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Our ref: PP_2013_GOSFO_005_00 (13/16465)
Your ref:

Mr Paul Anderson
General Manager
Gosford City Council
PO Box 21
GOSFORD NSW 2250

Paul
Dear Mr Anderson,

Planning proposal to amend the draft Gosford Local Environmental Plan 2013 or the Gosford Interim Development Order No. 122

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 enable the use for a resource recovery facility by either rezoning the land at Kerns Road, Kincumber to SP1 Special Activities or through the use of an enabling clause.

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

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 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. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 section 54(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 Glenn Horal of the regional office of the department on 02 4348 5000.

Yours sincerely,


Neil McGaffin 20.11.13
Acting Deputy Director General
Planning Operations & Regional Delivery

Encl:

Gateway Determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2013_GOSFO_005_00): to rezone land to allow for a resource recovery facility at Kerns Road, Kincumber

I, the Acting Deputy Director General, Planning Operations and Regional Delivery at the 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 either the draft Gosford Local Environmental Plan (LEP) 2013 or the Gosford Interim Development Order No. 122 to allow for a resource recovery facility at Kerns Road, Kincumber should proceed subject to the following conditions:

1. The planning proposal is to proceed as a rezoning. Council is to rezone the subject land SP1 Special Activities and E2 Environmental Conservation under the draft Gosford Local Environmental Plan 2013 and remove reference to an enabling clause.
2. Prior to public exhibition, the planning proposal shall be updated in the following manner:
 - the statement of objectives and other parts of the planning proposal (i.e. maps) are to be updated to clarify the lots to which the planning proposal applies;
 - remove references to other or additional planning proposals beyond the subject proposal ;
 - inclusion of information regarding the presence or otherwise of any threatened species on the site;
 - inclusion of titles and key blocks for the identification of specific attributes on all maps;
 - inclusion of a proposed zoning map; and
 - upgrading of the resolution and quality of aerial photographs of the site.
3. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other relevant documents:
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 2.1 Environment Protection Zones
 - 2.2 Coastal Protection
 - 4.2 Mine Subsidence and Unstable Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - State Environmental Planning Policy (SEPP 19) – Bushland in Urban Areas
 - State Environmental Planning Policy (SEPP 44) – Koala Protection Habitat
 - State Environmental Planning Policy (SEPP 71) – Coastal Protection
4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP 55) – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the

site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.

5. 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 a minimum of **28 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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Hunter – Central Rivers Catchment Management Authority
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Minerals and Petroleum
 - NSW Office of Water
 - NSW Rural Fire Service
 - Transport for NSW – Roads and Maritime Services
 - Environment Protection Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

7. 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).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 20th day of November 2013.



Neil McGaffin
Acting Deputy Director General
Rural & Regional Planning
Planning Operations & Regional Delivery
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Gosford City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_GOSFO_005_00	Planning proposal to enable the use for a resource recovery facility by rezoning the site from 7(a) Conservation and Scenic Protection (Conservation) under the Gosford Interim Development Order No. 122 or the draft Gosford Local Environmental Plan 2013 to SP1 Special Activities zone and E2 Environmental Conservation.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guide to preparing local environmental plans" and "A guide to preparing planning proposals".

Dated 20 November 2013



Neil McGaffin
Acting Deputy Director General
Planning Operations & Regional Delivery
Department of Planning and Infrastructure