

Planning Proposal to rezone land from 5(a) Special Uses (Club) to a zone that permits commercial development.

Proposal Title :	Planning Proposal to rezone land from 5(a) Special Uses (Club) to a zone that permits commercial development.		
Proposal Summary :	To rezone Lot C DP 344413, 18 Ilya Avenue, Erina from Zone No. 5(a) Special Uses (Club) to allow part of the site to be redeveloped for a mixed use development comprised of a club, retail and commercial uses.		
PP Number :	PP_2012_GOSFO_013_00	Dop File No :	12/11474

Proposal Details

Date Planning Proposal Received :	10-Jul-2012	LGA covered :	Gosford
Region :	Hunter	RPA :	Gosford City Council
State Electorate :	TERRIGAL	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	18 Ilya Avenue		
Suburb :	Erina	City :	Postcode : 2250
Land Parcel :	Lot C DP 344413		

DoP Planning Officer Contact Details

Contact Name :	Robert Hodgkins
Contact Number :	0243485004
Contact Email :	robert.hodgkins@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Brian McCourt
Contact Number :	0243258260
Contact Email :	brian.mccourt@gosford.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha)		Type of Release (eg Residential / Employment land) :	
No. of Lots :	1	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	339

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

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : **The PP relates to Lot C DP 344413, No. 18 Ilya Avenue, Erina which is a 3.445 hectare site that is currently developed for the purpose of a registered club (Erina Leagues), archery range and archery club house.**

The PP seeks to rezone the site from Zone No. 5(a) Special Uses (Club) to Zone No. 3(b) Business (Special) under the Gosford Planning Scheme Ordinance (GPSO). If supported, the applicant proposes to redevelop the site for a mixed use development consisting of commercial (including a sports medicine precinct and motel), retail, a gymnasium/recreation facility (including a pool) and a club.

Council's draft Standard Instrument Local Environmental Plan (SILEP) proposed to rezone the subject site to RE2 – Private Recreation. Council will soon consider whether post-exhibition changes (e.g. addition of a new E zone and biodiversity map overlay) warrant re-exhibition of the SILEP. Depending on the timing of this PP, the rezoning of the site could be achieved via either amending the GPSO or the SILEP. The PP should allow for either scenario to occur without a need for an amended gateway determination.

Council has resolved to require additional ecological and flooding information and that this is to form the basis for the zoning and development controls that will apply to the 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 if the PP amends the GPSO e.g. rezone the subject site from 5(a) Special Use – Club to 3(b) Business (Special) to facilitate the redevelopment of the site for a mixed use commercial, retail and club facility.**

Given that the intention of the PP could be achieved by either amending the GPSO or the SILEP, the statement of objectives should be amended to:

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- State that the key landuse change that will result from the PP is to rezone the subject site from a Special Use (GPSO) or Private Recreation (SILEP) zone to a commercial zone to enable part of the site to be redeveloped for a mixed use commercial, retail and club facility in buildings that range from 2-6 storeys in height.

- Reflect additional changes that could be required as a result of the proposed biodiversity, flooding and servicing investigations e.g. this could include an objective to rezone part of the site to reflect the ecological and flooding characteristics of the site.

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

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

Comment : The explanation of provisions states that the proposed instrument will rezone the site to 3(b) Business (Special) under the GPSO. It also clarifies that :

- GPSO Clause 29(B)(2) sets a Floor Space Ratio (FSR) of 1:1 for the 3(b) zone and Clause 30B(2) requires Motel development to provide 35% of the site area for open space.
- No height limit applies to the 3(b) zone under the GPSO.
- If the PP is supported and the site rezoned to 3(b), the site would be rezoned to B5 – Business Development under the SILEP.

The explanation of provisions should be amended to:

- State that the rezoning could be achieved via an amendment to the GPSO (i.e. the current PP, 5(a) to 3(b)), or as an amendment to the SILEP (i.e. RE2 Private Recreation to B5), depending on timing.
- Reflect any additional changes required as a result of the proposed biodiversity, flooding and servicing investigations e.g. this could include an objective to rezone part of the site to either 9(a) Restricted Development (Flood Prone Land) under the GPSO or E2 under the SILEP.
- Identify the height and FSR controls that would be applied to the site under the B5 zone.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 7.1 Implementation of the Metropolitan Plan for Sydney 2036

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

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

d) Which SEPPs have the RPA identified?

- SEPP No 19—Bushland in Urban Areas
- 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 several SEPPs and s.117 Directions is required and is provided**

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later in the report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has provided a package of maps to support the PP. Once Council has determined the proposed zoning for the site (i.e. after the additional investigations), the maps should be updated to confirm the proposed zoning and zone boundaries under the GPSO and the SILEP.**

To improve clarity, the maps should also include a boundary around the subject site so that it can be easily identified (e.g. similar to the site boundary on the notification map).

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Community consultation is proposed for a period of 28 days which is an appropriate consultation period for a proposal such as this.**

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 : **Council resolved to rezone the subject site from 5(a) to 3(b) under the GPSO, however it could also be achieved via an early amendment to the SILEP. While an amendment to the GPSO now appears to be the most likely way that the rezoning will be achieved, the PP should allow for both scenarios.**

Assessment Criteria

Need for planning proposal : **Council has supported redevelopment of part of the site for a mixed use development on the basis of:**

- The reported economic and social benefits of the proposal (discussed later in the report),**
- The expected benefits to the Erina Town centre e.g. supports its role as a Town Centre, increased level of economic activity/diversity and urban design benefits to the immediate locality, and**
- The applicant's assertion that the rezoning and subsequent redevelopment of the site will ensure the ongoing viability of the existing club.**

The need for the PP is justified.

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Consistency with strategic planning framework :

Local and Regional Strategies:

Council states that the PP is consistent with its draft Gosford Centres Strategy (local strategy) that was prepared to support the SILEP. That strategy states that land surrounding the Erina centre (i.e. defined in the centres strategy as being Erina Fair) should be zoned B5 (SILEP equivalent to 3(b) under the GPSO).

Council states that the PP is consistent with the Central Coast Regional Strategy (CCRS) as it will help Council to meet the regional employment targets, compliment the expected population growth and is within the Erina Town centre. The PP will also support economic and local employment growth (Action 5.1) and ensure that new retail and commercial development is located in centres (Action 5.11).

Council also states that the PP is consistent with its Community Strategic Plan – Gosford 2025 (local strategy) as it will ensure the ongoing viability of the existing club (i.e. maintain community connections), increase security/surveillance on adjoining sports fields, protect the site's environmental characteristics and have the reported economic benefits.

SEPPs and s.117 Directions:

Council has stated that, if the PP is supported by the Gateway, it will request that the applicant provide additional information related to biodiversity, servicing and flooding for inclusion in a site-specific Development Control Plan (DCP) and determination of the zone boundary. It is therefore unclear whether the PP is consistent or inconsistent with several SEPPs and Directions at this time.

For each of the SEPPs/s.117 directions discussed below, Council is to satisfy itself regarding whether the PP is consistent or inconsistent with them, seek the agreement of the Director General of the Department (the DG) where appropriate and update the PP accordingly.

Further discussion on these is provided below:

SEPPs:

SEPP 19 Urban Bushland – Council states that the PP is consistent with the SEPP on the basis that:

- The change in zoning will not change the potential for disturbance to bushland that exists under the current zone, and
- Council intends to prepare a site-specific DCP that will aim to protect urban bushland.

Given that the potential impact on urban bushland is not likely to be known until the zoning plan and DCP are prepared, it is not possible to determine consistency with this SEPP at this time. Council should reconsider whether this PP is consistent with this SEPP once they have determined the provisions that will apply to the site.

SEPP 55 Contaminated Land - Requires consideration of contamination issues when rezoning land and includes specific provisions where uses such as a childcare centre are proposed, as it is in this instance. Council has stated that, as the site has been zoned for club related development for over 35 years there is minimal potential for hazardous contamination. While this issue will be considered at the DA stage, it appears that Council has not undertaken a preliminary (Stage 1) assessment in accordance with Managing Land Contamination Planning Guidelines, SEPP 55 - Remediation of Land.

S.117 Directions:

1.1 Business and Industrial Zones requires that PPs must ensure that new employment areas are in accordance with a strategy approved by the DG. The PP proposes new employment land and Council's local strategy has not been endorsed by the DG. However, PPs can be inconsistent if the provisions of the PP that are inconsistent are in accordance with the relevant regional Strategy. As previously discussed, the PP is consistent with the CCRS, therefore this PP is consistent with this direction.

2.1 Environmental Protection Zones - While the site is not identified for environmental protection purposes in the GPSO, Council intends to identify it as part of the proposed

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environmentally sensitive land overlay in the SILEP. As Council intends to prepare controls that reflect the site's environmental attributes, it is likely that the PP would be consistent with this direction however Council should confirm this once the additional investigations are completed and the zones, zone boundaries and development controls finalised.

4.3 Flood Prone Land – Council has stated that the PP will be inconsistent with this direction as a significant proportion of the site is subject to low hazard flooding and the PP proposes to rezone flood affected areas of the site from a special use zone to a business zone. Given that Council proposes additional flood investigations to determine the most appropriate landuse, zone and development controls for the flood liable areas, the extent of any inconsistency against this direction cannot be determined at this time.

4.4 Planning for Bushfire Protection - As the PP applies to bushfire prone land, consultation would need to occur with the Rural Fire Service (RFS) before consistency with this direction can be determined. Council has acknowledged that this should occur and that any requirements from the RFS could be included in the site-specific DCP for the land.

6.3 Site Specific Provisions – Council has not provided a discussion regarding this direction which aims to discourage unnecessarily restrictive site specific planning controls. Council will not be able to determine consistency or otherwise with this direction until after they have undertaken additional investigation and determined what controls will apply to the land.

The PP should be updated to include a discussion of this direction and reflect the outcome of the additional investigations.

Environmental social
economic impacts :

Environmental Social and Economic Impacts:

As previously discussed, Council has identified that the site is affected by biodiversity, flooding and bushfire issues. The PP outlines Council's intention to undertake further investigation and consultation in these areas to determine an appropriate zoning and development control plan for the site. This approach is supported, subject to the PP being updated to reflect the outcome of these investigations (prior to exhibition) and consultation with the Office of Environment and Heritage and Transport for NSW (Roads and Maritime Authority).

Ecological impacts:

Council reports that a flora and fauna assessment of the site has identified that parts of the site contain State and Federally listed threatened flora (*Melaleuca biconvexa*) and threatened flora species (e.g. the grey headed flying fox). The assessment also identified a threatened ecological community (state listed), federally listed migratory species and Council's ecologist has also identified that rainforest occurs on part of the site. Given that there are some significant environmental attributes on the site, Council should consult with the Office of Environment and Heritage regarding their proposed zoning plan and development controls.

Flooding issues:

Council states that their existing flood mapping and preliminary information from a draft flood study currently being undertaken by Council for the broader Erina Creek catchment indicates that, while the site is categorised as being in a low hazard area, flows could potentially be strong enough to cause damage (e.g. erode creek banks, float cars etc.). Council has therefore requested that the applicant supply additional flood modelling to determine the impact on flooding of the future development of the site. Council has confirmed that this information will be considered in the context of the broader Erina Creek catchment study that is being prepared in accordance with the Floodplain Development Manual 2005.

Traffic:

While not discussed in Council's report, further development on Ilya Avenue and throughout the Erina Town centre may impact on the state road network, in particular the Karalta Road/Central Coast Highway intersection. Council should consult with Transport for NSW (Roads and Maritime Services) should be undertaken as part of the public

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consultation.

Economic and social impacts:

Council has undertaken an economic and social impact assessment that has concluded that the PP will have the following benefits:

- CIV of \$55M and could, on completion, create 339 full or part time jobs, in addition to 280 construction jobs,
- Secure ongoing viability of the club,
- Support the users of the nearby Council reserve and playing fields,
- Provide facilities that are not currently provided in the Erina Town centre e.g. motel and pool.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Transport for NSW NSW Rural Fire Service		

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Flooding

If Other, provide reasons :

If supported by the Gateway, Council will require additional ecological and flooding information and this will form the basis for the zoning and development controls that will apply to the site.

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
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Planning Team Recommendation

Planning Proposal to rezone land from 5(a) Special Uses (Club) to a zone that permits commercial development.

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

S.117 directions: **1.1 Business and Industrial Zones**
 2.1 Environment Protection Zones
 2.2 Coastal Protection
 2.3 Heritage Conservation
 3.4 Integrating Land Use and Transport
 4.3 Flood Prone Land
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 6.1 Approval and Referral Requirements
 7.1 Implementation of the Metropolitan Plan for Sydney 2036

Additional Information : **It is recommended that the PP proceed with the following conditions:**

The statement of objectives be updated to:

- Clarify that the key landuse change that will result from the PP is to rezone the subject site from Zone No. 5(a) to a commercial zone to enable part of the site to be redeveloped for a mixed use commercial, retail and club facility in buildings that range from 2-6 storeys in height.
- Reflect the additional biodiversity, flooding and servicing investigations e.g. this could include an objective to rezone part of the site to reflect the ecological and flooding characteristics of the site.

The explanation of provisions should also be updated to:

- State that the rezoning could be achieved via an amendment to the GPSO or as an early amendment to the SILEP.
- Reflect any additional changes required as a result of the proposed biodiversity, flooding and servicing investigations e.g. this could include an objective to rezone part of the site to either 9(a) Restricted Development (Flood Prone Land) under the GPSO or E2 under the SILEP.
- Identify the height and FSR controls that would be applied to the site under the B5 zone.

Council to update the maps:

- Once the zoning and zone boundaries under the GPSO and the SILEP are determined.
- To include a site boundary that allows the subject lot to be easily identified.

Once additional information on flooding and ecology is available, Council is to satisfy itself that the PP is consistent with:

- SEPP 19 Urban Bushland and SEPP 55 Contaminated Land.
- s.117 Directions 2.1 Environmental Protection Zones, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 6.3 Site Specific Provisions and seek the DG's agreement if required.

Council to consult with the Rural Fire Service (RFS), Transport for NSW (Roads and Maritime Service (RMS)) and the Office of Environment and Heritage (OEH) prior to the public exhibition.

Supporting Reasons : **Justification:**

- To reflect that Council is yet to make a decision regarding whether to re-exhibit the SILEP.
- To allow for Council to rezone part of the site to an environmental or restricted development zone, if required.
- To allow the community to better understand the implications of the PP.
- It is not possible to determine whether the proposal is consistent or inconsistent with these SEPPs and s.117 directions at this time.
- RFS to be consulted to ensure consistency with s.117 Direction 4.4.
- RMS and OEH to be consulted to ensure that their views are sought and considered prior to public exhibition.

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Signature:

G HOPKINS

Printed Name:

GARRY HOPKINS

Date:

3-8-2012