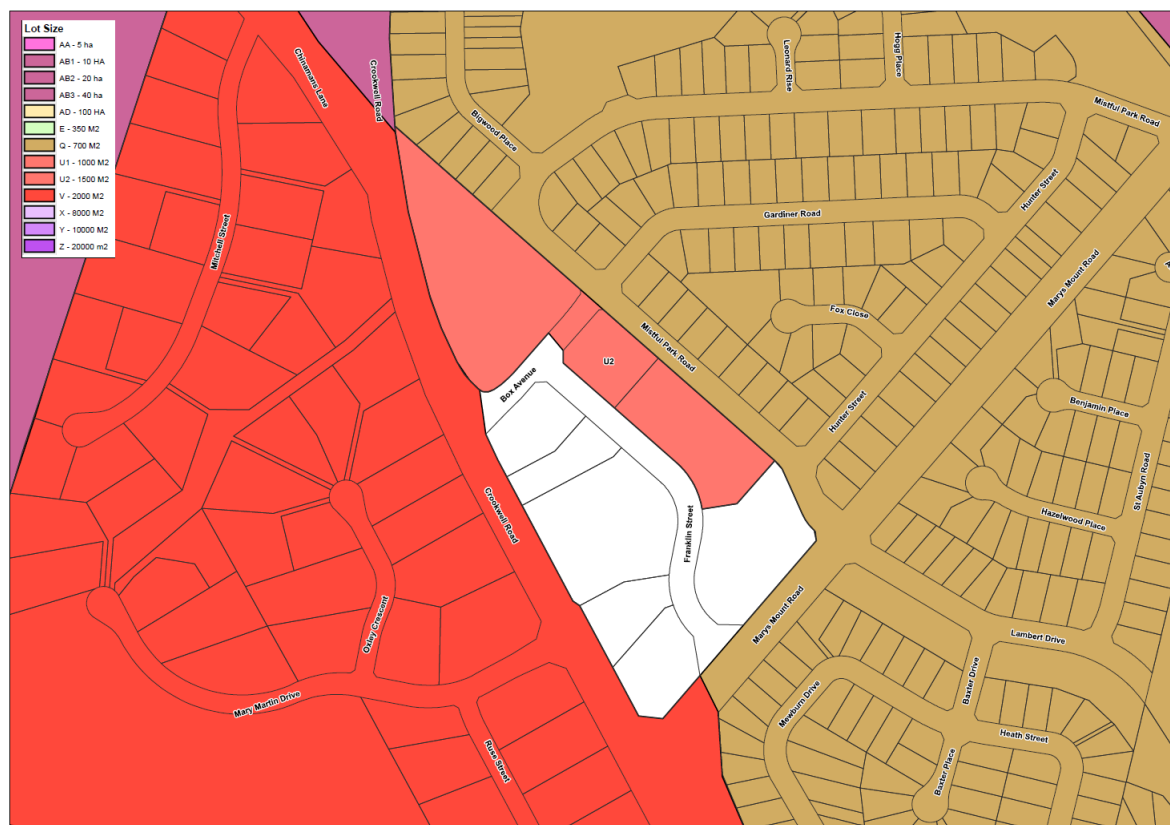


Figure 15: Proposed minimum lot sizes for Mistful Park, Goulburn

Note: No floor space ratio currently applies to Mistful Park, Goulburn.



Figure 16: Proposed floor space ratios for Mistful Park, Goulburn

Part 5 – Community Consultation

It is expected that this planning proposal will be exhibited alongside the draft *Goulburn Mulwaree Development Control Plan 2009* amendment for a period of no less than 28 days. This will include advertising in the local newspaper and online as well as informing key stakeholders. A post exhibition report will be presented to Council afterwards to address any concerns raised.

Part 6 – Project Timeline

Gateway Determination	May 2019
Timeframe for completion of technical studies	June 2019
Timeframe for agency consultations	June 2019
Public exhibition	July 2019
Public hearing	Not required.
Consideration of submission	August 2019
Date of submission of LEP to DPE	September 2019
Anticipated date of plan made	November 2019
Anticipated date plan forwarded to DPE for notification	November 2019

Conclusion

Goulburn Mulwaree Council has initiated this planning proposal to amend the *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP) as it applies to Mistful Park, Goulburn, Marulan and the retail floor space restriction for ***neighbourhood shops***.

In Marulan, land will be rezoned on Thoroughfare Street, Railway Parade and Austin Street to R1 General Residential to be consistent with the residential nature of the area whilst the land to be rezoned to B6 Enterprise Corridor, north of the rail line in Marulan, will be consistent with the kind of development that would be supported so close to Marulan's town centre and the Hume Highway.

This planning proposal will support the development of a mixed use precinct at Mistful Park through a combination of up-zoning commercially zoned land to B2 Local centre, rezoning to R3 Medium Density Residential and permitting ***camping grounds, caravan parks*** and ***tourist and visitor accommodation*** under Schedule 1 of the GM LEP. Retail development will be controlled at this site to ensure that Goulburn's established CBD remains as the primary business district in Goulburn. This will be accomplished through a combination of introducing a floor space ratio of 0.5:1 and introducing site specific controls in the *Goulburn Mulwaree Development Control Plan 2009* to further limit commercial development to what is appropriate for the site. The proposed 250m² retail floor space restriction for *neighbourhood shops* will also ensure that significant commercial development outside of commercially zoned areas is limited.

It should be noted that Council seeks delegated plan making authority for this planning proposal as per point 4 of the resolution made by Council at its meeting on 19 March 2019 (resolved 2019/70).

References

MacroPlanDimasi (2012), *Neighbourhood Centre, Goulburn*. Available at <http://leptracking.planning.nsw.gov.au/proposaldetails.php?rid=895>