

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_OBERO_001_00
LGA	Oberon
LEP to be Amended:	Oberon LEP 2013
Address/ Location:	Part Lot 4 DP 1023024, No 2519 O'Connell Road, O'Connell
Proposal:	To amend the zone and minimum lot minimum size on the subject land.
Review request made by:	<input type="checkbox"/> The council <input checked="" type="checkbox"/> A proponent
Reason for review:	<input 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 checked="" 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	The planning proposal sought an amendment to the Oberon LEP 2013 to rezone about 200 ha of land from zone RU1 Primary Production to R5 Large Lot Residential and reduce the minimum lot size from 100ha to 10ha at Part Lot 4 DP 1023024, O'Connell Road, O'Connell to facilitate 17 lot large lot residential subdivision.
Reason for Gateway determination	<p>The conditional Gateway determination dated 30 May 2018 (Attachment 1) determined that the planning proposal should proceed, subject to eight (8) conditions including condition 1 that requires demonstrating strategic merit for the proposal by:</p> <ol style="list-style-type: none"> 1) Reviewing the rural residential / large lot residential components of the Oberon Land Use Strategy 2013. The review of the Strategy must specifically investigate <ol style="list-style-type: none"> a) suitability of the proposed residential land uses on the subject land with consistency with section 9.1 Directions - 1.2 Rural Zones, 1.5 Rural Lands, 5.10 Implementation of regional plans as well as State Environmental Planning Policy (Rural Lands) 2008; b) supply and demand for large lot residential developments within the Oberon LGA; c) Oberon's settlement hierarchy classification; d) the scenic heritage value of the land surrounding O'Connell; e) the appropriateness of the zone RU1 Primary production the O'Connell settlement; and f) Consult with relevant agencies. <p>The addendum to the Oberon Strategy is to be submitted to the Department of Planning and Environment for approval prior to undertaking community consultation.</p>

	<p>In determining the Gateway determination, the Director Regions, Western as delegate of the Minister considered the Gateway determination report (Attachment 3) and in a memo dated 30 May 2018 (Attachment 4) considered the following options:</p> <ol style="list-style-type: none"> 1. Not support the proposal 2. Issue a conditional Gateway determination that requires a strategic planning review of large lot residential land in the Oberon local government area. 3. Request Council to withdraw the proposal until the strategic work has been undertaken. <p>Option 2 was preferred in that the proposal be conditionally approved subject to eight (8) conditions and a Gateway determination was issued for the following reasons:</p> <ul style="list-style-type: none"> • The time that has passed since the Oberon Strategy was prepared and endorsed. It is timely that Council review the Oberon Strategy. • The proposal has merit for further strategic investigation having regard to the planning proposal information notwithstanding it is inconsistent with the Oberon Strategy and Central West and Orana Regional Plan. • To allow Council to strategically justify the proposal in relation to the large lot residential land supply at O'Connell and in the Oberon Council local government area. • To allow the strategic review of the large lots residential land in consultation with agencies and the community.

Council views

Date Council advised of request:	Council was advised of the request to review the Gateway determination on 13 July 2018.
Date of council response:	Council did not provide a response within the required 21 days.
Council response:	<p>Council did not respond within the required 21 days to the Department's invitation to provide its views on the planning proposal. Council, in a phone call on 22 August 2018 and an email dated 27 August 2018 (Attachment 5) in which Council's Planning and Development Director stated that the Council resolution, from its meeting on 19 June 2018 on the Gateway determination, was Council's formal position as follows;</p> <p><i>That the matter be deferred due to the amount of material received and the implications to Council until such times as the formal review being proposed by the proponent is complete</i></p>

Proponent justification

Details of justification:	<p>The proponent sought the Gateway determination review on 11 July 2018. This review seeks the deletion of condition 1 of the Gateway determination to enable the planning proposal to proceed without the need for an update/addendum to the Oberon Strategy.</p> <p>The proponent's request is accompanied by a submission that discusses the reasons for a review:</p> <ul style="list-style-type: none">• There is no legislative requirement for the strategy to be amended prior to the planning proposal proceeding;• The planning proposal has sufficient strategic merit in its own right to proceed without the need to update the strategy;• There is a legitimate legislative pathway that exists to enable the planning proposal to proceed without the need to update the strategy;• The requirement to amend the strategy is excessive for the above reasons and not adequately justified by the DPE report;• As with all obligations arising from a Gateway determination, it is likely the requirement to prepare a strategy addendum is likely to be referred by Council to the proponent for completion. Any addendum prepared on behalf of the proponent is unlikely to be perceived as impartial by DPE, Council staff or the general public (validly or otherwise) given the core objective of this project is to facilitate the rezoning of the subject land. <p>The information supplied by the proponent is provided at Attachment 6.</p>
Material provided in support of application/proposal:	<p>The proponent has provided additional justification to support the Gateway review application. This includes a letter responding to issues raised by the Department during the planning proposal assessment, as well as the following documentation:</p> <ul style="list-style-type: none">- Signed Gateway review form- Supporting letter- Original planning proposal including local environmental study and supplementary reports- Additional information supplied to Council dated 5 October 2017- Council assessment report February 2018- Council minutes/resolution February 2018- Council assessment report June 2018

Assessment summary

Department's assessment	<p>The Department's Gateway determination report (Attachment 3) outlines that the proposal is inconsistent with the endorsed Oberon Land Use Strategy. The Oberon Strategy does not identify the subject land for future rural residential development. The Oberon Strategy and further information provided by Oberon Shire Council identifies adequate land in the vicinity of O'Connell with approximately 410 potential lots across the Oberon LGA for large lot living purposes.</p> <p>The proponent's request to amend the Gateway determination to remove condition 1, which relates to undertaking further strategic justification work is not supported for the following reasons:</p> <ul style="list-style-type: none"> • condition 1 requires Council to strategically justify the proposal in relation to the large lot residential land supply at O'Connell and in the Oberon Council local government area. • to allow the strategic review of the large lots residential land in consultation with agencies and the community. • the proposal has merit for further strategic investigation having regard to the planning proposal information notwithstanding it is inconsistent with the Oberon Strategy and Regional Plan. • The time that has passed since the Oberon Strategy was prepared and endorsed. It is timely that Council review the Oberon Strategy. <p>In issuing a conditional Gateway determination, the Department considered the strategic merit of the proposal, site suitability and the Council resolution made on 20 February 2018, for which Council supported the planning proposal and resolved to forward the proposal to the Department requesting a Gateway determination.</p>
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COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that the planning proposal should not proceed.

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

 19/09/2018

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