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Our ref: PP_2012_GOSFO_007_00 (12/04999)
 Your ref:

Mr Peter Wilson
 General Manager
 Gosford City Council
 PO Box 21
 GOSFORD NSW 2250

Dear Mr Wilson,

Planning Proposal to rezone land at Mangrove Creek Road, Mangrove Creek/Greengrove from 7(a) Conservation to Special Use 5 under the Gosford Interim Development Order 122 or SP2 Infrastructure under the draft Gosford LEP 2009

I am writing in response to your Council's letter requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Mangrove Creek Road, Mangrove Creek/Greengrove from 7(a) Conservation to Special Use 5 under the Gosford Interim Development Order 122 or SP2 Infrastructure under the draft Gosford LEP.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is acknowledged that the established facility does not fall easily within one particular Standard Instrument defined land use. It is also noted that a number of approaches to rezone the subject land may achieve Council's objectives, however the SP2 zone under the comprehensive LEP or the Special Use 5 zone under IDO 122, appears to be the most appropriate and is Council's preferred approach.

The Department supports Council's intended outcome and the proposed means to achieve it. In progressing the matter, Council is to consult the Office of Environment and Heritage (OEH) and the NSW Rural Fire Service (RFS) on the proposed zone and permissible land uses. Council is also to amend the planning proposal to clearly explain the reasons why the SP2 zone is the most appropriate for the purposes of consultation with OEH and RFS. Council is to take into consideration the comments of the public authorities and amend the planning proposal if necessary, prior to the commencement of public exhibition.

In preparation for consultation with OEH and RFS, Council is to prepare the following maps and provide them to the public authorities:

- a map showing the subject land's proposed zoning under IDO 122;
- a map showing the subject land's proposed zoning under the draft standard instrument LEP;
- a map showing the subject land, as zoned Special Uses 5 under IDO 122, in the context of the surrounding zones in the local government area;
- a map showing the subject land, as zoned SP2 under the SILEP, in the context of the surrounding zones in the local government area; and

- a locality map showing the subject land, as currently zoned, in the context of the broader LGA.

Council must also provide evidence demonstrating that the proposed 60 Metre AHD topographical contour zone boundary covers all the land (the portions of the 5 land parcels) proposed to be rezoned.

It is the Department's opinion that insufficient information has been provided to determine whether core or potential Koala habitats exist on the site. In accordance with the requirements of SEPP 44 Koala Habitat Protection, Council is to consult with OEH to clarify whether a specific study is required at the planning proposal stage. If it is established that a study is required, Council is to consult with the Department's regional team regarding any findings from the study and amend the planning proposal accordingly, prior to proceeding to public exhibition.

It is noted that the proposed rezoning will not permit a change in land use, as educational and recreational uses are currently occurring on the site. Therefore, the Department understands why Council has not addressed SEPP 55 Remediation of Land. However, the Department requests that Council take this opportunity to address Clause 6 of the SEPP and determine whether a contaminated land study is required for the site. Council is to consult with the Department's regional team regarding this matter and amend the planning proposal, if necessary, prior to public consultation.

In accordance with the requirements of SREP 20 – Hawkesbury Nepean River, Council is to consult with the Hawkesbury-Nepean Catchment Management Authority regarding the planning proposal's consistency with Clause 5 and 6 of the SREP. Although Council is of the opinion the planning proposal broadly addresses the requirements of the SREP, the Department requests that the specific matters set out for consideration and assessment, for a planning proposal of this nature, are addressed.

As per the requirements of S117 Direction 1.3 Mining Petroleum Production and Extractive Industries, Council is to consult with the NSW Department of Primary Industries – Minerals and Petroleum and determine the planning proposal's consistency with the S117 Direction.

In regard to S117 Direction 2.1 Environmental Protection Zones, Council is to consult with OEH to determine whether a study is required to address the threatened fauna species and regionally significant vegetation which Council has indicated exist on the site. In light of this and considering the subject land's close proximity to National Park land, Council is to reconsider consistency with this direction, after consultation with OEH and produce any studies which may be required. If any inconsistency is identified after this process, Council is to consult with the Department's regional team regarding justification and amend the planning proposal accordingly, prior to public consultation.

It is noted that the subject site is flood prone and therefore, S117 Direction 4.3 Flood Prone Land applies. Council must address the S117 Direction, and establish whether the planning proposal is consistent or inconsistent. Should Council find the planning proposal to be inconsistent, Council is to seek DG agreement that it is of minor significance and amend the planning proposal accordingly.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and, prior to undertaking community consultation, take into account any comments made and amend the planning proposal (if necessary) as per the requirements of the Local Planning Direction

I have also agreed that the planning proposal's inconsistencies with S117 Direction 4.1 are of minor significance. No further approval is required in relation to this Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the planning proposal as soon as possible after consultation with the public authorities as required in the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Ben Holmes of the Regional Office of the Department on 02 4348 5000

Yours sincerely,



Sam Haddad
Director-General

17/5/2012

Gateway Determination

Planning Proposal (Department Ref: PP_2012_GOSFO_007_00): *rezone land at Mangrove Creek Road, Mangrove Creek/Greengrove from 7(a) Conservation to Special Use 5 under the Gosford Interim Development Order 122 or SP2 Infrastructure under the draft Gosford LEP 2009*

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to rezone land at Mangrove Creek Road, Mangrove Creek/Greengrove from 7(a) Conservation to Special Use 5 under the Gosford Interim Development Order 122 or SP2 Infrastructure under the draft Gosford LEP should proceed subject to the following conditions:

1. Prior to public exhibition, Council is to consult with the Office of Environment and Heritage and the NSW Rural Fire Service on the proposed zone and permissible land uses and clearly articulate the reasons why the SP2 zone is the most appropriate in this circumstance. Council is to take into consideration the comments of the public authorities and amend the planning proposal if necessary.
2. In preparation for consultation with OEH, RFS and the Department's regional team, Council is to prepare the following maps and provide them for the public authorities:
 - a map showing the subject lands proposed zoning under IDO 122;
 - a map showing the subject lands proposed zoning under the draft standard instrument LEP;
 - a map showing the subject land, as zoned Special Uses 5 under IDO 122, in the context of the surrounding zones in the local government area;
 - a map showing the subject land, as zoned SP2 under the SILEP, in the context of the surrounding zones in the local government area; and
 - a locality map showing the subject land, as currently zoned, in the context of the broader LGA.
3. Council is to provide evidence demonstrating, that the proposed 60 Metre AHD topographical contour zone boundary covers all the land (the portions of the 5 land parcels) proposed to be rezoned.
4. In accordance with the requirements of SEPP 44 Koala Habitat Protection, Council is to consult with the Office of Environment and Heritage to clarify whether a specific study is required at the planning proposal stage. If it is established that a study is required, Council is to consult with the Department's regional team regarding any findings produced from the study and amend the planning proposal accordingly, prior to proceeding to public exhibition.
5. Council is to address SEPP 55 Remediation of Land in order to determine whether a contaminated land study is required for the site. Council is to consult with the Department's regional team regarding this matter and amend the planning proposal, if necessary, prior to public consultation.
6. In accordance with the requirements of SREP 20 – Hawkesbury Nepean River, Council is to consult with the Hawkesbury - Nepean Catchment Management Authority regarding the planning proposal's consistency with Clause 5 and 6 of the SREP.
7. As per the requirements of S117 Direction 1.3 Mining Petroleum Production and Extractive Industries, Council is to consult with the NSW Department of Primary Industries

– Minerals and Petroleum and determine the planning proposal's consistency with the S117 Direction.

8. In accordance with the requirements of S117 Direction 2.1 Environmental Protection Zones, Council is to consult with the Office of Environment and Heritage to determine whether a study is required to address the threatened fauna species and regionally significant vegetation which exist on the site. Council is to reconsider consistency with this direction, after consultation with OEH and produce any studies which may be required. If any inconsistency is identified after this process, Council is to consult with the Department's regional team regarding justification and amend the planning proposal accordingly, prior to public consultation.
9. Council is to give further consideration to S117 Direction 4.3 Flood Prone Land and establish whether the planning proposal is consistent or inconsistent with this Direction. Pending the outcome of the investigation, Council is to seek DG agreement that it is of minor significance and amend the planning proposal accordingly.
10. In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service and, prior to undertaking community consultation, take into account any comments made and amend the planning proposal (if necessary) as per the requirements of this Direction
11. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
12. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Hawkesbury – Nepean Catchment Management Authority
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Minerals and Petroleum
 - Office of Environment and Heritage – NSW National Parks and Wildlife Service
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

13. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
14. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.



Dated

17th

day of

May

2012.

Sam Haddad

Sam Haddad
Director-General

**Delegate of the Minister for Planning and
Infrastructure**