



Planning & Infrastructure

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Mr Peter Wilson
 General Manager
 Gosford City Council
 PO Box 21
 GOSFORD NSW 2250

Our ref: PP_2012_GOSFO_004_00 (12/03490)
 Your ref: 10577893

Dear Mr Wilson,

I am writing in response to your Council's letter dated 15 February 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land from 7(a) Conservation and Scenic Protection to 5 Special Uses (Resource Recovery Facility) under the Gosford Interim Development Order 122 or to SP2 Infrastructure – Resource Recovery Facility under the draft Gosford LEP 2009.

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

It is understood that Council proposes to retain the existing zoning being 7(a) Conservation and Scenic Protection under Gosford Interim Development Order 122 or E2 Environmental Conservation under the draft Gosford LEP 2009 for part of Lots 20 and 21 Sec 1 DP 72550. The planning proposal suggests that this land is to be rezoned to Special Uses/Infrastructure as indicated by the 'Explanation of Provisions' section and the accompanying map at Appendix 7. The Department supports the inclusion of this land as environmental conservation and if this is Council's intent the planning proposal should be amended prior to the commencement of community consultation to ensure the proposal clearly articulates to the community the intended outcomes for the subject land.

In regards to how the land will be zoned under the draft Gosford LEP 2009, it is noted the land was exhibited as E2 Environmental Conservation as stated on page 2 of the ENV Report accompanying the planning proposal. It is also noted Council have since resolved to include a new E5 Public Conservation zone and apply the zone to the subject land, while deferring the zoning of the southern two lots. Given that the proposed zoning of the land to E5 has not been exhibited, Council is to amend the map at Appendix 4 to reflect how the planning proposal amends the exhibited draft Gosford LEP 2009, and include an explanation to clarify how the planning proposal will amend Council's draft Comprehensive LEP, depending on timing, and the relationship of the amendment to Council's resolution and the Department's consideration of the proposed E5 zone and its application to the subject land.

It is noted Gosford is listed under Schedule 1 of the Koala Habitat Protection SEPP and the subject land is within the Coastal Open Space System (COSS) that seeks to manage identified threats to ecological communities. Therefore, Council is required to provide information in accordance with the provisions of the SEPP to address issues relating to koala habitat management. This additional information should be included with the material for public exhibition purposes.

It is noted Council propose to insert the Standard Instrument definition for 'Resource Recovery Facility' into either the Gosford Interim Development Order 122 or draft Gosford LEP 2009,

depending on timing. Council is to amend the definition to ensure consistency with the Standard Instrument (Local Environmental Plans) Amendment Order 2011.

In relation to the planning proposal's inconsistencies with S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries, it is noted the proposed zone would prohibit extractive industries such as the existing quarry, in addition to agriculture which currently facilitates the permissibility of extractive industries through the Mining SEPP. Therefore, Council is to consider including extractive industries as a permissible use in either the 5 Special Use zone under the Gosford Interim Development Order 122 or the SP2 Infrastructure – Resource Recovery Facility under the draft Gosford LEP 2009. In addition, Council is to consult with the NSW Department of Primary Industries – Minerals and Petroleum prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal if necessary. The advice of the NSW Department of Primary Industries and Council's response to the comments are to form part of the exhibition material.

In regards to the planning proposal's inconsistencies with S117 Direction 2.1 Environment Protection Zones, Council is to consult with the Office of Environment and Heritage specifically seeking comment on the value of the vegetated portions of the site and any regionally significant vegetation and ecological communities that may be adversely affected as a result of the rezoning. Council is to take into account any comments made and amend the planning proposal if necessary. The advice of the Office of Environment and Heritage and Council's response to the comments are to form part of the exhibition material.

In relation to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal if necessary. The advice of the NSW Rural Fire Service and Council's response to the comments are to form part of the exhibition material.

Further to the public authority consultation requirements required above, Council is also to consult with the Hunter-Central Rivers Catchment Management Authority and the Roads and Maritime Service in regards to the planning proposal. Council is to take into account any comments made and include them with Council's response for the purposes of public exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Ben Holmes of the Department of Planning's Hunter and Central Coast Region Office on 02 4348 5003

Yours sincerely,

Sam Haddad
Director-General

7/3/2012

Gateway Determination

Planning Proposal (Department Ref: PP_2012_GOSFO_004_00): to rezone land at Clarence Road, Springfield from 7(a) Conservation and Scenic Protection to 5 Special Uses (Resource Recovery Facility) under the Gosford Interim Development Order 122 or to SP2 Infrastructure – Resource Recovery Facility under the draft Gosford LEP 2009

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to rezone land from 7(a) Conservation and Scenic Protection to 5 Special Uses (Resource Recovery Facility) under the Gosford Interim Development Order 122 or to SP2 Infrastructure – Resource Recovery Facility under the draft Gosford LEP 2009 should proceed subject to the following conditions:

1. Council is to amend the proposed definition for 'Resource Recovery Facility' to ensure consistency with the Standard Instrument (Local Environmental Plans) Amendment Order 2011.
2. The Department supports the inclusion of part of Lots 20 and 21 Sec 1 DP 72550 as environmental conservation land. If this is Council's intent the planning proposal should be amended prior to the commencement of community consultation to ensure the proposal clearly articulates to the community the intended outcomes for the subject land.
3. Council is to amend the map at Appendix 4 to reflect how the planning proposal amends the exhibited draft Gosford LEP 2009, and include an explanation to clarify how the planning proposal will amend Council's draft Comprehensive LEP and the relationship of the amendment to Council's resolution and the Department's consideration of the proposed E5 zone and its application to the subject land.
4. Council is required to provide information in accordance with the provisions of the Koala Habitat Protection SEPP to address issues relating to koala habitat management. This additional information should be included with the material for public exhibition purposes.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Hunter - Central Rivers Catchment Management Authority
 - Office of Environment and Heritage
 - NSW Department of Primary Industries - Minerals and Petroleum
 - NSW Rural Fire Service
 - Transport for NSW - Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment

on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. Further to Condition 6 above, Council is to consult with the NSW Department of Primary Industries – Minerals and Petroleum prior to undertaking community consultation and take into account any comments made and amend the planning proposal (if necessary) as per the requirements of S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries.
8. Further to Condition 6 above, Council is to consult with Chief Executive Officer of the Office of Environment and Heritage prior to undertaking community consultation seeking comment on the value of the vegetated portions of the site and any regionally significant vegetation and ecological communities that may be adversely affected as a result of the rezoning. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the requirements of S117 Direction 2.1 Environment Protection Zones.
9. Further to Condition 6 above, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made and amend the planning proposal (if necessary) as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
10. The advice of the NSW Rural Fire Service, the Office of Environment and Heritage the NSW Department of Primary Industries – Minerals and Protection and Council's response to the comments are to form part of the exhibition material.
11. Further to Condition 6 above, Council is also to consult with the Hunter-Central Rivers Catchment Management Authority and the Roads and Maritime Service in regards to the planning proposal. Council is to take into account any comments made and include them with Council's response for the purposes of public exhibition.
12. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
13. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated

7th

day of

March

2012.



Sam Haddad

Director-General

Delegate of the Minister for Planning and
Infrastructure