

## Planning Services

545032

### Gateway determination report

<b>LGA</b>	Upper Lachlan
<b>PPA</b>	Upper Lachlan Shire Council
<b>NAME</b>	Rezone Lot 2 DP 1160080 Kialla Road, Crookwell from SP2 to E3 (1 homes, 0 jobs)
<b>NUMBER</b>	PP_2019_UPLAC_001_00
<b>LEP TO BE AMENDED</b>	Upper Lachlan Local Environmental Plan 2010
<b>ADDRESS</b>	Kialla Road, Crookwell
<b>DESCRIPTION</b>	Lot 2 DP 1160080
<b>RECEIVED</b>	10 January 2019
<b>FILE NO.</b>	IRF19/142
<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 (PP) seeks to amend Upper Lachlan Local Environmental Plan 2010 (Upper Lachlan LEP) to rezone the subject site (Lot 2 DP 1160080) located on Kialla Road, Crookwell from SP2 Infrastructure (Health Services Facility) to E3 Environmental Management and increase the minimum lot size to 2 hectares (ha).

This would permit (subject to development consent) a single residential dwelling on the site whilst providing greater protection of environmentally significant areas through appropriate environmental zoning.

### Site description

The subject site is legally described as Lot 2 DP 1160080. The site has an area of approximately 2.897ha and adjoins the Crookwell District Hospital (Lot 1 DP 1160080) and Kialla Road, Crookwell to the east. The site also has frontage to McDonald Street to the south (Figure 1).

The site contains open grassland concentrated in the south-west. A large proportion of the site is also covered in Tablelands Snow Gum Grassy Woodland which is an Endangered Ecological community (EEC). A riparian corridor identified as a high hazard floodway is located on the western boundary of the site.

The site is not identified as bushfire prone land.



**Figure 1 – Site map**

### **Site history**

The subject site was previously part of a single larger consolidated lot with the Crookwell District Hospital. However, the subject site was assessed as surplus land by NSW Health to the current and future provision of hospital services in Crookwell. As such, the larger consolidated site was subdivided into two separate allotments (registered in 2010) to create Lot 1 DP 1160080 (the subject site) and Lot 2 DP 1160080 (the Crookwell District Hospital).

### **Existing planning controls**

The subject site is zoned SP2 Infrastructure (Health Services Facility) and has a minimum subdivision lot size of 800m<sup>2</sup> under the Upper Lachlan LEP (Figure 2).

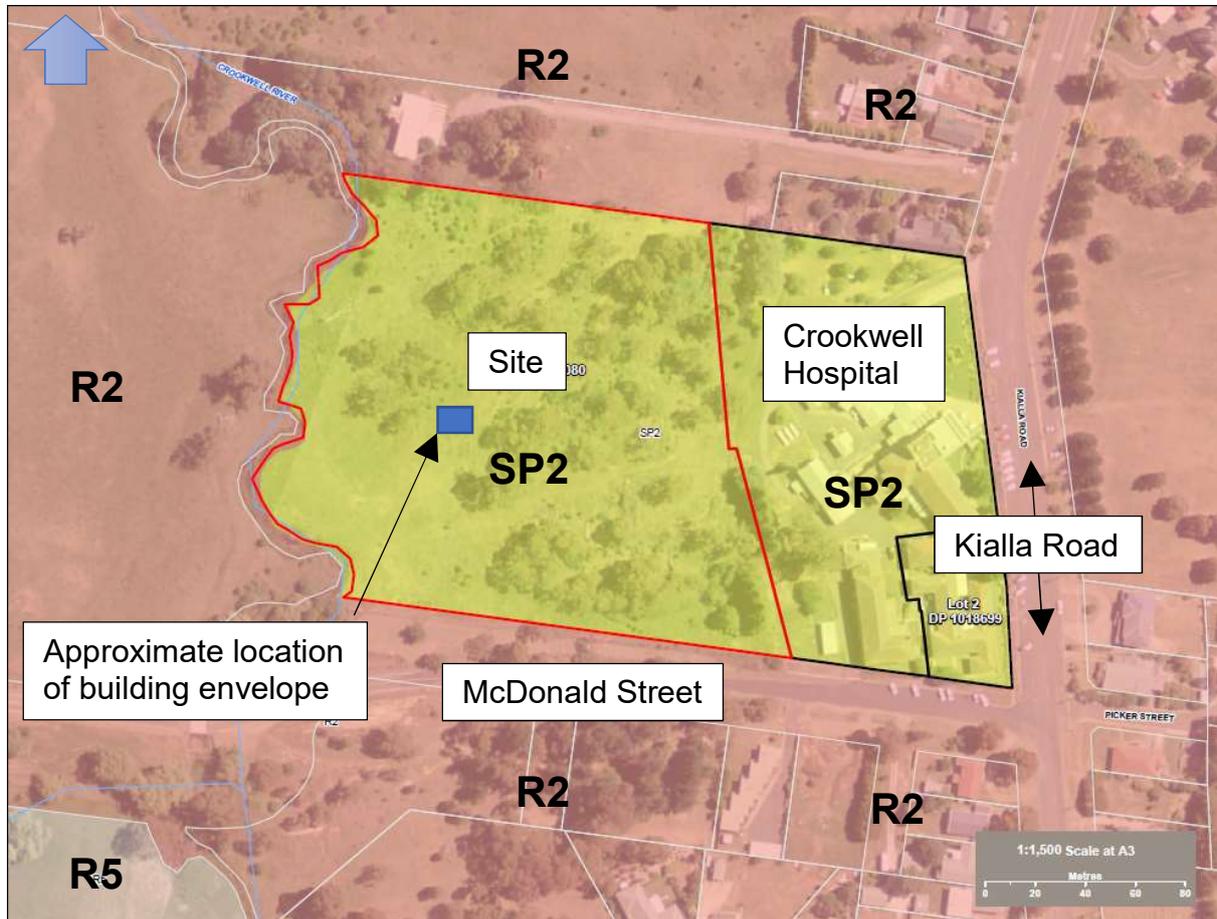
### **Surrounding area**

The subject site is surrounded by (Figure 2):

- the Crookwell District Hospital (zoned SP2) and Kialla Road to the east;
- McDonald Street and land zoned R2 Low Density Residential to the south;
- additional land zoned R2 to the west and north; and
- land zoned R5 Large Lot Residential to the south-west.

The Crookwell District Hospital is listed as an item of local heritage significance.

Many of the R2-zoned lots surrounding the subject site contain existing dwellings (mainly the smaller lots along Kialla Road). However, some larger lots to the south, west and north-west remain vacant. The planning proposal states Council's *Upper Lachlan Strategy Vision 2020* identifies R2-zoned land surrounding the site as a key area to provide for the residential expansion of Crookwell.



**Figure 2 – Site and surrounding area**

**Summary of recommendation**

It is recommended that the planning proposal should progress to consultation as submitted as it would (subject to development consent) facilitate the provision of a residential dwelling on the site whilst providing greater protection of environmentally significant areas through appropriate environmental zoning.

**PROPOSAL**

**Objectives or intended outcomes**

The intended outcomes of the planning proposal are to allow the highest and best use of the site by permitting the erection of a single dwelling house, whilst managing and conserving the environmental and historic significance of the site.

Comment – It is considered the statement of objectives is clear and meets the requirements of the Department’s guide to preparing planning proposals.

The construction of a dwelling on the subject site would be compatible with existing and desired residential development on adjacent R2-zoned sites and would provide greater protection of environmentally significant areas of the site through appropriate

environmental zoning. Potential heritage impacts are discussed in detail on page 5 of this report.

### **Explanation of provisions**

The planning proposal seeks to:

- rezone the site from SP2 Infrastructure (Health Services Facility) to E3 Environmental Management; and
- increase the minimum lot size of the site from 800m<sup>2</sup> to 2 ha.

Comment – The explanation of provisions is simple and clearly outlines how the intended outcomes of the planning proposal would be achieved. It therefore meets the requirements of the Department’s guide to preparing planning proposals.

### **Mapping**

The proposal will require the amendment of two LEP maps, being the zoning and lot size maps applying to the site. Council has included mapping of the proposed zoning and lot size controls within the proposal.

### **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal states the site has been identified by NSW Health as surplus land by NSW Health to the current and future provision of hospital services in Crookwell.

The planning proposal is needed to allow the highest and best use of the subject site. The planning proposal has been lodged to permit the erection of a single dwelling house on the subject site whilst providing greater protection of environmentally significant areas of the site through appropriate environmental zoning.

The Department has considered a range of alternative options to achieve the intended outcomes, such as:

- Option 1 - the inclusion of a dwelling house as an additional permissible use on the subject site via Schedule 1 – Additional Permitted Uses of the LEP; and
- Option 2 - rezoning the site to an appropriate residential zone (e.g. R2 or R5) and increasing the minimum lot size.

However, it is considered the above options would not afford an appropriate level of zoning protection of the environmentally significant EEC which covers the majority of the site. Further, rezoning the site R5 is not considered reasonable for a single isolated lot in this location and would need to be considered across all surrounding large lot R2-zoned properties to the south-west, west and north-west.

Comment – A planning proposal to amend the zoning and lots size maps applying to the subject site in the Upper Lachlan LEP is considered the most appropriate mechanism to achieve the intended objectives and outcomes.

The subject site has been identified as surplus lands by NSW Health which are not needed for the future provision of health services in Crookwell. The site also has several environmental constraints (EECs, flooding, riparian corridor etc) which limit its development potential for health infrastructure.

The proposed building envelope would be located on a predominantly cleared part of the land in the south-west part of the site dominated by exotic species (Figure 2).

The construction of a single dwelling on the subject site would be compatible with existing residential development on adjacent sites and the desired future character of Crookwell (as outlined in Council's *Upper Lachlan Strategy Vision 2020*).

The planning proposal would also afford greater protection of environmentally significant areas of the site through E3 zoning. The planning proposal is accompanied by a Biodiversity Management Plan (BMP) prepared to ensure the impacts of a single dwelling are appropriately managed and the ecological values of the EEC are protected in perpetuity.

For these reasons, the Department considers the planning proposal to be justified.

## **STRATEGIC ASSESSMENT**

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### **South East and Tablelands Regional Plan**

Council has assessed the proposal against the South East and Tablelands Regional Plan and considers it to be consistent with key Directions such as:

- Direction 14 – protect important environmental assets; and
- Direction 23 – protect the region's heritage.

Comment – The planning proposal would afford greater protection of an EEC (an important environmental asset) through appropriate environmental zoning. The planning proposal is also supported by a Heritage Assessment (HA) which concludes the site does not contain any heritage items of significance and is not part of any conservation area. However, the HA concludes that if housing built on the site, it would likely result in some visual impacts to the adjacent Crookwell District Hospital.

The proposed building envelope (Figure 2) indicates the dwelling would be built on a cleared area of the site which is largely surrounded by EEC vegetation (trees). The building envelope has been chosen to minimise heritage impacts on the Crookwell District Hospital by avoiding key visual corridors to the west. It is also noted the topography of the land slopes moderately down from the Crookwell District Hospital to the riparian corridor on the western boundary of the subject site.

The construction of one dwelling on the site is unlikely to result in any significant heritage impacts on the locally significant Crookwell District Hospital. The planning proposal is not inconsistent with the above Directions of the Regional Plan.

As the proposal seeks to facilitate the delivery of an additional dwelling on the site, the Department considers the proposal to be consistent with Direction 24 of the Regional Plan by delivering greater housing supply.

### **Local**

The *Upper Lachlan Strategy Vision 2020* was finalised in 2009 and informed the preparation of the Upper Lachlan LEP 2010. The Strategy seeks to guide strategic planning and land use decisions in Upper Lachlan.

The planning proposal states the Strategy identifies R2-zoned land surrounding the site as a key area to provide for the residential expansion of Crookwell. The Department considers the planning proposal to be consistent with this aspect of the Strategy as it would facilitate the development of a residential dwelling on the site.

Council's considers the planning proposal to be consistent with the Strategy in so far as a comprehensive assessment of the site and its constraints (biodiversity, heritage etc) has been undertaken to identify the best possible land use outcome.

The Strategy identifies the *Upper Lachlan Shire Biodiversity Planning Framework* (BPF) as a key planning strategy applying to the LGA. The BPF includes recommendations for strategic planning objectives for the retention and protection of environmentally sensitive land, including medium and high conservation value vegetation. The Department is satisfied the planning proposal accords with the BPF (and therefore the Strategy) in this regard.

## **Section 9.1 Ministerial Directions**

The planning proposal has identified applicable section 9.1 Directions, which are discussed below.

### Direction 2.1 Environment Protection Zones

This Direction aims to protect and conserve environmentally sensitive areas.

Comment - The planning proposal would afford greater protection of environmentally significant areas of the site through E3 zoning and is therefore considered to be consistent with this Direction.

### Direction 2.3 Heritage Conservation

The objective of this Direction is to conserve items, areas, objects and places of environmental heritage and indigenous significance.

This Direction requires planning proposals to facilitate the conservation of heritage items.

Comment - As noted earlier in this report, the Department is satisfied the planning proposal would not result in adverse heritage impacts to the Crookwell District Hospital.

Recommendation - The Secretary's delegate can therefore be satisfied that any potential inconsistency with this Direction is of minor significance.

### Direction 4.3 Flood Prone Land

The objectives of this Direction are to ensure development of flood prone land is consistent with NSW Government policy and LEP provisions suitably capture flood hazards.

This Direction applies as the planning proposal has identified that the western part of the site along with riparian corridor is flood prone (high hazard floodway).

The planning proposal includes map overlays demonstrating the proposed building envelope (and access road) would be located outside the floodway. A future development application would require any dwelling to site above the relevant flood planning level.

The Secretary's delegate may be satisfied that any inconsistency with this Direction is of minor significance.

### Direction 5.2 Sydney Drinking Water Catchment

This Direction aims to protect water quality in Sydney's Drinking Water Catchment, including land within the Upper Lachlan LGA.

This Direction requires consultation with the Sydney Catchment Authority (now Water NSW) prior to Gateway determination.

Council noted any future development application on the site would need to demonstrate a neutral or beneficial effect to water quality.

Comment - The Department considers the potential water catchment/quality issues associated with the development of one dwelling on the site are likely to be minor and may be suitably addressed through the development assessment process. It is, however, considered that the planning proposal is currently inconsistent with the direction because Council has not yet consulted with WaterNSW on the planning proposal prior to public consultation which is a requirement of the direction. Council should provide further information to demonstrate that it has addressed the requirements of the direction prior to finalising the planning proposal.

Recommendation: That Council provide further information to demonstrate that it has addressed the requirements of the direction prior to finalising the planning proposal.

#### Direction 5.10 Implementation of Regional Plans

This Direction gives legal effect to the vision, directions and actions contained in regional plans. Planning proposals must be consistent with the relevant Regional Plan.

Comment - As noted earlier in this report, the planning proposal is not considered to be inconsistent with the South East and Tablelands Regional Plan.

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

The planning proposal identifies State Environmental Planning Policies (SEPPs) applying to the site. Key relevant SEPPs are detailed below.

#### State Environmental Planning Policy No. 55 - Remediation of Land

SEPP 55 provides a state-wide approach to the management of contaminated land and outlines the relevant considerations in preparing an environmental planning instrument to rezone land.

A portion of the site has been cleared and the planning proposal notes the site has previously been used for horse grazing activities. Agricultural activities are listed as potentially contaminating in the *Managing Land Contamination Planning Guidelines* (1998).

In this instance, SEPP 55 requires a preliminary contaminated site investigation to be carried out in accordance with the above guidelines which has not been provided.

At this stage, the Department cannot be satisfied that the relevant considerations of SEPP 55 have been met and recommends a preliminary contaminated site investigation be undertaken and exhibited with the planning proposal.

#### State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

As noted earlier in this report, the Department is satisfied potential water catchment/quality issues associated with proposal are likely to be minor and can be suitably addressed through the development assessment process.

With recommended conditions in place, it is concluded that the planning proposal would not be inconsistent with relevant SEPPs.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social and Economic**

The planning proposal states that it would provide a net socioeconomic community benefit because it would:

- provide additional land for residential development in a desirable location with no environmentally impacts;
- create jobs from constructing a dwelling on the site;
- create jobs from servicing the site; and
- result in a minor increase in spending in Crookwell.

The Department concurs the proposal would have the above minor positive social and economic impacts in addition to the preservation of environmentally sensitive land for the community

### **Environmental**

The key environmental issues associated with the planning proposal are likely to be biodiversity, flooding, contamination, water quality/catchment issues and heritage.

The Department has given these issues due consideration throughout this report and is satisfied the impacts will either be minor, can be addressed through the development assessment process, or the provision of further information (e.g. a preliminary contaminated site investigation).

### **Infrastructure**

Council has advised the site can connect into existing services infrastructure. Additional servicing will be provided by the developer.

The construction of a dwelling on the site would generate minimal traffic and is unlikely to detrimentally impact the local road network.

## **CONSULTATION**

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### **Community**

Council has proposed a 28-day community consultation period which is considered adequate having regard to the nature of the planning proposal.

### **Agencies**

Council has undertaken pre-lodgement consultation with the Office of Environment and Heritage (OEH). The planning proposal states it has in principal support from OEH subject to:

- identification of a preferred building envelope which requires less infrastructure and clearing to avoid impacts to threatened species on site; and
- imposition of a section 88b instrument and supporting BMP to avoid long-term impacts to EEC and threatened species habitat.

Given the positioning of the proposed building envelope and noting the planning proposal is supported by a BMP, the Department is confident the OEH's concerns can be addressed.

It is recommended that further consultation be undertaken with OEH and Water NSW to ensure any outstanding biodiversity, heritage or water quality/catchment issues are suitably resolved prior to the plan being made.

It is also recommended that consultation be undertaken with NSW Health noting the site adjoins the Crookwell District Hospital.

## **TIME FRAME**

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Council anticipates a 12-month time frame to finalise the LEP. It is recommended that a 12-month period be provided to enable a buffer in case issues arise during consultation or any other part of the process.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council has asked for plan-making authority in relation to this proposal. This is considered appropriate, as the proposal is minor in nature and is not inconsistent with regional and local strategic planning.

## **CONCLUSION**

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The planning proposal would facilitate the provision of a residential dwelling on the site whilst providing greater protection of environmentally significant areas through appropriate environmental zoning.

It is therefore recommended that the planning proposal should progress as submitted.

## **RECOMMENDATION**

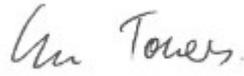
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It is recommended that the delegate of the Secretary:

1. note that consistency with section 9.1 Direction 5.2 Sydney Drinking Water Catchments is unresolved and will require justification.
2. agree that any inconsistencies with section 9.1 Directions 2.3 Heritage Conservation, and 4.3 Flood Prone Land are minor or justified.

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. Consultation is required with the following public authorities:
  - Water NSW;
  - Office of Environment and Heritage; and
  - NSW Health.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. A preliminary contaminated site investigation be prepared in accordance with managing contaminated land planning guidelines and exhibited with the planning proposal.



29/01/19

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31/01/2019

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