

DATE OF DECISION	Wednesday, 30 March 2022
PANEL MEMBERS	Tim Fletcher (Acting Chair), Renata Brooks, Marcia Doheny, Chris Homer and Graham Rollinson
APOLOGIES	None
DECLARATIONS OF INTEREST	None (must include reason for declaration and whether the member participated or not)

REZONING REVIEW

RR-2021-83 – Shellharbour Council – AT 2514 Illawarra Highway, Calderwood 2527 (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 of the Panel to not recommend the submission of the Planning Proposal for a Gateway determination was not unanimous (3:2).

Panel Members against recommending the submission of the Planning Proposal for a Gateway determination were Renata Brooks, Chris Homer, Marcia Doheny.

Panel Members for recommending the submission of the Planning Proposal for a Gateway determination were Tim Fletcher (Acting Chair) and Graham Rollinson.

REASONS FOR THE DECISION

A majority of panel members did not consider the proposal had demonstrated strategic merit for the following reasons:

Strategic considerations

- The proposal does not sufficiently demonstrate that it will give effect to or be consistent with a regional plan. Objective 18 in the Illawarra Shoalhaven Regional Plan (ISRP) is "Provide housing supply in the right locations". This objective states that Wollongong, Shellharbour and Shoalhaven have a sufficient supply of housing identified to meet demand to 2041. The Panel received

confirmation that the subject land does not form part of the Calderwood “remainder area” and potential yield from the land was not included in the figures underpinning the ISRP.

- The proposal is not consistent with the Shellharbour Local Housing Strategy (SLHS) which has been endorsed by the Department. The Strategy identifies that there is sufficient zoned land to meet demand over the next 20 years. The Panel noted advice that the Illawarra Urban Development Program (IUDP) does not set housing targets and is not a relevant local strategy that has been endorsed by the Department.
- The proposal does not sufficiently demonstrate that there has been a change of circumstances not recognised by the existing planning framework. Specifically, it was noted that:
 - a. arguments had been made by the applicant that dwelling delivery rates have significantly exceeded Council estimates and there is no longer enough zoned land to accommodate housing supply to 2041.
 - b. Advice had been provided that the ISRP was underpinned by Department of Planning 2019 demographic modelling which is currently under review but the results are not yet available.
 - c. Advice had been provided that the Department relies on Council to undertake local demographic modelling and Council has indicated that its most recently commissioned review has given it confidence in its existing forecasts.
 - d. Advice had been provided that the recently approved modification 4 to the Calderwood Concept Plan will increase the supply of residential lots by 1200. This additional supply has not been factored into the ISRP, SLHS or IUDP
 - e. Council had advised that a process to prepare a Rural Strategy is underway. This process will consider an appropriate balance between urban, rural and scenic areas.
- On balance, it is considered there is some evidence of increasing demand but this is offset by increasing supply in the Calderwood area.

Site specific considerations

- The site has been identified in draft mapping of State Significant Agricultural Land
- While the area north of the Macquarie Rivulet (which transects the site) is predominantly adjacent to R1 low density residential zones and B4 mixed use zones, the area to the south of the Macquarie Rivulet is adjacent to land zoned RU1, E2 and E3. There is some logic to an R2 zone adjacent to the R1 and B4 zones but the appropriateness of R2 zoning adjacent to rural and environmental lands has not been demonstrated.
- The suitability of proposed residential lot sizes (150 sqm and 300sqm) should be considered given:
 - minimum lot size in the adjacent Calderwood development is 300m
 - Residential areas in the adjacent Calderwood section to the west and south of Macquarie Rivulet is zoned R5 with a minimum lot size of 2000 sqm
 - Land to the south on the opposite side of the Illawarra Hwy is zoned RU1 with a minimum lot size of 8 Ha.
- Further assessment of bushfire risk and Aboriginal cultural heritage is required.
- The site is flood affected and extensive earthworks will be required to mitigate flood risk

A minority of the Planning Panel disagreed with the majority decision for the following reasons:

Strategic Considerations

- the proposal is consistent with the objectives of the Illawarra Shoalhaven Regional Plan (ISRP) 2041 and has been identified within the Illawarra Shoalhaven Urban Development Program (ISUDP) 2016 as part of the Calderwood Urban Investigation Area. Strategically, the subject land is in the right location.
- the land adjoins, to the east, north and west, existing zoned urban land which forms part of the Calderwood Urban Expansion Area.
- the site is an isolated land parcel. Its consideration for urban purposes can be seen as an extension of the Calderwood Residential Community;

- the subject land does not appear to have any exceptional agricultural or scenic qualities to other lands within the immediate locality that have or will be developed for urban purposes;
- the land is also in close proximity to a proposed neighbourhood shopping centre and within walking distance to other recreational, educational and community services. The site can be readily provided with all essential services. The Illawarra Highway is a logical southern edge to the urban footprint in this location.
- data has been provided by Council and the Department which supports the proponents contention that the lot/dwelling yield or take up rate, for the Calderwood Urban Release area as well as adjoining locations, has in the last 5 years, been substantially higher than that originally anticipated by the local strategic planning framework. Based on Departmental verbal advice this trend is likely to continue.
- development of the subject land as proposed, would facilitate a more orderly, efficient and cost effective suburban development pattern providing improved safety (ie. traffic, flooding), amenity and environment benefits for the broader Calderwood community; wider public benefits include:
 - i) provision of the “missing green link” along the Macquarie Rivulet, thereby affording an integrated and connected river corridor throughout the Calderwood urban release area. In addition, protection of the vegetated riparian environment which contains an endangered ecological community. Enabling connected, continuous walking and pedestrian movement opportunities for urban areas to the east and west as well as within the subject site.
 - ii) provision of a safer local road system by providing access through the subject site to the proposed highway roundabout for adjoining urban lands to the west.
 - iii) improving existing flood impacts on the Illawarra Highway by providing flood storage capacity within the subject land.
 - iv) enabling a logical, efficient and more cost effective augmentation and extension of essential services and infrastructure within the overall Calderwood Urban Expansion Area.
 - v) minimising on going and future landuse conflicts with the potential impacts of agricultural activities on rural land adjoining residential housing.
- The proposed maximum yield of 392 lots for this site is small relative to the housing supply requirements for the Region and will have minimal impact;
- Should the demand for housing within the site not be required for some time then the market will manage this situation. However, should the demand be there in the short term then the release of the site for urban purposes may assist in addressing housing affordability;
- the release of this land for urban purposes may assist in the supply of orderly infrastructure within the locality;
- By allowing this matter to proceed to the Gateway process it will provide the opportunity to test in detail the site’s suitability and usability for urban purposes following which an informed determination can be made regarding the best long term land use for the site.






Site Specific Considerations

- the proponent has demonstrated site specific merit in that all relevant issues including environmental (biodiversity) impacts, flooding, heritage, contamination, urban design, traffic impacts, services and infrastructure issues have all been comprehensively addressed. While some matters (eg. Bushfire, appropriate lot sizes and Contamination) warranted further more detailed examination, these issues can be satisfactorily address through the Gateway process.

Recommendation

- i. The Planning Proposal RR-2021-83 – Shellharbour Council – at 2514 Illawarra Highway, Calderwood 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. The Shellharbour Rural Strategy and updated demographic modelling should precede and inform any future consideration of rezoning proposals for this site.

- iii. The modelling and forecasts which guide and assist in the planning process be updated and agreed across agencies and with Councils to provide a firm foundation for future consideration of rezoning proposals.

PANEL MEMBERS	
 Tim Fletcher (Acting Chair)	 Renata Brooks
 Marcia Doheny	 Graham Rollinson
 Chris Homer	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2021-83 – Shellharbour Council – AT 2514 Illawarra Highway, Calderwood 2527
2	LEP TO BE AMENDED	Shellharbour Council Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	The proposal seeks to Rezone the site to allow for residential housing consistent with surrounding Calderwood Project
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Rezoning review request documentation Briefing report(s) and supplementary information from the Department of Planning and Environment
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> Briefing with Department of Planning, Industry and Environment (DPIE): Wednesday, 16 February 2022 at 2:00pm <ul style="list-style-type: none"> Panel members in attendance: Tim Fletcher (Acting Chair), Renata Brooks, Marcia Donehy and Graham Rollinson DPIE staff in attendance: Graham Towers, Grainne Miller, Claudia Jordan, Amanda Moylan Briefing with Department of Planning, Industry and Environment (DPIE): Tuesday, 26 October 2021 <ul style="list-style-type: none"> Panel members in attendance: Tim Fletcher (Acting Chair), Renata Brooks, Marcia Doheny and Graham Rollinson

		<ul style="list-style-type: none"> ○ DPIE staff in attendance: Graham Towers, Grainne Miller, Claudia Jordan, Sung Pak ○ Briefing with Council: Panel members in attendance: Tim Fletcher (Chair), Renata Brooks, Marcia Doheny, Graham Rollinson and Marianne Saliba ○ DPIE staff in attendance: Graham Towers, Grainne Miller, Claudia Jordan and Sung Pak ○ Council representatives in attendance: Cheryl Lappin and Geoff Hoynes • Briefing with Proponent: Tuesday, 26 October 2021 <ul style="list-style-type: none"> ○ Panel members in attendance: Tim Fletcher (Acting Chair), Renata Brooks, Marcia Doheny and Graham Rollinson ○ DPIE staff in attendance: Graham Towers, Grainne Miller, Claudia Jordan, Sung Pak ○ Proponent representatives in attendance: Michael Rodger, Paulyn Chew, Adrian Cresp, Anthony Barthlelmess, Beth Lavers, Dean Brodie, Ryhan Thomson, Alex Beben, Rohan Last, John Pyers, Helen Pyers, Rowan Pyers • Site inspection: Wednesday, 8 December 2021 <ul style="list-style-type: none"> ○ Panel members: Tim Fletcher
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