

**UPPER LACHLAN SHIRE COUNCIL**  
**MINUTES OF THE**  
**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBERS**  
**ON 20 AUGUST 2020**

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**REPORTS FROM STAFF AND STANDING COMMITTEES**

**SECTION 11: ENVIRONMENT AND PLANNING**

**ITEM 11.1 AMENDMENTS TO THE UPPER LACHLAN LEP 2010 LAND USE TABLE**

**134/20 RESOLVED by Cr Searl and Cr Culhane**

1. The Council prepare a planning proposal seeking a gateway determination to amend the Upper Lachlan Local Environmental Plan 2010 by changing the land use tables to improve the permissibility of activities within various zones;
2. The Council request the Department of Planning Industry and Environment to authorise Council to exercise delegation of plan making functions in accordance with the Environmental Planning and Assessment Act 1979;
3. The Council delegate authority to the General Manager to undertake any required changes;
4. The Council notify the community of the proposed changes to the LEP through appropriate processes at the time.

- CARRIED

**Councillors who voted for:-**

Crs P Culhane, R Cummins, P  
Kensit, D O'Brien, B  
McCormack, J Searl, J Stafford  
and J Wheelwright

**Councillors who voted against:-**

Cr R Opie

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## Environment and Planning - 20 August 2020

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**ITEM 11.1**                      **Amendments to the Upper Lachlan LEP 2010 Land Use Table**

**FILE REFERENCE**    I20/333

**AUTHOR**                      **Manager of Environment and Planning**

### **ISSUE**

The Local Environmental Plan (LEP) was made in 2010.

In 2020, Council set a new land use strategy. To address issues arising from the strategy the Land Use Table of the LEP has been reviewed. To change the LEP Council will progress through the gateway process.

### **RECOMMENDATION**      That -

1. Council prepare a planning proposal seeking a gateway determination to amend the Upper Lachlan Local Environmental Plan 2010 by changing the land use tables to improve the permissibility of activities within various zones;
2. Council request the Department of Planning Industry and Environment to authorise Council to exercise delegation of plan making functions in accordance with the Environmental Planning and Assessment Act 1979;
3. Council delegate authority to the General Manager to undertake any required changes;
4. Council notify the community of the proposed changes to the LEP through appropriate processes at the time.

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### **BACKGROUND**

In August 2019, following a preliminary review of the LEP Council resolved to negotiate with the Department of Planning Industry and Environment (DPIE) regarding proposed changes to the land use tables.

A draft amendment to the land use tables were provided to the DPIE. Council has also created a local strategic planning statement, adopted in June 2020.

The LEP land use tables have been amended to reflect changes in the Local Strategic Planning Statements and DPIE discussions.

### **REPORT**

The land use table is in Part 2 of the LEP. The LEP has nine zone types:

Four rural zones (RU1, RU2, RU3 and RU4) provide for agriculture and forestry; while Rural zone (RU5) provides for villages in the rural hinterland.

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### **AMENDMENTS TO THE UPPER LACHLAN LEP 2010 LAND USE TABLE cont'd**

There are two residential zones (R2 and R5) low density and large lot residential. Two business zones (B2 and B4) include local centres and mixed-use urban areas, One light industrial zone (IN1), two special use zones (SP1 and SP2), a recreation zone (RE1) and three environment zones (E1, E2 and E3) including; national parks, environmental conservation, and environmental management.

Each zone has four parts in the table:

1. Objectives
2. Permitted without consent
3. Permitted with consent
4. Prohibited activities

The rural, residential, commercial and industrial zones are open zones. An open zone is defined by what it prevents rather than by what is permissible. You can pick an open zone by the words at the end of clause 3 that says anything not listed in clause 2 and 4. Anything here relates to anything in the dictionary at the end of the LEP.

Alternatively, in a closed zone, there is a limit to what is permissible. The list in table 3 is short, and the clause that says anything not listed is at the end of the prohibited list. In other words, if it is not listed, it is not permitted.

In an open table, anything not explicitly forbidden is either permissible with consent or permitted without consent. In an open zone, planners need to be careful that anything that is not required is prohibited. However, the Upper Lachlan LEP 2010 included most of the uses defined in the dictionary as prohibited uses, effectively turning them into functionally closed zones.

Additionally, problems can occur when a closed zone, only provides for one or two uses. When the activity changes, the change may be unintentionally prohibited. The same provisions apply throughout the Shire for churches, scout halls, CWA buildings, roads and other items identified for special use. A problem arises when the owner of the building ceases to exist or becomes a non-functioning organisation and wishes to dispose of their site. If the surrounding land provisions applied, these properties could be sold and used for the same use as adjoining lots. It would be preferable not to have special use zones in the Shire. However, changing the special use zones is a mapping exercise to be undertaken in a future project.

This project is dealing with many of Council's open zones. The objective is to remove some of the items from the prohibited list so that owners may use their land for additional uses. Examples include tourist accommodation facilities in Crookwell to allow for motel accommodation and other overnight stays. Similar changes for tourism have been introduced across the Shire, however, it should be noted that on-farm tourist accommodation is currently permissible in most rural zones.

Attached to the report is a planning proposal entitled, Prohibited Uses Planning Proposal which attempts to describe most of the changes. Additionally, the amended land use table with highlighted changes is provided for perusal. Staff will be available for the Council meeting to discuss the changes.

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### **AMENDMENTS TO THE UPPER LACHLAN LEP 2010 LAND USE TABLE cont'd**

The changes have been discussed with the DPIE. The changes have also been discussed with Councils tourism office and were identified as a future action in the Local Strategic Planning Statements.

If the Council adopts the recommendation, it will proceed to the DPIE for a gateway determination. If that is approved, the Council will prepare a final land use table amendment to be advertised to the community for the statutory period. Any submissions made at the time will be reviewed by staff and a report provided to Council prior to recommending the Department make the plan.

#### **POLICY IMPACT**

The changes to the Upper Lachlan LEP 2010 are the first of a number of stages of proposed amendments. This amendment will change the permissible uses in the open zones, including the rural, commercial, residential and industrial zones to facilitate additional uses that are compatible with in the respective zone and will facilitate some additional business and residential typologies in the shire.

The changes are relatively far-reaching and should be considered carefully. They do not, however, remove the need for development consent for controversial uses or introduced new uses that are not considered to be compatible within the particular zones. They also do not rezone land. No new zones are being added as a result of this proposal and no land use zone boundaries are changing.

#### **OPTIONS**

It is open to the Councillors to adopt the recommendation or to amend the recommendation to suit their needs. The Councillors should consider whether or not they would like to remove any of the proposed additional uses from any or each of the tables. What changes are being proposed or what the meaning of a particular use is, a dictionary of uses is located at the back of the LEP for perusal.

#### **FINANCIAL IMPACT OF RECOMMENDATIONS**

There are no financial impacts, the project is budgeted for within the Environment and Planning Directorate.

#### **RECOMMENDATION**      That -

1. The Council prepare a planning proposal seeking a gateway determination to amend the Upper Lachlan Local Environmental Plan 2010 by changing the land use tables to improve the permissibility of activities within various zones;
2. The Council request the Department of Planning Industry and Environment to authorise Council to exercise delegation of plan making functions in accordance with the Environmental Planning and Assessment Act 1979;
3. The Council delegate authority to the General Manager to undertake any required changes;
4. The Council notify the community of the proposed changes to the LEP through appropriate processes at the time.

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**AMENDMENTS TO THE UPPER LACHLAN LEP 2010 LAND USE TABLE cont'd**

**ATTACHMENTS**

1. <a href="#">↓</a>	Prohibited uses planning proposal - v4 Planning proposal for Council	Attachment
2. <a href="#">↓</a>	Planning Table	Attachment