

9.1 Planning Proposal - Rezoning of Lot 2 DP 626183, Golden Valley Road, Jamberoo

CSP Objective: 2 Well Planned and Managed Spaces, Places and Environment

CSP Strategy: 2.9 Ensure the principles of sustainable development and legislative compliance underpin our land uses and the design of our buildings and subdivisions

Delivery Program: 2.9.3 Prepare and process planning proposals in a timely manner in accordance with the Environmental Planning and Assessment Act requirements

Summary

Council received a Planning Proposal (PP) on 20 July 2016 for the rezoning of Lot 2 DP 626183, Golden Valley Road, Jamberoo from RU2 Rural Landscape to R2 Low Density Residential and the amendment of the minimum lot size from 40 hectares to 800m².

At its December 2016 Meeting Council resolved to reject the subject PP.

On 21 February 2017 the proponent submitted a request for a Rezoning Review as Council had notified the proponent that the original request to prepare a PP had not been supported. As part of the Rezoning Review process the Southern Joint Regional Planning Panel (JRPP) assessed the strategic merit of the proposal against the strengthened Strategic Merit Test as well as undertaking a Site Specific Merit Test. The JRPP met with the proponent, Council, community representatives and Department of Planning and Environment as part of this process. The JRPP met on 11 May 2017 to assess and determine if the proposal should be submitted for a Gateway Determination.

On 25 May 2017 Council received correspondence from the JRPP that the Panel had determined that the proposal should proceed to Gateway Determination stage. As part of this correspondence Council was invited to be the Relevant Planning Authority (RPA) for this proposal.

This report recommends that Council accept the role of RPA and respond to the JRPP accordingly.

Finance

A fee structure for submittal and review of planning proposals has been developed by Council and is contained in Council's fees and charges schedule. Relevant fees have been paid in regard to this proposal.

Policy

Consideration of requests for rezoning of land require consideration of a number of planning instruments, specifically the *Environmental Planning and Assessment Act 1979*, *Kiama Local Environmental Plan 2011*, Illawarra-Shoalhaven Regional Plan, Kiama Urban Strategy and the Kiama Planning Proposal Policy.

Attachments

- 1 JRPP - determination

Report of the Director Environmental Services

9.1 Planning Proposal - Rezoning of Lot 2 DP 626183, Golden Valley Road, Jamberoo (cont)

Enclosures

Nil

RECOMMENDATION

That Council accepts the role of Relevant Planning Authority (RPA) and respond to the Panel accordingly.

BACKGROUND

Council received a Planning Proposal (PP) on 20 July 2016 for the rezoning of Lot 2 DP 626183, Golden Valley Road, Jamberoo from RU2 Rural Landscape to R2 Low Density Residential and the amendment of the minimum lot size from 40 hectares to 800m².

This matter was originally reported to Council for endorsement in October 2016. At its October meeting Council resolved to defer consideration of the gateway proposal for one month to allow for community input. The proposal was exhibited and comments were required to be received by Council by 4pm on 5 December 2016. A total of 148 submissions were received, 141 objecting to and 7 supporting the PP.

At its December 2016 Meeting Council resolved to reject the subject PP.

On 21 February 2017 the proponent submitted a request for a Rezoning Review as Council notified the proponent that the original request to prepare a PP had not been supported. Council was notified by the Department of Planning and Environment (DoPE) that the Rezoning Review process had commenced and was invited to provide a response detailing why the original request to Council was not progressed. It was also requested that Council confirm that the proposal submitted for a Rezoning Review is the same proposal that was considered by Council. Council staff reviewed the documentation and were able to confirm that the proposal submitted for a Rezoning Review is the same proposal that was considered by Council at both its October and December meetings.

The JRPP met on 11 May 2017 to assess and determine if the proposal should be submitted for a Gateway Determination. The JRPP met with the proponent, Council and the DoPE as part of this process. Staff briefed the Panel on the specifics of the site and the relevant local policies that apply. As part of the rezoning review process the JRPP assessed the strategic merit of the proposal against the strengthened strategic merit test as well as undertaking a site specific merit test. Essentially the JRPP assumed the role of Council in determining if a PP should be forwarded to the DoPE for a Gateway Determination.

On 25 May 2017 Council received correspondence from the JRPP informing that the Panel had determined that the proposal should proceed to Gateway Determination stage. In making this decision, the JRPP considered that the site has both strategic and site specific merit. The JRPP determined that the proposal has strategic merit because of the potential to contribute to strategic objectives for housing supply consistent with the Illawarra-Shoalhaven Regional Plan and the Kiama Urban Strategy. A copy of the JRPP's correspondence is attached to this report.

Report of the Director Environmental Services

9.1 Planning Proposal - Rezoning of Lot 2 DP 626183, Golden Valley Road, Jamberoo (cont)

As part of this correspondence Council was invited to be the Relevant Planning Authority (RPA) for this proposal. The RPA is responsible for consultation with public authorities and the community and the final making of the amendment to the *Kiama Local Environmental Plan (LEP) 2011*. If Council refuses to accept the RPA role these processes will be carried out to completion by the DoPE.

It should be noted that by accepting the role of RPA Council will be able to levy the applicable planning proposal fees, in accordance with Council's adopted fees and charges, and will retain a level of control over the process. It is likely that if Council was to refuse to accept the role of RPA it would still be required to carry out some of the administrative roles (ie community consultation) of the PP process without receiving any financial payment. Additionally, by accepting the role of RPA Council retains its decisions making powers.

It is recommended that Council accept the role of RPA and respond to the JRPP accordingly.



Phil Costello
Kiama Municipal Council
PO Box 75
Kiama NSW 2533

25 May 2017

Dear Phil

Request for a Rezoning Review - 2017STH007 - PGR_2017_KIAMA_001_00

I refer to the request for a Rezoning Review for a proposal at 123 Golden Valley Way, Jamberoo to amend the Kiama Local Environmental Plan 2011 to rezone land at 123 Golden Valley Way, Jamberoo, from RU2 Rural Landscape to R2 Low Density Residential, to amend the lot size map from 40ha to 800m² and to introduce a Floor Space Ratio of 0.45:1 and Height of Building control of 8.5 metres.

The Southern Joint Regional Planning Panel (Planning Panel) has determined that the proposal should proceed to Gateway determination stage. In making this decision, the Planning Panel considered the request and advice provided by Council. A copy of the Panel's decision is attached.

Consequently, Council is invited to be the Relevant Planning Authority (RPA) for this proposal and to advise within 42 days of the date of this letter whether it will accept the role of RPA for this proposal. Should Council agree to be the RPA, it will need to prepare a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, and submit it for a Gateway determination within 42 days after accepting this role.

If Council does not wish to progress this matter, the Planning Panel will be appointed as the RPA to prepare the planning proposal.

If you have any queries on this matter, please contact Stuart Withington, Manager, Planning Panels Secretariat on (02) 8217 2062 or via email to stuart.withington@planning.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink that reads 'Pam Allan'.

Pam Allan
Chair, Southern Joint Regional Planning Panel

encl. Rezoning Review Record of Decision

Planning Panels Secretariat

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Planning
Panels

**REZONING REVIEW
RECORD OF DECISION**
SOUTHERN JOINT REGIONAL PLANNING PANEL

DATE OF DECISION	12 May 2017
PANEL MEMBERS	Pam Allan (Chair), Alison McCabe, Renata Brooks
APOLOGIES	Michael Forsyth
DECLARATIONS OF INTEREST	Mark Honey and Andrew Sloan declared a conflict of interest and did not participate in the Panel's decision as they were both involved in Kiama Council's decision to reject the planning proposal. Mark Honey was not present during the proponent's presentation.

REZONING REVIEW

2017STH007 – Kiama Municipal Council – PGR_2017_KIAMA_001_00 AT 123 Golden Valley Way, Jamberoo (AS DESCRIBED IN SCHEDULE 1)

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 or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at meetings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☒ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☐ **should not** be submitted for a Gateway determination because the proposal has
- ☐ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

Overview

This proposal seeks to rezone a 4.662 hectare parcel of land on the edge of the Jamberoo Village from RU2 Rural Landscape to R2 Low Density Residential Development.

The Panel had the benefit of presentations from the proponent, submitters both for and against the proposal and a presentation from Councillors speaking against the Planning Proposal consistent with Council's resolution.

There was discussion around a black line in the now repealed Illawarra Regional Plan that suggested limits to the extent of development of the Jamberoo Village. There was also discussion about the character of the village and the population needed to ensure local services including schools and supermarkets remain as sustainable businesses that can service the village and surrounding area.

It was noted by the Panel that since the Kiama Urban Strategy 2011 (KUS), 62 additional allotments have been created in Jamberoo. Current population is in the order of 900 people. One of the presenters noted that in 1860's the population of Jamberoo was in the order of 2,300 people. The site was also zoned in 1977 as residential 2(b) – allowing for residential development subject to amplification of water and sewerage facilities. This was changed to a rural zone in the subsequent Kiama Local Environment Plan (KLEP) No. 5 1981 and KLEP 1996.

Strategic merit

The proposal is broadly consistent with the Illawarra Shoalhaven Regional Plan 2015 (ISRP) direction 2.1 to provide sufficient housing supply to suit the changing demands of the region, and action to identify housing opportunities in the Kiama Local Government Area, noting that Jamberoo is neither explicitly identified in nor excluded by the ISRP.

The proposal may not be consistent with the ISRP direction 4.1 to protect regionally important agricultural lands as an asset to food and fibre production. "Regionally important agricultural lands" have not yet been identified, however the site has been classified as Class 3 Agricultural Land suitable for grazing or well suited to pasture improvement with a moderate production level. The land may be a candidate for future consideration as being of regional importance, particularly given it is adjacent to land mapped as Biophysical Strategic Agricultural Land (BSAL) under State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

The proposal is consistent with the Kiama Urban Strategy 2011 (KUS), which was developed concurrently with the Kiama Local Environment Plan 2011 (KLEP) and which envisaged staged assessment of planning proposals for identified sites. The subject site is identified as 27b in the KUS, with an approximate yield of 47 lots and a planned timeframe of assessment of five (5) to ten (10) years from commencement of the KUS. The KUS has guided consideration of other planning proposals for Jamberoo and is not currently subject to review.

On balance, the Panel considers the proposal to have strategic merit because of the potential to contribute to strategic objectives for housing supply consistent with the ISRP and the KUS. Submission of the planning proposal for this site for Gateway determination would allow its merits to be properly considered and for appropriate community consultation to take place.

Site specific merit

The site is located in reasonable proximity to the commercial centre of Jamberoo and is adjacent on two (2) boundaries to existing residential development or sites identified in the KUS for consideration for residential development. However, the site potentially forms the boundary of the village, requiring consideration of the visual impact of any change in land use on the character of the village. It is also adjacent to land being used for agricultural production creating the potential for land use conflict.

Service provision and road infrastructure are not considered to be limiting factors but are likely to require augmentation and funding at cost to the developer and will need to be considered as part of the planning proposal.

The site is not of high biodiversity value and has no known significant hazards.

Two (2) potential Aboriginal archaeological deposits have been identified and registered. The Panel notes that Site 1 was rated as moderate-high significance by the consultants contracted by the proponent, with recommendations to avoid development or develop under a permit. Further consultation with the Aboriginal community should be undertaken in consideration of the proposal.

The land is productive agricultural land in a high rainfall area in current use and adjacent to land mapped as BSAL. Use for residential purposes would remove this resource from agricultural production. However, the area proposed for rezoning is 4.662 Ha, representing a relatively small proportion of the resource in the Kiama LGA.

On balance, the Panel considers the site to have site specific merit.

Mitigation of Environmental Impact

The Panel noted the significant community interest in the proposal.

In addition to the matters identified in the KUS, to address issues raised in submissions and address potential impacts and transition of landuse at a rural residential interface, the Panel recommends the Gateway assessment requires:

- A detailed visual assessment of the proposal to ensure a landscape entry point to the village.
- Appropriate zoning and density at the interface with adjacent agricultural land to manage risks of land use conflict, implementation of landscape buffer and consistency of visual presentation with village character and demarcation of the edge of the village boundary – this should involve consideration of a zoning other than residential.
- Further studies on cumulative traffic impact (taking into account the likely impact of the other residential developments which have been or may be progressed in line with the KUS), including pedestrian access and connectivity with the village centre.
- Additional consultation with Aboriginal communities.
- Review of density to provide for integration with existing village and form and scale of development.
- Preparation of DCP controls that reinforce the desired characteristics of the village, including lot sizes and architectural controls.

Additional Strategic Studies

It is considered that future consideration of Planning Proposals in the Jamberoo area consistent with the KUS would be assisted by:

- A coherent planning framework to support the village character of Jamberoo – noting Council advice that it is in the process of developing a draft Jamberoo specific Development Control Plan (DCP) which is to be exhibited but that this will not address zoning or the location of an appropriate boundary for the village. Neither the KLEP or the KUS fulfil this need.
- Resourcing for development of a rural strategy to complement the Kiama Urban Strategy, identifying regionally significant agricultural land and land to be preserved for rural landscape purposes, as envisaged by action 4.1.1 in the ISRP.

Engagement with the Jamberoo community on both of the above.

Recommendations

1. That the Planning Proposal proceed to Gateway.
2. That the following additional requirements as outlined in this report be considered as part of the Gateway Determination:
 - Cumulative traffic impacts;
 - DCP controls;
 - Visual Analysis; and
 - Zoning and controls that provide an appropriate interface to agricultural lands and provide clear demarcation to the limits of the village.
3. That Council and the Department seek resourcing for the preparation of a Rural Lands Strategy, that identifies regionally significant rural lands.

PANEL MEMBERS	
 Pam Allan (Chair)	 Alison McCabe
 Renata Brooks	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2017STH007 – Kiama Municipal Council – PGR_2017_KIAMA_001_00 AT 123 Golden Valley Way, Jamberoo
2	LEP TO BE AMENDED	Kiama Local Environmental Plan 2011
3	PROPOSED INSTRUMENT	The proposal seeks to rezone land at 123 Golden Valley Way, Jamberoo, from RU2 Rural Landscape to R2 Low Density Residential, to amend the lot size map from 40ha to 800m ² and to introduce a Floor Space Ratio of 0.45:1 and Height of Building control of 8.5 metres.
4	MATERIAL CONSIDERED BY THE PANEL	- Rezoning review request documentation. - Briefing report from Department of Planning and Environment. - Documents tabled by community representatives on 11 May 2017. - The Kiama Urban Strategy 2011. - The Illawarra Shoalhaven Regional Plan 2015. - A letter dated 28 January 2014 from the Department of Planning and Infrastructure to Council regarding repeal of the Illawarra Regional Environmental Plan No 2 Jamberoo Valley. - Additional information provided by Kiama Council with respect to zoning listing.
5	MEETINGS AND SITE INSPECTIONS BY THE PANEL	Site inspection: 16 March 2017. Attendees: <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks, Michael Forsyth <u>Department of Planning and Environment (DPE) staff</u>: Lisa Kennedy, Graham Towers Briefing meeting with Department of Planning and Environment (DPE): 11 May 2017, 9.30am. Attendees: <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks <u>DPE staff</u>: Lisa Kennedy, Graham Towers Briefing meeting with Council: 11 May 2017, 11.00am. Attendees: <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks <u>DPE staff</u>: Lisa Kennedy, Graham Towers <u>Council</u>: Edward Paterson, Phil Costello, Cr Neil Reilly, Cr Don Watson, Cr Andrew Sloan, Cr Mark Honey Briefing meeting with Community Representatives (in favour of the Proposal): 11 May 2017, 1.15pm. Attendees: <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks <u>DPE staff</u>: Lisa Kennedy, Graham Towers <u>Council</u>: Edward Paterson, Phil Costello, Cr Mark Honey <u>Community representatives</u>: Geoff Boxsell, Ken Jeffrey Briefing meeting with Community Representatives (against the Proposal): 11 May 2017, 1.45pm. Attendees: <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks <u>DPE staff</u>: Lisa Kennedy, Graham Towers <u>Council</u>: Edward Paterson, Phil Costello, Cr Mark Honey <u>Community representatives</u>: Graham Pike, Garry Cochran

	• Briefing meeting with Proponent: 11 May 2017, 2.30pm. Attendees: ○ <u>Panel members</u>: Pam Allan (Chair), Alison McCabe, Renata Brooks ○ <u>DPE staff</u>: Lisa Kennedy, Graham Towers ○ <u>Council</u>: Edward Paterson, Phil Costello ○ <u>Proponent</u>: Elaine Treglown (TCG Planning), Neville Fredericks (Fountaindale Project Management), Branko Simicic (Landowner), Tiana Simicic
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