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26 September 2022

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2022/113583*

David Kiernan
Senior Strategic Planner
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

Dear Mr Kiernan,

RE: Planning Proposal to Rezone and Amend Minimum Lot Size on Lots along Brisbane Grove Road, Goulburn (REZ_0005_2121) (PP-2021-7390)

I refer to your email of 19 August 2022 regarding the Planning Proposal to rezone and amend Minimum Lot Size (MLS) provisions across 22 lots at Brisbane Grove Road, Goulburn. The Proposal seeks to rezone the land from RU1 Primary Production and RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation. It also seeks to amend the MLS from 100 ha (for the RU1 zone) and 10 ha (for the RU6 zone) to 2 ha for the new R5 zone and 100 ha for the C2 zone.

We note that the site occurs immediately south of the Mulwaree River and has been historically used for grazing. It is highly constrained in the north-west due to flooding risk and a watercourse bisects the land in the eastern part of the site. The areas of highest flood risk and the watercourse are to be zoned C2, reflecting the environmental constraints of the site.

WaterNSW provided comprehensive comments on an earlier version of the Pre-gateway Planning Proposal on 9 May 2022 (our ref: D2022/35274). We also met with Council on 13 May 2022 to discuss the Proposal in relation to those comments. Our key concern was in regard to domestic water access, potential risk from on-site sewage systems and effluent management areas (EMAs), and flooding risk. We also sought further detail on the scope of the preliminary site investigation (PSI) report for contamination risk. Those matters are now sufficiently addressed and an updated PSI report provided. We have also had the benefit of reviewing the draft Brisbane Grove and Mountain Ash Precinct-specific Development Control Chapter. Our comments on that DCP Chapter are provided in our response to the Allfarthing Planning Proposal (26 September 2022; our ref: D2022/112222) and not replicated here.

In our assessment, we have treated the subdivision plan as a concept plan to support the ability of the site to sustain a 2 ha MLS and a R5 zoning arrangement and reasonably deliver offspring allotments for rural residential development. We acknowledge that the subdivision plan is indicative only. Any comments made by us on the subdivision plan are made to assist the assessment of the site to sustain the zoning and MLS arrangement proposed and the environmental constraints operating on the site that need to be considered at later subdivision stage. Overall, we believe the site has capacity to sustain a R5 zoning and 2 ha MLS based on the boundary configurations put forward by the Proposal. The final subdivision design will need to be worked out at subdivision DA stage considering the landscape constraints such flood-risk, overland flow paths, waterways, and the location of farm dams and EMAs. The predicted lot yield may not be as great as indicated in the concept subdivision plan.

Please note that we have assessed the Proposal based on the 100ha MLS requirement applying to the proposed C2 zone. We understand that Council is considering removing the 100 ha restriction from the C2 zoned land to improve planning outcomes alongside riparian controls within the draft DCP. We are providing separate comments on that matter and have not considered the 'no MLS' approach here.

We would appreciate the opportunity to examine the Proposal again at exhibition stage, particularly if Council decides to remove the 100 ha MLS requirements from the C2 zone. Our detailed comments are provided in Attachment 1.

If you have any questions regarding the issues raised in this letter, please contact Stuart Little at stuart.little@waternsw.com.au.

Yours sincerely

ALISON KNIHA
Catchment Protection Planning Manager

ATTACHMENT 1 – DETAIL

Site description

The site includes 22 lots along with an unformed Council road reserve (Figure 1). The description of the Proposal (p. 5) would benefit by clarifying that the rezoning area includes a road reserve given this area is also affected by the proposed R5 zoning and a 2 ha MLS arrangement (Figures 4 and 6). The lots are contiguous except for an 'island' allotment in the south. We have been unable to locate Lot 2, DP 1279715 but believe this may be the road reserve or possibly in reference to Lot 21//976708 which appears to be missing from the list.

Urban and Fringe Housing Strategy

The Goulburn Mulwaree Urban and Fringe Housing Strategy (UFHS) identifies the site as part of the Brisbane Grove Precinct (Precinct 11, page 129 of the UFHS). The UFHS identifies that the precinct is suited to Large Lot Residential development subject to the resolution of noise and water quality issues. It recommends rezoning of the least environmentally constrained land to Large Lot Residential zoning (un-serviced) and for flood affected land to be considered for Environmental (Conservation) zoning. The Proposal conforms with the UFHS in this regard.

Localised setting

This is a proponent-led Proposal that will give rise to an irregular R5 zoning pattern in the south where it will interfaces with properties retaining the existing RU6 zoning and 10 ha MLS restriction. The current configuration of the Proposal may cause some friction between this development and the surrounding properties which will be 2 ha in size but currently unable to access the 2 ha MLS entitlement. Subsequent similar Planning Proposals for land neighbouring or in the vicinity of the site may later arise. We understand that the opportunity is not available to provide a broader rezoning approach to the Precinct. We do not object to the Proposal on this basis.

Zoning restrictions

The C2 zoning is proposed over the areas of highest riverine and overland flow flooding risk. This would prohibit the establishment of dwelling and ancillary uses from these areas including EMAs. WaterNSW is supportive of this approach as it reduces the risk to water quality from those areas subject to the greatest flooding risk.

The Proposal includes a large residual allotment (Lot 2 DP 1180093) in the west that is currently zoned RU1 in the north and west, and RU6 in the south-west. The Proposal would see the flood-affected land in the north and west rezoned to C2 and land in the south-west of this lot zoned R5, with the boundary being associated with the areas of highest flooding risk (discussed below). This will give rise to a large area of C2 zoned land in the west that will require development consent for extensive agriculture where it has been historically allowed without consent (i.e. within the RU1 zone), although existing and continuing use provisions would apply. Consideration needs to be given as to how the C2 zoned land will be managed. This may be more a matter relevant to the later subdivision development application (DA).

Conceptual Subdivision Design

The Proposal notes the C2 zoning may impact on the final layout of the subdivision at DA stage and may not reflect to lot configuration and design submitted in the concept subdivision plan (p.7). We acknowledge this and have treated the subdivision concept plan as indicative only.

The indicative subdivision layout plan (Appendix 3) shows how a 2 ha MLS might be achieved for the R5 available land. It illustrates how the 22 existing lots might deliver some 27 R5-zoned lots of approximately 2 ha or more in size based on the change to R5 zoning and a 2 ha MLS. The supporting Water Cycle Management Study (WCMS) is based on a similar 27-lot yield.

The layout plan responds to the riverine flood risk by excluding the residual C2 land in the north-west from the subdivision pattern that is proposed to be zoned C2. However, it does not currently respond to the C2 zoning proposed for the waterway and overland flow corridor in the eastern part of the site. Split zoning would occur over a number of lots under this design scenario and the plan may need to be adjusted to accommodate the necessary EMA buffer distances required from

waterways and farm dams. That said, the concept subdivision plan indicates how the R5 zoned land could deliver a 2 ha MLS while providing sufficient room for building envelopes, stormwater management measures (particularly for the access roads) and EMAs. The ultimate subdivision design is more a matter for the DA stage and will need to respond the areas allocated C2 zoning and the environmental constraints present on the site.

Servicing

The area is un-serviced by reticulated town water and sewer and there are no current plans to extend these services to the area (p. 32). The Proposal clarifies that domestic water and sewer requirements are proposed to be provided through on-site rainwater collection and effluent management systems. The Proposal notes that standards are provided in the Goulburn Mulwaree DCP (Section 5.3.1.2-4). WaterNSW's Water Sensitive Design Guide for Rural Residential Subdivisions will also be relevant and need to be taken into account at subdivision DA stage.

We note that a registered bore occurs on the site. The WCMS identifies that this is used for stock water (new Lot 3) and some external water demands around the farm shed precinct. While the bore will be retained on Lot 3 its use will be discontinued to the remainder of the site. According to the PSI report, the bore is authorised for stock and domestic purposes (see below). The location and use of the bore for domestic purposes may influence EMA locations. This is more a matter to be resolved at subdivision stage.

Watercourses and Farm Dams

The site is bounded by the Mulwaree River in the north. A second order watercourse, a tributary of the Mulwaree River, runs from south to north in the eastern section of the site. This natural watercourse is also identified as an overland flow corridor (discussed below). A localised drainage feature appears to occur in the north-west corner of the proposed developable (R5) area (Appendix 7d). The nature of the natural drainage features and the degree to which they present constraints to development can be further investigated at subdivision stage.

The Proposal indicates that there are seven existing farm dams on site while nine new dams are proposed (p. 43). The conceptual subdivision layout considers the new dams that are associated with stormwater management measures required for an access road (Appendices 7b, 7c and 7d). The dams may also be needed for bushfire safety purposes (p. 43). The exact number of farm dams to be retained or proposed will need to be resolved at subdivision DA stage.

The presence of watercourses and location of the farm dams proposed to be retained or created, will influence the location of EMAs due to required buffer distances (see below). This may in turn affect lot configuration and yield. These are matters for the later subdivision development at DA stage. Based on the information presented in the Planning Proposal and supporting plans, there appears to be sufficient area to accommodate the R5 zoning with a proposed 2 ha MLS while considering the likely constraints presented by watercourses and farm dams.

Flooding

The site is subject to flooding risks from riverine flooding and overland flow. The flood risk information contained in the Planning Proposal represents the most up-to-date hazard information available.

Riverine flooding risks are presented in Figures 8 and 18, which show the most significantly constrained areas occurring in the north-west of the site. These have been derived from the Goulburn Floodplain Risk Management Study and Plan that was adopted by on 16 August 2022. The overland flow modelling results are shown on Figures 10 and 16. These show the most constrained overland flow areas being associated with the north-west of the site as well as an overland flow corridor associated with the water course in the east of the site. We note that the mapping has been derived from the Overland Flow Flood Maps that were also endorsed at the 16 August 2022 meeting as an interim measure until an Overland Flow Flood Risk Management Plan was developed.

The areas subject to the most frequent and severe impacts (coloured red and blue on Figures 8, 10, 16 and 18) have been zoned C2. This reduces the development potential in flood affected

areas and concurrently improves water quality outcomes by reducing the development potential and associated disturbances in these areas (p. 6). WaterNSW supports this approach. Other areas in the proposed R5 zone are subject to infrequent and less intensive flooding but this is less of a constraint to development.

No development is proposed in the flood planning area (FPA; p. 38). Our understanding is that the FPA forms the extent of Flood Planning Constraint Category 3 (FPCC3) (i.e. the outer extent of the light green category on Figures 8 and 18). Based on Figure 8 of the FRMS, it appears that the FPA is mainly confined to the north-west portion of the site and largely coincides with the area to be zoned C2. It may also encompass a small patch of land at the very north-east corner of the site. The proposed R5 zone is almost exclusively outside the FPA and excludes the highest flood risk areas which are set aside through the C2 zoning. The R5 zoning and 2 ha MLS approach allows sufficient flexibility to respond to any flood-risk constraints at subdivision DA stage.

Our previous correspondence suggested mapping the 1 in 50 ARI event as the neutral or beneficial effect (NorBE) tool considers flooding risk for the 1 in 50 ARI event (roughly 2% AEP) that influences the risk profile level in the wastewater modelling. The 1:50 event is well within the FPA. Any other flooding and potential water quality risks with respect to the operation of the NorBE Tool can be examined at subdivision DA stage.

Water Cycle Management Study (WCMS)

The Planning Proposal is accompanied by a Water Cycle Management Study (WCMS). The WCMS, together with a Wastewater Management Site Plan (Appendix 7b), Stormwater Management Site Plan (Appendix 7c) and a Stormwater Drainage and Flood Impact Site Plan (Appendix 7d), demonstrates the Proposal's potential ability to achieve a NorBE on water quality. The Study and associated plans provide an indicative subdivision layout that takes account of dwelling envelopes new dams, and EMAs. The Proposal notes that some reorientation of these features maybe required at subdivision DA stage. We agree with this statement and note that the final subdivision layout will need to take account of the EMA buffer distances required for the watercourse and overland flow corridor in the east.

The Proposal notes that the overall size of the site (83.8 ha) and the large 2 ha MLS, alongside the comparatively small area affected by overland flow and exclusion of the most constrained riverine flood-prone areas from development, all indicate the ability of the proposal to achieve a NorBE on water quality. We agree with this conclusion although there are some limitations in the information presented as described below.

Wastewater management

The Wastewater Management Site Plan (Appendix 7b) shows the location of dwellings and indicative locations for EMAs with respect to drainage and other features. It appears that the EMAs would achieve a 100m buffer distance from the Mulwaree River although this would need to be confirmed at subdivision DA stage. The Plan depicts a 40m buffer distance line from the central watercourse, farm dams, and another drainage feature in the north-west of the site. Further examination of the watercourse features will be required at subdivision stage to determine whether a wider 100 m EMA buffer distance might be required. However, the site plan is sufficient to demonstrate the capacity of the land to sustain a R5 zoning and 2 ha MLS.

As indicated above, one bore is known to occur on site which the PSI report identifies as being authorised for stock and domestic purposes. The PSI report also identifies a further 18 registered groundwater bores occurring within 1 km of the site, although these appear to be greater than 100 m away from the site. Apart from the on-site bore, it appears that the location of bores is unlikely to influence EMA locations on the site. The influence of groundwater bores on EMA locations can be further investigated at subdivision DA stage.

Individual plume map summaries and the location of plumes are provided in the WCMS (pp. 60-86). Some of the plume map summaries depict a different lot configuration to the conceptual layout plan (e.g. Lots 23-25) and a number are presented at a very broad scale (Lots 13-19). Several plumes also appear to go beyond individual lot boundaries (Lots 22, 25, 27 as presented on pages 81, 84 and 86). We have relied on the Wastewater Management Site Plan (Appendix

7b) which depicts all lots being > 2 ha and EMAs residing within the boundaries of proposed allotments. We have relied upon the plume map summaries demonstrating adequate space to retain the plumes on the site of individually subdivided allotments. We note that the Planning Proposal provides a table (Table 1) that correlates the newly proposed lots and plume summaries with the current lot and DP number references.

We have treated the summaries as indicative of the propensity of the land to provide EMAs and sustain plumes within the lot boundaries and with a yield of 27 lots. There appears to be sufficient land even when relevant constraints are considered (Appendix 7b). The modelling of the WEM and location of EMAs will need to be further examined at subdivision DA stage.

The WCMS identifies that the conceptual subdivision design is capable of meeting a NorBE in terms of providing on-site wastewater management systems. We generally agree that there appears to be sufficient land area to accommodate the proposed R5 zoning and a 2 ha MLS and deliver a NorBE at subdivision stage. However, some refinement to EMA locations and EMA buffer distances may be required and effluent plumes will need to be contained within lot boundaries (otherwise NorBE is not satisfied).

Stormwater management

The WCMS includes MUSIC modelling for the proposed 2 km long access road. It identifies that a NorBE on water quality can be met provided suitable control measures are implemented. The WCMS is supported by a Stormwater Management Site Plan (Appendix 7c). The plan shows the location of dwellings, drainage features and farm dams (stormwater control measures) associated with the indicative location of a proposed the access road. The Stormwater Drainage and Flood Impact Site Plan (Appendix 7d) shows the locations of building envelopes, farm dams, watercourses/ drainage features and overland flow risk areas. Together, these plans show conceptually how stormwater management measures could be provided and located on site while having regard to overland flow risks. There is sufficient area to locate necessary stormwater management measures.

Contamination Risk

The Planning Proposal is supported by an updated Preliminary Site Investigation (PSI) (dated August 2022) which assesses the site's potential for contamination. In our previous correspondence, we sought clarification of a number of points, the report to be broadened in its scope, and recommendations re-informed in light of any additional information that arose. This has been undertaken. Having reviewed the updated PSI report and Planning Proposal's response to our earlier issues, we note:

- The PSI report now clarifies that title deeds were obtained for three lots although the whole project area was included for assessment as part of the PSI. Many of the title holders were listed as graziers inferring that the site was likely used for grazing.
- The site area as depicted on Figure 1 of the PSI align with that of the Planning Proposal (Figure 1), except for Crown Road Reserve. This is a very minor issue and not problematic.
- The document clarifies that four historical aerial photographs and two satellite images were obtained for the entire site as evidenced by Appendix D of the PSI. A summary of key features is provided based the entire project boundary and encompassing all lots.
- The examination of past land uses has been derived from a search of historical title for three of the sites while also considering historic aerial photographs (from 1978 to present) and other historical searches. The information is summarised in Table 2.
- The report (p. 2) clarifies that all individual lots were inspected during the site walkover. The summary dot points provided on pages 12-13 therefore relate to the entire site.
- The report clarifies that no residential properties were present on the site and that the only building was a shed located on the in the central portion of the site. The Planning Proposal notes that no on-site systems or existing residences occur on the site. In light of this, there is no issue of contamination risk from on-site effluent management systems.

- The Planning Proposal also notes that grazing is the only land use on the site both historically and currently, and that this is not an intensive agricultural land use. This is also supported by the information in Table 2 of the PSI report.

The updated PSI report has satisfactorily addressed our earlier concerns and covers the preliminary contamination risk for Planning Proposal stage.

The PSI report identifies that limited areas of the site may be subject to contaminants of potential concern, these being waste materials scattered across the site surface and potential use of pesticides associated with grazing. Sporadic waste materials such as fencing, pipes metal sheeting and bricks were observed across the site. Minor quantities of pesticides were noted in sheds immediately south of the site. The likelihood of contamination from the waste materials and accumulation of pesticides in the soil is considered low with an intrusive investigation not being required. The PSI report recommends that a Construction Environmental Management Plan is prepared and implemented during any future construction works, including an unexpected finds Protocol. It also recommends that any fill that is to be disposed of off-site is to conform with the NSW EPA (2014) *Waste Classification Guidelines, Part 1: Classifying Waste guideline*. We agree with these recommendations and note that they can be implemented at DA stage.

Sydney Drinking Water Catchment (Chapter 8 of the Biodiversity and Conservation SEPP)

The Proposal overviews and responds to the statutory requirements of Chapter 8 of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP) that apply to the Sydney Drinking Water Catchment (SDWC). It refers to the riverine and overland flood risks relevant to the site. It also considers the WCMS and supporting stormwater management, and drainage and flood impacts site plans, noting these collectively demonstrate the Proposal's ability to meet a NorBE on water quality. The Proposal notes that the overall size of the site (83.8 ha) and the large 2 ha MLS, along with the proposed exclusion of the most constrained areas of flood risk areas from development, all indicates the ability of the Proposal to achieve a NorBE on water quality. We generally agree with these statements, although some redesign of the concept subdivision plan is likely to be required at DA stage.

The Proposal notes that the NorBE requirement will apply at subdivision DA stage along with concurrence from WaterNSW. Any future DA should also incorporate WaterNSW current recommended practices including WaterNSW's Water Sensitive Design Guide for Rural Residential Subdivisions. The Proposal references our previous correspondence on the Proposal. Overall, the Proposal gives due consideration to the statutory requirements that apply to the SDWC.

Direction 3.3 Sydney Drinking Water Catchment

The Planning Proposal includes a comprehensive response to Direction 3.3 Sydney Drinking Water Catchments, listing the objectives and requirements of this Direction (pp. 31-36). The Direction still refers to the Sydney Catchment Authority (SCA); the SCA has been replaced by WaterNSW. The Proposal would benefit by including a note as such and referencing WaterNSW in relation to correspondence received (rather than the SCA, p. 36).

The Direction requires the Planning Proposal to be consistent with Chapter 8 of the B&C SEPP and to consider the relevant Strategic Land and Water Capability Assessments (SWLCAs) prepared by WaterNSW. The requirement for new Planning Proposals to be consistent with Chapter 8 of the B&C SEPP brings into consideration that new development must have a NorBE on water quality. Therefore, Planning Proposals need to be designed so that there is a reasonable likelihood that that can be achieved at DA stage.

The Proposal includes a comprehensive response to Direction 3.3 noting that the site is un-serviced by sewer and water, that riverine flooding risk in the west of the site (Figure 8) and that the main drainage path in the east of the site is an overland flow risk area. The Proposal references the WCMS including its consideration of stormwater and wastewater risk and controls. The Proposal responds to these risks by allocating C2 zoning and associated 100 ha MLS encompasses the most frequent and severe flood-risk and overland flow areas, directing EMAs and associated water quality risks away from areas of inundation. It notes, however, that the

overland flow corridor and the C2 zoning is likely to require a reconfiguration of the subdivision design including the location of dams, dwelling envelopes and EMAs. We agree with this statement.

As indicated above, Direction 3.3 requires Planning Proposals to consider the outcomes of relevant SLWCAs. The Proposal references our previous correspondence and incorporates the relevant SLWCA map for unsewered residential lots (4,000 sqm – 2 ha). The SLWCA shows that the water quality risk to the site varies from LOW to EXTREME, with the areas classified as EXTREME being associated with the Mulwaree River and tributary watercourse. Areas of EXTREME risk have a VERY LOW capability. The Proposal notes that these areas will be included within the C2 zoning where dwellings or associated structures will be prohibited. Most of the site carries a LOW to MODERATE water quality risk which means most of the site carries a HIGH and MODERATE capability for unsewered development, respectively.

As indicated in our previous correspondence, SLWCAs do not take account of flooding risks. The outcomes of the SLWCA therefore overestimates the capability of the land in the west of the site. The R5 zoning area generally corresponds with areas of LOW to MODERATE risk.
