

Contact: Nick Thistleton  
Our Reference: REZ\_0002\_1718

31 January 2019

Department of Planning and Environment  
PO Box 5475  
WOLLONGONG NSW 2520  
Attn: George Curtis

Dear George

**Subject:** Request for Gateway Determination REZ\_0002\_1718  
**Location:** 745 Crookwell Road, Kingsdale (Lot 16 DP 1069310)  
**Proposal:** Amendment to include a restaurant or cafe as an additional permitted use for the subject site under Schedule 1 of the *Goulburn Mulwaree Local Environmental Plan 2009*

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On 30 May 2018 a planning proposal was submitted to Council by Stimson & Baker Planning on behalf of Kingsdale Wines to include a **restaurant or café** as an additional permitted use under Schedule 1 of the *Goulburn Mulwaree Local Environmental Plan 2009* for 745 Crookwell Road, Kingsdale (Lot 16 DP 1069310).

On 2 October Council resolved that (2018/401):

- 1. That the report from the Strategic Planning Projects Officer be received;**
- 2. That Council resolve to revise Schedule 1 of the Goulburn Mulwaree Local Environmental Plan 2009 to permit the use of 745 Crookwell Road, Kingsdale (Lot 16 DP1069310) for the purpose of a restaurant or café.**
- 3. That the planning proposal to amend Goulburn Mulwaree Local Environmental Plan 2009 as above be submitted to the Department of Planning and Environment for a gateway determination in accordance with Section 3.34 of the Environmental Planning and Assessment Act 1979;**
- 4. That the Department of Planning and Environment be advised that Council wishes to be issued with an authorisation to use delegation for the planning proposal. Council submits the attached planning proposal with preliminary agency advice to include a restaurant or café as an additional permitted use for 745 Crookwell Road, Kingsdale (Lot 16 DP 1069310) in an amendment to Schedule 1 of the Goulburn Mulwaree Local Environmental Plan 2009 (attachment 1).**

In accordance with Direction 5.2 of the Ministerial planning directions, Council has consulted with Water NSW and confirmed the validity of the advice provided to the applicant on 13 November 2017. It has been considered that further consideration of the Water NSW referral can be made post gateway determination, if not deferred entirely until the development assessment stage, given that this planning proposal will not enable intensive or large scale development and that the proponent would need to demonstrate that any development has a neutral or beneficial impact on water quality at the development assessment stage anyway, pursuant to the *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*.

On 17 August 2018 Council sought to overturn the RMS requirement to prepare a detailed traffic study on the grounds that they will still be able to seek a detailed traffic study during the development assessment process through the application of Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007* (attached). On 3 September 2018 the RMS stated that it did not object to the planning proposal in principle and agreed to defer all requirements for a detailed traffic study to the development assessment stage, should the planning proposal be successful (attached). Council will be seeking delegation in relation to this matter.

In relation to the use of Schedule 1, Council firmly believes that it is the most appropriate means for achieving the intended outcome of this planning proposal given the following points:

1. The existence of clause 2.5 in the Principle Local Environmental Plan (extract below) suggests that we can input additional permitted uses into Schedule 1 of the LEP irrespective of whatever is in the land use tables without being inconsistent with clause 5 of the *Standard Instrument (Local Environmental Plans) Order 2006*.

*2.5 Additional permitted uses for particular land [compulsory]*

*(1) Development on particular land that is described or referred to in Schedule 1 may be carried out:*

- (a) with development consent, or*
- (b) if the Schedule so provides—without development consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.*

*(2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.*

*Direction 1. While this clause and Schedule 1 are compulsory, it is not compulsory to include any items in the Schedule when the Plan is first made.*

*Direction 2. A type of development may be included in Schedule 1 only if it is a type of development listed in Direction 5 at the beginning of the Land Use Table*

2. Rezoning to anything other than an Environmental zone would not be supported by Council, and possibly Water NSW as well, given that the subject land is immediately adjacent to Sooley Dam.
3. Council does not support amending the land use tables to include a **restaurant or café** as a permitted use for all E3 Environmental Management zones, given that a **restaurant or café** is only suitable on the subject land as it would complement an existing cellar door and winery operation.

Council would therefore appreciate it if a gateway determination was issued for the aforementioned planning proposal. A 28 day exhibition period is appropriate given the nature of the proposal.

**Note:** Council will not be seeking to prepare a map for Schedule 1 of the *Goulburn Mulwaree Local Environmental Plan 2009*.

**Note:** There is a minor error in the planning proposal where the maps provided cover two (2) lots instead of just the one (1) lot intended. This planning proposal only applies to Lot 16 DP 1069310.

Should you have any queries regarding this matter, do not hesitate to contact me on my desk phone (02) 4823 4434 or at [nick.thistleton@goulburn.nsw.gov.au](mailto:nick.thistleton@goulburn.nsw.gov.au)

Yours sincerely,

A handwritten signature in black ink that reads "N. Thistleton".

Nick Thistleton  
**Graduate Strategic Planner**

Attachments:

Planning Proposal and Preliminary Agency Advice (#1038532)

Revision of RMS Advice (#1069437)

Council Report 2 October 2018 (#1075265)

Council Meeting Minutes 2 October 2018 (#1075709)