

28 January 2022

Contact: *Stuart Little*
Telephone: *0436 948 347*
Our ref: *D2022/4544*

Ms Kate Wooll
Business Manager Strategic Planning
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

Dear Ms Wooll,

RE: REF 1123 Post-Gateway Referral – Draft Planning Proposal: Marulan Drinking Water Treatment Plant (REZ 0001_2122)

I refer to the ePlanning referral of 17 January 2022 regarding the Planning Proposal (dated 29 November 2021) to rezone 189 Brayton Road Marulan (Lot 10 DP 1067488) to SP2 Infrastructure (Public Utility Undertaking) to extend the Marulan Water Treatment Plant (WTP) facility. The lot adjoins the current WTP and is in Council ownership but is currently zoned R5 Large Lot Residential under the Goulburn Mulwaree Local Environmental Plan 2009 (LEP). The rezoning is intended to permit development for the purposes of a water treatment facility, specifically treatment lagoons, either with consent under the LEP or without consent under State Environmental Planning Policy (Infrastructure) 2007. The Proposal notes that the development without consent planning pathway is likely to be used and a review of environmental factors (REF) prepared for the proposed works. The 2,000 m² minimum lot size (MLS) would also be removed as part of the rezoning process as it is not considered relevant to the SP2 zone.

WaterNSW provided Pre-Gateway comments on the Proposal on 24 November 2021 (our ref: D2021/121375). The main issues raised by us at that time included that the Proposal should:

- include more information about the nature of the pollutants likely to arise in the new water treatment lagoons
- include a map of the water-related constraints on the land including the location of existing waterways and farm dams, and information about the flood risk, and
- provide further detail and clarity on the relationship between the rezoning and the Infrastructure SEPP planning pathway, raising this matter earlier in the document.

Taking into account information in the current Proposal and addressing these matters in order:

1. With regard to the request for more information about the nature of the pollutants likely to arise in the new water treatment lagoons, the current Proposal notes that such information has not been included because of an apparent discrepancy with information contained in Attachment 1 of our previous letter. In that Attachment we said:

The treatment lagoons, also referred to as sludge ponds, will present a potential risk to water quality as they contain by-products from the water treatment process. Pollutants are likely to be held in solution and suspension. The main risk is seepage (managed by construction) or overflow (managed by procedures). These matters are more relevant to the development application stage or in preparing a REF for the site.

To clarify, the term ‘these matters’ referred to the seepage and overflow risks, with these issues being more relevant to the REF stage. It would be helpful if the Planning Proposal briefly canvassed the types of pollutants that could be expected in the treatment lagoons. This could be based on the chemical analysis and contents of the existing WTP lagoons. It would also be helpful if the Proposal briefly mentioned the types of controls that might be included to help reduce risks to the new proposed treatment ponds, particularly given the presence of drainage features on the subject land. This could include locating ponds outside of the drainage features or noting that the proposed ponds would be created as turkey-nest dams reducing the risk of flooding and overflow from up-catchment run-on entering the ponds and reducing their overall capacity. This would then help address the consideration of water quality risk as per the objective of s 9.1 Direction 5.2 Sydney Drinking Water Catchment. It would also help as a response to any potential flooding risk to the site.

2. The Proposal (Map 4, p.10) now provides a map of the watercourses as requested. It identifies that two watercourses cross the site, one of which already feeds directly in the existing WTP facility. The other, located in the south-western corner of the site, also flows through the existing facility before entering Jaorimin Creek. The Proposal identifies that the construction and operation of any future treatment lagoons would need to be designed in accordance with the Neutral or Beneficial Effect (NorBE) principles of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (SDWC SEPP). We agree with this statement and refer Council to the provisions of clauses 9 and 12 of the SDWC SEPP as provided below. The proximity of the proposed treatment ponds to the existing watercourses and NorBE considerations will need to be addressed when options and concept designs are being considered.

The Planning Proposal now provides a consideration of the flooding risk albeit noting there is no relevant flood study or floodplain risk management study or plan relevant to the Marulan area. Council is currently preparing such studies and plans that would include the site, but these documents are unlikely to be available in the short term. The Proposal notes that the site is upstream of the current WTP and that the site is further distant from Jaorimin Creek than the existing facility. The Proposal notes that it is inconsistent with s 9.1 Ministerial Direction 4.3 Flooding due to the absence of such studies and states that the inconsistency with the Direction is of minor significance. We ask that that flooding risk to the site, in terms of mobilising and releasing contaminants from the proposed lagoons, be considered in the preparation of the REF.

3. The Planning Proposal (p.4) provides a clearer explanation regarding the rezoning and planning pathways that would be available to Council under State Environmental Planning Policy (Infrastructure) 2007 for the proposed works. It also clarifies (pp. 4-5) that no changes are proposed to the land use table of the LEP and that the Proposal involves mapping amendments only (i.e. to facilitate the change in zoning and removal of the MLS).

The Proposal offers to consult with WaterNSW as a stakeholder either as part of the section 60 application process (under the *Local Government Act 1993*) or during the assessment of options at concept design stage. WaterNSW requests to be consulted when exploring options and at the concept design stage to help ensure that the Proposal effectively considers the NorBE requirement for water quality protection, particularly given the presence of two watercourses on site. We also ask that we are kept updated when the upgrade is occurring.

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

The Proposal provides the aims of the SDWC SEPP and notes that water quality considerations would be considered under any Part 5 EP&A Act assessment (i.e. the REF). The Proposal would benefit by referencing that clause 12 of the SDWC SEPP requires that a public authority must, before it carries out any activity to which Part 5 of the Act applies, consider whether the activity would have a NorBE on water quality. It would also benefit by referring to Clause 9 of the SDWC SEPP that advises developments or activities should incorporate WaterNSW’s current recommended practices (CRPs) and standards or otherwise demonstrate how the practices and standards will achieve outcomes not less than those of the WaterNSW CRPs.

Information on watercourses, consideration of the NorBE requirement on water quality, and further consultation on design and options are included as addressed above.

Direction 5.2 Sydney Drinking Water Catchment

In response to Direction 5.2 Sydney Drinking Water Catchment, the Planning Proposal refers to the objective and requirements of the Direction and our previous advice and on this matter. It acknowledges that Special Areas are unaffected by this Proposal and WaterNSW does not hold any relevant Strategic Land and Water Capability Assessments for water treatment facilities or associated lagoons. For land in the Sydney Drinking Water Catchment, the Direction also requires that the relevant planning authority (Council) ensure that the proposal is consistent with the SDWC SEPP. This matter is addressed above.

We ask that the Proposal be updated to take account of the advice provided.

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