



Planning &  
Environment

IRF21/5195

## Gateway determination report – PP-2021-7126

---

Planning Proposal to Rezone 189 Brayton Road,  
Marulan to SP2 Infrastructure (Public Utility  
Undertaking)

January 22



Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: Gateway determination report – PP-2021-7126

Subtitle: Planning Proposal to Rezone 189 Brayton Road, Marulan to SP2 Infrastructure (Public Utility Undertaking)

---

© State of New South Wales through Department of Planning and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 21) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Contents

<b>1</b>	<b>Planning proposal.....</b>	<b>1</b>
1.1	Overview.....	1
1.2	Objectives of planning proposal .....	1
1.3	Explanation of provisions .....	1
1.4	Site description and surrounding area.....	2
1.5	Mapping.....	2
<b>2</b>	<b>Need for the planning proposal .....</b>	<b>2</b>
<b>3</b>	<b>Strategic assessment .....</b>	<b>3</b>
3.1	Regional Plan .....	3
3.2	Local.....	3
3.3	Section 9.1 Ministerial Directions .....	3
3.4	State environmental planning policies (SEPPs) .....	5
<b>4</b>	<b>Site-specific assessment .....</b>	<b>6</b>
4.1	Environmental.....	6
4.2	Social and economic.....	6
<b>5</b>	<b>Consultation.....</b>	<b>6</b>
5.1	Community consultation.....	6
5.2	Agencies.....	6
<b>6</b>	<b>Timeframe .....</b>	<b>6</b>
<b>7</b>	<b>Local plan-making authority .....</b>	<b>7</b>
<b>8</b>	<b>Assessment summary .....</b>	<b>7</b>
<b>9</b>	<b>Recommendation.....</b>	<b>7</b>

**Table 1 Reports and plans supporting the proposal****Relevant reports and plans**

Goulburn Mulwaree Council, Ordinary Council Meeting, 2 November 2021, 15.5 “Planning Proposal to Rezone Land Adjoining Council (Drinking) Water Treatment Plans, in Goulburn and Marulan.”

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	Goulburn Mulwaree
<b>PPA</b>	Goulburn Mulwaree Council
<b>NAME</b>	Planning Proposal to rezone 189 Brayton Road, Marulan to SP2 Infrastructure (Public Utility Undertaking) (zero houses, 1 job)
<b>NUMBER</b>	PP-2021-2126
<b>LEP TO BE AMENDED</b>	Goulburn Mulwaree LEP 2009
<b>ADDRESS</b>	189 Brayton Road, Marulan
<b>DESCRIPTION</b>	Lot 10, DP 1067488
<b>RECEIVED</b>	30/11/2021
<b>FILE NO.</b>	IRF21/5195/ (EF21/18001)
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of the planning proposal is to facilitate the expansion of the existing Marulan Drinking Water Treatment Plant site (Lot 1 DP 10000945) by expanding the SP2 Infrastructure Zoning on an adjoining site (Lot 10, DP 1067488) in Council's ownership. It is intended that Lot 10 will be developed in future with additional treatment facilities, specifically treatment lagoons.

The objectives of this planning proposal are clear and adequate and don't require amendment prior to public exhibition.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Goulburn Mulwaree LEP 2009 per the changes below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
Zone	R5 Large Lot Residential	SP2 Public Infrastructure (Public Utility Undertaking)
Minimum lot size	2,000sq.m	No minimum lot size
Number of dwellings	0	0
Number of jobs	1	1

The zone change will allow the development for the purposes of a water treatment facility on the site, either with consent under the Goulburn Mulwaree LEP 2009 or without consent under SEPP (Infrastructure) 2007.

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved. The explanation of provisions is clear and adequate and doesn't require amendment prior to public exhibition. The proposed no minimum lot size for the site is considered appropriate for a proposed water treatment facility.

## 1.4 Site description and surrounding area

The subject site comprises Lot 10, DP 1067488 which is located at 189 Brayton Road, Marulan approximately 2km north west of the Marulan CBD (George Street). A site map is provided in the planning proposal.

The site is surrounded by large lot residential housing to the west and north, the current Marulan Water Treatment Plant adjoins to the south and rural land to the east.

## 1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the applicable zoning and lot size maps, which are suitable for community consultation.

## 2 Need for the planning proposal

The planning proposal is the result of an operational requirement identified by Council to provide potable drinking water to the existing and future Marulan population.

Council considers the planning proposal is the appropriate mechanism to facilitate the required amendment to the Goulburn Mulwaree LEP to enable the current facility to be expanded onto the adjoining Council-owned land.

Council's view that the planning proposal is needed and that the planning proposal process is the appropriate mechanism to facilitate the required amendment to the LEP is supported for the reasons provided in the planning proposal. Marulan is identified for significant growth under Council's Urban and Fringe Housing Strategy which was endorsed by the Department in 2020.

## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the South East and Tablelands Regional Plan.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
<p><u>South East and Tablelands Regional Plan:</u></p> <p>Goal 4: Environmentally sustainable housing choices.</p> <p>Direction 25: Focus housing growth in locations that maximise infrastructure and services</p> <p>Action 25.2: Focus future settlement to locations that:</p> <ul style="list-style-type: none"> <li>• Maximise existing infrastructure and services and minimise the need for new services.</li> <li>• Prioritise increased densities within existing urban areas; and</li> <li>• Priorities new release areas that are an extension of existing strategic and local centres.</li> </ul> <p>Action 25.2: Plan for and prioritise services and infrastructure investment to maximise cost efficiencies, coordinate the delivery of different infrastructure assets, and achieve equitable sharing of responsibility, including funding, procurement and ongoing maintenance.</p>	<p>The proposed expansion of the existing Marulan water treatment facility onto adjoining land will maximise the efficient use of existing infrastructure and services and support the planned growth of Marulan.</p>

### 3.2 Local

The proposal states that it is consistent with the following local plans and endorsed strategies as stated in the table below:

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Goulburn Mulwaree Local Strategic Planning Statement	The planning proposal is consistent with Goulburn Mulwaree LSPS <i>Planning Priority 1: Infrastructure and 4 – Housing</i> which identify Goulburn and Marulan will continue to be the focus for housing growth in the LGA supported by relevant infrastructure consistent with the Directions and actions provided in Council's Urban and Fringe Housing Strategy.
Goulburn Mulwaree Urban and Fringe Housing Strategy	The planning proposal is consistent with Council's Urban and Fringe Housing Strategy which identifies Marulan for significant urban growth.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 7 9.1 Ministerial Direction assessment

Directions	Consistency	Reasons for Consistency or Inconsistency
Direction 2.1 Environment Protection Zones	Consistent	The planning proposal states that the site is predominantly cleared with a few remnant Cabbage Gums ( <i>Eucalyptus amplifolia</i> ) and is currently used for grazing horses. The site is unlikely to contain significant biodiversity value.
Direction 2.3 Heritage Conservation	Consistent	The site does not contain any identified Aboriginal heritage sites or places on or near the site, nor does it contain any local or State heritage items or places listed in the Goulburn Mulwaree LEP 2009.
Direction 2.6 Remediation of Contaminated Land	Consistent	The planning proposal indicates the site is vacant large lot residential land with no known history of potentially contaminating activities. The proposal is not seeking to facilitate the development of the site for a sensitive land-use.
Direction 3.1 Residential Zones	Not consistent	The planning proposal is inconsistent with the Direction because it seeks to rezone the site from R5 Large Lot Residential to SP2 Special Uses which will prohibit the residential use of the land. It is considered the inconsistency with the Direction is of minor significance as the loss of the subject lot is minor in relation to the total residential land supply available in Marulan. Additionally, upgrade of the treatment plant will provide additional capacity to service additional residential development.
Direction 4.3 Flooding	Not consistent	The site has the potential to flood because it contains two watercourses which drain south to Jaorim Creek. Council is currently preparing a flood study for the Marulan area, which includes the site. This won't be completed in the short term but will input into the assessment of future development of the site. Council considers that any inconsistency with the Direction is of minor significance.
Direction 4.4 Planning for Bushfire Protection	Not consistent	The site is mapped as bushfire prone land and Council intends to consult with the Rural Fire Service prior to exhibition as required by the Direction. Council does not anticipate RFS will object to the proposal as it does not seek to develop the site for residential or commercial use.



Direction 5.2 Sydney Drinking Water Catchment	Consistent	WaterNSW has not raised objection to the proposal during pre-lodgement consultation required by the Direction. Council has updated the planning proposal to address matters raised by WaterNSW except for a request to provide more information about the nature of the pollutants likely to arise in the proposed water treatment lagoons. Council considers this matter is more relevant to the development application stage and in the preparation of a Review of Environmental Factors for the site. WaterNSW has requested Council consult with it further during the exhibition of the planning proposal and during the detailed design of the proposed water treatment ponds to ensure a neutral or beneficial effect (NorBE) on water quality can be achieved.
Direction 5.10 Implementation of Regional Plans	Consistent	As discussed in section 3.1 of this report, the planning proposal is consistent with the South East and Tablelands Regional Plan and therefore with the Direction.

### 3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

**Table 8 Assessment of planning proposal against relevant SEPPs**

SEPPs	Requirement	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Infrastructure) 2007	The SEPP does not provide specific requirements for planning proposals, however, the SEPP identifies “prescribed zones” where infrastructure such as water supply and treatment systems, is a permissible use.	Consistent	The planning proposal seeks to rezone the subject site to an SP2 Infrastructure Zone (Public Utility Undertaking) which is a prescribed zone under the SEPP that permits water supply and treatment systems without consent.
SEPP (Sydney Drinking Water Catchment) 2011	The SEPP does not provide any specific requirements for planning proposals. The SEPP, however, requires that development consent cannot be granted on land located within the Sydney Drinking Water Catchment unless there is a neutral or beneficial effect (NorBE) on water quality.	Consistent	Council will need assess any future development of the site under Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> which will require a review of environmental factors (REF). WaterNSW has requested Council consult with it on the proposed design of the water storage ponds to ensure they can meet the NorBe requirement of the SEPP which Council is agreeable to.

## 4 Site-specific assessment

### 4.1 Environmental

Council's Biodiversity Assessment Officer has advised the planning proposal is unlikely to have a significant impact on any threatened species, populations or habitats. Council intends to undertake more detailed assessment of any potential environmental impacts at the development proposal stage via the preparation of a Review of Environmental Factors for the proposed water supply and treatment systems.

There is potential risk to water quality as a result of the planning proposal as water treatment lagoons (also known as sludge ponds) may contain by-products from the water treatment process which could seep or overflow to surrounding land if not appropriately managed. WaterNSW has not raised objection to the proposal but has requested it is consulted on the detailed design of the proposed water treatment/sludge ponds to ensure they can meet water quality requirements required by the SEPP (Sydney Drinking Water Catchment).

The treatment of drinking water does not result in odour impacts. There are no other environmental impacts envisaged because of the planning proposal.

### 4.2 Social and economic

The planning proposal does not identify any social or economic impacts because of the planning proposal but considers there are significant positive impacts through the provision of potable drinking water to support the future growth of Marulan. The expansion of the water treatment facility will support employment during construction and ongoing operation and maintenance of the facility.

## 5 Consultation

### 5.1 Community consultation

Council proposes a consultation period of 28 days.

The exhibition period proposed is considered appropriate and forms the conditions of the Gateway determination.

### 5.2 Agencies

Council has nominated public agencies to be consulted about the planning proposal.

It is recommended the following agencies be consulted on the planning proposal and given 28 days to comment:

- NSW Rural Fire Service
- WaterNSW

## 6 Timeframe

Council proposes an 11 month time frame to complete the LEP.

The Department recommends a time frame of 12 months to allow for any potential delays.

## 7 Local plan-making authority

As the site/planning proposal is of local significance and is consistent with endorsed strategic planning for the area the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed because it:

- will facilitate expansion of the Marulan water treatment facility which will provide drinking water to support the planned growth of Marulan.
- is consistent with the South East and Tablelands Regional Plan, Goulburn Mulwaree Local Strategic Planning Statement and Goulburn Mulwaree Urban and Fringe Housing Strategy.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 3.1 Residential Zones and 4.3 Flooding are minor or justified; and
- Note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation, consultation is required with the following public authorities:
  - NSW Rural Fire Service
2. Prior to community consultation, the planning proposal is to be revised to address the outcomes of condition 1.
3. Consultation is required with the following public authorities:
  - WaterNSW
4. The planning proposal should be made available for community consultation for a minimum of 28 days.
5. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
6. Given the nature of the proposal, Council should be authorised to be the local plan-making authority.



24/12/2021

Graham Judge

Acting Manager, Southern Region

*Gm Towers*

10 January 2022

Graham Towers

Acting Director, Southern Region

Assessment officer

George Curtis

Senior Planner, Southern Region

42471824