

Upper Lachlan Shire Council – Planning Proposal

Upper Lachlan Local Environmental Plan 2010 – Zone E2 Environmental Conservation

Part 1 – Objectives

To enable Dwelling houses to be permitted with consent in Zone E2 Environmental Conservation of Upper Lachlan Local Environmental Plan 2010 (LEP 2010).

Part 2 – Explanation of the Provisions

Amendment of the Upper Lachlan Local Environmental Plan 2010 Land Use Table Zone E2 Environmental Conservation, Item 3 as follows:

Zone E2 Environmental Conservation

3 Permitted with consent

Dwelling houses; Environmental facilities; Information and education facilities; Roads

No maps are required to be amended. See *Attachment A* for LEP 2010 extracts and the extent of the Zone E2 land, located on Land Zoning Map LZN_001.

Part 3 – Justification

Section A

1. *Is the planning proposal a result of any strategic study or report?*

The planning proposal is not a result of any current strategic study or report, it is a result of a property information request application in late 2011 that triggered investigations into land use permissibility in Zone E2. Although it is consistent with the current Upper Lachlan Strategy Plan 2020 Vision.

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

It is Council's view that this is an obvious anomaly in the Land Use Table Zone E2 Environmental Conservation, Item 3 Upper Lachlan Local Environmental Plan 2010. Council is seeking this amendment in accordance with Section 73A of the *Environmental Planning and Assessment Act 1979*. The planning proposal is the best means of achieving the objective.

3. *Is there a net community benefit?*

It is considered that there will be a net community benefit by correcting an obvious anomaly in the Upper Lachlan Local Environmental Plan 2010 and enabling the provisions available under Clause 6.6(3).

Section B – Relationship to strategy planning framework

4. *Is the planning proposal consistent with the objectives and actions contained within the applicable regional strategy?*

The planning proposal is consistent with the objectives and actions contained within the Sydney Canberra Regional Strategy.

5. *Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?*

The planning proposal is consistent with the Upper Lachlan Strategy Plan 2020 Vision which informed the Upper Lachlan Local Environmental Plan 2010.

6. *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

The planning proposal is consistent with the applicable State Environmental Planning Policies which were addressed at the Section 68 stage of the Upper Lachlan Local Environmental Plan 2010 process.

7. *Is the planning proposal consistent with applicable Ministerial Directions?*

The planning proposal is consistent with the applicable State Environmental Planning Policies which were addressed at the Section 68 stage of the Upper Lachlan Local Environmental Plan 2010 process.

Section C – Environmental, Social and Economic Impact

8. *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?*

There is no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal. It is not considered that the proposed amendment will impact in any adverse manner in terms of environmentally sensitive land, sensitive land or any other Upper Lachlan Local Environmental Plan 2010 (LEP 2010) or Upper Lachlan Development Control Plan 2010 matters. The basis for achieving dwelling permissibility would still rely on satisfying Clause 6.6 and all other LEP 2010 local provisions (under Part 6) must be satisfied including biodiversity, land, water, bushfire and flooding. Therefore it is considered that there are satisfactory environmental safeguards on future residential development with no likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal.

The planning proposal is consistent with the Upper Lachlan Strategy Plan 2020 Vision which informed the Upper Lachlan Local Environmental Plan 2010. The Upper Lachlan Strategy Plan 2020 Vision included the Biodiversity Planning Framework developed for the Shire with input from the then Department of Planning, Department of Environment and Climate Change and Hawkesbury-Nepean and Lachlan Catchment Management Authorities. The Biodiversity Planning Framework helped to inform the zoning of land within the Shire and also contributed towards the development of local provisions addressing biodiversity and environmental matters which will adequately protect from any adverse environmental impacts.

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

There are no other likely environmental effects as a result of the planning proposal. The proposal is unlikely to have a significant impact on the environment or any adjoining lands. See response at question 8 for detail.

10. *How has the planning proposal adequately addressed any social and economic effects?*

The planning proposal provides a positive social and economic effect by correcting an anomaly to Zone E2. The implications of not supporting this amendment would be the sterilisation of land previously approved for dwelling house purposes or provided for by clause 6.6, which would create a negative social and economic effect. Upper Lachlan Development Control Plan 2010 addresses Indigenous heritage and archaeology. Where development is proposed on or adjacent to a place that has (or may have) Aboriginal heritage values, an assessment must be undertaken of all aspects of the cultural heritage significance. The appropriate process is included in the Upper Lachlan Development Control Plan 2010 and ensures adequate consideration of this matter.

Section D – State and Commonwealth Interests

11. *Is there adequate public infrastructure for the planning proposal?*

Any public infrastructure required as a consequence of support of this planning proposal has been addressed in the relevant development consents that created existing lots for subdivision and dwelling houses. Any future development applications for dwelling houses would appropriately condition the requirements for any public infrastructure, like road upgrades. The area to which Zone E2 applies does not have reticulated water or sewer, however, electricity is available in the area.

12. *What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?*

The advice from the Department of Planning and Infrastructure (dated 29 March 2012) confirms the inconsistency between the land use table for Zone E2 and clause 6.6 and acknowledged that the planning proposal may be able to be considered as a minor amendment under the provisions of Section 73A(1)(c) of the *Environmental Planning and Assessment Act 1979*. As detailed in question 8 above, the likelihood of adverse environmental impact is minimised by existing local provisions and Section 79C provisions which would be required to be addressed for a dwelling house development application.

Part 4 – Community Consultation

This matter has been reported to Council for its information and endorsement. Council's business papers are public documents available to all members of the public. It is anticipated that if this planning proposal is dealt with as a minor amendment, under the provisions of Section 73A(1)(c) of the *Environmental Planning and Assessment Act 1979*, no community consultation will be required.

Attachment A

Extract from Upper Lachlan Local Environmental Plan 2010

Land Use Table

Zone E2 Environmental Conservation

1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

2 Permitted without consent

Environmental protection works; Extensive agriculture

3 Permitted with consent

Environmental facilities; Information and education facilities; Roads

4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Extract from Upper Lachlan Local Environmental Plan 2010

Clause 6.6 Erection of dwelling houses on land in certain rural and environmental protection zones

- (1) The objectives of this clause are as follows:
 - (a) to minimise unplanned rural residential development,
 - (b) to enable the replacement of lawfully erected dwelling houses in rural and environmental protection zones.
- (2) This clause applies to land in the following zones:
 - (a) Zone RU1 Primary Production,
 - (b) Zone RU2 Rural Landscape,
 - (c) Zone RU4 Primary Production Small Lots,
 - (d) Zone E2 Environmental Conservation,
 - (e) Zone E3 Environmental Management.
- (3) Development consent must not be granted for the erection of a dwelling house on a lot in a zone to which this clause applies, and on which no dwelling house has been erected, unless the lot is:
 - (a) a lot that is at least the minimum lot size specified for that lot by the Lot Size Map, or
 - (b) a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
 - (c) a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement.

Note. A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

- (4) Despite subclause (3), development consent must not be granted for the erection of a dwelling house on a lot to which clause 14 (2) (a) of the *Crookwell Local Environmental Plan 1994* applied and on which the erection of a dwelling house would only have been permissible before this Plan commenced by virtue of that provision.
- (5) Despite any other provision of this clause, development consent may be granted for the erection of a dwelling house on land in a zone to which this clause applies if:
 - (a) there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house, or
 - (b) the land would have been a lot referred to in subclause (3) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose.

