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26 September 2022

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2022/112222*

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

Dear Mr Kiernan,

RE: Planning Proposal to Rezone and Amend the Minimum Lot Size on Lots at 'Allfarthing', 2 Brisbane Grove Road, Goulburn (REZ_0003_2121) (PP-2021-6932)

I refer to your email of 12 August 2022 regarding the pre-Gateway Referral of the Planning Proposal for 'Allfarthing' – 2 Brisbane Grove Rd, Goulburn and supporting technical documents including a draft precinct-specific Development Control Plan (DCP) chapter. The draft DCP Chapter has helped us to understand the planning controls proposed for the Brisbane Grove and Mountain Ash Precincts that would be applicable to this site.

WaterNSW has reviewed the Proposal and has no objection to the Proposal proceeding. In coming to this decision, we note that the updated Proposal has responded to the concerns raised in our earlier correspondence of 5 May 2022 (our ref: D2022/34298). This includes flooding risk, consistency, and availability of supporting information. The Proposal demonstrates the capacity of the land to sustain the R5 Large Lot Residential and C2 Environment Protection zoning and a 2 ha and 100 ha Minimum Lot Size (MLS) proposed for the R5 and C2 areas, respectively.

In our review, we have treated the subdivision layout plan as a conceptual plan to demonstrate how the site could be arranged to sustain dwellings, effluent management areas, an access road and stormwater management measures under a 2 ha MLS arrangement. While we provide comments on the subdivision design, these are to highlight environmental constraints and are intended to assist the later subdivision development in being able to meet a neutral or beneficial effect on water quality. We appreciate that the subdivision design may vary at the DA stage, based on further investigations and a more detailed examination of site constraints.

We understand that Council is considering an alternative planning approach for waterways and flood-risk areas for Planning Proposals in the Brisbane Grove and Mountain Ash Areas. This would see the 100 ha MLS removed from the C2 zone, enabling management of the C2 zoned land to occur under a number of future allotments rather than being restricted to a single residual allotment. WaterNSW does not object to this approach when proposed in conjunction with a R5 zoning with an associated 2 ha MLS. However, we believe there would need to be supplementary DCP controls to ensure the riparian areas were protected and that water quality risks were not increased as a result of this approach. As this a policy matter broader than just the Allfarthing Planning Proposal, we will provide more detailed comments in separate letter. Please note that in us being open to this approach, there may still be situations where management of the residual C2 land may still be most effective under a single ownership. This would need to be determined at subdivision DA stage.

Our detailed comments on the Planning Proposal are provided in Attachment 1 while Attachment 2 includes our comments on the proposed DCP provisions. In making these comments we have

examined the Allfarthing Planning Proposal on the basis on the 100ha MLS applying to the proposed C2 zoned land as stated in the Proposal.

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 – ASSESSMENT OF PLANNING PROPOSAL: DETAIL

Previous Correspondence

In our previous correspondence of 5 May, we raised the need for more clarity of the flooding risk, the possible needs for refinement of the C2 boundary and associated 100 ha MLS boundary, noted different documents presenting different subdivision layout plans, the need for finalisation of a number of appendices and absence of supporting documents. We were also without the benefit of the precinct-based DCP Chapter for Brisbane Grove and Mountain Ash area.

The updated Proposal provides more clarity about flooding risk considering the relevant Flood Risk Management Study and Plan (FRMSP) and Overland Flow mapping adopted by Council on 16 August 2022. It provides greater clarity on these two flood mapping approaches and how the C2 and 100 MLS boundaries have been derived. The Proposal clarifies that the Subdivision Plan (Appendix 3) is a conceptual subdivision layout plan and that the final layout may vary, including from the influence of the C2 zoning boundary. The Proposal includes sufficient information for us to be satisfied that later subdivision will potentially be able to deliver a neutral or beneficial effect (NorBE) on water quality, although variations to the subdivision design may be required.

Site Context

The site comprises 12 contiguous allotments (Lot 60 DP 1090981, Lot 61-64 and 71-77 DP 976708) with a combined area of 34.8 ha of rural land bounded by existing roads on three sides. The Proposal seeks to rezone the site from RU6 Transition to R5 Large Lot Residential and to amend the MLS from 10 ha to 2 ha. It also seeks to apply a C2 Environmental Conservation zoning with a 100 ha MLS across a watercourse and a ribbon of flood-prone land in the south-west of the site. The site is not serviced by reticulated sewer or water.

Alignment with Urban and Fringe Housing Strategy (UFHS)

The site lies within Precinct 11 Brisbane Grove. The relevant Precinct Summary of the UFHS notes that the area is not currently serviced by water and sewer infrastructure, that significant portions of the land are potentially flood affected, and that on-site sewerage systems need to be setback at least 100 m from any watercourse. The UFHS concludes the area is suited to Large Lot Residential development subject to the resolution of noise and water quality issues. It recommends rezoning the land that is least constrained by topography and environmental constraints to a Large Lot Residential zone (un-serviced) and for a suitable environmental zone to be allocated for flood affected land. The Proposal is consistent with the provisions of the UFHS.

Sydney Drinking Water Catchment (SDWC) – Design Response

The Proposal (p. 15) notes that the site occurs within the SDWC and that new development is required to achieve a NorBE on water quality. The Proposal protects waterways and catchments through a combination of mechanisms. These include prescribing a 2 ha MLS to reduce the intensity of potential uses, siting effluent management areas (EMAs) suitable distances from watercourses and drainage paths and rezoning overland flow corridors to C2 Environmental Conservation to reduce development potential and protect water quality. These are positive planning responses to the water quality risks associated with the area and we are supportive of the Proposal's approach regarding these matters.

Watercourses and Farm Dams

The Proposal notes that no defined drainage path runs through the site although overland flow impacts are experienced in the south-western corner (p. 17). Based on our mapping, the site is affected by a first order watercourse in the south-west of the site. This is associated with the area that is subject to localised flooding. We also note that two farm dams also currently occur in the south of the site although based on the supporting Water Cycle Management Study (WCMS) report, these will be removed and replaced by a series of smaller and strategically placed farm dams including for stormwater management purposes.

The location and nature of the watercourse (including whether it is a drainage depression or incised channel) and the position of farm dams will determine the location and extent of buffer distances required for EMAs. These distances will vary from 100 m for watercourses or drainage channels to 40 m for farms dams and drainage depressions. There appears to be sufficient room

on the site to accommodate these distances under a 2 ha MLS arrangement. The nature of the watercourse and exact location of the farm dams and position of EMAs can be resolved at subdivision DA stage.

Concept Subdivision Layout

The concept subdivision plan adequately demonstrates that the land has the capacity to sustain an MLS of 2 ha for the proposed R5 land areas. The final subdivision design may need to be varied in response to site constraints that occur in the south and south-west including flooding risk from overland flow. The current conceptual design would appear to result in split R5-C2 zonings in some southern allotments. Given the nature and location of the overland flow area, it may be better in this circumstance to have the C2 zoned land under one ownership. However, such considerations are more relevant to the later subdivision DA stage. Any later DA for subdivision will need to have a NorBE on water quality.

Flooding Risk

The Planning Proposal considers the flooding risk in terms of both riverine flooding and overland flow. For riverine flooding risk, the Planning Proposal draws from the Goulburn FRMSP. The Proposal provides a supporting map of the Flood Planning Constraints Categories (FPCCs) in Figure 6 (p. 16) with Table 2 (p. 36) providing the relevant key. This map draws from Appendix H of the FRMSP. We note that the site does not lie within the 1 in 100 year riverine flood event. The map illustrates that only category FPCC4 affects the site. This occurs on land in the north and north-west of the site and is only inundated by the probable maximum flood event.

The Proposal also discusses the flooding risk from overland flow. The Proposal identifies that an Overland Flow Flood and Floodplain Risk Management Study has yet to be completed, the Proposal draws from the recent Goulburn Overland Flow Mapping 2022 which includes the Brisbane Grove and Mountain Ash UFHS Precincts. An overland flow corridor exists in the south-west of the site and shown in Figures 7 and 12. The Proposal notes that the areas most constrained by flooding (depicted by red and blue colouring) are least suitable for development and are proposed to be rezoned as C2 Environmental Conservation. This will ensure that residential accommodation and ancillary uses are prevented from occurring in these high hazard areas. WaterNSW agrees with this approach.

Our previous correspondence suggested mapping the 1 in 50 ARI event as the NorBE tool considers flooding risk for the 1 in 50 ARI event (roughly 2% AEP) which influences the risk profile level in the wastewater modelling. It appears that areas affected by the 2% riverine flooding scenario occur outside the site, or for overland flow, protected by the C2 zoning. Any constraints presented here can be further examined and resolved at DA stage.

Water Cycle Management Study and Supporting Plans

The Proposal includes a Water Cycle Management Study (WCMS) and supporting plans including a Wastewater Management Site Plan (Appendix 7b), a Stormwater Management Site Plan (Appendix 7c) and Stormwater Drainage and Flood Impact Site Plan (Appendix 7d). These supporting plans relate to the conceptual subdivision layout plan as presented in Appendix 3.

Stormwater

The WCMS includes stormwater modelling and provides 1% AEP maximum stormwater depth maps for the pre-development and post-development scenarios. The pre-development model shows that the northern half and the western boundary of the property and areas in the southern portion of the site are affected by stormwater runoff. The post-development model considers the removal of the existing dams, the construction of new dams and inter-connecting swales, and shows a general decrease in the extent of shallow runoff when compared to the pre-development scenario, although some runoff remains in the south-west and north-west corner of the site and in proximity to the new internal road. Apart from the overland flow area in the south-west, stormwater does not appear to be an overall constraint to the site although it will need to be appropriate managed. There is sufficient land to accommodate appropriate stormwater management measures on the site.

Wastewater

Drainage and soil depth are potential constraints for wastewater management throughout the property. The lower southern and western and north-western portions of the property are subject to periodic inundation and poor stormwater drainage while phosphorus sorption capacity constraints exist in the south (WCMS p. 29). One water bore occurs on site although this is apparently currently decommissioned and not intended for any future potable water use. The WCMS identifies that EMAs will need to account for areas of overland flow and the location of new dams and EMAs will be at least 100m from any bore outside the site (p. 31).

The WCMS and supporting Wastewater Management Site Plan provides indicative EMA locations based on a 40m buffer from any open channel, farm dams, drainage, and conveyance pathway. We note that the overland flow area and proposed C2 zoning may present a greater constraint to development in the south-west than accounted for in the concept subdivision plan and supporting Wastewater Management Site Plan (Appendix 7b). Also, the nature of the drainage feature will need to be confirmed to ascertain whether it might require a larger 100 m EMA buffer distance. The WCMS identifies that a detailed site analysis and design will be required at the time of future residential development. We agree with this approach and note that that these matters can be examined at subdivision stage to inform the exact location of dwellings, farms dams and EMAs.

The WCMS also includes soil sample and Wastewater Effluent Model (WEM) plume map summaries. Having regard to soils and site characteristics, the WCMS identifies that the natural conditions are conducive for effluent disposal measures (WCMS, p. 30). The plume map summaries at the back of WCMS show how effluent plumes can be contained on the site for 16 lots, although the lot designs are configured slightly differently to those presented in the conceptual subdivision layout plan. The Planning Proposal relates the plume summary lots to the existing lots by means of Table 1 of the Planning Proposal. The WCMS concludes each of the proposed lots could support a septic tank and absorption disposal system. The information is sufficient to demonstrate the capacity of the site to sustain a 2 ha MLS arrangement and contain EMAs and associated plumes under a 2ha MLS arrangement. This is sufficient for Planning Proposal stage.

Contamination Risk

WaterNSW examined the Preliminary Site Investigation (PSI) in its previous assessment of the Proposal. In that advice we indicated our support for the recommendations contained in the PSI report. This included the preparation of a hazardous building material assessment and construction environment management plan (incorporating an unexpected finds protocol) and assessment of material in accordance with NSW EPA (2014) Waste Classification Guidelines, Part 1: Classifying before waste material is removed off-site. These matters can be addressed at DA stage.

Biodiversity and Conservation SEPP - Sydney Drinking Water Catchment

The Planning Proposal provides a detailed and well-considered response to the Sydney Drinking Water Catchment provisions of Chapter 8 of the Biodiversity and Conservation SEPP (pp. 16-17). This includes a consideration of flooding risk from overland flow (as discussed above), the overland flow corridor and drainage path in the south-west of the site, and the outcomes of the submitted WCMS. The Proposal acknowledges that later development should ensure the incorporation of WaterNSW's current recommended practices and that any future DA will be required to have a NorBE on water quality. We support these statements.

Direction 3.3 Sydney Drinking Water Catchment

The Proposal provides a detailed response to s 9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment. While the actual requirements of Direction 3.3 still refer to the Sydney Catchment Authority (SCA), the SCA has since been abolished and replaced by WaterNSW. The Proposal would benefit by a note to this effect and refer to correspondence from WaterNSW rather than the SCA.

The response to Direction 3.3 notes that the Proposal is unserviced by water and sewer and that the lots will have on-site wastewater and effluent management systems. It also notes that the site

does not lie within the 1 in 100 year flood event and only the north-western corner stands in the probable maximum flood extent. We agree with these statements (see earlier comments).

The Direction requires for the Planning Proposal to be consistent with Chapter 8 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP) and to give consideration relevant Strategic Land and Water Capability Assessments (SLWCAs) prepared by WaterNSW. The former requires new development to have a NorBE on water quality. The outcomes of the WCMS are relevant here (previously discussed). As indicated earlier, we believe that the Proposal will be able to deliver a NorBE at DA stage.

Additional information is provided regarding flooding risk and the relationship of the overland flow risk to the subdivision design and lot configuration presented in the conceptual subdivision layout plan (as assessed in the WCMS). The Proposal notes that under the concept design most of the lots would have their dams, EMAs and dwellings outside the most constrained areas of overland flow risk. However, Lots 8 to 11 of the concept subdivision plan would have dams, dwellings, envelopes or EMAs associated in the higher risk areas. The Proposal recognises that while an overlay approach would be useful, the mapping adequately demonstrates that subdivision would be possible given the overall site area. We note that the final subdivision layout will need to give due consideration to the proposed C2 zoning and overland flow risk in this area. The overall lot yield may not be as great expected due to constraints in the south-western area. Again, these are matters to be resolved at later DA stage.

The response to Direction 3.3 notes that the C2 zoning and associated 100 ha MLS (which encompasses the highest risk overland flow areas) will help provide water quality outcomes. Dwellings and ancillary works would need to be located outside the C2 zoned areas. The Proposal also notes that the C2 zoning will likely require a rearrangement of lot boundaries as presented in the subdivision concept layout plan, as well as dwelling envelopes, EMAs and farm dams in the south of the site. We agree with these statements. Again, these are matters for the later subdivision DA.

The response includes the outcomes of the SLWCA that we provided in our correspondence of 5 May 2022. The Proposal responds to the SLWCA noting that current Lots 74 and 75 in the south-west corner are subject to areas of EXTREME risk where unsewered development should be avoided. The Proposal identifies that the EXTREME risk area follows the drainage channel where the C2 Environmental Conservation zone is proposed, thereby preventing dwelling development in that area. The Proposal also emphasis unsewered residential development is most suited to LOW and MODERATE risk areas. We agree with the inclusion of this information and the statements made

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ATTACHMENT 2 – DCP PROVISIONS: BRISBANE GROVE & MOUNTAIN ASH PRECINCTS

Summary

A Draft Brisbane Grove and Mountain Ash Precinct-specific development control chapter is provided in Appendix 1 to the Proposal. WaterNSW is strongly supportive of Council's initiative in developing this chapter. The Precinct has a range of significant landscape constraints that warrant consideration in development design and assessment. The low lying areas are likely to encounter difficulties in finding buildable space given the 100 m setback required for EMAs.

8.13.2 Existing Character Statement

This section would benefit by recognising:

- that the area is unserviced by sewer and water and is unlikely to be subject to such servicing in the foreseeable future (if this is the case) (this comes out later in clause 8.13.3 in relation to new development but some comment on the current situation would be beneficial here)
- that the areas within the Precinct are also subject to gully erosion.

8.13.4 Objectives

We note and support Objective D that seeks to ensure new development has a NorBE on water quality.

If current or future residences are relying on groundwater bores, Council may wish to reference groundwater protection particularly as new subdivisions will result in a greater number of EMAs.

Objective I could be modified so that the end of the sentence reads 'environmental sensitivity *and constraint* (or risk) *including* inundation. This would foster a wider consideration of natural hazards than just inundation (e.g. bushfire, gully erosion).

8.13.6

We note there is no reference to Flood studies being required. However, we believe that the DA should be accompanied by a flood risk assessment that includes consideration of the FRMSP and Overland Flow maps (and modelling if it becomes available) as applying to the site.

8.13.7 Subdivision

This section of the DCP should reference the WaterNSW 2021 Water Sensitive Design Guide for Rural Residential Subdivisions publication.

We support the DCP flagging that a Section 88B Instrument will be applied to the title of the land subject to subdivision for the purposes of restrictions and covenants to ensure future development meets the policy requirements of the DCP.

- The list of dot points might be expanded to include flood-liable land.
- The current dot point referring to 'riparian corridors' may not sufficiently cover all the circumstances where C2 zoned land covers low lying areas. We suggest adding the following dot points:
  - Flood liable land
  - Gully protection.

The paragraph addressing the C2 zone only contemplates situations where the C2 zone forms a corridor in the landscape. There may be situations where flood-liable areas lie low in the landscape covering a blanket of land and without forming a corridor. Is split zoning envisaged in this situation? The provisions may need to be revised to take account of this situation.

There are no provisions for stormwater management in the DCP provisions. The section on subdivision could be expanded to ensure that the subdivision includes:

- provision for access including new access roads that may be required
- stormwater management measures for any access road
- requirements for s88B instruments upon any lots burdened with stormwater management measures associated with the access road.

This section also provides a list of requirements for Proposals to demonstrate that each allotment created is capable of being used for un-serviced residential development. This list could be expanded to include areas required for stormwater management including for management of any access road where a lot is burdened with stormwater management measures required for the road.

Under 'Policy', we believe that there should be an additional provision:

- Minimise creek crossings in C2 zoned land.

The last major point states 'Proposals must demonstrate that allotment created is capable of being used for un-serviced residential development which has at least one suitable building envelope in the R5 zone having regard to …'. A range of issues are then listed as listed in sub dot-points. Two issues are relevant here:

1. We believe that this section needs to more clearly state that dwellings and ancillary uses, including EMAs, need to be contained within the R5 zone (as such uses are prohibited in the C2 zone).
2. For the issues listed in sub-dot points, we believe the following should be added:
    - The location and use of water bores on the site and considering those of neighbouring areas.
    - Protection of waterways and water quality (including groundwater).
    - Buffer distances for EMAs.

8.13.8 Site coverage and Setback requirement

The current provisions allow for a site coverage of 30% for the main building, secondary dwelling, outbuildings, garages etc. This requirement and the reason for the cap needs more clarification.

1. Does this include effluent disposal and irrigation areas? The Policy note at the end of clause 8.13.19 also appears relevant and may need to be referenced here.
2. Does it include landscaping?

We are concerned that this provision may be giving the impression that there is an allowance for up to 30% of the site being impervious. This may implicitly allow 6,000 m^2 (minus areas for wastewater irrigation) of a 2 ha site being used for hardstand. Allowing 30% of a property to be used for the purposes stated could have a cumulative adverse impact on stormwater runoff and exacerbate the risks from overland flow to downstream areas in the immediate locality as well as increasing the risk of gully erosion and damage to riparian areas, decreasing overall water quality.

- We request Council reconsider, and potentially reduce, the 30% cap to another lower threshold level. Consideration should also be given to possibly removing the cap in case it is interpreted as an 'allowance' for areas of hardstand.

We also ask for an additional dot point to be added:

- Hardstand and impervious areas to be minimised and all hardstand and impervious areas to be clearly identified in any DA.

8.13.19 Safeguarding the C2 Environment Conservation Zone

We support the intention that the zoning seeks to avoid adverse impacts on life and property, maintain water quality and enhance the biodiversity value of riparian corridors. However, as raised earlier, the reference to 'riparian corridors' may not sufficiently cover all the circumstances where C2 zoned land covers low lying areas. C2 zoning may also occur over low-lying flood liable land or unvegetated and eroding gullies. This section would benefit by also protecting the bank and bed stability of waterways and minimising the risk of gully and streambank erosion.

The section on Policy makes strong positive provisions for protecting the C2 areas. We agree with these statements, particularly in relation to requiring ancillary residential structures and EMAs to outside the C2 zones and the fencing off of the C2 zoned land.

The section would benefit by identifying the following:

- S88B instruments may need to be placed over the C2 zone requiring management and maintenance of these areas for the purposes for which they have been zoned and to help manage, protect, and where necessary restore, riparian areas.
- That C2 zones require development consent for extensive agriculture. Grazing or other agricultural uses should generally be avoided in C2 zones unless for environmental management purposes (e.g. pulse grazing for weed control).
- If the riparian area is the subject of an existing landholder agreement for the management and maintenance of the riparian land, then this should be stated in any DA submitted for development of the lot.

8.13.20 – Water Quality and Storage

We strongly support the opening paragraph that reminds applicants that the precincts lie in the SDWC and that all development must adequately achieve a NorBE on water quality.

The reference to 'Effluent management areas must be located at least 100 metres from watercourses and at least 40 metres from drainage depressions' should be expanded so that:

- the 40 m buffer distances also take account of new or retained farm dams
- reference is made to the EMA setback requirement for groundwater bores.

We strongly support the DCP statement that 'Effluent management areas must be sited within the R5 Large Lot Residential zone and outside the C2 Environmental Conservation Zone'.

We support the inclusion of the last major dot point that discusses the new requirement for a Wastewater Management Assessment report. The list of factors for consideration should be expanded to include:

- Location of groundwater bores on and proximity to the site and potential risk of contamination.

Reference should also be made to relevant WNSW Current Recommended Practices including:

- Developments in the Sydney Drinking Water catchment – Water Quality Information Requirements
- Designing and Installing On-site Wastewater Systems

8.13.23 Riverine and Overland Flow Flooding

Council may wish to refer to the provisions and heads of consideration of clause 5.21 of the Goulburn Mulwaree Local Environmental Plan.
