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17 July 2018

**RE: Planning Proposal PP\_2018\_URALL\_001\_00 to amend Uralla LEP 2012**

It is requested that a review of the Gateway Determination for the above mentioned Planning Proposal be undertaken. The review is requested pursuant to the Gateway review provisions listed in *Planning Circular PS 16-004, Independent Reviews of Plan Making Decisions*.

Please find enclosed the following documentation to support this review request:

- Completed Application Form
- Application for Gateway Determination Review document
- Copy of submitted planning proposal (Feb 2018)
- Supplementary letter to Council dated 23 March 2018
- USB, containing the above listed documents

Thank you for your favourable consideration of this application.

Yours faithfully,



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G.Dip Geomatics (GIS) (U.S.Q.)  
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under Surveying & Spatial Information Act 2002.



## **Application for Gateway Determination Review**

### **Planning Proposal**

***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 Small Primary Production Lots***

**July 2018**

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## 1.0 INTRODUCTION

This document has been prepared to accompany an application to review the Gateway Determination for the Planning Proposal requesting the 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 Small Primary Production Lots (NSW Planning and Environment ref: PP\_2018\_URALL\_001\_00). Appendix A contains a copy of the planning proposal lodged to the department. Appendix B contains a copy of a supplementary letter to Council dated 23 March 2018.

It is requested that a review of the Gateway Determination for the above mentioned Planning Proposal be undertaken. The review is requested pursuant to the Gateway review provisions listed in *Planning Circular PS 16-004, Independent Reviews of Plan Making Decisions*.

## 2.0 GATEWAY DETERMINATION

That an amendment to Uralla LEP 2012 should not proceed for the following reasons:

1. The planning proposal 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.

The NSW Planning and Environment covering letter to the Gateway Determination (Ref: PP\_2018\_URALL\_001\_00 (IRF18/2001, dated 13/6/18) provides the following reasons for the inconsistencies:

*"The proposal was not supported as it is considered to be inconsistent with the intent and aims of the New England North West Regional Plan 2036, Council's Department of Planning and Environment approved local strategy, 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.*

*I note that the land is not in close proximity to any existing or proposed rural small holding areas identified in Council's local strategy and it is located on prime agricultural land in a primary broadacre production area. I also advise that Council staff advised the Department that adequate rural small holding land to meet demand for at least another 20 years already exists in the Shire in a range of locations..."*

### 3.0 REVIEW OF GATEWAY DETERMINATION REASONS

#### 3.1 Aims and Intent of New England North West Regional Plan 2036

The Gateway Determination states that the planning proposal is inconsistent with the intent and aims of the *New England North West Regional Plan 2036*.

The planning proposal is considered consistent with this plan for the following reasons:

- a) This Plan promotes a holistic approach to land, environmental, water and natural resource management. It aims to maintain the productive capacity of natural resources, improve the agriculture sector's capacity to cope with changes in markets and weather patterns, and maintain and preserve areas of high environmental value, water catchments and heritage. It provides an overarching framework to guide development and investment in the New England North West to 2036.

The rezoning of the site from RU1 Primary Production to RU4 Small Primary Production Lots will improve the agriculture sector's capacity to cope with changes in markets by providing suitably located land for the agriculture sector to diversify into emerging intensive agriculture uses. The site is relative unconstrained land which is not within a high environmental value area, water catchment or heritage area.

- b) The relevant priorities for Uralla that build on the directions and actions in this Plan, are listed as follows:
  - a. Grow and diversify the local agricultural base by encouraging opportunities for agribusiness and research and development institutions.
  - b. Support emerging boutique food and tourism-based cottage retail enterprises.

The planning proposal seeks to provide suitable small rural lots that will encourage and promote diversity and employment opportunities related to primary industry and tourism enterprises in a location close to the Uralla township. Rezoning the land to RU4 Small Primary Production Lots is consistent with the existing small primary production land uses adjoining and to the east of the Site. Altering the lot size standards from 200 ha to 20 ha is consistent with the existing lot sizes of the Site and allows for small primary production lots with dwelling entitlements. This will assist in achieving the above priorities.

The planning proposal is not considered to be inconsistent with any relevant Goals or Actions listed in this Plan. It is unclear as to how the Gateway assessment has reached the conclusion that the planning proposal is inconsistent with this plan. This matter requires review and clarification.

### **3.2 Aims and Intent of New England Development Strategy 2010**

The Gateway Determination states that the planning proposal is inconsistent with the intent and aims of Council's local growth management strategy.

The applicable local strategy is the New England Development Strategy (Worley Parsons, 2010). Part 7 of the NEDS identifies key land use planning issues, including environmental impacts from rural small holdings subdivision and identifies several potential areas for rural small holdings.

Although the land is not identified as a possible rural small holdings area, the strategy provides a key assessment criteria (page 55) for the identification of rural small holdings area, including areas not identified in the strategy. Table 2 of the planning proposal lists the key assessment criteria and considers the suitability of the site, with a comparison to the identified small rural holding locations.

The proposed rezoning in the Planning Proposal is justified for the following reasons:

- The Site is suitable for small primary production purposes in terms of its natural attributes as well as proximity to the Uralla Township.
- The Site is contiguous with surrounding small primary production lots.
- The clustering of future small lot primary production and tourism enterprises will encourage and promote diversity and employment opportunities in close proximity to the Uralla township.
- The proposed rezoning is considered to be consistent with the key assessment criteria in the NEDS (page 55) which was used to identify locations for new rural small holdings. Table 2 lists the key assessment criteria and considers the suitability of the site. Whilst the Site is not one of the identified potential small rural holding locations identified in the NEDS (Map 7.2, p47), the site is the most consistent with the location criteria listed in the NEDS, as summarised in Table 2 of the planning proposal. One of the main justifications for each of the recommended small rural holding locations identified in the NEDS was to expand on the existing small holding settlement patterns in these areas (NEDS, p57-58). The site and its surrounding area is consistent with this justification, as the Site and surrounding area consists of a settlement pattern of small rural holdings.

It is unclear as to how the Gateway assessment has reached the conclusion that the planning proposal is inconsistent with this strategy. This matter requires review and clarification.

### **3.3 Aims and Intent of State Environmental Planning Policy (Rural Lands) 2008**

The Gateway Determination states that the planning proposal is inconsistent with the intent and aims of the *State Environmental Planning Policy (Rural Lands) 2008*.

The aim of the SEPP is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The planning proposal is consistent with this aim as the rezoning of the site from RU1 Primary Production to RU4 Small Primary Production Lots will provide allow the agriculture sector to diversify into emerging intensive agriculture uses and encourage and promote diversity and employment opportunities related to primary industry and tourism enterprises in a location close to the Uralla township.

Page 10-12 of the planning proposal provides a detail consideration of the 'Rural Subdivision Principles' and 'Rural Planning Principals' listed in this policy. There are no inconsistencies identified in this assessment.

It is unclear as to how the Gateway assessment has reached the conclusion that the planning proposal is inconsistent with this policy. This matter requires review and clarification.

### **3.4 Aims and Intent of Section 9.1- Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans**

The Gateway Determination states that the planning proposal is inconsistent with the intent and aims of the *Section 9.1- Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.10 Implementation of Regional Plans*.

#### **1.2 Rural Zones**

The objective of this direction is to protect the agricultural production value of rural land. A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone and not contain provisions that will increase the permissible density of land within a rural zone. A planning proposal proposes to retain a rural zone for the Site and will provide opportunities for Small Primary Production lots to create opportunities for viable intensive agriculture uses. The proposal is consistent with the objective of this direction is to protect the agricultural production value of rural land. In addition, it maximises the agricultural production potential of the land.

The Site is located within 3km of the Uralla Township. The Site and surrounding land is already fragmented land with lot sizes below the proposed minimum lot size. The inconsistency is of a minor significance.

It is noted that this Direction states that a planning proposal may be inconsistent with the terms of this direction if the extent of inconsistency:

- (b) Justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, or
- (d) is of minor significance, and

The Gateway assessment has come to the conclusion that an inconsistency exists that is of major significance. In this circumstance, it is understood that the gateway process would typically require the preparation of a study, as per (b) above, to allow an informed assessment prior to preventing the planning proposal from proceeding. This opportunity has not been provided. This matter requires review and clarification.

## 1.5 Rural Lands

This Direction requires the planning proposal to be consistent with the Rural Planning Principles and Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008.

The planning proposal is considered consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in State Environmental Planning Policy (Rural Lands) 2008, as discussed in Section 3.3 of this report.

## 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. A planning proposals must be consistent with a Regional Plan released by the Minister for Planning.

The planning proposal is considered consistent with the *New England North West Regional Plan 2036*, as discussed in Section 2.1 of this report.

It is noted that this Direction states that a planning proposal may be inconsistent with the terms of this direction if the extent of inconsistency with the Regional Plan:

- (a) is of minor significance, and
- (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.

It is unclear as to how the Gateway assessment has reached the conclusion that the planning proposal is inconsistent with the *New England North West Regional Plan 2036*. The Gateway assessment has come to the conclusion that an inconsistency exists that is of major significance and will undermine the achievement of its vision, land use strategy, goals, directions or actions. Unfortunately, the Gateway Determination and cover letter does not identify this major concern. If such a major concern exists it would be reasonable to expect this reasoning to be clearly articulated in the Gateway Determination. This matter requires review and clarification.



### 3.5 Existing and proposed rural small holding areas

The Gateway Determination states the land is not in close proximity to any existing or proposed rural small holding areas identified in Council's local strategy and it is located on prime agricultural land in a primary broad acre production area.

The Uralla LEP 2012 makes provision for one location of RU4 Small Primary Production zoned land on the southern fringe of the Uralla township. This has an area of 82 hectares, with a minimum lot size of 40 hectares. It is interesting to note that this land is not identified as a possible small holding area in the New England Development Strategy (Worley Parsons, 2010). However, it has been subsequently rezoned to RU4 Small Primary Production zoned land to address an operational interest of Uralla Shire Council.

As identified in the planning proposal, the Site and adjoining land to the east of the Site is already fragmented, well below the relevant minimum lot size of 200 ha for dwellings in the immediate surrounding area. The site has an area of approximately 230 hectares, consisting of 22 lots with 2 dwelling entitlements. The land to the east of the Site, created in the 1990's by the Deposited Plan 836597, consists of 6 lots with one 4ha, five ranging from 20 to 25ha and one 40ha. All these lots have dwelling entitlements. Furthermore, the proposed rezoning is considered to be consistent with the key assessment criteria in the NEDS (page 55) that was used to identify locations for new rural small holdings.

Whilst the Site is not one of the identified potential small rural holding locations identified in the NEDS (Map 7.2, p47), the site is the most consistent with the location criteria listed in the NEDS, as summarised in Table 2 of the planning proposal. Furthermore, the potential small rural holding locations identified in the NEDS contain various constraints that may prevent the areas, or part of, from satisfying planning and environmental requirements to be rezoned to RU4 Small Primary Production land. This is detailed in Table 2 (page 8) of the planning proposal.

From a location perspective, there is a strategic land use benefit in adopting the RU4 Small Primary Production zone at the subject site. The Site is located within 3km of the Uralla Township. The surrounding land consists of small rural holdings. The site adjoins the main proposed future industrial area for the Uralla Shire, as shown in Figure 3.1. There will be a broad range of benefits associated with co-locating intensive agriculture and agribusiness use, boutique food and tourism-based cottage retail enterprises next to the proposed future industrial area. This will create a key business and employment hub close to the Uralla township. Being located on the southern side of Uralla, it is more likely that employees and visitors will live or visit the Uralla township, with less temptation of being attracted to Armidale or Tamworth, given that Uralla township is located between the site and these cities. This is essential for ensuring the Uralla population grows without losing its population and business transactions to nearby regional cities.

This matter requires review and clarification given the broader economic and social benefits associated with this planning proposal.



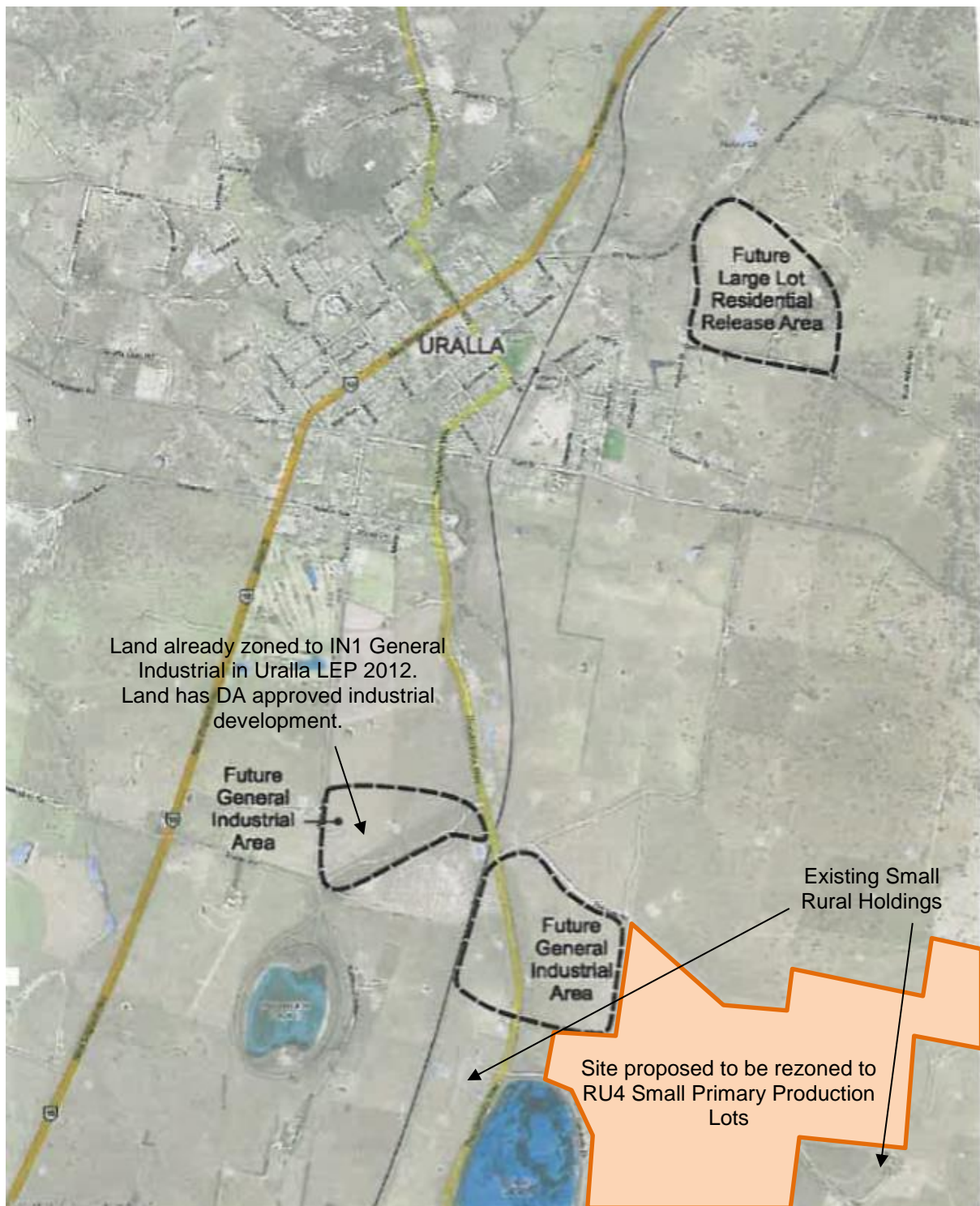


Figure 3.1 Site showing surround existing and future land uses  
Source of background image: Map 6.4 of NEDS

### **3.5 Prime agricultural land**

The Gateway Determination states the land is located on prime agricultural land in a primary broad acre production area.

For clarification, the land is not a primary broad acre production area. The land has a long history of grazing and has not undertaken broad acre cropping production.

The rezoning to RU4 Small Primary Production Lots is appropriate for prime agricultural land. Small Primary Production lots require prime agricultural land for the viability of intensive agriculture uses. Consequently, RU4 Small Primary Production areas are typically associated with areas containing prime agricultural land. It is noted that the agricultural quality of the land is similar to the extensive RU4 Small Primary Production areas surrounding the Armidale City. This further emphasizes the correlation between RU4 Small Primary Production areas and the need for good quality agricultural land for viable production activities.

This matter requires review and clarification.

### **3.6 Supply of rural small holding land**

The Gateway Determination states that Council staff advised the Department that adequate rural small holding land to meet demand for at least another 20 years already exists in the Shire in a range of locations.

The Uralla LEP 2012 makes provision for one location of RU4 Small Primary Production zoned land on the southern fringe of the Uralla township. This has an area of 82 hectares, with a minimum lot size of 40 hectares. Therefore, the current supply is 2 RU4 zoned lots in the Uralla Shire. This not likely to meet demand for another 20 years. Whilst there is a higher amount of R5 Rural Residential land available within the Shire, the permissible use within the R5 zone preclude opportunities available to those desiring a RU4 enterprise. It is the intention of this planning proposal to make RU4 land available within the shire to meet the short to medium term supply needs and to respond to the emerging trends identified for the Uralla Shire, as documented in the *New England North West Regional Plan 2036*.

The potential small rural holding locations identified in the NEDS contain various constraints that may prevent the areas, or part of, from satisfying planning and environmental requirements to be rezoned to RU4 Small Primary Production land. In addition, the potential areas in the NEDS are identified due to the existing small rural holding uses of these areas. The NEDS does not provide an assessment of the potential further subdivision of these areas for small rural holding uses. Therefore, it is only speculative as to the additional potential availability of land within these areas.

It is unclear how Council has identified that there is adequate rural small holding land to meet demand for at least another 20 years. This information has not provided as part of the preparation of the planning proposal. It is noted a draft planning proposal was provided to Council's Manager Planning & Regulation on 30 October 2017 seeking planning advice and input (as outlined in our supplementary letter to Council

on 23<sup>rd</sup> March 2018 - annexed). On 16 February 2018, Council's Manager Planning & Regulation provided the following advice:

*"It will need to be amended to incorporate the New England North West Regional Plan. Generally I'm not a fan of rezoning agricultural land to permit smaller blocks, however the Council may take a different view."*

The Council advice did not indicate that adequate rural small holding supply existed. Given the doubt around the realistic potential for future supply of small rural holding uses within the identified areas of the NEDS, it is considered appropriate that the gateway process provide the proponent the opportunity to prepare a study to verify the actual potential future supply of Small Primary Production land. This will allow an informed assessment prior to preventing the planning proposal from proceeding. This matter requires review and clarification.

## **4.0 CONCLUSION**

The objective of this planning proposal is for the provision of suitably sized and zoned lots to encourage opportunities for emerging intensive agriculture and agribusiness trends and emerging boutique food and tourism-based cottage retail enterprises. This will encourage and promote diversity and employment opportunities related to primary industry and tourism enterprises in a location close to the Uralla township. This is an opportunity that is identified in the New England North West Regional Planning, which encourages Councils in the region to capitalise on these opportunities and to ensure its land use plans accommodate for these emerging trends and opportunities.

Based on the review above, it is recommended that the planning proposal proceed on the basis of that the Applicant prepare a study to verify the actual potential future supply of Small Primary Production land. This will allow an informed decision to be made on the planning proposal based on the strategic merit of the proposal.

It is in the public interest that this planning decision be made to ensure that the Uralla Shire community is given the opportunity to capitalise on emerging opportunities identified in the New England North West Regional Planning 2036.

## **Appendix A**

**Copy of submitted planning proposal (Feb 2018)**

## **Appendix B**

**Copy of supplementary letter to Council dated 23 March 2018.**