

**15.5 PLANNING PROPOSAL TO REZONE LAND ADJOINING COUNCIL (DRINKING) WATER TREATMENT PLANTS, IN GOULBURN AND MARULAN**

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**Attachments:** Nil

<b>Reference to LSPS:</b>	Planning Priority 1: Infrastructure - Vision 2040 – Infrastructure meets the needs of a growing community
<b>Cost to Council:</b>	Nil anticipated – the land is already in Council ownership and it is presumed no site specific technical studies will be required for Marulan. A Biodiversity Assessment Method will be required for the Goulburn site but it is being undertaken in-house. Future costs associated with the development of either site are not considered in this report.

**RECOMMENDATION**

That:

1. The report from the Business Manager Strategic Planning on the planning proposal to rezone Council land (adjoining the Goulburn and Marulan Water Treatment Plants) at 234 Wheeo Road, Goulburn and 189 Brayton Road, Marulan be received.
2. Council prepare a planning proposal/s to amend the *Goulburn Mulwaree Local Environmental Plan 2009 (GM LEP 2009)* by rezoning:
  - a) No. 234 Wheeo Road, Goulburn (Lot 1 DP 1030749) from RE1 Public Recreation to SP2 Special Uses (Infrastructure).
  - b) No. 189 Brayton Road, Marulan (Lot 10 DP 1067488) from R5 Large Lot Residential with a minimum lot size of 2000m<sup>2</sup> to SP2 Special Uses (Infrastructure) with no minimum lot size.
3. The planning proposal/s once prepared, be submitted to the Department of Planning, Industry and Environment (DPIE) for a gateway determination in accordance with Section 3.34 of the *Environmental Planning and Assessment Act 1979*.
4. The Department of Planning, Industry and Environment be advised that Council wishes to be issued with an authorisation to use delegation for the planning proposal/s.
5. In the event that the Department of Planning, Industry and Environment issues a gateway determination to proceed with the planning proposal/s, consultation be undertaken with the community and government agencies in accordance with any directions of the gateway determination.
6. In the event that the one of the sites holds up processing of the planning proposal for the other site, that the planning proposal be split into separate proposals given the urgency to upgrade Marulan’s water treatment facility.

Section 375A of the *Local Government Act 1993* requires General Managers to record which Councillors vote for and against each planning decision of the Council, and to make this information publicly available.

**BACKGROUND**

This matter has not previously been reported to Council.

## REPORT

### Introduction

Council's Business Manager Water Operations has made two requests that Council rezone land in its ownership which is adjacent to the current water treatment plants (WTPs) at Goulburn and Marulan. The request has been made in order to facilitate the expansion of the existing facilities.

Council's Business Manager Water Operations has advised in relation to Goulburn:

*The Utilities department are looking to construct two new sludge lagoons at the Goulburn water filtration plant. Unfortunately this work will encroach on the neighbouring block of land (Lot 1 DP 1030749) which is currently zoned RE1 Public Recreation. The proposed lagoons will not add capacity to the existing treatment plant or process, rather it will formalise an existing process that has been expanded ad hoc to ensure Council can manage and dispose of its sludge. The new lagoons will work alternately, with one lagoon filling while the other will be offline, allowing the sludge within to dry. The lagoons will also allow for easier collection and disposal of the sludge [effective through this improved dewater process], with the sludge and backwash water being transported to a single lagoon (that is currently online) rather than constantly pumping it between various lagoons on site.*

*The Utilities team are seeking to rezone the land in question from RE1 to SP2 (Infrastructure) which will allow the construction of these lagoons without consent [but would be subject to a review of environmental factors- REF].*

Council's Business Manager Water Operations has advised in relation to Marulan:

*The Utilities department are looking to upgrade the Marulan water filtration plant within the next few years and are aiming to rezone the land neighbouring the existing site (189 Brayton Road). The water quality in Marulan is not meeting residents' expectations, with regular complaints being received by Council. We have identified some issues with the water supply, and the likely outcome will involve upgrading the existing treatment plant and adding additional treatment processes. Given the constrained nature of the existing parcel of land, it is likely Council will need to construct infrastructure on the neighbouring block at 189 Brayton Road. Nothing is definite at this stage, however given the current options proposed to Council at the very least the construction of sludge lagoons will be required which will not be possible on the existing water treatment site. [Council has since been advised by Department of Planning Industry and Environment that further treatment will be required and cannot be accommodated onsite.]*

This report supports both requests from the Utilities Directorate as the zoning change will be required to allow for the required upgrades on both sites thereby benefiting existing and future residents of Goulburn and Marulan.

Water Operations has indicated that the Marulan upgrade is more urgent/time sensitive as the water quality issues are current, whilst the upgrades to Goulburn whilst necessary are not as pressing. On this basis it may be necessary to process the rezoning of each site as a separate planning proposal.

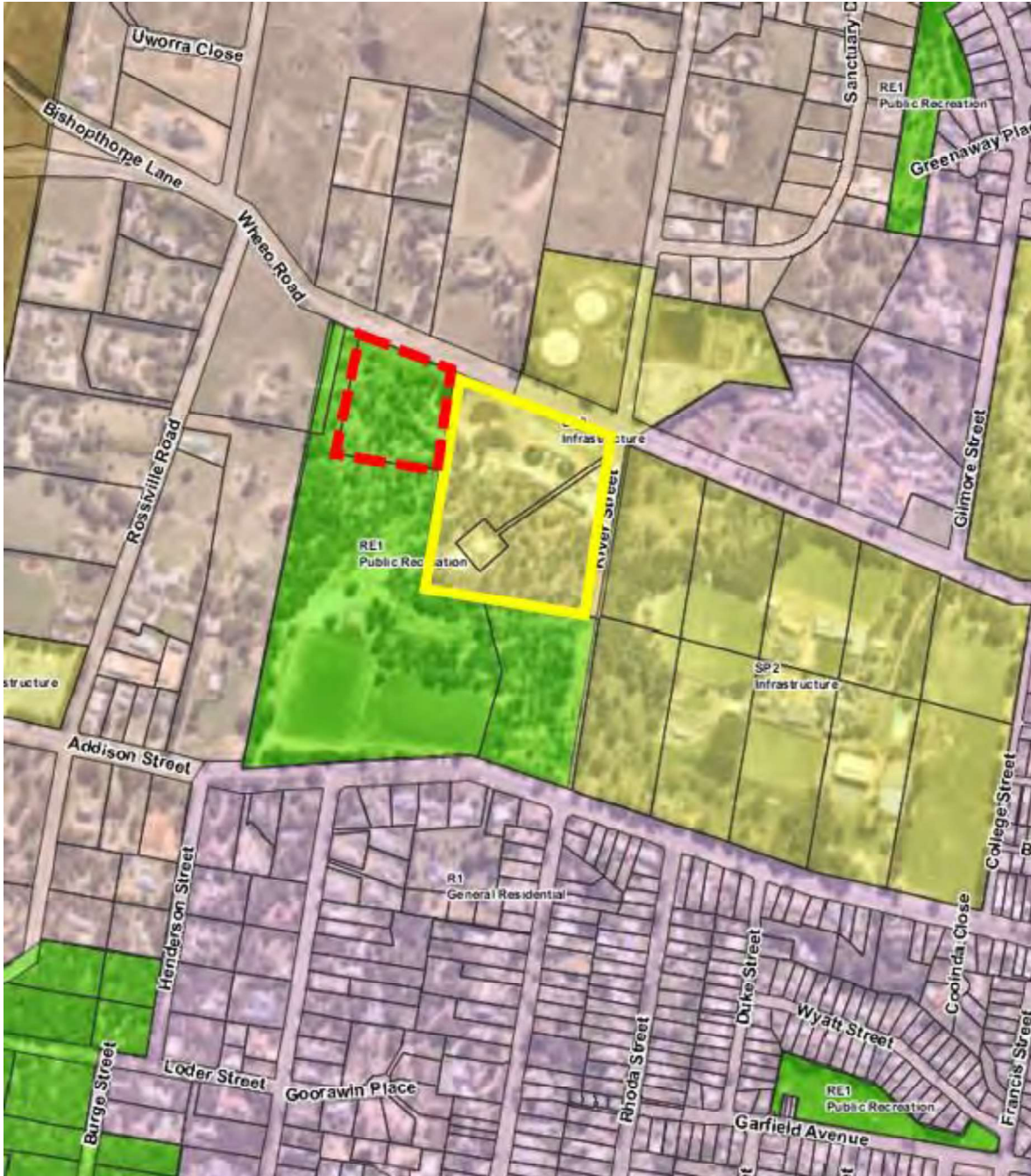
### **Council's Legislative Public Health Requirements for Drinking Water**

Under the *NSW Public Health Act 2010* Council is required as a water authority to provide drinking water which is fit for human consumption, with the relevant State Minister having the authority to intervene should drinking water be considered to be unfit for human consumption. Furthermore, under the Act, water suppliers must have a quality assurance program (Council's Drinking Water Management Plan) which identifies Council's roles and responsibilities regarding drinking water quality such as health based and aesthetic limits to ensure customers can safely and comfortably drink the water provided.

**Subject Sites**

Goulburn Site

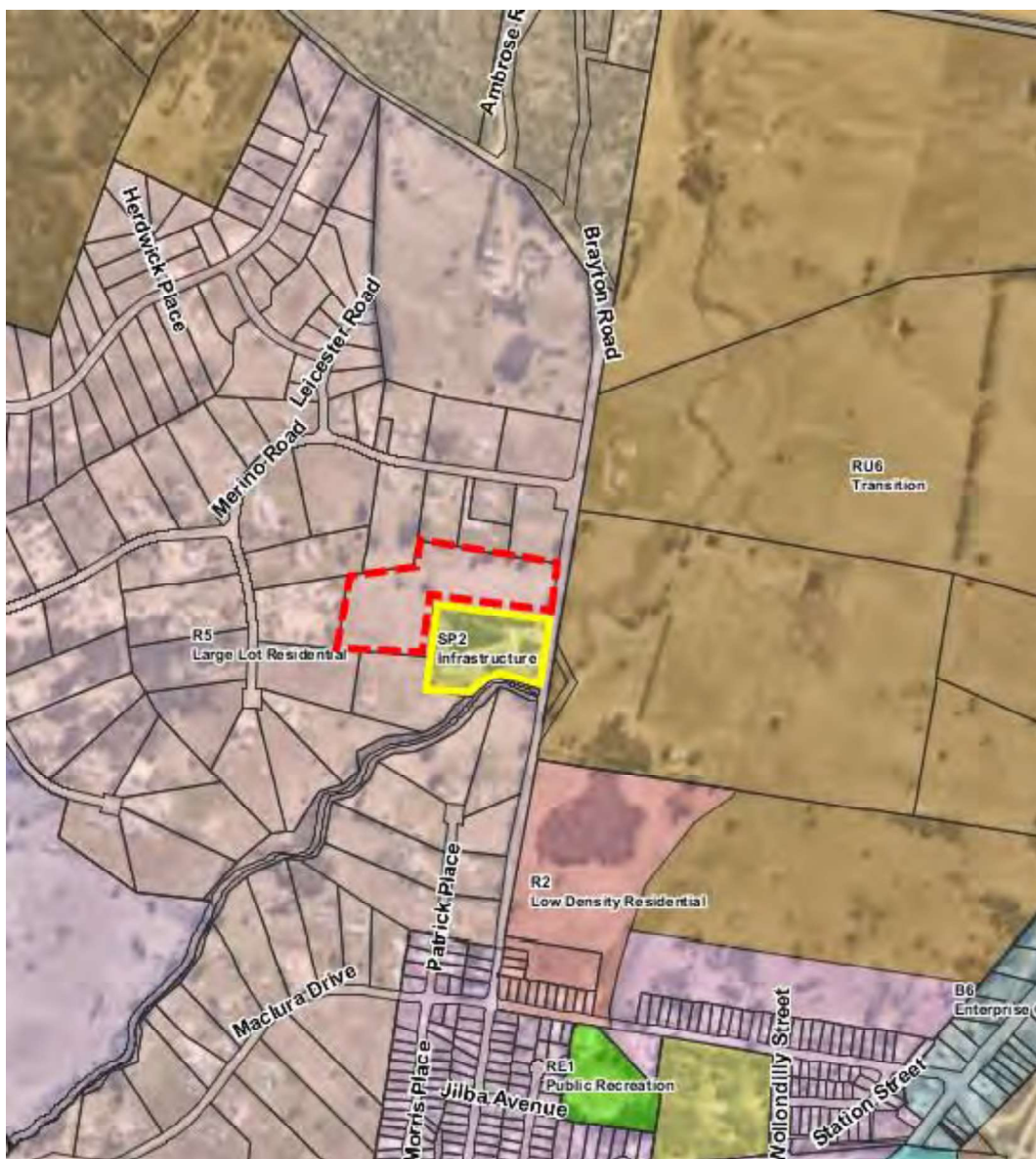
The subject site for Goulburn is No. 234 Wheeo Road (Lot 1 DP 1030749), Goulburn and is located to the north and north-west of the existing water treatment plant (WTP) (Refer map in **Figure 1** below).



**Figure 1:** Zone map showing boundary of Lot 1 DP 1030749 outlined in red with the location of the existing water treatment plant (WTP) outlined in yellow.

Marulan Site

The subject site for Marulan is No. 189 Brayton Road (Lot 10 DP 1067488), Marulan and is located to the north and north-west of the existing water treatment plant (WTP) (Refer map in **Figure 2** below).



**Figure 2:** Zone map showing boundary of Lot 10 DP 1067488 outlined in red with the location of the existing water treatment plant (WTP) outlined in yellow.

- *Zoning and Land Use - Goulburn*

The site is currently zoned RE1 Public Recreation under *Goulburn Mulwaree Local Environmental Plan 2009* (GM LEP 2009). Under the RE1 Public Recreation Zone “water supply systems” are listed as a prohibited use.

*State Environmental Planning Policy (SEPP) (Infrastructure)* provides an alternate pathway for approvals for some development/activities which fall under the definition of water supply systems. However, this alternate pathway is mainly applicable to “prescribed zones” listed under the SEPP. Unfortunately the RE1 Public Recreation Zone is not a prescribed zone under the SEPP. Therefore, in this case the proposed sludge ponds are actually prohibited given the current zoning.

It is noted that the ownership of this site dates back to the former Goulburn City Council and that its location adjoining the current WTP suggests that the land was strategically acquired by Council to allow for the future expansion of the existing WTP. The site already contains an existing sludge lagoon that dates back to sometime between 1975 and 1985 (based on aerial photography).

It would appear that the RE1 Public Recreation zoning of the site is an anomaly which should have been corrected with GM LEP 2009 when prepared.

- *Zoning and Land Use - Marulan*

The site is currently zoned R5 Large Lot Residential under GM LEP 2009 with a minimum lot size of 2000m<sup>2</sup>. Under the R5 Large Lot Residential zone “water supply systems” are listed as a prohibited use.

*State Environmental Planning Policy (SEPP) (Infrastructure)* provides an alternate pathway for approvals for some development/activities which fall under the definition of water supply systems. However, this alternate pathway is mainly applicable to “prescribed zones” listed under the SEPP. Unfortunately the R5 Large Lot Residential zone is not a prescribed zone under the SEPP. Therefore, in this case the proposed sludge ponds are actually prohibited given the current zoning.

It is noted that the ownership of this site dates back to Greater Argyle Council and that its location adjoining the current WTP suggests that the land was strategically acquired by Council to allow for the future expansion of the existing WTP. It would appear that the R5 Large Lot Residential zoning of the site is an anomaly which should have been corrected with Goulburn Mulwaree LEP 2009 when prepared.

- *Aboriginal Cultural Heritage*

An Aboriginal Heritage Information Management System (AHIMS) search has been undertaken for both of the sites and has not identified any Aboriginal sites or places on or near the site. Should the land be rezoned to SP2 (infrastructure), a review of environmental factors (REF) will be required prior to construction of the ponds or further works at either site.

- *Biodiversity Goulburn*

The site is not mapped as terrestrial biodiversity under GM LEP 2009. However, a preliminary investigation by Council’s Environment and Biodiversity Assessment Officer has found it is likely to contain a Critically Endangered Ecological Community being Box Gum Woodland and Derived Grasslands. Accordingly, site survey using the Biodiversity Assessment Method under the *Biodiversity Conservation Act 2016* has commenced.

Strictly speaking, the planning proposal process should be used to avoid impacts on endangered biodiversity where possible (i.e. avoiding zones which increase the development capability of a site or sensitive portion of a site). In this instance, however, impacts upon biodiversity may be unavoidable. Water Operations has considered the feasibility of using other land around the WTP but found that this is limited due to other factors such as the:

- presence of the same plant community as the subject site;
- location of existing infrastructure such as pipework and reservoirs;
- need for the lagoon to be located within close proximity of the treatment plant;
- location of the existing lagoons/sludge ponds; and
- extent of land in Council ownership.

Given the biodiversity issues associated with the Goulburn site this may delay the processing of the planning proposal for this site. Accordingly, given the time sensitivity of the Marulan upgrade, it may be required to separate the two proposals at a later date. Initial discussion with DPIE (Biodiversity and Conservation) would suggest that it will not be possible to expedite the planning proposal for the Goulburn site.

- *Biodiversity Marulan*

The site is not mapped as terrestrial biodiversity under GM LEP 2009.

Council’s Environment and Biodiversity Assessment Officer has recently advised (in a pre-DA lodgement meeting) that:

- The site is not currently located on the Biodiversity Values Map (please review as you are preparing information to support your application as these maps may be revised periodically).
- Site inspection on 25th August, 2021 found that the site has been previously cleared and only a few remnant Cabbage Gums *Eucalyptus amplifolia* are present. The groundcover layer is largely dominated by exotic pasture species and weed species, including Phalaris *Phalaris aquatica*, Cock's Foot Grass *Dactylis glomerata*, Prairie Grass *Bromus catharticus*, Yorkshire Fog *Holcus lanatus*, Sheep's Sorrel *Acetosella vulgaris*, St John's Wort *Hypericum perforatum*, Sub Clover *Trifolium subterraneum*, Flatweed *Hypochoeris radicata* and Paterson's Curse *Echium plantagineum*. Parts of the site are very boggy, with some Rushes *Juncus* spp.
- The land is currently used for grazing by horses.
- No evidence was found of any threatened species, ecological communities or habitats at the time of the site inspection. It is unlikely that the proposed activity will have a significant impact on any threatened species, populations or habitats, but this will need to be verified by a more detailed site survey prior to commencing any works or lodgement of a Development Application.

On the above basis a Biodiversity Assessment Method (BAM) survey is not proposed to be undertaken for the Marulan site.

- *Water Quality*

Both sites are located within the Sydney Drinking Water Catchment.

Goulburn: the site does not contain any creeks or natural drainage paths, although the site would drain to the Wollondilly River via a nearby drainage line/water course that connects to the river. The site contains an existing sludge lagoon.

Marulan: the Marulan site contains two water courses which drain to Jaorimin Creek to the south (via the existing WTP site).

- *Bushfire*

Both the Goulburn and Marulan sites are located on bushfire prone land, however, the proposed zoning is not seeking to add any additional residential potential accordingly a bushfire assessment is not required.

- *Contamination*

Both the Goulburn and Marulan sites are not identified on Council's Contamination Register and the proposed use/zoning is not facilitating the development of a sensitive use so no further contamination assessment is required.

The Marulan site is vacant land with no known history of a potentially contaminating land use.

The Goulburn site does partly contain an existing sludge lagoon. Consideration of potential contaminants in the existing sludge lagoon would be undertaken in any future review of environmental factors as a part of the proposed expansion of the lagoons. Management of any construction or decommissioning of the existing sludge pond would also need to consider water quality impacts.

- *Noise/Odour*

The proposed expansion of the WTPs is for the construction of additional sludge lagoons and it is noted that the Marulan site adjoins a large lot residential area. There is no anticipated noise generation associated with this use beyond the construction phase.

In relation to odour, Council has never received any odour complaints for the sludge lagoons at the Goulburn and Marulan WTP sites.

- *Local Government Act – Land Classification*

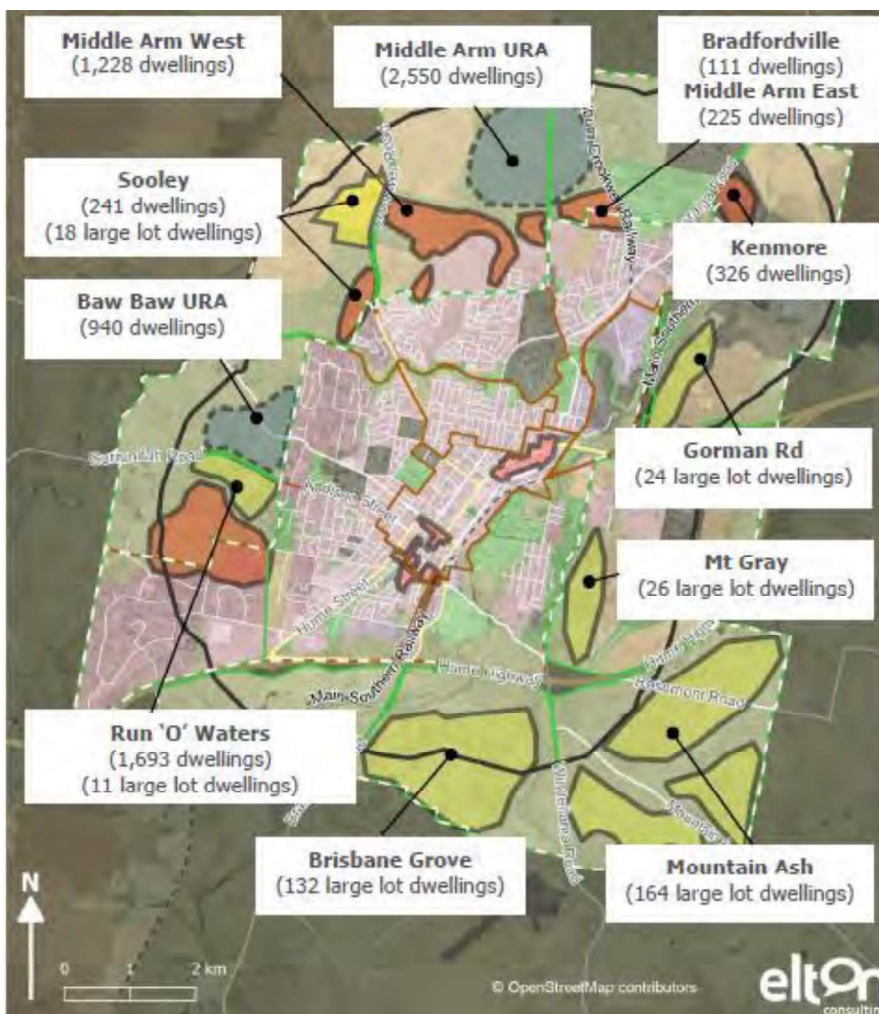
Both the Goulburn and Marulan sites are currently classified as “operational land” under the *Local Government Act, 1993* and therefore do not require reclassification prior to or during the planning proposal.

### Strategic Context Assessment

The request from Council’s Business Manager Water Operations is to facilitate the upgrade essential Council water supply infrastructure to meet the existing and future needs of Goulburn and Marulan for clean potable water supply. As previously discussed this aligns with Council’s legislative responsibilities for the provision of drinking water under the NSW Public Health Act.

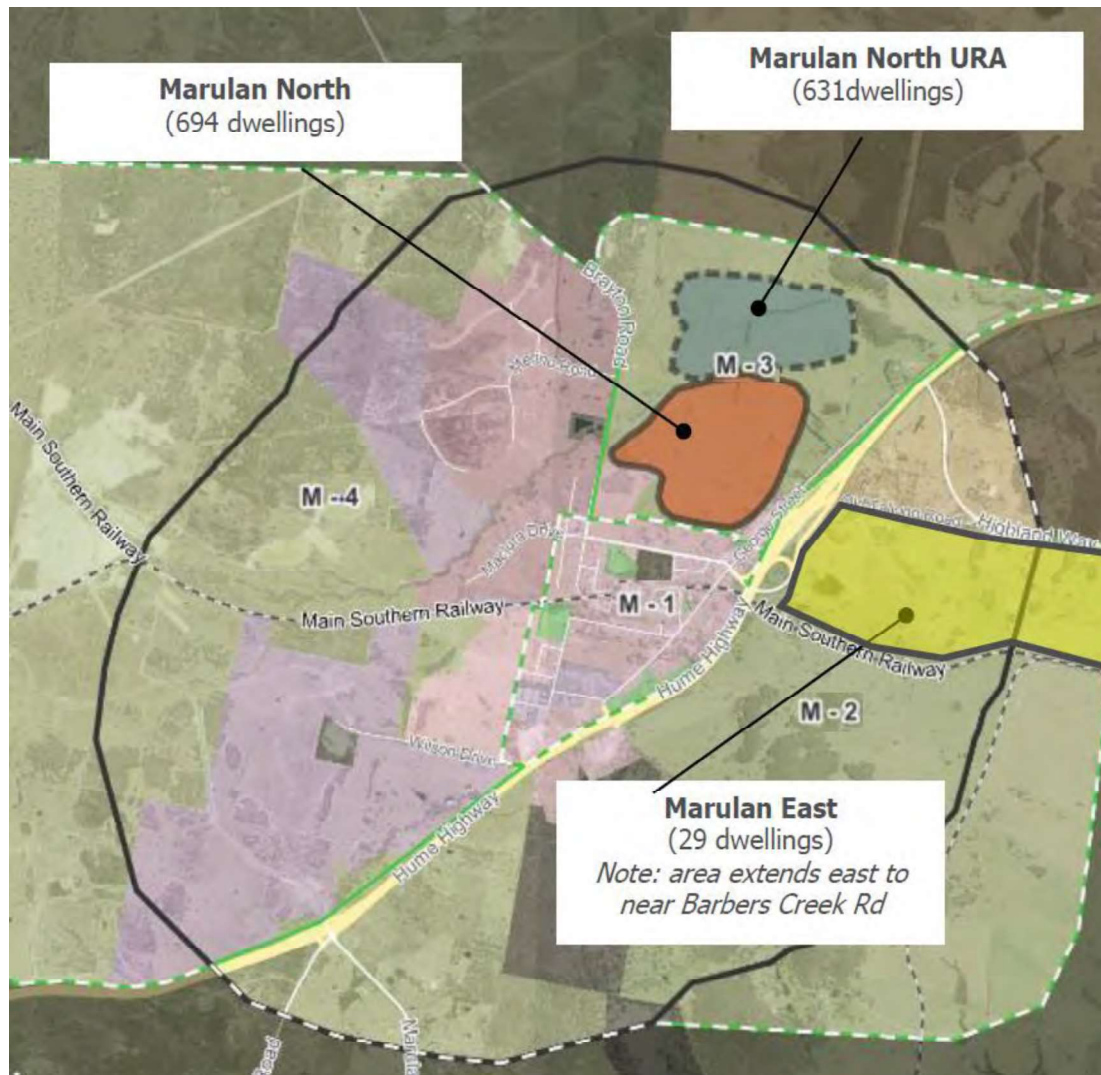
Council’s Local Strategic Planning Statement (LSPS) has a vision for 2040 being “Infrastructure meets the need of a growing community”, the proposed rezoning aligns with this vision as it is providing for expansion of water supply infrastructure to meet the needs of the community.

Goulburn is identified in Council’s *Urban and Fringe Housing Strategy* (**Figure 3**) as an area which will be subject to further growth and expansion based on the availability of reticulated water and sewer systems. The provision of potable water for existing and future residents is considered to be critical.



**Figure 3:** Extract from *Urban and Fringe Housing Strategy* with the approximate location of the urban release areas in Marulan.

Marulan is identified in Council's *Urban and Fringe Housing Strategy* (**Figure 4**) as an area which will be subject to further growth and expansion based on the availability of reticulated water and sewer systems. The provision of potable water for existing and future residents is considered to be critical.



**Figure 4:** Extract from *Urban and Fringe Housing Strategy* with the approximate location of the urban release areas in Marulan.

Both of the identified sites are located next to the existing water treatment facilities and are best positioned in terms of the technical requirements for expansion.

There are no identified environmental constraints in relation to the Marulan site, although biodiversity will be a significant potential constraint in relation to the Goulburn site. The difference between the environmental constraints, and urgency in relation to the public health issues for the two sites, will make it likely that the amendments to the GM LEP 2009 will be processed separately.

**Conclusion and Recommendation**

It is recommended that the requests from Water Services to rezone both Lot 1 DP 1030749 from RE1 Public Recreation to SP2 (Infrastructure) and Lot 10 DP 1067488 from R5 Large Lot Residential with a minimum lot size of 2000m<sup>2</sup> to SP2 (Infrastructure) with no minimum lot size be supported by Council. If the recommendation is supported, the planning proposal/s will be reported back to Council for final consideration after agency consultation and public exhibition is completed in accordance with the gateway determination.



As identified earlier in the report, the biodiversity issues for the Goulburn site will be likely to complicate the planning proposal process for this site. The issues around water quality in Marulan are identified as being urgent and as such Council will be seeking to have the planning proposal for the Marulan site expedited. It is likely therefore that this will result in separate planning proposals for each site.