

Gosford City Centre - City Core Incentives

Proposal Title : **Gosford City Centre - City Core Incentives**

Proposal Summary : **The proposal is to:**

- relocate the boundaries of the B3 Commercial Core and B4 Mixed Use zones in Gosford City Centre by rezoning some B4 land to B3 and some B3 land to B4 (see map of proposed zone changes)

- introduce, for 2 years, provisions that provide a bonus floor space and/or height in the B3 zone to a cap of 150,000 m2 in total, subject to design criteria being met and provision of public benefit (see proposed clause 8.12)

- remove the application of clause 4.6 Exceptions to Development Standards from Gosford City Centre.

PP Number : **PP_2015_GOSFO_010_00**

Dop File No :

15/13100

Proposal Details

Date Planning
Proposal Received : **23-Sep-2015**

LGA covered :

Gosford

Region : **Hunter**

RPA :

Gosford City Council

State Electorate : **GOSFORD**

Section of the Act :

55 - Planning Proposal

LEP Type : **Precinct**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Gosford City Centre**

DoP Planning Officer Contact Details

Contact Name : **G P Hopkins**

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RPA Contact Details

Contact Name : **Peta James**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	0	No. of Dwellings (where relevant) :	500
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 : **Background**

The planning provisions for Gosford City Centre have been subject to a number of revisions over the last decade including:

- In 2005 and 2007 City Centre LEPs introduced increased heights and densities.
- In 2010 Gosford City Council and the Land and Property Management Authority's 'Gosford Challenge' process culminated in preparation of 'Our City, Our Destiny a Gosford City Centre Masterplan'.
- In 2012 Gosford City Centre LEP 2007 was amended to introduce temporary bonuses of 30% in height and FSR
- In 2014 the SEPP Amendment (Gosford Cultural Precinct) introduced provisions to support redevelopment of the 10 hectare (approx.) waterfront precinct.
- In 2015 the 30% height and FSR bonuses were extended and will now expire on 2 April 2016.
- In December 2014 Council considered a Statement of Strategic Intent (SoSI) as the basis for making further enhancements to the Gosford City Centre planning provisions. This planning proposal responds to the SoSI.

While the introduction of the 30% incentive provisions has seen an increase in development activity, several DAs have been lodged that propose development in excess of the 30% including:

DA 1 46256/2014 Mixed use development, commercial/retail, supermarket, hotel and shop top housing development at 110, 114, 116, 118A Mann Street and 108 Donnison Street, Gosford. Consent effective 21 May 2015 for 2 years. The planning proposal identifies that

the proposed gross floor space bonus of 150,000 m2 will be reduced by the amount of floor space approved for this DA above that which is mapped (ie. a reduction of 31,656 m2).

DA 2 47046/2015 Mixed Use development including commercial, residential (Shop Top Housing), cinema, hotel and tavern at 50-70 Mann Street and 114 Georgiana Terrace, Gosford. Considered and deferred by the JRPP on 17 September 2015 pending progress of this planning proposal 'to a point where it is able to [be]come a relevant matter for consideration under 79C'. (s.79C(1) sets out matters for consideration when a consent authority determines a development application. s.79C(1)(a)(ii) is 'any proposed instrument that is or has been subject of the public consultation process under this Act ...'). If approved, the proposed gross floor space bonus would be further reduced by the amount of approved floor space above that which is mapped (estimated at 29,514 m2).

Council has been asked whether there is any timing imperative for finalisation of the plan, for example to coincide with the cessation of the 30% bonus clause in which case the planning proposal could remove the 30% bonus clause and associated mapping from the instrument. Council's intention is for the clause to come into effect before or on 2 April 2016.

The planning proposal was submitted on 28 August 2015 but was incomplete. A completed proposal was provided on 10 September 2015. The Department requested clarification on a number of matters on 15 September 2015. The Department met with Council staff on 21 September 2015 and outstanding matters were provided by Council on 23 September 2015.

This report supports the progression of the planning proposal however a conditional Gateway is recommended to require Council to further consider certain matters before exhibition.

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 would be improved if focused on the actual objectives or intended outcomes of the planning proposal rather than the method by which it is proposed to achieve those objectives.

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

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

Comment : The explanation of provisions details actual clause amendments proposed for Gosford LEP 2014. It should be qualified to allow variation when provisions are drafted by Parliamentary Counsel provided the outcomes are met.

Council proposes that clause 4.6 Exceptions to development standards would no longer apply to the area of 'Gosford City Centre' reinstating the position that applied under Gosford City Centre LEP 2007. Council considers this will focus development within the B3 zone however it is unclear whether all potential ramifications have been considered. The effect of clause 4.6 not applying any more will mean that no variations to development standards will be allowed throughout the mapped Gosford City Centre which extends well beyond the B3 zone. It would also mean that variations to the minimum lot size development standard, in addition to height and FSR, would not be allowed throughout this area. Council needs to consider whether there are any adverse ramifications in removing cl. 4.6 in the manner proposed. Consideration should also be given to whether the removal of cl. 4.6 is to extend indefinitely or just be for the 2 years the City Core Incentives are in place.

The reference to the area where cl. 4.6 will no longer apply (ie. 'Gosford City Centre') needs to be further qualified - at present there are two areas shown as 'Gosford City Centre' on the Key Sites Map being the area originally covered by Gosford City Centre LEP 2007 and the area to which the current 30% bonus applies. The name of proposed clause 8.12 should also be amended to prevent confusion (suggested change from 8.12 Gosford City Centre Incentive Clause to 8.12 Gosford City Core Incentives).

An explanation of the basis for key parameters in proposed clause 8.12 should be included namely total size of the bonus (150,000 m²), maximum height of RL 99, street frontage of 40 metres, site area of 2800 m² or greater, DAs lodged since 21 May 2015, 2 year time period.

The conditions by which the review in clause 8.12 (8) would be conducted would never eventuate. A review is required when a development consent would take the total bonus consented to over 150,000 m² but clause 8.12 (5)(i) would prevent this from ever occurring. Council has clarified this should be 120,000 m² and this should be amended.

Some other aspects of proposed clause 8.12 may need refinement during drafting to aid consistent interpretation. For example:

- proposed clause 8.12(5)(vi) creates a point in time for which shading is to be compared to ('that currently permitted'). This will likely require clarification.

- the phrase 'sum of increases in the gross floor area authorised' may also need revision - it seems likely that what is meant is when approvals for bonus floor space within the B3 exceed 150,000 m² but as worded it could be interpreted as any floor space in any zone.

The explanation of provisions should also be amended to include the need for savings provisions.

Any consequential changes to the explanation of provisions should be made to reflect the above considerations.

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

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

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 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 55—Remediation of Land

SEPP No 65—Design Quality of Residential Flat Development

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

s.117 direction 2.2 Coastal Protection requires the planning proposal to give effect to and be consistent with the Coastal Design Guidelines. Some discussion on how the planning proposal does this is appropriate.

s.117 direction 3.4 Integrating Land Use and Transport. The planning proposal provides limited discussion on potential adverse impacts of moving the B3 Commercial Core zone away from the rail station and bus interchange. While Council has advised its intention is to require retail/commercial development on the ground floor of development in areas being rezoned from B3 to B4 near the station through DCP provisions, this may not be sufficient to prevent stand-alone residential flat buildings with non-active street frontages. Further consideration of this matter and this 117

direction is required and the Secretary's agreement to any inconsistencies sought.

Some land is mapped as fire prone and consultation with the Rural Fire Service under s.117 direction 4.4 Planning for Bushfire Protection will be required and the planning proposal updated.

SEPP 55 Remediation of Land: While the planning proposal involves a movement of zone boundaries from one commercial zone to another, the statement that the subject land has not been used for a purpose referred to in Table 1 of the SEPP 55 guidelines is not supported by evidence. It seems likely that some of these land uses would have occurred within the centre of Gosford over the last 125+ years. This should be amended.

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

If No, explain : **Updates and consultation required as above.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Clarification is required about which 'Gosford City Centre' notation on the development incentives map clause 8.12 is to apply to (there are two).**

It may be necessary to map 'primary street frontage' (proposed clause 8.12 (4)) as has occurred for other centres.

There is limited discussion on the differences between the B3 and B4 zones and justification for moving the boundaries in the way proposed. One key difference is that under the B4 zone stand-alone residential flat buildings are permitted whereas in the B3 zone only shop top housing is permitted requiring some retail/business development at ground level. Further, clause 8.7 Active street frontages requires an active street frontage in the B3 zone. Council recounts anecdotal difficulty of developments in the northern area of B3 attracting ground floor retail/commercial tenants as a reason why this area should be rezoned B4. However maintaining an active streetscape at least along key street frontages is a desirable outcome and this will need to be considered by Council. Further, the existing B3 facing Henry Parry Drive is said to be poorly located for core commercial areas as a reason why this area should be rezoned B4. However the B3 zone is proposed to be extended to Erina Street east of Henry Parry Drive, including land facing bushland, and along Albany Street, which it might also be argued are less than ideally located to be zoned B3 (It is noted that this part of the planning proposal was not covered by the initial parts of the report to Council and was an addition nominated by Councillors).

It is noted also that the SoSI promoted the need for changes to land use tables but this is not proposed under this planning proposal.

There needs to be further justification for why the zones are being rearranged in the manner proposed including:

- discussion of how active street frontages will still be achieved along key street fronts in the area being rezoned from B3 to B4**
- justification for extending B3 zone to the 2 blocks east of Henry Parry Drive**
- differences between B3 and B4 in terms of potential development outcomes**
- need for any changes to land use tables and other clauses (eg. active street frontage clause)**

The planning proposal also proposes to amend the notes on relevant height and FSR maps to point to clause 8.12 and to amend the Development Incentives Application Map to exclude the B3 zone from the area subject to the 30% bonus and hatch it in a different colour. The former prevents 'double dipping' for any time following the making of the planning proposal while the 30% bonus still applies while the latter may not be necessary as proposed clause 8.12(2) states where clause 8.12 applies.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **28 days is proposed and is supported.**

Council proposes a supporting DCP with Development Controls for Design Excellence, a Voluntary Planning Agreements Policy to indicate how the 'public benefit' provisions of clause 8.12 can be met and supporting administration, monitoring and review policy. It is recommended that drafts be exhibited at the same time as the planning proposal and this recommendation should be included in the Gateway letter.

Additional Director General's requirements

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

If Yes, reasons : **Council has requested delegation to make the plan. This is supported.**

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

The proposal will amend Gosford LEP 2014.

It is intended that the proposal will supersede the current 30% height and FSR incentive clauses due to expire on 2 April 2016. Council should consider whether there is any imperative in timing the amendment resulting from this planning proposal to coincide with that date and whether this proposal could therefore remove parts of Gosford LEP 2014 that will be redundant after 2 April 2016 (eg. clause 8.9 and associated mapping).

Assessment Criteria

Need for planning
proposal :

The need for the planning proposal arises from Council's wish to further refine the City Centre incentive provisions in Gosford LEP 2014.

As discussed earlier, there is a need for further discussion and justification on the proposed parameters and zone boundaries amendments as no alternatives are considered.

Consistency with
strategic planning
framework :

The planning proposal partly implements the 'Statement of Strategic Intent' document adopted by Council in December 2014. The planning proposal appears to vary the precincts established under the Gosford City Centre Masterplan but it is in some ways consistent eg. location of B3 is generally consistent with 'high rise' on page 61 of the masterplan). The status and ongoing role of both these documents is unclear and needs confirmation.

The planning proposal will assist in the achievement of employment and housing capacity targets under the Central Coast Regional Strategy by offering stimulation to development and increasing potential floor space by up to 150,000 m2 (circa 500 dwellings).

Environmental social
economic impacts :

The proposal will create potential for increased development in Gosford City beyond current statutory plans with resulting impacts such as additional traffic and effect on parking. The proposal states Council is currently undertaking traffic modelling. Impacts of higher buildings are intended to be considered through proposed clause 8.12 (5) (i) - (vi) which address issues such as view retention, privacy, visual amenity and overshadowing.

Proposed clause 8.12 will require both high quality development and 'significant public benefit' in return for the development bonus and this is seen to in some way offset the impact of additional development and height.

Assessment Process

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

Timeframe to make LEP : **0 months** Delegation :

Public Authority **NSW Rural Fire Service**
Consultation - 56(2) **Transport for NSW**
(d) : **Transport for NSW - Roads and Maritime Services**
Other

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 : **Under Council's current arrangements a 4% s.94A development contribution is required. Clause 8.12 will also require public benefit (refer to provisions). A 2 year time limit is proposed for development consents with the public benefit to be secured before issue of construction certificate.**

Documents

Document File Name	DocumentType Name	Is Public
Council letter to DP&E - Gateway Request.pdf	Proposal Covering Letter	Yes
Council report - Planning Proposal Gosford City Core.pdf	Proposal	Yes
Council resolution - on Planning Proposal for Gosford City Core.pdf	Proposal	Yes
PLANNING PROPOSAL AMENDED FOR GATEWAY DETERMINATION.pdf	Proposal	Yes
Statement of Strategic Intent_Final Gosford TC Report_141218[1] with amendments LATEST VERSION.pdf	Study	Yes
2105 09 23 Council response to questions on planning proposal.pdf	Proposal Covering Letter	No
Map of proposed zone changes.pdf	Map	Yes
Proposed Clause 8 point 12.pdf	Proposal	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.1 Business and Industrial Zones**
 - 2.2 Coastal Protection**
 - 2.3 Heritage Conservation**
 - 3.1 Residential Zones**
 - 3.4 Integrating Land Use and Transport**
 - 5.1 Implementation of Regional Strategies**
 - 6.1 Approval and Referral Requirements**
 - 6.3 Site Specific Provisions**

- Additional Information :
- 1. Prior to undertaking public exhibition, Council is to update the planning proposal to:**
 - Amend the explanation of provisions to recognise that variation to provisions may occur during drafting by Parliamentary Counsel provided the outcomes are met.
 - Include additional discussion/justification on the application of clause 4.6:
 - o to confirm it is intended no variations to any development standards would be allowed (ie. lot size as well as height and FSR) and that the effect will be no variations to development standards across the entire City Centre;
 - o confirm also which 'Gosford City Centre' is referred to given there are two areas with this name on the maps; and
 - o provide clarification of whether it is intended to reinstate cl. 4.6 to the City Centre following expiry of the City Core Incentives.
 - Amend name of proposed clause 8.12 to 'Gosford City Core Incentives'.
 - Provide explanation and justification for the parameters in proposed clause 8.12 including:
 - o the size of the proposed bonus (150,000 m²);
 - o maximum height of RL 99;
 - o street frontage of 40 metres;
 - o site area of 2800 m² or greater;
 - o DAs lodged since 21 May 2015; and
 - o 2 year time period.
 - Amend proposed clause 8.12 (8) to require a review at 120,000 m² (as currently drafted the terms of review will not occur).
 - Discuss the need for transitional/savings provisions to apply for development applications lodged but not determined before the planning proposal is finalised.
 - Consider need for mapping of 'primary street frontage' as has occurred for other centres.
 - Provide explanation and justification on the proposed movement of B3 and B4 zone boundaries including:
 - o Discussion on key differences between B3 and B4 zones in terms of potential development;

- o Discussion of how active street frontages will still be achieved along key street fronts in the area being rezoned from B3 to B4;

- o Justification for extending B3 zone to the 2 blocks east of Henry Parry Drive; and

- o Need for any changes to land use tables and other clauses (eg. active street frontage clause).

- Confirm the text associated with SEPP 55 in the planning proposal re. previous land uses.

2. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the following S117 Directions:

- **2.2 Coastal Protection** (particularly as it relates to the Coastal Design Guidelines)

- **3.4 Integrating Land Use and Transport**

- **4.4 Planning for Bushfire Protection**

3. 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 a minimum of 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).

4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- **NSW Rural Fire Service**

- **Transport for NSW – Roads and Maritime Services**

- **Transport for NSW**

- **Central Coast Regional Development Corporation**

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. 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).

6. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Delegation to Council

Supporting Reasons :

Gosford City Centre - City Core Incentives

Signature:



Printed Name:

G P HOPKINS

Date:

29.9.2015