

Planning Services

Gateway Determination Report

LGA	Uralla Shire Council
PPA	Rezoning of land at The Gap Road, Uralla (Lots 29, 61, 119-120, 122-123, 255, 401-409, 415-416, 491 in DP 755846, Lot 1-2 in DP 167083 and Lot B in DP 400556) from RU1 Primary Production to RU4 Primary Production Small Lots and amending the minimum lot size to 20 hectares.
NAME	Rezoning of land at The Gap Road, Uralla (approximately 11 primary production small lots)
NUMBER	PP_2018_URALL_001_00
LEP TO BE AMENDED	Uralla Local Environmental Plan 2012
ADDRESS	The Gap Road, Uralla
DESCRIPTION	Lots 29, 61, 119-120, 122-123, 255, 401-409, 415-416, 491 in DP 755846, Lot 1-2 in DP 167083 and Lot B in DP 400556
RECEIVED	9 April 2018
FILE NO.	IRF18/2001
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of planning proposal

The planning proposal seeks to rezone the subject land from RU1 Primary Production to RU4 Primary Production Small Lots and reduce the existing minimum lot size of 200ha to 20ha.

The subject site has a total area of 230ha. The proposed rezoning and minimum lot size amendment has the potential for the development of 11 small primary production lots.

Site description

The subject site is approximately 4km by road from the Uralla town centre and is surrounded by broadacre agricultural land. Access to the locality is via Thunderbolts Way (sealed) and The Gap Road (unsealed). The land is relatively flat and used for extensive agriculture purposes. Dangars Lagoon (a natural wetland) adjoins the site to the south-west (Figure 1, next page). A site inspection was undertaken by the regional team on 4 May 2018 (Figures 2–4, pages 2–3).

Existing planning controls

The subject site is zoned RU1 Primary Production and has a 200ha minimum lot size under the Uralla Local Environmental Plan 2012.

Surrounding area

The site is surrounded by RU1 Primary Production land used primarily for extensive agriculture purposes.

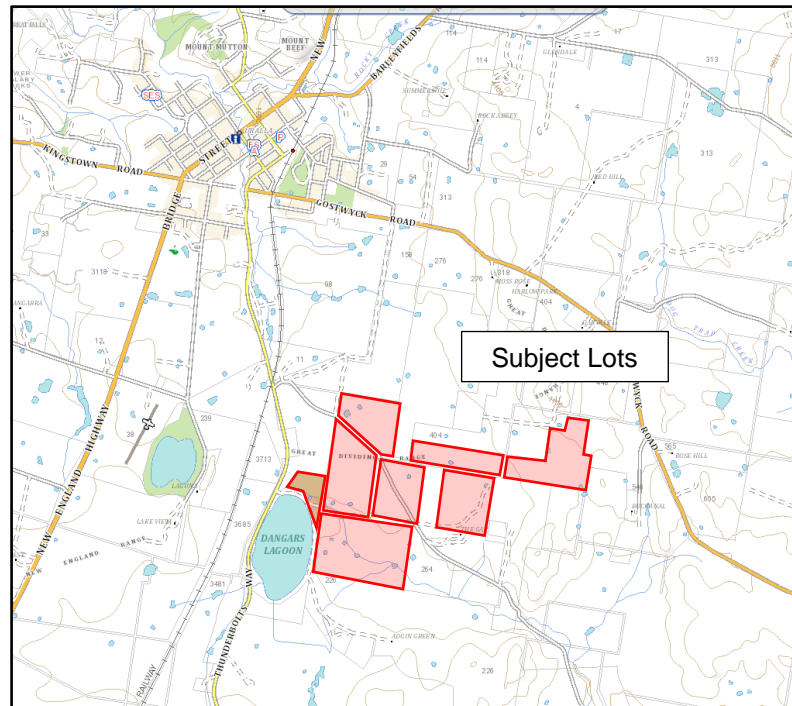


Figure 1: Locality plan.



Figure 2: The Gap Road looking south-west to Dangars Lagoon.



Figure 3: The Gap Road looking east.



Figure 4: The Gap Road looking north.

Summary of recommendation

It is recommended the proposal should not proceed as it is inconsistent with the New England North West Regional Plan 2036, State Environmental Planning Policy (Rural Lands) 2008, section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans and Council's Local Growth Management Strategy.

PROPOSAL

Objectives or intended outcomes

The objectives of the planning proposal are to:

- rezone the land from RU1 Primary Production to RU4 Primary Production Small Lots; and
- reduce the minimum lot size from 200ha to 20ha.

The objectives are adequately detailed in the planning proposal.

Explanation of provisions

The planning proposal seeks to amend the zoning of the subject land and reduce the minimum lot size through appropriate map amendments. No written changes to the Uralla Local Environmental Plan 2012 will be required. The explanation of provisions adequately details the proposed changes.

Mapping

The planning proposal includes maps of the existing and proposed zoning and lot size that are adequate for community and agency consultation (Figures 5–8, next page). The proposal will require an amendment to the following Uralla LEP 2012 maps:

- land zoning – LZN_004_160_20130708; and
- lot size – LSZ_004_160_20130708.

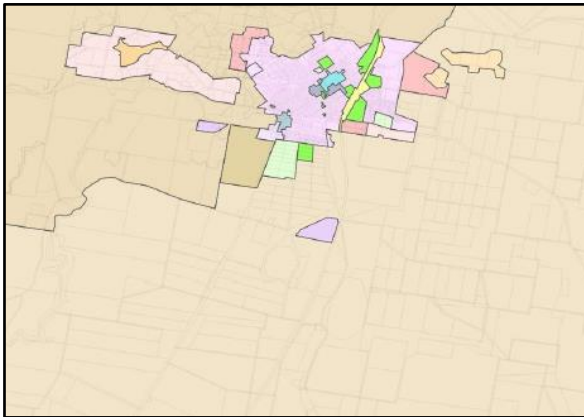


Figure 5: Existing zoning map.

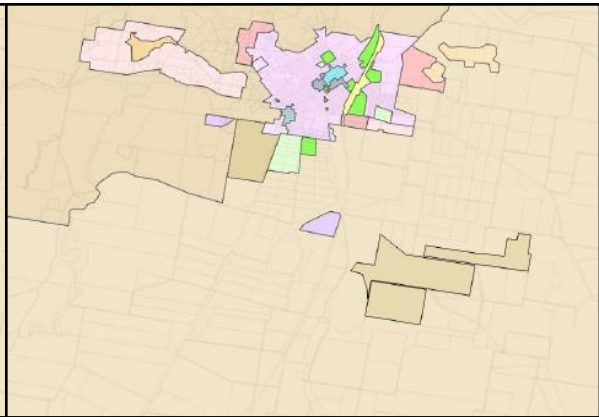


Figure 6: Proposed zoning map.

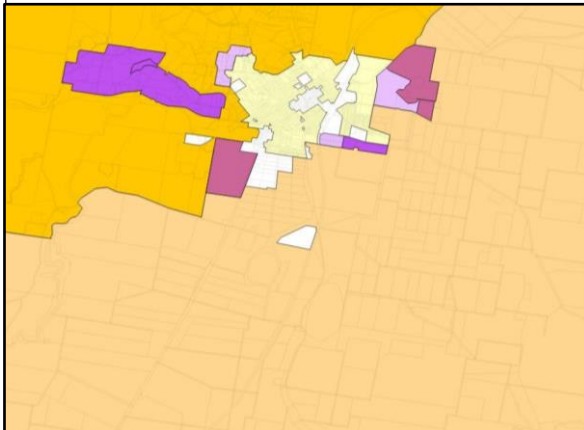


Figure 7: Existing lot size map.

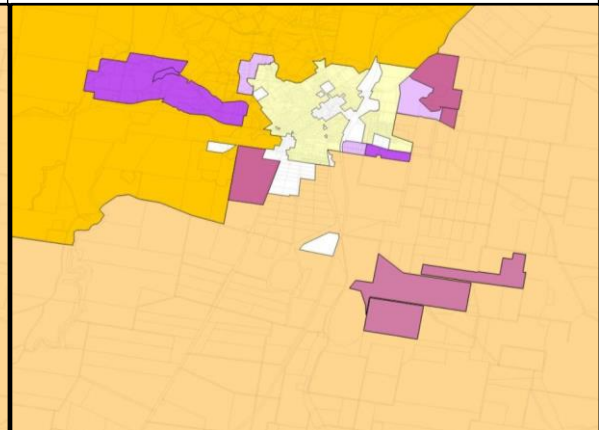


Figure 8: Proposed lot size map.

There is a discrepancy between the lots as addressed in the text of the planning proposal and those that have been illustrated in the planning proposal as detailed in Table 1 and Figures 9–10 (next page).

Lots included in the text of the planning proposal		Lots highlighted in the figures of the planning proposal		Discrepancy between text and figures	
DP	Lot numbers	DP	Lot numbers	DP	Lot numbers
755846	29, 61, 119, 120, 122, 123, 255, 401, 402, 403, 404, 405, 406, 407, 408, 409, 415, 416, 491	755846	29, 61, 119, 120, 122, 123, 137, 255, 401, 402, 403, 404, 408, 409, 415, 416, 491	755846	137, 405, 406, 407, 418
167083	1, 2	167083	1, 2		
400566	B	400566	B		
		1133484	1, 2	1133484	1, 2
		1200219	1	1200219	1

Table 1: Lot discrepancies in planning proposal.



Figure 9: Lots illustrated in planning proposal.

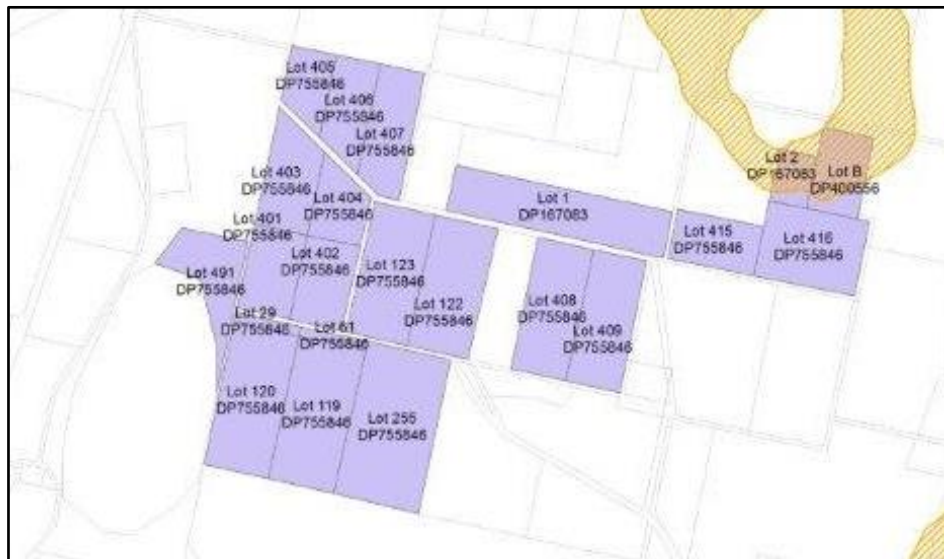


Figure 10: Lots in planning proposal text.

Should the proposal proceed, it is recommended that the Gateway determination require these discrepancies be resolved and amended prior to community and agency consultation.

NEED FOR THE PLANNING PROPOSAL

The planning proposal is necessary to enable the proposed amendment to the Uralla LEP 2012 maps. The planning proposal is the only means of achieving the intended outcomes.

STRATEGIC ASSESSMENT

Regional/district

New England North West Regional Plan 2036

The planning proposal is considered to be inconsistent with the following actions of the New England North West Regional Plan 2036:

Direction 1: Expand agribusiness and food processing sectors

	Action	Comment
1.4	Encourage commercial, tourist and recreation activities that complement and promote a stronger agriculture sector, and building the sectors ability.	While the proponent argues that the proposal is needed to help implement this action, the intent of the action was to support the viability of existing agricultural activities through diversification rather than undertaking new unplanned rural subdivision to support its implementation.

Direction 3: Protect and enhance productive agricultural lands

	Action	Comment
3.2	Limit urban and rural residential development on important agricultural land, including mapped biophysical strategic agricultural land, unless it is in a strategy that is: <ul style="list-style-type: none">• agreed between council and the Department of Planning and Environment; and• consistent with the guidelines for councils on important agricultural land.	The land was identified in the Local Environmental Study that was prepared by Council to support Uralla LEP 1988 as some of the best prime agricultural land in the LGA and is also partly, and in close proximity to, biophysical strategic agricultural land. The land is not identified for rural smallholdings in Council's Department-approved local strategy. The guidelines for important agricultural land have not yet been released by the Department of Primary Industries. Should the proposal proceed, it is recommended that the Department of Primary Industries be consulted along with the Office of Water due to the additional water entitlements that would become available.
3.3	Manage the interface between important agricultural lands and other land uses by incorporating controls in local plans that manage compatibility land uses, and undertaking land use conflict risk assessments where potential conflicts are identified through rezoning processes.	The proposal has provided little detail or evidence addressing potential land use conflicts associated with the proposed fragmentation of land for rural small holdings, and the creation of 11 additional dwellings, and how these potential land use conflicts could be appropriately managed.
3.4	Secure the ongoing agricultural viability of rural landholdings by: <ul style="list-style-type: none">• incorporating appropriate minimum subdivision standards and local planning provisions for rural	The Uralla LEP 2012 identifies 200ha as the appropriate minimum lot size for the area. The LEP is also supplemented by Council's local strategy, which identifies rural

	dwellings in local plans to manage potential conflicts with agricultural activities: and <ul style="list-style-type: none"> • monitoring annual changes in landholding sizes for each local government area. 	smallholding areas and rural residential areas at Kentucky, Rocky River, Invergowrie and Arding. The subject site sits well outside these areas, which Council has advised provides a more than adequate supply to meet current and expected future demand.
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Direction 11: Protect areas of potential high environmental value

	Action	Comment
11.1	Focus development on areas of least biodiversity sensitivity and implement the “avoid, minimise, offset” hierarchy to biodiversity and areas of high environmental value.	The subject site adjoins the Dangars Lagoon wetland, which provides important bird habitat. The proposal does not address or detail the potential impacts associated with the proposed fragmentation of land for rural small holdings, and the creation of 11 additional dwellings, or the mitigation measures that might be required to protect this important biodiversity area. Should the proposal proceed, it is recommended that the Office of Environment and Heritage be consulted post Gateway to determine whether further detailed studies to support the rezoning proposal are required or whether this issue can be adequately addressed at the development application stage.

The regional plan identifies the importance of agriculture for the future development of the region and the need for councils to support the growth of the industry, including strategically planning for intensive agriculture. This proposal does not adequately consider or address these issues and is inconsistent with Council’s Department-approved local strategy for the location of rural smallholdings.

Local

New England Development Strategy

The planning proposal is inconsistent with Council’s Department-approved New England Development Strategy, approved by the former Planning Director General in 2010. Figure 11 (next page) illustrates the areas identified in Council’s strategy as being suitable strategic locations for rural smallholdings (Primary Production Small Lots). The subject site is not in close proximity to any of these locations.

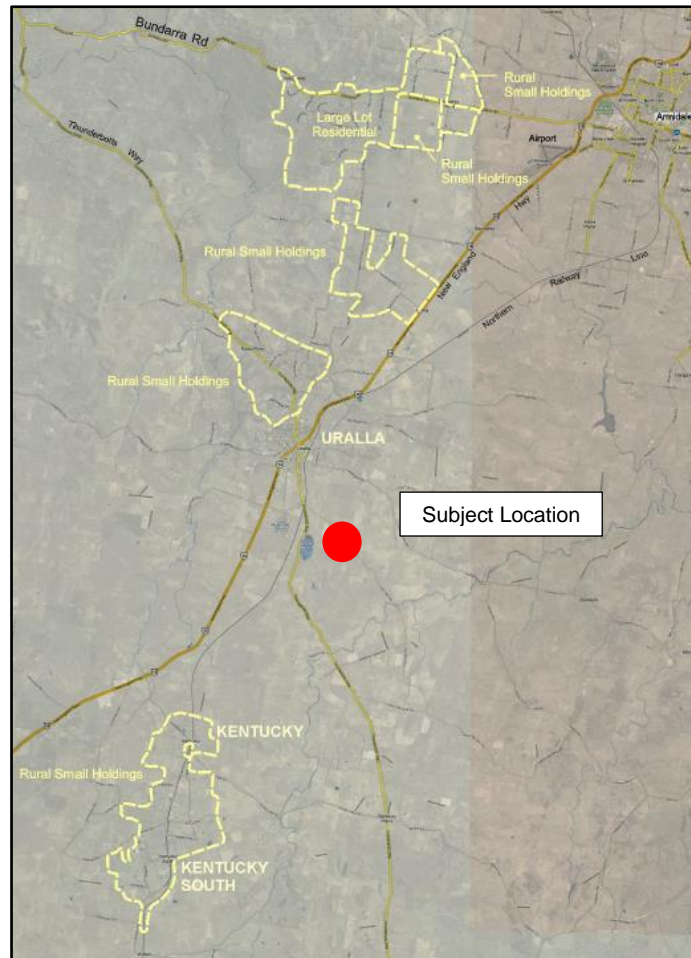


Figure 11: Strategic location of rural smallholdings identified under Council's local strategy

The identified locations in the strategy were selected in part due to the high level of historic fragmentation and the presence of rural smallholding activities already taking place. Council staff have advised that the identified areas provide a sufficient supply for the Shire of land for potential primary production smallholdings across a range of localities.

This strategic approach to rural smallholdings is considered appropriate to minimise the risk of land use conflict with broadacre rural activities and to maintain prime agricultural land in production. Council staff have advised the Department they are unaware of any significant demand for rural smallholdings in the Shire and consider there is enough identified stock for at least the next 20 years.

While the proposal seeks to justify the rezoning as being consistent with the intent of the local strategy's criteria for the selection of the already identified areas, it fails to recognise the existing nature of the identified areas or the large supply of rural smallholding land that these areas already provide for the Shire.

Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all section 9.1 Directions except the following:

Direction 1.2 Rural Zones

This Direction aims to protect the agricultural production value and minimise the fragmentation of rural land. The planning proposal is inconsistent with this Direction

as it seeks to reduce the minimum lot size and rezone the subject lots for rural smallholdings within the broader rural zone. While the land is already fragmented for historic reasons, the fragmented lots do not have the ability for individual dwellings and the land is under one ownership and is collectively farmed. The existing fragmentation does not allow for additional dwelling entitlements on each of the existing lots. The proposal will therefore fragment the land and create the potential for 11 additional dwellings and increase the likelihood of land use conflict in the rural landscape. The subject lots will be located in a primarily broadacre production area representing some of the best prime agricultural land in the Shire due to its soil quality and rainfall.

This inconsistency is not justified by a strategy or study approved by the Department and is not considered to be of minor significance.

Direction 1.5 Rural Lands

The planning proposal is inconsistent with this Direction as it is unable to comply with the rural planning and subdivision principles of State Environmental Planning Policy (Rural Lands) 2008 as discussed below. This inconsistency is not justified by a strategy or study approved by the Department and is not considered to be of minor significance.

2.3 Heritage Conservation

This Direction aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The subject lot adjoins Dangars Lagoon, which is a locally listed heritage item under the Uralla Local Environmental Plan 2012. It is understood that the wetland is likely to have heritage cultural value for the Aboriginal community and played an important role in the early local mining industry that underpinned European settlement in the area. Further investigation and consultation with the Office of Environment and Heritage would be required to determine the consistency with this Direction should the planning proposal proceed.

5.10 Implementation of Regional Plans

The planning proposal is inconsistent with the New England North West Regional Plan 2036 as discussed earlier. The proposal is not considered to be consistent with the overall intent of the regional plan or to help achieve its vision, land use strategy, goals, directions or actions. This inconsistency is therefore not considered to be of minor significance.

State environmental planning policies

The planning proposal is considered to be consistent with all relevant state environmental planning policies (SEPPs) except the following:

SEPP (Rural Lands) 2008

The subject land is in an area (generally being south-east of Uralla and the New England Highway) identified by Uralla Shire during the preparation of the former Uralla LEP 1988 as being prime agricultural land in the Shire. The land is also partly identified as being, and in close proximity to, biophysical strategic agricultural land under the former New England North West Strategic Regional Land Use Plan (Figure 12, next page). Biophysical strategic agricultural land is considered to have the best-quality landforms, soil and water resources in NSW, and are naturally capable of sustaining high levels of productivity and require minimal management practices.

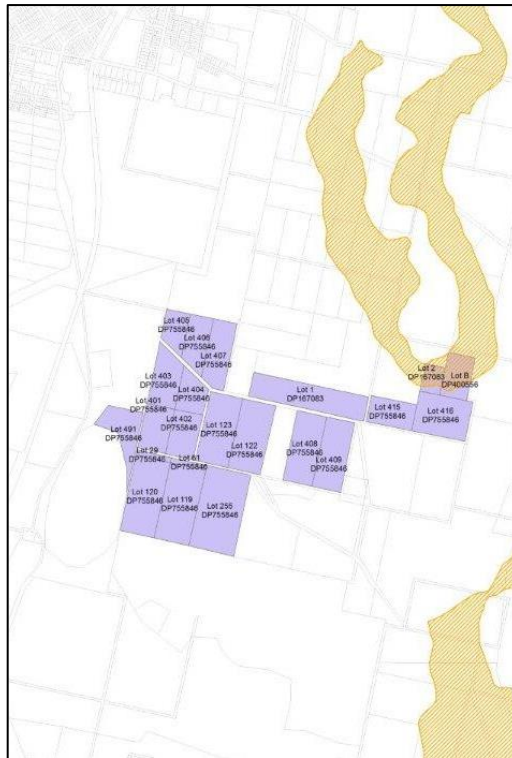


Figure 12: Biophysical strategic agricultural land.

The Rural Lands SEPP aims primarily to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The SEPP identifies rural planning principles and rural subdivision principles to assist in the proper management, development and protection of rural lands.

The proposal could be consistent with some of these principles, such as the provision of opportunities for rural lifestyle, and settlement and housing that contribute to the social and economic welfare of rural communities. However, the fragmentation of prime agricultural land that is currently under a single ownership and the creation of 11 lots / dwellings, remote from any of Council's identified small rural holding areas, adjoining a natural wetland and being surrounded by extensive agricultural pursuits is generally inconsistent with the planning principles, particularly:

- identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;
- ensuring consistency with any applicable Department regional strategy or any applicable local strategy endorsed by the Secretary;
- the minimisation of rural land fragmentation; and
- the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands.

Council's planning assessment report also identified that the proposal was inconsistent with the Rural Lands SEPP and that no data or anecdotal evidence had been presented indicating that small primary production lots are needed in the area or that they will provide any social or economic benefits to the community.

In response, the proponent provided a detailed submission to councillors **(Attachment E)** addressing the need for the proposal and the benefits it would provide to supporting emerging intensive agriculture and agribusiness trends, and boutique food and tourism-based enterprises. It also highlighted the existing fragmented nature of the site and the subdivision of land to the east in the 1990s into six smaller lots.

It is not considered that the planning proposal or the proponent's supplementary information provide sufficient evidence or justification to demonstrate the proposal's consistency with the Rural Lands SEPP, how rural primary production will be protected or rural land conflict use avoided. While the land is already fragmented for historic reasons, the fragmented lots do not have the ability for individual dwellings and the land is under one ownership and is collectively farmed. The existing fragmentation does not allow for additional dwelling entitlements on each of the existing lots.

The adjoining lots referred to as being subdivided in the 1990s were done under the provisions of the former Uralla LEP 1988 and were likely for intensive agriculture purposes. Advice from Council staff, and the Department's site inspection of the area, indicates that these lots are generally being used for rural residential/lifestyle purposes rather than on-going intensive agriculture purposes.

SITE-SPECIFIC ASSESSMENT

Environmental

Dangars Lagoon is a naturally occurring wetland adjoining the site and provides important habitat for many bird species. Increasing fragmented ownership of the land in close proximity to the wetland could adversely affect the biodiversity of the wetland, particularly in relation to sediment and nutrient loads and the introduction of different land management practices. The planning proposal is not supported by any detailed studies addressing the potential impacts on Dangars Lagoon or the broader environment.

Should the proposal proceed, it is recommended that detailed studies addressing these potential impacts be prepared and consultation be undertaken with the Office of Environment and Heritage. While considered a minimal risk due to the existing generally cleared nature of land, these studies should include consideration of koalas in accordance with the requirements of SEPP No 44 – Koala Habitat Protection.

The proposal identifies only a minor risk of any existing land contamination related primarily to former cattle and sheep-dipping activities. It is considered that this matter can be adequately considered and addressed at the development application stage if the proposal proceeds.

Social

The site does not adjoin an existing or proposed rural smallholding or rural residential areas. While only 4km from the Uralla town centre, the site is surrounded by primary production land with limited social services available outside the town centre.

Infrastructure

The subject site is located on an unsealed gravel road, has access to electricity infrastructure and is not proposed to be serviced by water or sewer. The adequacy of The Gap Road and Thunderbolt's Way (state road) intersection will need to be considered. If the proposal proceeds, it is recommended that Roads and Maritime Services be consulted. Other infrastructure matters can be adequately considered and addressed at the development application stage if the proposal proceeds.

CONSULTATION

Community

If the planning proposal proceeds, it is recommended that a 28-day consultation period be undertaken due to the proposal's inconsistencies with the North Coast Regional Plan 2036 and Council's local strategy.

Agencies

If the planning proposal proceeds, consultation with the following agencies is recommended:

- Department of Primary Industries;
- Office of Water;
- Office of Environment and Heritage; and
- Roads and Maritime Services.

TIME FRAME

If the planning proposal proceeds, a 12-month time frame is recommended.

LOCAL PLAN-MAKING AUTHORITY

Council has not requested to be the authorised local plan-making authority. If the planning proposal proceeds, due to the inconsistencies with the regional and local planning framework, it is recommended that Council not be provided delegation.

CONCLUSION

The planning proposal is recommended to not proceed as the subject land is not consistent with the intent or aims of the New England North West Regional Plan 2036, Council's Department-approved local strategy, SEPP (Rural Lands) 2008 or section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans.

The land is not in close proximity to any existing or proposed rural smallholding or rural residential areas and is located on prime agricultural land in a primarily broadacre production area. The proposal will fragment rural land that is currently farmed under a single ownership and will lead to an increase in potential land use conflict due to the introduction of 11 additional dwellings into the rural landscape. Council staff have advised that sufficient rural smallholding land to meet demand for at least another 20 years already exists in the Shire across a range of locations.

RECOMMENDATION

It is recommended that the delegate of the Minister for Planning determine the proposal should not proceed because it is inconsistent with the New England North West Regional Plan 2036, SEPP (Rural Lands) 2008, section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans and Council's local Growth Management Strategy.



9-5-2018

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6-6-2018

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