



Planning & Infrastructure

Mr Jason R. Gordon
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	23 SEP 2013	Our ref:	PGR_2013_WINGE_001_00
	5901	Your ref:	PN1407500, PN1707970, 5901
OFFICER:	S. Stannard	INFO:	

Dear Mr Gordon,

Re: Request for Pre-Gateway Review – (Notification to Council of Determination)

I refer to the request for a Pre-Gateway Review. Details of the proposed instrument are summarised below:

Dept. Ref. No:	PGR_2013_WINGE_001_00
LGA:	Wingecarribee
LEP to be Amended:	Wingecarribee LEP 2010
Address/Location:	Lot 111 DP 1006696 & Part Lot 6 DP 751277, Trig Station Lane, Kangaloon
Proposal:	Boundary Adjustment Trig Station Lane Kangaloon

Please find attached the advice of the Southern Joint Regional Planning Panel (JRPP) in regard to the above request for a Pre-Gateway Review.

I have considered the request for review together with the recommendation of the Southern JRPP advice. As delegate of the Minister for Planning and Infrastructure, I have determined that the proposed instrument should proceed to Gateway determination.

Please advise if Council is prepared to be the Relevant Planning Authority for this matter, and submit a Planning Proposal within 40 days from the date of this letter. If Council does not advise or if a planning proposal is not submitted within 40 days of the date of this letter, an alternate Relevant Planning Authority may be appointed to prepare one.

The Department's 'A guide to preparing local environmental plans' provides advice on procedures for the various stages in the independent review process. The guide is available on-line at www.planning.nsw.gov.au/gateway-process.

You can check the progress of the request for review on the LEP Tracking System at <http://pgrtracking.planning.nsw.gov.au/PublicList.aspx>.

If you have any questions in regards to this matter, please contact Mr Brett Whitworth, Regional Director, Southern Region, of the Department of Planning and Infrastructure on 02 4224 9450.

Yours Sincerely


Neil McGaffin
A/Deputy Director General
Planning Operations & Regional Delivery

Encl: Southern JRPP Pre-Gateway Review

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**Joint Regional Planning Panel
Pre-Gateway Review**

The Joint Regional Planning Panel (JRPP) has considered the request for a review of the proposed instrument as detailed below.

The Pre-Gateway Review:

Date of Review:	16 August 2013	
Dept. Ref. No:	ADV2013STH001	
LGA:	Wingecarribee Shire	
LEP to be Amended:	Wingecarribee LEP 2010	
Address / Location:	Lot 111 DP 1006696 and Part Lot 6 DP 751277, Trig Station Lane, Kangaloon	
Proposed Instrument:	PGR_2013_WINGE_001_00	
Reason for review:	☒	The council has notified the proponent that the request to prepare a planning proposal has not been supported
	☐	The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal

In considering the request, the JRPP has reviewed all relevant information provided by the proponent as well as the views and position of the department and the relevant local government authority.

Based on this review the JRPP recommends the following:

JRPP RECOMMENDATION:	☒	The proposed instrument should be submitted for a Gateway determination
	☐	The proposed instrument should not be submitted for a Gateway determination
Composition of Recommendation:	☒ Unanimous ☐ Not unanimous	Comments:

JRPP Advice and Justification for Recommendation:

1. Request for review

The Director-General, as Delegate of the Minister for Planning and Infrastructure, requested on 24 July 2013 that the Southern Joint Regional Planning Panel (regional panel) carry out a pre-Gateway review of proposed instrument PGR_2013_WINGE_001_00 and to prepare advice concerning the merits of the proposal. The request for the review has been made by the proponent P N Stronach.

The regional panel constituted for this matter comprised Allen Grimwood (Acting Chair), Alison McCabe and Mark Grayson as state appointed members, and Laurel Cheetham appointed by Council to represent the community.

Meetings have been held with the proponent, Wingecarribee Shire Council (Council) and representatives of the Department of Planning and Infrastructure (Southern Region) on 16 August 2013. Departmental representatives attended all meetings as observers and to provide advice. The regional panel inspected the site on 16 August 2013.

2. The planning proposal

The proposed instrument PGR_2013_WINGE_001_00 that was submitted for review comprises a planning proposal to amend the Wingecarribee Local Environmental Plan (LEP) 2010 by including a proposed additional development clause to allow a boundary adjustment of Lot 111 DP 1006696 and Part Lot 6 DP 751277, Trig Station Lane, Kangaloon.

The land is zoned E3 Environmental Management and a minimum lot size of 40 hectares applies for the subdivision of land for the purposes of erecting a dwelling. Lot 111 is 38 hectares in area and Part Lot 6 is 81 hectares. Approximately 25 hectares of land within Lot 111 is currently being agisted to the owner of Part Lot 6 for agricultural use. The proposed boundary adjustment is intended to enable the sale and transfer of land currently being agisted to Part Lot 6 to facilitate continued agricultural operations. This would result in Lot 111 being 13 hectares and Part Lot 6 being 106 hectares.

Both lots are already occupied by a dwelling and the boundary adjustment would not create the opportunity for any additional lots to be created by subdivision or any additional dwelling entitlements, noting that Part Lot 6 may currently be subdivided to create two lots of 40 hectares.

Clause 4.2 of Wingecarribee LEP 2010 permits the subdivision of land in rural zones to create a lot less than the minimum lot size without a dwelling entitlement. However, this clause does not apply to land zoned E3 Environmental Management.

The amendment to Wingecarribee LEP 2010 may be carried out by one of the following methods:

- Amend the minimum lot size map to permit a lot size less than 13 hectares on Lot 111, or
- Permit the boundary adjustment to create a lot less than the minimum lot size by inclusion in Schedule 1 Additional permitted uses, or
- Insert a standard clause to apply to the E3 Environmental Management zone that enables boundary adjustments resulting in lots less than the minimum lot size where additional lots or dwelling entitlements are not created.

The matter was put to Wingecarribee Shire Council's Local Planning Strategy Steering Committee Sunset Working Group on 20 February 2013 and the proponent was subsequently advised that the proposed boundary adjustment is not supported by the committee. A planning report was put to council on 14 August 2013 recommending that the LEP be amended to include the standard boundary adjustment, however, the matter was deferred pending a workshop with the aforementioned committee.

3. Strategic merit assessment

The proposed boundary adjustment has been dealt with as a planning proposal due to the lack of flexibility of the provisions of LEPs that have been drafted in accordance with the Standard Instrument. The panel notes that the standard boundary adjustment clause was not mandatory at the time Wingecarribee LEP 2010 was drafted and that Council is now considering inserting the clause in the LEP at the behest of the Department of Planning and Infrastructure.

The panel considers that the proposed boundary adjustment has strategic merit and will facilitate the ongoing agricultural use of the larger property. The boundary adjustment is consistent with the objectives of the E3 Environmental Management zone, would not result in the fragmentation of land, and does not create any opportunities for additional lots or dwellings than already exist.

The panel is of the view that the proposed boundary adjustment is a minor issue that should be able to proceed along a regular development assessment path. To enable this to occur, the panel recommends that the planning proposal proceed by way of an amendment to Wingecarribee LEP 2010 to insert the standard boundary adjustment clause to apply to the E3 Environmental Management zone. This approach will negate the need for future amendments to the LEP should similar boundary adjustment proposals arise. It is preferable to amending the minimum lot size map to reduce the minimum lot size applicable to Lot 111 to say 10 hectares as this would enable subdivision and the creation of additional dwelling entitlements in the period prior to consent being issued for the boundary adjustment. It is also preferable to including the proposal in Schedule 1 of the LEP as this method does not address the broader issue of the continuing need to submit a planning proposal to carry out a boundary adjustment in zone E3.

The panel also notes the high cost of the pre-Gateway review, estimated to be in the order of \$50,000, which may be attributed to an inflexible environmental planning instrument. This inflexibility may be addressed on a state-wide basis, avoiding the need for further planning proposals to carry out such boundary adjustments, by the inclusion of the standard boundary adjustment clause as a mandatory provision in the Standard Instrument.

4. Recommendation

The regional panel recommends that:

- (a) Proposed Instrument PGR_2013_WINGE_001_00 proceeds to a Gateway determination.
- (b) The planning proposal be enacted by way of an amendment to Wingecarribee LEP 2010 to insert the standard clause *boundary changes between lots in certain rural, residential and environment protection zones*.
- (c) The Department of Planning and Infrastructure consider adopting the clause *boundary changes between lots in certain rural, residential and environment protection zones* as a mandatory provision in the Standard Instrument.

Endorsed by:



Allen Grimwood
Acting Chair
Southern Joint Regional Planning Panel

26 August 2013