

DATE OF DECISION	2 April 2019
PANEL MEMBERS	Alison McCabe (Chair), Renata Brooks, Mark Grayson and Graham Rollinson
APOLOGIES	Pam Allan
DECLARATIONS OF INTEREST	Mayor Marianne Saliba and Councillor John Murray declared a conflict of interest as they had participated in the consideration of this planning proposal when it was before Shellharbour City Council.

REZONING REVIEW

2018STH035 – Shellharbour City Council – RR_2018_SHELL_002 - at Lot 1 DP 71661 (28-40) Green Mountain Road, Yellow Rock (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

The Panel has been requested to undertake a Rezoning Review of three (3) separate but contiguous Planning Proposals. The Planning Proposals are:

- RR-2018-SHELL-001: comprising of seven (7) lots having a total area of 164 hectares. This site is currently zoned RUI Primary Production and E3 Environmental Management. It is proposed to rezone the RUI lands to RU6 Transition and retain the E3 Environmental Management zoning. Proposed minimum lot sizes are between 700m² to 10,000m². Indicative lot yields are in the order of 300-400 lots.
- RR-2018-SHELL-002: comprises one (1) lot having a total area of 41 hectares on Green Mountain Road, Yellow Rock. The site is currently zoned a mix of RUI Primary Production and E3 Environmental Management. It is proposed to rezone the RUI lands to RU6 Transition and retain the E3 zoning. Proposed minimum lot sizes are between 4,000m² to 10,000m². Indicative lot yields are in the order of 20 lots.

- RR-2019-SHELL-003: comprises one (1) lot having a total area of 18 hectares. The site is currently zoned RUI Primary Production. It is proposed to rezone the lands to RU6 Transition. The proposed minimum lot sizes are 2,000m² to 4,000m². Indicative lot yields are in the order of 20 lots.

The Panel had the benefit of a detailed written report from the Department of Planning and Environment, Council officers and the applicants Planning Proposal. The Panel also undertook a site visit and are familiar with the Tullimbar area.

The Panel also understands that there are a number of other Planning Proposals lodged and under consideration to the north and east of the site.

The Panel understands that the existing vacant lots all benefit from a dwelling house entitlement – hence the varied minimum lot sizes currently applying to the sites.

The Panel in its consideration has had regard to both the existing zonings and the zonings of lands adjoining the site. The extent of “urban zoning” is concentrated to the north-east in the Tullimbar and Calderwood area. It is noted that the lands currently forming the edge of the “urban area” on the opposite side of Yellow Rock Road and Cooby Road are zoned R2 Low Density Residential and R5 Large Lot Residential.

The current proposals are a combination of, part extension to the urban area, and introduction of a rural lifestyle living product – reflected in the lot sizes proposed.

Strategic Merit

In considering the strategic merit the Panel noted advice regarding the evolution of the local strategic planning framework for the subject lands and surrounding areas. In particular it was noted that:

- The proposal lands had previously been identified as future residential.
- The area the subject of the Planning Proposal was last considered strategically as part of the Rural Lands Study in 1996 that informed the provisions of the Shellharbour Rural Local Environmental Plan 2004. At this point in time the rural zoning was maintained but with vacant lots provided with a dwelling entitlement. These provisions were retained in the SLEP 2013
- The SLEP 2013 ultimately zoned the lands as RU1 Primary Production.
- Lands identified for future urban release and urban development are in the Illawarra / Shoalhaven Regional Plan and/or the Illawarra Urban Development Program.

Subsequent decisions have resulted in a level of transition between residential development in the Tullimbar urban area to the north and east and rural lands to the south and west, including application of larger residential lot sizes and dwelling entitlements on some rural lots under 40 hectares, reflected in the minimum lot sizes.

The Panel noted that the Illawarra/Shoalhaven Regional Plan (ISRP) is silent on strategic objectives and priorities in relation to rural residential land and that the Plan’s action 4.1.1 requiring identification of regionally important agricultural land is not scheduled to be completed until 2020.

The ISRP does clearly establish priorities for residential development and the Panel was satisfied that there is an ample supply of residential allotments which will cater for the next 30 years through the Illawarra Urban Development Program

The Panel therefore found limited guidance in the ISRP to provide support for the proposal in its current form. It is acknowledged that the ISRP does not really address the issue of rural / urban interface as it remains largely a local planning matter.

Council has commenced preparation of a Housing Strategy. Initial investigations have started on the review of the SLEP 2013 and the preparation of the Local Strategic Planning Statement is to be completed by the end of 2020. This will inform the review of the SLEP 2013.

The Panel noted there are no local strategies which deal explicitly with rural residential land or the interface between urban and rural land and that the proposed review processes provides an opportunity to address this.

Relevant considerations include the inherent value of the land for primary production (which is suitable for grazing and other productive uses) and limited supply of rural land in the LGA, as well as constraints on productive use created by its proximity to residential areas, the potential for land use conflict for some types of intensive production, small existing lot size impacting farm business opportunities and isolation from other substantial areas of RU1 zoned land. The Panel would encourage Council to consider these issues in the review of the SLEP 2013.

The key issue with these Planning Proposals is a question of what the transition or interface should be at the edge of urban zoned lands, where lands have not been identified for future urban expansion or protection for agricultural purposes. What is the landuse condition for the edge of urban lands?

This is a question of whether roads or the urban lands themselves should provide a clear delineation or whether it is appropriate to transition from urban lands to larger rural lots where the lands have capacity to accommodate that type of development, or whether the lands adjoining urban land should be more rural with greater weight given to landscape and openness of rural lands as the appropriate transition.

This is a matter that should be addressed when urban release areas are being considered. It is ultimately a question for the local planning authority to determine the nature of these edges.

The Panel does not consider that the proposal in its current form has strategic merit.

In the presence of sufficient supply of land for residential housing and in the absence of an adopted council planning strategy for the interface between urban and non urban lands, the Panel considered that the case had not been made for a change in zoning or significant increase in density in this area, as put forward in the proposal.

The proposed density of development in the proposal is consistent with urban development. This is not appropriate for lands on the edge of urban area.

The interface between urban and rural lands is a matter for local council consideration and it is important that Council has the opportunity to do this in conjunction with development of its local strategic planning statement and the review of the SLEP 2013.

Site Specific

Notwithstanding the lack of sufficient strategic merit, the panel also noted that there has not been sufficient analysis to demonstrate the general suitability and capability of the site for the form and density of development proposed particularly in relation to topography, flora and fauna, heritage, bushfire, landscape assessment, and visual impact.

The proposed lot layouts and minimum lot sizes proposed have not been informed by this work. While the Panel recognises the balance between an initial consideration and the appropriate timing for more detailed study - an understanding of the nature and character of what the area is likely to become, is a fundamental consideration of whether a proposal should move forward. This is a direct reflection of site constraints and capability.

Recommendations

- i. The Planning Proposal 2018STH035 – Shellharbour City Council – RR_2018_SHELL_002 - at Lot 1 DP 71661 (28-40) Green Mountain Road, Yellow Rock, should not proceed to a Gateway Determination as it has not demonstrated sufficient strategic merit to justify the proposed amendments to Shellharbour LEP 2013.
- ii. Delivery of action 4.1.1 in the ISRP to identify regionally important agricultural land should be expedited.
- iii. Council should develop a strategy for the rural/urban interface and a strategy for agricultural land in parallel with development of their housing strategy and local strategic planning statement .

PANEL MEMBERS	
 Alison McCabe (Chair)	 Renata Brooks
 Mark Grayson	 Graham Rollinson

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	2018STH035 – Shellharbour City Council – RR_2018_SHELL_002 - at Lot 1 DP 71661 (28-40) Green Mountain Road, Yellow Rock
2	LEP TO BE AMENDED	Shellharbour Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The proposal seeks to amend the Shellharbour Local Environmental Plan 2013 to rezone the subject lands from RU1 Primary Production to RU6 Rural Transition and apply a range of minimum lot sizes between 4000m ² and 10,000m ²
4	MATERIAL CONSIDERED BY THE PANEL	- Rezoning review request documentation - Briefing report from Department of Planning and Environment - Council presentation notes from meeting - Figure I and Figure II from Illawarra / Shoalhaven Regional Plan - Existing zoning and lot size maps of adjoining properties - Location of other Planning Proposal applications in the vicinity of the site - Letter from Ramesh Singh and Trish Gumkowski dated 10 January 2019
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	Site inspection: 11 March 2019 - Panel members in attendance: Alison McCabe (Chair), Renata Brooks, Mark Grayson and Graham Rollinson - Department of Planning and Environment (DPE) staff in attendance: Louise Myler and Graham Towers - Shellharbour Council staff: Ian Rankine and Geoff Hoynes Briefing with Department of Planning and Environment (DPE): 12 March 2019, 9:00am - Panel members in attendance: Alison McCabe (Chair), Renata Brooks, Mark Grayson and Graham Rollinson - DPE staff in attendance: Louise Myler and Graham Towers Briefing with Council: 12 March 2019, 10:00am - Panel members in attendance: Alison McCabe (Chair), Renata Brooks, Mark Grayson and Graham Rollinson - Council representatives in attendance: Ian Rankine and Geoff Hoynes Briefing with Proponent: 12 March 2019, 12noon - Panel members in attendance: Alison McCabe (Chair), Renata Brooks, Mark Grayson and Graham Rollinson - Proponent representatives in attendance: Michael Rodger, Reg Kemister, Bruce Dunster and Richard Johnson