

# Planning Proposal Assessment Report

## APPLICATION DETAILS

<b>Application No:</b>	LEP20/0008
<b>Applicant:</b>	Monette O'Leary
<b>Proposal Summary:</b>	List 'artisan food and drink industry as an additional permitted use for 611 Sturt Highway, Borambola.
<b>Land Owner</b>	John Jelly, Monette & Noel O'Leary
<b>Assessment Officer:</b>	Crystal Atkinson, Senior Strategic Planner

## SITE AND LOCATION

The site is located approximately 41km east of Wagga Wagga on the Sturt Highway. Tarcutta Creek runs along the eastern boundary, Sturt Highway on the northern boundary and rural land on the southern and western boundary.

The site and surrounding areas are rural in nature.

<b>Subject Land:</b>	611 Sturt Highway, Borambola
<b>Current LEP Provisions:</b>	<b>Land zoning:</b> RU1 Primary Production <b>Minimum lot size:</b> 200 hectares
<b>Current DCP Provisions</b>	Section 8 – Rural Development
<b>Existing Character:</b>	The site is a rural property which is used for broadacre grazing and rural dwelling purposes.





## PROPOSAL

Council is in receipt of an application to amend the Wagga Wagga Local Environmental Plan 2010 (LEP) to include 'artisan food and drink industry as an additional permitted use in Schedule 1 for 611 Sturt Highway, Borambola.

The proposal will create an opportunity for a premise to be located on the site that can sell products made on the farm.

The proponent's description of the proposal, supporting information and conceptual development plans are provided under a separate cover (Attachment 1).

## ASSESSMENT

### 1. Council's Vision or Strategic Intent

The Wagga Wagga Spatial Plan 2013-2043 identifies the need to ensure rural communities remain strong and viable and continue to make their invaluable contribution to the character of our area.

Allowing 'artisan food and drink industry in the rural areas where farm produce can be sold on site will facilitate farm diversification and value-add to the farming uses on the site.

The Wagga Wagga Community Strategic Plan 2040 includes the outcome 'We attract and support local business and industry'. Allowing 'artisan food and drink industry on this site will support the start up of a local business that will manufacture and sell local produce on site.



The draft Wagga Wagga Local Strategic Planning Statement – Planning for the future: Wagga Wagga 2040 identifies the objective of “supporting key industries across the city is imperative to ensure Wagga Wagga continues to grow and attract new business, services and investment”.

Similarly, Economic Action No. 8 seeks to ‘provide for more diverse industries, including renewable energy, emerging and creative industries and the development of new small business ventures’.

By allowing the use of the site as an artisan food and drink industry will help support new and emerging industries.

The proposal is consistent with Council’s vision and strategic intent.

## 2. Character analysis

NSW Department of Planning Circular PS 18-008 provides directions to Council’s on amendments to retail land use definitions in the NSW planning system. As part of this circular, ‘artisan food and drink industries’ were introduced to provide clarity for the growing artisan and craft food and drink industry.

The purpose of the amendment was in response to:

*Boutique, craft or artisan food and drink products are increasingly popular among consumers who want an alternative to mass-manufactured offerings. Craft and locally produced goods command a price premium and support industries such as tourism and hospitality and provide local employment*

*The new land use term will provide clarity for the growing artisan and craft food and drink industry such as microbreweries or cheese makers by establishing a new definition that reflects the nature of these uses.*

Examples of artisan food and drink premises include wineries (cellar doors), breweries (such as the Thirsty Crow in Wagga Wagga), cheese makers, berry farms or the like.

An artisan food and drink industry are defined in the Wagga Wagga LEP as:

**artisan food and drink industry** means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following—

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

### **Note—**

See clause 5.4 for controls in industrial or rural zones relating to the retail floor area of an artisan food and drink industry.

Artisan food and drink industries are a type of **light industry**—see the definition of that term in this Dictionary.

Clause 5.4 (10) – Controls relating to miscellaneous permissible uses – Artisan food and drink industry exclusion in the Wagga Wagga LEP specifies the following controls:

- (10) **Artisan food and drink industry exclusion** If development for the purposes of an artisan food and drink industry is permitted under this Plan in an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—
  - (a) 30% of the gross floor area of the industry, or
  - (b) 400 square metres,

whichever is the lesser.

This type of use in a rural setting with the controls identified above will enable the manufacturing of farm produce for sale and be complimentary to the rural character of the area.

### **3. Infrastructure**

The subject land is rural zoned and is connected to a range of infrastructure and services on site including rural drainage, water supply, as well as the disposal of effluent via on-site disposal (septic), which are already connected to the existing rural dwelling contained on-site. Road access to the property is via the sealed Sturt Highway to the north.

The inclusion of artisan food and drink industries within Schedule 1 of the LEP as an additional permitted use and the subsequent development of this land for this purpose is not expected to adversely affect existing service arrangements. The development will not require an extension or augmentation to Council's infrastructure and specific details regarding infrastructure and servicing will be addressed as part of any subsequent development application submitted for the site.

### **4. LEP Provisions**

The subject land is currently zoned RU1 Primary Production with a minimum lot size of 200 hectares. Development for the purposes of light industries, which includes the definition of an artisan food and drink premises is prohibited in this zone.

The planning proposal seeks approval to include artisan food and drink industries as an additional permitted use in Schedule 1 of the LEP as it relates to 611 Sturt Highway, Borambola. In doing so, this will allow this use to be conducted on site despite the rural zoning of the property.

### **5. Development Control Plan**

The Wagga Wagga Development Control Plan contains both general and specific controls relating to development in the rural zones.

Given the nature of the proposal, a separate amendment to the DCP is not required in this instance.

### **3. Addendum to Planning Proposal**

It is noted that artisan food and drink industries were not a defined land use term at the time the LEP was gazetted in 2010.

Consequently, artisan food and drink industries are currently prohibited within a range of land use zones across Wagga Wagga except for the RU5 Village, B6 Enterprise Corridor, IN1 General Industrial and IN2 Light Industrial zones where artisan food and drink industries are permitted with consent either under the higher order definition of 'light industry' or as 'any other development not specified in item 2 or 4' being development that is permitted without consent or is prohibited.

For land outside of these zones, including the RU1 Primary Production Zone, artisan food and drink premises are prohibited.

Following a review of the subject planning proposal and the strategic merit and wider economic and tourism benefits that would result from such an activity, an addendum to the planning proposal has been prepared that seeks to include artisan food and drink industries as a permitted land use within a range of different zones across the City.

Specifically, the amended planning proposal seeks to allow artisan food and drink industries within the following zones:

- RU1 Primary Production Zone;
- RU2 Rural Landscape Zone;
- RU4 Primary Production Small Lots Zone;
- B3 Commercial Core Zone;
- B4 Mixed Use Zone;

Whilst it is acknowledged that some artisan food and drink premises have the potential to generate noise or odours during the manufacturing process, it should be noted that the definition of artisan food and drink industries only applies ‘...to an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash dust, waste water, water products, grit or oil, otherwise...’

Consequently, the inclusion of artisan food and drink premises within a wider range of rural and commercial zones is not expected to adversely affect the amenity of adjoining landowners and will be subject to future development application/s.

As a result of the proposed addendum, there is now no need to include the subject land within Schedule 1 of the LEP as an additional permitted use as this use will become permitted with consent in the RU1 Primary Production Zone, which will achieve the same objective.

## COMPLIANCE TEST

The following matters pursuant to the provisions of Section 3.33 of the Environmental Planning and Assessment Act 1979 and the Department of Planning, Industry and Environment’s Guide to Preparing Planning Proposal, have been taken into consideration in the assessment of the proposal.

<b>Riverina Murray Regional Plan 2036</b>	
<b>Direction</b>	<b>Compliance</b>
Protect the region’s diverse and productive agricultural land	<p>The site is located within the RU1 Primary Production zone and the planning proposal seeks to include artisan food and drink industries as permitted with consent within certain rural zones.</p> <p>The proposal is consistent with this direction as the inclusion of artisan food and drink industries will support the agricultural base of Wagga Wagga and will increase the range of supportive or complementary activities that are permitted in these zones.</p>
Promote the growth of the agribusiness sector	<p>This direction outlines the importance of agribusiness as it sustains the local economies of many communities in the region. It comprises businesses that support agricultural production and can include food, beverage, and other product outlets.</p> <p>The proposal is consistent with this direction and specifically achieves the outcomes of Action 2.1, which seeks to ‘encourage agribusiness diversification by reviewing local plans and removing restrictive land use zonings and outdated land use definitions’.</p>
Promote business activities in industrial and commercial areas.	<p>The amended planning proposal seeks to permit artisan food and drink industries within the B3 Commercial Core.</p> <p>The proposal is consistent with this direction as it will support existing businesses by allowing for the establishment of new and emerging businesses such as boutique retailing outlets that manufacture goods on-site. This in turn will encourage economic development, jobs creation and tourism.</p>
Promote tourism opportunities	<p>The proposal is consistent with this direction as it will encourage and support tourism industries by promoting a wider range of commercial and light industrial uses across the city.</p> <p>The proposal will strengthen the role of existing commercial centers, support the agricultural base and will achieve economic development and growth.</p>

Promote the growth of regional cities and local towns	The proposal is consistent with this direction as it will increase the range and type of commercial and light industrial uses that are permitted across the city.
<b>Wagga Wagga Community Strategic Plan</b>	
<b>Direction</b>	<b>Compliance</b>
We attract and support local businesses and industry	The proposal is consistent with this outcome/direction as it will support existing and proposed businesses by increasing the range and type of commercial and light industrial uses permitted within Wagga Wagga.
We foster entrepreneurs and start-ups	The proposal is consistent with this outcome as it caters for a growing demand and trend for boutique industries and service related businesses such as cellar doors, microbreweries etc.
We are a tourist destination	The proposal is consistent with this outcome as it will support tourism and economic development by promoting and encouraging artisan food and drink premises within a wider range of zones across the city.
<b>Wagga Wagga Spatial Plan 2013 -2043</b>	
<b>Direction</b>	<b>Compliance</b>
We plan for a growing community	The proposal is consistent with this objective as it will increase the range and type of light industrial and commercial land uses permitted within Wagga Wagga.
There is growing business investment in our community	The proposal is consistent with this objective as it will support new and emerging businesses through more flexible planning controls.
<b>Draft Wagga Wagga Local Strategic Planning Statements</b>	
<b>Direction</b>	<b>Compliance</b>
Engage with the business community to ensure that our LEP, DCP and approvals systems are enabling the right types of land uses in the right locations to support investment, business and employment growth	<p>The proposal has been prepared in response to changing and emerging business trends, which will support a wider range of new businesses and industries.</p> <p>The planning proposal will be publicly exhibited and comments will be sought from the general public and business community.</p>
Provide for more diverse industries, including renewable energy, emerging and creative industries and the development of new small business ventures.	The proposal directly responds to this direction as it provides for a diverse and emerging range of new industries including small business ventures.
<b>Section 9.1 Ministerial Directions</b>	
<b>Direction</b>	<b>Compliance</b>
1.1 Business & Industrial Zones	The planning proposal is consistent with this direction as it does not reduce the amount of business or industrial zoned land and will support and promote employment growth within designated zones industrial and commercial zones.
1.2 Rural Zones	The planning proposal is consistent with this direction as it does not reduce the amount of rural zoned land. Similarly, the proposal will not increase the permissible density of land within a rural zone and will support the agricultural supply chain (where necessary) through ancillary and complementary land use activities.

1.5 Rural Lands	The planning proposal is consistent with this direction for the reasons outlined in response to Direction 1.2.
5.10 Implementation of Regional Plans	The planning proposal is consistent with the recommendations and actions of the Murray Regional Plan 2036 as outlined earlier in this table.
<b>State Environmental Planning Policies</b>	
<b>Policy</b>	<b>Compliance</b>
State Environmental Planning Policy No. 33 – Hazardous and Offensive Industry	The planning proposal is consistent with this SEPP as artisan food and drink industries are a light industry and would therefore no likely be considered a hazardous or offensive industry within the meaning of this SEPP.
State Environmental Planning Policy No. 55 – Remediation of Land	SEPP No. 55 aims to identify lands where potential contamination requires that land to be remediated prior to being developed, used, or zoned in a certain way.  Prior to any use or development occurring subject to a development application, land will need to be assessed against clause 7 of the SEPP. The Planning Proposal is consistent with and not in contravention of this SEPP.

#### Internal / External Consultation

Internal: Due to the nature of the amendment, the planning proposal was not forwarded to other internal cross-directorates for comment.

Community consultation: Community consultation will be undertaken as required by the Gateway Determination.

#### FINANCIAL IMPLICATIONS

In accordance with Council's 2019/20 Fees and Charges, a Medium LEP Amendment application (medium complexity) attracts an application fee of \$16,000. The proponent has paid this fee. There are no requirements to amend the DCP, therefore, there are no such fees required to be paid in this instance.

#### CONCLUSION

The submitted planning proposal seeks to amend the Wagga Wagga Local Environmental Plan 2010 by including Artisan Food and Drink Industries as an additional permitted use within Schedule 1 of the LEP as it relates to 611 Sturt Highway, Borambola.

Following a review of the proposal and the strategic merit and wider economic and tourism benefits that would result from such activities, an addendum to the planning proposal has been prepared that seeks to include artisan food and drink industries as a permitted land use within a range of zones across the City.

More specifically, the amended planning proposal seeks to allow artisan food and drink industries within the following zones:

- RU1 Primary Production Zone;
- RU2 Rural Landscape Zone;
- RU4 Primary Production Small Lots Zone;
- B3 Commercial Core Zone;
- B4 Mixed Use Zone;

This is in addition to the RU5 Village, B6 Enterprise Corridor, IN1 General Industrial and IN2 Light Industrial zones where artisan food and drink industries are already permitted with consent either under the higher order definition of 'Light Industry' or as 'any other development not specified in item 2 or 4' being development that is permitted without consent or is prohibited.

Consequently, there is no need to include the subject land within Schedule 1 of the Wagga Wagga Local Environmental Plan 2010 as this use will become permitted with consent in the RU1 Primary Production Zone.

The amendment is consistent Council's strategic plans and policies as well as relevant Section 9.1 Ministerial Directions and SEPPs.

It is recommended that Council endorse the planning proposal and addendum and forward it to the NSW Department of Planning, Industry and Environment seeking Gateway Determination.