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Our ref: PP_2012_GOSFO_008_00 (12/07288)
Your ref: IR 10784196

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

Dear Mr Wilson,

Planning proposal to include 'restaurants' and 'kiosks' as permissible land uses with consent in the in the 6(a) Open Space (Recreation) zone under the Gosford Planning Scheme Ordinance or the Interim Development Order 122 or RE1 Public Recreation zone under the draft Gosford Local Environmental Plan 2009

I am writing in response to your Council's letter dated 17 April 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 include 'restaurants' and 'kiosks' as land uses permissible with consent in the 6(a) Open Space (Recreation) zone under the Gosford Planning Scheme Ordinance or the Interim Development Order 122 or RE1 Public Recreation zone under the draft Gosford Local Environmental Plan 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 noted that Part 2 Explanation of Provisions does not provide for the inclusion of the 'kiosk' definition in the Gosford Planning Scheme Ordinance or the Interim Development Order 122, as is proposed. Therefore, Council is to include this component of the proposed amendment in the Explanation of Provisions section of the planning proposal prior to the commencement of public exhibition.

I have also agreed that the planning proposal's inconsistencies with S117 Directions 2.2 Coastal Protection and 4.1 Acid Sulfate are of minor significance. No further approval is required in relation to these Directions.

In regards 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, take into account any comments made and amend the planning proposal (if necessary) as per the requirements of the Local Planning Direction.

It is noted that Council consider the planning proposal consistent with the requirements of S117 Direction 4.3 Flood Prone Land. However, Council has identified that some low lying land may be flood-labile and future development may be impacted upon by flooding. Given the Local Planning Direction requires that planning proposals do not contain provisions that permit development in floodway areas, the planning proposal is inconsistent with the S117 Direction. It is acknowledged that individual proposals would need to be considered on their merits as part of the Development Application process, however given the applicability of the S117 Direction at this stage Council is to amend the planning proposal to reflect the inconsistency being either of

minor significance or having been prepared in accordance with the principles and guidelines of the of the Floodplain Development Manual 2005.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal upon completion of consultation with the NSW Rural Fire Service. 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 Regional Office of the Department on 02 4348 5003.

Yours sincerely,



Sam Haddad
Director-General

17/5/2012

Gateway Determination

Planning Proposal (Department Ref: PP_2012_GOSFO_008_00): to include 'restaurants' and 'kiosks' as permissible land uses with consent in the in the 6(a) Open Space (Recreation) zone under the Gosford Planning Scheme Ordinance or the Interim Development Order 122 or RE1 Public Recreation zone under the draft Gosford Local Environmental Plan 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 include 'restaurants' and 'kiosks' as land uses permissible with consent in the 6(a) Open Space (Recreation) zone under the Gosford Planning Scheme Ordinance or the Interim Development Order 122 or RE1 Public Recreation zone under the draft Gosford Local Environmental Plan 2009 should proceed subject to the following conditions:

1. Council is to provide for the inclusion of the 'kiosk' definition in the Gosford Planning Scheme Ordinance or the Interim Development Order 122 Explanation of Provisions section of the planning proposal prior to the commencement of public exhibition.
2. In relation to the planning proposal's inconsistencies with S117 Direction 4.3 Flood Prone Land, Council is to amend the planning proposal to identify the inconsistency and justify the inconsistency as being either of minor significance or having been prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.
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 is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 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)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service
 - Office of Communities - Sport and Recreation

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.

5. Further to Condition 2 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.
6. 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).

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

Dated

17th

day of

May

2012.

SHaddad

Sam Haddad

Director-General

**Delegate of the Minister for Planning and
Infrastructure**