

25 October 2024

Contact: Stuart Little
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Our ref: D2024/121588

Mr David Kiernan
Senior Strategic Planner
Goulburn Mulwaree Council
184 Bourke Street
GOULBURN NSW 2580

**Planning Proposal to Rezone & Amend Minimum Lot Size on Lots at 274 Mountain Ash Road
(REZ_0004_2121; PP-2021-7072; REF_3128)**

Dear Mr Kiernan,

I refer to the Gateway referral of 12 September 2024 (Ref 3128) regarding a Planning Proposal to Rezone and Amend the Minimum Lot Size on Lots at 274 Mountain Ash Road, Goulburn. We have based our assessment on the Planning Proposal (Version 3, dated September 2024) as provided to us on 22 October 2024. WaterNSW previously commented on the Planning Proposal on 26 July 2024 (Our Ref: D2024/58608) which is included as Appendix 9c to the Proposal.

The Proposal involves 13 lots covering some 277 ha of land and seeks to rezone the land from RU1 Primary Production to R5 Large Lot Residential and C2 Environmental Conservation (for flood affected land). It also proposes to change the Minimum Lot Sizes (MLSs) of the site from 100 ha and 10 ha, to 2 ha for the R5 land with a 'no MLS' applying to the C2 land. The site is heavily constrained by watercourses, drainage features and overland flow paths. It is also un-serviced by reticulated water and sewer and would remain so. Future dwellings will be reliant on rainwater collection for domestic water supply and on-site effluent management systems for wastewater treatment and disposal.

The Proposal is accompanied by an indicative subdivision layout plan yielding approximately 108 lots. We have treated the plan as indicative of the how the site may be developed under the proposed new zoning and MLS arrangements, although the Plan may change at later subdivision development application (DA) stage. We note that the C2 zoning does not permit dwellings and that any ancillary works associated with dwellings would be precluded from the C2 zoned areas. To this end, the Proposal would instead more likely generate an overall yield of 70-80 lots.

We provided a detailed assessment of the Proposal in our initial correspondence in July. We note that the latest version of the Proposal includes our comments of 26 July and responds to a number of matters raised, although some matters are still outstanding. In that correspondence, we indicated that the proposed zoning and zoning configuration was generally reflective of environmental constraints and would generally help protect water quality from impacts associated with future development. While we stand by these statements, upon further reflection, we are concerned that the 'No MLS' arrangement for the C2 zone land may lead to unintended water quality risks given the number of waterways occurring on site. We cannot support the 'no MLS' arrangement for the site at this point in time.

We realise that the conceptual subdivision plan is indicative only regarding how the site might be developed under the proposed zoning and other planning controls. However, the 'no MLS' arrangement is being interpreted as facilitating high fragmentation of waterways to maximise lot yield. Comparison of 'no MLS' arrangement with the conceptual subdivision plan, reveals that the waterways would be split amongst approximately 50 lots. This is about half the project lot yield across the 277 ha of land. This also only constitutes a proportion of the C2 zoned which encompasses the broader land area based on overland flow flooding risks.

We have significant concerns regarding the 'No MLS' arrangement for this area given the number of waterways and drainage features present and the site constraints. We envisage that fencing and other works would be required along property boundaries potentially increasing erosion and clearing along fencelines and relegating weed management to individual landholders. The conceptual subdivision design does not also appear to minimise the number of creek crossings required (fences and roads). It therefore does not bide well to support the 'No MLS' arrangement proposed. It is not clear how a 'No MLS' arrangement will functionally work to protect waterways on this site.

We recommend that a MLS of 100 ha would be more applicable for the C2 zone or another specified MLS (e.g. 20 ha MLS) to help ensure waterways would be retained and managed under a limited number of ownerships. We request that the WaterNSW ['Water Sensitive Design Guide for Rural Residential Subdivisions'](#) (WaterNSW 2023) document be consulted in terms of development design, and how the design might better respond to waterways and drainage features. The Guide is called up by the WaterNSW [Neutral or Beneficial Effect on Water Quality Assessment Guideline](#) [NorBE Guideline] (WaterNSW 2022). The MLS arrangement proposed needs to be supported by subdivision designs that conform with the guide to help demonstrate how the Planning Proposal will later conform with the water quality requirements applying at DA stage.

Our detailed comments on the latest version of the Proposal are provided in Attachment 1. The Proposal needs to better demonstrate how the choice of MLS will protect waterways and water quality and help ensure the likelihood of a neutral or beneficial effect (NorBE) on water quality being achieved at subdivision DA stage. This is important given the potential number of offspring lots and the proportion that may back onto waterways or drainage channels. We also seek further clarification on certain matters relating to the contamination assessment report.

We request to be advised when the Proposal proceeds to exhibition and be informed regarding how our issues have been addressed.

If you have any questions regarding this letter, please contact Stuart Little at stuart.little@waterNSW.com.au.

Yours sincerely,



JUSTINE CLARKE
A/Environmental Planning Assessments & Approvals Manager

ATTACHMENT 1 – DETAILED COMMENTS

C2 Zoning

As raised in our previous correspondence, we support the approach of applying C2 zoning to flood-prone land and thereby protecting waterways and water quality. There also appears to be sufficient space for the proposed R5 zoned lots to accommodate effluent management areas (EMAs) and dwelling footprints, and for all development to be confined to the R5 zone, noting that the C2 areas would not be developed.

In our previous advice, we raised that the 'no MLS' arrangement for the C2 land could give rise to multiple lots with split zoning which may, in turn, potentially compromise the management of watercourses and drainage features, and overall protection of water quality. We sought for the Proposal to include more information regarding how the C2 zoned land would be managed. It has since become clearer that the MLS arrangement is being interpreted as a means of maximising lot yield at the expense of water quality outcomes, based on the conceptual subdivision design being put forward to support the Proposal.

The Proposal currently justifies the 'no MLS' arrangement from a precinct-wide scale and policy perspective (P. 13). Consideration should be given to how the C2 land would be managed in this circumstance and on this particular site, given the extent of watercourses and the number of future lots that are likely to back onto waterways or overland flow areas. We are concerned that the MLS arrangement may end up degrading waterways rather than protecting them. A set Minimum Lot Size (MLS) (e.g. 100 ha or 20 ha) for the C2 zone appears more appropriate. The indicative subdivision plan does not demonstrate how a 'No MLS' arrangement for the C2 zoning will protect waterways and water quality.

For the Stage 1 area, 1st and 2nd order waterways lie close to the edge of lot boundaries with each tributary being split amongst 4-5 lots under the subdivision plan.

For the Stage 2, a 3rd order watercourse and overland flow area occurs in the north of the site. Water quality outcomes would be best delivered in a consolidated arrangement. This in turn would be best accommodated through a residual allotment with a 20 ha MLS. This would deter fragmentation of the waterways at this location and foster management under one ownership. The subdivision concept plan current splits the waterways into 9-10 split zoning lots under the 'No MLS' arrangement. While the subdivision plan is conceptual, it is not responsive to site constraints in this area.

The Stage 3 area is affected by two watercourses comprising a major overland flow path that occurs in the lower lying areas in the north. It is also affected by drainage features feeding into these tributaries. Again, management of the water courses and overland flows path may best be served by these areas residing in one or split amongst only a few landholders rather than being spread amongst some 20 landholders as suggested by the subdivision concept plan.

We hold significant concerns that 'no MLS' arrangement will deliver future lot configurations that fragment the management of water courses and drainage features and cannot support the arrangement at this stage.

We wish to have a clear understanding of how waterways will be managed to understand the 'No MLS'.

Stormwater

In our previous correspondence, we indicated that stormwater management requirements would need to be comprehensively addressed at subdivision stage. Having considered this matter further, the C2 zoning may constrain the degree to which farm dams can be repurposed under the zoning controls. However, we also note that the provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 makes provision for stormwater management systems to be undertaken across any zone with consent.

We would expect that new stormwater management controls associated with and ancillary to new dwellings would be retained on the R5 zoned land and that any repurposing of the farm dams would be a supportive measure given that the dams are mostly 'on line' (i.e. within drainage channels) and were designed for other purposes.

Contamination risk

In our previous correspondence, we sought clarification on several matters regarding the contamination report. We have since had correspondence from Council regarding our previously identified concerns and a number of those points have now been resolved. Having regard to that information:

- We request that the Preliminary Site Investigation (PSI) report be updated to include a more detailed consideration of past uses of the site and whether these are likely to present any risk to water quality, including the farm dams and whether such uses present any limitations for their future intended use. If the additional information reveals any high risks for water quality, then additional water quality and sediment testing should occur. This information should also consider risks to groundwater. We specifically seek for the PSI report to:
 - clarify that there has been any evidence of past use of the site for horticulture or intensive animal agriculture (e.g. saleyards, dairy) and whether the dams were ever used as effluent disposal/ treatment ponds. If no evidence, then water quality sampling is not required.
 - contextualise the past land uses in terms of risks to groundwater.
 - within the scope of uses, consider any risk from the current dwelling and past farm buildings and any other past infrastructure, including associated effluent management systems.
 - further clarify whether and how potential areas of contamination concern and soil sampling were targeted.
 - be updated with respect to groundwater bores, noting that section 5.9.2 underestimates the number of bores occurring within 500m of the site.
- We note that the number and purpose of groundwater bores within 500m of the site is clarified on P.44 of the Proposal. This identifies that no bores are located within 150m of the site except for the on-site groundwater bore which will be decommissioned as part of any subsequent development application (DA).
- We are satisfied with the information pertaining to pesticides and that the PSI report identifies that Organochlorine Pesticides (OCPs) were below the laboratory limit of reporting and therefore below the adopted assessment criteria (PSI Report, P. 18). We note that OCPs are included in the results in Table 4 of the PSI Report (P. 16).

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The Proposal includes a consideration of water quality risks with respect to Part 6.5 Sydney Drinking Water Catchment of State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP). The Proposal notes that later development will need to have a Neutral or Beneficial Effect (NorBE) on water quality and will require concurrence from WaterNSW. We agree with these statements. Reference is also made regarding how new development should comply with Water NSW current recommended practices. Note that references to recommended practices are now contained in the [Neutral or Beneficial Effect on Water Quality Assessment Guideline](#) (WaterNSW 2022) which is called up under s 6.63 of the B&C SEPP. The Planning Proposal should also make reference to the WaterNSW [Water Sensitive Design Guide for Rural Residential Subdivisions](#) (WaterNSW 2023) as being relevant to the future subdivision of the site.

Direction 3.3 Sydney Drinking Water Catchment

The Planning Proposal provides a comprehensive response to s9.1 Ministerial Direction 3.3 Sydney Drinking Water Catchment (Pp 40-50) including consideration of the waterways, flooding, effluent disposal, and other water quality risks. The Proposal includes a copy of the outcomes of the Strategic Land and Water Capability Assessment (SLWCA) in Figure 21 which we provided previously. This shows that the water quality risk for the site varies from LOW to EXTREME. Areas of HIGH and EXTREME risk are generally associated with the drainage features and water courses. These areas are largely encompassed by the proposed C2 zoning which will operate to protect water quality. We support this approach. However, we remain concerned over the 'No MLS' arrangement for the C2 zone for reasons outlined.

Other Matters

During our assessment, Council has clarified that there is an existing dwelling and associated effluent management system on site, when currently the Proposal indicates that no dwellings or effluent management areas on the site (Pp. 6, 44). This information should be corrected prior to exhibition.
