

<b>DATE OF DECISION</b>	Tuesday, 24 May 2022
<b>PANEL MEMBERS</b>	Chris Wilson (Acting Chair), Andrew Hutton, Susan Budd, Graham Rollinson, Chris Homer
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

## REZONING REVIEW

RR-2021-99 – Shellharbour – at 144 Calderwood Road, Calderwood (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, a Panel majority 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 4:1, against the majority decision was Chris Wilson.

## REASONS FOR THE DECISION

The Panel majority is not satisfied that the proposal had demonstrated strategic merit for the following reasons:






- The proposed rezoning is not consistent with and will not give effect to the Illawarra Shoalhaven Regional Plan 2041 (the Regional Plan) which establishes the 20-year strategic framework for planning in the region and supports providing housing in identified urban release areas and existing urban areas. In relation to housing supply in the Shellharbour local government area, the Panel majority noted that Objective 18 of the Regional Plan specifically acknowledges that Shellharbour has a sufficient supply of housing to meet demand to 2041. The Planning Proposal seeks to rezone rural land which is not within an area mapped as a housing release area under the Regional Plan and therefore does not give effect to the Regional Plan
- The Panel majority is not satisfied that the planning proposal is consistent with the Shellharbour Local Housing Strategy (LHS) and the Shellharbour Local Strategic Planning Statement (LSPS) endorsed by the then Department of Planning Industry and Environment which adopt a position consistent with the Regional Plan i.e. that there is sufficient zoned land to provide for projected dwelling demand over the next 20 years. The Planning Proposal seeks to rezone rural land and is therefore contrary to LSPS Planning Priority 14 which seeks to protect and enhance rural lands. The area proposed for rezoning is within a broad area currently used for productive agricultural uses and would result in the further fragmentation of productive agricultural land. The Panel

majority noted that action 14.1 commits council to develop a Rural Lands Strategy for Shellharbour City and considers it inappropriate that rural zoned land be considered for rezoning for residential uses prior to that strategy being completed.

3. The Panel majority is not satisfied that the population and housing projections underpinning the LSPS (DPIE and Council) had changed to an extent that amount to a significant change in circumstances under the strategic merit test. Council's projections are regularly reviewed (most recently in December 2021) and the Regional Plan was made 12 months ago. Delivery of housing within the West Lake Illawarra Growth area and associated infrastructure were planned for at the time the Regional Plan, LHS and LSPS were finalised and the proximity of this site to the West Lake Illawarra Growth Area does not of itself amount to a change of circumstances that would justify the Panel overriding the clear strategic intent of these documents which establish the long-term strategic planning framework for this area.
4. The proposed rezoning is contrary to the strategic intent of the Regional Plan, Local Housing Strategy and LSPS and would be contrary to the objective of the orderly and economic development and use of land in the *Environmental Planning and Assessment Act 1979*.

Chris Wilson disagreed with the majority decision for the following reasons:

1. Notwithstanding Council targets, there is clear evidence of changed circumstances in the Illawarra Region in recent years with upward pressure on all forms of housing.
2. Housing targets should be viewed as minimums not maximums.
3. The strategic merit test should not preclude land that can be developed where that land can be brought online without significant impact particularly given the demand for all forms of housing and noting that the Site:
  - Is identified as part of the broader Calderwood Investigation Area;
  - Could be developed generally without significant environmental or social impacts;
  - Is either well serviced or capable of being serviced;
  - Is unlikely to have any significant impact on current or potential rural land uses;
  - would generally be contiguous with the Calderwood Release Area; and
  - would also support the development of the existing Calderwood Town Centre.
4. Given the difficulty of finding suitable land for housing; the timeframe and difficulty in developing already zoned land, and the upward pressure on all forms of housing in the Illawarra region, the PP should be referred to Gateway.

PANEL MEMBERS	
 Chris Wilson (Acting Chair)	 Andrew Hutton
 Susan Budd	 Graham Rollinson
 Chris Homer	

SCHEDULE 1		
1	PANEL REF – LGA – DEPARTMENT REF - ADDRESS	RR-2021-99 – Shellharbour – at 144 Calderwood Road, Calderwood
2	LEP TO BE AMENDED	Shellharbour Local Environmental Plan 2013
3	PROPOSED INSTRUMENT	<p>The proposal seeks to rezone the land to a mix of R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Recreation and proposes minimum lot sizes ranging from 0m2 To 300m2.</p> <p>The applicant is seeking a rezoning review because Council notified the proponent that it will not support the proposed amendment.</p> <p>The subject land is part of the broader Calderwood Investigation area and adjacent to urban zoned land to the west which is part of the Calderwood release area.</p>
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Rezoning review request documentation</li> <li>Briefing report from Department of Planning and Environment</li> <li>Proponent submission received: Hardcopy (document dated 14 April, Ref: 220414 LDoP) received and tabled at the briefing meeting on Wednesday, 20 April 2022 and electronic copy circulated to the Panel on 21 April 2022</li> <li>Council submission received: 5 May 2022.</li> </ul>
5	BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> <li><b>Site inspection:</b> Wednesday, 20 April 2022 <ul style="list-style-type: none"> <li><u>Panel members in attendance:</u> Chris Wilson (Acting Chair), Andrew Hutton, Susan Budd, Graham Rollinson</li> <li><u>Proponent representatives in attendance:</u> Michael Rodgers, Matthew Brown, Ryan Thomson</li> <li><u>Council representatives in attendance:</u> Jessica Linten, Geoff Hoynes</li> <li><u>Department of Planning and Environment (DPE) staff in attendance:</u> Graham Towers, Sung Pak</li> </ul> </li> <li><b>Briefing with Department of Planning and Environment (DPE):</b> Wednesday, 20 April 2022 <ul style="list-style-type: none"> <li><u>Panel members in attendance:</u> Chris Wilson (Acting Chair), Andrew Hutton, Susan Budd, Graham Rollinson</li> <li><u>DPE staff in attendance:</u> Graham Towers, Sung Pak</li> </ul> </li> <li><b>Briefing with Council:</b> Wednesday, 20 April 2022 <ul style="list-style-type: none"> <li><u>Panel members in attendance:</u> Chris Wilson (Acting Chair), Andrew Hutton, Susan Budd, Graham Rollinson</li> <li><u>DPE staff in attendance:</u> Graham Towers, Sung Pak</li> <li><u>Council representatives in attendance:</u> Jessica Linten, Geoff Hoynes</li> </ul> </li> <li><b>Briefing with Proponent:</b> Wednesday, 20 April 2022 <ul style="list-style-type: none"> <li><u>Panel members in attendance:</u> Chris Wilson (Acting Chair), Andrew Hutton, Susan Budd, Graham Rollinson</li> <li><u>DPE staff in attendance:</u> Sung Pak</li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>○ <u>Proponent representatives in attendance</u>: Michael Rodgers, Matthew Brown, Ryan Thomson</li><li>● <b>Final briefing to discuss recommendation</b>: Friday, 20 May 2022<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Chris Wilson (Acting Chair), Susan Budd, Andrew Hutton, Graham Rollinson and Chris Homer</li><li>○ <u>DPE representatives</u>: Mellissa Felipe and Sung Pak</li></ul></li></ul> <p><b>Papers were circulated electronically on 8 April 2022</b></p>
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