

Purpose: To request that the Independent Planning Commission review the Gateway determination, taking into account information provided by the proponent, and provide advice regarding the merit of the review request.

Dept. Ref. No:	PP_2018_URALL_001_00	
LGA	Uralla Shire Council	
LEP to be Amended:	Uralla Local Environmental Plan 2012 (ULEP 2012)	
Address/ Location:	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)	
Proposal:	The 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.	
Review request made by:	<input type="checkbox"/> Council	
	<input checked="" type="checkbox"/> A proponent	
Reason for review:	<input checked="" type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or Council thinks should be reconsidered.

Background information

Details of the planning proposal	<p>The planning proposal (Attachment D and E) 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.</p> <p>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.</p>
Reason for Gateway determination	<p>A Gateway determination (Attachment F) to proceed was not issued because the planning proposal did not provide sufficient justification of its consistency with:</p> <ul style="list-style-type: none"> the intent and aims of the New England North West Regional Plan 2036; Council's Department approved New England Development Strategy; the intent and aims of SEPP (Rural Lands) 2008; and section 9.1 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans. <p>The Department's Gateway Determination Report is at Attachment G.</p>

Council views

Date Council advised of request:	Council was advised of the review of the Gateway determination on 26 July 2018.
Date of Council response:	8 August 2018
Council response:	Council advised that it would not be providing a submission.

Proponent justification

<p>Details of justification:</p>	<p>The proponent sought a review of the decision not to issue a Gateway determination on 25 July 2018 (Attachment H). The proponent provided the following reasons and justification in support of its review request:</p> <ol style="list-style-type: none"> 1. the proposal is consistent with the New England North West Regional Plan 2036 as: <ul style="list-style-type: none"> • it will improve the agricultural sector's capacity to cope with changes in markets by providing suitably located land for diversification into emerging intensive agriculture uses; • the site is relatively unconstrained and is not within a high environmental value area, water catchment or heritage area; • it will support the following identified regional plan priorities for Uralla: <ul style="list-style-type: none"> ○ grow and diversify the local agricultural base by encouraging opportunities for agribusiness and research and development institutions; and ○ support emerging boutique food and tourism-based cottage retail enterprises. 2. the proposal is consistent with Council's Department approved New England Development Strategy as: <ul style="list-style-type: none"> • while not identified in Council's strategy as a possible rural small holdings area, the proposal is: <ul style="list-style-type: none"> ○ consistent with the key assessment criteria for the identification of rural small holding areas contained with the strategy; ○ the site adjoins other small primary production lots; and ○ clustering of future small primary production lots will promote diversity and employment opportunities in close proximity to Uralla; 3. that the planning proposal is consistent with the rural subdivision principles and rural planning principles contained in SEPP (Rural Lands) 2008 for the reasons stated in the original planning proposal; 4. the proposal is consistent with all relevant section 9.1 Directions for all the reasons provided in the planning proposal, or the opportunity should be provided for further studies to be undertaken to resolve any potential inconsistencies (and other issues such as the potential demand and existing supply of rural small holding land in the Shire); 5. the site is suitable for the proposal as: <ul style="list-style-type: none"> • the site is already fragmented into 22 separate lots and adjoins other small rural primary productions including land that was subdivided in the 1990s into six rural small holding lots; • Council has rezoned other land on the southern fringe of the Uralla township for rural small holding purposes which was not identified in their strategy; • there will be a broad range of benefits associated with co-locating intensive agriculture, agribusiness, boutique food and tourism based cottage retail enterprises to create a hub adjoining the proposed industrial investigation area identified in Council's Department approved New England Development Strategy; and • rural small holding development is well suited and needs prime agricultural land to support the viability of intensive agricultural uses.
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Material provided in support of the application/proposal:	<p>The proponent submitted the following in support of its request for a review of the Gateway determination:</p> <ul style="list-style-type: none"> • Gateway determination review application form; • Covering letter and a justification for request for review of gateway determination; • Planning proposal; • Planning proposal attachment 1 – site photos; • Planning Proposal supplementary letter pre- Council meeting
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Assessment summary

<p>Department's assessment:</p>	<p>The Department's position is that the Gateway determination should remain unchanged. The Department holds the view that the proposal is inconsistent with the New England North West Regional Plan, Council's Department approved local strategy, State Environmental Planning Policy (Rural Lands) 2008 and section 9.1 Directions 1.5 Rural Lands and 5.10 Implementation of Regional Plans.</p> <p><u>Response to proponent's justification</u></p> <p>6. The proposal is consistent with the New England North West Regional Plan 2036</p> <p>The Department does not consider the proposal has adequately addressed or demonstrated its consistency with the overall aims and intent of the regional plan to strategically identify rural small holding areas that:</p> <ul style="list-style-type: none"> • minimise the potential for land use conflicts; • maximise cluster benefits associated with infrastructure and servicing; • protect and maximise the productive agricultural value of rural lands; and • focus development to areas of least biodiversity sensitivity. <p>The land adjoins extensive agricultural land uses and the Dangars Lagoon wetland, is located on an unsealed gravel road and no water or sewer infrastructure is available in the area. The proposal does not demonstrate how the introduction of 11 additional dwellings into the landscape can minimise or avoid and use conflicts with existing activities, maximise the productive value of the rural land in the area, minimise any adverse impact to the environmentally sensitive wetland or maximise infrastructure and servicing.</p> <p>7. The proposal is consistent with Council's Department approved New England Development Strategy</p> <p>As discussed above, the Department considers it important that councils strategically plan for intensive agriculture. In this regard, Uralla Shire Council's Department approved local strategy identifies a range of criteria for identifying future rural small holdings and applies that criteria to identify a range of suitable areas across the Shire. The identified areas also reflected historically high levels of fragmentation and the existing presence of rural small holding activities. The subject land was not identified as being suitable through this exercise and is remote from any of the strategy identified areas. Council staff during the processing of the application also advised:</p> <ul style="list-style-type: none"> • that they are unaware of any significant demand for rural smallholdings in the Shire; • they consider there is enough identified stock for at least the next 20 years within the existing strategy identified areas; and • that the proponent had provided no evidence on the need for additional rural small holding land in the Shire. <p>8. that the planning proposal is considered to be consistent with the rural subdivision principles and rural planning principles contained in SEPP (Rural Lands) 2008 for the reasons stated in the original planning proposal</p> <p>The Department acknowledges that the proposal could be considered consistent with some of the principles contained in the SEPP, such as the provision of opportunities for rural lifestyle, and settlement and housing that contribute to the social and economic welfare of rural communities. The Department however considers 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 generally surrounded by extensive agricultural pursuits is inconsistent with the following planning principles, particularly:</p> <ul style="list-style-type: none"> • ensuring consistency with any applicable Department regional strategy or any applicable local strategy endorsed by the Secretary;
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	<ul style="list-style-type: none"> • 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; 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. <p>The Department also considers that neither 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.</p> <p>9. the proposal is consistent with all relevant section 9.1 Directions for all the reasons provided in the planning proposal, or the opportunity should be provided for further studies to be undertaken to resolve any potential inconsistencies or other issues such as the potential demand and existing supply of rural small holding land in the Shire</p> <p>The Department considers the proposal is inconsistent with section 9.1 Directions 1.5 Rural Lands and 5.10 Implementation of Regional Plans for the reasons as discussed above in relation to its inconsistency with the New England North West Regional Plan and the SEPP (Rural Lands) 2008 and in the Department's Gateway Determination Report for the proposal (attached). While the Gateway Determination also identifies inconsistency with section 9.1 Direction 1.2 Rural Lands, upon further review, the Department considers that no inconsistency with this Direction exists.</p> <p>10. the site is suitable for the proposal</p> <p>The Department considers that the proposal has not adequately demonstrated that the land is suitable and notes that:</p> <ul style="list-style-type: none"> • 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; • 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; • the land is located on an unsealed gravel road and is not proposed to be serviced by water or sewer; • the existing rural small holdings in the area referred to in the proposal, are understood to have been created in the 1990s under the provisions of the former Uralla LEP 1988 for intensive agriculture purposes. Advice from Council staff, and the Department's site inspection of the area, indicates that these lots are now generally being used for rural residential / lifestyle purposes rather than on-going intensive agriculture purposes; • the rezoning of other lands in the Shire is not considered as relevant to the suitability of the subject lands for primary production small lots; and • benefits associated with the co-location of land uses activities, that also avoid conflict and servicing issues, will generally only result when the best and highest use of the land is holistically considered and strategically planned rather than undertaken in an ad hoc fashion.
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RECOMMENDATION

Reason for review: A determination has been made that the planning proposal should proceed subject to conditions.

Recommendation:	<input checked="" type="checkbox"/>	The planning proposal should not proceed past Gateway.
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> no amendments are suggested to original determination.
	<input type="checkbox"/>	<input type="checkbox"/> amendments are suggested to the original determination.
	<input type="checkbox"/>	The planning proposal should proceed past Gateway in accordance with the original Determination.

Any additional comments:

Nil

Prepared by:
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