

Amendment to permit Animal Boarding or Training Establishments in the 7(c2) zone

Proposal Title : **Amendment to permit Animal Boarding or Training Establishments in the 7(c2) zone**

Proposal Summary : **Amendment to IDO No. 122 to add Animal Boarding or Training Establishments as a permissible use in the 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) zone.**

PP Number : **PP_2012_GOSFO_011_00** Dop File No : **12/10511**

Proposal Details

Date Planning : **20-Jun-2012** LGA covered : **Gosford**
 Proposal Received :
 Region : **Hunter** RPA : **Gosford City Council**
 State Electorate : **GOSFORD
TERRIGAL
THE ENTRANCE** Section of the Act : **55 - Planning Proposal**
 LEP Type : **Policy**

Location Details

Street :
 Suburb : City : Postcode :
 Land Parcel : **7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) zone**

DoP Planning Officer Contact Details

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RPA Contact Details

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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 : **Central Coast Regional** Consistent with Strategy : **Yes**
 Regional Strategy : **Strategy**

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MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 (PP) relates to all land zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) under Interim Development Order No. 122 (IDO 122). The key outcome from this PP will be that horse boarding or training establishments will be permitted in the 7(c2) zone.

IDO 122 will continue to operate after Gosford's draft Standard Instrument LEP (dGLEP) is finalised (in 2012). Council had intended to rezone 7(c2) lands to Zone No. E3 Environmental Management which would have introduced the provisions that this PP seeks to introduce (i.e. 'animal boarding or training establishments' being permissible, with development consent).

However, since the dGLEP was exhibited, Council has deferred areas zoned 7(c2) and 7(a) east of the F3 Freeway for 5 years. IDO No. 122 will be maintained until a future strategic review of these lands is complete however Council is yet to set a date for the strategic review.

The current PP was prepared in response to a site-specific PP application for a Horse Riding School to be permitted by way of an enabling clause on a site at Empire Bay. However, Council has chosen to prepare a PP to add 'animal boarding or training establishments' to the 7(c2) zone, a change that they had proposed to make as part of the dGLEP.

Some employment would result from new establishments approved after completion of the PP but this is not quantified. The site-specific PP application referred to 5 part time/casual jobs for one site.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : The statement of objectives sets out what Council seeks to achieve. However, while it explains that the new term will replace two existing terms ('animal establishments' and

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'horse establishments') it would be improved by an early statement that the key landuse change from this PP will be that horse boarding or training establishments will be permitted in the 7(c2) zone.

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

Is an explanation of provisions provided? **Yes**

Comment : The explanation of provisions adequately explains how the IDO 122 would be amended so as to achieve the objectives of the planning proposal (i.e. to permit 'animal boarding or training establishments', with development consent in the 7(c2) zone).

The explanation of provisions do not state that following the finalisation of the dGLEP, IDO 122 will not have any zones that permit an 'animal establishment' or 'horse establishment'. These definitions may therefore be able to be removed depending on how the proposed deferral of the 7(a) and 7(c2) land from the dGLEP is given effect in IDO 122 (eg. whether unused definitions and provisions will be removed). Given that this has not yet been determined, this can be addressed when the LEP is drafted.

In addition to adding a new definition, Council also intends to delete an existing clause (included in the table in Clause 93 of IDO 122) that permits horse riding schools to develop on 2 specific parcels of 7(c2) land in the LGA (i.e. Picketts Valley and Bensville).

While unlikely, the possibility exists that this PP and related amendment to IDO 122 will be finalised prior to dGLEP. Council has stated that, if this occurs they do not intend to replace the existing 'animal establishment' and 'horse establishment' definition with the new definition for zones other than the 7(c2) zone.

This approach could lead to a conflict in zones where either of these uses is listed as permitted with consent in Part 2 of the landuse tables (eg. zones 1(a), 1(b), 1(c), 1(d), 2(v), 7(b), 7(c3) and 7(c4)). The conflict could arise as Part 3 of the landuse tables prohibits any development not listed as being either permissible without (Part 1) or with (Part 2) development consent. As the new term, 'animal boarding or training establishments' would not be listed in either Part 1 or Part 2 it would therefore be prohibited. If this situation does arise, it should be addressed when the amending LEP is drafted.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.2 Coastal Protection

* May need the Director General's agreement

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? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Further discussion on the s.117 Directions is provided later in the report.

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Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : The PP is to alter an existing EPI (IDO 122) by adding an additional use to the land use table, adding a new definition and deleting an existing enabling clause. No changes to mapping are required.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Community consultation is proposed by the Council for a period of either 14 or 28 days. An appropriate consultation for a low-impact proposal such as this is 14 days, particularly given that the exhibited dGLEP (exhibited for a period of 8 weeks) proposed to rezone 7(c2) lands to E3 and permit animal boarding or training establishments.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : On the basis of the above assessment, the proposal is adequate for progression to a Gateway Determination.

Proposal Assessment

Principal LEP:

Due Date : **December 2012**

Comments in relation to Principal LEP : **Proposed approach:**

If supported, the PP will

- Add 'animal boarding or training establishments' as a new definition to IDO 122,
- Amend the landuse tables for land zoned 7(c2) by replacing the term 'animal establishments' with the new, Standard Instrument term, and
- Delete an enabling clause for horse riding establishments on 2 separate sites that are already zoned 7(c2).

The proposed approach is supported as it is consistent with the objectives of moving towards Standard Instrument compliant LEPs, limiting the use of enabling clauses and provides a strategic approach to the introduction of a use that is appropriate for land zoned 7(c2).

Alternative approaches:

- A PP with a site-specific enabling clause was submitted to Council and led to this broader approach of permitting the use across the zone. An alternative would be to just proceed with the site-specific PP however this is not supported.

- IDO 122 currently includes 2 separate definitions for 'animal boarding or training establishments'; 'animal establishments' and 'horse establishments'. Council could add 'horse establishments' to the 7(c2) land use table. However, use of a Standard Instrument definition is preferable and consistent with the Governments objective of increasing consistency across EPIs.

- other approaches include maintaining the status quo until either Council undertakes a proposed 'E' zone review or the land zoned 7(c2) in IDO 122 is moved into the GLEP.

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However, as Council initiated this PP in response to an application that relates to a specific development proposal the status quo would mean that development could not proceed.

There is a minor error in Section A1 of Council's report that should be removed in the exhibited PP which states that the current PP seeks to bring forward provisions that are within the dGLEP that is with the Department for finalisation. This statement does not reflect Council's decision to maintain 7(c2) areas within IDO 122.

Assessment Criteria

Need for planning proposal :

Council's report states that the need for the PP has not been identified in any strategic study or report. However, there is obviously a demand for this use given the existing enabling clause that permits two separate riding schools and the site-specific PP application that initiated the current application.

Council has prepared a net community benefit test that the horse riding school will benefit the health and well being of the participants by providing exercise for young people who want to ride for recreational or sporting reasons, and be of therapeutic value to those with disabilities and who may benefit from the interaction with horses.

The establishment of animal breeding or training in the 7(c2) zone is compatible with the rural small holding land use and horse establishments provide a positive contribution to the region's tourism offer.

In light of the above, the need for the planning proposal is justified.

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Consistency with strategic planning framework :

Council states, that while the Central Coast Regional Strategy (CCRS) does not specifically discuss horse establishments, the PP is consistent with Action 6.21 that requires government to manage development pressure for tourist activities and their impact on natural resources and surrounding land uses. This advice is based on the fact that resource extraction is not taking place in the 7(c2) land and lot sizes are generally 1-2 hectares which is large enough to manage impacts on adjoining properties and the natural environment.

While not mentioned in Council's report the PP is consistent with the desired CCRS outcome of protecting the region's rural and resource lands for their agricultural, water supply, environmental, mineral and extractive resources, recreation and tourism opportunities because it will enable the development of the 7(c2) lands for additional recreational and tourism uses.

Council also states that the PP is consistent with its Community Strategic Plan – Gosford 2025 (local strategy) as it provides a service/activity that supports a balanced lifestyle (action A3.2) and promotes tourism in the region (action C1.4).

The Council also states that the PP is consistent with the objectives of the 7(c2) zone which include allowing non-residential uses that are compatible with rural-residential development.

State Environmental Planning Policies (SEPPs):

SEPP 19 Bushland in Urban Areas – Requires Council to have regard for the general and specific aims of the Policy, and give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland. Council states that as horse boarding or training establishments are the only additional activity that will be added to the 7(c2) zone, the PP will not lead to zone-wide environmental impacts.

As the 7(c2) zone acts as a transition between urban areas and higher value scenic or environmental conservation areas, there are many areas where horse establishments could be developed without impacting on land with high biodiversity values. SEPP 19 will also require consideration as part of any future DAs for one of these uses.

SEPP 71 Coastal Protection – requires council to consider a range of matters for development within the coastal zone. The PP is consistent with the SEPP at this stage however the SEPP would need to be considered as part of the assessment of any future development applications.

s.117 Directions:

The PP is considered consistent with the relevant s.117 directions, except for several directions which require either additional discussion or justification.

1.2 Rural zones – The PP has not discussed this direction which aims to protect the agricultural production value of rural land. The PP is considered to be consistent with this direction as it is an agricultural use that is unlikely to negatively impact on the value of agricultural production of the rural-residential areas within Gosford LGA.

2.1 Environmental protection zones – The PP has not discussed this direction which aims to protect and conserve environmentally sensitive areas. As the 7(c2) Zone is a conservation and scenic protection zone this direction will apply. As the PP does not seek to reduce the environmental protection standards that apply to the land (e.g. it does not reduce the minimum lot size in the 7(c2) zone), this PP is considered to be consistent with this direction.

4.4 Planning for Bushfire Protection – As the PP applies to bushfire prone land (i.e. Bushfire Category 1 and 2 and Buffer), consultation would need to occur before consistency with this direction can be determined. Council has however cited that the RFS did not object to their proposal to introduce 'animal boarding or training establishment' to the dGLEP (including the 7(c2) zone) when it was placed on public exhibition.

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Environmental social
economic impacts :

Council identifies that:

- while the 7(c2) zoned area consists of land that has been primarily cleared of native vegetation, there are still remnant stands of vegetation and regrowth,
- stands of mature trees provide habitat for threatened and non-threatened fauna species and play a role in the scenic protection of the local area, and
- given the satisfactory retention and protection in the zone the PP will not lead to a significant impact on threatened species, populations, ecological communities or their habitats.

The applicant for the site-specific PP that initiated the current PP stated that it would be a low scale tourist use that would create five part time/casual jobs for young people when the development is completed and operational. Similar benefits are likely to be achieved from the development of other horse boarding or training establishments elsewhere in the 7(c2) zone.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority **NSW Rural Fire Service**
Consultation - 56(2)(d)

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.pdf	Proposal Covering Letter	Yes
Council_resolution.pdf	Proposal	Yes
Planning_proposal.pdf	Proposal	Yes

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Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones**
 2.2 Coastal Protection
 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 recommended that the PP be allowed to progress with the following conditions:**

- Council to amend the Statement of Objectives to include a statement that the key landuse change from this PP will be that horse establishments will be permitted in the 7(c2) zone;
- Council to correct a minor error in Section A1 of the current PP so that it reflects Council's decision to maintain 7(c2) areas within IDO 122;
- Consult with the RFS per s.117 Direction 4.4;
- 14 day community consultation; 6 month timeframe.

Supporting Reasons : **Justification**
 - Clarify the key outcome of this PP, up front.
 - Will correct a minor error in the report.
 - Consult with RFS to satisfy s.117 Direction 4.4.
 - Community consultation and LEP timeframes suggested are appropriate for a minor PP such as this.

Signature:

G HOPKINS

Printed Name:

GARRY HOPKINS

11.7.2012