



Goulburn Mulwaree Council

Planning Proposal-

**To Rezone 233-234 Wheeo Road, Goulburn to SP 2
Infrastructure (Public Utility Undertaking) under**

Local Environmental Plan 2009

22 May, 2024

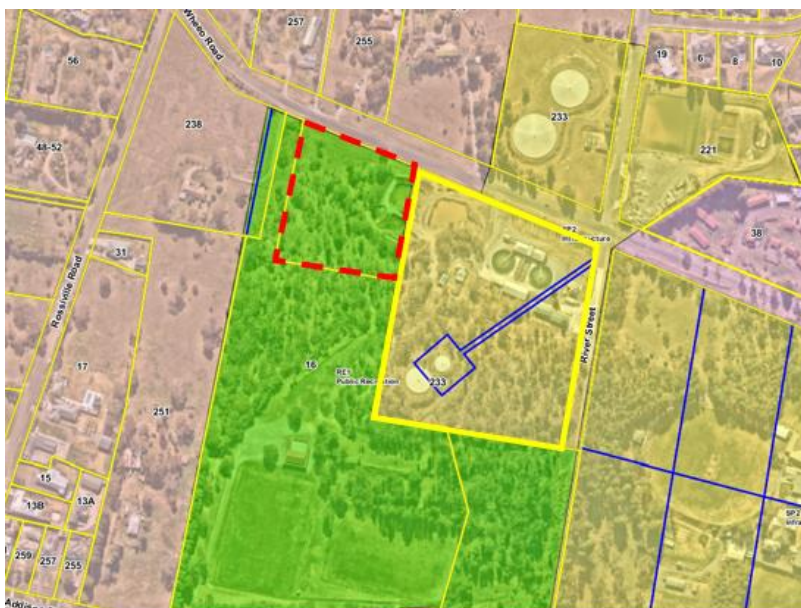
| Version | Comment | Date |
|---------|--|---|
| 1 | Issued pre Gateway (for Water NSW/NSW DPE - BCD) | 21 November, 2023 |
| 2 | For Gateway (including Water NSW and NSW DPE BCD submission) | 24 January, 2024 5 February, 2024 14 February, 2024 |
| 3 | Post Gateway and State Agency Referral – For Exhibition | 26 March, 2024 |
| 4 | Public Exhibition | 22 May 2024 |

Introduction

Goulburn Mulwaree Council resolved at its meeting of 2 November 2021 to prepare a Planning Proposal to rezone land adjoining both the drinking water treatment plants at Goulburn and Marulan. The land at No. 189 Brayton Road (Lot 10 DP 1067488), Marulan has already been rezoned to SP 2 Infrastructure (Public Utility Undertaking) under *Goulburn Mulwaree Local Environmental Plan (GM LEP) 2009* as it was a priority given current water quality issues. The rezoning of the land adjoining the Goulburn drinking water treatment plan (DWTP) at 233 Wheeo Road, Goulburn, was deferred pending further assessment of options for both treatment methods and location given the biodiversity present on the site. A copy of the Council Report and Minutes in relation to this matter are attached (**Attachments 1 and 2**).

Following further assessment of options for treatment and location, Council's Utilities Directorate has advised that it has determined that the best location and method of treatment will necessitate the expansion of the existing facility into the adjoining Lot 1 DP 1030749 as identified in Map 1 below.

The intention of this Planning Proposal is to facilitate the expansion of the existing Goulburn Drinking Water Treatment Plant site (233 - 234 Wheeo Road, Lot 1 DP1030749) by expanding the SP 2 Infrastructure zoning onto an adjoining lot in Council's ownership. It is intended that the lot will be developed in future with additional treatment facilities, specifically treatment lagoons.



Map 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.

It should be noted that the treatment lagoons for the Goulburn Water Treatment Plan already extend into the subject lot proposed to be rezoned. Therefore, the site is classified as “operational” land under the NSW Local Government Act, 1993 rather than as “community”, therefore this planning proposal does not include any provisions relating to land reclassification.

Council is the delegated plan making authority for this planning proposal subject to the conditions of the Gateway determination issued by the Department of Planning, Housing and Infrastructure [former Department of Planning and Environment – DPE] on 15 February, 2024.

Part 1 – Intended Outcomes

The **intended outcome** of the instrument proposed by this Planning Proposal is to rezone No. 234 Wheeo Road (Lot 1 DP 1030749), Goulburn from RE1 Public Recreation to SP 2 Infrastructure (Public Utility Undertaking) under *Goulburn Mulwaree Local Environmental Plan (GM LEP) 2009*.

The zone change will allow development for the purposes of a potable water treatment facility either with consent under GM LEP 2009 or without consent under *State Environmental Planning Policy (Infrastructure) 2007*. This will provide a planning assessment pathway to allow the expansion of the water treatment facility subject to either a development application (DA) or review of environmental factors (REF).

Part 2 – Explanation of Provisions

The application of the SP 2 Infrastructure (Public Utility Undertaking) zone allows for a public utility undertaking (such as a water treatment facility) to be undertaken with consent under *Goulburn Mulwaree Local Environmental Plan 2009*. This zoning would, however, be a “prescribed zone” under *State Environmental Planning Policy (Infrastructure) 2007*, Part 3, Division 24 Water Supply Systems (Clause 125 Development permitted without consent) and would allow for development for the purposes of a water treatment facility which is carried out by or for a public authority [the Council], to be undertaken without consent. It is likely that given the planning pathway provided under *State Environmental Planning Policy (Transport and Infrastructure) 2021* that a review of environmental factors (REF) under Part 5 of the *NSW Environmental Planning and Assessment Act, 1979* would be undertaken for a future expansion for the water treatment facility onto this site rather than a development application (DA).

Given the above, no changes to the land use table are proposed, with the amendment to the *Goulburn Mulwaree Local Environmental Plan 2009* being a map only amendment.

The proposed outcome will be achieved by map amendment to the *Goulburn Mulwaree LEP 2009* as follows:



Map 2 *Current and Proposed Zone*

Part 3 – Justification

Section A – Need for Planning Proposal

3.1 Is the Planning Proposal a result of any strategic study or report?

No, the Planning Proposal is identified as a current operational requirement for the purposes of appropriately treating potable drinking water for the existing and future population in Goulburn. The provision of potable drinking water to an existing and future population is critical infrastructure.

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 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.

Council adopted a key strategic planning document for the future growth and development of the Local Government Area, namely the *Urban and Fringe Housing Strategy*. One of the intentions of the Strategy is to provide criteria for the consideration of Planning Proposals in future for land located on the fringe of the towns, specifically Goulburn and Marulan. Given the housing growth identified for Goulburn, it is anticipated that increased support from local infrastructure such as drinking water supply will also increase. The adoption of the *Urban and Fringe Housing Strategy* assists with infrastructure planning by identification of future growth potential and urban release areas. On this basis the Planning Proposal is consistent with this Strategy.

3.2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is the only means of addressing the permissibility of the proposed use. The site is currently zoned RE1 Public Recreation under GM LEP 2009. Under the RE1 Public Recreation zone "water supply systems" are listed as a prohibited use.

State Environmental Planning Policy (SEPP) (Transport and Infrastructure) 2021 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 defined as a “water treatment facility” are prohibited given the current zoning.

Section B – Relationship to Strategic Planning Framework

3.3 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Southeast Tablelands Regional Plan 2036

Goal 4 of the Southeast and Tablelands Regional Plan: Environmentally Sustainable Housing Choices, is the most relevant goal in relation to this Planning Proposal. The following directions are of relevance:

Direction 25: Focus housing growth in locations that maximise infrastructure and services.

The actions associated with Direction 25 are:

25.1 Focus future settlement to locations that:

- maximise existing infrastructure and services and minimise the need for new services;
- prioritise increased densities within existing urban areas; and
- prioritise new release areas that are an extension of existing strategic and local centres.

25.2 Plan for and prioritise services and infrastructure investment to maximise cost efficiencies, coordinate the delivery of different infrastructure assets, and achieve equitable sharing of responsibility, including funding, procurement, and ongoing maintenance.

The Planning Proposed is consistent with the above actions as it is intended to provide for the orderly development of land within Goulburn by maximising existing infrastructure and services.

3.4 Is the Planning Proposal Consistent with a council's local strategy or other local strategic plan?

3.4.1 Goulburn Mulwaree Local Strategic Planning Statement (LSPS) (2020)

The LSPS seeks to direct how future growth and change will be managed up to 2040 and beyond and sets out key issues and opportunities for managing urban, rural, and natural environments across the Local Government Area.

It establishes that the LGA's rural landscape is intrinsic to the character of our city and villages and seeks to balance a mix of land uses and minimise land use conflict whilst enabling planned growth which maintains a strong sense of place, accompanied by infrastructure which meets the needs of a growing community.

Planning Priority 1 of the LSPS is infrastructure, with a 2040 vision statement being "Infrastructure meets the needs of a growing community". Furthermore, two planning principles relating to infrastructure in this section of the LSPS are relevant being:

- *Identify, maintain, and upgrade essential community infrastructure in the main population centres of Goulburn and Marulan to meet community needs.*
- *New development and planning decisions provide for adequate infrastructure (water, sewerage, stormwater management) to accommodate new development.*

The Planning Proposal is consistent with the LSPS in that it seeks to enable infrastructure to be planned in a cohesive way to ensure that infrastructure meets the needs of a growing community.

3.4.3 Goulburn Mulwaree Urban and Fringe Housing Strategy (2020)

The *Goulburn Mulwaree Urban and Fringe Housing Strategy (adopted July 2020)* provides criteria for the identification of future urban land and criteria for the consideration of land to be used for rural residential lifestyle lots. This Planning Proposal will facilitate supporting critical infrastructure for the existing population and supports the future orderly development of land in Goulburn (in accordance with the criteria for identification and location of suitable land) in the Strategy.

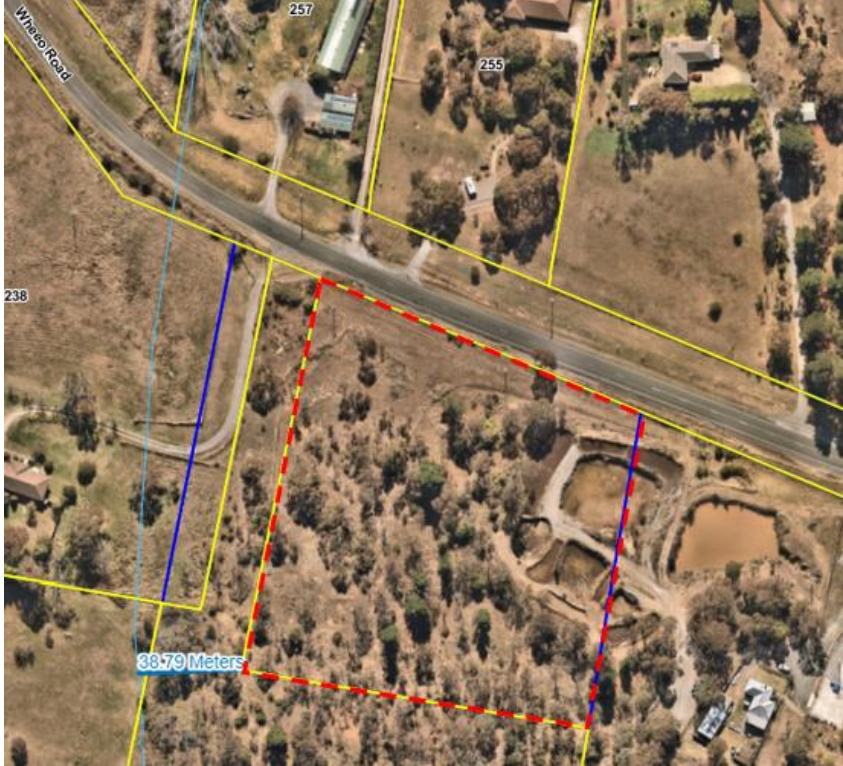
3.5 Is the Planning Proposal consistent with the applicable State Environmental Planning Policies (SEPP)?

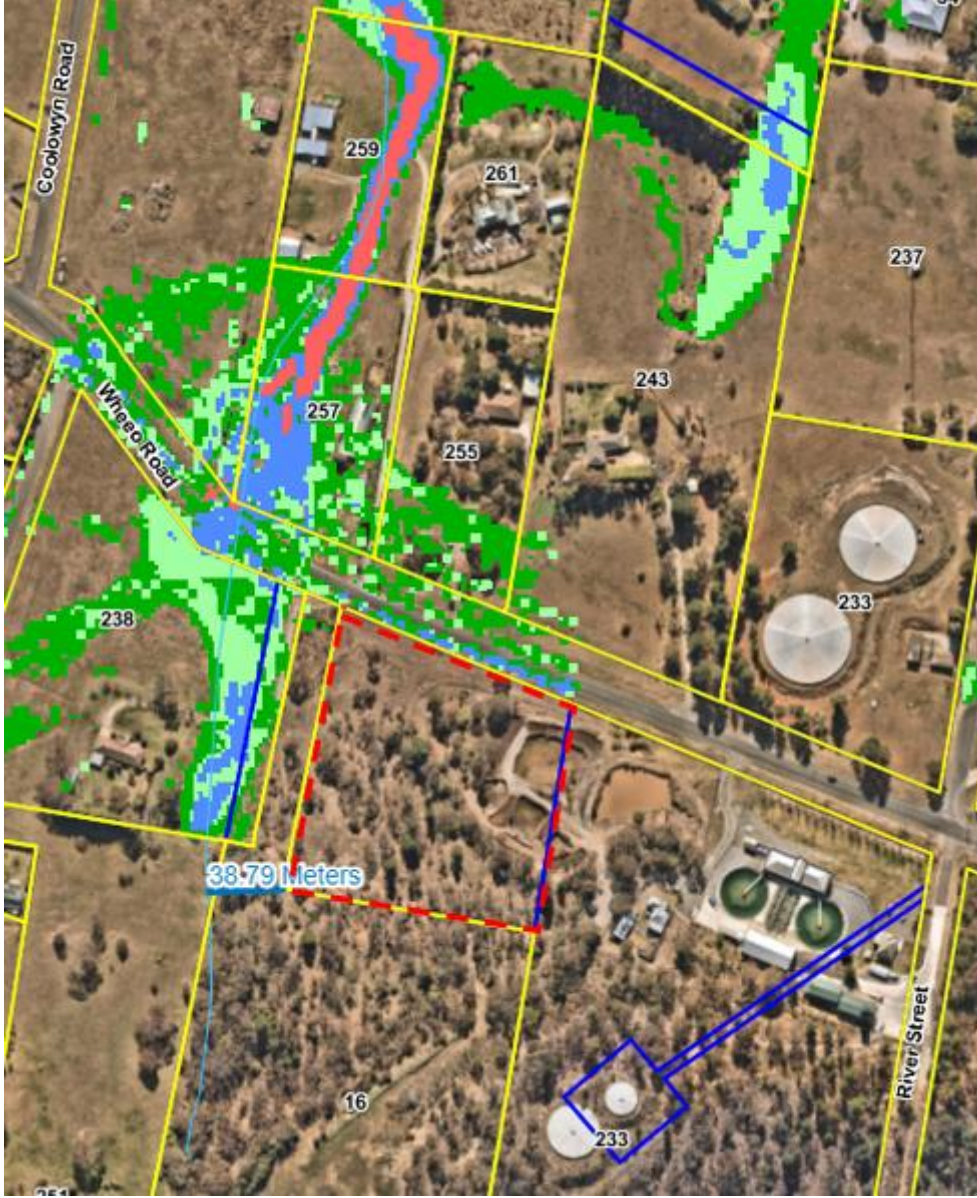
Most SEPP's are not applicable to this Planning Proposal. The Planning Proposal is consistent with the relevant SEPP's in relation to infrastructure provision and the Sydney Drinking Water Catchment outlined below in **Table 2**. The proposal is inconsistent with the aims of Chapter 2 of SEPP Biodiversity and Conservation in relation to biodiversity impacts which will be discussed further in the response to Ministerial Directions.

Table 2 Planning Proposal compliance with relevant State Environmental Planning Policy's

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|---|--|
| SEPP (Transport and Infrastructure) 2021 | <p>This Planning Proposal is consistent with the SEPP as it is intended to introduce provisions which are intended to complement the following aims of the policy which are to facilitate the effective delivery of infrastructure across the State by:</p> <ul style="list-style-type: none"> <i>a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</i> <i>b) providing greater flexibility in the location of infrastructure and service facilities, and</i> <i>c) allowing for the efficient development, redevelopment, or disposal of surplus government owned land, and</i> <i>d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</i> <i>e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</i> <i>f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and</i> <i>g) providing opportunities for infrastructure to demonstrate good design outcomes.</i> <p>The outcome of the Planning Proposal is to rezone the land to a prescribed zone under the SEPP to permit “water supply systems” and more specifically “water treatment systems” without consent. This would allow for a Review of Environmental Factors (Part 5 Review) in accordance with the Environmental Planning and Assessment Regulation 2021.</p> |
| State Environmental Planning Policy (Biodiversity and | <p>The aims of Chapter 2 ‘Vegetation in Non-Rural Areas’ are:</p> <ul style="list-style-type: none"> <i>a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and</i> |

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|--|---|
| Conservation) 2021 | <p><i>b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.</i></p> <p>The site is identified as containing Box Gum Woodland and derived native grasslands critically endangered ecological community (CEEC). Accordingly, avoidance options have been considered and a Biodiversity Development Assessment Report (BDAR) prepared. The extension of the existing ponds and associated earthworks are likely to result in the removal of most of the vegetation on this site. Council has considered alternate options for location of the ponds and alternate treatment methods for the facility and determined that this site best meets its operational requirements.</p> <p>The aims of Chapter 6, Part 6.5 of this Policy in relation to the Sydney Drinking Water Catchment are:</p> <p><i>a) to provide for healthy water catchments that will deliver high quality water while permitting development that is compatible with that goal, and</i> <i>b) to provide that a consent authority must not grant consent to a proposed development unless it is satisfied that the proposed development will have a neutral or beneficial effect on water quality, and</i></p> <p>The SEPP requires that development consent cannot be granted unless there is a neutral or beneficial effect on water quality, however, the proposed zone change is to facilitate the proposed development of the site without development consent as a prescribed zone under the Infrastructure SEPP.</p> <p>Notwithstanding the above, a Part 5 assessment (review of environmental factors -REF) would be required which would need to consider the impact of the development on water quality.</p> <p>The site contains existing sludge lagoons on its north-eastern boundary and is mostly covered in native vegetation. Land to the west of the site contains an unnamed watercourse which eventually leads into the Wollondilly River. This water course is approximately 38m from the site boundary (at its closest point).</p> |

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|--|--|
| |  <p>Map 4- Water Courses</p> <p>Council's overland flow model does not identify any significant flows affecting the site between the 1%AEP flood event and the probable maximum flood (PMF).</p> |

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|--|--|
| |  <p>Map 5 – Overland Flow Model</p> <p>The water treatment process uses the following chemicals which would be present in the sludge lagoon:</p> <ul style="list-style-type: none"> • Potassium Permanganate –for oxidation of manganese; • Powdered Activated Carbon (PAC) -for taste and odour; • Aluminium Sulphate; and • Sodium Carbonate -Soda Ash |

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|--|--|
| | <p>The sludge produced will likely be predominately PAC, aluminium (from the ACH) and flocculated material from the raw water, very similar to the sludge currently produced at the Goulburn water treatment plant.</p> <p>It is proposed at this point, that sludge produced as part of the treatment process will be held in a sludge lagoon/s, with a detention time of several months at least, dependant on the amount of sludge produced. The draft design for the site includes 1 enlarged lagoon and a second lagoon, with a 10-month filling time and 10 month drying time. The exact sizing of the lagoons will be verified at the design stage, however generally they will have a 500mm freeboard. This can be modified if it is found that 500mm freeboard is not enough to prevent overflow in relation to the flooding risks to be considered with the review of environmental factors (REF) – noting that this site is not flood liable or in/near an overland flow path.</p> <p>The lagoons would also be lined, to avoid seepage through the ground.</p> <p>The design of any upgraded treatment facility would need to consider proximity and impact of the facility on the identified water course and on water quality.</p> <p>Therefore, both the construction and operation of any future treatment lagoons would need to be designed in accordance with the neutral or beneficial effect test principles in the SEPP.</p> <p>At this stage, a draft design has been developed. Council is willing to engage with Water NSW as a stakeholder whether this is a part of the s.60 application process (under the <i>NSW Local Government Act 1993</i>) with the Department of Planning, Industry and Environment (DPIE) or as appropriate during the process.</p> <p>It is noted that, Clause 171A of the <i>NSW Environmental Planning and Assessment Act Regulation 2021</i> applies to activities in catchments:</p> <p>171A Activities in catchments—the Act, s 5.10(a)</p> <p>(1) When considering the likely impact on the environment of an activity proposed to be carried out in a regulated catchment, a determining authority must take into account—</p> |

| State Environmental Planning Policy (SEPP) | Compliance of Planning Proposal |
|--|--|
| | <p>(a) the matters a consent authority must consider under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1), and</p> <p>(b) the matters of which a consent authority must be satisfied under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).</p> <p>(2) However, the determining authority is not required to take into account the matters specified in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, section 6.9(1) or (2) if the activity is proposed to be carried out in a special area under the <i>Water NSW Act 2014</i>.</p> <p>(3) When considering the likely impact on the environment of an activity proposed to be carried out in the Sydney Drinking Water Catchment, the determining authority—</p> <p>(a) must, in addition to the matters referred to in subsection (1), take into account whether the activity—</p> <p>(i) will have a neutral or beneficial effect on water quality, and</p> <p>(ii) is consistent with the NorBE Guideline within the meaning of <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, Part 6.5, and</p> <p>(b) is not required to take into account the matters specified in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, section 6.6(1)(a) or (2)(a).</p> <p>(4) When considering the likely impact on the environment of an activity proposed to be carried out in the Sydney Harbour Catchment, the determining authority must, in addition to the matters referred to in subsection (1), take into account the matters a consent authority must consider under <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, section 6.28(1).</p> <p>(5) The requirements of this section are in addition to the requirements specified in section 171.</p> <p>(6) In this section—</p> <p>regulated catchment has the same meaning as in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, Chapter 6.</p> <p>Sydney Drinking Water Catchment has the same meaning as in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, Chapter 6.</p> <p>Sydney Harbour Catchment has the same meaning as in <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i>, Chapter 6.</p> |

3.6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

The Planning Proposal is consistent with the relevant Section 9.1 Directions. The following directions are most relevant to the proposal:

s.9.1 Regional Planning

1.1 Implementation of Regional Plans

Applies when a relevant planning authority prepares a planning proposal.

The Planning Proposal achieves the overall intent of the Regional Plan without undermining the achievement of its vision, land use strategy, goals, directions or actions. Refer to Section 3.3 of this document for an assessment of the Planning Proposal against the relevant directions of the *South East Tablelands Regional Plan*.

s.9.1 Environment and Heritage

3.1 Conservation Zones

This direction applies when a relevant planning authority prepares a planning proposal.

A planning proposal:

- (i) must include provisions that facilitate the protection and conservation of environmentally sensitive areas.
- (ii) that applies to land within an environment protection zone or land otherwise identified for environment conservation/ protection purposes in a LEP must not reduce the conservation standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.

The proposed rezoning is intended to facilitate the development of critical infrastructure being the expansion of the drinking water treatment capacity of the existing Council facility on the adjoining lot. The expansion of the facility is required to service both the existing population of Goulburn and the future population as identified in the *Urban and Fringe Housing Strategy*.

This Planning Proposal is of minor significance in relation to the area (small size) of the relevant parcel of land to be rezoned being 1.8ha. The proposal is of relatively high significance in relation to its future function as an expansion to critical infrastructure.

The current zoning is a RE1 Public Recreation Zone which is not considered to be a zone that is primarily aimed at conservation/protection but does include an objective that is to “protect and enhance the natural environment for recreational purposes”.

The planning proposal is not consistent with the aims of this direction in relation to loss of biodiversity given the presence of Box Gum Woodland and Derived Native Grasslands CEEC. However, as previously stated the consideration of other options for the expansion of the existing facility have established that this is the best option (Refer BDAR **Attachment 4**, Appendix G: Justification of Project Location and Design in the Biodiversity Development Assessment Report).

Council has undertaken pre- Gateway consultation in relation to biodiversity (and the draft BDAR) with the NSW Department of Planning (Biodiversity Conservation Division), a copy of the Department’s advice is attached (**Attachment 5**).

The main issue raised by NSW DPE (BCD) is demonstration of avoidance in relation to a Serious and Irreversible Impact (SAIL) entity being the Box Gum Woodland and Derived Native Grasslands CEEC. The impact on the local plant community type potentially contributing to localised extinction.

Council cannot demonstrate avoidance on the subject site due to the capacity requirements and slope (with resultant embankments) required for the sludge ponds. Council has undertaken to further consult with NSW DPE (BCD) in relation to other sites in Council ownership which can be identified for management of the locally occurring Box Gum Woodland and Derived Native Grasslands CEEC to avoid localised extinction of this community.

Council will also be seeking approval from the Commonwealth for approval to clear this community under the Environment Protection and Biodiversity Conservation Act.

3.2 Heritage Conservation

This direction applies when a planning authority considers a planning proposal.

A planning proposal must include provisions that facilitate the conservation of:

(a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,

(b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and

(c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

During the survey work undertaken for biodiversity no Aboriginal cultural heritage was identified.

An Aboriginal Heritage Information Management System (AHIMS) search has been undertaken for the site which has not identified any Aboriginal sites or places on or near the site (**Attachment 3**).

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.

The proposal is of minor significance in relation to the size of the affected area and contains existing infrastructure.

3.3 Sydney Drinking Water Catchments

Applies when a relevant planning authority prepares a planning proposal that applies to land in the Sydney drinking water catchment.

The objective of the Direction is to provide for healthy catchments and to protect water quality in the Sydney drinking water catchment (SDWC). It requires Planning Proposals to be consistent with the SDWC SEPP, give consideration to the outcomes of any relevant Strategic Land and Water Capability Assessment (SLWCA), and zone Special Areas as stated in the Direction. Regarding this Proposal, no Special Areas are affected, so this matter is not relevant. Water NSW does not hold SLWCAs relevant

to water treatment facilities or treatment lagoons. Matters relevant to the SEPP have been previously discussed above.

Pre Gateway consultation has been undertaken with Water NSW (**Attachment 5**) which have advised that there are no objections to the planning Proposal proceeding. Some updated referencing was required in relation to the Transport and Infrastructure SEPP 2021 provisions and EPA& A Regulation 2021 as opposed to the former SEPP Sydney Drinking Water Catchments 2011. These updates have been included in the current version of the Planning Proposal document.

s.9.1 Hazard and Risk

4.1 Flooding

This direction applies when a planning proposal authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

A planning proposal must not contain provisions that apply to the flood planning area which:

- (a) permit development in floodway areas,
- (b) permit development that will result in significant flood impacts to other properties,
- (c) permit development for the purposes of residential accommodation in high hazard areas,
- (d) permit a significant increase in the development and/or dwelling density of that land,
- (e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,
- (f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,
- (g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which

can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or

(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.

A planning proposal may be inconsistent with the terms of this direction only if the planning proposal authority can satisfy the Secretary of the Department of Planning, Industry and Environment (or their nominee) that:

(a) permit development in floodway areas,

(b) permit development that will result in significant flood impacts to other properties,

(c) permit development for the purposes of residential accommodation in high hazard areas,

(d) permit a significant increase in the development and/or dwelling density of that land,

(e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,

(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,

(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or

(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.

The site is located at a high point in Goulburn near the existing water reservoirs and drinking water treatment plant. The site is not identified as flood prone land either under the *Goulburn Floodplain Risk Management Study and Plan 2022* for a full range of events up to the probable maximum flood (PMF) or as affected by overland flooding using Council's overland flow modelling.

No increased government spending in relation to this proposal has been identified given that no flood risk has been identified in relation to the proposed use/infrastructure.

4.3 Planning for Bushfire Protection

This direction applies when a relevant planning authority prepares a planning proposal that will affect or is in proximity to land mapped as bushfire prone land.

The proposed rezoning is on bushfire prone land, however, the proposed zoning is not seeking to add any additional residential/commercial potential, and accordingly, a bushfire assessment is not required. Furthermore, the site is proposed to be occupied by dams (sludge lagoons) which are unlikely to be a fire source in relation to surrounding properties. The lagoons proposed may provide an additional asset protection zone to the plant located at 233 Wheeo Road and assist with the protection of this facility.

The site has access to a reticulated water supply for firefighting purposes.

4.4 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The land is currently fenced off and partly used for treatment ponds associated with the adjoining drinking water treatment plant. It is likely that there are contaminants associated with its current use as a treatment facility. This issue should be addressed as a part of a review of environmental factors (REF) for any expansion of the existing lagoons.

The planning proposal is seeking to rezone the land to a “less sensitive” land use as it is proposed to be rezoned from a recreational zone to a special uses zone. Accordingly, the Proposal is consistent with this direction.

5.2 Reserving Land for a Public Purpose

The objectives of this direction are to:

- (a) facilitate the provision of public services and facilities by reserving land for public purposes,
and
- (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Planning Secretary (or an officer of the Department nominated by the Secretary).

This direction typically applies when a Minister or Public Authority requests a reservation of land for a public purpose, or where the public authority no longer identifies the land for acquisition.

In this case the relevant public authority is Goulburn Mulwaree Council. The land is already in Council ownership and is currently partly being used for the treatment of drinking water via the existing sludge pond. The site whilst zoned RE1 Public Recreation was not intended for this purpose and would appear to be a mapping error. The site is currently classified as “operational” under the Local Government Act, 1993 due to the existing facility extending into the site. There is no intention of acquiring or selling the site given the current ownership and operational requirements, the planning proposal is to facilitate the expansion of the existing facility by rezoning the site to an appropriate infrastructure zoning.

The planning proposal is not consistent with this direction in so far as the circumstances of existing ownership and usage are not covered in the direction. Any inconsistency with this direction is minor given the circumstances outlined above.

Section C – Environmental, social and economic impact

3.7 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?

Yes. The site currently contains part of an existing sludge pond, but the remainder of the site has been identified as being vegetated with Box Gum Woodland and Derived Native Grasslands’ CEEC, which may also include Hoary Sunrays and Key’s Matchstick Grasshoppers.

Council has considered both alternate design solutions and locations for the upgraded facility but has found that this site is the most suitable (refer to Appendix G of the BDAR – Justification of Project Location and Design).

Council’s Environment and Biodiversity Assessment Officer has undertaken a Biodiversity Development Assessment Report (BDAR) (**Attachment 4**). The BDAR has concluded that the proposed activity is not likely to result in a significant adverse impact on the local occurrence of the Hoary Sunray or Key’s Matchstick Grasshopper despite the removal of habitat. The BDAR has identified that the activity would result in the removal of 1.8 hectares of Box Gum Woodland and Derived Native Grasslands’ CEEC. The BDAR includes mitigation strategies in relation to the loss of biodiversity and calculates species and ecosystem credits in relation to the offset. Further

consultation on this matter and proposed mitigations has been undertaken with NSW Department of Climate Change, Environment, Energy and Water (DCCEEW) Biodiversity and Conservation Division (BCD). Additional local mitigations such as the management of Box Gum Woodland and Derived Native Grasslands' CEEC on nearby Council owned land outside the subject area have been added to the updated BDAR.

3.8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are environmental effects likely as a result of the amendment outlined in this Planning Proposal.

- The main impact on the environment will be due to the construction of sludge ponds which will involve clearing of native vegetation that is identified as being Box Gum Woodland and Derived Native Grasslands' CEEC. The Biodiversity Assessment Report identifies additional off-site local mitigations (by identifying management measures for other nearby Council sites) as well as credit offsets.
- Management of the site once developed in relation to water quality (and the Sydney Drinking Water Catchment). 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 and lining the ponds) or overflow (managed by procedures or depth of freeboard in the design). These matters are more relevant to the design and then development application (DA) assessment stage or in preparing a review of environmental factors (REF) for the site.
- It should be noted that:
 - The treatment of drinking water does not result in odour impacts.
 - Benefits of sludge pond treatment over other treatments such as mechanical dewatering includes:
 - They produce less noise than mechanical dewatering.
 - The sludge concentration is double that to mechanical dewatering (i.e. a far more effective process for getting water out). Mechanical dewatering can typically produce sludge at a concentration of about 20%, whereas sedimentation lagoons can generally produce sludge at 40% concentration.
 - The sludge concentration produced by mechanical dewatering is not high enough to be disposed of at the Goulburn WMC, so the sludge will have to go to Veolia in Tarago

instead. This will increase transportation costs (it is approximately 55km each way from the WTP to Tarago) as well as greenhouse emissions transporting the sludge from Goulburn to Tarago for disposal.

- Sedimentation lagoons don't require a thickening polymer to increase sludge concentration. The 20% sludge concentration above for mechanical dewatering includes polymer dosing.
- Mechanical dewatering requires additional resources, such as labour and electricity. Sedimentation lagoons are less resource intensive, requiring some additional labour but no additional electricity (with no mechanical equipment to operate). The power supply at the Goulburn WTP will need to be upgraded for mechanical dewatering to be installed.

3.9 Has the planning proposal adequately addressed any social and economic effects?

There are significant positive social and economic impacts because of the amendments outlined in this Planning Proposal. The provision of potable drinking water to a town is fundamental to its existence and health and to future growth.

Section D – State and Commonwealth interests

3.10 Is there adequate public infrastructure for the planning proposal?

The Planning Proposal is intended to facilitate the capacity of existing public infrastructure for both the existing and future population of Goulburn.

3.11 What are the views of State and Commonwealth public authorities [following] consultation in accordance with the gateway determination?

Commonwealth public authorities have not been formally involved in this Planning Proposal at this stage, however, an application to clear the Box Gum Woodland and Derived Native Grasslands will be made to the Commonwealth Government as per the requirements of the Environment Protection Biodiversity Conservation Act. This application will be submitted once NSW DCEW have formally responded to the stakeholder referral for this planning proposal.

Water NSW was consulted prior to the submission of the Planning Proposal to the Gateway process and was consulted again post Gateway and requests consultation when the proposal is exhibited.

NSW DPE (BCD) was consulted both prior to and after the Gateway determination.

The NSW Rural Fire Service was consulted following the Gateway determination.

Copies of each of the most recent Stage Agency responses (post Gateway determination) are provided in **Attachment 5**.

Part 4 – Mapping

The following amendment to the mapping is required because of this Planning Proposal:

Land Zone Map - Sheet LZN_001D

Part 5 – Community Consultation

Consultation proposed includes the following:

Notification of the public exhibition of the Planning Proposal which includes:

- A newspaper advertisement that circulates in the area affected by the Planning Proposal (if available at the time);
- The website of Goulburn Mulwaree Council and the NSW Planning Portal; and
- Written notification of adjoining property owners.

The written notice:

- Providing a brief description of the objectives or intended outcomes of the Planning Proposal;
- Stating where and when the Planning Proposal can be inspected; and
- Providing detail that will enable members of the community to make a submission.

Exhibition Material:

- The Planning Proposal, in the form approved for community consultation by the Director General of the Department of Planning, Housing and Infrastructure;
- The Gateway Determination - issued on 15 February, 2024;
- Consultation with Public Authorities;
- Report to Council Item No. 15.5 *“Planning Proposal to Rezone Land Adjoining Council (Drinking) Water Treatment Plants in Goulburn and Marulan”* dated 2 November, 2021; and Council Resolution; and
- Biodiversity Development Assessment Report.

Part 6 – Project Timeline

| | |
|---|--|
| Gateway Determination | 15 February, 2024 |
| Timeframe for completion of technical studies | No further studies required – but further consultation on mitigations in the Biodiversity Development Assessment Report undertaken, February – March 2024. |
| Timeframe for agency consultations | April - May 2024 |
| Public exhibition | June - July 2024 (28 days) |
| Public hearing | Not Required |
| Anticipated date of submission of LEP to DPIE | October 2024 |
| Council to make LEP amendment (if delegated) | November 2024 |
| Anticipated date plan forwarded to DPIE for notification | November 2024 |

Conclusion

Goulburn Mulwaree Council has initiated a Planning Proposal to modify its 2009 LEP to rezone No. 233 -234 Wheeo Road, Goulburn (Lot 1 DP1030749) from RE1 Public Recreation to SP2 Infrastructure (Public Utility Undertaking).

The planning proposal is broadly consistent with the South East Tablelands Regional Plan, SEPPs, and 9.1 Directions with the exception of 3.1 Environment Protection Zones in relation to the proposed activity resulting in impacts on biodiversity. Council has considered alternative sites and mechanisms for water treatment to avoid these impacts. However, have found that the proposed design and site is the most appropriate for the expansion of this facility. A Biodiversity Development Assessment Report has been prepared which assesses the impacts on biodiversity, identifies mitigations and calculates the required credit offsets.

It is not considered that this Planning Proposal raises any issues that require further studies or detailed assessment other than potential additional biodiversity mitigations to supplement those in the current version.

Whilst the Planning Proposal is a relatively minor matter in terms of land area, it is facilitating the provision of critical infrastructure for Goulburn. Council is requested that it be the delegated as the plan making authority for this proposed amendment. Council will be seeking to expedite this matter to address the current need for improved water treatment for the town supply.