

**Joint Regional Planning Panel – Planning Assessment Commission  
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:**

|                             |                                                                                             |
|-----------------------------|---------------------------------------------------------------------------------------------|
| <b>Date of Review:</b>      | <b>5 March 2014</b>                                                                         |
| <b>Dept. Ref. No:</b>       | PGR_2013_SHELL_001_00                                                                       |
| <b>LGA:</b>                 | Shellharbour                                                                                |
| <b>LEP to be Amended:</b>   | Shellharbour LEP 2013                                                                       |
| <b>Address / Location:</b>  | Lot 4250 DP1057886 Jamberoo Road, Albion Park<br>Lot 4300 DP1058963 Ulan Place, Albion Park |
| <b>Proposed Instrument:</b> |                                                                                             |
| <b>Panel Chair:</b>         | Alison McCabe                                                                               |
| <b>Panel Members:</b>       | Allen Grimwood, Mark Grayson, Graham Rollinson, John Murray                                 |

|                           |                                     |                                                                                                                               |
|---------------------------|-------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| <b>Reason for review:</b> | <input type="checkbox"/>            | The council has notified the proponent that the request to prepare a planning proposal has not been supported                 |
|                           | <input checked="" type="checkbox"/> | 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 and Council 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:

|                                       |                                                                                         |                                                                                                                                                  |
|---------------------------------------|-----------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>JRPP RECOMMENDATION:</b>           | <input checked="" type="checkbox"/>                                                     | The proposed instrument <b>should</b> be submitted for a Gateway determination, subject to the matters raised in the recommendation of the Panel |
|                                       | <input type="checkbox"/>                                                                | The proposed instrument <b>should not</b> be submitted for a Gateway determination                                                               |
| <b>Composition of Recommendation:</b> | <input checked="" type="checkbox"/> Unanimous<br><input type="checkbox"/> Not unanimous | <b>Comments:</b>                                                                                                                                 |

**JRPP Advice and Justification for Recommendation:**

**1. Request for the Review**

The Director-General, as delegate of the Minister for Planning and Infrastructure, has requested the Southern Joint Regional Planning Panel (the Panel) to carry out a pre-Gateway review of proposed instrument PGR\_2013\_SHELL\_001\_00 and to prepare advice concerning the merits or otherwise of the proposal. The request for the review has been made by Graham Morcom of White Contractors on the 23 January 2014.

The Panel constituted for this matter comprises Alison McCabe (Acting Chair), Allen Grimwood and Mark Grayson as state appointed members, and Graham Rollinson and John Murray, representing the community.

Representatives of the owner (the proponent), Shellharbour Council (Council) and the Department of Planning and Infrastructure (Southern Region) all met with and addressed the Panel on 5 March 2014. The Departmental representatives attended all meetings as observers and to provide advice, up to the point of deliberation.

The Panel had the benefit of reviewing a package of documents provided by the Department and additional information provided by Council and the proponent.

The Panel inspected both sites and viewed the sites from a number of vantage points including Jamberoo Road at its entry into Albion Park and Ashburton Drive / Croome Road near the Croom Regional Sporting Complex.

## **2. The Planning Proposal**

### **2.1 Background and History**

The Planning Proposal involves the rezoning of two (2) separate parcels of land which adjoin an urban subdivision, to a range of zones that would permit the subdivision and erection of dwelling houses on all lots. The Planning Proposal also includes zones and subdivision controls that seek to protect areas of vegetation.

The sites have a long history in respect to potential for zoning change, and have been the subject of a number of studies to determine their capability for more intense development.

The report prepared by the Department included a key chronology.

Essentially the potential for more intense development of these lands has been under consideration for some thirteen (13) years.

The lands were originally included in the Shellharbour 'Urban Fringe' LEP. The Urban Fringe LEP included multiple land holdings. The lands were next included in the Shellharbour Comprehensive LEP (now SLEP 2013).

The Panel has been informed that due to concerns raised by landowners regarding the development potential of the 'fringe lands', Council deferred much of the urban fringe land (including the lands being considered by this Planning Proposal) from the comprehensive LEP (now SLEP 2013). Proponents were invited to submit proposals for their lands.

In the current case it is understood that three (3) different proposals have been submitted to Council for consideration. These are outlined as follows:

- August 2012 (19 lots on Jamberoo Road site and 14 lots on Ulan Place site);
- December 2012 (9 lots on Jamberoo Road site and 9 lots on Ulan Place site); and
- March 2013 (9 lots on Jamberoo Road site and 9 lots on Ulan Place – in a different configuration).

Council resolved to prepare a Planning Proposal on 30 April 2013 that included the subject sites and other sites. This Planning Proposal provided for six (6) lots on the Jamberoo Road site and five (5) lots on the Ulan Place site.

### **2.2 The Planning Proposal under Consideration**

The proposal before the Panel seeks to alter the current zoning under Shellharbour LEP 2000 and the Shellharbour Rural LEP 2004.

The lands are deferred from the Shellharbour LEP 2013 and therefore retain the zoning under Shellharbour LEP 2000, and Shellharbour Rural LEP 2004 and relevant controls, particular to each site.

The existing zones are as follows:

- |                    |                                                                                                                                                             |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jamberoo Road Site | <ul style="list-style-type: none"><li>• 1a Rural (SLEP 2000).</li><li>• Minimum lot size 40 hectares.</li></ul>                                             |
| Ulan Place Site    | <ul style="list-style-type: none"><li>• 1(R1) Rural Landscape (SLEP 2004).</li><li>• Small portion 2e Residential under Shellharbour (SLEP 2000).</li></ul> |

Urban subdivision is not permitted under the current controls.

The Planning Proposal seeks to change the zones and controls as follows:

- |                    |                                                                                                                                                                 |
|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jamberoo Road Site | <ul style="list-style-type: none"><li>• E4 Environmental Living – to permit a 19 lot subdivision with a dwelling on each lot.</li></ul>                         |
| Ulan Place Site    | <ul style="list-style-type: none"><li>• Mix R2 Low Density Residential, E3 Environmental Management and E4 Environmental Living – 14 lot subdivision.</li></ul> |

The Councils Planning Proposal or DLEP differs from the above and seeks less lots, and proposes the following:

- |                    |                                                                                                                                                                                                   |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Jamberoo Road Site | <ul style="list-style-type: none"><li>• E4 Environmental Living – to permit a six (6) lot subdivision with a dwelling on each lot.</li></ul>                                                      |
| Ulan Place Site    | <ul style="list-style-type: none"><li>• Mix R2 Low Density Residential, E3 Environmental Management and E4 Environmental Living – five (5) lot subdivision with a dwelling on each lot.</li></ul> |

## 2.3 Procedural Issues

The Panel notes that the proposal has not strictly been prepared in accordance with the relevant guidelines – A Guide to Preparing Planning Proposals (October 2012) and A Guide to Preparing Local Environmental Plans (April 2013), both issued by the Department of Planning and Infrastructure.

The Councils' position is that the matter has not been lodged as a Planning Proposal, does not meet the guidelines and should not have the benefit of being considered under the Pre-Gateway Review Process.

Consideration of the potential to change zoning controls on the sites has preceded the gateway process. It is a matter that has been the subject of both investigation and review for over some 13 years. Over that period of time there has been analysis and documentation of sufficient detail to allow a proper consideration of the matter.

It is also noted that much of this information was submitted as a submission to the current DLEP.

The Panel considers that a rezoning proposal can be packaged in a number of ways and that there is sufficient information for the Panel to form a view on the merits or otherwise of the proposal.

The Panel is of the view that it is an appropriate body to provide advice to the Minister in respect to whether this matter should proceed.

## **2.4 Draft LEP**

The Panel understands that there is a current DLEP that applies to the sites and others, that has been exhibited. The proponent has made a submission to the DLEP.

The proposed controls exhibited for the two (2) sites are different to those sought by the proponent. The Panel considers the exhibited controls to be the adopted policy position of Council regarding the potential for more intense development.

## **3.0 Strategic Merit Assessment**

### **3.1 Strategic Planning**

Both sites have been the subject of detailed analysis for over 13 years for the potential to accommodate additional development. They have been designated as urban fringe. The context and location of the sites is one of lands immediately adjoining a typical urban residential release area – which is essentially developed.

There has been recognition that the sites could accommodate additional development yield. The sites can be adequately serviced, and the surrounding road network and infrastructure can accommodate development.

The sites do have some physical and environmental constraints in the form of stands of vegetation, slope and some endangered ecological community. However these constraints do not preclude them from development.

There has been a recognition – which the Panel concurs with – that the current zones are inappropriate and that they could change.

The question that needs to be addressed is therefore more site specific – it is one of how much and where or what the extent and form of development, could be, as opposed to whether or not more intense development should be permitted.

### **3.2 Landscape and Visual Context**

Strategically the sites are situated immediately adjoining or on the edge of a typical urban subdivision area. The topography of the site and the spread of urban development suggests that the retention of the rural zoning is not appropriate. The sites are located on the urban fringe immediately abutting a highly urbanised landscape.

The sites currently form the backdrop to a typical urbanised subdivision viewed from afar. The sites present as a vegetated backdrop and a cleared area over a sea of urban roofs.

It is a suburban view with a landscape backdrop.

Council has emphasised and adopted a broad planning approach of establishing a transition to more rural environments through the use of Environmental Living zones. This is achieved through large lots transitioning to the rural environments – essentially that expressed in the current DLEP.

The Panel also acknowledges that there have been extensive visual studies specifically the Urban Fringe LES and Visual Assessment EDAW (2005) to support this approach.

While the approach is understood at a broad level, it is also important to accommodate the more site specific characteristics of a site.

In both cases the view to the sites is across a highly urbanised subdivision to cleared land to vegetation at the top of a ridge line or hill. The view cone has a number of horizontal elements – vegetation, cleared area and roof tops.

There is limited view of a broader rural area because of the topography and vegetation – it is contained.

### **3.3 Land Use Change**

In considering whether or not land use potential should change, it is important to identify key elements or features that are worthy of protection.

For both these sites, the elements worthy of protection are the vegetated hills and a buffer of cleared land between dwellings and bush.

The Panel is of the opinion that the important elements of vegetation and a cleared area above suburban roofs can be maintained with a more intense use of the sites.

### **3.4 Other Issues**

The Panel understands that there are no broad strategic infrastructure issues such as servicing or flooding etc. that would preclude the lands being considered for further development.

## **4.0 Site Specific Merit Assessment**

### **4.1 Ulan Place**

This site comprises some 5.167 ha of land that has vehicular access from Ulan Place, Ashton Close and Dangera Drive.

The site comprises a vegetated hill top supporting an EEC. It provides a backdrop to an urban landscape. The eastern edge and knoll are prominent when viewed from an easterly aspect with distant views available from the Croom Sporting Complex and Ashburton Drive.

The Panel is of the opinion that the important visual elements can be protected with sensitive development and appropriate controls.

Furthermore because of the visual context of the site, it is not necessary for the site to comprise large lot subdivision, other than the lot to protect the vegetated knoll.

Given the vegetation on site, it is also recognised that there will be a need for APZ and separation between potential building envelopes.

The Panel supports the extension of the existing urban form and density onto the site because of its immediate context. Horizontal elements and scenic qualities of vegetation and cleared area as a backdrop to rooflines can be retained with a modest extension of the existing urban form.

The potential developable area is that area up to the 74m contour with the exception of the lot fronting Ulan Place immediately adjoining Lot 4617 and on the western edge where vegetation is located below the 74m contour. There is only capacity for one (1) lot contiguous with the existing residential zone at the eastern end.

The remainder of the lot should comprise the balance that maintains the vegetative knoll and APZ.

This would provide for approximately 13 metres of cleared grassland to separate housing from bush land.

The limits to urban development could be delineated by a perimeter road linking Ulan Place to Ashton Close and form part of any APZ. This approach provides a clear demarcation of urban density and protection of landscape qualities.

The preferred land use zoning should be consistent with adjoining the R2 Low Density Residential with the balance of the lots being E3 Environmental Management with a dwelling entitlement to be generally on the eastern edge adjacent to the existing Ulan Place below the 74m contour.

Broader controls for development are recommended as follows:

- Lot sizes reflecting the zones;
- Limit maximum building height to 7.5 metres;
- Density to be consistent with adjoining R2 zone with same minimum lot size; and
- Identification of building envelopes on the E3 Environmental Management zone, to protect vegetation.

This approach would provide for roads on the high side of housing, screened by the housing, which will not impact on long range views of the bush land.

The Panel has not specified a lot yield but identified a developable area up to the 74m contour consistent with the adjoining zoning (with exception of area at Ulan Place).

Attachment 1 provides an illustration of the indicative development area.

## **4.2 Jamberoo Road**

The context of this site is different from Ulan Place. This site comprises some 2.577 hectares and steps up to Jamberoo Road. It does not have the same visual prominence as Ulan Place.

Jamberoo Road is an important entry point to Albion Park and the landscape setting along this road way should be retained. Land close to Jamberoo Road is much steeper.

This site exhibits similar visual elements to Ulan Place in that it presents a vegetated backdrop with a cleared area to an urban subdivision.

This site has a clear demarcation at Jamberoo Road as an edge to urban development. This edge needs to be maintained as a vegetated setting.

The Panel is of the view that the site is capable of urban development generally below the 75m contour. Land above the 75m contour should be E3 Environmental Management with a dwelling entitlement, with the dwelling located below the 75m contour. Protected lands tend to be steeper above the 75m contour.

Access would appear to be more problematic. The Panel is of the view that no access should be permitted off Jamberoo Road. One option could be to explore access through the adjoining vacant property.

Generally the controls recommended are:

- R2 Low Density Residential – below the 75m contour.
- E3 Environmental Management above 75m contour.

Dwelling height should be restricted to 7.5 metres and building zones identified for the E3 Environmental Management lot – below the 75m contour. The purpose of the E3 zone is to protect and reinforce the vegetated backdrop to urban development.



Broader controls for development are recommended as follows:

- Lot sizes reflecting the zones;
- Limit maximum building height to 7.5 metres;
- Density to be consistent with adjoining R2 zone with same minimum lot size; and
- Identification of building envelopes on the E3 Environmental Management zone, to protect vegetation.

Attachment 1 provides an illustration of the indicative development area.

## **5.0 Documentation**

The Planning Proposal should be supported by better documentation in the form of 3D massing and sections

An indicative subdivision plan reflecting the above elements with detailed contours is also required.

Sections should be produced through the sites to existing houses and illustrate preliminary dwelling forms, design and siting to ensure that the visual element of grassland separating bush land are retained, and that development is essentially located immediately adjoining the existing urban lands.

This documentation should form the basis of DCP controls that identify vegetation to be retained and building envelopes for the E3 Environmental Management zone.

## **6.0 Conclusion and Recommendation**

The Panel has approached the analysis of this Planning Proposal by:

- i. Identifying limits to urban development by reference to contours;
- ii. Identifying potential development yield by reference to zone and lot size consistent with adjoining zones; and
- iii. Protecting important scenic elements through limitations on dwelling entitlements and suggesting building envelopes.

The Panel is of the opinion that the retention of vegetation and a cleared area between the vegetation and housing forms is an appropriate response in this essentially urban context.

The identification of limits to development will facilitate the protection of these elements.

### **Recommendation:**

- 1) Documentation and plans submitted with the Planning Proposal be amended to reflect the following:

#### **a) Ulan Place, Albion Park (Lot 4300 DP1058963)**

- Land beneath the 74m contour and vegetation line being zoned R2 Low Density Residential
- Land above the 74m contour being zoned E3 Environmental Management
- A maximum height limit 7.5 metres above natural ground level
- A minimum lot size applying to the proposed R2 zoned land consistent with adjoining land that is zoned R2
- A single dwelling being permitted on the E3 Environmental Management zoned land with the indicative dwelling location below the 74m contour

b) Jamberoo Road, Albion Park (Lot 4250 DP1057886)

- Land beneath the 75m contour being zoned R2 Low Density Residential
  - Land above the 75m contour being zoned E3 Environmental Management
  - A maximum height of 7.5 metres above natural ground level
  - A minimum lot size applying to the proposed R2 zoned land consistent with adjoining land that is zoned R2
  - A single dwelling being permitted on the E3 Environmental Management zoned land with a indicative dwelling location be identified below the 75m contour
- 2) A draft subdivision plan accompanied by sections illustrating preliminary dwelling forms design and siting and 3D modelling with indicative dwelling locations to be submitted.
- 3) That the amended Planning Proposal proceed to Gateway.



## **Attachment 1 – Indicative Developable Area**



