

## Planning Services

IRF19/617

### Gateway determination report

<b>LGA</b>	Goulburn Mulwaree
<b>RPA</b>	Goulburn Mulwaree City Council
<b>NAME</b>	Kingsdale Wines- Insert restaurant or café as permissible use in Schedule 1 to apply to Lot 16, DP 1069310 (approximately 6 jobs)
<b>NUMBER</b>	PP 2019 GOULB 001 00
<b>LEP TO BE AMENDED</b>	Goulburn Mulwaree LEP 2009
<b>ADDRESS</b>	745 Crookwell Road, Kingsdale
<b>DESCRIPTION</b>	Lot 16, DP 1069310
<b>RECEIVED</b>	31/01/2019
<b>FILE NO.</b>	IRF19/617, EF19/2366
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to amend the Goulburn Mulwaree LEP 2009 to permit a *restaurant or café* on Lot 16, DP 1069310, at 745 Crookwell Road, Kingsdale.

### Site description

The 37.46 hectare site is located on the southern side of Crookwell Road at the Marble Hill Road intersection in the Kingsdale area approximately 8kms north west of Goulburn (**Figure 1**). The site is predominantly cleared and has an existing approved winery and cellar door premises. The site has a number of water courses running through it which discharge into Lake Sooley which is a source of drinking water for Goulburn township.



**Figure 1 – Site context map** (source: base map from planning proposal, Stimson and Baker Planning, May 2018)

### Surrounding area

The site is bounded by Lake Sooley to the south-west, Bumana Creek to the south and Crookwell Road to the north east (**Figure 2**). The surrounding area is characterised by rural and agricultural uses.



**Figure 2 – Site map** (source: base map from planning proposal, Stimson and Baker Planning, May 2018)

## Existing planning controls

The site is zoned E3 Environmental Management under the Goulburn Mulwaree LEP 2009. The site currently has approvals to operate a winery and cellar door as well as holding five events a year for 250 - 300 people. *Restaurants or cafes* are not permitted in the E3 Zone of the LEP.

## PROPOSAL

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### Objectives or intended outcomes

The objective of the planning proposal is to permit a *restaurant or cafe* on the subject site. It is considered that the objectives provided in the planning proposal are adequate.

### Explanation of provisions

The planning proposal's explanation of the provisions are to amend the Goulburn Mulwaree LEP 2009 by:

Inserting the following clause into Schedule 1- Additional Permitted Uses:

#### **Use of certain land at 745 Crookwell Road, Goulburn**

- (1) This clause applies to part of the land at 745 Crookwell Road, Goulburn being Lot 16 DP 1069310, as shown on the Additional Permitted Uses Map;
- (2) Development for the purposes of a restaurant or café is permitted with development consent.

The suitability of restaurants and cafes in an E3 Environmental Management Zone and the proposed use of a Schedule 1 Additional Permitted Use clause, was raised with Council.

Council has considered both alternative zoning, such as a rural or tourist zoning, and/or amending the land use tables to enable a restaurant or café to be permitted in a E3 Environmental Management zone. These options were not supported by Council because:

- the subject land is located next to Lake Sooley, which is a source of drinking water for Goulburn township, and part of the Sydney Drinking Water Catchment.
- Council does not support making *restaurants or cafés* permissible in all E3 zones but it is an acceptable use on the subject land because there is an existing cellar door and winery operation.
- The option of using the *artisan food or drink industry* land use to permit restaurants or cafes is not suitable for an E3 Zone because industries are mandatorily prohibited in the environmental zones under the Standard Instrument (Local Environmental Plans) Order 2006.
- Clause 2.5 of the Standard Instrument LEP allows for additional permitted uses in Schedule 1 despite anything to the contrary in the land use table or other provision of the Plan.

It is considered that a Schedule 1 entry is an appropriate mechanism to achieve the objectives of the planning proposal in this instance.

It is noted that Council will need to confirm the most appropriate mechanism to implement the objectives of the planning proposal with Parliamentary Counsel's Office during the drafting of an LEP.

## **Mapping**

The planning proposal provides site and zoning maps which are considered adequate for the purposes of public exhibition. The planning proposal also proposes an Additional Permitted Uses Map to support the Schedule 1 clause. It is not, however, considered that a map is absolutely necessary as the additional use applies to all of the subject land and therefore can be satisfactorily described via lot and DP details within the Schedule 1 entry.

## **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal is required to facilitate an amendment to the Goulburn Mulwaree LEP 2009 to permit a *restaurant or cafe* associated with an existing winery and cellar door premises. The use of Schedule 1 Additional Permitted Uses is considered a suitable means to achieve the outcomes of the proposal.

## **STRATEGIC ASSESSMENT**

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### **Regional**

The planning proposal states that it is consistent with the South East and Tablelands Regional Plan. The planning proposal will enhance the current local tourism offer which is consistent with the narrative for Goulburn Mulwaree in the Regional Plan and Directions associated with tourism and economic opportunities. This position is supported.

### **Local**

The planning proposal does not identify any aspects of the Goulburn Mulwaree Strategy 2020 that are applicable. However, it is considered that the planning proposal is consistent with the Strategy as it will promote local tourism.

The planning proposal identifies that it is consistent with Council's Regional Community Strategic Plan 2016-2036 which identifies the economy as one of the five Strategic Pillars for the future development of Goulburn and its surrounding local government areas of Yass and Upper Lachlan.

### **Section 9.1 Ministerial Directions**

The planning proposal identifies that s1.9 Directions 1.1 Business and Industrial Zones, 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environment Protection Zones, 5.2 Sydney Drinking Water Catchment and 6.3 Local Plan Making all apply to the planning proposal.

In respect to S1.9 Directions 1.1 Business and Industrial lands the site is zoned E3 Environmental Management, the cellar door and the winery are existing uses that have previously been approved. While the approved uses are a business, the zone is not a business or industrial zone and the s9.1 Direction does not apply. As the land is zoned E3, Direction 1.2 Rural Zones does not apply.



**1.5 RURAL LANDS:** This Direction applies to the planning proposal as it will affect land within an existing or proposed rural or environmental protection zone. The proposal is considered to be **CONSISTENT** with this Direction as the proposal is consistent with the Rural Planning Principles provided in the SEPP (Rural Lands) 2008. In particular the proposal will promote rural tourism and diversify the rural economy in the Goulburn Mulwaree LGA which is consistent with the Rural Planning Principles as well as the South East and Tablelands Regional Plan.

**2.1 ENVIRONMENT PROTECTION ZONES:** This Direction does apply to the planning proposal as it will affect land within an E3 Environment Management Zone.

The proposal is considered to be **CONSISTENT** with this Direction as the E3 zoning of the site is proposed to be retained and the planning proposal does not result in any development that would significantly affect the protection and conservation of environmentally important areas. Additionally, potential impacts on the environment would be considered through the assessment of any future development application.

**5.2 SYDNEY DRINKING WATER CATCHMENT:** This Direction does apply to the planning proposal as the land adjoins Lake Sooley which is Goulburn's major drinking water supply and part of the Sydney Water Catchment area.

The proposal is considered to be **CONSISTENT** with this Direction as Council has consulted with WaterNSW on the planning proposal and provided a copy of WaterNSW's comments at lodgement stage. WaterNSW's letter states that the proposal is considered to be low risk in relation to impact on water quality but has requested that Council consults further with it to identify any additional water quality information requirements prior to the exhibition of the planning proposal.

**RECOMMENDATION:** That Goulburn Mulwaree Council consult with WaterNSW to identify any additional water quality information requirements prior to the exhibition of the planning proposal.

**6.3 SITE SPECIFIC PROVISIONS:** This Direction applies to the planning proposal as the proposal seeks to allow a restaurant or café development to be carried out on a specific site via a Schedule 1 Additional Permitted Use clause under the Goulburn Mulwaree LEP 2009.

The proposal is considered to be **INCONSISTENT** with this Direction. The inconsistency is, however, considered to be of a minor significance because the proposed Schedule 1 Additional Permitted Use clause is appropriate in this circumstance and will compliment an existing winery and cellar door use on the subject site.

**RECOMMENDATION:** The Secretary can be satisfied that the inconsistency with the Direction is of minor significance.

## **State environmental planning policies (SEPPs)**

### SEPP Sydney Drinking Water Catchment

State Environmental Planning Policy (Sydney Water Catchment) 2011 applies to the planning proposal as the subject site is located within an area mapped as part of the Sydney drinking water catchment.

The planning proposal is considered to be CONSISTENT with the SEPP. As discussed previously, WaterNSW has advised Council that the proposal is considered to be low risk concerning water quality impacts but has requested that Council consults further with it to identify any additional water quality information requirements prior to the exhibition of the planning proposal. Future development applications will need to consider the provisions of this SEPP.

### Rural Lands SEPP 2008

The planning proposal did not identify that the Rural Lands SEPP applied to the subject site.

The planning proposal achieves objective 7(b) of the SEPP 'in recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or state'.

The planning proposal is consistent with the Rural Lands SEPP.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social**

The planning proposal has not identified any negative social outcomes arising from the planning proposal if it proceeds. The planning proposal if it proceeds may provide for additional local employment and enhance the recreational offer for locals and visitors.

### **Environmental**

The site is predominantly cleared and has an existing approved winery and cellar door operating on the subject site. A detailed assessment of any impacts will be addressed at the development application stage should the planning proposal proceed.

### **Economic**

The planning proposal has not identified any negative impacts arising from the proposed restaurant or café. The additional use will provide for a modest increase in local employment, add to the visitor offer for the area, and complement the current approved uses already operating on the Kingsdale Winery site.

## **CONSULTATION**

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### **Community**

Council has proposed a 28 day exhibition period for the planning proposal which is considered to be appropriate.

## **Agencies**

Council has consulted with WaterNSW and the Roads and Maritime Services to address the requirement of Section 9.1 Direction 5.2 Sydney Drinking Water Catchment and to identify any RMS requirement concerning Crookwell State Road. The RMS originally requested a traffic study is prepared and exhibited with the planning proposal process. However, after discussion between Council and RMS, RMS has agreed to postpone preparation of a traffic study until development application stage. WaterNSW has requested Council consult with it to determine additional water quality information, in respect to the NorBE (Neutral or Beneficial Effect) of the planning proposal on the Sydney Drinking Water Catchment.

Written responses from each agency are included in the planning proposal documentation.

## **TIME FRAME**

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The Council proposes a 12 month time frame to finalise and notify the plan. This timeframe is considered to be appropriate.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has requested to be the local plan making authority for the planning proposal. It is considered that given the local significance of the proposal and its consistency with the endorsed strategic planning for the area, Council's request has merit and should be supported.

**RECOMMENDATION:** That Council's request to be the local plan making authority for the planning proposal is supported.

## **CONCLUSION**

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The preparation of the planning proposal is supported to proceed as it will complement an existing winery and cellar door premises and support local job creation and tourism which is consistent with the endorsed strategic planning for the Goulburn Mulwaree LGA.

## **RECOMMENDATION**

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It is recommended that the delegate of the Secretary:

1. Agree that any inconsistency with section 9.1 Direction 6.3 Site Specific Provisions is minor.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

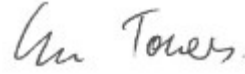
1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

3. Given the nature of the planning proposal, Council should be the local plan-making authority.



27/02/2019

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