



Planning Proposal –

PP-2021-146

Version 2 – May 2021

Lachlan Shire Local Environmental Plan
2013 - Additional Permitted Use (APU) to
Zone SP2 Special Infrastructure to allow
Animal Shelter on Lot 16 DP 914643, 301
Golf Links Road Condobolin.

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Background and Summary of Planning Proposal

Lachlan Shire Council have identified the need to replace the existing animal shelter that services the Shire. The existing animal shelter is falling into a state of disrepair and is reaching a point where it is no longer considered fit for purpose. In addition, the location of the existing animal shelter is not considered to be appropriate and does not meet Council's operational needs. Lachlan Shire Council have identified the need to relocate the existing animal shelter and have identified an appropriate site, adjacent to the existing Condobolin wastewater treatment plant. However, the site is currently zoned SP2 Infrastructure (Sewage Systems) on Council's land zoning map under Lachlan Local Environmental Plan 2013. An amendment is proposed to Council's land zoning map under Lachlan LEP 2013 in order to permit the development of an animal shelter on the site.

At the October Ordinary Meeting of Council, Council resolved that:

- "1. The Director of Environment, Tourism and Economic Development Report No. R20/270 be received and noted.*
- 2. Council endorse the preparation and lodgement of a planning proposal to amend Lachlan Local Environmental Plan 2013, to include the words "animal shelter" as a purpose shown on Sheet LZN_010A for the SP2 portion that is currently only identified for "Sewerage Systems".*
- 3. Council approve the Planning Proposal for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination.*
- 4. Council seek authority from the Department of Planning, Industry and Environment to exercise the delegation of all functions of the relevant local plan making authority under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan to put into effect the Planning Proposal.*
- 5. Authority be delegated to the General Manager to make any minor variations to the Planning Proposal, following receipt of the Gateway Determination.*
- 6. A further report be brought back to Council following the public exhibition of the Planning Proposal detailing any submissions received during the public exhibition period."*

Council received Gateway Determination in the planning portal approval dated 19 February 2021 with the following conditions:

- 1. Prior to community consultation, the planning proposal is to be updated to provide:*
 - (a) amendment to the Explanation of Provisions to include a broad description of the activities to be undertaken at the 'Animal Shelter' (to aid drafting of the LEP amendment) and identify that the amendment will be achieved by an Additional Permitted Use ("APU") in Schedule 1 of the Lachlan LEP 2013 (rather than adding a new term on the zoning map);*
 - (b) establishment of an APU map;*
 - (c) an assessment against section 9.1 Direction 2.6 Remediation of Contaminated Land; and*
 - (d) outline the strategic consistency with the draft Lachlan Shire Urban Settlement Strategy.*
- 2. Prior to community consultation, the planning proposal is to be revised to address condition 1 and forwarded to the Department for review and approval.*

3. *Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:*
 - (a) *the planning proposal must be made publicly available for a minimum of **28 days**; and*
 - (b) *the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).*
4. *Consultation is required with the NSW Environment Protection Authority under section 3.34(2)(d) of the Act. The NSW Environment Protection Authority is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.*
5. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*
6. *The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:*
 - (a) *the planning proposal authority has satisfied all the conditions of the Gateway determination;*
 - (b) *the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and*
 - (c) *there are no outstanding written objections from public authorities.*
7. *Prior to submission of the planning proposal under section 3.36 of the Act, the final LEP maps must be prepared and be compliant with the Department's 'Standard Technical Requirements for Spatial Datasets and Maps' 2017. New 'Additional Permitted Use' map applicable to the subject land is required to be prepared.*
8. *The time frame for completing the LEP is to be **6 months** following the date of the Gateway determination.*

Planning Context

The preferred site for the new animal shelter is identified in **Figure 1**, below.



Figure 1 - Proposed site for new animal shelter

The site has an area of approximately 16.33 hectares, with the infrastructure located on the eastern side of the site.

An extract of the current zoning map for the site, from Lachlan Local Environmental Plan 2013, is provided in **Figure 2**, below. The site is currently zoned SP2 Infrastructure “Sewerage Systems”.

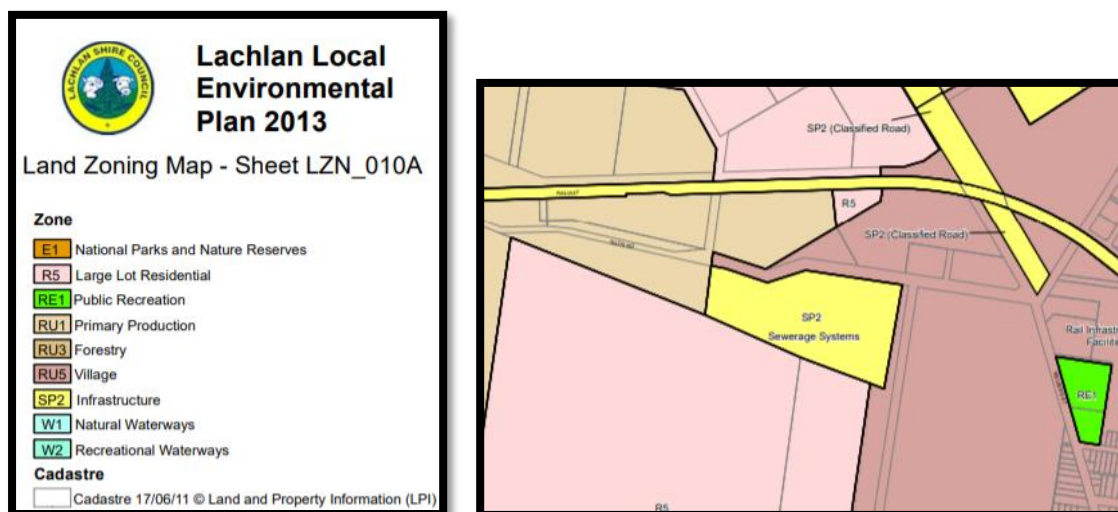


Figure 2 - Land Zoning Map and Sheet LZN_10A

The inclusion of Animal Shelter as an Additional Permitted Use in Schedule 1 for the site currently zoned SP2 currently identified for only “Sewerage Systems”, is necessary to ensure the proposal is permissible with consent under Lachlan Local Environmental Plan 2013 (LLEP 2013).

Part 1 - Objectives and intended outcomes

To amend Lachlan Local Environmental Plan 2013 (LLEP 2013), Schedule 1 Additional Permitted Use, to allow an animal shelter to be permitted with consent on Lot 16 DP 914643, known as 301 Golf Links Road Condobolin (“the site”).

Part 2 - Explanation of provisions

To facilitate this objective, Schedule 1 of LLEP 2013 will need to be amended to include “Animal Shelter” as an additional permitted use on Lot 16 DP 914643, known as 301 Golf Links Road Condobolin –The site is currently zoned SP2 Infrastructure “Sewerage Systems” on the relevant land zoning map.

Activities that will be undertaken at the Animal Shelter include the housing and keeping of animals for a temporary period that come into Councils care generally through surrender, abandonment or capture.

There are no changes required to Clause 2.3 of LLEP 2013 or the land use table within LLEP 2013. Relevantly, “Zone SP2 Infrastructure” in the Land Use Table within LLEP 2013, states:

Schedule 1 – Additional Permitted Uses

The proposed amendment to LLEP 2013 would add the purpose of “animal shelter” to Schedule 1 – Additional Permitted Uses. There would be no changes required to the land zoning map 10A

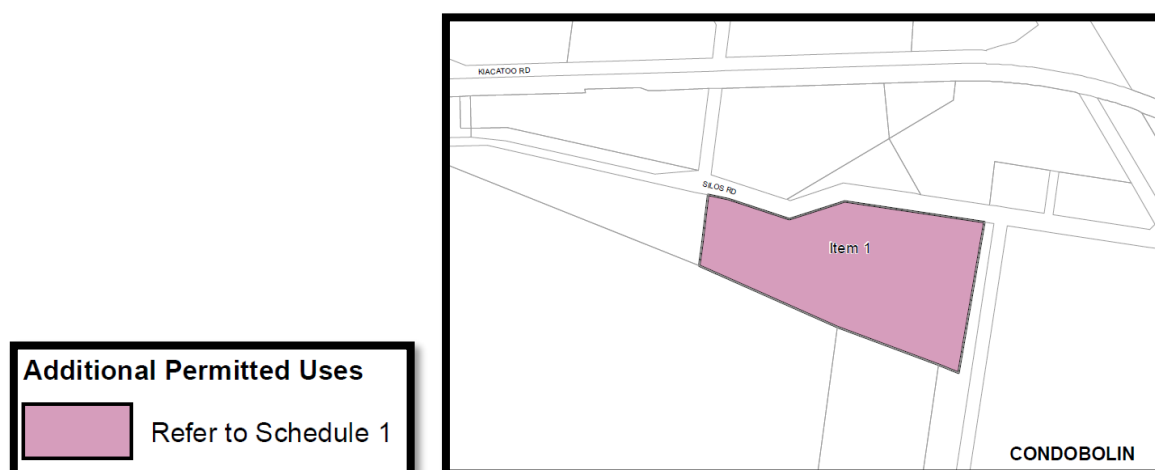


Figure 3 – Proposed Land Zoning Map

Part 3 - Justification

Section A - Need for the planning proposal

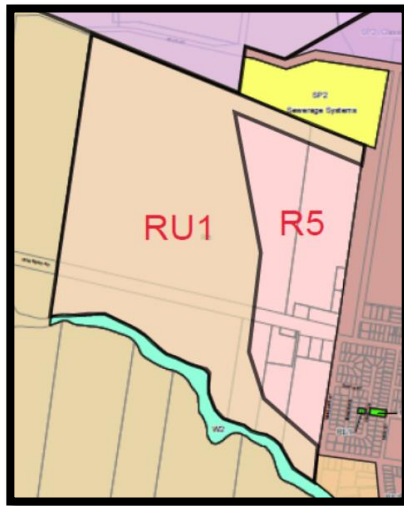
Q1 - Is the planning proposal a result of any strategic study or report?

Not specifically. As part of Council’s Community Strategic Plan (CSP) the community identified animal management as being of a high priority but having achieved a low satisfaction. It is difficult to provide suitable animal management if the animal shelter which houses animals is nearing the end of its useful life and no longer considered to be fit for purpose. The community have set a strategic outcome, as part of the CSP, to ensure that animals are properly controlled. In order to achieve this strategic outcome Council must have an appropriate facility to keep animals which is appropriately located within the community. The proposed location will help achieve this strategic outcome.

Council's Draft Urban Settle Strategy (USS) does not identify the need for the animal shelter in Condobolin or at the site, however the animal shelter would not unreasonably encroach on R5 Large Lot land as per C5 recommends the addition of a RU1 area between the site and nearby R5 zoned land to the south due to create a 400m buffer between the zones.

Action C5 – Gum Bend Road and Moulder Street

Retain zone R5 Large Lot Residential over land along Gum Bend Road and Moulder Street that is above the 1 in 100 year flood line other than a 400 metre wide buffer to sewerage system infrastructure. The remainder of that R5 compartment should be zoned RU1 Primary Production to reflect the flood hazard that pertains to that land. There is adequate supply of residential land within zone RU5 Village and it is not recommended that a zone be applied to permit urban residential development. It is proposed to apply zone RU1 Primary Production to part of the land that is currently zoned R5 Large Lot Residential along Gum Bend Road due to the potential for flooding and proximity to infrastructure along with a buffer to the sewerage infrastructure located at the northern extremity of this area. This is shown in the Figure below;



Q2 - Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

An animal shelter is not currently permitted with consent on Lot 16 DP 914643, known as 301 Golf Links Road Condobolin ("the site") pursuant to LLEP 2013. In addition, an animal shelter is not a purpose which would be permissible with consent pursuant to State Environmental Planning Policy (Infrastructure) 2007. Therefore, amending LLEP 2013 is considered to be the only option available to permit the proposed development on the site.

Council officers have discussed the planning proposal with officers from the Department of Planning, Industry and Environment and have been advised that a Planning Proposal is the required pathway to allow Animal Shelters to be a permissible use on the site under Lachlan LEP 2013.

Section B - Relationship to strategic planning framework

Q3 - Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

Strategic Context

The Planning Proposal will make a minor, but important amendment to the LLEP 2013. It will permit “Animal Shelters” as an APU on a large site that is only partially used for a Sewerage System in Condobolin. The change is critically important to ensuring that the LLEP 2013 remains contemporary and meets the requirements for special infrastructure, the wider community and Council’s overall Strategic land use direction. The planning proposal allows Council to respond to a change in circumstances, mainly the funding that has become available for new infrastructure to be appropriately placed within the community and designed to allow the identified strategic outcome from Council’s Community Strategic Plan (CSP) to be achieved.

The proposal is not inconsistent with Council’s strategic direction in the draft Urban Settlement Strategy (USS) for Condobolin.

The proposal also has site-specific merit as there are no known environmental values or hazards that can’t be managed on the land and the current use of the site will complement the proposed use – by providing casual surveillance of the animal shelter site (the wastewater treatment plant is used 24/7). In addition, the existing services for the site can be augmented, as required, to service the proposed animal shelter.

Central West and Orana Regional Plan 2036

The planning proposal is considered to be consistent with the Central West and Orana Regional Plan 2036 (CWORP). Council considers that the following directions are most relevant to the special infrastructure component of the planning proposal:

Direction 12: Plan for greater land use capability.

The addition of a further use to Zone SP2 Special Infrastructure will permit an Animal Shelter on a suitably sized allotment that is only partially used for the current sewerage treatment system. This will assist in avoiding any land use conflict situations that arise with such uses being carried out on unsuitable sites that may be already zoned elsewhere that allow for such purposes.

Direction 23: Build the resilience of towns and villages.

The additional special infrastructure use will permit an animal shelter on the site. By permitting an animal shelter on the site it will create an opportunity for development to be carried out within a zone dedicated for such purposes and which is compatible with surrounding land uses which can be used to support the sustainability of Condobolin and surrounding villages. The opportunities provided by the development will contribute to the growth and prosperity of the town and village areas.

Q4 - Will the planning proposal give effect to a council’s endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

The proposal is not inconsistent with Council's endorsed Local Strategic Planning Statement or the strategic direction of the draft Urban Settlement Strategy.

Consistency with relevant SEPPs

N/A - The proposal is not for a rezoning.

Consistency with Section 9.1 Directions

Table 1: S 9.1 Direction Response to each Land Use Zoning Map Amendment

S. 9.1 Direction Applying	Issues	Consistent?
2.6 Remediation of Contaminated Land	Yes	<p>Yes. Section 2.6(4) is satisfied through the completion of a contamination investigation by a qualified consultant. (attached)</p> <p>The report states that the development site per section 14.4 <i>Suitability for proposed use of the site; the site can be made suitable for the proposed animal shelter land-use.</i></p>
3.4 Integrated Land Use and Transport	No	<p>Yes.</p> <p>The additional of an animal shelter as a permitted use on the property will result in the location of an animal shelter on land in an appropriate location within the township of Condobolin. Allowing an additional special use on the site will improve access to LSC essential services and infrastructure.</p>
4.3 Flood Prone Land	No	<p>Yes.</p> <p>The land is not flood prone as per LLEP 2013 – Clause 6.2 “Flood Planning Map”.</p>
4.4 Planning for Bush Fire Protection	No	<p>Yes.</p> <p>The land is not bushfire prone per Council's current BFPL Mapping.</p>
5.10 Implementation of Regional Plans 'Central West and Orana Regional Plan 2036'	No	<p>Yes.</p> <p>The proposed amendment is consistent with this objective, which is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p> <p>It is considered that this component of the planning proposal is consistent with the following:</p> <p>Direction 12: Plan for greater land use capability. This will assist in</p>

		<p>avoiding the land use conflict opportunities that arise with such uses being carried out on unsuitable sites that are already zoned for such purposes.</p> <p>Direction 23: Build Resilience in towns and villages. The additional special infrastructure use to allow an animal shelter on the site as special infrastructure will create opportunity for development to be carried out in a zone dedicated and compatible with such uses. This will support the sustainability of Condobolin, surrounding villages and the wider region.</p>
6.1 Local Plan Making	No	<p>Yes.</p> <p>The further special infrastructure use is consistent with the objectives of the direction and it is considered that the land use table provides LEP provisions that encourage the efficient and appropriate assessment of development.</p>

Environmental Social and economic impact

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?

No – A review of NSW Biodiversity Values Map and the Native Vegetation Regulatory Map shows no likelihood of the matters raised in this section being located on the subject site.

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

None identified.

Has the planning proposal adequately addressed any social and economic impacts?

None identified.

Mapping

This planning proposal will require the following amendments.

Schedule 1 – Additional Permitted Uses

The proposed amendment to LEP 2013 would add the purpose of “animal shelter” to Schedule 1 – Additional Permitted Uses. There would be no changes required to the land zoning map 10A



Figure 1 – Site outlined in red Zoned SP2 Special Infrastructure

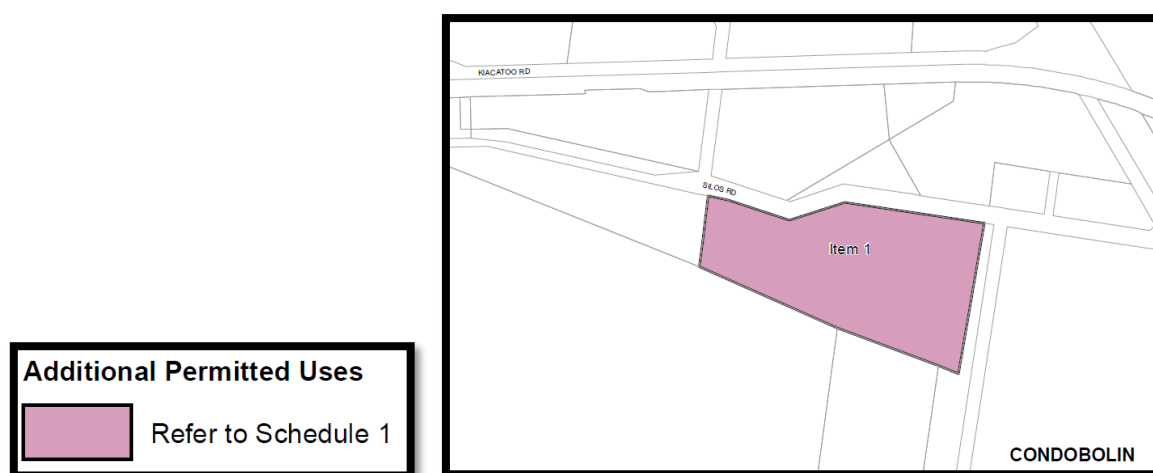


Figure 3 – Additional Permitted Uses Schedule 1 “Item 1”

Community Consultation

The Gateway Determination will confirm community consultation requirements. It is likely that the Proposal will be exhibited for a minimum period of 28 days in accordance with Council’s Community Participation Plan.

Public exhibition of the planning proposal will include notification on the Lachlan Shire Council website, notification in the newspapers that circulate widely in the shire (Condobolin Argus and the Lake News) and in writing to affected and adjacent landowners.

Project timeline

The Project Timeline will assist with tracking the progress of the planning proposal through the various stages of consultation and approval. It is estimated that this amendment to Lachlan Local Environmental Plan 2013 will be completed by March 2021.

Council requests delegation to carry out certain plan-making functions in relation to this proposal. Delegation would be exercised by Council’s General Manager.

Key Stages of Consultation and Approval	Estimated Timeframe
STAGE 1 – Submit planning proposal to Department of Planning, Industry and Environment with request amendment is made. Including seeking authority from the Department of Planning, Industry and Environment to exercise the delegation of all functions of the relevant local plan making authority under Section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan to put into effect the Planning Proposal.	January 2021
STAGE 2 – Receive Gateway Determination	January 2021
STAGE 3 – Preparation of documentation for Public Exhibition	January 2021
STAGE 4 – Public Exhibition of the planning proposal	February 2021
STAGE 5 – Review/consideration of submissions received	March 2021
STAGE 6 – Council Report	March 2021
STAGE 8 – Anticipated date Council will forward Plan to the Department for completion	March 2021

Attachments

1. Lachlan Shire Council Report 28 October 2020 – Item 9.1 (attached separately)
2. Preliminary contamination investigation – Proposed Animal Shelter Development, 301 Golf Links Road, Condobolin NSW – Envirowest Consulting 6 May 2021.