



Goulburn Mulwaree Council
Planning Proposal – Marulan & Kingsdale Localities
Local Environmental Plan 2009, Amendment No. 6

November 2012

Part 1 – Objectives

1.1 Intended Outcomes

1.1.1 Marulan

- To reduce the minimum lot size of 152 Medway Road, Marulan from 100Ha to 10Ha
- To reduce the boundary of the Natural Resources Sensitivity Map – Biodiversity Map

1.1.2 Kingsdale

- To reduce the minimum lot size for certain sites within the Kingsdale locality from 100ha to 10ha

Part 2 – Explanation of Provisions

2.1 Medway Road, Marulan

The Goulburn Mulwaree Local Environmental Plan 2009 will be amended by:

- i. Amendment of Lot Size Maps from 100ha to 10ha (refer to **Appendix 1**)
- ii. Amendment of the Natural Resources Sensitivity Map – Biodiversity Map (refer to **Appendix 2**)

2.2 Kingsdale

The Goulburn Mulwaree Local Environmental Plan 2009 will be amended by:

- i. Amendment of Lot Size Maps from 100ha to 10ha (refer to **Appendix 3**)

Part 3 – Justification

Section A – Need for Planning Proposal

3.1 Is the Planning Proposal a result of any strategic study or report?

No.

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

This planning proposal is necessary in order to initiate the preparation of an amending LEP to reduce the lot size maps under Goulburn Mulwaree LEP 2009.

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?

The planning proposal is not consistent with the Sydney Canberra Corridor Strategy, specifically the following points:

Marulan

- Local environmental plans are to limit inappropriate adjoining development and access points off the Hume Highway (p.31)
- Opportunities for additional housing at Marulan will be addressed through Goulburn Mulwaree Council's 2020 Strategy and local environmental plan (p.33)

Marulan & Kingsdale

- Rural residential development should only be undertaken on the basis of an agreed local government area wide settlement strategy (p.21)
- Councils are to identify strategies and planning provisions that will safeguard the long term range of land uses in areas within close proximity to urban areas with the aim of providing a greater level of long term certainty for land holders and the orderly development of future land uses (p.21)

Under the Assessment Criteria provided in *A guide to planning proposals* (DoPI, 2012) both proposals have site specific merit as they provide additional rural residential lots consistent with surrounding areas.

3.4 Is the Planning Proposal Consistent with a council's local strategy or other local strategic plan?

3.5.1 Goulburn Mulwaree Strategy 2020

Marulan

The Strategy identifies the following strategies for Marulan:

- Heavy industrial land uses at west and south Marulan will support existing mining, extractive industries and other forms of offensive and hazardous industries including fireworks manufacturing.
- Commercial land uses would be focused to George Street.
- Areas beyond the existing Village zone to the north are recommended for the future expansion of Marulan and are recommended primarily for 1,000 square metre lot residential developments (Zone R2).
- Large lot residential to the north-west of Marulan (Zone R5) has been previously identified as Rural Small Holdings. The proposed zone will have a minimum lot size of 2,000 square metres (where serviced) or 10 hectares (where unserviced).
- While there are a number of large parcels of undeveloped land surrounding the existing Village, any extension of the Village footprint for residential purposes would require a detailed Local Environmental Study (LES).

Figure A illustrates the strategic growth areas surrounding Marulan.

Notwithstanding the above, Council has resolved to reduce the minimum lot size for the site at 152 Medway from 100ha to 10ha.

The Director-General has previously not supported more intense residential development comprising of 1,500 lots on the eastern side of Marulan (refer to **Appendix 4**) on the basis that this was not consistent with the strategic direction contained in Sydney Canberra Corridor Strategy and Goulburn Mulwaree Strategy 2020 which states that Goulburn, a major regional centre, is intended to be the primary focus for new urban growth.

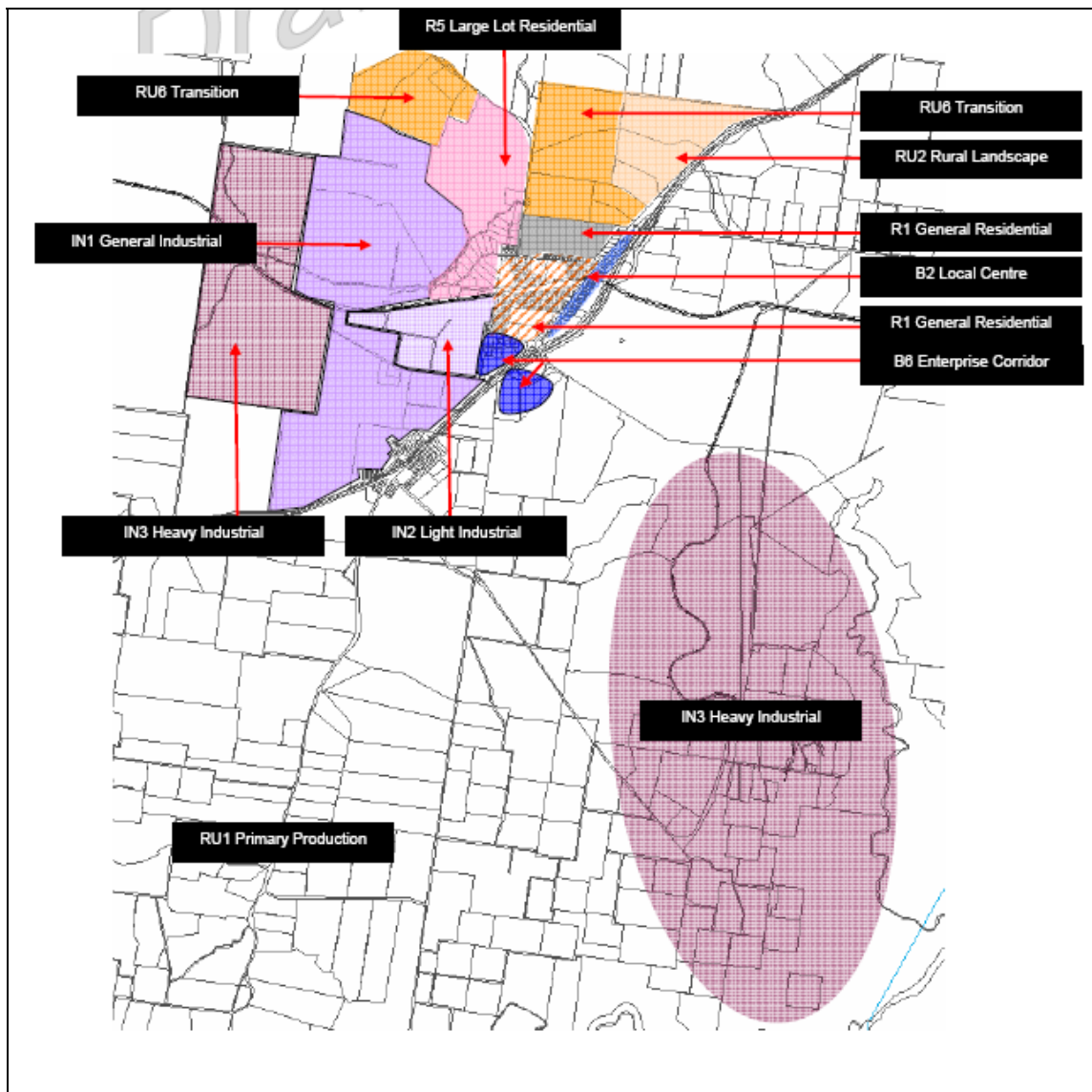
Kingsdale

The locality of Kingsdale is not specifically identified in the Strategy as a location for further rural-residential subdivision. In general terms however, the Strategy contains the following directions regarding development in the rural areas surrounding Goulburn:

- The protection of agricultural lands and buffer areas around agricultural activities is considered a key factor affecting future growth of the local government area (p.23)
- Future growth areas should be identified as part of boarder land use strategies. This identification assists in such matters as, informing landowners with land outside the strategy release areas so they will be less likely to have unrealistic expectations about land use potential (p.55)
- To achieve ecologically sustainable development principles the Strategy has been prepared to ensure agricultural land objectives:
 - Prevent inappropriate fragmentation of agricultural lands
 - Protect and conserve prime agricultural lands and encourage sustainable agricultural operations
 - Permit compatible non-agricultural land uses within rural zones that would not adversely affect the future productivity of the site.
 - Prevent development of inappropriate non-agriculture land uses including large lot residential that will adversely affect the productivity potential of agricultural areas and result in inappropriate fragmentation (p.304)

The areas affected by this planning proposal around Kingsdale are generally undulating lands characterised by Class 3 soils making the land suitable for limited agricultural uses such as grazing rather than cropping.

Figure A: Marulan Village potential growth areas



3.6.2 Community Strategic Plan 2012 – 2022

The Community Strategic Plan (CSP) adopted by Council on the 17 April 2012 is a broadly based diverse document based on social justice and sustainability principles.

The Plan seeks to provide opportunities for rural lifestyle, settlement, housing, sustainable farming and natural resource protection.

This planning proposal is about low impact changes relating to reducing the MLS to provide further housing options for rural life stylers and is consistent with the CSP.

3.7 Is the Planning Proposal consistent with the applicable State Environmental Planning Policies (SEPP)?

3.7.1 SEPP (Rural Lands) 2008

The Rural Planning Principles as identified in the SEPP are as follows:

- a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- b) *recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- c) *recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- d) *in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- e) *the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- f) *the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- g) *the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- h) *ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The planning proposal is consistent with these principles as rural zone lot averaging provisions introduced through LEP Amendment No.4 that will ensure protection of natural resources and prime agricultural lands from unsympathetic subdivision at Kingsdale. This will reduce the further insensitive fragmentation of lands that have taken place in the past.

The changes proposed to the Medway site will protect lands identified to hold environmental significance through zoning these lands E2 Environmental Conservation.

3.7.2 SEPP (Sydney Drinking Water Catchment) 2011

Refer to Section 3.8.5.

3.8 Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

3.8.1 Direction 1.2 – Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

Where this policy applies a planning proposal must:

- a) *not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.*
- b) *not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).*

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General) that the provisions of the planning proposal that are inconsistent are:

- a) *justified by a strategy which:*
 - i. *gives consideration to the objectives of this direction,*

- ii. *identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and*
- iii. *is approved by the Director-General of the Department of Planning, or*
- b) *justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or*
- c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- d) *is of minor significance.*

As discussed earlier, this planning proposal is of relatively minor significance and overall acts to achieve the objective of this Direction and the Rural Lands SEPP. Never the less, the Kingsdale and Medway proposals will increase the permissible density of land within a rural zone and accordingly each proposal has addressed the sustainability criteria contained within the Sydney-Canberra Corridor Strategy.

3.8.2 Direction 1.5 – Rural Lands

The objectives of this direction are to:

- a) *protect the agricultural production value of rural land,*
- b) *facilitate the orderly and economic development of rural lands for rural and related purposes.*

This direction applies to all planning proposals to which State Environmental Planning Policy (Rural Lands) 2008 applies, which logically includes this planning proposal.

This direction applies when:

- a) *a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or*
- b) *a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.*

This planning proposal does affect land in an existing or proposed rural zone and does change the minimum lot size on land in a rural zone. According this direction applies.

This direction requires that a planning proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 and must be consistent with the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

This planning proposal is consistent with these Rural Planning Principles.

The Rural Subdivision Principles are as follows:

- a) *the minimisation of rural land fragmentation,*
- b) *the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- c) *the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*

- d) *the consideration of the natural and physical constraints and opportunities of land,*
- e) *ensuring that planning for dwelling opportunities takes account of those constraints.*

The planning proposal is consistent with these principles as the introduction of the lot averaging provisions are intended to prevent the further fragmentation of prime agricultural and ensure that consideration of physical constraints and characteristics are considered in subdivisions proposals.

Changes relating to sites at Marulan and Kingsdale are relatively minor in nature and not inconsistent with these principles.

3.8.3 Direction 2.1- Environmental Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. This direction applies to all councils when they prepare a draft LEP.

(4) A draft LEP shall include provisions that facilitate the protection and conservation of environmentally sensitive areas.

(5) A draft LEP that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP shall not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 "Rural Lands".

Requirement (5) does not apply because the change proposed is to a MLS. However, in accordance with Requirement (4) provisions to facilitate the protection and conservation of environmentally sensitive areas, the following justifications are provided:

Kingsdale

- No significant environmentally sensitive areas have been identified at the subject site. The focus is on the protection of agricultural lands and the water catchment. This will be achieved through the following:
 - The proposed MLS of 10ha is above the MLS of 2ha for rural subdivision that is not connected to articulated services. This lot size is well above the minimum and as a result will have minimal impact on the water table.
 - The environmental zone lot averaging provisions adopted through LEP Amendment No.2 will effectively enable the use of these properties for hobby farming as opposed to the current limited agricultural use of these lands.
 - The subject site contains some of the best agricultural lands in the Goulburn Mulwaree LGA, but is of little significance when compared to lands across other LGAs'.

Accordingly this minor planning proposal is not inconsistent with the terms of this direction due to the provisions that will facilitate the protection Sydney's drinking water catchment and identified agricultural soils.

Medway Road, Marulan

- The Medway site is currently zoned RU2 Rural Landscape, but has been identified to contain environmentally sensitive areas through the biodiversity study that made up the Goulburn Mulwaree Strategy 2020. The lands containing this significance will be protected through rezoning these lands E2 Environmental Conservation.

3.8.4 Direction 5.1 – Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

This direction applies to land to which the Sydney–Canberra Corridor Regional Strategy applies which includes Goulburn Mulwaree LGA.

The direction requires that planning proposals must be consistent with a regional strategy released by the Minister for Planning.

As discussed earlier, the planning proposal is of a relatively minor nature and is not inconsistent with any broad strategic direction included within the Sydney–Canberra Corridor Regional Strategy. Any point of inconsistency or reference has been noted previously.

Due to their lack of justification both the Kingsdale and Marulan site will address the Sustainability Criteria contained in the Sydney-Canberra Corridor Regional Strategy.

The Strategy requires that rural-residential development should only be undertaken on the basis of an agreed local government area wide settlement strategy. Council does not have such a strategy in place.

Local Environmental Plan No 2 (Rural Lands Planning Proposal) constitutes Goulburn Mulwaree Council's largest single review of rural lands planning in recent years. The inclusion of Kingsdale in the 10 hectare minimum lot size area in this LEP Amendment results from submissions received by a landowner to the Rural Lands Planning Proposal. Council resolved to defer the matter from that process and include it in a future LEP Amendment (this Amendment) so as not to further delay the Rural Lands Planning Proposal. A local settlement strategy is therefore unnecessary given that the bulk of rural land use changes has been dealt with under Amendment No 2 and this Amendment.

3.8.5 Direction 5.2 – Sydney Drinking Water Catchments

The objective of this Direction is to protect water quality in the Sydney drinking water catchment.

This Direction applies when a relevant planning authority prepares a planning proposal that applies to land within the Sydney drinking water catchment.

Goulburn Mulwaree LGA is with the Sydney Drinking Water Catchment and is therefore subject to the requirements of the SEPP (Sydney Drinking Water Catchments) 2011 and this Direction.

A planning proposal must be prepared in accordance with the general principle that water quality within the Sydney drinking water catchment must be protected, and in accordance with the following specific principles:

- a) *new development within the Sydney drinking water catchment must have a neutral or beneficial effect on water quality, and*
- b) *future land use in the Sydney drinking water catchment should be matched to land and water capability, and*
- c) *the ecological values of land within a Special Area that is:*
 - i. *reserved as national park, nature reserve or state conservation area under the National Parks and Wildlife Act 1974, or*
 - ii. *declared as a wilderness area under the Wilderness Act 1987, or*
 - iii. *owned or under the care control and management of the Sydney Catchment Authority,**should be maintained.*

This planning proposal is of a minor nature and is expected to have a neutral effect on water quality.

The Sydney Catchment Authority (SCA) is developing strategic land and water capability assessments (SLWCA) to assist Councils in ensuring future land use in the catchments is consistent with the SEPP.

At this time no strategic land and water capability assessments for Goulburn is available.

As Goulburn Mulwaree LGA is within the drinking water catchment it is considered appropriate that the Sydney Catchment Authority is formally consulted.

Section C – Environmental, social and economic impact.

3.9 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?

Proposed changes relating to certain sites at Highland Way Marulan, Kingsdale are of a relatively minor nature and are supported here given that there is little likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal.

As noted previously, the Medway site has been identified to possibly contain significant vegetation.

Further studies have quantified the extent of the environmentally sensitive lands that are detailed in the environmental survey included in **Appendix 5**.

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

Proposed changes relating to certain sites at Marulan and Kingsdale are relatively minor in nature and are not likely to result in any other environmental impacts.

No other environmental effects are expected as a result of this planning proposal.

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

The planning proposal is relatively minor in nature and provides the opportunity to achieve the highest and best use of land while protecting the environment.

Further supporting information relating to individual sites included in this proposal are contained in the Appendices.

Section D – State and Commonwealth interests

3.11 Is there adequate public infrastructure for the planning proposal?

Identified rural areas have existing services including power, telephone, sealed roads, schools, waste management facilities (Goulburn and Marulan) and are on School bus routes. They will not be connected to articulated water services, which is reflective of the rural subdivision sizes being proposed.

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

Public authorities were consulted as part of the preparation of Goulburn Mulwaree Strategy 2020, Goulburn Mulwaree Biodiversity Strategy and Goulburn Mulwaree Local Environmental Plan 2009. When developing these strategies the issues raised were dealt with and resolved to the satisfaction of the DoPI.

This planning proposal while only minor in nature should be subject to consultations with:

- Hawkesbury Nepean and Southern Rivers Catchment Management Authorities;
- Office of Environment and Heritage;
- Department of Primary Industries; and
- Sydney Catchment Authority.

Part 4 – Mapping

Maps are referenced throughout the planning proposal and included as Appendix items.

Part 5 – Community Consultation

The planning proposal for the purposes of community consultation is considered 'low impact'.

However, a 28 day public exhibition period, is recommended.

Public hearing under section 56(2) (e) of the Environmental Planning and Assessment Act is not recommended.

Part 6 – Project Timeline

The project timeline may vary greatly based on the length of time taken for a Gateway Determination made with recent planning proposals taking as long as 2 months for a determination to be received by Council. In addition, recent draft planning instruments have taken as long as 5 months to receive from Parliamentary Counsel.

Given that this planning proposal deals with minor local matters, council wishes to exercise its plan making delegations under Section 23 of the Act. This will considerably reduce processing time for the LEP.

Anticipated date of Gateway Determination	December 2012
Timeframe for completion of technical studies	NA
Timeframe for agency consultations	Commence December 2012 – Conclude February 2013
Public exhibition	Commence March 2013 – Conclude April 2013
Public hearing	NA
Consideration of submission	Completed May 2013
Date of submission of LEP to DoPI	Completed July 2013
Anticipated date of plan made	August 2013
Anticipated date plan forwarded to DoPI for notification	August 2013