

17 January 2023

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

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2023/2261*

Dear Mr Kiernan,

RE: Planning Proposal to Rezone and Amend Minimum Lot Size on Lots along Brisbane Grove Road, Goulburn (REZ_0005_2122) (PP-2021-7390) (October 2022 – Gateway Version)

We refer to the Post-Gateway referral (Ref-1885) of the Planning Proposal to rezone and amend the minimum lot size (MLS) provisions of 83.8 ha of land at Brisbane Grove Road, Goulburn. The site is undeveloped and includes 22 existing lots plus an unformed road reserve in the west of the site.

The Proposal seeks to rezone the land from RU1 Primary Production and RU6 Transition to R5 Large Lot Residential and C2 Environmental Conservation to deliver a potential lot yield of 27 lots. It also seeks to amend the MLS from part 100 ha and part 10 ha (for the RU1 and RU6 zones, respectively) to 2 ha for the new R5 zone and with the C2 zone having no MLS.

WaterNSW provided comments on earlier versions of the Proposal on 9 May 2022 (our ref: D2022/35274) and again on 26 September 2022 (our ref: D2022/113583). Our previous comments were based on the Proposal delivering a 100 ha MLS for the proposed C2 zone although at that time Council was considering a 'no MLS' arrangement for C2 land in the Brisbane Grove Precinct. WaterNSW made separate representation to Council on 30 September 2022 regarding the then proposed 'no MLS' approach for the C2 land across the Brisbane Grove and Mountain Ash Precincts (our ref: D2022/114780). This 'no MLS' arrangement for the C2 land has since been adopted by Council and is reflected in the current Proposal.

The main implication of the 'no MLS' arrangement for the C2 land is that there will be added flexibility in subdivision design, enabling a split zoning (R5/C2) approach to be broadened in its application instead of the usual approach which, under a 100 ha MLS arrangement, would force the C2 land into a single residual allotment with split zoning. The approach will enable riparian and flood-prone areas that are afforded C2 zoning to fall under multiple ownerships through later lot configurations at subdivision stage. The success of the approach is reliant upon the proposed provisions of a development control plan (DCP) Chapter for the Brisbane Grove and Mountain Ash Precincts. We will also need to monitor how this transpires at subdivision stage, to ensure that lot configuration and design appropriately responds to environmental constraints and that water quality risks are not increased.

We provided earlier comments on the DCP Chapter in our 30 September correspondence and in separate feedback on the 'Allfarthing' Planning Proposal on 26 September 2022 (our ref: D2022/112222) and most recently on 23 December 2022 (our ref: D2022/175410). We are generally happy with the DCP Chapter and make only very minor comment here (Attachment 1). However, the Planning Proposal would benefit by better explaining how and when the DCP Chapter would be given effect in relation to the timing of the Proposal.

WaterNSW held some initial concerns regarding the Brisbane Grove Planning Proposal when we first reviewed it in May 2022. This included matters relating to domestic water access, potential water quality risks 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. As noted in our 26 September 2022 correspondence, these matters have been sufficiently addressed. This includes an updated PSI report that responds to our earlier questions and concerns regarding contamination risk.

The site has a number of water-related constraints. The site lies adjacent to the Mulwaree River and is flood-prone in the west and north-west. A 2nd order watercourse also bisects the land in the east, flowing from south to north across the site. The watercourse is also a flood-risk area from overland flow. We note and support that the C2 zoning is proposed over the areas of highest riverine and overland flow flooding risk. The C2 zoning over the overland flow corridor will also protect the watercourse from urban development and assist in delivering riparian protection outcomes.

The site is and will remain unserviced by water and sewer. Development of the proposed R5 zoned lands will require the provision of on-site rainwater tanks for domestic water and on-site wastewater management systems including EMAs for on-site sewage treatment and disposal. These matters are discussed in the Proposal. EMA buffer distances will apply to watercourses, drainage depressions, farm dams and any groundwater bores used for domestic purposes. This will potentially influence any final subdivision layout plan for the area and may affect the overall lot yield.

In our assessment of this Proposal, we have treated the subdivision plan as being 'conceptual' regarding site's potential ability to sustain a 2 ha MLS and a R5 zoning arrangement and reasonably deliver offspring lots for rural residential development. We have treated the plan as indicative only. Any comments made by us on the subdivision plan are to be considered in respect of the site's potential ability to deliver the zoning and MLS arrangement proposed and given the environmental constraints present. However, the comments may assist the later subdivisions design put forward at later subdivision DA stage.

Overall, we believe the site is capable of a R5 zoning and 2 ha MLS as based on the zoning and MLS boundaries put forward in the Proposal. If further changes to the zoning or MLS boundaries occur during or following exhibition of the Proposal, we would like to be further consulted given the water quality risks associated with the area.

With regard to the water quality and related planning information contained within the Proposal, please note that references to the provisions of *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (the B&C SEPP) and s 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment should be updated. Such changes should take account of new Chapter 6 of the B&C SEPP, including the revised Sydney Drinking Water Catchment provisions contained in Part 6.5, and the updates to Direction 3.3, which occurred in November 2022.

As there has been no further change to the supporting technical documents since our last review, we stand by our previous comments made with respect to those report, noting that many of the issues we raised will be relevant to the later subdivision DA. Our remaining detailed comments on the Brisbane Grove Planning Proposal are provided in Attachment 1.

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

Yours sincerely



ALISON KNIHA
Catchment Protection Planning Manager

ATTACHMENT 1 – DETAIL

Site description

The site is described on Page 6 listing the relevant lot numbers of the land affected. As indicated in our last correspondence, 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 DP 976708, which appears to be missing from the list but shown as included in the ‘subject site’ map in Figure 1. We ask Council to check the site description and map with respect to these lots. In assessing the Proposal, we have relied upon the map of the ‘subject site’ as depicted in Figure 1.

Conceptual Subdivision Design

The Proposal notes the C2 zoning may impact on the final layout of the subdivision at DA stage. We note that the layout plan responds to the riverine flood risk by excluding the residual C2 land in the north-west and west from the subdivision pattern and lot designs. However, it does not currently respond to the C2 zoning proposed for the waterway and overland flow corridor that flows south to north in the eastern part of the site. The final subdivision design will need to respond the areas allocated C2 zoning and the environmental constraints present on the site.

Watercourses and Farm Dams

The site lies adjacent to the Mulwaree River immediately west and in the north-west of the site. A 2nd order watercourse runs from south to north in the eastern section of the site. Stormwater site plans that accompany the Water Cycle Management Study (WCMS) also show a localised drainage in the north-west corner of the proposed developable (R5) area (Appendices 7b and 7d). The flood-risk and constraint presented by this watercourse at the edge of the R5 zoning will need to be further examined at subdivision DA stage.

The Proposal (page 44) indicates that there are nine existing dams and that, indicatively, seven new dams would be proposed for stormwater management associated for the access road (please note our previous correspondence incorrectly referred to seven existing and nine proposed farm dams). This is supported by relevant stormwater site plans that accompany the WCMS (Appendix 7c). The exact number and location of farm dams to be retained or constructed will need to be reconciled at subdivision DA stage.

Wastewater and Stormwater Management

As indicated in our correspondence of 26 September 2022, based on the information and technical reports provided, we believe that there is sufficient land to accommodate a R5 zoning and 2 ha MLS arrangements while providing sufficient room for building envelopes, stormwater management measures (including for access roads) and EMAs. These ancillary works will need to be contained on the R5 zoned land and meet necessary setback distances for waterways, drainage channels, farm dams and any water bores used for domestic water supply. Further examination of the watercourse features will be required at subdivision stage to determine whether wider 100 m EMA buffer distances may be required in some areas. The number and location of new and retained farms dams will need to be resolved to inform the location of EMAs (see above). Plume map summaries will need to be further refined at that time and plumes contained within lot boundaries (see comments in our 26 September 2022 correspondence). These matters will be relevant in informing the final subdivision design, as will WaterNSW’s [Water Sensitive Design Guide for Rural Residential Subdivisions](#).

Flooding

The site is subject to flooding risks from riverine flooding and overland flow. We have examined the flooding risk information which draws from the Goulburn Floodplain Risk Management Study and Plan (for the riverine flooding risk) and Overland Flow Flood Maps (for overland flow or ‘flash flooding’ risk). As raised in our 26 September 2022 correspondence, the proposed R5 zone is almost exclusively outside the Flood Planning Area and excludes the highest flood risk areas that are set aside through the C2 zoning. The R5 zoning and 2 ha MLS approach allows sufficient flexibility to respond to any residual flood-risk constraints at subdivision DA stage.

C2 Zoning and No MLS Approach

The Proposal notes that the C2 land was originally to be accompanied by a 100 ha MLS but that a revised approach of 'no MLS' has been adopted for the Brisbane Grove and Mountain Ash Precincts. It advocates that the revised approach will result in better planning and water quality outcomes. We note that the revised approach will allow areas zoned C2 to reside in multiple ownerships rather than a split-zoning being afforded a single residual allotment with responsibility for riparian areas and/or flood-prone land. The intention is to make management of these C2 areas more practical and achievable.

The Proposal discusses how the original 100 ha MLS arrangement for the C2 zone resulted in unintentional consequences such as irregular and unmanageable lot arrangements, access difficulties and reduced maintenance of drainage channels (page 12). Two matters are relevant here:

- With the removal of the 100 ha MLS, development control is going to be more reliant on the provisions of the proposed DCP Chapter. Consideration needs to be given as to how the C2 zoned land will be managed having regard to the environmental values and constraints of the C2 land. We note that the DCP Chapter provides for landscape plans to include proposals for native vegetation in C2 areas. There are also specific provisions to safeguard the C2 zones (clause 8.13.19 of the draft DCP).
- The DCP will need to clarify how 'drainage channels' are defined and how these are to be managed. This relates to clarifying the management and maintenance objectives for natural watercourses in terms of encouraging maintenance and regrowth of natural riparian vegetation, protecting bed and bank stability, and discouraging weeds. We raised this concern in our December 2022 response to the 'Allfarthing' Planning Proposal and with regard to the proposed DCP Chapter. Some refinement in the wording may be required for the DCP as per that correspondence.

Biodiversity and Conservation SEPP

The Proposal includes consideration of the provisions of the B&C SEPP with section 3.5.1 (page 18) discussing the requirements of Chapter 8 of the SEPP. The relevant provisions were recently updated and consolidated under Part 6.5 of Chapter 6 of the SEPP. New development is still required to have a NorBE on water quality. The concurrence requirement also remains unchanged. However, the new provisions now reference the NorBE Guideline which provides the pathway to current recommended practices. In this regard, WaterNSW's [Water Sensitive Design Guide for Rural Residential Subdivisions](#) will be relevant to the later subdivision DA. The aims of the SDWC provisions have also been slightly reframed and are now included as objectives.

The Proposal would benefit by updating its references to the Biodiversity and Conservation SEPP to align with the new provisions.

We note and agree with statements made regarding new development being required to have a neutral or beneficial effect on water quality. The Proposal explains how a 2 ha MLS will help protect waterways and catchments by reducing the intensity of potential, siting EMAs away from watercourses and drainage paths and by rezoning flood-prone land as C2 (page 15). The Proposal (page 20) also notes that the size of the site (83.8 ha) and the large 2 ha MLS, along with the proposed exclusion of flood risk areas from development, all indicate the ability of the Proposal to achieve a NorBE on water quality. We generally agree with this statement, although some redesign of the concept subdivision plan is likely to be required at DA stage.

Ministerial Direction 3.3 Sydney Drinking Water Catchment

Section 3.6.6 of the Planning Proposal includes a comprehensive response to Direction 3.3 Sydney Drinking Water Catchments (pp. 32-37). Please note that this Direction has recently been updated, effective 21 November 2022, to contemporise it with current legislation and agency names including now referring to WaterNSW. The objective of the Direction has been expanded to provide for 'healthy catchments' as well as to protect 'water quality' in the catchment. The previous requirements of the Direction remain but have been re-ordered.

The new Direction 3.3 provisions include an additional requirement for Planning Proposals to 'identify any existing water quality (including groundwater) risks to any waterways occurring on, or adjacent to the site'. In this regard, the site lies directly adjacent to the Mulwaree River. A 2nd order watercourse (which forms a tributary of the Mulwaree River) traverses from the south to the north of the site in the central eastern section of the site. We believe that the new additional requirement regarding water quality risks and waterways has been addressed in the Proposal in the following ways:

- Water quality risks have been considered in the revised Preliminary Site Investigation (PSI) Contamination report. This 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. However, the likelihood of contamination from the waste materials and accumulation of pesticides in the soil is considered low. The PSI report recommends that a Construction Environmental Management Plan is prepared and implemented during any future construction works, including an unexpected finds Protocol. For any fill that is to be disposed of off-site, it is to be first assessed against 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.
- Based on the updated PSI report (August 2022), one registered groundwater bore occurs on the site. This will be a relevant consideration to the location of EMAs and the application of appropriate buffer distances at subdivision DA stage. All other groundwater bores are greater than 100 m distance from the site.
- Water quality risks are controlled through the 2 ha MLS for the proposed R5 zoning and by applying a C2 zoning to the areas of greatest environmental constraint. This includes applying C2 zoning to the flood-prone land in the north-west and west of the site, thereby reducing the development potential of this area and separating the new R5 allotments from the Mulwaree River. The Proposal also applies C2 zoning to the waterway and overland flow corridor that occurs in the east of the site. This similarly protects water quality in this area by prohibiting dwellings and ancillary development from the C2 zoned lands.

For completeness, the Proposal generally responds to the outcomes of the Strategic Land and Water Capability Assessment (SLWCA). A SLWCA map is included under Figure 17 which shows that areas of EXTREME risk are associated with the waterways occurring on or adjacent to the site. These areas are proposed to be included under the C2 zoning where they occur on site. Areas proposed for R5 zoning are generally associated with areas of LOW or MODERATE risk. As indicated in our previous correspondence, SLWCAs do not take account of flooding risk. The outcomes of the SLWCA therefore overestimates the capability of the land in the west of the site.

The response to Section 3.6.6 would benefit by updating to contemporise it with the current provisions of Direction 3.3.
