

TITLE Planning Proposal 78/2015 Gosford City Centre - City Core Incentives (IR 21172856)

Department: Governance & Planning
Service Unit: Sustainable Corporate & City Planning

The following item is defined as a planning matter pursuant to the Local Government Act, 1993 & Environmental Planning & Assessment Act, 1979

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

"A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site", i.e. a Planning Proposal. The object of Section 147 is to require the disclosure by a person of relevant political donations or gifts when a relevant planning application is made to Council per s147(4).

Council is initiating the subject Planning Proposal, therefore it is not a 'relevant planning application' that requires disclosure per Section 147(4).

EXECUTIVE SUMMARY

Council is continuing the process to redefine and revitalise Gosford City Centre as the regional hub of the central coast. This process is being undertaken on several fronts including significant work on economic strategies, place making and development assessment.

Council in December considered the strategic intent of the centre and has commenced the process for alignment of planning controls and tools with that of the community and Council's vision for a vibrant and active centre.

The report Gosford City Centre Statement of Strategic Intent was reported to Council at its meeting of 9/12/2014 and Council resolved:

"that Council adopt the recommendations outlined in the "Report – Gosford City Centre – Review of Strategic Intent" tabled to this report and to implement the recommendations resolve to prepare a Planning Proposal in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979."

Since Council endorsed the Statement of Strategic Intent, Council and the Joint Regional Planning Panel have considered the first development application for a tower development in the CBD. This development despite significant variations to the statutory height and floor space ratio controls was supported as approval of the development reflects a rethinking of Gosford CBD based on future built form outcomes and public benefits.

However, the planning process and planning tools used by Council (Gosford Local Environmental Plan 2014 and Development Control Plan 2013) need to reflect this change as well resolve the "gap" between the current Local Environmental Plan and the market / communities expectations. The GLEP 2014 needs to be amended to reflect this new Strategic Direction.

The purpose of this report is the commencement of a planning proposal to amend the GLEP to enable Council to design and plan for a Commercial Core with a defined density and start enabling development above the current statutory controls on the basis of design excellence and public benefit.

This report contains four main recommendations for Council including:

1) Preparation of a Planning Proposal (Tabled Item)

The purpose of the planning proposal is to:

(a) *Refocus the “commercial core” of Gosford City towards the waterfront by amending the zoning of two areas of land as follows:*

- Rezoning the area currently zoned B4 Mixed Use on the street blocks south of the current commercial core bounded by Henry Parry Drive, Donnison Street, Dane Drive and Georgiana Terrace to B3 Commercial Core (approx 37,747m² net) as outlined in Figure 1 in this report.
- Rezoning the area currently zoned B3 Commercial Core north of Erina Street between the railway, Erina Street, Henry Parry Drive and Faunce Street to B4 Mixed Use (approx 37,886m² net) as outlined in Figure 1 in this report.

This will ensure that the zoning better reflects the area commonly considered the “core” by the majority of the public due to the current location of “traditional” city uses such as retail, council administration and library buildings etc. It will also permit the area around the railway station and to north of the city, increased flexibility for residential development to encourage increased development to support the centre. This reflects current market demand as evidenced through recent development applications.

(b) *Amending Gosford Local Environmental Plan 2014 (GLEP 2014) by:*

- Inserting a new clause which permits a bonus “pool” of floor space (150,000m²) in the commercial core which would be available to applicants within the B3 Commercial Core zone subject to compliance with certain design criteria, being a minimum street frontage of 40m, a minimum site area of 2800m² and a maximum height of RL 99 and the provision of significant public benefit.

Currently the majority of the Gosford City Centre has Clause 8.9 Development Incentives available which provides for a bonus of up to 30% in both height and floor space. This bonus clause will cease on 2 April 2016 as it is time limited in GLEP 2014. DoPE have advised that the long term retention of the 30% bonus across the wider city centre area is not justified as it would produce overall densities higher than that planned for, and would remove the stimulus incentive to develop in the short term.

It is proposed that current GLEP 2014 height and floor space controls (excluding the 30% bonus) will remain the “base” controls applying to the B3 Commercial Core zoned land within Gosford City Centre. The 30% bonus provision will no longer apply to this area. However in order to allow the continued capitalisation on the renewed development interest in the city it is proposed that for the B3 Commercial Core the amount of floorspace that notionally sits within the current 30% bonus provision (i.e.150,000m²) be available as a “bonus” pool of floorspace. This would be available to any applicant for development on land zoned B3 Commercial Core who wishes to exceed the height and/or floor space ratio mapped under

GLEP 2014 provided they meet the required Design Excellence criteria outlined in the LEP and DCP.

In this way Council is planning for a known density, by redistributing floor space currently available to individual sites (but unlikely to be used in the short term due to lot size, need for amalgamations and ownership patterns etc) as a time limited bonus available to applicants willing to develop in the short term within the commercial core and providing for a long term adaptable city.

The 30% bonus provisions would continue to apply to development outside the commercial core until the expiry of the clause on 2 April 2015. After this time there is no strategic thinking to extend the 30% bonus clause for a third time.

(c) *Amending Gosford Local Environmental Plan 2014 (GLEP 2014) by:*

- Reinstating provisions which previously applied to Gosford City Centre in the Gosford City Centre LEP 2007 (removed by GLEP 2014) by amending Clause 4.6 Exceptions to Development Standards so it does not apply to the Gosford City Centre.

This combined with the development incentives clause will focus the area where Council will consider variations to height and floor space ratio to the commercial core. The aim is to prevent the development “donut” effect which is to a large extent occurring currently, where the majority of development applications are for sites outside the commercial core. The intention being the creation of a development focus on the core of the city to encourage development in the short term and assist in creating a vibrant, active heart of Gosford suited to its regional centre role.

This approach will also ensure that any development application which seeks to exceed the height and FSR mapped within GLEP 2014 will be subject to the design excellence provisions outlined in the clause including the requirement for the provision of significant public benefit. The provision of public benefit will assist Council in achieving a public domain and provision of other public benefits suited to Gosford’s role as a regional centre.

It should be noted that minor variations to height for roof features (providing it does not include floorspace) would still be possible under clause 5.6 Architectural Roof Features.

It is recommended that the Planning Proposal proceed to the next stage in the process and be forwarded to the Department of Planning and Environment requesting a Gateway Determination.

2) Preparation of Development Controls for Design Excellence

The development envisaged under the new LEP clause (outlined above) will permit development beyond the form and scale of development permitted by current controls (Chapter 4.1 Gosford City Centre of Gosford Development Control Plan 2013). It is essential that controls are prepared to ensure that development utilising the new LEP clause meets Council’s objectives of design excellence, good city form and amenity.

It is therefore proposed to prepare development controls based on “design excellence” which outline requirements for the “tower” components of buildings, and ensure good urban design and amenity.

3) Preparation of a Voluntary Planning Agreements Policy

Planning Agreements are governed by Section 93F of the *Environmental Planning and Assessment Act 1979*. Planning Agreements are commonly referred to as Voluntary Planning Agreements (VPAs). They are legal agreements between a planning authority and a developer, under which the developer voluntarily agrees to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit or any combination of them, to be used towards a public purpose.

To ensure transparency and clarity for developers and the public this policy will outline Council's requirements with regards to VPA's, and outline what might be considered to meet the "public benefit" requirements contained within the proposed new clause.

4) Preparation of Policy identifying administration and monitoring and review processes for the Commercial Core Bonus Floor Area

In order to provide transparency and clarity for developers, the community and Council staff it will be necessary to prepare a procedure or policy which outlines issues such as:

- Guidelines for use of the Clause;
- How the "pool" of additional floor space will be measured, monitored and be accessible to the developers and the community;
- Provides details and clarity around "public benefit" requirements
- Outlines the Development Application approval process for applications using the Commercial Core Incentives clause.

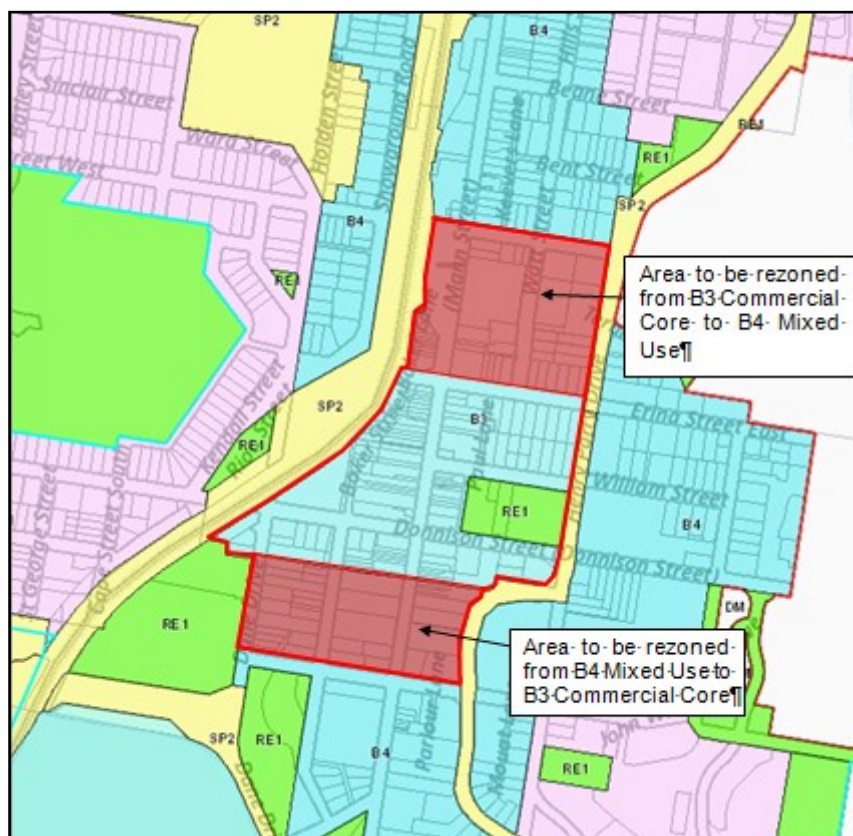
Reason for Referral to Council: This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) (*which, if supported by Department of Planning & Environment (DoPE) would result in an amending LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State).

Application Received: Not applicable - Planning Proposal is Council initiated.

Environmental Planning Instrument – Current Zone: Gosford Local Environmental Plan 2014 – B3 Commercial Core and B4 Mixed Use.

Area: 37,747m² (net) being rezoned from B4 Mixed Use to B3 Commercial Core and 37,886m² (net) being rezoned from B3 Commercial Core to B4 Mixed Use.

Map: Figure 1



Recommendation: That Council support preparation of this Planning Proposal to update and amend GLEP 2014 as outlined in this report, the preparation of associated development controls to amendment Gosford DCP 2013 and the preparation of a Voluntary Planning Agreements Policy.

STRATEGY POLICY WORKSHOP

Councillors in Attendance – Cr McKinna (Mayor), Cr MacFadyen, Cr. Morris, Cr. Bowles, Cr. Scott, Cr. Burke, Cr. Doyle, Cr. Strickson.

Following the Strategy Policy Workshop on 18 August 2015 discussions were held to extend the commercial core boundary to the blocks bounded by Donnison Street, Albany Street, and Erina Street located east of Henry Parry Drive.

The extension of the Commercial Core Boundary reflects the role of Kibbleplex and surrounding land as a valuable part of the commercial core of Gosford CBD.

The extension of the boundary centralises the civic space (Kibble Park) as part of a CBD and enables Council to plan and design for Henry Parry Drive as part of the City Centre rather than view it as a barrier to pedestrian movement.

The inclusion of this land whilst increasing the size of B3 zoned land in the CBD still reflects the desired community and Council vision of Gosford as a regional centre.

The extension of the CBD boundary is reflected in Figure 2 below.

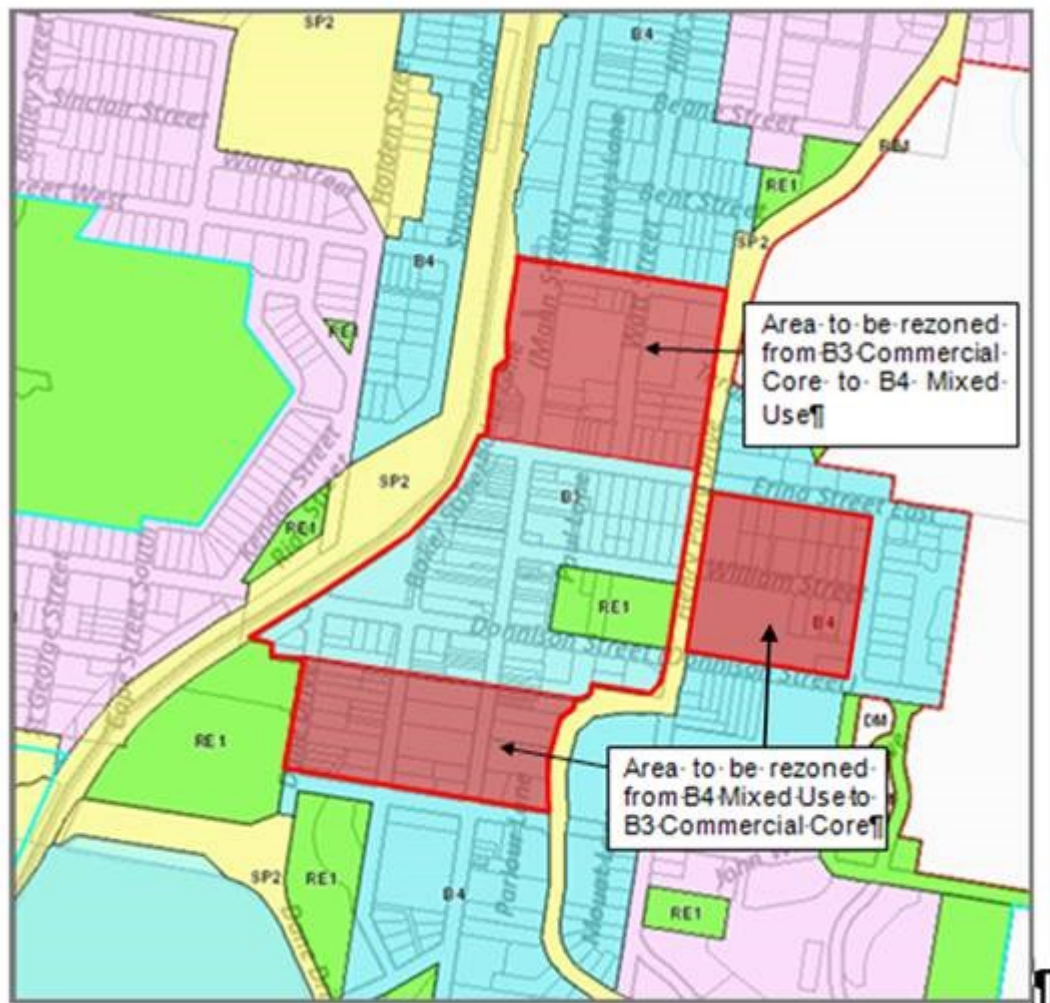


Figure 2

BACKGROUND

Gosford City Centre is the regional capital of the Central Coast, its role and function extends beyond the boundaries of Gosford LGA into Wyong LGA and beyond. The importance of Gosford as a regional centre has long been referred to in State Government Regional Planning Policies and Strategies, however despite years of strategic planning, a renewed, vibrant and successful centre has been slow to eventuate.

Past strategic plans, including the Gosford LEP 2005, Gosford LEP 2007, Gosford Challenge/Gosford City Master Plan 2011-2012, Gosford Waterfront – State Significant Site 2014 and the current Gosford LEP 2014 have not managed to implement a vision that reflects community, industry and Council's vision for the centre.

Past zoning practice has resulted in increased heights and floor space ratio that have not necessarily reflected the lot morphology. This has resulted in development potential unlikely to be realised within the short term due to small or isolated sites and the inability for lots to achieve the densities allowed under the current controls without the need for significant site amalgamation. Other issues have included land banking, and development consents but no construction, owners unwilling to amalgamate sites, buildings still having economic life and recent development which does not maximise the statutory controls.

The inherent capacity sitting in development potential on sites that currently are not capable for development without amalgamation is an issue for long term planning and Council realising development that makes the CBD a regional centre.

The past financial year has shown that a new era of growth is on the horizon. Council has seen an unprecedented level of renewed interest in the development of the centre, with a significant amount of development applications being lodged with Council for land within the Gosford CBD boundary.

The form and function of these applications are reflective of increased market confidence and a new approach to city planning. However these building proposals whilst reflective of a market approach are inconsistent with the Gosford LEP 2014 (GLEP 2014), in respect of the statutory controls for height and floor space ratio (FSR). In any other circumstance, the form and function of development achieved under an environmental planning instrument should represent the vision of Council as expressed in master plans, it should represent the community's vision for place making and it should represent the State Government's centre hierarchy, population and economic growth.

STATEMENT OF STRATEGIC INTENT

The gap between the market and the GLEP 2014 is a matter that Council's Sustainable Corporate and City Planning Unit considered through the development of a Statement of Strategic Intent for the Gosford City Centre. This was reported to Council at its meeting of 9/12/2014 and Council resolved:

"that Council adopt the recommendations outlined in the "Report – Gosford City Centre – Review of Strategic Intent" tabled to this report and to implement the recommendations resolve to prepare a Planning Proposal in accordance with Section 55 of the Environmental Planning and Assessment Act, 1979".

The role of the Statement of Strategic Intent was to identify Council's renewed approach to the city centre and:

- 1 Provide Council with a roadmap for revitalisation of the city centre.
- 2 Ensure the future direction for planning controls for the Gosford City Centre are flexible and align with Council's strategic directions and current market conditions.
- 3 With a focus on the city core, review the appropriateness of building heights, floor space ratios and building forms with a view to reframing the development capacity of the city.
- 4 Provide a basis for Council to commence the preparation of a planning proposal.
- 5 Allow current development applications within the city centre to be assessed within the context of Council's renewed strategic direction for the city centre.

The Statement of Strategic Intent identifies a new approach to massing in the centre, fine grain podiums and floating slender towers providing a visually attractive skyline and enabling views through the towers to both water and vegetated ridges in the background, will be the defining statement of a new CBD. This approach to massing is a departure from the controls, which given the FSR and heights encouraged mid-rise squatted and heavy built forms that would detract from an emerging regional centre. Key considerations in the new approach are heights that respect the surrounding ridgelines and podiums that create a pedestrian scale.

Key actions to be undertaken by Council identified the Statement of Strategic Intent include:

- Redefinition of the Commercial Core by refocusing it towards the waterfront

- Preparation of a Planning Proposal to address redefinition of the Commercial Core and a New Bonus Incentives Clause for the Commercial Core area
- Preparation of Development Controls for “Tall” Buildings and Design Excellence
- Preparation of a Voluntary Planning Agreements Policy

In response to the directions outlined in the Statement of Strategic Intent Council and the Joint Regional Planning Panel when considering the application for development of the Union Hotel site, 108-118 & 120A Mann Street Gosford, considered the inconsistency between the planning controls, the vision for the CBD and the development market. On the basis of continued strategic planning intervention into the design and development of the CBD approved the application. This approval is representative of a future CBD vision which needs to be supported by the planning framework.

The Statement of Strategic Intent was the first step in preparing a planning proposal. Council has had discussion with the NSW Department of Planning and Environment regarding the best method of achieving the recommendations outlined in the Statement of Strategic Intent. A number of possible approaches were discussed with DoPE including:

- 1 Amend statutory controls so that existing heights and FSR are regularised to support the Statement of Strategic Intent. This would be likely to further over value through up-zoned land existing narrow lots and small sites that in the current zoning cannot realise meaningful development without consolidation. This approach will also be time consuming and could possibly result in a period where the potential momentum on the CBD is lost.
- 2 Prepare planning proposals to support individual development applications on the basis that these sites are landmark or iconic within the context of the Commercial Core. This approach would only support a proliferation of iconic sites within the Commercial Core. In addition, this approach would cement height and FSR ratios as precedents for other sites that couldn't be developed to a similar scale due to their lot morphology.
- 3 Prepare a planning proposal to allow height and floor space ratio departures from the existing LEP, based on design excellence and the inclusion of a control that supports an overall density for the Commercial Core. This approach enables Council to use design excellence as a basis for departures (as would be considered in a development application) and where departures are approved reduce the overall GFA of the commercial core to ensure a density that responds to infrastructure and place making principles.

Approach (No.3) is the best way forward as it delivers a planning tool whereby development applications within the Commercial Core can be considered despite significant variations to the existing LEP based on design excellence, achieves a defined density for the Commercial Core and a clearly stated vision supported by Council's planning process. It is also a quicker process to have in place, thereby allowing Council to capitalise on the current development interest in the city centre.

REPORT

This report is the next step in acting on the recommendations of the Statement of Strategic Intent. It places Council in a pro-active position to focus on creating a vibrant “city heart”, by proposing incentives to stimulate activity and interest within a focused area, being the B3 Commercial Core zone. It will provide a flexible, yet transparent and robust process for

proponents to follow. Whilst providing incentives the process also allows sets design excellence requirements and ensures appropriate public benefit.

The proposed approach involves four main components which are summarised in the Executive Summary of this report and discussed in detail below.

REDEFINITION OF THE COMMERCIAL CORE AREA

Analysis of recent development applications within the city centre has indicated that of the 38 recent development applications lodged within the city centre only 5 of these are located within the area currently zoned B3 Commercial Core. With the evolving structure of the city centre, changing market requirements and new incentives provided by the State Significant Site at the southern end of Mann Street, the Statement of Strategic Intent Report identified an opportunity to redefine the area known as the commercial core. This would allow the permissible land uses to better reflect market needs and also identify the area considered by both Council and the community as the “heart” of Gosford City Centre.

The B3 Commercial Core zone currently defines the business core and is generally bounded by Faunce Street, Henry Parry Drive, Donnison Street (including lots on its southern side) and the railway line. It has a net physical area (excluding roads etc) of approximately 106,800m², and excluding Kibble Park which is zoned for public open space. The Railway Station and Burns Park are located in the northern section of the B3 zoned area.

Whilst historically and in traditional planning terms the railway station often is considered the centre of a town and the commercial area should focus around this point, for a number of reasons the structure of Gosford has evolved differently. The historical development of Gosford has led to a long city centre area which stretches from the waterfront area in the south to Etna Street and beyond in the north. The city has responded to different stages of development from primarily boat access in the first days of settlement to a more rail focused city in the early to mid-1900's. In the 1960's – 1980's lot sizes, ownership patterns and range of other decisions led to the major retail focus being around Kibble Park. The development of significant administration buildings such as the Council Chambers and the Courthouse during this period further drew the focus of the centre of the city away from the railway.

This “refocusing” of the commercial core is further reinforced by recent development applications in the northern area of land currently zoned B3 commercial core near the railway station which have primarily been for mixed use/residential units with only a “token” retail or commercial component. Further anecdotally those developments in the northern part of the B3 zone which have developed ground floor retail/commercial have experienced difficulties obtaining and maintaining tenants. Peripheral areas of B3 zoned land abutting Henry Parry Drive seem to be poorly located for core commercial uses, with a lack of street address and relatively poor vehicular and pedestrian accessibility and connectivity to the central core area. This is due to their fringe location, topography and isolation to main road frontage by road batters.

Conversely, the fringing area of B4 Mixed Use zoned land to the south of the current B3 Commercial Core area bounded by Henry Parry Drive, Donnison Street, Dane Drive and Georgiana Terrace have seen development applications which include more “traditional” city centre uses such as retails, commercial, cinemas/auditorium, hotels etc. The preferred sites for the relocation of the tax office are also located within this area.

From the perspective of development in the short term and revitalisation of the city centre, there are also more advantageous prospects for redevelopment in the southern area of the

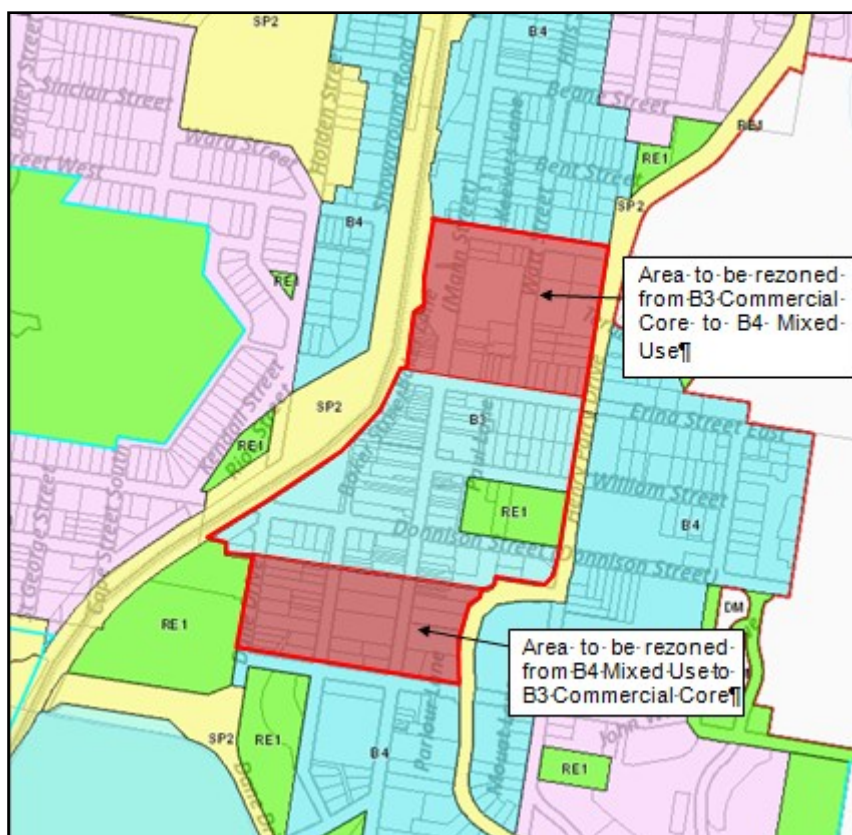
city proposed for rezoning. Land is not unduly fragmented by small separately owned lots and it is in a preferential location in terms of proximity to the waterfront, recreational opportunities and arterial road connections, whilst still being able to walk to the railway station.

The age/state of repair and existing capital value of many buildings in the southern section of Mann Street also make this area more conducive to maximising redevelopment opportunities. With Council's administration building and other civic/community functions, there is capacity to create leverage for other complementary developments in this immediate area.

The impetus provided by the development of the State Significant Site will create even greater reasoning to redefine the commercial core as a focus for redevelopment opportunities and act as a stimulus for growth and revitalisation.

In response to the concept of redefinition of the commercial core it is proposed to reposition the commercial core area closer to the Gosford Waterfront by:

- Rezoning the areas currently zoned B4 Mixed Use on the street blocks bounded by Henry Parry Drive, Donnison Street, Dane Drive and Georgiana Terrace to B3 Commercial Core (approx 37,747m² net) as outlined in the figure below.
- Rezoning the area currently zoned B3 Commercial Core between the railway, Erina Street, Henry Parry Drive and Faunce Street to B4 Mixed Use (approx 37,886m² net) as outlined in the figure below.



COMMERCIAL CORE BONUS INCENTIVES CLAUSE

Current Bonus Clause

Currently the majority of the Gosford City Centre has Clause 8.9 Development Incentives available which provides for a bonus of up to 30% in both height and floor space. This bonus clause will cease on 2 April 2016 as it is time limited in GLEP 2014. DoPE have advised that the long term retention of the 30% bonus across the wider residentially zoned city centre area is not justified as it would produce overall densities higher than that planned for, and would remove the stimulus incentive to develop in the short term.

The 30% bonus provisions in this clause have been successful in attracting development applications within the city centre area, the majority of these have been outside the Commercial Core area and have been largely for residential apartments. Whilst these developments contribute to meeting strategic planning objectives such as population growth and housing diversity, the 30% Bonus Clause has to date not delivered outcomes in the commercial core. Furthermore, any lodged applications request variations above the bonus clause further indicating an inconsistency between planning scheme and the vision for the centre.

Currently the 30% bonus incentives clause (as applied across the commercial core/B3 Zoned Land) allows for approximately 150,000m² of floor space above what is permitted under the current LEP. Council's infrastructure planning has been designed in accordance with this LEP potential. However, analysis of the existing lot configuration and ownership patterns within the commercial core reveals that a number of existing narrow lots and small sites are unlikely to realise maximum LEP height and floor space ratios without significant consolidation of lots. Consolidation of lots is unlikely at least in the short term. It also results in a "theoretical" development density within the commercial core that is unlikely to eventuate, which has been planned for in terms of servicing capacity.

Proposed "Pool" of Bonus Floorspace for Commercial Core

It is important that the planning controls for the Gosford City Centre not only capitalise on the renewed development interest in the city, but also result in on-the ground development in the short term.

Therefore it is proposed that a new clause be introduced to GLEP 2014, to create a bonus pool of floor space above that allowed under GLEP 2014 available for development. The amount of floor space correlates with the floor area that notionally sits in the 30% bonus provision (i.e. 150,000m²).

The intent of the bonus floor space is to redistribute floor space currently available to individual sites (but unlikely to be used in the short term due lots size, need for amalgamations and ownership patterns etc) as a time limited bonus available to applicants for development within the commercial core.

In this way Council is planning for a known density, but also stimulating activity in the commercial core by allowing floor space to be redistributed to applicants willing to develop in the short term. The aim being to facilitate revitalisation with the associated flow on effects for the city, employment, housing and diversity but also ensuring the planned density makes efficient use of Council's planning infrastructure.

Whilst the current GLEP 2014 height and floor space controls will remain the "base" controls applying to the B3 Commercial Core zoned land within Gosford City Centre, the proposed

amendment will introduce a new clause into the Gosford LEP 2014, Clause 8.12 which applies to the B3 Commercial Core zone only. This clause will permit a limited “pool” of additional floor space, 150,000m², above that currently permitted by the Floor Space Ratio map within GLEP 2014.

The clause would permit Council to consider applications for development within the commercial core that exceed the floor space ratio and height permitted under the GLEP 2014 subject to compliance with certain LEP criteria, being a minimum primary site frontage of 40m, a minimum site area of 2800m² and a building height not exceeding RL 99. These criteria ensure that the sites of any proposed development are of sufficient width and area to achieve compliance with Council’s objectives for good urban form and amenity, slim elegant towers, view sharing to ridgelines and provision of services such as car parking. Compliance with a Design Excellence Development Controls would also be required. These will provide guidance and control for how development above and beyond the current suite of controls would occur.

Any applicant for development on land zoned B3 Commercial Core who wishes to exceed the height and/or floor space ratio mapped under GLEP 2014 may apply to do so under the proposed new clause, provided they meet the required criteria.

With regard to the bonus floor space, it should be noted that it is proposed that the clause apply to development consents within the B3 Commercial Core zone granted since 21 May 2015. The consent for Mariners Plaza on the Union Hotel site is captured by the proposed wording of the clause and therefore the 31,656m² by which this development application exceeded the mapped LEP controls will be deducted from the 150,000m². Any other development approved prior to the adoption of this clause would be treated in a similar manner.

Proposed Height Variations

Development applications choosing to apply for additional floorspace under the new clause may also request to vary the LEP heights for sites within the Commercial Core. The Statement of Strategic Intent considered how floor area can be distributed in a variety of built outcomes at mid to high rise scales. The outcomes of the Strategic Intent report is the provision of fine grain podium developments with slender and elegant towers floating above.

The Strategic Intent Report identified a key principle that defines the maximum height being the retention of the ridge line as the highest point in the skyline. The height of the surrounding ridges is measured at RL 100 and therefore maximum height any development wishing to apply for additional floorspace under the proposed new clause will be RL 99.

The intention of the clause that enables a variation to height is that the development only be considered on the basis of compliance with criteria specified in a Design Excellence Development Control Plan.

Variations to the height and floor space ratio are interconnected and form part of change to planning in the CBD to encourage development.

Time Period for the Bonus

In order to build on existing development interest in the city centre in the short term and stimulate activity it is proposed to limit the operation of the new clause to a period of 2 years.

Once the additional cumulative floor space applied for under the clause reaches 120,000m² it is proposed that Council review the clause to determine whether, the policy objectives of the clause remain valid and whether the clause is securing Council's objectives.

To ensure that applications reliant on the additional bonus floor space are developed and not just land banked, the development approval will be limited to a period of 2 years. If development has not commenced and/or the consent condition relating to the provision of public benefit as not been complied with the consent will lapse. The bonus floorspace allocated to that consent would then be returned to the "pool" of bonus floor space for use by other applicants.

30% Bonus Clause – What Happens to It?

Currently Clause 8.9 Development Incentives provides for a bonus of up to 30% in both height and floor space. This clause will cease to apply after 2 April 2016 due to the wording of clause 8.9.

The new incentive clause (height and FSR) will replace the 30% incentive bonus on land zoned B3 Commercial Core zone within the Gosford City Centre.

The 30% bonus provisions would continue to apply, but only to areas outside the B3 Commercial Core area and until the clause lapses on 2 April 2016. It is not recommended to extend the 30% bonus clause for a third time.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 of Gosford LEP 2014 allows Council to consider development applications that exceed the development standards outlined within Gosford LEP 2014 (ie: height & FSR). These provisions were previously covered by SEPP 1 – Development Standards.

Sites around the B3 Commercial Core are already subject to generous height and FSR controls ranging from a minimum height of 12m and FSR's of 0.7:1 and 1.5:1 in the outer areas of the city centre to the north past Dwyer Street to maximum heights of 72m and FSR's of up to 5:1 in areas closer to the railway. These are also subject to the 30% bonus clause until 2 April 2016.

In order to focus Council's efforts on the commercial core area, and prevent the development "donut" effect which is to a large extent occurring currently, where the majority of development application are for sites outside the commercial core, it is proposed to insert a sub-clause which "turns-off" Clause 4.6 so that it does not apply to any land within the Gosford City Centre as defined by GLEP 2014 mapping. This combined with the development incentives clause will focus the area where Council will consider variations to height and floor space ratio to the commercial core. The intension being the creation of a development focus on the core of the city to encourage development in the short term and assist in creating a vibrant, active heart of Gosford suited to its regional centre role. Allowing variations in the core only will also provide extra weight to the proposed development incentives for the commercial core.

The purpose of this approach is multi-faceted, it will prevent applicants for development within the commercial core area from trying to bypass the new "Commercial Core Incentives Clause" and lodge applications seeking to vary LEP height and floor space controls using a Clause 4.6 variation request. It will define the area of the city centre to a "known" amount of floorspace that can be planned for in terms of provision of infrastructure. It will reinforce the

fact that Council only wishes to consider applications seeking to significantly vary the LEP controls if they are for sites within the commercial core area.

It will also ensure that any development application which seeks to exceed the height and FSR mapped within GLEP 2014 will be subject to the design excellence provisions outlined in the clause including the requirement for the provision of significant public benefit. The provision of public benefit will assist Council in achieving a public domain and provision of other public benefits suited to Gosford's role as a regional centre.

The proposed sub-clause would be reinstating provisions similar to those which previously applied to the Gosford City Centre under Gosford City Centre LEP 2007 where SEPP 1 (similar to provisions of clause 4.6) did not apply. Minor variations to height for roof features (providing it does not include floorspace) would still be possible under clause 5.6 Architectural Roof Features.

Design Excellence DCP

The development envisaged under the new Commercial Core Incentives clause is outside the form and scale of development covered by the controls in Chapter 4.1 Gosford City Centre of Gosford Development Control Plan 2013. If Council is to consider introducing "taller" buildings within the commercial core area it is essential that development controls are prepared to ensure that the resultant development meets Council's objectives of good city form and amenity. Taller buildings should be considered in terms of their design and consequent impact within the broader context, their immediate surroundings, the site, the building itself and how it interacts with the street at a human scale.

It is therefore proposed to prepare development controls based on "design excellence" which will apply to all development applications proposing to utilise the Commercial Core Incentives Clause. These controls will be based on the following development principles:

- Promoting architectural and urban design excellence, sustainability innovation, and creative expression.
- Promoting a harmonious fit with the existing and planned context that maintains the integrity of the surrounding ridgelines.
- Locating taller tower components along Mann Street, with surrounding streets decreasing in height.
- Locating taller towers on a fine grain podium that creates active pedestrian engagement.
- Encouraging the amalgamation of lots to facilitate quality urban design outcomes and transitions to surrounding development.
- Minimising overshadowing and wind impacts, protecting sunlight and skyviews for streets, parks, public and private open space.
- Considering relationships to other taller buildings, including the cumulative effect of multiple towers on solar access, views, amenity, comfort and a quality public domain.
- Considering the historic value of any existing heritage buildings and preparing an appropriate design response.
- Ensuring high quality living and working conditions including access to private and public open space, privacy and ventilation.
- Creating a safe, vibrant, accessible and attractive public domain and pedestrian environment.

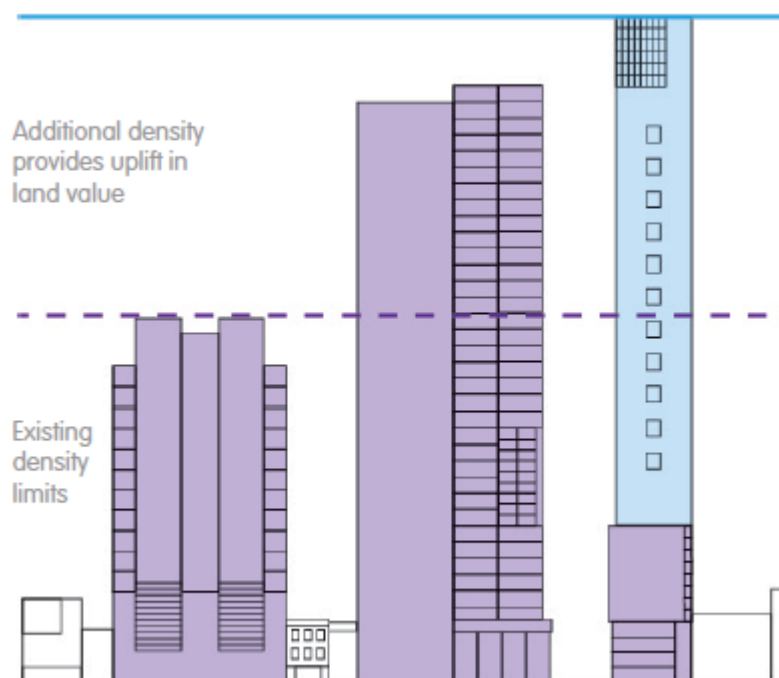
The Design Excellence controls should also consider form based design and development controls at both lot and super block scale in order to determine the high quality design

outcomes that integrate private and public domains as well as land use mixes and movement patterns.

The controls will address criteria for development using the new clause such as recommended floorplate for the “tower” components of buildings, minimum requirements relating to commercial/retail uses etc

Value Uplift Provisions

Applicants seeking to utilise the proposed clause will receive significant “capital value uplift” through the increased heights and densities available under the clause. Council should ensure that part of this “capital uplift” is shared by the whole community. This can ensure that Gosford can deliver the high quality urban amenity which is demanded by a regional centre to be attractive as both a residential and commercial destination. It is proposed that this be captured via the “significant public benefit” requirement of the proposed clause. The significant public benefit requirements will be outlined in a Voluntary Planning Agreements policy.



To aim to address the issue of developers physically commencing the consent and not building the development, which would sterilise bonus floor space and not result in development on the ground, it is proposed that development consents be conditioned such that they provide the agreed public benefit prior to issue of the construction certificate. If this condition is not complied with within the 2 year consent period then the development consent would lapse. Once a consent lapses then the bonus floor space allocated to that consent would be returned to the “pool” of bonus floor space for use by other applicants.

Voluntary Planning Agreement Policy

To ensure transparency and clarity it will be necessary to prepare a Voluntary Planning Agreement Policy which sets out Gosford City Council’s policy, principles and procedures

relating to the use of Planning Agreements under the Environmental Planning and Assessment Act 1979. Whilst this policy will apply citywide, it is proposed that it contain a section which deals specifically with the “public benefit” requirements contained in the proposed LEP clause.

Council Procedure/Policy – Implementation of Clause 8.12 Gosford City Centre B3 Commercial Core Incentives

In order to provide transparency and clarity for developers, the community and Council staff it will be necessary to prepare a procedure or policy which provides information such as:

- Guidelines for use of the clause and consideration of whom may be the appropriate authority for assessing applications against the proposed design excellence DCP;
- How the “pool” of additional floor space will be measured, monitored and be accessible to the developers and the community;
- Provides details and clarity around “public benefit” requirements;
- Outlines the Development Application process for applications using the Commercial Core Incentives clause.

Conclusion

This past financial year, Council has seen a significant level of renewed interest in the development of the centre within the Gosford CBD boundary. The majority of these have been for land outside the area zoned B3 Commercial Core, those development applications received for land within the commercial core sought significant increases that are outside of the established LEP controls. These non-compliant, market driven proposals created the impetus for the Gosford City Centre Statement of Strategic Intent Report to review the appropriateness of the controls as they relate to the commercial core area. The recommendations of which were supported by Council in December 2014.

This report represents the next step in acting on the recommendations of the Statement of Strategic Intent and outlines a number of actions which will enable Council to capitalise on the existing momentum created in the city centre. These actions are outlined in detail in this report and summarised below:

(a) Redefine the commercial core by focusing it closer to the waterfront by:

- Rezoning the areas currently zoned B4 Mixed Use on the street blocks bounded by Henry Parry Drive, Donnison Street, Dane Drive and Georgiana Terrace to B3 Commercial Core (approx 37,747m² net) as outlined in Figure 1 in this report.
- Rezoning the area currently zoned B3 Commercial Core between the railway, Erina Street, Henry Parry Drive and Faunce Street to B4 Mixed Use (approx 37,886m² net) as outlined in Figure 1 in this report.

(b) Amending Gosford Local Environmental Plan 2014 (GLEP 2014) by

- Inserting a new clause which permits a limited amount of Bonus CBD floor space (150,000m²) which would be available to applicants within the B3 Commercial Core zone subject to compliance with certain design criteria and the provision of significant public benefit.
- Criteria in this clause include a minimum street frontage of 40m, minimum site area of 2800m² and a maximum variation RL of 99

- (c) Preparation of Development Controls for design excellence
 - To address the new “slender tower” form of development envisaged under the new incentive controls
 - Promoting design excellence and significant public benefit
- (d) Preparation of a Voluntary Planning Agreements Policy
 - To ensure transparency and clarity
 - To outline the requirements relating to public benefit
- (e) Preparation of Policy identifying administration, approval process and monitoring and review processes for the Commercial Core Bonus Floor Area
 - To ensure transparency and clarity
 - To outline the requirements relating to public benefit

This Policy should include (but not be limited to) the following information:

- Guidelines for use of the Clause;
- How the “pool” of additional floor space will be measured, monitored and be accessible to the developers and the community;
- Provides details and clarity around “public benefit” requirements
- Outlines the Development Application approval process for applications using the Commercial Core Incentives clause.

Should Council wish to reconsider the matter after public exhibition where no submissions objecting to the matter have been received, Part C of the recommendation should be amended to include the words: “After public exhibition of the Planning Proposal a report is referred to Council on the matter.”

FINANCIAL IMPACT STATEMENT

The direct cost to Council is the Advertisement of the Planning Proposal and the preparation of any studies required as a result of the Council resolution and/or as part of the Gateway Determination issued by the Department of Planning and Environment, including the development of a Design Excellence DCP by staff/consultant.

Attachments: Nil

Tabled Items: Planning Proposal & Associated Mapping (IR 21272990)

RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal as outlined in this report, to rezone the properties as outlined in Figure 2 attached in this report and amending Gosford Local Environmental Plan 2014 as outlined in this report and the attached planning proposal.

- B Council notify the Department of Planning & Environment of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- C After public exhibition of the Planning Proposal, should the Minister for Planning support it, if no submissions objecting to the Planning Proposal are received, the Planning Proposal is to be processed in order to make the plan.
- D Council resolve to prepare Development Control Plan for Development which proposes to use Clause 8.12 Gosford City Centre B3 Commercial Core Incentives.
- E Council resolve to prepare a Voluntary Planning Agreements Policy.
- F Council resolve to prepare a Council Procedure/Policy outlining how Clause 8.12 will be applied and monitored.
- G Council seeks delegations from the Department of Planning & Environment for this Planning Proposal.

Any delegation to Council is to be delegated to the Chief Executive Officer - Paul Anderson, per s381 of the *Local Government Act 1993*, who will complete the "Authorisation" on behalf of Council and submit to the Department of Planning & Environment.