

Minor Amendments and Corrections Planning Proposal

Proposal Title :	Minor Amendments and Corrections Planning Proposal		
Proposal Summary :	The planning proposal seeks to make a number of housekeeping amendments and administrative corrections to the Goulburn-Mulwaree LEP 2009, changing clauses, land use tables and maps, that have been identified by Council since the LEP first came into effect in 2009.		
PP Number :	PP_2016_GOULB_003_00	Dop File No :	16/10602

Proposal Details

Date Planning Proposal Received :	08-Sep-2016	LGA covered :	Goulburn Mulwaree
Region :	Southern	RPA :	Goulburn Mulwaree Council
State Electorate :	GOULBURN	Section of the Act :	55 - Planning Proposal
LEP Type :	Housekeeping		

Location Details

Street :	48 Auburn Street		
Suburb :	Goulburn	City :	Goulburn-Mulwaree
Land Parcel :	Lot 1 DP9597		Postcode : 2580
Street :	46 Auburn Street		
Suburb :	Goulburn	City :	Goulburn Mulwaree
Land Parcel :	Lot B DP399739		Postcode : 2580
Street :	1 Australia Street		
Suburb :	Goulburn	City :	Goulburn Mulwaree
Land Parcel :	Lot 3 DP9597		Postcode : 2580
Street :	Marys Mount Road		
Suburb :	Goulburn	City :	Goulburn Mulwaree
Land Parcel :	Lot 115 DP1188353		Postcode : 2580
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Lot 78 DP1182160, Lot 114 DP1188353, Lot 23 DP3257		
Street :			
Suburb :		City :	Postcode :
Land Parcel :	Also land covered by various local heritage items, heritage conservation areas and various zones across the LGA		

Minor Amendments and Corrections Planning Proposal

DoP Planning Officer Contact Details

Contact Name : **George Curtis**
Contact Number : **0242249456**
Contact Email : **george.curtis@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **William Oxley**
Contact Number : **0248234424**
Contact Email : **william.oxley@goulburn.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **Graham Towers**
Contact Number : **0242249467**
Contact Email : **graham.towers@planning.nsw.gov.au**

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Sydney-Canberra Corridor Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of
Conduct has been
complied with : **Yes**
If No, comment :

Have there been
meetings or
communications with
registered lobbyists? : **No**
If Yes, comment :

Supporting notes

Internal Supporting
Notes : **The Goulburn-Mulwaree Local Environmental Plan first came into effect in 2009. Goulburn
Mulwaree Council has identified a number of areas in the Goulburn Mulwaree LEP 2009
that require amendments or corrections, notably to clauses, land use tables and maps.**

External Supporting
Notes : **The planning proposal seeks to update the LEP to correct errors and improve its operation.**

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement of the objectives provided in the PP is to correct errors and make minor amendments in Goulburn-Mulwaree LEP 2009 clauses, land use tables and on maps.

It is considered that the statement of the objectives provided is adequate and meets the requirements of the Department's guide to preparing planning proposals.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The explanation of the provisions provided relates to 28 LEP changes, notably:

- General housekeeping corrections such as removal of reference to deferred areas because there are none of these areas under the LEP.
- Removal of boarding houses, group homes, hostels and seniors housing as permissible uses in the R5 Large Lot Residential Zone.
- Addition of additional zones in certain model local clauses.
- Corrections/updates to property descriptions of local heritage items on Schedule 5 Environmental Heritage and on Heritage Maps.
- Corrections of two zoning errors, for Goulburn South Primary School and Council owned land at Marys Mount Road, Goulburn.
- Insertion of the settled model boundary adjustment clause and minimum lot size for split zones clause
- Removal of two parcels of land from the Land Reservation Acquisition Map that have been acquired by Council.

The following comments are provided on the following proposed provisions:

Matter 2 - Amendment of the Goulburn-Mulwaree LEP 2009 Clause 1.8 Repeal of planning instruments applying to land by inserting 'Mulwaree Local Environmental Plan 1995' after 'Goulburn Local Environmental Plan 1990'.

Comment - Council is seeking a similar approach to that used in the Upper Lachlan LEP 2010 and Palerang LEP 2014, where the Mulwaree LEP 1995 previously applied. The amendment may, however, not be necessary because as there is no deferred land in the Goulburn-Mulwaree LEP 2009, the Mulwaree LEP 1995 no longer applies. It is, however, noted that there is also no deferred land in the Palerang and Upper Lachlan LEPs. It is considered that there would be merit for Council to discuss this matter further during the LEP drafting stage. It is considered that the explanation of the provisions is satisfactory and the intent is supported.

Matter 3 – Amendment of the Goulburn-Mulwaree LEP 2009 Clause 4.1A Exceptions to minimum lot sizes for certain residential development, sub clause (3).

Comment - Council considers that the current subclause (3) is difficult to enforce, and wants to reword it consistent with subclause (4) and a more recent version of the model clause which is provided on the Department's website. This version of the model clause is used in recent Principal Plans such as the Shoalhaven LEP 2014 (clause 4.1C). It is considered that the explanation of the provisions is satisfactory.

Matter 4 – Amendment of the Goulburn-Mulwaree LEP 2009 Clause 4.1C Lot averaging subdivision in certain rural, residential and environment protection zones by replacing

'clause 4.1' with 'any other clause in this Plan' under subclause (3).

Comment - Council is seeking to clarify that it can apply the lot averaging clause despite any other clause in the Goulburn-Mulwaree LEP, for example clauses 4.1AA "Minimum subdivision lot size for community title schemes" and 4.2B "Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones" require that subdivision meet the minimum lot size map. Council wants to avoid potential uncertainty, conflict or legal challenges that may arise in applying its lot averaging clause for instance where a proposal involves a community title scheme or a residential or tourist and visitor accommodation development. It is considered that the explanation of the provisions is satisfactory.

Matter 5 – Amendment of the Goulburn-Mulwaree LEP 2009 Clause 4.2A Erection of dwelling houses on land in certain rural and environmental zones by replacing 'clause 4.1' with 'this Plan' under subclause (2)(a).

Comment - Council is seeking to clarify that a dwelling can be erected on land under clause 4.2A "Erection of dwelling houses on land in certain rural and environmental zones" but only if it is located on a lot lawfully created in accordance with any clause in the LEP which is not limited to clause 4.1 but also includes clauses 4.1AA "Minimum subdivision lot size for community title schemes" and 4.2B "Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones". Council has advised that a similar approach to clause 4.2A is used in the Byron LEP 2014. It is considered that the explanation of the provisions is satisfactory.

Matter 6 – Amendment of the Goulburn-Mulwaree LEP 2009 Clause 4.6 Exceptions to development standards by inserting clause 4.1C under subclause (8).

Comment – Councils is seeking to clarify that the lot averaging clause (clause 4.1C) cannot be further varied via clause 4.6 "Exceptions to development standards". It is considered that this is reasonable and that the explanation of provisions is satisfactory.

Matter 9 – Amendment of the Goulburn-Mulwaree LEP 2009 Clause 4.2B "Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones" by inserting the R5 Large Lot Residential, RU6 Transition, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living zones under subclause (2).

Comment – It is noted that residential accommodation or tourist and visitor accommodation uses are not permissible in the E2 Zone under the GMLEP 2009 and so if Clause 4.2B is applied to this zone then Council will not be able to consider strata subdivision proposals for new residential or tourist and visitor accommodation proposals. Council, however, has clarified that it wants to be able to consider strata subdivision of existing residential or tourist and visitor accommodation developments. It is considered that the explanation of the provisions provided is adequate and meets the requirements of the Department's guide to preparing planning proposals.

Matters 25 and 26 - Amendment of Goulburn Mulwaree LEP 2009 by inserting local model provisions to permit boundary adjustment subdivision and to permit subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1.

Comment: It is noted that similar model clauses have been used in the Byron LEP 2014 and Shoalhaven LEP 2014.

It is considered that the explanation of the proposed provisions are generally adequate and meets the Department's guide to preparing planning proposal.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

5.2 Sydney Drinking Water Catchments

6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

Drinking Water Catchments Regional Environmental Plan No. 1

e) List any other matters that need to be considered :

The Drinking Water Catchments Regional Environmental Plan No.1 has been replaced by the SEPP Sydney Drinking Water Catchments.

Council has requested delegations for the PP. Given the minor nature of the PP it is considered that agreeing to the Council's request is appropriate.

RECOMMENDATION: That Council be provided delegation for the planning proposal.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Section 117 Directions:

Section 117 Direction 1.2 Rural Zones:

Although not identified in the Planning Proposal (PP), the proposal is potentially inconsistent with Section 117 Direction 1.2 Rural Zones because of proposed changes to clauses 4.1C "Lot averaging subdivision in certain rural, residential and environment protection zones" and 4.2A "Erection of dwelling houses on land in certain rural and environmental zones" which may result in an increase in the permissible density of land within a rural zone. The proposal, however, to exclude the application of the lot averaging clause from clause 4.6 "Exception to development standards" would be expected to prevent further variation of the lot averaging clause to create lots/dwellings that don't meet the minimum lot size standard. Overall, it is considered that any inconsistency with the Direction is likely to be of minor significance.

RECOMMENDATION: The Secretary can be satisfied that any inconsistency with the Direction is likely to be of minor significance.

Section 117 Direction 1.5 Rural Lands:

The PP, identifies that the proposal is inconsistent with Section 117 Direction 1.5 Rural Lands because there is potential that lots created via the proposed split zone clause on land that does not meet the minimum lot size may not be able to support agricultural activity because of their small size. It is, however, considered that the number of rural lots potentially affected by the proposed split zoned clause will be small and have been zoned intentionally. It is therefore considered that any inconsistency with the Direction is likely to be of minor significance.

Section 117 Direction 2.1 Environment Protection

Although not identified in the PP, the proposal is potentially inconsistent with the Direction because of the proposal to add the E2, E3 and E4 zones to the local clause 4.2B "Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones", because it could facilitate development in environmentally sensitive areas. As discussed earlier in relation to the explanation of the provisions, residential, tourist and visitor accommodation uses are not permissible in the E2 Zone under the Goulburn-Mulwaree LEP so the addition of the E2 Zone to the clause will only enable Council to consider strata subdivision of existing developments. As there is likely to be only a limited number of existing developments on land zoned E2 in the LGA, the environmental impact of the proposal is likely to be of minor significance and/or can be satisfactorily managed at the development application stage.

Residential accommodation and tourist and visitor accommodation are permissible uses in the E3 and E4 Zones. The proposed addition of these zones to clause 4.2B would facilitate strata subdivision development in potentially environmentally sensitive areas. Development would be required to address the Terrestrial Biodiversity Map and clause 7.2 "Terrestrial Biodiversity" of the Goulburn-Mulwaree LEP 2009 (neither of which are proposed to be affected by the PP) as well as the requirements of SEPP Sydney Drinking Water Catchment. It is therefore considered that any inconsistency with the Direction is likely to be of minor significance.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency with the Direction is of minor significance.

Section 117 Direction 3.1 Residential Zones:

The PP is inconsistent with Section 117 Direction 3.1 Residential Zones because it is seeking to rezone land at Marys Mount Road, Goulburn Lot 115 DP 1188353 from R2 Low Density Residential to RE1 Public Recreation. The land, however, is intended for a neighbourhood park consistent with Council's strategic planning and has been incorrectly zoned R2. It is therefore considered that the inconsistency with the Direction is of minor significance.

The proposal to remove certain residential uses from the R5 Large Lot Residential Development Zone, namely boarding houses, group homes, hostels and seniors housing, is also potentially inconsistent with the Direction because it does not broaden the choice of building/housing types. The uses proposed to be removed are, however, not mandatory uses under the Standard Instrument LEP. Council considers that uses such as boarding houses and seniors housing are more suitably located in urban centres that have access to public transport and other services than in rural residential areas which are generally remote from services. Council's reasons for seeking to remove the uses are supported. It is considered that any inconsistency with the Direction is likely to be of minor significance.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency with the Direction is of minor significance.

Direction 4.4 Planning for Bushfire Protection: The PP identifies that the Direction applies to the planning proposal as it will affect land mapped as bushfire prone land.

At this stage of the Planning Proposal, it is neither consistent nor inconsistent as the Direction requires consultation with the Rural Fire Service post Gateway determination and prior to exhibition.

RECOMMENDATION: The Secretary can be satisfied that the requirements of the Direction have been met when Council has consulted with the Rural Fire Service in accordance with the Direction.

6.2 RESERVING LAND FOR PUBLIC PURPOSES : Although not identified by the PP, the Direction applies to the planning proposal as it will create (ie correct) zonings or

Minor Amendments and Corrections Planning Proposal

reservations of land for public purposes and requires the approval of the relevant public authority and the Secretary of the Department.

The PP states that the subject land has been identified by Council as a public park in its strategic planning but was incorrectly zoned R2 Low Density Residential when the Goulburn-Mulwaree LEP 2009 was being prepared.

It is noted that the Gateway determination would constitute the "approval of the Secretary of the Department". Therefore the proposal is only **CONSISTENT** with the Direction when a Gateway determination is issued.

The proposal will be **CONSISTENT** with this direction as the Gateway determination will issue the necessary approval.

RECOMMENDATION: The Secretary of the Department approves of the proposal to alter the zonings of land for public purposes.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The Planning Proposal provides indicative LEP zoning, heritage and land reservation acquisition maps. These maps are considered adequate for the purposes of public exhibition. Council should be required to prepare LEP maps that meet the Department's "Standard Technical Requirements for Spatial Datasets and Maps 2015" prior to the finalisation of the planning proposal.

RECOMMENDATION: That Council is required to prepare LEP maps that meet the Department's "Standard Technical Requirements for Spatial Datasets and Maps 2015" prior to the finalisation of the planning proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal states that it would be exhibited for a 14 day period and the PP would be notified via local media and on Council's website. The community consultation proposed is considered to be inadequate as policy changes are proposed. A 28 day exhibition period is warranted.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : It is considered that the PP meets all seven parts of a planning proposal required by the Department's guide to preparing planning proposals.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Goulburn-Mulwaree LEP came into force in 2009. The planning proposal seeks to correct minor errors and housekeeping issues identified by Council since the LEP came into force.

Minor Amendments and Corrections Planning Proposal

Assessment Criteria

Need for planning proposal :	The planning proposal is needed to facilitate a number of corrections and minor amendments to the Goulburn-Mulwaree LEP 2009.
Consistency with strategic planning framework :	The PP states that it is consistent with Council's Goulburn-Mulwaree 2020 Strategy , Goulburn-Mulwaree Community Strategic Plan 2030 and Goulburn-Mulwaree Biodiversity Strategy. It is also states that the PP is consistent with the Sydney-Canberra Corridor Regional Strategy as well as relevant SEPPs and Section 117 Directions. Council's assessment that the PP is consistent with the strategic planning framework is supported. It is also considered that the PP is not inconsistent with the draft South East and Tablelands Regional Plan which is currently being prepared by the Department.
Environmental social economic impacts :	The planning proposal states that it mostly does not affect land that contains known critical habitat or threatened species, populations or ecological communities, or their habitats. As previously discussed, the proposed application of clause 4.2B "Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones" to the environment protection zones has the potential to facilitate development in environmentally sensitive areas. It is considered that any environmental impacts associated with this development can be managed at the development assessment stage in consideration of the Terrestrial Biodiversity Map and clause in the Goulburn-Mulwaree LEP 2009. The PP identifies that the Office of Environment and Heritage will be consulted as part of the proposed agency consultation. It would be good to seek OEH's views on the proposed changes to clause 4.2B as well as other aspects of the PP. Council has consulted with WaterNSW in relation to the planning proposal as required by Section 117 Direction 5.2 Sydney Drinking Water Catchments. WaterNSW has not raised any objections to the proposal. WaterNSW, however, has requested that it is consulted further on the PP if a Gateway determination is provided. The PP states that there are negligible social and economic impacts as a result of the minor amendments and corrections sought by the proposal. A positive impact of the PP will be improved accuracy, efficiency and operation of the Goulburn-Mulwaree LEP 2009. Council's assessment of the environmental, social and economic impacts of the proposal are supported for the reasons provided.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Sydney Catchment Authority Office of Environment and Heritage NSW Rural Fire Service		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	The planning proposal is the appropriate way to facilitate the minor corrections and other changes to the Goulburn Mulwaree LEP 2009 sought by Council.		
Resubmission - s56(2)(b) :	No		
If Yes, reasons :			

Minor Amendments and Corrections Planning Proposal

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council cover letter.pdf	Proposal Covering Letter	Yes
Planning proposal.pdf	Proposal	Yes
WaterNSW preliminary comment on planning proposal.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 6.2 Reserving Land for Public Purposes

Additional Information : It is **RECOMMENDED** that the Acting Director, Regions, Southern, Planning Services as delegate of the Minister for Planning, determine under section 56(2) of the EP&A Act that an amendment to the Goulburn-Mulwaree LEP 2009 to correct errors and make minor amendments to clauses, land use tables and on maps, should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

(a) the planning proposal must be made publicly available for 28 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of 'A guide to preparing local environmental plans (Planning and Infrastructure, 2013)'.

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- * NSW Rural Fire Service (s117 Direction 4.4)
- * Office of Environment and Heritage
- * WaterNSW

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to

Minor Amendments and Corrections Planning Proposal

comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

3. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).

4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

5. Council be authorised to use the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.

6. SECTION 117 DIRECTIONS - It is recommended that:

(a) The Secretary's delegate can be satisfied that the planning proposal is consistent with s117 Directions:

- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.3 Flood prone land
- 5.1 Implementation of Regional Strategies
- 5.2 Sydney Drinking Water Catchments
- 6.3 Reserving Land for Public Purposes

(b) The Secretary's delegate can be satisfied that the planning proposal's inconsistencies with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.2 Environment Protection Zones and 3.3 Residential Zones are of minor significance.

(c) The Secretary's delegate approves the proposal to create the zoning of land reserved for public purposes under Direction 6.2 Reserving Land for Public Purposes;

(d) The Secretary's delegate can be satisfied that the planning proposal will be consistent with s117 Direction 4.4 Planning for Bushfire Protection, when Council has consulted with the Rural Fire Service prior to undertaking community consultation;

(e) The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are of minor significance; and

(f) No further consultation or referral is required in relation to s117 Directions, while the planning proposal remains in its current form.

7. The planning proposal is considered to be consistent with all relevant SEPPs.

Supporting Reasons :

Agency consultation is required to ensure that any biodiversity, water quality or bushfire issues are identified and addressed in the further preparation of the planning proposal.

Signature:

 Team Leader

Printed Name:

GRAHAM TOWERS

Date:

15/9/16