

# 1 Preliminary





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# 1 Preliminary

## 1.1 Name of this plan

This plan is known as the Goulburn Mulwaree DCP 2009. This plan has been prepared in accordance with section 72 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act).

## 1.2 Date of adoption

This plan was originally adopted by Goulburn Mulwaree Council (Council) on Tuesday 19 August 2008 and came into operation upon the gazettal of *Goulburn Mulwaree Local Environmental Plan 2009* (LEP) on 20 February 2009.

This plan is subject to amendment from time to time. Plan users should refer to the list of amendments to **clause 1.9** of this plan.

## 1.3 Purpose of this plan

This plan shall be used together with the LEP.

The LEP provides the legal framework by which Council's development decisions are made. It sets out Council's vision and seeks to implement this by way of objectives, policies, zoning tables, and zoning and heritage conservation maps.

This plan supplements the LEP by providing detailed reasoning, guidelines, controls and general information relating to the decision making process. Together these documents form the land use planning and development controls for the Goulburn Mulwaree local government area.

## 1.4 Land to which this plan applies

This plan applies to all land within the Goulburn Mulwaree local government area.

## 1.5 Other planning policies and instruments

This plan supports the provisions of the LEP.

This plan is to be read in conjunction with other planning instruments, Council policies, codes and specifications to specific design aspects of a proposal.

Where there is an inconsistency between this plan and any environmental planning instrument applying to the same land, the provisions of the planning instrument apply.

In addition to the above and the provisions of this Plan, in assessing development proposals, Council must consider all those matters specified in Section 79C of the EP&A Act.

## 1.6 Structure of this plan

This development plan is structured in the following manner:

1. **Preliminary** – this part of the plan comprises the administrative elements of this plan, including the name of this plan, the date of adoption, the purpose of this plan, the land to which this plan applies, and the relationship of this plan to other relevant planning policies and instruments.
2. **Plan objectives** – identifies the objectives for development control under this plan.
3. **General development controls** – identifies the controls which apply to most forms of development within the Goulburn Mulwaree local government area.
4. **Principal development controls** – urban – identifies the key development controls for development within urban areas.
5. **Principal development controls** – rural – identifies the key development controls for development within rural areas.
6. **Special development types** – identifies specific controls for certain types of development.
7. **Engineering requirements** – identifies special provisions for the consideration of engineering requirements.
8. **Site specific provisions** – identifies particular controls for development within certain areas of the Goulburn Mulwaree local government area.

## 1.7 Public participation

Public participation is an essential component of the development process. The purpose of this section is to ensure that public participation in relation to development applications is facilitated in an orderly and transparent manner.

This section is prepared pursuant to Section 74C(1)(c) of the *Environmental Planning & Assessment Act 1979* and specifies the way the Council will publicly exhibit and notify development applications pursuant to Section 79A of the *Environmental Planning & Assessment Act 1979*.

The advertising and notification provisions apply to all development and related applications except for development applications that fall into one or more of the following categories:-

- Designated Development;
- State Significant Development; and
- Integrated Development.

The Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Act Regulation 2000 provide specific requirements for the advertising of these categories of development.

### **Objectives**

The objectives of the Section are:

- To outline procedures for the notification and advertisement of development applications, applications to modify development consents and the review of development consents; and
- To provide an opportunity for public participation in the planning process that is appropriate to the type and form of development proposed.

### **Notification**

Where development proposals are to be notified, the adjoining and/or adjacent property owners will be sent a notification letter from Council.

### **Advertising**

Where development proposals are to be advertised, the following will occur:

- Notices (describing the development) will be placed in a local newspaper;

- Details of the development application will be placed on Council's Website; and
- Details of the development application will be placed with the public notices at Council's offices and any relevant neighbourhood centre.

Note: Division 7 of the *Environmental Planning & Assessment Regulation 2000* sets out the information requirements for the notification and advertising of development proposals.

#### **Notice at the development site – significant development**

An A3 size notice shall be placed on the main site frontage where significant development is proposed to provide details of the development that is be able to be read from a public place.

For the purposes of this section 'significant development' includes any of the following:

- New industrial or commercial development with a gross floor area greater than 200m<sup>2</sup>;
- Additions to industrial or commercial development greater than 50% of the gross floor area of the existing building;
- Subdivisions in any zone which will result in the creation of more than 10 lots;
- Multi dwelling housing;
- Residential flat buildings; or
- Attached dwellings

A notice at the development site shall contain the following information:

- Development application number;
- The name of the applicant;
- Site address of proposed development;
- A brief description of the development;
- Advertising period and the period in which the application can be inspected and submissions made;
- Details of where the application can be inspected and a contact person within Council, including their telephone number;
- An invitation to make a written statement; and
- The date of the notice.

## Requirements for notification and advertising of development applications

### General Requirements

There are two categories of development for the purpose of this section, based on the anticipated impacts of the proposed development on its environment:

- Development that is notified for 14 days
- Development that is advertised and notified for 14 days

Notification and advertising of development applications should be in accordance with Table 1-1 except in relation to applications for a Section 82A review (refer below). Should there be any conflict between the provisions in Table 1-1 or the development is described in more than one level the higher level must apply. A reference to a type of development must also be read as a reference to alterations or additions to that type of development.

### Section 96 Applications

When Council has determined an application by approval subject to conditions of consent, the applicant may apply to amend (or modify) the consent through Section 96 of the *Environmental Planning and Assessment Act 1979*. Such applications will be notified and/or advertised in accordance with this section.

### Section 82A Reviews

The determination of a development, whether by way of refusal or approval (subject to conditions) can be reviewed within 12 months of the date of the issue of the Notice of Determination under Section 82A of the *Environmental Planning and Assessment Act 1979* by the consent authority.

Applications for a Section 82A review require:

- Re-notification to parties who previously made submissions to the relevant application; and
- Readvertised and/or notified in the same manner as the original application.

**Table 1-1: Notification & advertising requirements**

<b>Development Type</b>	<b>Notification required</b>	<b>Notification and Advertising required</b>
Amusement centres		✓
Animal boarding or training establishments	✓	
Attached dwellings		✓
Boarding house		✓
Cemeteries		✓
Change of use for non-residential activities within residential zones		✓
Commercial development with a gross floor area greater than 500m <sup>2</sup>		✓
Demolition of a building or work that is a heritage item or a use of a building or land that is a heritage item for a purpose that would otherwise be prohibited		✓
Dual occupancies	✓	
Dwellings (2 storey)	✓	
Educational establishments		✓
Entertainment facilities		✓
Extractive industries		✓
Food and drink premises other than within a business zone		✓
Function centres		✓
Group Homes		✓
Hotel or motel accommodation		✓
Hostels		✓
Industrial development with a		✓



Development Type	Notification required	Notification and Advertising required
gross floor area greater than 500m <sup>2</sup>		
Intensive livestock agriculture		✓
Multi dwelling housing		✓
Neighbourhood shop within a Residential zone		✓
Places of public worship		✓
Professional consulting rooms	✓	
Pubs		✓
Recreation facility (major), recreation facility (indoor), recreation facility (outdoor)		✓
Registered clubs		✓
Residential flat buildings		✓
Restaurants or cafes and commercial premises other than within a Business Zone		✓
Secondary dwellings	✓	
Service stations		✓
Semi-detached dwellings	✓	
Shop top housing within a residential zone	✓	
Subdivisions in non-urban zones creating more than 4 lots	✓	
Subdivisions in non-urban zones creating more than 10 lots		✓
Subdivisions [in urban or large lot residential areas] creating more than 20 lots		✓

Development Type	Notification required	Notification and Advertising required
Sex services premises (refer also to Section 6.5.2)		✓
Small bars		✓

It is noted that not all development applications will involve land uses set out in Table 1-1 above, and in such instances the Council will determine the notification and advertising requirements based on consideration of the likely impacts of the development, including:

- the views to and from surrounding land;
- potential overshadowing;
- loss of privacy;
- potential noise transmission;
- visual impacts on the streetscape;
- the scale and bulk of the proposed development;
- proposed hours of use;
- potential light spillage or reflection;
- potential traffic generation;
- vehicle access and provision of parking spaces.

The period for advertising and notification of development applications may be extended up to 40 days in the following instances:-

- During traditional holiday periods (e.g. December and January); or,
- Where Council staff consider the form, nature or likely impact of the development to warrant an extended consultation period.

## Submissions

### Submissions period

The submission period is the period in which the development application is advertised. The submission period for developments will generally coincide with the notification period (except where an extended notification period is given) commencing one day after the date of the notification letter.

The circumstances under which the closing date for submissions (in response to Council's notification letter or newspaper advertisement) may be extended are detailed in 'Requirements for notification and advertising of development applications'.

### **Making a Submission**

Any person, including the occupant of adjoining or neighbouring land, is entitled to make a submission which may object to or support an application within the submission period, whether or not a notification letter has been forwarded to the person. Submissions must be made in writing, preferably using Council's submission form and delivered to the Council either personally, by post, facsimile or electronic mail.

Submissions generally include the following components:

- The reasons for objection or support;
- Supporting documentation (such as surveys, plans or photographs) where relevant; and
- Comments on how the proposal might be changed to address any objection/s.

All submissions must:

- Be in writing and be addressed to the General Manager, clearly indicating the names, addresses of the person(s) making the submission, quote the development application number, and clearly state the address of the property.
- Include the phone number, e-mail or fax number of person(s) making submissions so the person making the submission can be notified in advance if the matter is to be considered by Council.

Where persons who lodge submissions wish their personal information to remain anonymous, a clear request must be included asking the Council not to make such information available for public inspection. Council does not guarantee that personal information contained within submissions will not be made public (refer to 'Disclosure of Submissions' below).

All submissions received within the submission period or notification period (if different to the submission period) will be considered in the Council's assessment of the application. The terms of any submissions will be summarised in the assessment report.

Note: Council is not bound to adopt or support a submission when making its determination. The officers' assessment will involve consideration of the merits of all relevant matters.

### **Acknowledgment of submissions**

All submissions received during the assessment period are to be acknowledged as soon as practicable. All letters of reply to submissions will include a statement stipulating that if

the person making the submission wishes to be notified of Council consideration of the development application then they must provide contact details such as a telephone number, fax number or e-mail address.

Where a proposal is to be determined at a Council meeting Council staff will contact the parties who have made submissions provided daytime contact details have been given. Best endeavours will be made to ensure that all parties who have made submissions will be contacted at least 5 days prior to determination if the development application is to be considered by Council. However, the onus is on those wishing to attend a Council meeting to seek information about meeting dates, times and agendas from Council's Customer Service staff or Council's website.

Following determination of an application, all persons who made a submission shall be notified in writing of the decision regarding the application.

Where petitions are received in respect to development applications or Section 96 modification applications the head petitioner (or where not nominated, the first petitioner) will be acknowledged for the purpose of future contact as to the progress of the application. Where a head petitioner or contact is not nominated, one will be selected by Council staff. Only the head petitioner will be advised of Council meeting times or receive written confirmation of the determination of an application.

#### **Disclosure of submissions**

Submissions are not confidential. Submissions may be accessed by the public, through Council's Governance Officer. Also, if the proposal is reported to a Council meeting the issues raised in that submission will be summarised in the development's assessment report.

If a person making a submission does not wish to have the content of the submission or their identity revealed, they must explain their reasons why in their submission. If the reasons provided are considered well founded, the issues raised within the submission may be paraphrased or summarised and made available only on that basis.

#### **Other Matters**

##### **Notification to properties in adjoining local government areas**

Where adjoining properties, not within the Goulburn Mulwaree local government area, are considered to be affected by development within Goulburn Mulwaree they will be notified in accordance with this DCP but only for 'advertised and notified development'.

### **Community Stakeholder Engagement**

At the discretion of Council, an application may be referred to any deemed relevant community stakeholders or interest group for their comment on the proposal.

### **Weekly Development Application Information**

Council will prepare a weekly tabulation of all notified and/or advertised development applications received and place this on notice boards at the Council's offices.

### **Lobbying Councillors in relation to development applications**

"Lobbying" is a term used to cover those types of communication between local government councillors and the community that include representations to councillors by special interest groups, by individuals with a direct interest in a council decision and by advocates acting on behalf of others.

Council acknowledges that lobbying is a common practice in local government. One of the most common forms of lobbying occurs when a group or individual makes direct contact with a councillor in an attempt to influence a council decision in relation to development applications.

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. It is therefore Council's preference that lobbying by individuals and interest groups is transparent and is undertaken with all Councillors rather than on an individual basis.

The Independent Commission Against Corruption has prepared a guide for councillors, constituents and other interested parties called 'lobbying local government councillors' which is available at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

## 1.8 Variations to controls

Council acknowledges that it is not possible for this plan to account for all possible situations and development scenarios. Consequently, the development controls under this plan have been designed to be flexible.

When circumstances warrant, Council may consent to an application which departs, to a minor extent, from the provisions of this plan. In such cases, a written submission must be lodged with the development application, outlining the variation, providing reasons why the variation is necessary or desirable, and setting out how the objectives of the particular provision are satisfied by the proposal.

Some of the relevant factors in determining whether a departure from this plan is warranted include:

- (a) whether there will be any detrimental impact on the amenity of the existing and future residents
- (b) whether there will be any detrimental impact on the amenity of the area
- (c) the nature and size of the departure
- (d) the degree of compliance with other relevant requirements
- (e) the circumstances of the case, including whether the particular provision is unreasonable and/or necessary
- (f) priorities identified in a site analysis of being of more importance than what is being departed from
- (g) whether non-compliance will prejudice the objectives of the zone and the aims of this plan

## 1.9 List of amendments

The following list details the amendments to this plan that have been effected after the original adoption of the plan (Tuesday 19 August 2008).

Amendment No. 1	Adopted 20 October 2009 Effective from 28 October 2009
Amendment No. 2	Adopted 5 June 2012 Effective 27 June 2012
Amendment No. 3	Adopted 6 October 2015 Effective 23 October 2015
Amendment No. 4	Adopted 7 June 2015 Effective 23 June 2015
Amendment No. 5	Adopted 7 August 2018 Effective 23 August 2018

## 1.10 Definitions

**Council** means the Goulburn Mulwaree Council.

**equivalent standard axles (ESAs)** is a reference axle load. The standard axle is a single axle with dual tyres transmitting a load of 80kN to the pavement. The number of equivalent standard axle loads is termed the number of equivalent standard axles (ESAs). The design life of a road can also be expressed in terms of the number of ESAs it will carry.

**heavy vehicle haulage development** includes extractive industries, mines, forestry, saw or log processing works, waste or resource management facilities and the like. Such developments are characterised by regular movement of laden heavy vehicles (class 3 or above) associated with the dominant use of the land.

**large-scale sporting or recreation activities** means any sporting or recreation activity where:

- (a) provision is made for 1,000 or more spectators; or
- (b) substantial provisions are made for spectating facilities, such as a grandstand, and the presence of spectators forms part of the dominant use of the land

**public entertainment** has the same meaning as in the Act.

**Note.** The term is defined as follows:

**public entertainment** means entertainment to which admission may ordinarily be gained by members of the public on payment of money or other consideration:

- (a) whether or not some (but not all) persons are admitted free of charge, and
- (b) whether or not the money or other consideration is demanded:
  - (i) as a charge for a meal or other refreshment before admission is granted, or
  - (ii) as a charge for the entertainment after admission is granted.

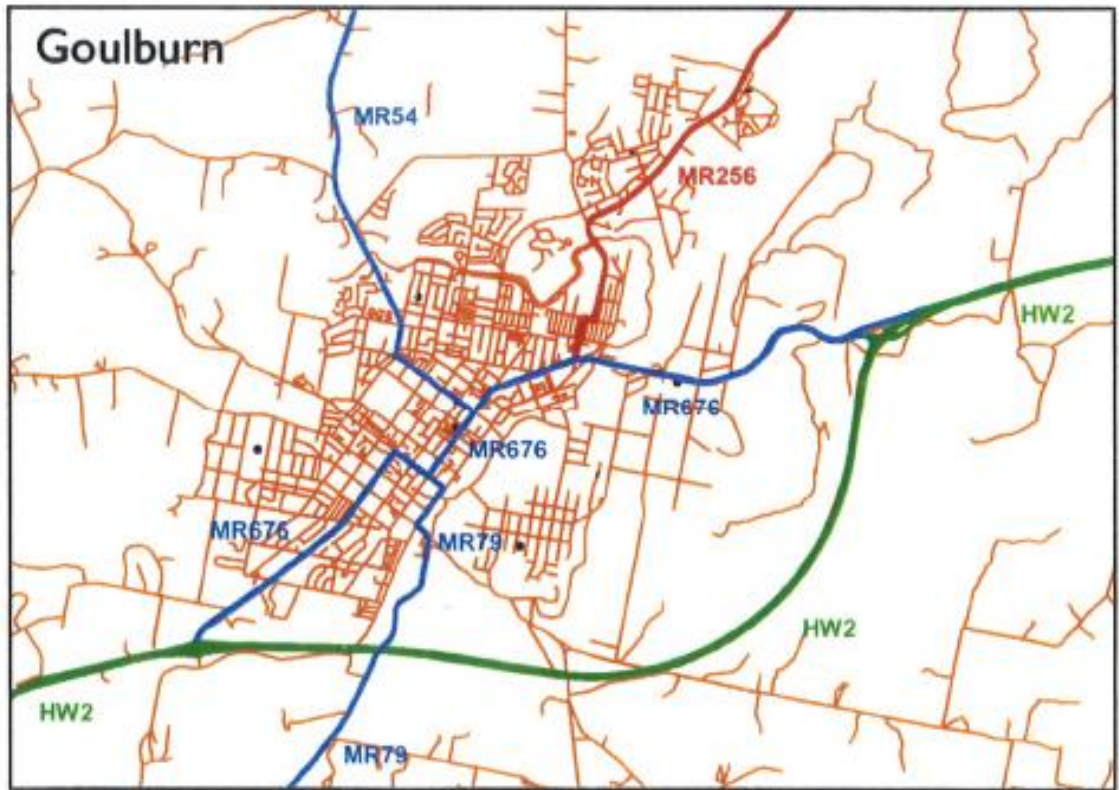
**relic** means any deposit, object or other material evidence of human habitation:

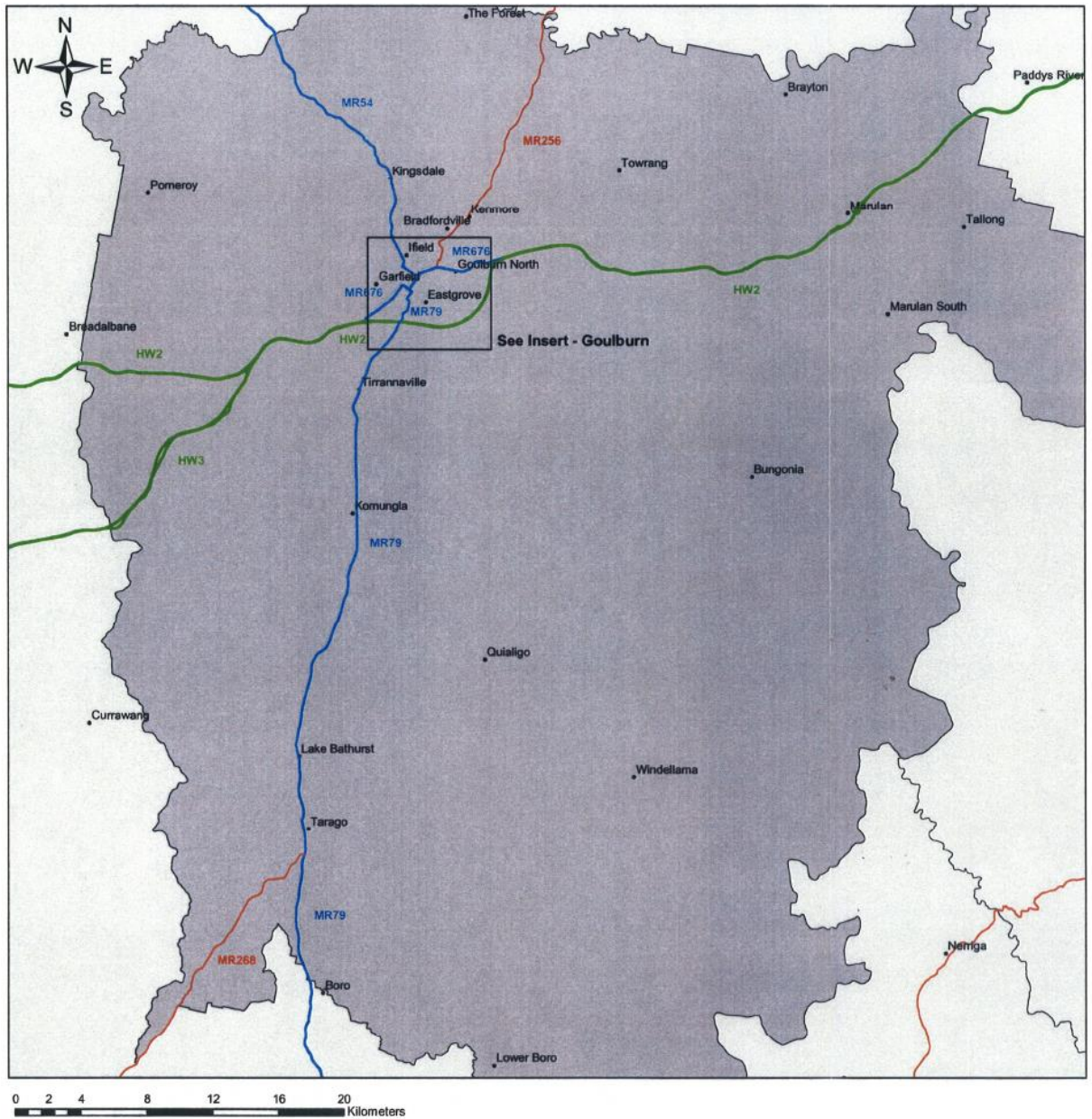
- (a) that relates to the settlement of the area of Goulburn Mulwaree not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

**the Act** means the *Environmental Planning and Assessment Act 1979*.



## Classified Roads – Goulburn Mulwaree Council





## Legend

### Classified Roads

- Regional
- State
- National