

Rezoning for a Resource Recovery Facility, Clarence Road, Springfield

Proposal Title : **Rezoning for a Resource Recovery Facility, Clarence Road, Springfield**

Proposal Summary : **The proposal would rezone land zoned 7(a) Conservation and Scenic Protection in the Gosford Interim Development Order 122 to 5 Special Uses (Resource Recovery Facility) so as to facilitate a Resource Recovery Facility.**

PP Number : **PP_2012_GOSFO_004_00** Dop File No : **12/03490**

Proposal Details

Date Planning Proposal Received : **15-Feb-2012** LGA covered : **Gosford**

Region : **Hunter** RPA : **Gosford City Council**

State Electorate : **GOSFORD** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Clarence Road**

Suburb : **Springfield** City : **Gosford** Postcode : **2250**

Land Parcel : **Lot 2 Sec 1 DP 72550, Lot 1 DP 188762, Lot 3 DP 1117418, Lots 451 & 452 DP 849998 and Part of Lots 20 & 21 Sec 1 DP 72550**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Bruce Ronan**

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

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MDP Number :	N/A	Date of Release :	
Area of Release (Ha) :	6.47	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	7	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	1

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 : It is understood that between 2001 and 2006 the site was used for purposes similar to what is proposed now. An EIS for a Recycling Facility was prepared in 2006 to formalise the use. It was intended that Council would lodge a development application (DA) using the old existing use rights provisions. A series of studies and some preliminary consultation was undertaken in order to satisfy the DGRs that had been issued by the Department at the time. However, due to existing use rights legislation changing in 2006, the DA was never submitted.

Should the Gateway support the PP and the rezoning proceed, Council indicates that a development application (DA) would be prepared. Presumably the DA would be designated development (under the waste management facility or works category) and an updated EIS would be prepared. The DA would then presumably be assessed by the Joint Regional Planning Panel. Further discussion on this matter is provided in the Environmental/Social/Economic section of this report.

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : A concise description of the Statement of Objectives is provided. The second paragraph however is generally more relevant to the 'Justification' part of the planning proposal (PP) and so could be moved to Section C. This may help to make the PP clearer for the community.

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

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions is generally in accordance with the Department's "A guide to Preparing Local Environmental Plans".

It includes a description of the zoning change ie that the land would be rezoned from zone 7(a) Conservation and Scenic Protection to zone 5 (Resource Recovery Facility) under the

IDO 122 (or SP2 Infrastructure - Resource Recovery Facility under the Gosford comprehensive LEP, depending on timing).

The explanation also includes a definition of a resource recovery facility. Council's definition appears based on the SI definition, however Council has omitted the 'composting' term from the definition. As the proposed zoning would ultimately be reflected in the Gosford comprehensive LEP, it is recommended that Council use the SI definition in the PP.

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

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

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 19—Bushland in Urban Areas

SEPP No 33—Hazardous and Offensive Development

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

SREP No 9—Extractive Industry (No 2—1995)

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

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain : **Further discussion on the SEPPs and s117 directions is provided later in this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

A series of maps have been provided (eg locality, existing zoning, proposed zoning, etc). While missing north point and scale, they are generally adequate for community consultation. The locality map shows the site in relation to the Gosford City rather than in relation to the Gosford local government area, but this is also considered adequate for consultation.

It is suggested however that the current text accompanying the 'Proposed zoning map' map be amended by adding "(or depending on timing, SP2 Infrastructure - Resource Recovery Facility under the Gosford comprehensive LEP)" after the existing text. This would make it clearer for the community, linking the map back to a similar statement in the 'Explanation of Provisions' section of the planning proposal.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

**Council has proposed a 28 day exhibition period for community consultation. This period is supported for the following reasons:
- the proposal may attract community interest (22 submissions voicing concern were received as part of EIS investigations in 2006 for the proposal. The EIS was discussed**

earlier in this report), and
- the proposal may be accompanied by several technical studies which may take the community time to consider.

Specific comment on when community consultation should occur has been provided under the Environmental/Social/Economic Impacts section of this report.

Additional Director General's requirements

Are there any additional Director General's requirements? **Unknown**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **The proposal is adequate for progression to a Gateway Determination.**

Proposal Assessment

Principal LEP:

Due Date : **June 2012**

Comments in relation
to Principal LEP :

The proposal states that depending on timing, it may amend the Gosford comprehensive LEP instead of the IDO 122. If the comprehensive LEP was to be amended Council proposes a SP2 Infrastructure - Resource Recovery Facility zone. The proposal fits the definition of a resource recovery facility. Resource recovery facilities are permissible under the Infrastructure SEPP in certain prescribed zones - RU1, RU2, IN1, IN1, SP1, SP2. Council's proposed use of the SP2 zone is appropriate. It is consistent with DP&I's practice note 'PN 10-001 Zoning for Infrastructure in LEPs' which requires an infrastructure site to be zoned SP2 if there is no adjacent prescribed zone (as is the case here).

It is worth noting the history of the zoning that has been proposed for this site under the comprehensive LEP process. Council's s.64 plan proposed to zone the site SP2 - Recycling Facility. DP&I's s.65 certificate required Council to change the zone to E2, consistent with the current 7(a) Conservation zone because there was insufficient information to support the rezoning at that time. E2 was exhibited, however Council has since resolved (s.68) to defer all 7(a) land east of the freeway (such as this site) and for all Council owned Coastal Open Space System land (also partly this site) to be zoned E5 Public Conservation (currently not a SI zone). Consequently, the draft comprehensive plan now shows part of the site as being zoned E5 and the other part being a 'deferred matter'.

This would mean that should the proposal proceed to gazettal and this happen after the comprehensive LEP is in place, the proposal would need to amend:

- a) the E5 zoned land in the comprehensive LEP to SP2 (assuming a new E5 zone is created), and
- b) remove the relevant land from the deferred matter (presumably from what remains of IDO 122) and place it in the comprehensive LEP as SP2. It is unclear whether Council has considered this aspect of the proposal.

Assessment Criteria

Need for planning
proposal :

Council argues that, subject to the rezoning and development consent, a resource recovery facility would deliver economic and environmental benefits to the LGA. Having the facility would mean that construction material and green waste that would otherwise go to landfill, would be able to be re-used on other future Council projects. While it is unclear from the documentation, it would appear as though this facility would be a first for Council in the LGA. Notwithstanding this, having a resource recovery facility also helps align Council further with the NSW Waste and Resource Recovery Strategy 2007 (discussed later). Given the above, the need for the proposal is supported.

There is however limited discussion in the documentation about whether this site is the best site for the facility, particularly given its close proximity to an existing residential area and the potential for amenity impacts (discussed further below). It is therefore recommended that the Gateway request Council include an assessment of alternative sites in the planning proposal under the 'Need for the Planning Proposal' section.

In addition to assessment and discussion on alternative sites, it is recommended that Council include contextual material to indicate how the proposed resource recovery facility fits within Council's broader waste management strategy including proposed regional arrangements with Wyong Shire.

Council notes that the site is currently used for the purposes of a Council owned quarry (1000-2000 t/yr) and that this use would continue on the site under existing use rights. The Gateway could amend the proposal so that the quarry was not dependent on existing use rights by rezoning the site to certain rural or industrial zones under the IDO 122. This would also allow resource recovery facilities under the ISEPP. However, given that Council owns the quarry and the broader site, the tangible benefit of this approach is minimal. Further, Council may not support such an approach given that part of the site falls within Council's Coastal Open Space System (COSS) and it is partly bounded by COSS land also. In light of this, and in lieu of a strategy suggesting industrial or rural on the site, it is recommended that the proposal remain as proposed ie rezone the site to an infrastructure zone.

It should be noted that Council intends to split zone two lots (westernmost) of the site (ie retain the existing environmental zone for the vegetated part, while a small disturbed portion would be zoned to infrastructure). Presumably this is to restrict facility operations to the existing disturbed land. However, Council does not use this approach for the vegetated eastern portion of the site, instead choosing to rezone whole lots to an infrastructure zone. Council could use a consistent approach across the site and potentially split zone the eastern portion as well (ie remove it from the PP so that it retains its existing environmental zoning). Consultation with OEH can confirm the value of this vegetation and the proposed zoning map could be amended by the Gateway if desired. Further discussion on this matter is provided in the Environmental/Social/Economic section of this report.

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Consistency with strategic planning framework :

NSW Waste & Resource Recovery Strategy 2007:

While not discussed in detail in the planning proposal, this strategy supports the use of resource recovery infrastructure, highlighting in particular their relevance to the Central Coast (amongst other areas). The proposal is consistent with this strategy.

Central Coast Regional Strategy (CCRS):

Council states that the proposal is consistent with the CCRS, citing specific actions in the strategy that promote waste avoidance and the need for Council to develop resource recovery infrastructure on suitably located land. This argument is supported subject to Council including an assessment of alternative sites in the PP as noted earlier in this report.

Gosford Community Strategic Plan (Local Strategy):

Council asserts that the proposal is consistent with several of this high level plan's objectives relating to minimising waste, recycling resources and sustainability. This is supported.

COSS Strategy (Local Strategy):

As part of the site is within Council's Coastal Open Space System, this strategy applies and requires Council to develop strategies to manage threats to COSS flora/fauna and to implement mechanisms to ensure that COSS land is managed for its COSS values (ie public conservation land). Council suggests that as the facility would be limited to the existing disturbed areas of the site (ie not the areas with regionally significant vegetation) then there is no conflict with the directions of the COSS Strategy. This argument could be supported, if there is agreement from OEH that the facility and COSS values can effectively co-exist (including the COSS lands which partly bound the site). Further discussion on this aspect is provided in the Environmental/Social/Economic Impacts section of this report.

Gosford Biodiversity Strategy (Local Strategy):

Council notes that this plan is relevant, presumably because the site is currently zoned 7(a) Conservation and part of the site falls within the COSS. Council generally makes a similar argument to the one used for the COSS strategy.

Draft Gosford Landuse Strategy (Local Strategy):

Requires Council to identify future activities to meet the targets/ actions of the NSW Waste & Resource Recovery Strategy 2007. As discussed above, the proposal is consistent with this strategy, and in turn this aspect of the draft Gosford Landuse Strategy.

State Environmental Planning Policies (SEPPs):

SEPP 19 Bushland in Urban Areas - Requires Council give priority to retaining urban bushland. Council highlights that the facility would be limited to the existing disturbed land and so is consistent with this policy. This could be agreed, although consultation with OEH should occur to confirm that Council's approach is appropriate.

SEPP 44 Koala Habitat Protection - Council has not discussed this SEPP in the PP and it applies. Council would need to consider the SEPP and update the PP accordingly prior to community consultation.

SEPP 55 Remediation of Land - Requires Council to consider whether land is contaminated. Council acknowledges the need to consider this matter but that assessment has not occurred yet. Council should be required to address this issue before community consultation.

SEPP 71 Coastal Protection - Requires Council to consider a range of matters for development in the coastal zone. Council is consistent with this SEPP at this time but would be further addressed as part of a DA.

SEPP (Infrastructure) 2007 - If the proposal was for a DA it would fall within the traffic generating development category and so consultation would need to occur with the RMS as part of the DA process. Further discussion on traffic issues are discussed in the

Environmental/Social/Economic Impacts section of this report.

SEPP 33 Hazardous and Offensive Development and SREP 9 Extractive Industry (deemed SEPP) are also identified by Council as being relevant. However, given the location of the site and that the proposal is at the PP stage and not the DA stage, the PP is considered consistent with these SEPPs at this time.

s117 Directions:

The PP is considered consistent with the relevant s117 directions. The following directions however require further discussion.

1.3 Mining, Petroleum Production and Extractive Industries - The PP would prohibit extractive industries such as the existing quarry (discussed previously). Currently, extractive industries are made permissible by the Mining SEPP which permits extractive industries in zones where agriculture is a permitted use. The 7(a) Conservation zone permits agriculture, however the proposed infrastructure zone would not. Council should therefore consult with DPI as required by this direction.

2.1 Environment Protection Zones - As the PP would remove the existing 7(a) Conservation zoning, the PP is inconsistent with this direction. As discussed previously, Council intends to restrict the facility to the existing disturbed lands however it is not known whether this would effectively prevent adverse impacts on the regional significant vegetation that is also on site. It is recommended that OEH be consulted with. Should OEH support the PP, then Council should seek the DG's agreement to the inconsistency with this direction.

4.4 Planning for Bushfire Protection - As the PP will affect land that is bushfire prone, consultation with the RFS would need to occur before consistency with this direction can be determined.

Environmental social
economic impacts :

Key environmental/ social impacts:

Ecological - As discussed earlier, part of the site falls within Council's COSS land and contains some regionally significant vegetation. Council considers that through a series of management plans and by limiting the proposal to the existing disturbed land, both quarry/ recycling facility and the regionally significant vegetation can co-exist. This aspect may attract community interest as the issue of 'COSS protection' was a major issue raised in public submissions received when the comprehensive LEP was exhibited. In response Council has sought a new E5 Public Conservation zone for public COSS land. This proposal appears to zone public COSS land to a different zone and to allow a use that may be inconsistent with the objectives of the COSS.

Noise - Residential land is situated adjacent to the site. There is the potential for adverse noise impacts from the operation of the quarry, crusher (recycling facility), mobile plant, as well as heavy vehicles accessing the site via a road with a steep gradient that adjoins residential land. Council advises that noise impacts would be minimal.

Air (dust/ odour) - The recycling facility has the potential to create dust and odour issues. Council concludes that appropriate measures can be put in place to manage any problems that may arise.

Traffic - Additional heavy vehicle movements would result from the proposal. Vehicle access routes are not discussed in the PP.

Suggested approach to dealing with possible environmental issues:

Council concludes that the above matters can be adequately dealt with through management plans and mitigation measures. While this may be the case, OEH, CMA and the RMS should be given the opportunity to confirm Council's conclusions before the proposal proceeds to community consultation.

As a result, it is recommended that the PP be resubmitted following agency consultation in order to confirm whether the site is broadly suitable for what is proposed. It could then be

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determined whether the proposal should proceed to community consultation.

This approach would allow the agencies to determine their support for the rezoning and/or identify whether additional studies (eg noise, traffic) may be needed in order to progress the PP further. On this basis, a more informed decision could be made regarding whether the site is broadly suitable and in turn, whether the PP should proceed to community consultation (note - community interest is anticipated given the 22 submissions received during the original EIS preparation and the interest in COSS land generated by the draft comprehensive LEP). The information that would be provided to the agencies could also include Council's assessment of alternative sites.

There are several references in the PP to a future development application and a previously prepared EIS. Once agency requirements are known, and given likely community interest in the proposal, it is recommended that Council prepare, and include with exhibition of the PP, material explaining the assessment and approval processes for the future resource recovery facility, including any further opportunities for community consultation.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 Month** Delegation : **DDG**

Public Authority : **Hunter - Central Rivers Catchment Management Authority**
Consultation - s56(2)(d) : **Office of Environment and Heritage**
NSW Department of Primary Industries - Minerals and Petroleum
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services

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

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

If no, provide reasons : **Sufficient information has been provided**

Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **This has been discussed in the Environmental/Social/Economic Impacts section of this report.**

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

This has been discussed in the Environmental/Social/Economic Impacts section of this report.

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_Report.pdf	Proposal	Yes
Council_Resolution.pdf	Proposal	Yes

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Council_Supporting_Report.pdf	Proposal	Yes
Planning_Proposal.pdf	Proposal	Yes
Council_Covering_Letter.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Resubmit**

S.117 directions: **1.3 Mining, Petroleum Production and Extractive Industries**
 2.1 Environment Protection Zones
 2.2 Coastal Protection
 2.3 Heritage Conservation
 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 suggested that the following conditions be applied to make the PP more easily understood:**
 - the second paragraph in the Statement of Objectives be moved to Section C of the PP;
 - the Explanation of Provisions be amended such that the existing 'Resource Recovery Facility' definition is replaced with the 'Resource Recovery Facility' definition provided in the Standard Instrument; and
 - the current text accompanying the 'Proposed zoning map' map be amended by adding "(or depending on timing, SP2 Infrastructure - Resource Recovery Facility under the Gosford comprehensive LEP)" after the existing text.

It is suggested that the following conditions be applied in order to progress the proposal prior to s.56(2) resubmission:

- consultation occur with DPI (Minerals) per s117 Direction 1.3;
- consultation occur with the RFS per s117 Direction 4.4;
- consultation with OEH, CMA and RMS occur to ascertain any issues with the proposal, including whether additional or updated studies are required for the PP;
- address cl. 6 of SEPP 55;
- address SEPP 44;
- include an assessment of alternative sites in the PP under the 'Need for the Planning Proposal' section prior to agency consultation;
- include contextual material to indicate how the proposed resource recovery facility fits within Council's broader waste management strategy including proposed regional arrangements with Wyong Shire, prior to agency consultation; and
- resubmit the PP following agency consultation within 3 months.

Supporting Reasons : **As discussed in the report.**

Signature:



Printed Name:

GARRY HOPKINS

Date:

24.2.2012