

Rose Valley Road Rose Valley Planning Proposal

Proposal Title : **Rose Valley Road Rose Valley Planning Proposal**

Proposal Summary : **The planning proposal seeks to allow additional permitted land uses which will enable a small scale abattoir and restaurant in conjunction with the existing extensive agriculture operation on Lot 103 DP561082 and Lot 1 DP1005217, 96 Rose Valley Road, Rose Valley.**

PP Number : **PP_2016_KIAMA_002_00** Dop File No : **16/08992**

Proposal Details

Date Planning Proposal Received : **25-Jul-2016** LGA covered : **Kiama**

Region : **Southern** RPA : **The Council of the Municipality of Kiama**

State Electorate : **KIAMA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **96 Rose Valley Road**

Suburb : **Rose Valley** City : **Gerrington** Postcode : **2535**

Land Parcel : **Lot 103 DP561082 and Lot 1 DP1005217**

DoP Planning Officer Contact Details

Contact Name : **Lisa Kennedy**

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RPA Contact Details

Contact Name : **Edward Patterson**

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DoP Project Manager Contact Details

Contact Name : **Graham Towers**

Contact Number : **0242249467**

Contact Email : **graham.towers@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name :

Regional / Sub Regional Strategy : **Illawarra Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Lot 103 DP561082 and Lot 1 DP1005217 are located on the northern side of Rose Valley Road, 500m west of the Princes Highway approximately 2km north-west of Gerringong township. Lot 1 is a closed road reserve now incorporated into the property. The land is on the south-eastern footslopes of Saddleback Mountain and the upper reaches of Omega Flats with an easterly aspect.

The property is 53ha with a combination of lower lying pasture improved flats, some of which are flood prone in the east rising westwards with hillside pasture and steep vegetated slopes with remanent rainforest vegetation. Two unnamed watercourses flow across the Flats in a north-south direction whilst another unnamed watercourse flows from the steeper north-western lands down the hillslopes to the Flats.

The land is currently zoned part RU2 Rural Landscape and part E2 Environmental Conservation (on the upper slopes). The Kiama LEP 2011 does not permit an abattoir/livestock processing industry in any land use zone. A restaurant/café is not permitted in a rural zone.

The property was previously used as a dairy but is now used for Wagyu beef production and farm-stay accommodation. Cropping for silage occurs on the flats and hillslopes. Stock are currently transported offsite for slaughtering.

A planning proposal for the development of the abattoir, a restaurant, farm gate sales building and educational tour operations was lodged with Council in August 2014. Farm gate sales and educational tour operations fall under definitions in the Kiama LEP 2011 and are permissible with consent in the RU2 zone. It was therefore not necessary to include in them in a planning proposal. Council resolved to endorse its planning proposal for the site on 15 December 2015.

The restaurant is proposed in the north-west corner of the property off an existing sealed driveway to the adjoining property. The abattoir is proposed on a lower portion of the site near existing buildings.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : The objective of the planning proposal is to amend the additional permitted uses map and Schedule 1 to enable a small scale abattoir and restaurant in conjunction with the existing extensive agriculture operation on the site.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : The explanations of provisions in the planning proposal are to amend the Kiama LEP 2011:
* Schedule 1 – Additional permitted uses to include Clause 7 – Use of certain land at Rose Valley Road Rose Valley to permit a livestock processing industry which is only capable of processing a maximum of 120 head of Wagyu cattle, reared on the subject site per annum, and a restaurant or café with a maximum seating capacity of 60.
* Prepare an Additional Permitted Uses Map - Sheet APU_013 which identifies Lot 103 DP561082 and Lot 1 DP1005217 as '7'.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

Illawarra REP No. 1

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

S117s

The planning proposal is consistent with the Illawarra Shoalhaven Regional Plan in that it is making appropriate use of agricultural lands and value-adding to agricultural industries. Abattoirs are identified as one such value-adding industry. The planning proposal will also contribute to the tourism sector which has been identified as one of the region's priority growth sectors.

The proposal has identified that S117 Direction 4.3 Flood Prone Land applies. Although the property contains flood prone land, this land is not affected by the planning proposal. The proposed abattoir and restaurant are located outside the flood level ie 1% AEP flood level + 500mm freeboard.

The planning proposal is consistent with the s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 5.10 Implementation of Regional Plans.

The planning proposal is permitting a rural industry which complements the existing agricultural uses of the land. The proposal does not reduce the environmental

protection standards which apply to the land. The proposed location of the buildings is on the rural zoned lands and will result in a minimal loss of agricultural land.

The land is not known to contain any items of Aboriginal heritage and the Kiama LEP contains provisions relating to heritage conservation which would be considered during the assessment of a development application.

The site of the abattoir is within 500 metres of land mapped as containing acid sulfate soils (Class 4) however proposed works are not below 5m AHD nor is the watertable to be lowered by 1m AHD.

Recommendation: The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 5.10 Implementation of Regional Plans.

The planning proposal is of a minor inconsistency with the s117 Direction 6.3 Site Specific Provisions. There are no zones within the Kiama LEP 2011 which permit livestock processing industries (abattoir) and the rural zones do not permit restaurants or cafes. It is noted that these three land uses are permitted in rural zones in the Shoalhaven LEP 2014. The planning proposal specifically seeks to impose development standards restricting the capacity of both the proposed abattoir and restaurant. This approach will provide certainty to all parties as to the scale of development which would be permitted on the site. These inconsistencies are of a minor significance.

Recommendation: The Secretary's delegate can be satisfied that the proposal's inconsistency with the S117 Direction 6.3 Site Specific Provisions is of minor significance.

It is unknown whether the planning proposal is consistent or justifiably inconsistent with the s117 Directions 4.4 Planning for Bushfire Protection. The majority of the property is not mapped as bushfire prone land. The remanent vegetation in the north west of the property is bushfire prone land. The site of the proposed restaurant is within a buffer zone to bushfire prone lands on the adjoining property. A bushfire assessment has been prepared for the restaurant building which provides recommendations for managing bushfire threat.

Recommendation: In accordance with the s117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and to confirm that notwithstanding any non-compliance with the provisions for Planning for Bushfire Protection, the Rural Fire Service does not object to the progression of the Planning Proposal.

SEPPs

The planning proposal is consistent with SEPP55 Remediation of Land and SEPP Rural Lands as the land is not to be rezoned. Potential site specific contamination issues could be addressed at the development application stage. The proposal is consistent with the Rural Planning Principles, in particular the promotion and protection of opportunities for productive economic activities in rural areas and recognition of the changing nature of agriculture and economic benefits.

The rural/agriculture provisions in the Illawarra Regional Environmental Plan No.1 have been repealed and where appropriate incorporated into the Kiama LEP 2011.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Draft map sheet APU_013, Kiama LEP 2011 is included in the planning proposal and is appropriate for public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council requests that the planning proposal be publicly exhibited for 28 days. Public notification of the exhibition will include local newspaper notifications, notice on Council's website, hard copies will be available at Council's administration buildings and notification letters to surrounding property owners.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : The planning proposal addresses the Department's "A guide to preparing planning proposals" and is considered adequate for a Gateway Determination with conditions.

Council has a project timeframe of six months to complete the rezoning process.

Council has confirmed in its referral letter of 1 July 2016 that it is seeking Council Officer Delegation to prepare the draft LEP under Section 59 of the EP&A Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan Making Functions was submitted.

It is considered appropriate that the delegation of plan making functions be given to Council due to the matter being of local significance, the proposed uses are consistent with the objectives of the RU2 zone and are permitted on the RU1 and RU2 zones in other Standard Instruments ie Shoalhaven LEP 2014.

Recommendation: The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination to allow adequate time for the plan to be finalised.

Recommendation: Delegation to be provided to Council.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Kiama LEP was notified on 16th December 2011. This is the fourth amendment to the LEP.

Assessment Criteria

Need for planning proposal : This site specific planning proposal is the most appropriate option to permit an abattoir and restaurant on the property.

An alternate option of amending the land use table to include livestock processing industry and restaurant/cafes as permitted uses in the RU2 Rural Landscape zone was considered. This option was not seen by Council as being appropriate as it would allow such development generally within the zone across the Municipality.

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Consistency with strategic planning framework :

As previously identified, the planning proposal is consistent with the Illawarra Shoalhaven Growth Plan in that it is making appropriate use of agricultural lands and value-adding to agricultural industries. Abattoirs are identified as one such value-adding industry. The planning proposal will also contribute to the tourism sector which has been identified as one of the region's priority growth sectors.

The planning proposal is also consistent with the Kiama Rural Lands Study, 2006. The Study identified the Rose Valley area as high class agricultural land. It recommended tourism and other economic development initiatives should be encouraged to ensure the continuation of existing agricultural practices.

Environmental social economic impacts :

All aspects of the development being put forward by the planning proposal are to occur on cleared land, currently utilised for agricultural purposes. Whilst the property contains the Endangered Ecological Community Illawarra Subtropical Rainforest, which is habitat for 18 threatened species and one endangered population, this rainforest vegetation will not be impacted upon.

Kiama Council requested a number of technical studies and complementary statements to identify potential environmental impacts which could result from the planning proposal.

The proposed development is located above the 1%AEP flood level and outside bushfire prone land.

An Environmental Management Plan has been prepared for the abattoir to address associated issues such as liquid and solid waste, gaseous emissions, and noise.

The proposed Onsite Sewage Treatment Facilities and Effluent Re-use Scheme report indicates that effluent from the proposed land uses can be satisfactorily accommodated on site.

Whilst the abattoir is proposed to be located clustered with the existing farm buildings, the restaurant is to be located on an elevated position with the potential to be visually prominent within the landscape. Council considers that the potential visual impacts of the proposal buildings are acceptable and capable of being absorbed within the visual landscape.

The Traffic Impact Assessment has reviewed the car parking, traffic generation and onsite vehicle manoeuvring for the proposed uses on the site. Likely traffic impacts are considered by Council to be satisfactory and will not have an adverse impact on traffic flows or volumes along Rose Valley Road.

Livestock processing industries are listed as designated development by the Environmental Planning and Assessment Regulation 2000 (1,095tonnes/year) or as a scheduled activity by the Protection of the Environment Operations Act 1997 (750tonnes/year). The planning proposal seeks to limit the operation of the abattoir to 120beasts/year, a capacity of 72tonnes/year.

Business management plans for the abattoir and restaurant have been prepared by the landholder. Both enterprises are likely to have direct economic benefits to the landholder, but also the broader community through the creation of jobs associated with the abattoir and staffing of the farm gate and restaurant. An increase in local tourism is also expected which is expected to have a positive multiplier effect for local businesses.

Council considers noise and odour emissions associated with the abattoir to be the most likely sources of social impacts. There are 12 residences along Rose Valley Road on non-associated land within 750metres to the proposed abattoir. The closest dwelling is 290m south of the abattoir. Council considers the existing buffer distance and proposed measures to minimise the impacts of the abattoir to be adequate.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Council is proposing to consult with the Office of Environment and Heritage, NSW Rural Fire Services, Sydney Water, NSW Office of Water, NSW Environment Protection Authority and NSW Department of Primary Industries – Agriculture. The Department of Primary Industries – Agriculture was consulted with, and provided comments on, the development application in January 2014.**

Consultation is not required with Office of Environment and Heritage, NSW Office of Water, Sydney Water as the proposal does not impact on any flora, fauna or riparian/watercourse values.

Recommendation: Government agency consultation is required with NSW Rural Fire Services, NSW Environment Protection Authority and NSW Department of Primary Industries – Agriculture.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required :

If Other, provide reasons :

Council required a number of reports/statements to support the planning proposal. The landholder's planning proposal includes:

- **Bushfire Hazard Assessment Report, Control Line Consulting, January 2015 (for restaurant building)**
- **Flood Assessment, Jordan Mealey & Partners, July 2015**
- **Agricultural Sustainability Assessment, SBScibus**
- **Traffic Impact Assessment, Motion Traffic Engineers**
- **Proposed On-site Sewage Treatment Facilities & Effluent Re-use Scheme, Pacific Environmental Services Pty Ltd.**
- **Environmental Management Plan, Endo-Technik-Nord Pty Ltd.**
- **Photomontage – Proponent**

Recommendation: No further studies are required by the Department. Council may still require further studies.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **Sydney Water's reticulated water supply system is currently available to the existing dwelling on the site. It is proposed to augment this supply to the abattoir and restaurant. The Lot is not connected to Sydney Water's reticulated sewerage system and the proposed development will rely upon onsite effluent disposal.**

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The Lot is currently connected to Endeavour Energy's electricity grid and this supply can be extended to service the abattoir and restaurant.

Recommendation: Confirmation of the availability of services can be obtained at the development assessment stage.

Documents

Document File Name	DocumentType Name	Is Public
160704 Rose Valley Road Rose Valley Planning proposal letter KMC to DoPE request for gateway.pdf	Proposal Covering Letter	Yes
160701 Rose Valley Road Rose Valley Planning proposal planning proposal.pdf	Proposal	Yes
160704 Rose Valley Road Rose Valley planning proposal applicants planning proposal 150301.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning Proposal applicants planning proposal Appendix A - Concept Plans.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Appendix B - Amended LEP Map.pdf	Study	Yes
160704 Rose Valley Road Rose Valley planning proposal applicants planning proposal Appendix C - S117 Directions.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Appendix D - Effluent Management Report.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning Proposal applicants planning proposal Appendix E - Agricultural Sustainability Assessment.pdf	Study	Yes
160704 Rose Valley Road Rose Valley planning proposal applicants planning proposal Appendix F - Environmental Management Plan.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Appendix G - Photographs.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Appendix H - Traffic Impact Assessment.pdf	Study	Yes
160704 Rose Valley Road Rose Valley planning proposal applicants planning proposal Appendix I - Coach Turning Path.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning Proposal applicants planning proposal Appendix J - Bushfire Hazard Assessment.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Appendix K - Financial Viability Analysis.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Supplementary Information.pdf	Study	Yes
160704 Rose Valley Road Rose Valley Planning proposal applicants planning proposal Flood Assessment.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.3 Site Specific Provisions

Additional Information : The Acting Director Regions, Southern as delegate of the Minister for Planning, determines under section 56(2) of the EP&A Act that an amendment to the Kiama Local Environmental Plan 2011 to permit the land uses livestock processing industry and restaurant and café on land at Lot 103 DP561082 and Lot 1 DP1005217, 96 Rose Valley Road, Rose Valley should proceed subject to the following conditions:

1. No further technical studies or reports are required.
 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is to be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing local environmental plans (Department of Planning and Infrastructure 2012).
 3. Consultation is required with the following government agencies prior to exhibition, in accordance with the Act and to comply with the requirements of relevant s117 Directions:
 - NSW Environment Protection Authority
 - NSW Rural Fire Services and
 - NSW Department of Primary Industries – Agriculture.
- The agencies are to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal. Any agency advice received and council's proposed response to this advice should be placed on public exhibition with the planning proposal.
4. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example in response to a submission or if reclassifying land).
 5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.
 6. Council be authorised to use its delegation of the Minister's plan making functions under sections 59(2),(3)&(4) of the Environmental Planning and Assessment Act 1979.
 7. The Secretary's delegate can be satisfied that the planning proposal is consistent with the s117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 4.1 Acid Sulfate Soils and 5.10 Implementation of Regional Plans.
 8. The Secretary's delegate can be satisfied that the proposal's inconsistency with the S117 Direction 6.3 Site Specific Provisions is of minor significance.

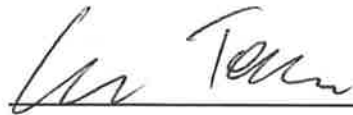
9. In accordance with the s117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and to confirm that notwithstanding any non-compliance with the provisions for Planning for Bushfire Protection, the Rural Fire Service does not object to the progression of the Planning Proposal.

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10. The Secretary's delegate can be satisfied that the planning proposal is consistent with all other relevant s117 Directions or that any inconsistencies are only of minor significance.

Supporting Reasons : The proposal will provide opportunities for value adding for produce and for tourism at a scale that Council considers to be appropriate.

Signature:



Printed Name:

Graham Towers

Date:

4/8/16.