

10.1 Report to Council Seeking Final Endorsement of Planning Proposal for Golden Valley Road Jamberoo

It was moved by Councillor Reilly and seconded by Councillor Rice that Council:

1. Request that the Department of Planning & Environment refuse amendment to the Kiama Local Environmental Plan 2011 for Lot 2 DP 626183, 15 Golden Valley Road, Jamberoo.
2. Prepare amendments to Chapter 30 – Heritage of the Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

The **MOTION** on being put to the meeting was **LOST**.

For: Councillors Reilly, Rice and Westhoff

Against: Councillors Honey, Steel, Watson and Way

OC-18/111

Committee recommendation that Council:

1. Request that the Department of Planning & Environment make the amendment to the *Kiama Local Environmental Plan 2011* for Lot 2 DP 626183, 15 Golden Valley Road Jamberoo.
2. Prepare amendments to Chapter 30 – Heritage of the Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

(Councillors Steel and Way)

For: Councillors Honey, Steel, Watson and Way

Against: Councillors Reilly, Rice and Westhoff

10.3 10.2017.263.1 - Lot 259 DP 30126 - 39 Elanora Road, Kiama Heights, Attached Dual Occupancy with 2 Lot Torrens Title Subdivision**OC-18/112**

Committee recommendation that Council refuse Development Application 10.2017.263.1 under Section 4.16 of the Environmental Planning and Assessment for the following reasons:

- The development exceeds the floor space ratio requirements of Clause 4.4 of the Kiama LEP 2011,

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CSP Objective: 2.0 Well planned and managed spaces, places and environment

CSP Strategy: 2.1 Maintain the separation and distinct nature of local towns, villages and agricultural land

Delivery Program: 2.1.1 Develop and implement appropriate land use plans

Summary

This report seeks the final endorsement of the Planning Proposal for Lot 2 DP 626183, 15 Golden Valley Road, Jamberoo. The Department of Planning and Environment granted a Gateway Determination for this proposal on 7 August 2017. In accordance with the conditions of this determination Council placed the Planning Proposal and supporting information on exhibition for a period of not less than 28 days.

A total of 132 submissions were received by Council during the exhibition period, 114 objecting to and 18 supporting the proposal. This report seeks endorsement to proceed with the amendment to the *Kiama Local Environmental Plan (LEP) 2011*.

This report also seeks the endorsement to prepare amendments to Chapter 30 – Heritage of Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

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 Site Map
- 2 LEP Plan Making Process
- 3 Rezoning Review Process
- 4 JRPP Recommendation
- 5 Gateway Determination

Enclosures

Nil

RECOMMENDATION

That:

- 1) Council request that the Department of Planning & Environment make the amendment to the *Kiama Local Environmental Plan 2011* for Lot 2 DP 626183, 15 Golden Valley Road Jamberoo.
- 2) Council prepare amendments to Chapter 30 – Heritage of the Kiama Development Control Plan 2012 to ensure the conservation of significant areas and items of Aboriginal Cultural Heritage.

BACKGROUND

The Planning Proposal (PP) aims to rezone the entire site from RU2 Rural Landscape to R2 Low Density Residential and apply the associated controls in keeping with the adjacent land north and west of the site. The subject site is identified as Site 27b in the Kiama Urban Strategy and has been assessed as a site where a PP should be undertaken. The site was included as suitable following public notification and Council's receipt and consideration of submissions to the Urban Strategy. The site was identified in the Strategy as assisting in providing an appropriately defined and accessible southern boundary to Jamberoo Village.

The PP seeks the following amendments to the *Kiama Local Environmental Plan 2011* to ensure that the site is consistent with the existing residential land within Jamberoo Village. An outline of the existing and proposed controls is provided below:

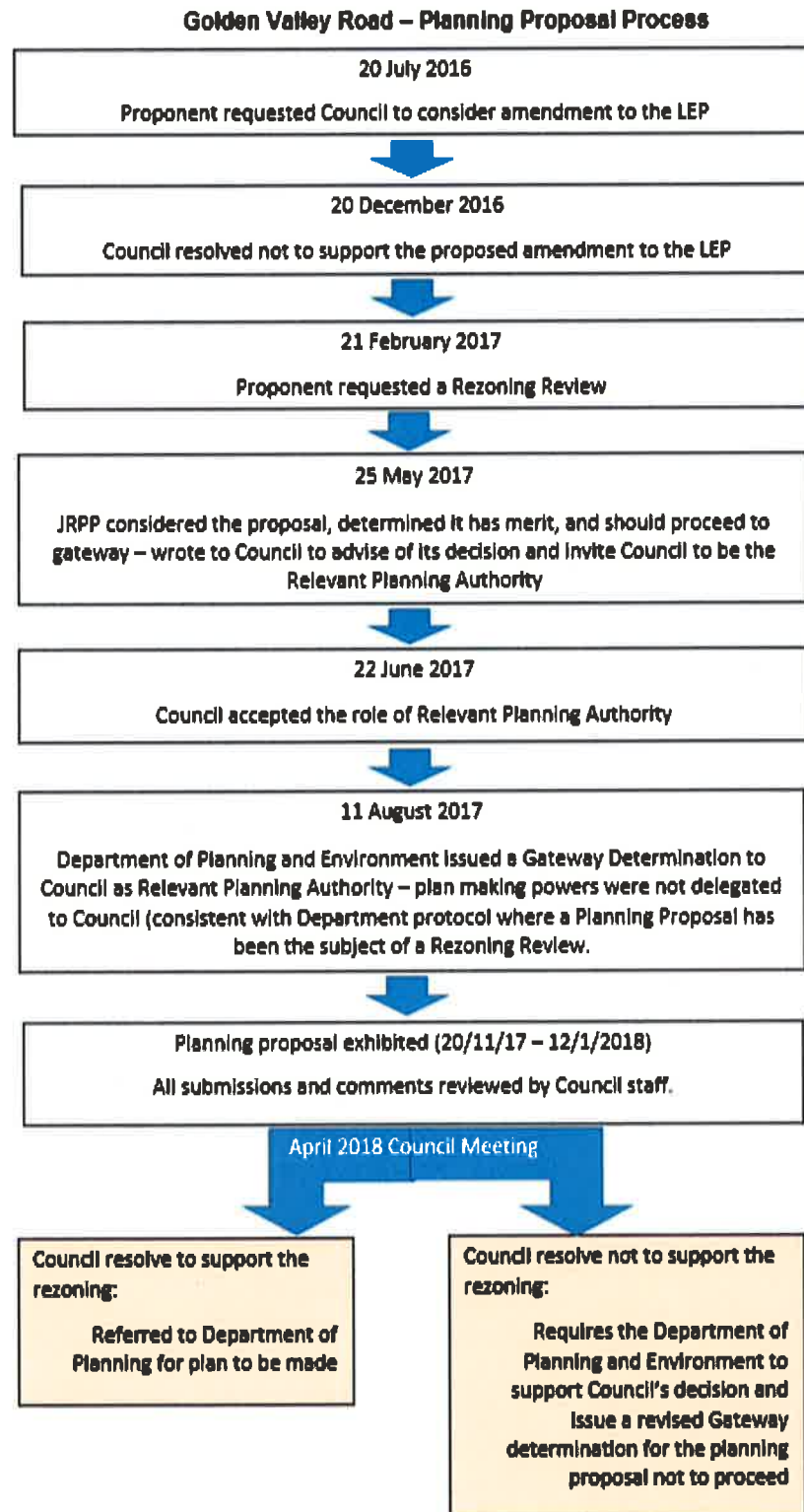
Controls	Current controls	Proposed controls
Zone	RU2 Rural Landscape	R2 Low Density Residential
Floor Space Ratio (FSR)	FSR – none	FSR – C 0.45:1
Height of Building (HOB)	HOB – none	HOB – I 8.5
Lot Size	Lot size 40ha	Lot size – S 800 (m ²)

History

This Planning Proposal 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. A non-statutory exhibition process was undertaken 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 proposal. Following this resolution, the proponent submitted a request for a Rezoning Review on 21 February 2017. The following diagram illustrates the process that this proposal has followed to date and the two potential outcomes of the April Council Meeting.

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Rezoning ReviewRezoning Review Process

The Rezoning Review process (formerly known as the Pre-Gateway Review process) enables the proponent who has unsuccessfully sought the preparation of PP to have the proposal reviewed by an independent body being the Joint Regional Planning Panel (JRPP). The JRPP assumes the role of Council in determining if a PP should be forwarded to the DPE for a Gateway Determination or not.

JRPP Decision

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 informing that the Panel had determined that the proposal should proceed to Gateway Determination stage. As part of this correspondence the JRPP invited Council to be the Relevant Planning Authority (RPA) for this proposal. At its June 2017 meeting Council resolved to accept the role of the RPA for this proposal. The RPA is responsible for consultation with public authorities and the community and the preparation of any required LEP maps.

In making its decision, the JRPP considered that the proposal has both strategic and site-specific merit. A copy of the JRPP's decision is attached to this report.

The JRPP noted that the site potentially forms the boundary of the village and as such suggested further consideration of the visual impact of any change in land use on the character of the village. The JRPP determined that submission of this proposal for a Gateway determination would allow for further consideration of this matter through consultation with the Department of Primary Industries (DPI) - Land. The JRPP noted that the site contained artefacts of Aboriginal cultural heritage. The JRPP recommended further consultation with the Aboriginal community. These recommendations were included as conditions of the DPE's Gateway Determination (see below).

The JRPP also recommended that the following additional requirements be considered as part of the DPE's Gateway Determination:

- Appropriate zoning and density at the interface with adjacent agricultural land;
- Cumulative traffic impacts;
- DCP controls;
- Zoning and controls that provide an appropriate interface to agricultural lands and provide clear demarcation to the limits of the village.

It is noted that Council resolved to adopt Draft Chapter 33 – Jamberoo Village of the Kiama DCP to be placed on public exhibition on 18 July 2017.

In addition to the specific recommendations in relation to the PP, the JRPP also recommended that Council and the DPE seek resourcing for the preparation of a Rural Lands Strategy that identifies regionally significant rural lands. The Illawarra Shoalhaven Regional Plan outlines that this is primarily the responsibility of the DPI.

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This recommendation is being pursued as a separate planning initiative at a regional context and is outside the scope of the Planning Proposal.

Gateway Determination

On 11 August 2017 Council received a Gateway Determination from the DPE. The DPE determined that this PP should proceed. A copy of the Gateway Determination is attached to this report.

As part of its Gateway Determination the DPE incorporated several of the JRPP's recommendations as well as outlining the required consultation and conditioning that a project timeframe and Visual Analysis be prepared prior to consultation.

The Gateway Determination also informed Council that it did not receive the delegation of the Minister to make this plan as this PP was subject of a rezoning review. This means that the Minister (or delegate) will:

- Consult with the NSW Parliamentary Counsel (State Government's legal service) regarding legal wording of LEP amendment;
- Authorise/sign the legal documents (this is usually done by Council's General Manager, Director of Environmental Services or Manager Strategic Planning); and
- Request publication of the LEP.

Council, as the RPA, may request the Minister to determine that the matter not proceed. The Minister (or delegate) would make a decision in relation to such a request.

Visual Analysis

Council staff have prepared the project timeframe required by the Gateway Determination. The proponent has prepared the Visual Analysis, required by the Gateway Determination, and paid Council the fee for the statutory processing of the PP.

The submitted Visual Impact Analysis (VIA) was prepared by Chris & Charlotte Webb Pty Ltd and examined the existing visual environment and reviewed the impacts on the existing urban and rural precincts of Jamberoo. The VIA concluded that the magnitude and sensitivity of the visual impact of the proposal, when viewed from Jamberoo Road and Golden Valley Road, was generally assessed as moderate to moderate-low. The submitted VIA provided the following recommendations to further minimise the impact on the visual environment arising from the rezoning of the site:

1. Consider the subdivision as an extension of the existing Jamberoo urban area.
2. Provide establishment of vegetation plantings as outlined in the mitigation section of this report to improve amenity and to reduce the apparent impact of the subdivision on external views into the developed site.
3. Planning controls should also discourage the use of lightly-coloured and/or highly reflective roofing and building materials to assist in minimizing the visual impact of the subdivision from a distance.

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These recommendations have already been included as controls in Chapter 33 – Jamberoo Village of the Kiama DCP (now in force) which will apply to this site if rezoned.

In this regards it is considered that the visual impact of the proposal, when viewed from Jamberoo Road and Golden Valley Road, is acceptable.

ConsultationPublic Authority Consultation

Copies of the PP and all supporting documentation, including the required Visual Analysis were forwarded to the NSW Department of Primary Industries – Land (DPI), Roads and Maritime Services (RMS), Office of Environment and Heritage (OEH) and Illawarra Local Aboriginal Lands Council (ILALC) as per the Gateway Determination requirements.

- NSW Department of Primary Industries – Land

DPI – Land informed Council on 15 November 2017 that it has no objection or requirements in the regard to this proposal.

- Roads and Maritime Services

RMS informed Council on 27 October 2017 that it has no object to this proposal in principle. The RMS outlined that Allowrie Street is a regional classified road, managed by Kiama Council. In 2015, the RMS reviewed its level of involvement on classified regional roads and determined it more appropriate for Councils to consider if proposed access arrangements are acceptable from a network perspective (i.e. no practical local road alternatives and acceptable in terms of safety and efficiency).

This matter will be considered by Council's Engineering staff as part of any future development application (DA) for subdivision. Council's Subdivision and Development Engineer has advised that the existing road network has the capacity to accommodate the additional traffic demand that would result from urban development of the site. Detailed consideration of any future development application for subdivision would determine if any road or intersection upgrades are required accommodate development. The nature and extent of any upgrades would depend on the proposed subdivision layout.

Office of Environment and Heritage

OEH informed Council on 24 October 2017 that it had no object to the proposal in principle. OEH has noted that two Aboriginal heritage sites, recorded as 52-5-0832 and 52-5-0833, have been identified on the site. OEH has recommended that Council and the proponent consider options for conservation of site 52-5-0832. OEH has suggested that this could include siting development to avoid impacts, alternative zoning for areas of high significance and/or incorporation within proposed open space/parkland. If harm to the recorded sites cannot be avoided OEH has recommended that an Aboriginal Heritage Impact Permit (AHIP) application, which complies with the relevant OEH guidelines, must be applied for. Ongoing consultation with the Registered Aboriginal Parties about this PP and any subsequent DA is also recommended.

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It is important to ensure that items or sites of high Aboriginal heritage significance are conserved. In reviewing potential options for conserving the area of high significance it is considered that the most appropriate form of conservation is to strengthen the existing controls of Chapter 30 – Heritage of the Kiama DCP 2012 that would apply to future development proposals on the site.

Currently Chapter 30 of the Kiama DCP outlines that Council may require an archaeological assessment of a site to be carried out prior to determining a DA. In its current state however, the DCP does not require developments to avoid disturbance of areas identified through an assessment as being of high significance as a priority. This represents a gap in the existing policy and it is considered appropriate to amend the DCP in order to better conserve Aboriginal cultural heritage. It is recommended that this process occur irrespective of whether or not this rezoning proceeds.

Council has discussed this option with OEH who has confirmed that this is an appropriate method for conserving areas of high significance. OEH has confirmed that the sites are now registered on the Aboriginal Heritage Information Management System (AHIMS) database and are protected under the provisions of the *National Parks & Wildlife Act 1974*. The need for an AHIP is triggered by the listing on AHIMS database and the best option for conserving objects in lieu of an alternative zoning or DCP layer is to work with the developer from concept plan stage to develop a subdivision layout that best avoids sensitive areas.

- Illawarra local Aboriginal Lands Council

ILALC responded to Council on 1 November 2017. The response from ILALC, while not expressly raising any objections to the proposal, did raise some general concerns with the treatment of Aboriginal cultural heritage in Australia. From the ILALC response it is clear that it is preferable to avoid harming sites of Aboriginal cultural heritage.

As outlined above, Council should ensure that items or sites of Aboriginal heritage are conserved. It is considered that the actions outlined above to strengthen the existing controls of Chapter 30 – Heritage of the Kiama DCP 2012 and to work with the developer early in the development process are appropriate for the conservation of areas of high significance.

Community Consultation

The subject PP was placed on public exhibition from 20 November 2017 to 12 January 2018, exceeding the minimum period prescribed by the Gateway Determination. An advert was placed in The Bugle, notification was provided on Council's website and written notifications were sent to the Jamberoo Valley Residents and Ratepayers Association (JVRRA) and all property owners in Hyam Place and Golden Valley Road between the subject site and Allowrie Street.

A total of 132 submissions were received by Council during the exhibition period, 114 objecting to and 18 supporting the proposal. It is noted that the submissions received reiterated many of the points raised in the previous round of non-statutory community consultation.

The submissions received that support the PP provided the following comments:

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- No town can survive without growth;
 - Recent developments in Jamberoo have enhanced village;
 - Increased population of Jamberoo would facilitate increased services within the village;
 - 2.47 hectares cannot sustain livestock in isolation;
 - 25 plus new enrolments at School due to recent subdivisions;
 - Future housing types will be sympathetic due to the Jamberoo Village DCP Chapter;
 - During 1970 and 1980 Jamberoo Village grew significantly;
 - Subdivision of rural land for concessional dwelling allotments is responsible for loss of rural land not necessarily the conversion to residentially zoned land;
 - Site has been identified for urban expansion since 1977;
 - If new subdivisions don't occur where will future generation live;
 - A village is defined as having a population between 300 and 2000 and a viable shopping centre.

The submissions received that objected to the PP provided the following comments:

- Council and the community have already voted on and rejected this proposal;
 - NSW Government has bypassed Council and Ministerial Directions;
 - Proposed amendments to planning laws will contravene various provisions of the LEP, which are designed to prevent loss and fragmentation of agricultural land.
 - Concerns with the Kiama Urban Strategy, including:
 - No public consultation when prepared,
 - Should've included land west of Churchill Street,
 - Land is 1.5km from School, which is too far to walk,
 - Should be updated before any more PPs are considered, and
 - There is more available land adjoining Kiama
 - Imperative that clear residential boundaries need to be established for the village;
 - Subdivision of rural areas into small acreage is more appropriate than unsympathetic suburban blocks;
 - Jamberoo has already experienced significant growth;
 - New residents will spoil the caring nature of our community, our roads and the facilities in the village;
 - The proposal will result in further erosion of Jamberoo's village character;
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- Additional residential allotments will not provide affordable housing;
 - No positive effect on commercial viability of Jamberoo;
 - Traffic Issues with concept subdivision layout;
 - Concerns regarding who will bear the cost of the infrastructure extension;
 - No public transport/taxi service in Jamberoo;
 - The site presents as a visual 'gateway' entrance to the Village;
 - The proposal will result in impacts on Aboriginal cultural heritage.
 - Existing dam is habitat for frogs;
 - Small pockets of beautiful land should be secured for peace & recreation;
 - The proposal will result in further loss of prime agricultural land; urbanisation is contrary to NSW Government's Policy for Sustainable Agriculture in NSW;

It is noted that approximately 72% (i.e. 95 out of 132) of submissions received were pro forma submissions and as such raised the same issues.

In addition to issues raised by the general community in the public submissions outlined above, the Jamberoo Valley Residents and Ratepayers Association also questioned the validity of using the KUS as a basis for supporting this rezoning as they believe it was not endorsed by the DPE and was never intended to justify new housing developments such as this rezoning.

Some of the comments raised above have already been dealt with (i.e. Aboriginal cultural heritage and visual and traffic impacts etc.) however, it is important to address the other comments raised above in submissions.

Rural Residential Land

Some submissions suggested that the introduction of more rural residential land, as a means of providing additional residential development, would have less adverse impacts on productive agricultural land and the aesthetic character of the Jamberoo valley. Staff do not agree with this sentiment. As outlined below, staff have raised concerns with the DPE regarding the proposed State Environmental Planning Policy (SEPP) - Primary Production and Rural Development, specifically in regards to the potential to enable the subdivision of rural allotments into smaller lots for dwelling houses. Rural residential development requires more land per dwelling than traditional urban expansions as well as resulting in more land use conflicts between agricultural activities and dwelling houses.

Native Fauna Habitat

Concerns have been raised over the potential presence of native frogs in the existing dam on site. While it is acknowledged that Green and Golden Bell Frogs have been recorded in the vicinity of the site, the OEH has not raised any concerns regarding the presence of threatened species on the site.

Public Transport

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Some submissions raised a concern over the lack of public transport to support an increase in population and a concern regarding who will bear the cost of the infrastructure (ie sewer, water and electricity) extension.

Public transport within the municipality is managed by the State Government. As outlined by the Illawarra Regional Transport Plan 2014 the State Government will continue to work with local bus operators to improve bus services, with routes and timetables that meet bus users' needs. In this regard an increased population base would likely encourage the State Government to increase bus services to and from Jamberoo. As part of any future DA the developer would be responsible for any costs associated with amplifying water, sewage and electrical infrastructure. This cost would not be borne by the ratepayers.

Servicing

Sydney Water provided commentary for this proposal as an adjoining landowner. As part of its correspondence, Sydney Water outlined that its water infrastructure has the capacity to service the proposal but that the site is outside the Jamberoo Priority Sewerage Plan (PSP) area. Based upon a review of connections of developments within the area, this scheme has very limited capacity left and cannot accommodate additional customers outside the agreed boundary. Sydney Water advised that the proponent engage a Water Service Coordinator (WSC) and lodges a feasibility application to Sydney Water.

As part of the original application, the proponent provided a copy of a Feasibility Letter, dated 23 February 2016 (Case Number 151063) provided by Sydney Water. This Letter confirmed that the existing sewage infrastructure could not service the proposal. As part of the February correspondence Sydney Water confirmed that a WSC would be required to develop a wastewater servicing solution. Both the proponent and Council have been aware of this situation since this time. Sydney Water has outlined that the proponent would be responsible for the financial cost associated with developing and ultimately providing an acceptable wastewater servicing solution.

Council and Community voted against proposal previously

As outlined above, Council has previously voted on this matter; resolving not to support the proposal. The proponent sought a review of Council's December 2016 resolution via the Rezoning Review process. The JRPP determined that the proposal has both strategic and site-specific merit. The JRPP's determination replaces Council's December 2016 resolution.

As part of the Rezoning Review process the proponent is required to submit the exact same proposal to the JRPP as the proposal originally considered by Council. In this regard the proposal being considered now, and previously by the JRPP, is required to the same proposal that was reported to the December 2016 Council meeting.

Community engagement was undertaken as required by the Gateway Determination. This engagement process was the first statutory exhibition process, the previous process for the PP having been non-statutory.

Ministerial Directions

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Section 9.1 (formerly Section 117) of the *Environmental Planning and Assessment Act 1979* enables the Minister to direct a Council to prepare LEPs in accordance with such principle as are specified in their direction.

Ministerial Direction 1.2 Rural Zones states that a PP must not rezone land from a rural zone to a residential. Ministerial Direction 1.5 Rural Lands states that a PP that will affect land within an existing rural zone must be consistent with the Rural Planning Principles listed in the SEPP (Rural Lands) 2008 must not rezone land from a rural zone to a residential.

A PP may be inconsistent with Directions 1.2 and 1.5 if it is in accordance with the relevant Regional Strategy prepared by the Department of Planning or is of minor significance.

In issuing the Gateway Determination the DPE determined that the subject PP was justifiably inconsistent with Directions 1.2 and 1.5 as it is considered minor and as it has been identified for residential development as part of the strategic planning for the KUS. The DPE outlined that the proposed residential development provides a logical extension to the existing residential area and will include a perimeter road which sets the village boundary for Jamberoo and the agricultural lands beyond. The DPE has confirmed that no further approval is required in relation to these Directions.

Amendments to NSW Planning Laws

From the submissions received it is unclear exactly what proposed amendments to the planning laws are being referred to. It is assumed that the submissions are referring to the draft State Environmental Planning Policy (SEPP) - Primary Production and Rural Development. As outlined in Council's December 2017 Council meeting staff have raised concerns with the draft and have forwarded these concerns to the relevant section of the DPE. While Council share these concerns it should be noted that this proposed SEPP is not a valid reason for not supporting this proposal.

Kiama Urban Strategy

As part of formulating the KUS, a draft was publicly exhibited in the Kiama Independent, Kiama Advertiser, the Illawarra Mercury, and on Council's website from 17 September 2010 until 31 January 2011, with late submissions accepted until 7 February 2011. Public information kiosks were located in 3 areas, including Jamberoo on 26 November 2010 from 9am-6pm. All exhibition documents were made available on Councils' website, Kiama Library, Jamberoo and Gerringong. Public presentations were made to various community groups, including Jamberoo Valley Residents & Ratepayers Association on 8 December 2010.

At the 20 September 2011 Council meeting the site was included in Stage 2 of the KUS. Specific mention was made regarding the inclusion of this site as it is bounded by residential land to the north and west. The owner had originally requested that this land be zoned residential in the original 2011 LEP. As site specific studies had not been carried out, this land was not rezoned as part of the 2011 LEP. It was noted that a future Planning Proposal would be required to facilitate the zoning change.

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The KUS identifies that the subject site is to be the only urban expansion to occur in the next 5 years in Jamberoo and that only sites 27 and 27a remain as possible sites for urban expansion. In this regard the Jamberoo Village boundary has been defined within the KUS which was established in conjunction with community consultation.

A principal component of the KUS was the identification of potential locations for urban expansion options to cater for future population growth and housing needs. An intended purpose of the KUS was therefore the identification of sites for urban expansion.

While the final KUS was not endorsed by the DPE in its entirety, in responding to Council the DPE expressly stated that: "the Council has endorsed the consideration of a number of potential rezonings to contribute to housing supply in Kiama in the short-term. I can confirm that the Department is willing to consider Planning Proposals for these sites." As discussed previously this, and other sites recently rezoned in Jamberoo, have been endorsed by the DPE.

The concerns raised regarding the KUS are not a valid reason for not supporting this proposal.

It should be acknowledged that Council has a legal obligation under the provisions of the *Environmental Planning and Assessment Act 1979* (the Act) to consider a request from a landowner to prepare a PP and as such, cannot prohibit landowners requesting the preparation of a PP. In this regard Council does not have an ability to refuse to accept requests for PPs.

Village Character

It is clear that the issue of the 'village character' is an important one for the Jamberoo community. As part of the process of preparing Chapter 33 – Jamberoo Village of the DCP 2012 Council and the community have established the desired future character. If rezoned, the controls of Chapter 33 – Jamberoo Village will apply to the site. Any future subdivision of the site will need to comply with the controls of Chapter 33.

Agricultural Land

Concerns have been raised over the loss of prime agricultural land. The site is not identified as being Biophysical Strategic Agricultural Land (BSAL) by the Department of Planning & Infrastructure's Strategic Agricultural Land Map (Sheet STA_041). BSAL is identified as land with high quality soil and water resources capable of sustaining high levels of productivity. In January 2014 the NSW Government finalised mapping for 2.74 million hectares across the State. These maps have been given legal effect via an amendment to the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* in order to safeguard prime agricultural from extractive industries.

As outlined above, the JRPP also recommended that Council and the DPE seek resourcing for the preparation of a Rural Lands Strategy that identifies regionally significant rural lands. The ISRP outlines that this is primarily the responsibility of the DPI. This recommendation is outside the scope of the Planning Proposal process and is being pursued as a strategic priority under the Illawarra Shoalhaven Regional Plan implementation.

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The Agricultural Land Classification maps are no longer in circulation but by utilising the NSW Agriculture's (now DPI – Agriculture) Agriculture Land Classification document (Agfact AC.25) would indicate that the site would meet the definition of a Class 3 agricultural land and would not be considered significant or prime agricultural land.

In response to the concerns raised by the community, Council requested advice from the Department of Primary Industries (DPI) – Agriculture regarding the loss of agricultural land. The DPI – Agriculture responded to Council on 25 January 2018 by confirming that the site is classified as Class 3 (of a 5 class system, 1 is highest). The DPI – Agriculture indicated that the land is considered to be good quality and if it had not been identified for urban development, it should be maintained for agriculture. Notwithstanding this advice, DPI – Agriculture confirmed that it does not object to the Planning Proposal and has indicated that if the proposal proceeds Council should consider mitigation measures from urban development on nearby BSAL lands. This may include appropriate edge treatments and management of cross water drainage.

Subsequent consultations with the DPI – Agriculture indicated that ideally the agricultural land would be retained but it has acknowledged the site has strategic merit for residential rezoning for the following reasons:

- The site is 4.7 hectares (i.e. relatively small in both a local and regional scale);
- The site is bounded by urban development on two sides;
- The land is not currently being used for agricultural purposes;
- The land has a mid-range agricultural land classification of 3;
- The KUS recommends a Planning Proposal be undertaken for the site as an urban expansion opportunity;
- The then Department of Planning and Infrastructure, in 2012, confirmed that the Department is willing to consider a Planning Proposal for the site;
- The Illawarra-Shoalhaven Regional Plan and the Illawarra-Shoalhaven Urban Development Program both note the lack of housing supply in the Kiama Municipality and the need to identify housing opportunities to respond housing demand; and
- The JRPP, in undertaking a Rezoning Review of the planning proposal, considered that the proposal has both strategic and site specific merit and recommended that the planning proposal should proceed to Gateway Determination stage. In assessing the site specific merit, the JRPP noted that *"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"*
- In issuing the Gateway Determination for the Planning Proposal to proceed, the DPE agreed that the *"Planning Proposal's inconsistency with Section 117 Directions 1.2 Rural Zones and 1.5 Rural Lands are justified in accordance with*

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the terms of the Direction. No further approval is required in relation to these Directions."

It is agreed that this proposal will result in the loss of agricultural land. However, as outlined above, this loss is considered acceptable due to the larger strategic merits outlined above. Mitigation measures will be put in place to manage urban impacts on adjoining high value agricultural lands.

Conclusion

The subject PP meets the criteria outlined in the Planning Proposal Policy, as it is an endorsed site, (Site 27b) under the Kiama Urban Strategy. The PP also assist Council in meeting its obligations under the Regional Plan.

It is important to recognise that while a significant number of submissions objecting to the proposal were received, the points of objection did not raise any planning reasons that should prevent the rezoning from proceeding.

None of the Government agencies consulted objected to the proposal. OEH's comments in regards to conserving items of Aboriginal cultural heritage are supported and it is a recommendation of this report to strengthen the existing controls of the DCP 2012 to ensure this occurs for this and other development across the Municipality. It is also agreed that the site is classified as good agricultural land, but the loss of this land is considered acceptable due to the larger strategic merits identified in the KUS, Regional Plan, JRPP's recommendation and the Gateway Determination.

The submitted Visual Impact Analysis (VIA) has addressed concerns relating to visual impact. The recently published Chapter 33 – Jamberoo Village of the DCP 2012 will also ensure that any future development that occurs on the site reflects the desired future character of the Jamberoo Village.

Having regard to the above and the fact that this will have no identified impact on the character of Jamberoo, the village streetscape nor general amenity levels, endorsement for the PP to proceed with the preparation and finalisation of the amendment to the LEP 2011 in conjunction with Parliamentary Counsel and the Department of Planning and Environment is recommended.