

Rezoning of land at Reeves Street and Goldsmith Road (Northern Precinct) and Debenham Road North, Tallara Road and Debenham Road South (Southern Precinct), Somersby

Proposal Title :	Rezoning of land at Reeves Street and Goldsmith Road (Northern Precinct) and Debenham Road North, Tallara Road and Debenham Road South (Southern Precinct), Somersby		
Proposal Summary :	The planning proposal seeks to rezone land in two precincts under Gosford Local Environmental Plan 2014: • In the northern precinct the planning proposal seeks to rezone land from RU1 Primary Production and RU2 Rural Landscape to E2 Environmental Conservation and E3 Environmental Management and apply minimum lot sizes (MLS) incorporating lot averaging provisions. • In the southern precinct the planning proposal seeks to rezone land from RU2 Rural Landscape to E2 Environmental Conservation and apply a MLS incorporating lot averaging provisions. The precincts are located at Reeves Street and Goldsmith Road (northern precinct) and at Debenham Road North, Tallara Road and Debenham Road South (southern precinct), Somersby.		
PP Number :	PP_2014_GOSFO_001_00	Dop File No :	13/20792

Proposal Details

Date Planning Proposal Received :	26-Feb-2014	LGA covered :	Gosford
Region :	Hunter	RPA :	Gosford City Council
State Electorate :	GOSFORD THE ENTRANCE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Reeves Street, Goldsmith Road, Debenham Road North, Tallara Road and Debenham Road South		
Suburb :	Somersby	City :	Postcode :
Land Parcel :	Lot 12 DP 263427, Lot 41 DP771535 (Northern Precinct) and Lot 3 DP261507, Lot 4 DP261507 and Lot 2051 DP559231 (Southern Precinct)		

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DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Annie Medlicott**
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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	20	No. of Dwellings (where relevant) :	20
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **The planning proposal seeks to rezone approximately 109 hectares (ha) of rural land in 2 precincts to an environmental zone and apply minimum lot sizes incorporating lot averaging provisions to establish baseline minimum lot sizes for a rural residential subdivision.**

SREP No 8 - Central Coast Plateau Areas applies to the sites and identifies approximately 10ha of prime agricultural land with the remainder of the site being class 4-5 land with low agricultural production value. The land is physically separated by the M1 Freeway from the majority of SREP No 8 rural and resource land which is principally located west of the freeway.

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The land has limited potential for agricultural use and contains significant environmental constraints including a number of threatened flora and fauna species. The proposal contains some inconsistencies with the Central Coast Regional Strategy and some SREP No 8 clauses related to rural residential development however it is considered the proposal has merit to proceed to the Gateway subject to satisfactory agency consultation and additional information requirements that further justify the proposal.

External Supporting
Notes :

ADDITIONAL INFORMATION

The planning proposal was received on 20 December 2013. Further information was requested in relation to the inclusion in the planning proposal of an unformed road reserve in the southern precinct, studies and investigations that Council identify should be undertaken to progress the planning proposal, and clarification regarding the application of lot averaging provisions as applied to the precincts. Council submitted this information on 26 February 2014.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The objectives or intended outcomes do not state what is planned to be achieved by the planning proposal. It would benefit from a concise statement which states the proposal seeks to enable development for rural residential subdivision and environmental protection purposes. The planning proposal should be updated accordingly.

Council has identified the lots applicable to the proposal however there was no mention of Council's intention with regard to the unformed road reserve that runs from Kowara Road to Debenham Road South which separates the lots in the southern precinct. Council has clarified that the unmade road reserve should be included in the proposal however it is consequential to the rezoning.

The inclusion of the road reserve is supported and will avoid retaining the existing RU2 zoning and development standards of the road reserve when the adjacent lots are zoned E2 and new development standards are applied by the planning proposal. The planning proposal should be updated and specify the road reserve will be included as part of the proposal.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :

This section contains references to 'Gosford Local Environmental Plan 2013'. The planning proposal should be updated to reflect the correct title 'Gosford Local Environmental Plan 2014' and remove references to IDO No 122.

Council has identified the proposed zones for each precinct and that lot averaging provisions will also apply to both precincts. The planning proposal was unclear how this would work and clarification was sought from Council to confirm how lot averaging would apply to both precincts.

LOT AVERAGING PROVISIONS

The MLS maps show an indicative MLS in the northern precinct of 2ha and 10ha. Council advised the 2ha MLS could be varied below this provided the average of all the lots over the 2ha mapped part of the site was at least 2ha. The 2ha MLS appears to correspond to the E3 zoning.

Council also advised the remaining E2 land in the northern precinct is likely to contain only one lot with a MLS of 10ha and contain lot averaging provisions. It is considered that lot averaging on this part of the site would be unnecessary given it will contain only one lot and a fixed MLS on the LSM map would be sufficient. Council should clarify whether lot averaging on the E2/MLS 10ha part of the northern precinct is necessary.

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The southern precinct contains the proposed E2 zone and would also be subject to lot averaging provisions. Council has advised the subdivision density will be established in consultation with agencies and the applicant to prepare a DCP to identify the baseline MLS which can be averaged over the whole of the southern precinct.

Council's approach is generally supported as it will identify appropriate lot sizes based on the environmental constraints of the land. There are a number of standard instrument LEPs which have included lot averaging provisions (e.g Eurobadalla, Goulburn Mulwaree, Hawkesbury, Oberon, Singleton and Queanbeyan) and a variety of methods in provisions and mapping on how this can be achieved. It is not considered necessary to specify a particular approach at this stage given further agency consultation and investigations are to occur with regard to the MLS.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.3 Heritage Conservation

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SREP No 9—Extractive Industry (No 2—1995)

SREP No. 8 - Central Coast Plateau Areas

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain : **Discussion on the S117 Directions and SEPPs is provided later in the report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The mapping provided includes references to Gosford LEP 2013. Council should update the maps to reflect the notified planning instrument (i.e Gosford LEP 2014).

Many of the maps contain text boxes which are illegible and these should be provided at an appropriate scale. The maps would benefit from a legend to identify the land attributes and the full land use zone names to enable the community to interpret the content of the maps.

Council should ensure the amending LEP maps meet the specific requirements for public exhibition in latest version of Planning & Infrastructure's 'Standard Technical Requirements for LEP Maps'.

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Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council did not indicate a specific timeframe for exhibition however the timeline indicates concurrent exhibition of the planning proposal and a DCP related to the site. It is recommended an exhibition period for 28 days to ensure consistency with the concurrent exhibition of the DCP.

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons : **PROJECT TIMELINE**
Council's timeline anticipates submission to the Department to finalise the planning proposal in January 2015. It is recommended that a 12 month timeframe should be sufficient time to complete the plan.

DELEGATION AUTHORISATION
Council has accepted plan-making delegations for planning proposals generally however Council has not requested delegation to make this plan. Council has identified the inconsistency with SREP No 8 and possible need for state agency input into further consideration of the proposal as reasons for not seeking delegations.

The inconsistency with the SREP No 8 and agency input would not necessarily preclude Council from making the plan as these matters will need to be addressed prior to the plan being made. It is recommended Council be granted delegation to make the plan.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : February 2014

Comments in relation to Principal LEP : Gosford Local Environmental Plan 2014 (Gosford LEP) was notified on 11 February 2014.

Assessment Criteria

Need for planning proposal : Council has advised the proposal is the result of the applicant's request for a rezoning and Council has investigated the appropriateness of the zoning in the area and determined the RU2 zone is not appropriate given environmental and other constraints that exist.

Council has advised of a preference to include the broader area in an environmental zone and propose to investigate the appropriateness of other RU2 zoned land in the vicinity in conjunction with landowners separate to this planning proposal.

Council's approach is supported given the isolation of the land located east of the freeway from the bulk of rural and resource lands located to the west of the freeway.

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Consistency with strategic planning framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

The proposal will provide for additional dwellings assisting in meeting regional housing targets while maintaining land attributed as having conservation values both of which are broad goals of the CCRS. Council has advised the planning proposal is generally consistent with the CCRS when considered in terms of protecting environmental values and ensuring environmentally sustainable outcomes. However, the CCRS also states that rural residential development will be limited to those already provided in the region and also contains an action which ensures LEPs do not rezone rural and resource lands for rural residential unless agreement from Planning & Infrastructure is first reached regarding the values of the resources.

Council has identified the inconsistencies with the CCRS and considers the land is sufficiently separated from the natural resource areas to the west of the freeway so as to substantiate a case for the rezoning. The rural and resource land contains significant areas of vegetation and Council considers the environmental zoning and subdivision as proposed would better retain this vegetation rather than a rural zoning.

Council has advised that Gosford Quarries located opposite the southern precinct is nearing the end of its economic life and considers there is less need to protect these strategic resources. Formal consultation with NSW Trade and Investment would be undertaken to establish the significance of the resources and subject to satisfactory agency consultation the inconsistency with the CCRS may be justified given the isolation of the site from the majority of SREP No 8 rural and resource lands west of the freeway.

LOCAL STRATEGIES

Council has provided an assessment of the proposal against a number of its strategic plans.

Community Strategic Plan - Gosford 2025 (consistent);
Biodiversity Strategy (inconsistency justified);
Draft Gosford Landuse Strategy (consistent);
Residential Strategy and Draft Residential Strategy (inconsistency justified);

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 19 - Bushland in Urban Areas

The general aim of this policy is to protect and preserve bushland within urban areas. Council has advised an assessment of bushland present on site has been undertaken and used to inform proposed zonings and is consistent with the SEPP.

SEPP 44 Koala Habitat Protection

Council considers the vegetation on the land is not associated with key feed trees and raised no concerns with regard to the SEPP.

SEPP 55 - Remediation of Land

Council has advised areas of the site have been used for agricultural purposes (an activity that may cause contamination), and also identified there are derelict buildings potentially containing asbestos. A preliminary contaminated land assessment should be carried out to comply with the provisions of the SEPP.

SREP No 8 - Central Coast Plateau Areas

Council has considered the objectives of the SREP and the agricultural value of the land. The northern precinct contains approximately 10ha of Class 3 land (identified as prime agricultural land) and the remainder Class 4-5 land. The southern precinct is also mapped Class 4-5. Council identified that only very limited agriculture was undertaken in the northern precinct and the southern precinct had no agricultural value. Council has included an Agricultural Assessment which concludes the land is rated as low agricultural production value with many constraints. The Class 3 land was not considered to be of high agricultural capability and was limited by its small area.

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An objective of SREP 8 is to discourage the preparation of draft local environmental plans designed to permit rural residential development. Clause 10 identifies that a draft LEP 'should not' have the effect of permitting subdivision below a 20ha lot size and Clause 11 states a draft LEP 'should not' result in increased settlement pattern.

An objective of the SREP encourages draft LEPs based on merit. Given the precincts are proposed to have environmental zones in order to retain significant tracts of vegetation, lot sizes to recognise environmental constraints, and the agricultural value of the land is limited, it is reasonable to conclude the proposal has merit subject to satisfactory agency and supporting studies which justify the proposal.

SREP No 9 - Extractive Industries No 2 - 1995

Council has advised a quarry, listed in SREP No 9, is located in the vicinity and would impact on future development that may occur in the locality. Council has stated it received advice from the quarry operator that this resource is nearing the end of its economic life.

Council should consult with the Department of Trade and Investment - Minerals and Petroleum and the Environment Protection Authority to confirm whether the location of additional residential dwellings in close proximity to the quarry is consistent with future quarrying operations.

S117 DIRECTIONS

The planning proposal is consistent with the relevant s117 directions except the following which require further discussion. Should the further work or consultation identified below identify an inconsistency, Council should seek the DG's agreement to the inconsistency as per the terms of that direction.

1.2 Rural Zones

The planning proposal contains provisions to rezone the site to an environmental zone and reduce the 20ha minimum lot size and is inconsistent with the direction.

Council has advised the inconsistency is justified as:

- the land is physically separated from the bulk of rural and resource lands by the freeway;
- environmental values of the land and impacts will be managed by including the land in environmental zones and incorporating lot averaging provisions.

The inconsistency would need be justified by a study or the DG agree the inconsistency is of minor significance. Council should consult with the NSW Department of Primary Industries - Agriculture given the proposal will lead to loss of rural and resource land. Any inconsistency should be addressed as per the requirements of the direction following this consultation.

1.3 Mining, Petroleum Production and Extractive Industries

Council has identified the northern precinct as being a potential resource area and the southern precinct as a transition area where development could adversely affect or be affected by current or future resource operations.

The current zoning of RU1 and RU2 permits extractive industries. The Mining SEPP also permits extractive industries where agriculture is permitted. Extensive agriculture is permitted in the E3 zone however is not permitted in the E2 zone. The proposal is inconsistent with the direction as it would have the effect of prohibiting the uses covered by this direction in the area being rezoned E2.

Council should consult with the Department of Primary Industries - Minerals and Petroleum to satisfy the requirements of the direction and seek the DGs agreement for the inconsistency.

2.3 Heritage Conservation

Council has identified the direction as applicable and the applicant has submitted a

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supporting Preliminary Indigenous Heritage assessment to support the planning proposal. The report identified a number of archaeological sites and evidence of Aboriginal cultural heritage within the study area.

The report concluded there are a number of identified areas of Aboriginal Heritage Sensitivity or Archaeological Potential and recommended further investigations be undertaken in partnership with Aboriginal stakeholders.

Council should reassess consistency with the direction following consultation with the Office of Environment and Heritage and Local Aboriginal Land Councils.

4.4 Planning for Bushfire Protection

The land is identified as bushfire prone and a preliminary bushfire assessment report with recommendations to reduce the potential for loss of life and property was submitted with the proposal. The requirements of the direction require formal consultation with the NSW Rural Fire Service before consistency with the direction can be determined.

5.1 Implementation of Regional Strategies

Council has stated the planning proposal is considered to be consistent with the CCRS. However as previously discussed the proposal provides for new rural residential development outside of those areas already provided for in the region and is inconsistent with the CCRS in this regard.

Council is required to reassess consistency with the direction following agency consultation and the provision of additional information that supports the rezoning and seek the agreement of the Director General for any inconsistency as per the requirements of the direction.

Environmental social
economic impacts :

A number of supporting studies have been prepared in support of the proposal and include:

- Proposed Dwelling Sites Environmental/Biodiversity Considerations (Jun 2012);
- Preliminary Bushfire Assessment Report (June 2012);
- Feasibility Report On-Site Effluent Disposal (Jun 2012);
- Preliminary Agricultural Assessment (Aug 2007); and
- Preliminary Indigenous Heritage Assessment (Aug 2007)

Some of the studies are several years old and Council should confirm the currency of relevant studies in conjunction with the relevant agencies.

Council has also advised of studies/information to inform the preparation of a development control plan which include building and development envelopes, bushfire zones, effluent disposal, access, impacts on threatened species and identification of areas suitable for the preparation of Vegetation Management Plans. The information requirements are broadly supported.

ENVIRONMENTAL

Council identified both precincts contain areas of Endangered Ecological Communities and a number of threatened species as well as habitat for non threatened flora and fauna species. Council has advised it is currently unknown to what extent these populations will be affected by the proposal and it is considered further information to identify and mitigate potential impacts in conjunction with the relevant agency be undertaken.

SOCIAL & ECONOMIC

Council has advised the proposal would not raise any specific social or economic effects however the provision of 20 dwellings would provide additional housing choice and assist in meeting regional dwelling targets.

INFRASTRUCTURE AND SERVICES

Council has advised both precincts are accessible from existing roads however limited public transport is only available to the southern precinct. Phone and electricity services are also available in the locality of the precincts. Council has indicated the land is not within Council's water and sewer service areas and will be managed on a case by case

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basis . A preliminary report identified that on site effluent disposal was capable of being accommodated in the precincts.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter Requesting Gateway Determination.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Appendix 1 Environmental Report, Bushfire Report & Effluent Disposal Report.pdf	Study	Yes
Appendix 2 Agricultural Report.pdf	Study	Yes
Appendix 3 Indigenous Heritage Report.pdf	Study	Yes
Council Resolution of 17 December 2013.pdf	Study	Yes
Council Report 17 December 2013.pdf	Study	Yes
Council's submission of additional information.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions: **1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
2.1 Environment Protection Zones
2.3 Heritage Conservation**

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4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 6.1 Approval and Referral Requirements
 6.3 Site Specific Provisions

Additional Information :

It is considered the planning proposal should proceed subject to the following:

1. Council is to be satisfied that the currency of supporting studies and sufficient information and has been provided to demonstrate that the planning proposal adequately addresses the following issues:

- a. Bushfire and access;
- b. Water, sewer and services;
- c. Ecological investigations and impacts on threatened species;
- d. Preliminary Contaminated Land Study;
- e. Aboriginal archaeological assessment;
- f. A draft development control plan;
- g. Council should confirm whether further information is required for potential land use conflicts (eg. dust) between existing agricultural uses, extractive industries and future development.

2. Council update the 'statement of objectives' to include

- the purpose of the planning proposal is to enable a rural residential subdivision and environmental protection purposes.
- the unformed road reserve in the southern precinct will be included in the proposal and provide justification for its inclusion.

3. Council update the 'explanation of provisions' and the planning proposal to

- include references to Gosford Local Environmental Plan 2014;
- delete references to Gosford IDO No 122;
- confirm whether lot averaging provision on the E2/10ha MLS part of the northern precinct is necessary.

4. The maps will require updated lot size maps, once further studies and investigation are completed. Council should also update the planning proposal mapping as follows:

- references to Gosford LEP 2014 be included;
- text boxes are legible;
- maps include a legend indentifying the land attributes and use the full zone names.
- Council should ensure the amending LEP maps meet the specific requirements for public exhibition in latest version of Planning & Infrastructure's 'Standard Technical Requirements for LEP Maps'.

5. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 - Remediation of Land and demonstrate the site is suitable for rezoning once information on contamination has been obtained.

6. Council is required to demonstrate consistency with the following S117 Directions after supporting information has been obtained and/or following agency consultation:

- 1.2 Rural Zones (Trade & Investment - Agriculture)
- 1.3 Mining, Petroleum Production and Extractive Industries -Trade & Investment - Minerals and Petroleum;
- 2.3 Heritage Conservation - Office of Environment and Heritage, Darkinjung Local Aboriginal Land Council, Guringai Tribal Link
- 4.4 Planning for Bushfire Protection - NSW Rural Fire Service
- 5.1 Implementation of Regional Strategies

7. Consultation is required with the following public authorities:

- Office of Environment and Heritage
- Department of Primary Industries - Agriculture
- NSW Trade & Investment - Resources and Energy - Minerals and Petroleum
- NSW Rural Fire Service
- Darkinjung Local Aboriginal Land Council

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- Guringai Tribal Link
- Environment Protection Authority

8. The planning proposal must be made publicly available for 28 days.

9. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

10. Council be granted delegation to make the plan.

Supporting Reasons : *

Signature:



Printed Name:

G. HOPKINS

Date:

7.3.2014