

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

Officers Reports

Item 1 Goulburn Mulwaree LEP 2009 - Amendment No 4 (Enclosure)

Cr Kettle declared an interest in the item and left the meeting at 6.56pm.

At this time Cr Kirk assumed the Chair.

Reporting Officer

Principal Strategic Planner- Wesley Folitarik

Assistant Strategic Planner- Jeffrey Bretag

Purpose of Report

To report on the outcomes of further consultations with stakeholders regarding the 'Medway' proposal at Marulan and the Towrang village.

Report

In April 2012 Council considered a report which sought to initiate Local Environmental Plan (LEP) Amendment No 4. The amendment was intended to resolve several matters that had been deferred from LEP Amendment No 2 (Rural Lands Planning Proposal).

At the Council meeting, three stakeholders addressed Councillors in the Open Forum raising concerns over lack of consultation regarding matters affecting their land at Towrang and Marulan. A late submission was also received from another landowner regarding land at Towrang. Having heard these representations, Council resolved that:

"The Planning Proposal for Amendment No 4 be deferred for one month to enable further consultation to take place in the Towrang Village Zone and the Medway Proposal"

Staff wrote to these stakeholders and offered the opportunity to meet to discuss these matters further and/or lodge a further submission for Council's consideration. The following summarises the additional submissions received:

No	Submitter	Property	Issue
1	Peta Skaines	465 Towrang Road, Towrang	• The revised zoning map does not reflect what was sent to Council on 17 June 2011 • Land is 40% cleared and wants a separate dwelling entitlement to the rear portion not included in 'Village' zone

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

			Concerned over lack of consultation since earlier consultations
2	Rolande McIntosh (Two submissions)	474 Towrang Road, Towrang	- Site comprised of three titles, wants to be able to subdivide each into three separate properties with dwelling entitlements - Objects to one of those titles Lot 2 DP 875103 being removed from originally exhibited 'Village' zone - Has commissioned flora and fauna surveys and bushfire report in anticipation of being able to subdivide - Site is has been cleared in parts and can accommodate three building sites on properties not less than 2 ha
No	Submitter	Property	Issue
3	Towrang Progress Group	Various	- Concerned over lack of consultations since earlier consultations - Were advised that village inspection would be carried out with EPA but did not hear back - Maintains that village is generally within the extent of the 50km/hr speed limit signs. - Several properties have been removed from the 'Village' zone that were initially exhibited.
4	Laterals Planning	54 Arthurs Road, Towrang	- The landowners only acquired the property in December 2011 and were not aware of any plans regarding the 'Village' zone. - Include 2 ha portion of their site which is divided by Arthurs Road in the 'Village' zone - The lot is cleared suitable for dwelling entitlement - The residual lot would be a logical end to the 'Village' zone. - The part lot presents problems for safe stock movements
5	JW Planning	152 Medway Road, Marulan	- Change rezoning from 'Enterprise Corridor' to 'General Industrial' - Maintain 10 ha rural residential subdivision.
6	Wendy Penfold	64 The Highland Way	Repeated request to have site allowed to be subdivided so that portion divided by Highland Way realignment could be subdivided

In addition to these submissions, the following stakeholder meetings were held:

Meeting Date	Attendees	Property/Topic
16 April 2012	- Trevor Allen (JW Planning) - Chris Stewart (GMC) - Wesley Folitarik (GMC)	152 Medway Road, Marulan
18 April 2012	- Roger Curvey (Towrang Progress Group) - Rolande McIntosh - Peta Skaines - Robert Taylor - Janene Robertson	Towrang 'Village' zone boundary

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

This report discusses the outcomes of these additional consultations held with relevant stakeholders regarding Towrang and Marulan. Other matters included in the report to the 3 April 2012 meeting remain unchanged and are therefore not discussed further in this report.

1. 152 Medway Road, Marulan

Over the past 10 years, the proponent has submitted several different planning proposals for the subject site (refer timeline in Enclosure).

Following Council's decision on 3 April 2012 staff met with the proponent on 16 April 2012. In summary, the proponent repeated support for rezoning the site for the following reasons:

- Increased economic activity from potential freight and logistics uses
- Protection of sensitive remnant vegetation located on site
- Spatial proximity to Marulan
- Need for sufficient supply of land for a range of lot sizes

A revised planning proposal was also made by the proponent dated 18 April 2012. This revised proposal included:

- Rezoning of portion of the site (approximately 10 ha) to 'General Industrial' as opposed to 'Enterprise Corridor' to address concerns over potential competing retail uses
- Maintained support for reduced minimum lot size from 100 ha to 10 ha for rural residential housing over the remaining 278 ha of the site

The revised proposal offers the following justifications:

- Spatial proximity to Marulan
- 'General Industrial' is for employment generating purposes similar to land on the opposite side of the Highway and will not compete with established retail centre in Marulan
- 10 ha rural residential development will socially and economically support the established village of Marulan
- 10 ha lots will improve diversity of lots sizes available in and around Marulan
- The global financial has severely impacted demand for housing across NSW
- LEPs have a typical life 15 to 20 years so therefore land supply should equate to 15 years

The officer response to these issues are discussed below.

Strategic Direction

Council has undertaken extensive consultation with the community at Marulan in 2008 which involved Councillors and senior management as part of the preparation of the Goulburn Mulwaree Strategy 2020. The outcome of these consultations was a resounding

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

sentiment within the community that they did not want to see Marulan divided by development east of the Hume Highway. Instead, the community favoured a focus on new residential development north and north west of the existing settlement on the western side of the Hume Highway. This was favoured in order to ensure greater social cohesion within the community and support the role of the existing commercial area along George Street.

The role of the 2020 Strategy was reinforced by the Director-General, NSW Department of Planning & Infrastructure who advised in relation to the Medway site:

“The land was not identified as being required to meet demand for urban development in this locality for the life of the Strategy, which recommends directing new residential development on the land adjoining the village of Marulan west of the Hume Highway rather than one the eastern side of the Hume Highway.”

The draft Marulan Community Development Plan which was publicly exhibited in 2011 reinforces the vision outlined by the community in the 2020 Strategy.

Accordingly, there is strong strategic basis for limiting residential development and potential retail activity on the eastern side of the Hume Highway at Marulan given extensive community consultations undertaken.

The establishment of an ‘Enterprise Corridor’ or ‘General Industrial’ zone on the eastern site of the highway is not supported at this stage. The submitted proposal suggests these zones will allow for freight and logistic uses. However there has been no critical analysis undertaken to demonstrate how these land uses can be achieved without contravening the agreed strategic direction and how much land would be necessary.

It should also be noted that the planning legislation now provides for the LEP/DA process to be combined. This approach is ideally suited to a freight and logistics project in this locality. It would give better control over the introduction of an appropriate freight and logistics land use and allow the zone to be tailored more precisely to the size and shape of the land use with the benefit of an actual design. This approach is preferred rather than the speculative approach included in the proponent’s submission which does not address critical issues/constraints.

The planning legislation now requires periodic reviews of LEPs to account for any changing circumstances. Councils have been repeatedly instructed by the Department of Planning & Infrastructure to undertake a strategic long term approach to plan making with regular 5 yearly reviews.

Council’s 2020 Strategy Plan fulfilled this requirement and while it has a long term timeframe it was not expected that the initial LEP would deliver on all strategic directions in the first instance. The requirement for a regular review process would ensure progressive implementation of the strategic direction and that any change in circumstances

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

could be accounted for. The suggestion that an LEP has a 15 to 20 year timeframe and therefore must ensure 15 years supply of land is not supported.

LEP Amendment No 2 provided considerable supply of rural residential land across the Local Government Area some of which is only less than a kilometre from the Medway site. The proposal to include 'Medway' in a 20 ha minimum lot size area is consistent with the nearby minimum lot sizes proposed in Amendment No 2.

Protection of Remnant Vegetation

The proponent's own planning documents identified a significant stand of native vegetation at the site. The LEP 2009 identified approximately 50 ha as being 'Environmentally Sensitive Land – Biodiversity' (refer Enclosure). A minimum lot size of 20 ha coupled with lot averaging will enable this sizable portion of the site to be contained within one lot and under the management of a single owner.

The April 2012 report recommended a minimum lot size of 20 ha with use of lot averaging provisions. The objective of this approach is to provide an appropriate mechanism to allow some subdivision to occur while limiting fragmentation of environmentally sensitive land.

Spatial Proximity to Marulan

The proponent has argued that the spatial proximity to the existing village centre of Marulan supports release of this land for urban purposes and the lots will be within 500m of the village centre.

Unfortunately this 500m proximity is 'as the crow flies'. The Hume Highway is a 100m wide road reserve and the National Highway linking Sydney, the Southern Highlands, Goulburn and Canberra. This creates a significant physical barrier with limited crossing opportunities and therefore does not benefit from spatial proximity to Marulan. Movement between the site and the village will largely be dependant on vehicle movements.

Although the southern interchange currently under construction will provide improve access to Marulan, the subject site can only access this interchange by getting direct access to the Hume Highway in a southern direction and doubling back to Marulan via the interchange along the Hume Highway. Similarly access to the subject site from Marulan can only be achieved via the northern interchange and travelling down the Hume Highway to turn left in to the subject site. For these reasons increased levels of rural residential or residential development that will significantly increase local vehicle trips to access the Hume Highway to travel to Marulan is unacceptable.

Need for sufficient supply of land for a range of lot sizes

As reported in April 2012 LEP Amendment No 2 was a broad strategic review of rural lot sizes which identified a number of locations throughout the Local Government Area where smaller rural lot sizes would be appropriate.

In total, over 20,000ha of rural land was changed from a minimum lot size of 100 hectares to 40ha, 20ha or 10ha.

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

In Amendment No 2 areas for smaller lot sizes for rural lifestyle subdivision (i.e. 20 ha minimum lot size) were identified approximately 1 km north and 2.5 km south of the Medway site. In addition there is already now approximately 60 lots (2 ha in size) subdivided at Marulan west of Brayton Road. A large number of these lots are still currently on the market which is reflective of low demand in the current economic climate. There is no compelling case for additional supply of land for rural residential lots in Marulan when existing supply is high and demand is weak.

While there is considered to be an adequate supply of land for rural lifestyle opportunities there may be a case for some rural residential development of the 'Medway' property having regard to the 20 ha minimum lot sizes to the north and south of the site.

Economic Activity

The proponent has indicated that the preferred use of the proposed 'Enterprise Corridor' land was for freight and logistics purposes given discussions with potential tenants currently being undertaken. However, the 'Enterprise Corridor' zone is not considered appropriate given that it may also lead to retail uses being proposed for the site which would compete with the established town centre along George Street.

The revised planning proposal submitted now proposes that this land be rezoned to 'General Industrial'. Given that this use will allow the freight and logistics uses desired by the proponent without increasing potential for retail uses, there may be some merit in considering this proposal. While there is already large areas of 'General Industrial' zoned land in and around Marulan, this is almost entirely comprised of the Holcim and Boral extractive industries developments. Both of these developments have extensive resources (over 150 years of supply) and are not likely to be available for traditional industrial purposes within that timeframe. The only other industrial land in Marulan is the 15 ha of land located around Portland Avenue and Windsor Drive.

With sufficient capacity within the existing zoned land for employment activity it is not necessary to zone further land at this stage. As previously indicated planning legislation now allows for a combined LEP/DA application should an appropriate land use activity arise. This approach gives Council greater control over the introduction of appropriate land uses and is preferred to the proposal in the request. It also allows for a detail examination of site issues present and relevant supporting documentation to justify such a proposal.

2. Adoption of a 'Village' zone boundary in Towrang

A 'Village' zone was proposed for Towrang as part of the LEP Amendment No 2. Submissions received during the public exhibition process sought an extension of the village area to encompass the land between the Towrang 50km/hr speed signs. Consequently, in an effort not to delay the progress of LEP Amendment No.2, Council resolved to defer the matter for inclusion in the 2011/12 LEP review.

Staff then investigated the matter by meeting with the Towrang Community and receiving one submission identifying additional lands. The Office of Environment & Heritage then

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

reviewed the proposed Towrang village area and found that certain additional lands identified were not suitable for development and should be excluded. This consultation resulted in the 'Village' zone boundary being increased to accommodate some additional lands proposed by landowners but only those lands that were considered suitable from an environmental perspective. The resulting village boundary as a result of this process was presented to Council at the 3 April 2012 meeting.

One late submission was received seeking inclusion of a site north of the village on Arthurs Road (refer Enclosure). This site has not previously been included in the village area. The submission suggests that the owners of the land only recently acquired the land and were therefore not able to comment on the 'Village' zone boundary previously.

In light of the concerns expressed by some members of the Towrang community at the Open Forum and in the late submission, Council resolved to defer the matter for further consultations.

Since this time, staff have notified the Towrang Community of Council's resolution, reiterated the consultations undertaken to date and invited further submissions. On 18 April 2012, staff met with the Towrang Progress Group and other members of the community to hear their concerns.

Five submissions (refer Enclosure) have now been received in relation to the 'Village' zone. A map identifying the spatial location of each of the additional properties nominated for inclusion in the 'Village' zone by the landowners or Progress Group is included in the Enclosure.

The officer response to the issues raised in these submissions is discussed below.

464 Towrang Road

The landowner initially requested that the entire 32 ha site, currently zoned 'Rural Landscape', be included in the 'Village' zone. This was not supported given that the majority of the site is steep, densely vegetated land forming part of a broader vegetative corridor. Informal consultations with the Office of Environment & Heritage have revealed that this land would not be supported for inclusion in the 'Village' zone.

Notwithstanding this, approximately 8 ha of cleared land fronting Towrang Road were supported for inclusion in the 'Village' zone given their proximity to the general village area and taking into account the absence of environmental constraints.

The landowner is unclear as to how that rear portion of the site will be able to attract a dwelling entitlement given that the site is already under the 100 ha minimum subdivision size. This may be addressed through inclusion of an enabling provision included in the LEP which would allow the size to be subdivided less than the minimum so that the village portion of the site can be excised and subdivided. This approach will address the concerns of the landowner and would assist in allowing the implementation of the 'Village' zone.

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

474 Towrang Road

The subject site is comprised of three titles all of which were initially identified for inclusion in the 'Village' zone during the public exhibition of the Rural Lands Planning Proposal.

Since the Towrang village was deferred from LEP Amendment No 2, informal consultation with the Office of Environment & Heritage has identified that two of these lots would not be suitable for inclusion in the 'Village' zone given that these sites form part of a network of vegetative corridors within the area and are located within the 250m railway buffer. These were subsequently removed from the draft LEP Amendment No 4 as reported to Council on 3 April 2012.

The landowner has since lodged two submissions and met with Council staff on two occasions requesting that the subject site be reinstated in the 'Village' zone. The reasons for this are generally:

- A number of flora and fauna and bushfire reports have been commissioned by the landowner since the draft amendment was publicly exhibited. These reports support subdivision of the subject site into three properties as would be allowed under the draft plan with minimal environmental impact.
- The subject site is already comprised of three separate titles, given the size of the subject site, the minimum lot size of 2 ha as proposed would allow the logical realignment of these boundaries to create three separate properties.

In light of the above, there are a number of points which warrant consideration, these are:

- There is always risk involved with anticipating land use change or development rights and committing funds to development on a speculative basis
- The Office of Environment & Heritage have identified that this land is not suitable for inclusion in the 'Village' zone
- The subject site is located within a 250m exclusion zone for residential development to the main southern railway line

Given that the subject site was previously part of the 'Village' zone exhibited in LEP Amendment No 2 it is reasonable that the site remain in the 'Village' zone for draft LEP Amendment No 4. The draft amendment will be referred to agencies for formal comment regarding potential environmental issues and its proximity to main southern railway line. These consultations may however result in the site not being supported for inclusion in the 'Village' zone by the Office of Environment & Heritage and the Department of Planning & Infrastructure and may need to be removed from the final adopted LEP Amendment.

54 Arthurs Road

The landowners have made a submission requesting inclusion in the 'Village' zone a 2 ha portion of their property located on the opposite side of Arthurs Road. The reasons for this are as follows:

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

- This lot being 2.35 ha in size would immediately fit into the minimum lot size area proposed for the 'Village' zone
- The lot is clear of trees and has ability to have a dwelling house constructed and comply with bushfire planning requirements
- The land was originally separated but consolidated prior to being purchased by the current landowners
- This part of the lot is a natural and concluding end to the proposed minimum lot size area ('Village' zone)
- The part lot presently involves the movement of stock and people across Arthurs Roads between the two parts for effective use of the land on a regular basis but this is hazardous
- The landowners had they been aware of the draft amendment previously they would have made submissions in this regard earlier

The inclusion of this site in the 'Village' zone is not supported for the following reasons:

- The subject site is located a further 300m outside the proposed 'Village' zone boundary and is approximately 1 km from the approximate centre of the Towrang village
- Considerable consultations have been undertaken in determining the proposed Village boundary since matter was initially deferred from LEP Amendment No 2
- Arthurs Road which runs through the property is an unsealed rural road with low traffic volumes which would not preclude use of the site for rural purposes including stock movements. There are likely to be numerous rural properties throughout the LGA that are traversed by similar unsealed rural roads which are commonly used as Travelling Stock Routes
- Inclusion of this property in the 'Village' zone will set an unreasonable expectation for adjoining property owners that similar ad hoc extensions to the Village zone will be favourably considered by Council
- The landowners only recently acquired the property and would have had knowledge of the property's dimensions and encumbrances

560 & 587 Towrang Road

Representations have been made by the Towrang Progress Group regarding the inclusion of the above properties within the 'Village' zone. The landowners of each of these properties have not made submissions of their own.

The Group advocate for the inclusion of these properties for the following reasons:

- The Towrang Progress Group have repeatedly argued that the Village of Towrang is generally located between the two 50 km/hr signs on the northern and southern entrances to the Village and this is agreed with the Council Mayor and General Manager
- Consultation has been poor having been given only one week and three days to make further submissions since Council's meeting of 3 April 2012.

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

It should be noted that a commitment to a process of review of the exhibited 'Village' zone was given to the Group not that the land would be included in the 'Village' zone.

The inclusion of these properties in the 'Village' zone is not supported for the following reasons:

- There is no strategic basis for effecting land use changes based on the location of street signs designed to slow down traffic entering a village. While it is conceivable that a village may colloquially be considered to start at a defined point, this does not mean that a development right ought to be created through land use change.
- The subject sites are both located within the 250m exclusion zone to the main southern railway line and are unlikely to be supported by state agencies.
- These properties, while suggested by the Progress Group, have at no point been considered suitable for inclusion in the 'Village' zone
- Given the size of each of these properties, if included in the 'Village' zone neither would attract subdivision rights. However it would set an unrealistic expectation of potential future expansions of the 'Village' zone.

Following the additional consultation, Planning Proposal for LEP Amendment No 4 is now presented for consideration. The draft amendment (refer Enclosure):

- Introduces lot averaging in rural zones
- Reduces the minimum lot size for 29 and 64 Highland Way
- Defines the Towrang 'Village' zone
- Revises the minimum rural lot sizes for 'Medway', Marulan and the Kingsdale area
- Includes animal boarding and training establishment for horse agistment as a permitted use at the recently approve Racecourse subdivision

The Planning Proposal is required to be submitted to the NSW Department of Planning & Infrastructure for a Gateway determination. Once Gateway Approval has been received the proposal can proceed to public exhibition for wider community comment.

Budget Implications

Nil

Policy Considerations

- Sydney Canberra Corridor Regional Strategy
- State Environmental Planning Policy (Rural Lands) 2008
- Goulburn Mulwaree Strategy 2020
- Goulburn Mulwaree LEP and DCP 2009
- Goulburn Mulwaree Biodiversity Strategy 2007
- Draft Towrang Village Plan

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

- Draft Marulan Community Development Plan
- A Planning Framework for Natural Ecosystems of the ACT and NSW Southern Tablelands 2002

Recommendation

That:

- A. Planning Proposal for Goulburn Mulwaree LEP 2009 (Amendment No 4) be submitted to the NSW Department of Planning & Infrastructure for a Gateway determination
- B. The draft instrument be placed on public exhibition once Gateway Approval is received

Motion

Cr O'Neill / Cr Penning

That:

- A. *Planning Proposal for Goulburn Mulwaree LEP 2009 (Amendment No 4) be submitted to the NSW Department of Planning & Infrastructure for a Gateway determination*
- B. *The draft instrument be placed on public exhibition once Gateway Approval is received*

Resolved 12/146

Cr Peterson / Cr Banfield

That Council move into Committee of the Whole to discuss this item.

Council moved into Committee of the Whole at 6.59pm.

Resolved 12/147

Cr Peterson / Cr Banfield

That Council move back into the Ordinary Meeting.

Council moved into the Ordinary Meeting at 7.18 pm.

Motion

Cr O'Neill / Cr Penning

That:

- A. *Planning Proposal for Goulburn Mulwaree LEP 2009 (Amendment No 4) be submitted to the NSW Department of Planning & Infrastructure for a Gateway determination*
- B. *The draft instrument be placed on public exhibition once Gateway Approval is received*

Section 375A of the *Local Government Act 1993* requires General Managers to record which Councillors vote for and against each planning decision of the Council, and to make this information publicly available.

Minutes of the Ordinary (Planning) Meeting of Council held 1 May 2012 commencing at 6pm in the Council Chambers

The motion was put and lost.

Councillor	For the Motion	Against the Motion
Cr Banfield	☒	
Cr Dillon		☒
Cr James	Apology to the Meeting	
Cr Kettle	Declared an interest in the item	
Cr Kirk		☒
Cr O'Neill	☒	
Cr Penning	☒	
Cr Peterson		☒
Cr Sturgiss		☒

Resolved 12/148

Cr Peterson / Cr Dillon

That:

- A. Planning Proposal for Goulburn Mulwaree LEP 2009 (Amendment No 4) be submitted to the NSW Department of Planning & Infrastructure for a Gateway determination with:**
- A ten hectare minimum lot size for the Medway property.
 - The inclusion of 54 Arthurs Road, 560 and 587 Towrang Road in the Village Zone
- B. The draft instrument be placed on public exhibition once Gateway Approval is received**

Section 375A of the *Local Government Act 1993* requires General Managers to record which Councillors vote for and against each planning decision of the Council, and to make this information publicly available.

Councillor	For the Motion	Against the Motion
Cr Banfield	☒	
Cr Dillon	☒	
Cr James	Apology to the Meeting	
Cr Kettle	Declared an interest in the item	
Cr Kirk	☒	
Cr O'Neill		☒
Cr Penning		☒
Cr Peterson	☒	
Cr Sturgiss	☒	

Cr Kettle returned to the meeting and resumed the chair at 7.29pm.#####