

Planning Services

Gateway Determination Report

LGA	Kiama LGA
RPA	Kiama Municipal Council
NAME	Planning proposal to amend Kiama LEP 2011 to rezone land at 123 Golden Valley Road Jamberoo from RU2 Rural Landscape to R2 Low Density Residential, change the lot size from 40ha to 800m ² and introduce a floor space ratio of 0.45:1 and building height control of 8.5metres. (50 homes, 0 jobs)
NUMBER	PP_KIAMA_004_00
LEP TO BE AMENDED	Kiama Local Environmental Plan, 2011 (LEP)
ADDRESS	123 Golden Valley Road, Jamberoo
DESCRIPTION	Lot 2 DP626183
RECEIVED	13/7/2017
FILE NO.	17/09205
QA NUMBER	qA415454
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

- The planning proposal is to amend the Kiama LEP 2011 to rezone land at 123 Golden Valley Road, Jamberoo from RU2 Rural Landscape to R2 Low Density Residential, change the lot size from 40ha to 800m² and introduce a floor space ratio of 0.45:1 and building height control of 8.5metres (up to 50 lots). - **Attachment B1** – Planning proposal.
- The proposal was subject to a Rezoning Review as Kiama Municipal Council did not support the landholder's request to prepare a planning proposal.
- On 12 May 2017 the Southern Joint Regional Planning Panel (JRPP) determined that the proposal should be submitted for a Gateway Determination because it has demonstrated strategic and site specific merit. - **Attachment B2** – Southern JRPP letter to Kiama Council.

Site Description

- Lot 2 DP626183, known as 123 Golden Valley Road, Jamberoo, is located on the south-east edge of Jamberoo village.
- The site is 4.7ha in area with its western boundary fronting Golden Valley Road.
- The land is relatively flat, sloping to the south and east from a high point along the northern end of the lot. The groundcover is improved pastures with no native vegetation.

- The land is used for cattle grazing and there is a stock water supply dam adjacent to the southern boundary.
- The site is not on the main entry road to Jamberoo from the east (Jamberoo Road) as it is separated from the road by a row of houses.
- A locality map is provided at **Attachment B3** - Locality Map.
- An aerial photograph of the site is provided at **Attachment B4** – Site Photograph.

Surrounding Area

- Jamberoo is a small country village (population 940) surrounded by a rural landscape. The Illawarra Escarpment is located west of Jamberoo.
- The site is bounded on its northern and part western boundaries by the existing residential development of Jamberoo Village which is typically low density residential development of one and two storey dwelling houses.
- To the east, south and part west are cleared rural lands used for grazing and dairying.
- The land to the part west and south-west on the western side of Golden Valley Road is identified in the Kiama Urban Strategy 2011 for residential development to establish a southern boundary to Jamberoo village. To date there have been no planning proposals lodged on this land.
- Jamberoo village is not heritage listed and there are no heritage items in the vicinity of the site.

Southern JRPP Recommendation

- In addition to determining that the planning proposal has demonstrated strategic and site specific merit, the Southern JRPP also made recommendations that the following additional requirements be considered as part of the gateway determination:
 1. Cumulative traffic impacts;
 2. DCP controls;
 3. Visual analysis; and
 4. Zoning and controls that provide an appropriate interface to agricultural lands and provide clear demarcation to the limits of the village.
- These requirements can be addressed by:
 1. Consultation with Roads and Maritime Services will determine whether further traffic studies are required during the preparation of the planning proposal or by a subsequent development application.
 2. Draft Chapter 33 – Kiama Development Control Plan 2011 – Jamberoo Village is currently on public exhibition. The draft Plan sets out performance criteria and acceptable solutions for residential development for lands zoned Low Density Residential in Jamberoo.
 3. A visual analysis being requested as a further study for inclusion in the planning proposal.
 4. Consistent with the Kiama Urban Strategy a perimeter road will provide clear demarcation to the limits of the village. The Jamberoo DCP will address controls for an appropriate interface to agricultural lands.
- The JRPP also recommended Council and the Department seek resourcing for the preparation of a Rural Lands Strategy that identifies regionally significant rural lands.
- This issue has been identified in, and is to be addressed by, Action 4.1.1 of the Illawarra Shoalhaven Regional Plan - to identify regionally important agricultural lands and reflect the outcomes in local planning controls.

Summary of Recommendation

The planning proposal is recommended to proceed to Gateway with conditions as it has strategic and site merit in that:

- the site is identified in the Kiama Urban Strategy 2011 as a release area and will provide housing close to services, jobs and infrastructure;
 - there are no known significant environmental values, resources or hazards on the site;
 - whilst a small area of agricultural land will be removed from primary production, the site does not contain significant agricultural land;
 - the proposed extension of the existing residential area is not expected to create an unacceptable visual impact; and
 - infrastructure (water, sewer, electricity and telecommunications) can be provided to service up to 50 residential lots.
- The planning proposal will assist in meeting housing targets identified in regional and local planning strategies.
 - The extension of the residential area, set back from the Kiama to Jamberoo road, will not create an unacceptable visual impact.
 - The proposed Gateway determination is consistent with the JRPP's findings and recommendations.
 - The proposed amendments to the Kiama LEP 2011 will be supported by a development control plan for residential development and subdivision in the Jamberoo Valley. Draft Chapter 33 – Kiama Development Control Plan 2011 – Jamberoo Village is currently on public exhibition and is expected to be adopted prior to the finalisation of this rezoning.
 - Delegation of plan making functions are to remain with the Department due to the planning proposal being subject to a rezoning review and the contentious nature of the proposal.

PROPOSAL

Objectives or Intended Outcomes

- The objective of the planning proposal is to rezone rural land for residential development and apply development controls which are consistent with existing residential zoned land in Jamberoo.
- The objective is clear and appropriate for public exhibition.

Explanation of Provisions

- It is proposed to amend the Kiama LEP 2011 by:
 - rezoning the site from RU2 Rural Landscape to R2 Low Density Residential;
 - amending the lot size map from 40ha to 800m²;
 - introducing a Floor Space Ratio of 0.45:1; and
 - introducing a Height of Building control of 8.5 metres.
- Perimeter roads have been used in Jamberoo and are recommended in the Kiama Urban Strategy to provide an appropriate interface to agricultural lands and a clear demarcation to the limits of the village.
- The explanation of provisions clearly describe the intended changes appropriate for public exhibition.

Mapping

- The existing zoning, minimum lot size, floor space ratio and height of buildings maps are included in the planning proposal. - **Attachment B5** – Existing LEP Maps.
- The proposed controls are shown overlayed onto aerial photographs of the site and surrounding area. - **Attachment B6** – Proposed LEP Maps.
- Council has confirmed that the maps will be updated and prepared in accordance with the requirements of the Department's "Standard technical Requirements for Spatial Datasets and maps" Vers: 1.0 November 2015 prior to community consultation.

NEED FOR THE PLANNING PROPOSAL

- The land is identified for urban release under the Kiama Urban Strategy 2011 (identified as site 27b for urban development) and will meet the priority staging timeframes for urban expansion of Jamberoo.
- The site forms a logical extension of the existing urban area and is proposing measures to form an appropriately defined and accessible southern boundary to Jamberoo village.
- The planning proposal is the only means of achieving residential development on the land.

STRATEGIC ASSESSMENT

Regional - Illawarra Shoalhaven Regional Plan 2015

- The Illawarra Shoalhaven Regional Plan (the Plan) provides the strategic policy, planning and decision-making framework to guide the region to sustainable growth over the next 20 years.
- The Plan takes a balanced approach to housing that utilises development potential in both existing urban areas and new urban areas to provide housing choice and address affordability issues.
- For new urban areas, the Plan continues its focus on those areas that have been strategically identified for housing for many years. While these lands may have historically been used for agriculture, they have been identified for urban use in consultation with local councils and government agencies, including the NSW Department of Primary Industries.
- The Plan does not identify Jamberoo specifically for new urban areas, however it does include commentary about the need to address the lack of housing capacity in the Kiama LGA.
- The Plan indicates that there is not enough land or market ready infill development in the planning pipeline to meet the projected demand of 2,850 new homes in Kiama up to 2036.
- The Plan (Action 2.1.1) commits the NSW Government to work with Kiama Council to monitor and review the potential of the area to accommodate housing demand.
- The Plan also gives consideration to protecting the agricultural production values of rural land and contains an Action (4.1.1) 'to identify regionally important agricultural lands'.
- The proposed rezoning is consistent with the aims of the Plan because it is identified in Council's adopted local housing strategy (Kiama Urban Strategy) and will provide housing close to services, jobs and infrastructure; and the site does not contain significant agricultural land.

Local - Kiama Urban Strategy 2011

- The Kiama Urban Strategy 2011 (the Strategy) was prepared by Kiama Council to inform the preparation of the Kiama LEP 2011.
- The Department supported the preparation of planning proposals for sites identified in the Strategy (including the subject site) in order to contribute to housing supply in Kiama. However, the Strategy was not formally endorsed by the Department mainly on the grounds that it did not provide sufficient yields to meet the projected housing needs of Kiama. Refer to **Attachment B7** – Department's letter Kiama Urban Strategy
- The Strategy aims to maintain and protect agricultural lands and ecologically sensitive areas and identify opportunities and options for urban expansion and infill to cater for future housing needs as set out in the Illawarra Regional Strategy. The Regional Strategy has since been replaced by the Illawarra Shoalhaven Regional Plan.
- The Strategy was adopted by Council on 20 September 2011 following extensive community consultation.
- The owner of the subject site made a submission to both the draft Kiama LEP and draft Kiama Urban Strategy to have the site rezoned from Rural to Residential. As site specific studies had not been carried out on the land at the time it was not considered as part of the Kiama LEP 2011.
- The Strategy considered the site (site 27b) as having potential for urban development and identified an approximate potential dwelling yield of 47 lots. The site was identified as a Stage 2 priority for urban expansion (five to 10 years).
- The Strategy recommends that in order to satisfy the housing mix identified in the Illawarra Regional Strategy, the site is to be included in a planning proposal. 'The planning proposal should address village character, heritage and agricultural land issues, establish a more accurate lot yield potential and density; and include a peripheral road to define the village boundary'.
- The Strategy proposes seven sites for the urban expansion of Jamberoo, producing approximately 174 new dwelling sites by 2026. Approximately 70 of these lots have been, or are soon to be released (Stage 1 sites). Approximately 50 lots are proposed as part of this request and another 54 lots have been identified for stage 3 of Jamberoo's potential urban expansion.
- The Planning Proposal is consistent with the Kiama Urban Strategy and meets the priority staging timeframes for urban expansion in Jamberoo.

Section 117(2) Ministerial Directions

- The planning proposal is consistent with s117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport and 5.10 Implementation of Regional Plans.
- The Aboriginal Cultural Heritage Assessment and Archaeological Report identified two significant sites which have subsequently been registered on the Aboriginal Heritage Information Management System. The Kiama LEP 2011 contains provisions relating to heritage conservation which would be considered during the assessment of a development application.
- The planning proposal is inconsistent with the s117 Directions 1.2 Rural Zones and 1.5 Rural Lands as it is rezoning agricultural lands for residential development. However, it is considered a minor, justified inconsistency as the site has been identified for residential development as part of the strategic planning for the Kiama Urban Strategy. The proposed residential development provides a logical extension to the existing residential areas and will include a perimeter road which sets the village boundary for Jamberoo and the agricultural lands beyond.

State Environmental Planning Policies

- The proposal is consistent with SEPP 55 Remediation of Land. A Stage 1 Contamination Assessment has concluded that the site is of a low risk of contamination and no further remediation is required.
- The proposal is inconsistent with the Rural Planning Principles in the SEPP Rural Lands as agricultural lands will be lost to residential development. However, this is considered acceptable as the lands have undergone a strategic assessment and are endorsed for residential development in the Kiama Urban Strategy.
- The site is not mapped as containing Biophysical Strategic Agricultural Land (BSAL) under SEPP (Mining, Petroleum Production and Extractive Industries) 2007. BSAL is defined as land with high quality soil and water resources capable of sustaining high levels of productivity. - **Attachment B8** – Biophysical Strategic Agricultural Land Map

SITE SPECIFIC ASSESSMENT

Social

- The planning proposal identifies that having additional residents in Jamberoo will result in a positive social effect. An increased population will provide support for local businesses and community services and benefits to community assets, clubs and associations.

Environmental

- There are no known significant environmental values, resources or hazards on the site. The site is not bushfire prone or affected by flooding.
- The site is cleared pasture/grasslands with minor improvements including fencing and a stock water supply dam.
- The site has been mapped under the NSW Agriculture's Agricultural Land Classification as Class 3 agricultural land. Class 3 land is grazing land or land well suited to pasture improvement with a moderate production level.
- The Aboriginal Cultural Heritage Assessment and Archaeological Report recommended that the proposed rezoning should proceed. The Report advised that any future residential development will require an Aboriginal Heritage Impact Permit for the two registered sites.
- The Stage 1 Site Contamination Assessment and Preliminary Geotechnical Assessment concluded that due to the low risk of contamination the site is suitable for the proposed rezoning.
- The extension of the residential area, set back from the Kiama to Jamberoo road, will not create an unacceptable visual impact.

Economic

- As part of the Rezoning Review, the landholder prepared the 'Jamberoo Headline Economic Assessment'. This assessment concludes that the increased population will provide additional revenue to the existing retail and service businesses in Jamberoo and will provide benefits to community assets and clubs and associations.

Infrastructure

- A Services Feasibility Assessment, including consultation with Endeavour Energy and Sydney Water Corporation, is included in the planning proposal. It confirms that water, sewer, electricity and telecommunications can be provided to serve up to 50 residential lots. The provision of water and sewer may require amplification of the existing infrastructure. This will be considered further at the subdivision design stage.

- A Traffic Impact Statement, providing for pedestrian footpaths, upgrade works to Golden Valley Road and an internal road network for the future subdivision, is also included in the planning proposal. It identifies that the proposal will not place any major strain on the current road system capacity.
- Council staff have assessed both reports and agree with the results and conclusions.

CONSULTATION

Community

- Council has advised that the planning proposal is to be publicly exhibited for 28 days. Public notification 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. This is considered appropriate.

Agencies

- Council is proposing to consult with the Office of Environment and Heritage, Roads and Maritime Services, Sydney Water, Endeavour Energy, the Department of Primary Industries (DPI) – Water and NSW Department of Primary Industries – Agriculture.
- The landholder has undertaken consultation with Sydney Water and Endeavour Energy who both confirmed that the site can be serviced. No further consultation is required.
- It is considered that consultation is not required with the Department of Primary Industries (DPI) – Water as the proposal does not impact upon and is more than 40m away from Colyers Creek. However, Council may still decide to consult with DPI – Water.
- Consultation is required with the Office of Environment and Heritage and the Illawarra Local Aboriginal Land Council to confirm any Aboriginal heritage issues.

TECHNICAL STUDIES

- Council isn't proposing any additional technical studies.
- The Southern JRPP recommended that the Gateway assessment require a detailed visual assessment and further studies on cumulative traffic impact.
- A visual assessment of the proposal is to be requirement of the gateway determination as recommended by the JRPP.
- Consultation with Roads and Maritime Services will determine whether further traffic studies are required during the preparation of the planning proposal or by a subsequent development application.

TIMEFRAME

- Council has prepared a 12 month project timeframe to complete the rezoning process. This is considered appropriate as most studies have been completed and there has been initial community consultation and council and agency assessment.

DELEGATION

- Council has requested in its letter of 3 July 2017 Council Officer Delegation to prepare the draft LEP under Section 59 of the Act. Appendix 4 – Evaluation Criteria for the Delegation of Plan making Functions was submitted.

- Due to the planning proposal being subject to a Rezoning Review and the contentious nature of the proposal it is considered appropriate that delegations remain with the Department.

CONCLUSION

- Preparation of the planning proposal is supported to proceed with conditions.
- The planning proposal addresses the Department's 'A guide to preparing planning proposals'.
- The planning proposal was subject to a Rezoning Review which concluded that the proposal has strategic and site merit given:
 - the site is identified in the Kiama Urban Strategy 2011 as a release area and will provide housing close to services, jobs and infrastructure;
 - there are no known significant environmental values, resources or hazards on the site;
 - whilst a small area of agricultural land will be removed from primary production, the site does not contain significant agricultural land;
 - the proposed extension of the existing residential area is not expected to create an unacceptable visual impact; and
 - infrastructure (water, sewer, electricity and telecommunications) can be provided to service up to 50 residential lots.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree the proposal is consistent with section 117 Directions 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, and 5.10 Implementation of Regional Plans; and
2. Agree any inconsistencies with Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are minor and justified.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to community consultation the planning proposal is to be updated to include:
 - the project timeframe, and details on public exhibition, agency consultation and further studies; and
 - a visual analysis to address potential visual impacts of the proposal.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities in accordance with the Act.
 - NSW Department of Primary Industries – Land
 - Roads and Maritime Services
 - Office of Environment and Heritage
 - Illawarra Local Aboriginal Lands Council

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. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to exercise delegation to make this plan.

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31.7.17

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