

Minutes of the Ordinary (Planning) Meeting of Council held 3 April 2012 commencing at 6pm in the Council Chambers

Resolved 12/101

Cr O'Neill/Cr Sturgiss

That Item 1 Goulburn Mulwaree LEP 2009 – Amendment No 4 be brought forward for consideration

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

Reporting Officer

Principal Strategic Planner - Wesley Folitarik

Assistant Strategic Planner - Jeffrey Bretag

Purpose of Report

To present the Planning Proposal to commence Amendment No 4 to the Goulburn Mulwaree LEP 2009.

Report

A Planning Proposal has been prepared for Amendment No 4 to the Goulburn Mulwaree LEP 2009. The proposal seeks to make the following changes to the LEP:

- Introduction of lot averaging provisions in Rural zones
- Reduction of the minimum lot size for 29 and 64 Highland Way, Marulan to allow subdivision of properties currently divided by the Highland Way road reserve
- Adoption of a 'Village' zone boundary in Towrang following discussion with local residents

This report also deals with several other matters deferred in LEP Amendment No 2 (Rural Lands Planning Proposal) i.e.

- Reestablishment of 40ha minimum lot size for rural land and reintroduction of concessional lot provisions
- 10ha minimum lot size for the Kingsdale area
- Reduction in the rural lot size for the 'Medway' property at Marulan and the introduction of an 'Enterprise Corridor' zone for the site
- Reviewing the zoning and lot sizes to establish an environmental corridor between Morton and Tarlo National Parks

Each of these matters is discussed in detail below.

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▪ **Lot Averaging Provisions in Rural Zones**

This Planning Proposal seeks to extend the use of lot averaging provisions into the 'Primary Production', 'Rural Landscape', 'Village' and 'Transition' zones.

Lot averaging provisions provide a mechanism for the average size of lots in a subdivision to be equal to or greater than a specified minimum rather than requiring that each individual lot to meet the minimum lot size strictly. Lot averaging provisions aim to allow subdivision to occur while minimising fragmentation of environmentally sensitive land and prime agricultural land.

For these reasons, the use of lot averaging provisions has long been favoured by rural Councils including Goulburn Mulwaree Council. The Rural Lands Planning Proposal (LEP Amendment No 2) already seeks to reintroduce lot averaging provisions in the 'Environmental Management', 'Large Lot Residential' and 'Environmental Living' zones. Amendment No 2 is currently with the Department awaiting final approval.

Previously, the NSW Department of Planning had opposed the use of rural lot averaging due to concerns that they allowed fragmentation of prime agricultural land. This position has since been relaxed and in some cases the use of lot averaging provisions has been encouraged by the Department (i.e. Shannon Drive Precinct).

The objective of the lot averaging provision in the LEP is to ensure subdivision patterns provide protection for environmental and rural values of the land. In this manner, use of the clause is restricted to situations where a demonstrable benefit to the community is provided in terms of protection of environmentally sensitive land or rural lands.

▪ **Highlands Way, Marulan.**

This Planning Proposal seeks to allow the minimum lot size at 29 Highlands Way and 64 Highlands Way, Marulan to be not less than 7 hectares in size.

The subject lands are located at the junction of the Hume Highway and Highlands Way, Marulan and comprise the following properties:

Property	Lot	DP	Location	Size (ha)
29 Highland Way	20	700290	Cnr Hume Hwy / Highland Way	0.51
	44	700290	(West)	6.57
	44	700290	(East)	12.57
64 Highland Way	1	819150	(East)	7.334
	1	819150	(West)	11.17

Both of these properties are dissected by Highland Way leaving each property in separate parcels on either side of the road. This constrains the use of these properties and makes stock movement, weed and pest control difficult.

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The owner of 64 Highland Way, Marulan made a submission to LEP Amendment No 2 requesting that a smaller minimum lot size be applied to the property so that they could subdivide and sell the residual lot on the other side of the road.

In April 2011, Council determined to review the minimum lot size for 64 Highland Way, Marulan along with the site to the immediate north, which is also dissected by Highland Way.

This provision will enable consolidation of Lot 20 DP 700290 and part Lot 44 DP 700290 (west) to form one lot 7.08 hectares in size and the eastern portion of Lot 44 to be excised into a separate 12.57 hectare lot thereby enabling the logical realignment existing two lots. Lot 1 DP 819150 can be simply subdivided into two separate lots.

- **Expansion of the ‘Village’ zone boundary in Towrang.**

Submissions made during the exhibition of LEP Amendment No 2 sought an extension to the ‘Village’ zone.

Further discussions with the local Progress Association have been undertaken in relation to the ‘Village’ zone. An adjustment to the proposal exhibited in Amendment No 2 has been made to reflect the discussions and the environmental constraints in the area (eg vegetation, bushfire, effluent disposal, rail noise).

- **Re-establishment of 40 hectare minimum lot size for rural lands and re-introducing concessional lot provisions.**

A minimum rural lot size of 100ha was initially adopted for the new LEP. However Council, with the Department of Primary Industries, agreed to undertake a review to provide a greater range and flexibility in lots sizes. Amendment No 2 introduced this range of rural lot sizes.

The re-introduction of a minimum lot size of 40 hectares and concessional lot provisions is not recommended for the following reasons:

- The introduction of lot averaging provisions across all rural zones (initially by Amendment No 2 and now in proposed Amendment No 4) provides a suitable mechanism for minor departures from the minimum lot size where protection of environmentally sensitive or prime agricultural land is provided. This in effect allows subdivisions of rural land below the prescribed lot size in some circumstances
- Discussions with the NSW Department of Planning and Department of Primary Industries indicate that this approach would not be supported
- It is inconsistent with *State Environmental Planning Policy (Rural Lands) 2008* especially concessional lot arrangements
- There has been significant supply of land zoned for smaller rural subdivisions including 10, 20 and 40 hectares made available through LEP Amendment No 2

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- **Kingsdale Road, Kingsdale and Medway Road, Marulan.**

LEP Amendment No 2 was a broad strategic review of rural lot sizes which identified a number of locations where smaller lot sizes would be appropriate. The outcome of this comprehensive review involved Parksbourne, Baw Baw, Tirrannaville, Brisbane Grove, Goulburn, Run-O-Waters, Gundary, Bungonia and Middle Arm being identified as localities where smaller minimum lot sizes for rural lands was appropriate.

In total, over 20,000ha of rural land was changed from a minimum lot size of 100 hectares to 40ha, 20ha or 10ha. The following table shows the additional quantity of land zoned for smaller sized rural holdings provided in Amendment No 2.

Minimum Lot Size (LGA wide)	LEP 2009 (ha)	LEP 2009 Am No 2 (ha)	Difference (ha)
100ha	310,300	289,700	-20,600
40ha	0	9,550	9,550
20ha	0	10,250	10,250
10ha	569.6	1,932	1,362

The following table indicates the theoretical development yield created through Amendment No 2.

Potential Additional Lots created by Am No 2 (LGA-wide)	Potential (lots)
40ha	32
20ha	144
10 ha	53
TOTAL	229

While there is considered to be an adequate supply of land for rural lifestyle opportunities there may also be a case for both the 'Medway' property and the Kingsdale area being included in the Planning Proposal.

The existing lot pattern along Crookwell Road from the City boundary to Kingsdale suggests this area could have been incorporated into the adjoining 10ha lot size detailed in Amendment No 2 between Crookwell and Middle Arm Roads.

Amendment No 2 introduced a range of rural lot sizes around Marulan. The 'Medway' property and its proximity to the village suggest it could also provide for some rural lifestyle lots. The site currently supports a significant stand of native vegetation. To assist in its ongoing retention it is suggested the minimum lot size should be 20ha. This minimum lot size coupled with the lot averaging provision would assist in retaining the vegetation in a single lot.

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The owner of the 'Medway' site, in the submission to Amendment No 2, requested that the frontage to the Hume Highway be included in an "Enterprise Corridor" zone. This would be inconsistent with the plans for maintaining the focus of the Marulan village on the western side of the Highway and is not supported.

- **Environmental corridor from Moreton National Park to Tarlo National Park.**
The Office of Environment & Heritage in conjunction with the Catchment Management Authorities of the Hawkesbury Nepean and Southern Rivers has undertaken studies that identified grassy woodland ecosystems in the Tallong, Marulan and Brayton localities.

In their report titled *A Planning Framework for Natural Ecosystems of the ACT and NSW Southern Tablelands (2002)* a recommendation for an environmental corridor linking the Morton National Park and the Tarlo National Park is recommended.

Council used its Biodiversity Strategy as a basis for introducing appropriate planning controls to protect environmental values. These provide a mechanism to protect a large portion of the environmental corridor.

While the Office may consider this does not go far enough from an environmental perspective it must be noted that Council's role is to find a balance between the competing economic, environmental and social factors. Nevertheless the issue can be further investigated as part of the comprehensive LEP Review scheduled for 2014.

Planning Proposal for LEP Amendment No 4 has been prepared (refer Enclosure) to:

- Introduce lot averaging in rural zones
- Reduce the minimum lot size for 29 and 64 Highland Way
- Define the Towrang 'Village' zone
- Revise the minimum rural lot sizes for 'Medway', Marulan and the Kingsdale area

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

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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
- 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

Resolved 12/102

Cr Peterson/Cr O'Neill

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.

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	☒	
Cr Kettle	<i>(declared interest – not present for item)</i>	
Cr Kirk	☒	
Cr O'Neill	☒	
Cr Penning	☒	
Cr Peterson	☒	
Cr Sturgiss		☒

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Cr Kettle returned to the meeting at 7.18pm and resumed the chair#####