

**TITLE** PLANNING PROPOSAL S55 - "RIVERSIDE" - LOTS 5/8 DP270678, RESIDUE PART LOTS 1, 3 & 4 DP 270678, CENTRAL COAST HIGHWAY & MANNS ROAD WEST GOSFORD APPLICANT: DOUG SNEDDON PLANNING PTY LTD (IR10411273)

Directorate: Environment and Planning  
Business Unit: Integrated Planning

**Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).**

"A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a '*relevant planning application*'.

No disclosure was made by the applicant pursuant to s147 EP&A Act.

## INTRODUCTION

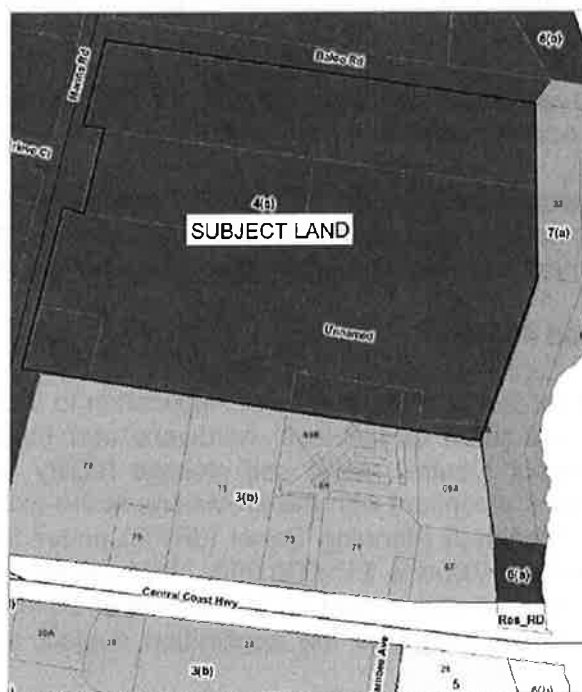
**Reason for Referral to Council:** This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) (*which, if supported would result in an LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State) (EP&A Act).

**Application Received:** 12 September 2011

**Environmental Planning Instrument – Current Zone:** 4(a) Industrial (General

**Area:** approximately 76,500 m<sup>2</sup>

**Map:**



**Background / Landuse History:**

Industrially zoned land at West Gosford is an important component of a wider network of employment generating lands that includes business and industrial zones with a range of permitted uses in various localities and centres. Gosford City Centre has a pre-eminent role as the regional capital. Council is aware of considerable resources and a range of initiatives that have been dedicated over a period of years with the aim of revitalising the city centre. Judicious landuse planning is essential to ensure that revitalisation of the regional centre is not compromised.

At West Gosford, land zoned for business purposes is located on land fronting the Central Coast Highway, with industrially zoned land located behind the Highway, fronting Manns Road. Due to the area's accessibility and location on a major intersection, together with Manns Road being another arterial road, a range of activities have developed that are not "traditionally" associated with industry and manufacturing. These uses are more "service" based eg building supplies, servicing of plant and equipment, landscaping provisions, etc. There is not a clear distinction between commercially and industrially zoned areas, with established permitted uses in both zones appearing to be of a similar nature.

The former West Gosford abattoir site (which was located on both sides of Manns Road) was rezoned from 4(d) Industrial (Offensive or Hazardous) to 4(a) Industrial (General) in 1993 under LEP 295. Land on the eastern side, north of Baloo Road, was the subject of an application which was not recommended to be supported, to enable it to be used for bulky goods salesroom or showroom. Council however supported the proposal and LEP 387, gazetted in 2000, enabled this use on the land subject to a limitation on floor space of no more than 12,000m<sup>2</sup>. This site is now the Gosford Home Town development and is located to the immediate north of the subject land. This development has further reduced the distinction between business zoned land fronting the Highway and industrially zoned land located along Manns Road.

The site had been the base for Gibbens Industries for a number of years. The Riverside "business park" proposal has been mooted for approximately the last four years. A submission was lodged in relation to dLEP 2009 requesting the land be rezoned to B5 - Business Development to accommodate this commercial development. Rezoning as part of dLEP 2009 was not supported.

A presentation on the development was made to Council when considering public submissions in relation to dLEP 2009 and at its meeting held on 31 May 2001 Council resolved:

"F Council invite the proponent to lodge a Planning Proposal to zone all lots currently zoned 4(a) Industrial General located south of Baloo Road and east of Manns Road to B5 Business Development together with associated mapping requirements".

**Development Application 40353**

The land is currently the subject of a Development Application to facilitate the redevelopment of the site for demolition, relocation of services, hardware and building supplies (Woolworths Masters Home Improvement Centre), café, self storage facility and subdivision, (DA 40353 refers). This development is compliant with the provisions of the existing 4(a) zone. It has been determined by the Joint Regional Planning Panel (JRPP) under SEPP (Major Development) 2005 as its capital investment value is \$15,020,000. This matter was considered by the Joint Regional Planning Panel at its meeting held on 10 November 2011 and again on 15 December 2011 where it was resolved to approve the application subject to appropriate conditions of consent.

These activities are compliant with the provisions of the zone and represents 67% of floor area of the overall development. Only the bulky goods component is not compliant and hence the need for the Planning Proposal.

### **Applicant's Submission:**

The applicant has lodged a submission to support the Planning Proposal. Riverside Park is in two stages. Stage 1 is on land zoned 3(b) fronting Central Coast Highway which is being developed for commercial and retail purposes in accordance with development approvals (DA32285/2007 and DA 39551/2010 refer).

Stage 2 covers an area of approximately 6.5 ha (after RTA land resumption) and comprises:

- hardware and building supplies (Woolworths Masters) - 13,391 m<sup>2</sup> of floor area and 369 car parking spaces;
- self storage premises (Storage King) - 7,547m<sup>2</sup> and 25 car parking spaces
- bulky goods retail - 12,215m<sup>2</sup> and 334 car parking spaces
- Hi-tech research and manufacturing and office support (Gibbens Industries) - 4,460m<sup>2</sup> and 45 car parking spaces.

With the exception of the bulky goods retail, these uses are permissible in the existing 4(a) zoning.

The bulky goods component is proposed to be a large floor plate building along the Baloo Road frontage (unconstructed) which will also house the existing Gibbons Industries component.

The applicant has stated that vehicular entry/exit arrangements have been designed in consultation with the RTA so as to integrate road works, with primary access by a new roundabout to be constructed at the intersection of Manns Road and Grieve Place.

The applicant considers the proposal consistent with strategic planning considerations as summarised below:

*Central Coast Regional Strategy* - consistent with strategic directions to increase the current level of employment and self containment and reducing the number of workers commuting out of the region, will assist the region to remain competitive with other regions by providing land for a diversity of employment activities, and West Gosford is a possible enterprise corridor (in which the site is located).

The Riverside Masterplan will provide a positive contribution by capitalising on the site's strategic location at a major road transport node which is the subject of major infrastructure upgrade by the State Government. It will increase and diversify job opportunities within West Gosford, and increase the number of jobs generated from the land from an existing 130 to 550 jobs. Riverside is considered to create a suitable "business address" to attract businesses which require large floor plate building, relatively level topography, a "gateway" location with high exposure, located within an existing employment "node" at West Gosford, good accessibility and relative scenic qualities.

*Potential Impact on business and employment within Gosford Regional Centre* - the major component of the proposed business mix is already permitted under existing planning controls and the subject of DA 40353/2011. The residue is proposed to be developed for large floor plate bulky goods retailing and a new corporate headquarters/manufacturing facility for Gibbens Industries, neither of which would be appropriate located within Gosford Regional Centre. The site satisfies design/construction criteria for bulky goods retailing, including accessible on-site

car parking and ease of access for heavy articulated vehicles. Contemporary bulky goods retailing also occurs on large level land in "out of centre" locations such as this site. Gosford City Centre is unable to satisfy these specific requirements. The proposal does not include any commercial office or "other" retail.

*Loss of industrial land* - the site is not suitable for general industrial/manufacturing due to the changing character of business activity in the locality and potential for industrial activities to conflict with established adjoining retail/commercial areas. The site is considered to be an "infill" development between existing commercial/retail development located to its southern and northern boundaries. 67% of the 6.5 ha site is proposed for business purposes currently permitted within the 4(a) zone (ie hardware and building supplies and self storage). Gibbens Industries will also remain, and any "loss" of industrial land within the context of the total area of zoned industrial land at West Gosford would not be significant. Any decision not to support the proposal does not take into account the changing character of development in the locality or the emergence of West Gosford as a diverse business/employment node. The economic structure of employment has changed significantly since the land was first zoned for industrial uses. The existing zoning pattern does not properly reflect the character of the existing retail land use in the area or changes in the structure of employment at a national, state or local level. There is no community benefit in rigidly retaining an industrial zone when there are clear community economic/employment benefits. Increased employment opportunities will result by responding to structural changes to the economy and attracting new business to the city. Zonings should not be retained on the basis that they provide a notional supply of industrial land, when both the structure of employment and the landuse character of an area has evolved into a diverse "non industrial" category of employment land, and provides significantly higher job generation and increased range of services to the community. Riverside Stage 2 will significantly strengthen West Gosford as the city's western gateway employment node and strengthen the economic vitality of Gosford Regional Centre.

*Draft Gosford Centres Strategy* - The draft strategy requires that Gosford is to remain the pre-eminent commercial centre. Riverside Park Stage 2 is considered complementary to the regional commercial role as it will accommodate bulky goods retailing businesses which have specific site and building requirements such as large floor plate buildings, extensive ground level car parking and ease of access for heavy vehicles, criteria which cannot be economically or strategically met in a City Centre location. It is also consistent with the draft strategy as it is an infill development opportunity and will round off the B5 Business Development zone.

The submission also addresses a range of incidental strategies and considers consistency in relation to other requirements such as Section 117 Directions (see further discussion).

The issues raised in the applicant's submission have been considered in the assessment of the proposal.

### **'Gateway' planning process**

A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls.

Council has been previously advised as to how the new 'gateway' process operates. Its aim is to enable early consideration by the Department of Planning and Infrastructure (DoP&I), early public consultation and ensure that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. It also acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

Attachment A – Department of Planning and Infrastructure Planning Proposal 'Flow Chart' of processing shows the stage at which where this Planning Proposal has reached".

## **PLANNING PROPOSAL GOSFORD CITY COUNCIL - LOTS 5/8 DP270678, RESIDUE PART LOTS 1, 3/4 DP 270678, CENTRAL COAST HIGHWAY AND MANNS ROAD WEST GOSFORD**

This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Infrastructure's *A Guide to Preparing Planning Proposals*.

The discussion below is Council's response to the Gateway assessment process.

A gateway determination under Section 56 of the Environmental Planning and Assessment Act is requested from the DoP&I.

### **Part 1 Objectives or Intended Outcomes**

#### ***s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument.***

The objective/intended outcome of the Planning Proposal is to allow the development of the land for a range of business and bulky retail on the land and the applicant has sought a B5 Business Development zone to achieve this.

Under dLEP 2009, the B5 zone has been used for land currently zoned 3(b) Business Special. It is noted that the distinction between primary retail/business zones such as 3(a) Business General and B3 Commercial core and secondary zones, such as 3(b), can be eroded through the provisions of State Environmental Planning Policy No 22 - Shops and Commercial Premises (SEPP 22). This SEPP allows the conversion of offices to shops/retail premises and vice versa notwithstanding if they are prohibited in an LEP. B zones under dLEP 2009 will be equally subject to SEPP 22. If the land were zoned B5 it would be very difficult for Council to regulate specific land uses and a range of office, retail and other uses could ultimately be permissible. This could potentially undermine conventional retailing activities not only in the city centre, but also in other centres such as West Gosford Shopping Centre.

Further, one of the objectives of the B5 zone is "to enable a mix of business and warehouse uses, and specialised retail uses that require a larger floor area, in locations that are close to, and that support the viability of centres". Unregulated business (eg office) or retail would not be supported on the site due to the potential to undermine the viability of other centres. It is also noted that existing 3(b)/proposed B5 land along the Highway has not reached its full development potential and as such there is an adequate supply of land within this zone in this location. Further, rezoning the land to B5 may result in the industrial component of Gibbens Industries no longer being permissible on the land, hence compromising the positive business profile of the company is seeking to promote.

It is noted that bulky goods are not readily located in Gosford regional centre due to the large building floor areas required and need for on-site vehicle accessibility.

The site is in somewhat of a unique situation in that land being used for business/bulky good uses are located to the immediate north and south of the site. Subject to approval of the "Masters" hardware and building supplies outlet and self storage facility and ancillary uses, development on the site will be 67% compliant with uses permissible in the 4(a) zone. Supporting the proposal would provide the opportunity to develop the site in a cohesive manner from an urban design (built form) and traffic management perspective. It would also allow integration of car parking, internal access and landscaping between Stages 1 and 2 of "Riverside" and create a "signature" development.

The Employment Lands Investigation highlights the importance of retaining industrial land, in particular large lots, to make provision for future industrial developments. Given the location of the land and its relationship to surrounding development, it is unlikely that the land would be developed for "conventional" industrial landuses but higher order uses that are permissible in 4(a). The proposal offers significant local employment opportunities in an accessible location and bulky goods retail activities would enjoy synergies with other landuses in the area (furniture stores etc).

The best way to achieve the intended planning outcome and ensure development is compatible with overall planning objectives would be the preparation of an enabling clause to allow bulky goods retail as a component of the overall Riverside Park, with a limitation on floor space of 12,500m<sup>2</sup> (the applicant has stated that Riverside Stage 2 intends to provide for bulky goods retail floor area of 12,215m<sup>2</sup>). This would ensure that the opportunities for developments that may compromise other centres (eg conventional office, retail, etc) could not be developed on the land, however the positive aspects of the overall Riverside proposal (ie employment generation, cohesive urban design, "signature" development) could be achieved.

## **Part 2 Explanation of Provisions**

### ***s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument.***

The objectives/intended outcomes are to be achieved by amending planning provisions to enable the establishment of bulky goods premises on the land, subject to a limitation on floor space of 12,500m<sup>2</sup> through listing the land in Schedule 1 of dLEP 2009 or alternatively the creation of new clause in the Gosford Planning Scheme Ordinance. Reliance will be made on the Standard Instrument definition of bulky goods premises which is:

"a building or place the principle purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, and
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire

and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire of display of bulky goods"

Bulky goods premises are a type of retail premise, however unrestricted retailing on the site is not supported. Limiting the use to bulky goods only provides a point of difference between what would be permissible on this site and role and functioning of other centres, in particular Gosford regional centre. It is noted that a similar approach has been taken with the enabling provisions for the Home Town development to the immediate north of the site.

### ***s.55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.***

No zoning maps are required as it is proposed to retain the industrial zone, however enable bulky goods premises with a limitation on floor space. This will not be shown on the Floor

Space ratio maps however, as other uses permissible proposed under DA 40353/2011 in the industrial zone will be co-located on the site. The limitation on floor space for the bulky goods component of the development will be listed in the amending clause (NB: there is no mapped building height for the IN1 zone).

### **Part 3 Justification**

***s55(2)(c) The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).***

#### **Section A Need for the Planning Proposal**

##### **1 Is the Planning Proposal a result of any strategic study or report?**

No. It is noted that the *Employment Lands Investigation* generally is not supportive of the loss of industrial land, particularly large sites. It also recommends that bulky goods be discouraged within industrial areas, and supports dLEP 2009's prohibition of bulky goods in the IN1 zone.

This site, however, is somewhat unique and has a bulky goods development (Home Town) located to the immediate north (made permissible by an enabling clause) and 3(b) land zoned for business purposes to the immediate south. In this section of Manns Road, traditional "industrial" use is somewhat compromised by a number of more commercially orientated activities such as home and building supply outlets, large "retail" type uses associated with the bulky goods development, self storage (located on the subject land) and the like. Although these uses are permissible in the 4(a) zone, they are not "conventional" industrial uses. Support of this enabling clause could relieve pressure on other less compromised industrial areas to accommodate this form of development.

Rezoning the site to a business zone and allowing unregulated retail and business activities would be inconsistent with the draft *Gosford Centres Strategy*. Use of enabling provisions for bulky goods premises on part of the site, whilst other uses on the site remain consistent with its 4(a)/IN1 zoning, is considered reasonable given the unique location of the site, positive economic benefits and employment generation and the opportunity for a clustering of bulky goods premises, together with cohesive urban design and integrated development over the whole of the site.

It is also noted that it is planned to review West Gosford retail centre in 2012/13. This review is primarily aimed at reviewing the retail centre and surrounding residential lands in accordance with the Central Coast Regional Strategy (CCRS). Given the significant roadwork intersection improvements proposed by Roads and Maritime Services (that now incorporates the RTA) there may be a need for a wider review of landuses, including adjoining business and industrially zoned land and given the heightened profile of the intersection hub as a gateway to Gosford regional centre. Given the lead time to complete the roadworks and consequential review, it is inappropriate to defer consideration of this Planning Proposal until that time.

##### **2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?**

The amended Planning Proposal as proposed by Council is the best means of achieving the objectives/intended outcomes as "enabling provisions" to allow bulky goods whilst retaining the 4(a) zone would allow those compliant uses (Masters

Buildings Supplies and self storage units, together with Gibbens Industries) to remain. "Edge effects" occur when there is a lack of distinction between zone boundaries due to a similarity of landuses and adjoining land is pressured to be rezoned to a "higher" zone with a commensurate increase in land value. If the land were rezoned to a business zone, this could have the effect of extending "edge effects" between industrial and business zones further along Manns Road.

Bulky goods premises are permissible in the B5 zone, however this zone is not suitable for the site given that once rezoned, there would be very little control on the range of commercial and retail uses that could be established on the land, and the adverse effect that this would have on Gosford Regional Centre and other centres.

Equally, it would not be appropriate to allow bulky goods premises as a permissible use in the IN1 zone. This could significantly undermine the employment opportunities offered by industrial lands, lead to a loss of local industry and be inconsistent with state planning directions.

It is noted that no other B zones under the Standard Instrument (SI) template would be appropriate. The following hierarchy of B zones has been established that aligns with Council's draft Centres Strategy:

- B1 Neighbourhood Centre* - used for small nodes and neighbourhood centres
- B2 Local Centre* - used for larger centres such as villages (eg Avoca, Kincumber, Terrigal, Lisarow, etc) and town centres (Erina and Woy Woy)
- B3 Commercial Core* - used for Gosford Regional centre city core
- B4 Mixed Use* - used for land surrounding Gosford Regional core, with a significant residential and mixed use component
- B5 Business Development* - used for existing 3(b) land which both complement and provide services to more major retail areas
- B6 Enterprise Corridor* - used for key corridors around the City Centre

Other zones under the SI template that could be available include:

- B7 Business parks* - the objectives of this zone are aligned to office uses, which would detract from Gosford Regional Centre, and office premises are mandated as being permissible. It does not align with either the locational characteristics of the site or the overall proposed development (being a mix of permissible uses in industrial zones and bulky goods). SEPP 22 could also then apply
- B8 Metropolitan Centre* - this zone can only be used in the local government areas of the City of Sydney and North Sydney
- IN2 Light Industrial* - the objectives of this zone are aligned to light industrial uses and activities which support industry and centres. Neighbourhood shops are mandated as being permissible. Whilst the zone could be crafted to allow bulky goods premises, its objectives are not consistent with this. In general terms, industrially zoned land should not be sterilised by bulky goods premises and its "crafting" for this purpose and use on this site might sterilise other opportunities to use this zone in the future for light industrial activities. It would also detract from the desire to create zoning and development consistency across local government areas as envisaged under the SI Instrument LEP.

As such, the Planning Proposal for an enabling clause for bulky goods is considered the best means of achieving the intended outcomes.



### 3 Is there a net community benefit?

***Will the LEP be compatible with agreed State and Regional strategic directions for development in the area?***

All of the land to the north of the Central Coast Highway (including 3(b) immediately fronting the Highway) and industrial zoned land along Manns Road at West Gosford are identified as Employment Lands in the Central Coast Regional Strategy (CCRS). The preparation of an enabling clause would not be inconsistent with CCRS as the land would be retained for employment generating uses in an industrial zone.

***Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?***

Yes. The land forms part of an employment lands corridor at West Gosford under CCRS.

***Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?***

Rezoning the land to a business zone could create a precedent for other industrially zoned lands and could result in requests for more rezonings along Manns Road, with a business zoning having a perceived higher land value and increased range of permissible "higher order" uses. This is of particular concern in relation to the future of the existing Bunnings store, which is considered a key industrial site. An enabling clause, for the subject site, however, can be supported given the history of zoning in the locality and the relationship to adjoining landuses. The enabling clause would "round off" landuses in this area

***Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?***

The support for an enabling clause on this site has to some extent been precipitated as a result of Council's previous decision to support an enabling clause on the Gosford Home Town site. There are no other spot rezonings in the locality. From a landuse planning perspective, speculative spot rezonings that are not supported by a strategy are not advocated. In this instance however, due to the site's unique location, an enabling clause with a limitation on floor area of the bulky goods component can be supported. This is consistent with the approach taken with the Gosford Home town site to the immediate north.

***Will the LEP generate permanent employment generating activity or result in a loss of employment lands?***

The applicant has indicated that the current employment generation from the site is 130 jobs however the proposed rezoning would result in a total of 550 jobs. Although the loss of large industrially zoned lots is of concern (as highlighted in the Gosford Employment Lands Study) in this case it can be supported given the unique location of the land (note: 67% of the approved uses on the land are permissible under the industrial zone). The applicant has not stated the basis for the number of expected jobs, and it is not known what component of this would be attributable to the bulky goods premises.

***Will the LEP impact on the supply of residential land and therefore housing supply and affordability?***

No, the LEP does not relate to residential land.

***Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is***

***public transport currently available or is there infrastructure capacity to support future public transport?***

Existing public infrastructure is capable of supporting the development. The nature of the use (both under DA 40353 and for bulky goods premises) is less conducive to public transport and pedestrian/cycling access, however is well located in terms of vehicular access.

***Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of green house gas emissions, operating costs and road safety?***

The site is located within an established urban area with good connectivity to areas of residential population. The enabling clause is considered satisfactory in this respect.

***Are there significant Government investments in infrastructure, or services in the area whose patronage will be affected by the proposal? If so what is the expected impact?***

There are no significant government infrastructure investments that would be affected by the proposal. Future development and that proposed under DA 40353 is to be designed to align with the major intersection upgrade of Brisbane Water Drive/Central Coast Highway/Manns Road.

***Will the proposal impact on land that the Government has identified as needed to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?***

Part of the site is identified as containing wetlands under State Environmental Planning Policy No 14 - Coastal Wetlands (see discussion below) and some parts also identified as being below the 1% AEP flood event. Given that the land is already within a 4(a) zoning, the enabling clause does not raise any significant issues in terms of environmental affects and this issue can be considered at the DA stage.

***Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?***

The bulky goods component of the development (by way of enabling provisions) will be satisfactory having regard to surrounding landuses. There are opportunities to improve the public domain through a co-ordinated approach to design over the entire Riverside project (Stage 1 fronting Central Coast Highway [already constructed] and Stage 2 [as per approved DA and with bulky goods component]).

***Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?***

The proposal will allow for additional bulky goods premises which will foster choice and competition in the immediate area.

***If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?***

The proposal is not a stand-alone proposal, but will allow the integration of bulky goods premises into the overall redevelopment of the site, that is mostly compliant with the provisions of the 4(a) zone.

***What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?***

The enabling clause will add to a cluster of bulky goods retailing and result in an integrated approach to the design of the overall Riverside site. It is considered to be in the public interest.

## **Section B Relationship to strategic planning framework**

### **4 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?**

The Central Coast Regional Strategy 2006 – 2031 (CCRS) is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of jobs. This Planning Proposal to allow a bulky goods premises component within the overall Riverside (Stage 2) development is consistent with the following objectives/actions contained within the Regional Strategy for the reasons specified:

- promote economic and employment growth to increase the level of employment self containment and achieve employment targets as stated by the applicant (Action 5.1)
- the LEP for an enabling clause is consistent with the CCRS and related employment capacity targets and the distribution will reflect the centres hierarchy (Action 5.2). (Note: rezoning to B5 would not be consistent with CCRS and would affect the established centres hierarchy).

The Planning Proposal is inconsistent with Action 5.9 which states "ensure bulky goods retailing is not located on industrial land and is located within centres and nominated nodes". The enabling clause will however enhance the clustering of bulky goods in this location at West Gosford to form a node, and will be supplementary to the compliant uses proposed under DA 40353. As such, this inconsistency is considered justifiable.

### **5 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?**

If rezoned to B5 as requested by the applicant, the proposal would result in an area of 7.6 ha of new business zoned land located away from existing centres, which would not be consistent with the Gosford 2025 – Community Strategic Plan (CSP).

However, a Planning Proposal for an enabling clause for bulky goods premises with a limitation on its floor space would be consistent with the CSP which incorporates a number of strategies, including the draft Gosford Centres Strategy. An enabling clause would be generally consistent with the CSP by enhancing the character of the area by good design (A4.1), increasing and broadening the range of local jobs across existing employment sectors (C1.3) and providing a framework for business growth (C2.1).

### **6 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?**

The following assessment is provided of the relationship of the amended Planning Proposal to relevant State Environmental Planning Policies. SEPPs are only discussed where applicable. The amended Planning Proposal to enable bulky

goods premises with a limitation of floor area of 12,500m<sup>2</sup> whilst retaining the primary industrial zone is consistent with all other SEPPs or they are not applicable.

- (i) **SEPP 14 Coastal Wetlands** - An area of approximately 12,000m<sup>2</sup> has been mapped as wetland under SEPP 14 Coastal Wetlands (No. 921) in the north eastern section of the site. When compared with aerial photography of the site, the majority of this area has been disturbed and contains building and extensive earthworks and only approximately 2000m<sup>2</sup> appears to be intact vegetation. The inconsistency between the maps and actual site conditions has been investigated by the Department of Planning & Infrastructure of NSW (DoPI) under Development Application 90353/2011 on this site for Masters Home Improvement Centre. The DoPI in its letter of 24 May 2011 confirmed that filling and disturbance of the vegetation occurred in the early 1980s prior to the gazettal of SEPP 14.

The DoPI also advise that the wetlands in Gosford Local Government Area will be reviewed as part of a current program to improve the accuracy of SEPP 14 mapping in line with their electronic planning project. This wetland (No. 921) will be reassessed as part of this exercise.

The identification of part of the land in SEPP 14 is not considered to be an impediment to the preparation of the enabling clause and additional building works can be located so as to avoid the undisturbed area.

- (ii) **SEPP 19 Bushland in Urban Areas** - the land adjoins a reserve fronting Narara Creek. This SEPP requires that when preparing a draft LEP on land to which this SEPP applies, then Council shall have regard to the general and specific aims of the SEPP and give priority to retaining bushland. The dLEP for an enabling clause for bulky goods is not inconsistent with the general and specific aims of the SEPP as it is not expected that any further effects would occur on the adjoining land than if the land were developed in accordance with its 4(a) zoning.
- (iii) **SEPP 22 - Shops and Commercial Premises** - this SEPP allows the change of a lawful use of one kind of commercial premise to another, or to a shop, or a shop to a commercial premise even if prohibited in the zone. Certain types of change of use are also exempt development under dLEP 2009 to align with the SEPP (Exempt and Comply Development Codes) 2008. The provisions of these SEPPs have the effect of essentially undermining the distinction between the existing 3(a) and 3(b) zones, and would equally apply to "B" zones under dLEP 2009. For this reason, rezoning to B5 is not supported as it could potentially result in a range of small shops that would detract from the established centres hierarchy under the draft Gosford Centres Strategy.
- (iv) **SEPP 55 - Remediation of Land** - requires that when a planning instrument is being prepared, a planning authority (eg council) is required to consider whether land is contaminated, and if so, is suitable in its contaminated state for the proposed use, or that remediation can be undertaken to make it suitable for its proposed use. The operations of Gibbens Industries does not appear to give rise to concerns that the land may be contaminated. The use does not clearly fall within activities listed in "Table 1: Some Activities that may Cause Contamination" of Managing Land Contamination Planning Guidelines. The proposal does not propose to rezone the land allow residential, educational, recreational, childcare purposes or a hospital. The site is not identified in Council's records as a known contamination site, a known

remediation site or a potentially contaminated site. As the proposal involves the inclusion of an additional use (bulky goods premises) within the existing industrial zone it is not inconsistent with SEPP 55.

- (v) **SEPP 71 - Coastal Protection** - the land is within the boundary of SEPP 71 and at least two thirds of it is identified as being sensitive land. The broad aim of the SEPP is to ensure the effective management and protection of coastal areas and encourage a strategic, comprehensive approach to coastal management and development. It also requires in some circumstances referral of applications to the Director-General and the preparation of Masterplans in certain circumstances. It also sets out a range of matters for consideration, including public access, suitability of development, detrimental effects, scenic qualities, measures to conserve animals and fish and wildlife corridors, effects on coastal processes, cultural values, and water quality and for rezonings, the means to encourage compact cities and towns. The land is already within an existing urban (industrial) zone, and the addition of bulky goods premises as a permissible use on this land would not raise any significant issues having regard to the provisions of the SEPP.
- (vi) **SEPP (Major Development) 2005** - although this SEPP has application to DA 40353/2011, it does not relate to the bulky goods component of Riverside that would be allowed by this amended Planning Proposal.
- (vii) **Draft SEPP (Competition) 2010** - the aims of this SEPP are to promote economic growth and competition, and to remove anti-competitive barriers in environmental planning and assessment. Its requirements mean the commercial viability of proposed commercial development is not a matter to be taken into consideration for the purposes of determining a Development Application. It also requires that a restriction in an Environmental Planning Instrument (EPI) or DCP on the number of a particular type of retail premises in a development or in an area does not have effect, nor does a restriction on proximity to other developments. However, it does not apply to any restriction that relates to the scale of development and as such, the limitation on floor space of the bulky goods component is not inconsistent with the provisions of the SEPP.
- (viii) **Other SEPPs:** No other SEPP has application to this Planning Proposal, although any future development application on the land may be required to consider other SEPPs as may relevant at the time.

## 7 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to Planning Proposals lodged after 1st September 2009. S117 Directions are only discussed where applicable. The Planning Proposal as amended to allow bulky goods premises with a limitation of floor space whilst retaining the primary industrial zone is consistent, with all other S117 Directions or they are not applicable.

- (i) **1.1 Business and Industrial Zones** - this direction applies when a planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any boundary between the two). A Planning Proposal must: give effect of the objectives of this direction, retain the areas and location of business and

industrial land, not reduce total floor space for employment generation within business zones, not reduce the total potential floor space for industrial uses in industrial zones and ensure any new employment areas are in accordance with a strategy. The Planning Proposal would be inconsistent with this direction if the land were to be rezoned to B5. The preparation of the enabling clause for bulky goods premises, with a limitation on the floor space of bulky goods, to some extent overcomes the inconsistency with this direction. It means that the residue of the land can still be used for uses compliant with the 4(a) zoning as proposed under DA 40353/2011 and that the floor space for compliant industrial component will not be reduced. It also means that the zone boundary between the business zone and industrial zone will not change and as such the inconsistency is considered to be minor and considered to be justified.

- (ii) **2.2 Coastal Protection** - this direction applies with the objective of implementing the principles of the NSW Coastal Policy. The land is within SEPP 71 and as such this direction applies. Given that the amended Planning Proposal involves allowing the use of part of the site for bulky goods premises, whilst retaining the 4(a) zone there are considered to be no inconsistencies with this direction.
- (iii) **2.3 Heritage Conservation** - this direction applies when a relevant planning authority (Council) prepares a Planning Proposal and requires that the Planning Proposal must contain provisions that facilitate the conservation of heritage items, aboriginal objects, places and landscapes either protected by the National Parks and Wildlife Act or identified through an aboriginal survey. No survey was undertaken for aboriginal items and given the disturbed state of the land and its previous uses, and that the amended Planning Proposal is allowing an additional use of existing industrially zoned land, it is considered unlikely that any aboriginal relics exist on the land and the amended Planning Proposal is consistent with this direction.
- (iv) **3.4 Integrating Landuse and Transport** - this direction requires a Planning Proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with aims, objectives and principles of *Improving Transport Choice - Guidelines for planning and development* (DUAP 201) and *the Right Place for Business and Services - Planning Policy* (DUAP 2001). The land is located within an existing urban area and enjoys a high level of accessibility in terms of the arterial/regional road network, and is considered consistent with this direction.

Council's Traffic Planner has reviewed the application and advised that further information may be required to support future development applications in relation to internal traffic and functioning, pedestrian and cyclist circulation and access and relationship to the improved arterial road network. Given the approval DA 40353 by the JRPP, this further Traffic Report would need to consider how the bulky goods component can integrate with approved developments.

- (v) **4.1 Acid Sulfate Soils** - this direction contains a number of considerations in relation to acid sulphate soils (ASS) and requires that where there is proposed to be an intensification of land use that an acid sulfate soils study has been undertaken. Approximately half the site is identified as containing Class 2 ASS where works below the ground surface or where the water table is likely to be lowered could affect ASS. Council's Environmental Officer has advised

that although no issues are raised in terms of Clause 7.8 of the Draft LEP 2009 consideration of ASS may need to be given at future DA stages. The enabling clause will not further exacerbate issues associated with ASS as the land is already zoned to allow development in the existing 4(a) zoning. The proposal is not inconsistent with this direction.

- (vi) **4.3 Flood Prone Land** - this direction requires that a Planning Proposal must be consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005. A small part of the site adjoining Narara Creek is below the 1% AEP flood line. Support for an enabling clause will not exacerbate the effect of flooding than that which would occur if the land were developed in accordance with the current zoning (ie industrial purposes or other uses permitted in the 4(a) zone. Effects on flooding could be satisfactorily addressed at the Development Application stage.
- (vii) **4.4 Planning for Bushfire Protection** - this direction applies when a planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land and gives effect to *Planning for Bushfire Protection 2006*. A very small section of the site in the north east corner is identified as Category 2 and land identified as buffer contained along the periphery of the eastern and part of the southern boundaries. In relation to the buffer along the southern boundary, it is noted the vegetation that would give rise to mapping the land as buffer has now been removed, and is occupied by the Riverside commercial building. Council is required to consult with the Rural Fire Service following receipt of a gateway determination. The Planning Proposal would be consistent with this direction and the determination of Asset Protection Zones (APZ) would be determined as part of any further development application.
- (viii) **5.1 Implementation of Regional Strategies:** Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure.

Gosford Regional Centre is identified as the capital of the Central Coast. Hence, any Planning Proposal that would detract from growing Gosford Regional Centre, such as zoning the site to a "B" zone is not supported. However, the enabling clause for bulky goods premises (in conjunction with the other 4(a)/IN1 compliant activities on the site) results in better built form outcome, encourages competition and would not act as a precedent for rezoning other lands given the unique circumstances of this site. As such the amended Planning Proposal is considered to be consistent with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031.

- (ix) **6.1 Approval and Referral Requirements:** Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development. This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.
- (x) **6.3 Site Specific Provisions:** The Planning Proposal is inconsistent with this Direction as although it will allow the bulky goods premises component of the overall Riverside development on the land, it intends to restrict the floor area component of the bulky goods to 12,500m<sup>2</sup>. This inconsistency is considered to be minor and justified as it will ensure the overall integrity of the industrial zone is not compromised and the limitation on floor area is essential to

achieve a sound planning outcome given the unique circumstances of the case (ie, situation of the land and relationship to surrounding zones, continuing industrial activities [Gibbens Industries] and approved uses compliant with an industrial zoning).

Given the above information, the amended Planning Proposal is considered to be consistent, or any inconsistencies justified, with relevant S117 Directions.

### **Section C Environmental, social and economic impact**

**8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

Council's Environmental Officer has advised that the proposal will not result in a significant impact on threatened species, populations, ecological communities or their habitats.

**9 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

An inspection of the site confirmed that the vegetation is consistent with Bells mapping adopted by Council and the extent of SEPP 14 wetland is not as extensive as that shown on the SEPP 14 wetlands map. SEPP 19 - Bushland in Urban Areas and SEPP 44 Koala Habitat Protection have been considered and the proposal is compliant in terms of these planning policies. As required by Council's Environmental Officer, the Planning Proposal has also formally considered and provided commentary on SEPP 14 – Coastal Wetlands SEPP 55 – Remediation of Land (see *discussion above*).

No objection is raised by Council's Environmental Officer in terms of impacts on the natural environment.

**10 How has the Planning Proposal adequately addressed any social and economic effects?**

The amended Planning Proposal should not detract from the economic viability of Gosford Regional Centre or other retail centres and will encourage a greater diversity of bulky goods premises in this area. The Planning Proposal raises no significant issues from a social perspective.

### **Section D State and Commonwealth interests**

**11 Is there adequate public infrastructure for the Planning Proposal?**

Some issues have been raised from a transport planning perspective as they relate to proposed major road improvements. These include the impacts on the intersection upgrading, possibility of traffic attempting to take a short cut route through the site (between Central Coast Highway/Yallambee Avenue and Manns Road), impacts on pedestrians and cyclists on Manns Road, and storage capacity for the right turn lane into the overall Riverside site from the Central Coast Highway, opposite Yallambee Avenue. These issues may need to be further addressed at the development application stage for the bulky goods component of the development, given that DA 40353 has been approved. The Gateway would determine the need



to formally consult with Roads and Maritime Services (which now incorporates the former RTA).

**12 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?**

No consultations have yet been undertaken with State and Commonwealth agencies as the gateway determination has not yet been issued.

**Part 4 Community Consultation that is to be undertaken**

***S55(2)(e) Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.***

Subject to Gateway support, community consultation will be undertaken in accordance with Gateway's requirements and Council's procedures to ensure the community is informed about the Planning Proposal.

**ATTACHMENT 1: Planning Proposal Process Flowchart (DOP&I extract)**

**ATTACHMENT 2: Existing Zones and Locality**

**ATTACHMENT 3: Extent of Mapped SEPP 14 Wetland**

**ATTACHMENT 4: Extent of Mapped Significant Vegetation**

**ATTACHMENT 5: Extract of Acid Sulfate Planning Maps**

**FINANCIAL IMPACT STATEMENT**

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

**CONCLUSION**

Large industrially zoned lots are scarce and should be retained to encourage large-scale industrial developments.

The Riverside development is located on land zoned both 3(b) and 4(a) which translates to B5 and IN1. Rezoning the IN1 component to a business zone (3(b) or B5) is not supported due to the effect that this would have on other centres, the loss of industrially zoned land and precedential effect for other industrial land.

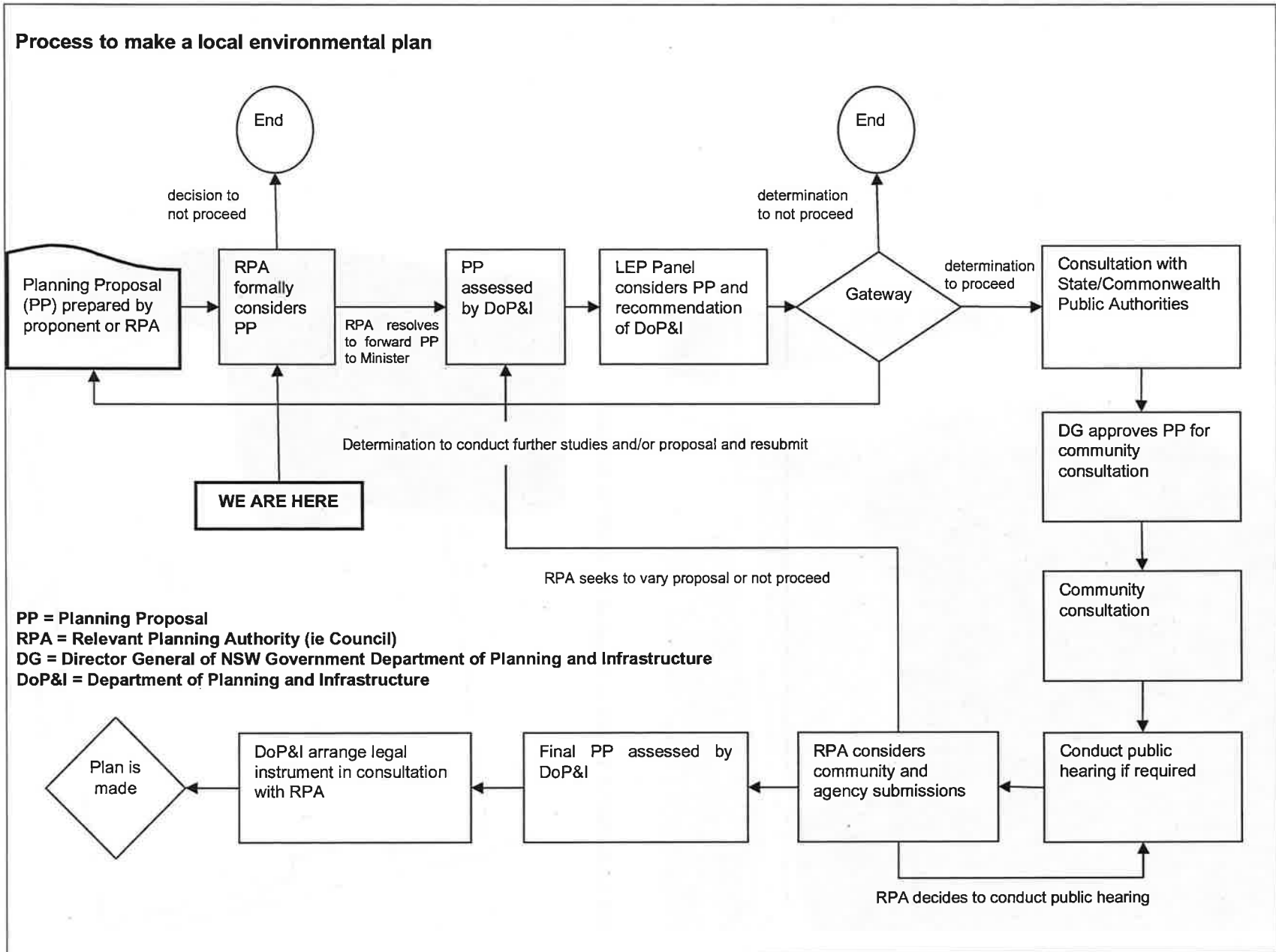
DA40353 has been approved which allows uses consistent with an industrial zone but does not include a bulky goods component. By limiting the amount of floor space that can be developed for bulky goods premises to 12,500m<sup>2</sup>, and given the history of zoning in the locality, an enabling clause can be supported. This will encourage an integrated approach to the overall development of the Riverside site (fronting both the Central Coast Highway and Manns Road) and allow the focusing of bulky goods in this area.

Should Council wish to reconsider the matter after public exhibition where no submissions have been received the following resolution should be adopted as Part D of the recommendation: "Should Council wish to reconsider the submission after public exhibition, a report to be referred to council on the matter".

## RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal to enable land currently zoned 4(a) (comprising Lots 5/8 DP270678 and residue part Lots 1, 3 and 4 DP 270678) , Central Coast Highway and Manns Road West Gosford to be used for bulky goods premises as part of the overall Riverside development, with a total restriction on the bulky goods component of 12,500m<sup>2</sup> floor space. Once initiated, it be forwarded to the Department of Planning and Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and that Council staff prepare all necessary documentation and process the matter according to the Department of Planning and Infrastructure's directives and this report.
- B After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, and if no submissions are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.
- C The applicant be advised of Council's resolution.

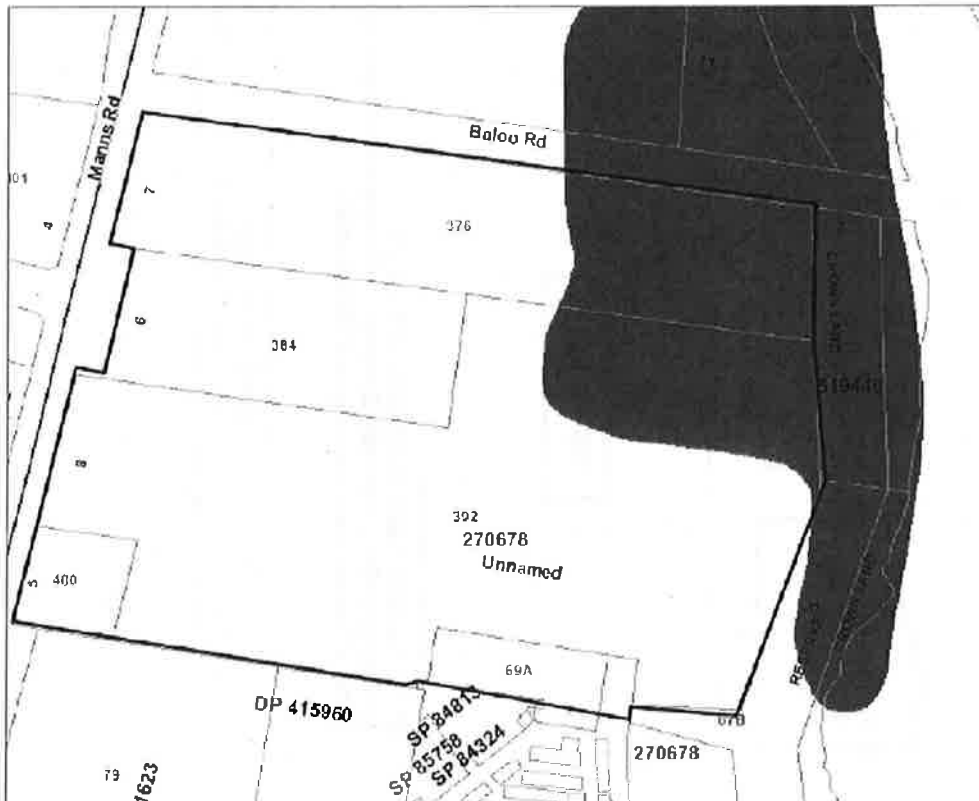
**ATTACHMENT 1 – Planning Proposal Process Flowchart (DoP&I extract) showing the stage that this Planning Proposal has Reached**



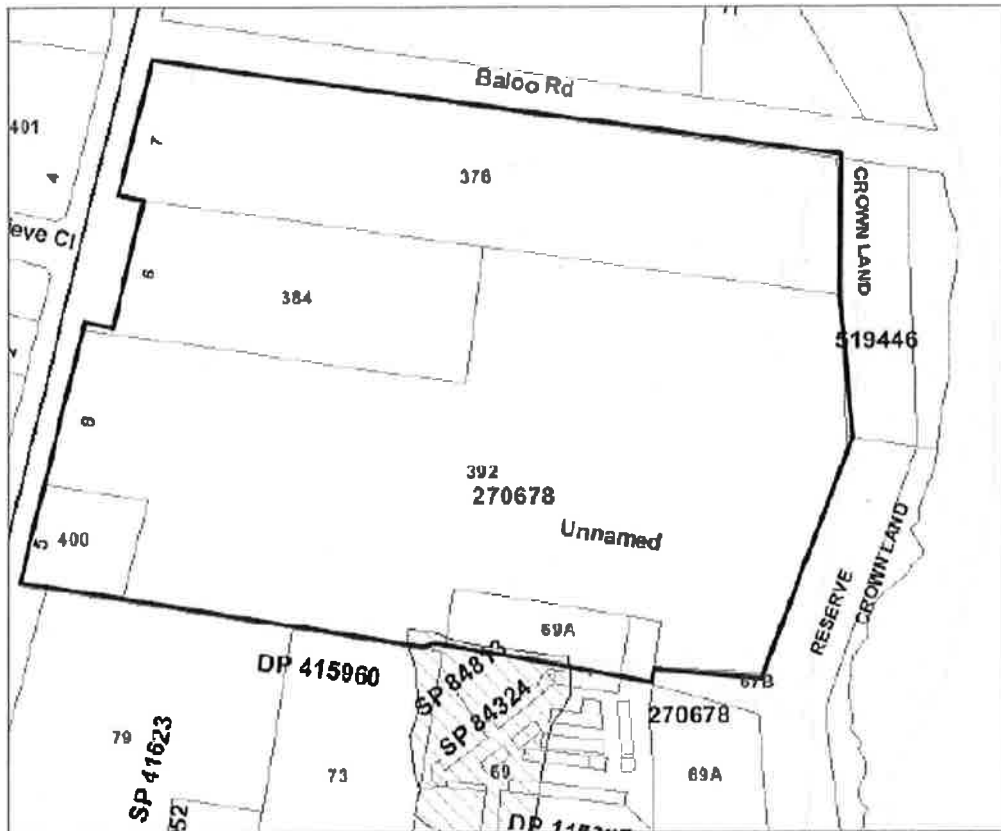
**ATTACHMENT 2: Existing Zones and Locality**



**ATTACHMENT 3: Extent of Mapped of SEPP 14 Wetland**



### ATTACHMENT 4: Extent of Mapped Significant Vegetation



### ATTACHMENT 5: Extract of Acid Sulfate Planning Maps

