


15.3 PLANNING PROPOSAL - AMENDMENT TO GM LEP 2009, SCHEDULE 1 - ADDITIONAL PERMITTED USES, 159 RIFLE RANGE ROAD, GOULBURN

Author: David Kiernan, Senior Strategic Planner

Authoriser: Warwick Bennett, General Manager

Attachments:

1. UFHS Consultation Submission (separately enclosed) 
2. Rifle Range Drainage Map (separately enclosed) 
3. Rifle Range Biodiversity Officer Site Comment (separately enclosed) 
4. Rifle Range Road Vegetation Map (separately enclosed) 
5. Bush Fire Prone Land Map (separately enclosed) 
6. Range Danger Area (separately enclosed) 

Reference to LSPS:	Planning Priority 4: Housing – Vision 2040 - A range and diversity in housing type, which is contextual and affordable and is primarily centred around Goulburn and Marulan.
Address:	159 Rifle Range Road, Goulburn

RECOMMENDATION

That:

1. The report from the Senior Strategic Planner regarding proposed amendment to Schedule 1 - Additional Permitted Uses, of the *Goulburn Mulwaree Local Environmental Plan 2009* be received.
2. Council prepare a planning proposal to amend the *Goulburn Mulwaree Local Environmental Plan 2009* Schedule 1 by including Lot 1, DP 706477 at 159 Rifle Range Road, Goulburn to allow the subdivision of the lot from the portion zoned RU6 Transition Zone land and permit a dwelling on the E2 Environmental Conservation Zone land portion subject to consent.
3. The planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination in accordance with section 3.34 of the *Environmental Planning and Assessment Act 1979*.
4. The Department of Planning, Industry and Environment be advised that Council wishes to be the delegated plan making authority for this proposal.
5. In the event that the Department of Planning, Industry and Environment issues a Gateway determination to proceed with the planning proposal, consultation be undertaken with the community and government agencies in accordance with any directions of the Gateway determination.

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.

INTRODUCTION

This report considers a planning proposal at 159 Rifle Range Road, Goulburn seeking to correct a historical zoning anomaly created by the construction of the Hume Highway bypass around Goulburn.

BACKGROUND

The construction of the Hume Highway Bypass around the Goulburn Urban Area physically separated the subject site which is a large rural lot at Lot 1, DP 706477 (No. 159) Rifle Range Road, Goulburn (referred to as 'the subject site') located approximately 3km to the east of the Goulburn Urban Area. The adoption of the *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP 2009) applied two separate land zones to this dissected lot.

An E2 Environmental Conservation Zone was applied to the 76 hectare northern land parcel and a RU6 Transition Zone was applied to the 43 hectare southern parcel, as illustrated in Figure 1.

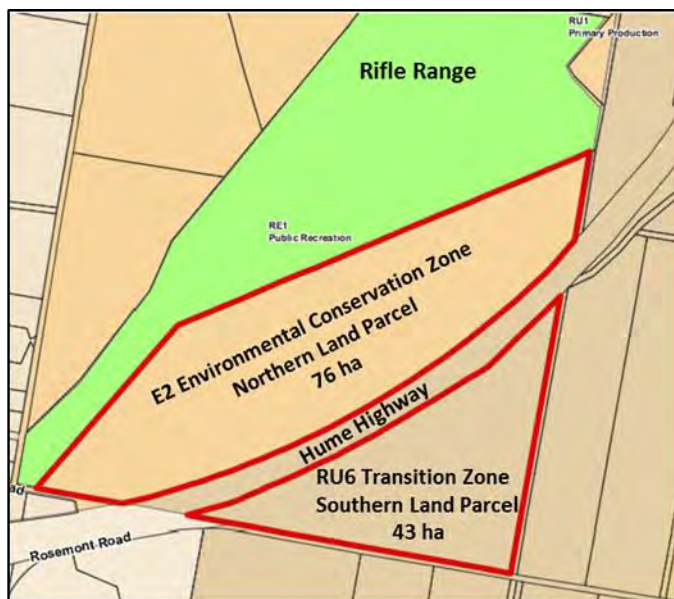


Figure 1: Rifle Range Road Land Use Map

The E2 Environmental Conservation zoned area (northern section) is currently used for grazing, predominately horses and a dwelling house is sited on the southern land parcel.

The current E2 Environmental Conservation zoning which prevents the establishment of a dwelling but also has a 100 hectare minimum lot size which prevents the northern land parcel from being subdivided from the southern RU6 Transition zone section on the opposing side of the highway. It also has the effect of preventing further subdivision of the RU6 Transition zone portion of the site (20ha MLS) due to the restrictions on subdivision of the northern E2 Environmental Conservation zone.

During the preparation and consultation on the *Urban and Fringe Housing Strategy* the landowners made a public submission in relation to this matter. The landowners sought an amendment to the RU6 minimum lot size to subdivide 40ha on the south eastern portion. A summary of the public submission extracted from the *Urban and Fringe Housing Strategy – Consultation Report* is presented in **Attachment 1**.

The final and adopted and endorsed *Urban and Fringe Housing Strategy* directly addressed this submission and sought to rectify this historical zoning anomaly through recommendations relating to Precinct 9 Mt Gray East and Precinct 10 Mountain Ash Road. The Strategy identifies an “*opportunity to address zoning anomaly created between Environmental and RU6 zones between Mt Gray and Mountain Ash Precincts.*” It also makes the following high priority recommendation “*Amend the GMLEP to address anomalies in split zone created by Highway.*”

The proposal to include a dwelling as an additional permitted use and reduce the subject sites minimum lot size is a direct response to this recommendation and seeks to resolve this historic anomaly.

REPORT

This planning proposal is Council-led following a further submission from the landowner since the adoption and endorsement of the *Urban and Fringe Housing Strategy*.

The proposal seeks to enable the subdivision of the subject site into two distinct lots through the inclusion of a clause identifying the E2 Environmental Conservation portion of the subject site and providing an amended minimum lot size restriction within the additional permitted use of a dwelling house subject to consent within Schedule 1 – Additional Permitted Uses of the GM LEP 2009.

The E2 Environmental Conservation zone prohibits dwellings, however, an alternate zone which permits dwellings, such as an E3 Environmental Management or E4 Environmental Living zone is considered a general downgrading of the environmental zoning. Ministerial Direction 2.1: Environment Protection Zones requires that a LEP must not reduce environmental protection standards applicable in Environmental zones and therefore such a downgrading would not be acceptable.

In addition the E3 Environmental Management and E4 Environmental Living zones would also permit with consent comparatively intensive land uses such as community facilities, information and education facilities and tourist and visitor accommodation. As such a rezoning to enable a dwelling on the site is not the preferred mechanism to meet the proposals objectives.

The alternative and preferred option to address this zoning anomaly is to create an additional permissibility for a dwelling within Schedule 1: Additional Permitted Uses of the GM LEP 2009. This is a targeted approach which would apply to the northern parcel of this lot only.

The current minimum allotment size for the northern E2 Environment Conservation zoned area is 100 hectares but the parcel has an area of 76 hectares. This currently prevents the establishment of a dwelling entitlement, even with a change in the zones permissibility's. Therefore this proposal is also seeking to restrict the minimum lot size of the northern land parcel to 70 hectares which would enable the subdivision of the lot into two separate lots (located north and south of the highway) and enable the construction of one dwelling on the northern land parcel.

The minimum lot size restriction is not proposed to be achieved through the usual amendment to the Minimum Lot Size Map of the GM LEP 2009 but instead through a limitation within the wording of Schedule 1: Additional Permitted Uses. This approach would avoid the creation of a new lot size category which would apply to this site only.

The draft wording for Schedule 1 is presented below:

7 Use of certain land at 159 Riffle Range Road

- (1) *This clause applies to land at Rifle Range Road, Goulburn, being Part Lot 1, DP 706477, as shown on the Local Clauses Map*
- (2) *Development for the purposes of a dwelling house is permitted with consent with a minimum lot size of 70ha*

Addressing constraints

The primary constraints relative to this site, particularly the northern land parcel subject to change, are biodiversity and bushfire, with the proximity of the Goulburn Rifle Range and Hume Highway also raising issues of noise and safety.

The site is not identified as flood prone land and no creeks or rivers run through the site. Drainage channels are present on site (refer **Attachment 2**) but the preliminary findings of the Overland Flow Study currently being prepared indicate that flooding of these channels is limited to riparian areas only.

Access

An independent vehicular access is achievable from the northern E2 Environmental Conservation zone section of the subject site to Rifle Range Road. Access from Rifle Range Road would provide an independent vehicular access to the land proposed to be subdivided which would be separate from the existing primary access to the lot which is currently from Rosemont Road. A highway underpass currently connects the northern and southern sections of the subject site.

Biodiversity

The site historically comprised White Box- Yellow Box- Blackley's Red Gum Grassy woodland and derived native grassland. An initial assessment by Council's Environment and Biodiversity Assessment Officer identified that the site has been degraded by pasture improvements with less than half the site now comprising native groundcover. The Biodiversity Officer's initial comments are presented in **Attachment 3**. As identified on the vegetation map in **Attachment 4** there are significant areas of the 76ha site which are cleared and present an opportunity to site a single dwelling house without adversely affecting the remnant critically endangered White Box- Yellow Box- Blackley's Red Gum Grassy woodland and derived native grassland habitat. The site is also sufficiently large to provide for revegetation and clearing offset areas for biodiversity. The presence of on-site biodiversity further reinforces the appropriateness of retaining the northern land parcel within the E2 Environmental Conservation Zone.

Bushfire

The subject site is identified as bushfire prone land being Category 3 (medium bushfire risk) land, as illustrated in **Attachment 5**. The northern E2 Environmental Conservation zone section has significant areas of cleared land and ample space and opportunity to include bushfire protection measures, including suitable asset protection zones in accordance with the guide '*Planning for Bushfire Protection, 2019*'.

Proximity to Rifle Range

The northern E2 Environmental Conservation section of the subject site adjoins the Goulburn Rifle Range which has an identified Range Danger Area, illustrated in **Attachment 6**. This area includes areas of land together with a specified air space, within which danger to life, limb and property may be expected to occur arising from the initiation of specified ammunition. This Range Danger Area crosses over a small portion of the north western boundary of the subject site. A dwelling within the Range Danger Area would present concerns around the safety of the dwelling's residents. This is however easily avoided through appropriate siting of any proposed dwelling outside the Range Danger Area. Future development of the site would require a development application for subdivision and a dwelling house, which could include restrictions on the title in relation to the location of a dwelling relative to the safety area.

Amenity

The northern section of the subject site is located in between the Hume Highway to the east and the rifle range to the west. Both of these uses have the potential to create noise levels which could adversely affect the amenity of residents of any proposed dwelling on the site.

Clause 5.16 of the GM LEP 2009 requires Council to take into account the following when determining whether to grant subdivision for a dwelling or for the erection of a dwelling in an E2 Environmental Conservation zone:

- a) Existing uses of land in the vicinity of the development
- b) Whether or not the development is likely to have a significant impact on land uses
- c) Whether or not the development is likely to be incompatible with existing uses
- d) Any measures proposed by the applicant to avoid or minimise any incompatibility

Clause 5.16 of GM LEP 2009 will ensure that a subdivision and development application for the erection of a dwelling considers the compatibility of the proposed dwelling with these adjacent land uses. It also places the onus on the applicant to adequately demonstrate the proposal including measures to reduce their impacts and minimise incompatibility. These measures may include appropriate siting of the dwelling to be oriented away from noise sources, landscaping to serve as noise buffers or built solutions such as additional insulation or double or triple glazing.

Conclusion and Recommendation

This report recommends that a planning proposal to amend Schedule 1 Additional Permitted uses of the GM LEP 2009, to include a dwelling as an additional permitted use and reduce the minimum lot size, be prepared and progressed to the Department of Planning, Industry and Environment for a Gateway Determination. The planning proposal will address an action in the *Urban and Fringe Housing Strategy* regarding the historical zoning anomaly created by the Hume highway bypass.

FINANCIAL IMPLICATIONS

There are no identified financial implications in relation to this planning proposal.

LEGAL IMPLICATIONS

There are no identified legal implications in relation to this planning proposal.

CARRIED

In Favour: Crs Bob Kirk, Peter Walker, Andrew Banfield, Sam Rowland, Leah Ferrara, Alfie Walker, Margaret O'Neill, Carol James and Denzil Sturgiss

Against: Nil

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RESOLUTION 2021/122

Moved: Cr Andrew Banfield

Seconded: Cr Leah Ferrara

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