

**TITLE PLANNING PROPOSAL S55 - ADDITIONAL PERMISSIBLE USES IN
6(A) OPEN SPACE (RECREATION) - KIOSKS, CAFES/
RESTAURANTS APPLICANT: GOSFORD CITY COUNCIL (IR
10784196)**

Directorate: Environment and Planning

Business Unit: Integrated Planning

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". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a '*relevant planning application*'.

Councillors may declare a disclosure or interest when this matter is considered.

INTRODUCTION

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 and Infrastructure would result in an LEP*), pursuant to Section 55 Environmental Planning & Assessment Act, 1979 (State).

Application Received: 24 November 2011

Environmental Planning Instrument – Current Zone: 6(a) Open Space (Recreation)

Area: not relevant - will apply to landuse table uses for the 6(a) zone

Applicant's Submission:

A Planning Proposal (PP) submission has been prepared by Council's Open Space and Leisure Services to support the application. The application proposes to bring forward provisions of draft Local Environmental Plan 2009 (dLEP 2009) to allow kiosks and café/restaurants in the 6(a) Open Space (Recreation) zone (propose RE1). The issues raised in the Planning Proposal submission have been considered in the assessment of the proposal.

'Gateway' planning process

A Local Environmental Plan (LEP) is a legal instrument that imposes zoning of land, standards to control development and other planning controls, in this instance permitted landuses with the 6(a) Open Space (Recreation) zone.

Its aim is to enable early consideration by DoP&I, early public consultation and ensure that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. It also acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

Attachment A – Planning Proposal Process Flowchart - shows the stage at which this Planning Proposal has reached.

PLANNING PROPOSAL GOSFORD CITY COUNCIL - ADDITIONAL PERMISSIBLE USES IN 6(a) OPEN SPACE (RECREATION) - KIOSKS, CAFES/ RESTAURANTS

This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and the Department of Planning and Infrastructure's *A Guide to Preparing Planning Proposals*.

Background

Public sporting and recreation facilities are zoned Open Space 6(a) Recreation under Council's existing planning instruments, the Gosford Planning Scheme Ordinance (GPSO) or Interim Development Order No 122 (IDO 122). Council owned land is also classified as either "operational" or "community" land under the Local Government Act. Generally, operational land is so classified as it contains Council assets (infrastructure, buildings) or interests (eg leases, licenses, etc) and community land is so classified as it is of value to the wider community (eg recreation facilities such as playing fields, bushland, children's play areas, etc). The day-to-day use and management of "community" land are determined under the relevant Plan of Management (POM) that applies to a particular reserve or area. Operational land does not require a POM.

Permitted uses with development consent in the 6(a) zone are limited to: camping grounds or caravan parks, community facilities, roads and utility installations. Some uses are permitted without consent, such as recreation areas and other minor exempt development (eg uses associated with an adopted POM, access ramps, landscaping, park furniture, etc).

Over time, there has been increasing demand for other activities to be co-located on sporting and recreation reserves, where these facilities are consistent with the overall public use and amenity of an individual reserve. Council has seen, for example, a number of kiosks/cafes associated with surf clubs (and permitted as ancillary development) that act as social/recreational focal point for the community and contribute to the financial viability of overall club operations.

Draft Local Environmental Plan 2009

As Council is aware, draft Local Environmental Plan 2009 (dLEP 2009) is Council's Standard Instrument LEP to implement the State Government's LEP reforms. It was exhibited for the period 10 February until 5 May 2010 with in excess of 1400 submissions being received. The dLEP was considered by Council at its meeting held on 31 May 2011 and is now with the Department of Planning and Infrastructure (DoP&I).

In dLEP 2009 the comparable zone to 6(a) is Zone RE1 Public Recreation and this zone has been used for Council sporting and recreation facilities, public reserves and some crown lands. Having regard to the range of new definitions for landuses in the Standard Instrument (SI), the RE1 zone contains a number of "new" permissible recreational landuses. These uses generally reflect what would be permissible recreational uses in the 6(a) zone under another guise, and are proposed to include recreation areas, recreation facilities (indoor), recreation facilities (major) and recreation facilities (outdoor). These uses could be for public or private purposes, however being located on Council land would require Council's permission. RE1 is also proposed to include landuses that are currently permitted in 6(a) and have the same landuse term in the SI, being caravan parks, community facilities and roads.

The Standard Instrument (Local Environmental Plans) Amendment Order 2011 introduced more land use definitions and mandated where these uses are to be permitted. The RE1 zone now also includes as permitted uses camping and respite day care centres.

The following table summarises the differences between the existing zones and proposed zone:

	6(a) Open Space (Public Recreation)	RE1 Public Recreation
Objectives of the Zone	To identify and make provision for land for the purposes of leisure and recreation to promote community benefits and contribute to the amount and distribution of public open space areas at acceptable levels and at standards which meet the needs of the community (GPSO definition) or Is to identify and make provision for land for the purpose of leisure and recreation and which promotes worthwhile community benefits and contributes to the amount and distribution of public open space areas at acceptable levels and standards which meet the needs of the community (IDO 122 definition)	To enable land to be used for public open space or recreational purposes; To provide a range of recreational settings and activities and compatible land uses To protect and enhance the natural environment for recreational purposes To identify areas suitable for development for recreation, leisure and cultural purposes To ensure development is compatible with the desired future character of the area covered by this zone
Permitted without consent	Recreation areas, exempt development (i.e. development consistent with an adopted POM)	Environmental facilities, environmental protection works
Permitted with consent	Camping grounds or caravan parks, community facilities, roads, utility installations	Camping, caravan parks, car parks, child care centres, community facilities, kiosks, recreation areas, recreation facilities (indoor), recreation facilities (major), recreation facilities (outdoor), respite day care centres, restaurants, roads, water recreation structures
Prohibited	Any other development	Any other development

As is evidenced above, RE1 is more explicit in the types of uses that are permissible, and uses are required to be consistent with the objectives of the zone. Inherent in this is that the use would be for the public and aligned with leisure, recreational and cultural values of a particular public space or reserve.

Kiosks are a use not currently defined in the GPSO or IDO 122 however are defined in the SI (2011) as:

"kiosk means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like"

Kiosks are a mandatory permitted use in the RE1 zone with a limitation on floor area of 50m² as stipulated by Council.

Under the current GPSO and IDO 122, restaurant is defined as:

"restaurant' means premises, the principal purpose of which is the provision of food and drink to people for consumption on the premises or the provision of take away food and drink or both".

Under the SI (2011), restaurants are defined as:

"restaurant or café means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided"

There is potential for confusion as to when an activity would be considered to be a kiosk or a restaurant as they both could prepare and serve food and light refreshments. This has potential to create uncertain development outcomes, particularly where outdoor seating is proposed, so it is more practical to also allow restaurants where kiosks are permitted.

Given this, and in recognition of opportunities for providing larger scaled operations that would be complementary to the operation of some 6(a) lands, dLEP 2009 included restaurants (in addition to kiosks) as a permissible use in RE1. Permissibility of a type of development, such as a restaurant, may also be of relevance in consideration of applications to licence existing premises (including sporting club houses) under the *Liquor Licensing Act*. Any restaurant would be an ancillary component to the overall recreational purpose of the reserve.

In light of the above, and given the delays experienced with dLEP 2009 to-date, it is considered reasonable to bring these provisions forward and prepare an amendment to both planning instruments that relate to the 6(a) zone, i.e. the GPSO and IDO 122. This amendment would entail listing kiosks and restaurants as permissible uses in the 6(a) zone, together with inserting the SI definition of kiosk into both instruments. The actual location of these uses would also need to be consistent with any an existing POMs.

It is noted that some existing Coastal Open Space System (COSS) land is currently zoned 6(a), however is proposed to be zoned E5 Public Conservation in dLEP 2009. In the event that this LEP is made before dLEP 2009, the amendment to the landuse table would mean that restaurants would "in theory" be a permissible use on COSS land. It is not the intention of this Planning Proposal to allow restaurants within COSS reserves, and any such proposal would need to be consistent with the relevant POM and subject to Council approval, as both the owner of the land and as the consent authority.

A gateway determination under Section 56 of the Environmental Planning and Assessment Act is requested from the DoP&I.

Part 1 Objectives or Intended Outcomes

s.55(2)(a) A statement of the objectives or intended outcomes of the proposed instrument.

The objective/intended outcome of the Planning Proposal is to allow kiosks, and restaurants as permissible uses subject to development consent on land zoned for public recreation. It is noted that land may be zoned under either the Gosford Planning Scheme Ordinance or Interim

Development Order No 122 and as such landuse tables would need to be amended in both instruments.

It is noted that a number of Council facilities are already operating as kiosks/restaurants where this has been considered to be ancillary to the operation of the sporting/community building. Regulation of this type of use is problematic in that:

- kiosks and restaurants are separately defined uses (and are a subset of "food and drink premises"), however could entail similar activities i.e. food provision and outdoor seating being common components (restaurants can have a larger floor area and indoor seating);
- there is a propensity for both activities to be perceived as the one by the community, and a kiosk may "morph" into a restaurant if it increases its hours of operation, scale of activities (hours of operation, seating capacity etc).
- lack of clarity as to when either activity is ancillary to the primary function of a sporting/community building.
- restricting permissible uses to "ancillary kiosks" may be a limiting factor in realising the potential financial benefits to a particular sporting/community group and social benefits to the wider community, particularly when there is no overall discernable difference between the two from a landuse planning perspective.
- any potential impacts on the neighbourhood and development control issues can be considered through assessment of individual applications and imposition of conditions of consent where necessary.

As such, it is considered appropriate to explicitly permit both activities as permissible landuses in the 6(a) zone. This then removes any ambiguity as to the use and operation of the facilities, and provides a clear regulatory framework for consideration of DAs. It will essentially bring forward provisions of dLEP 2009; however given the uncertain progress of this plan, will allow proposals to be considered in a more expedient manner.

Part 2 Explanation of Provisions

s.55(2)(b) An explanation of the provisions that are to be included in the proposed instrument.

The objectives/intended outcomes are to be achieved by amending the landuse tables as they relate to the 6(a) zone under the Gosford Planning Scheme Ordinance and Interim Development Order No 122. Cafés are not a separate defined landuse, however would fall within the definition of a restaurant. As such, only kiosks and restaurants need to be listed.

s.55(2)(d) Maps

No maps are required. Only the written planning instruments need amendment.

Part 3 Justification

s55(2)(c) The justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will comply with relevant directions under section 117).

Section A Need for the Planning Proposal

1 Is the Planning Proposal a result of any strategic study or report?

No. It is however proposed to include kiosks and restaurants in the RE1 zone in dLEP 2009. Council at its meeting held on 31 May 2011 resolved pursuant to Section 68 of the

Environmental Planning and Assessment Act, 1979 (NSW) to forward the dLEP to the DoP&I, however it is still being considered.

Council has received a number of representations from "not for profit" sporting and community associations currently under lease/licence or seasonal allocation for 6(a) zoned land throughout the city and from Central Coast Tourism. These representations seek the earliest possible opportunity to allow kiosks and restaurants on land currently zoned 6(a). Sporting clubs using Council's facilities are finding that restrictions in club sponsorship opportunities and increasing fees for members are adversely affecting their financial feasibility. They are being further burdened by low interest loans taken out to redevelop or build infrastructure required to support their sporting activities.

Many of the existing clubhouses/community facilities have limited opportunity to provide additional sources of income due to their operational charters and zoning restrictions of 6(a) land. The inclusion of kiosks and restaurants as permissible uses would provide potential to attract commercial income and reinvigorate the financial viability of these not for profit community organisations. These uses would only be established where supported by Council as the owner/trustee of the land and the consent authority.

2 Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The Planning Proposal is the best means in the short term of achieving the objectives/intended outcomes of dLEP 2009 which is under consideration by DoP&I. Opportunities to increase/diversify incomes are required in the more immediate future.

It is not suitable to zone a part of each reserve on a case by case basis as it is not known where these opportunities may present themselves nor which organisations may avail themselves of such an opportunity. It is also not desirable to zone council sporting and recreation facilities to a business zone as their primary role is for recreational activities. This would also be inconsistent with Council's draft Gosford Centres Strategy that establishes the commercial/retail hierarchy of centres within the LGA. The full range of uses permissible in a business zone are also not appropriate on council/crown reserves.

3 Is there a net community benefit?

Will the LEP be compatible with agreed State and Regional strategic directions for development in the area?

The PP/LEP amendment will allow Council to approve kiosks and restaurants on public land as ancillary to the operation of sporting and community groups to assist their financial viability and address needs of patrons. This will increase the range of recreational experiences offered at sporting and recreation facilities where these uses are proposed due to improved financial viability.

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?

No. The PP relates to an LEP amendment to the landuse table for the 6(a) zone.

Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?

No. Any kiosks/restaurants would be approved commensurate to the scale of the sporting facility. The primary role of the reserve as a sporting/recreational facility would be retained and the activity would only occur where approved by Council as the owner of the

land and the consent authority. It is envisaged that in some instances kiosks etc could be sublet by sporting groups to commercial operators, with the lease fee being returned to the club.

Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

This is not a spot rezoning of land but an LEP amendment to the landuse table. Any proposed future DA applications would be subject to Council's approval and endorsement as the owner of the land. As such, no cumulative effects would be expected.

Will the LEP generate permanent employment generating activity or result in a loss of employment lands?

The LEP amendment does not relate to employment lands and is not expected to result in a loss of employment generation. There may be an opportunity for job creation through the operation of individual kiosks/restaurants.

Will the LEP impact on the supply of residential land and therefore housing supply and affordability?

No, the LEP amendment does not relate to residential land.

Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?

The LEP amendment will not affect public infrastructure. Development consent will only be granted where adequate public infrastructure and transport are available to service the use.

Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of green house gas emissions, operating costs and road safety?

No. The LEP amendment will not impact on greenhouse gas emissions. It will not result in an increase in car distances travelled by the public in making use of existing sporting and recreational facilities.

Are there significant Government investments in infrastructure, or services in the area whose patronage will be affected by the proposal? If so what is the expected impact?

The LEP amendment will not affect government investments.

Will the proposal impact on land that the Government has identified as needed to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?

No. Each proposal that may result from the LEP would be assessed on its merits having regard to biodiversity, flooding, etc. The use of existing and future sporting clubhouses, recreation reserve building facilities and/or community facilities for the additional purpose of a kiosk/restaurant will not impact on land having high biodiversity.

Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?

The LEP amendment will allow compatible and complementary uses at Council's sporting and recreational facilities and increase their attractiveness for users and serve their needs, together with contributing to the viability of sporting and community groups using reserves.

Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

The LEP amendment will provide additional opportunities for kiosks/restaurants and add to the attractiveness of the facilities for public use. This is not expected to have an adverse effect on choice or competition as the people using the facilities would be also users of the reserve.

If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

Not relevant.

What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?

The LEP amendment is in the public interest as it will improve the economic viability of existing and future sporting clubs and community facilities, will serve a direct and immediate need of patrons, will encourage additional tourism opportunities at selected public open space areas and will provide additional funding sources for the revitalisation of council community and recreation building facilities. It will also increase the utilisation and public surveillance of public reserves.

Section B Relationship to strategic planning framework

4 Is the Planning Proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including exhibited draft strategies)?

The Central Coast Regional Strategy (CCRS) 2006 – 2031 is applicable to the Planning Proposal and consequent LEP amendment and is considered to be consistent as outlined below:

"4.18 In planning for development and redevelopment of urban areas, council are to consider the need for civic open space and access to a variety of open space and recreation opportunities" - the LEP amendment will allow the diversification of sporting/recreation reserve building facilities and community facilities to include kiosk/restaurant facilities which will enhance the recreational experience offered by these public spaces and provide a necessary service to patrons.

"6.18 - Councils are to continue to maintain or improve the provision of local open space..." - the LEP amendment will enhance the function of local sporting and recreation facilities by allowing kiosks/restaurants as ancillary and complementary development in appropriate locations

5 Is the Planning Proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Planning Proposal is consistent with the *Community Strategic Plan – Continuing our journey (CSP)* which incorporates a number of strategies. Future developments that will be facilitated by amending the landuse table could achieve a number of objectives of the CSP as outlined below:

A1.1 Promote all opportunities to increase safety in public spaces - future proposals could promote passive surveillance of public open space.

A1.3 Build connections and relationships in the community - future proposals could enhance the role of sporting/recreation reserve building facilities and community groups in the local area by contributing to the attractiveness of use of reserves.

A2.3 - Promote opportunities for a range of local cultural and recreational activities - future proposals could enhance cultural and recreational facilities in certain locations.

A3.2 Provide services and activities to support a balanced lifestyle - future proposals could contribute to the role of recreational facilities and increase their attractiveness to support a balanced lifestyle.

A3.3 Improve access to community services, programs and facilities - future proposals could improve access to community and recreational reserve building facilities for an increased range of users of facilities

A.4 Provide opportunities for enjoyment of community spaces and places - future proposals could enhance the enjoyment of recreational and community facilities through the provision of dining experiences

C3.2 Increase economic opportunities by activating public spaces - future proposals could assist in increasing economic opportunities for sporting/community groups and further activate public spaces

D2.1 Identify opportunities to work together - future proposals would be as a result of collaboration between Council and sporting/community groups in the location and operation of kiosks/restaurants in some locations, ancillary to the sporting/community groups activities including recreation reserve building facilities.

D4.2 Maintain assets for the current purpose and for future generations - future proposals could help sporting/community groups maintain their assets for current and future users.

6 Is the Planning Proposal consistent with applicable State Environmental Planning Policies?

The following assessment is provided of the relationship of the Planning Proposal to relevant State Environmental Planning Policies: SEPPs are only discussed where applicable. The Planning Proposal is consistent with all other SEPPs or they are not applicable

(i) **SEPP 19 - Bushland in Urban Areas** - when preparing draft Local Environmental Plans for any land to which this plan applies, Clause 10 of SEPP 19 requires Council to have regard to the general and specific aims of this policy. It also requires that public authorities shall not disturb or clear bushland unless it has had regard to the aims of the SEPP. The PP would be consistent with this, as it has considered the aims of the SEPP and any building works for clubhouses/consequent use for restaurants and the like on 6(a) zoned land would be directed to cleared and disturbed areas and thus not impact upon bushland.

(ii) **SEPP 71 - Coastal Protection** - as the PP will result in an amendment to the landuse table as it relates to the 6(a) zone, SEPP 71 is not directly relevant. However, given the range of recreational reserve building facilities/community buildings that are located in coastal locations (such as surf clubs) should any

kiosks/restaurants be proposed in these locations, the development must have regard to and be consistent with the requirements of SEPP 71. This would be determined as part of the development application process.

No other SEPP has application to this Planning Proposal, although any future development application on public land would be required to consider SEPPs as may be relevant to a particular application and its location.

7 Is the Planning Proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following assessment is provided of the consistency of the Planning Proposal with relevant Section 117 Directions applying to Planning Proposals lodged after 1st September 2009. S117 Directions are only discussed where applicable.

- (i) **Direction 2.2 Coastal Protection** - this direction applies to a Planning Proposal that applies to land in the coastal zone and requires that consideration is given to the NSW Coastal Policy. Although not of direct relevance to an amendment to the landuse table, it would be anticipated that future proposals would be located in sensitive coastal locations (eg surf clubs, sporting clubhouses, etc) and as such future development proposals would be required to consider the Coastal Policy. The proposal is not inconsistent with this direction.
- (ii) **Direction 3.4 Integrating Land Use and Transport** - the objective of this direction is to ensure that locations for development improve access by walking, cycling and public transport, reduce dependence on cars, reduce travel demand, etc. Developments that would result from the amendment would encourage multi-purpose trips (i.e., using a sporting/recreational reserve buildings and community facility and being able to dine at the site). As a general principle, sporting/community facilities should be located in readily accessible locations and have a high level of public transport accessibility. The proposal is not inconsistent with this direction.
- (iii) **Direction 4.1 Acid Sulfate Soils** - the objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils. Due to the propensity to locate sporting facilities on low-lying land, it would be expected that acid sulfate soils may be encountered. The use of a building per se (as proposed under this PP) would not further exacerbate adverse affects of acid sulphate soils and the PP is consistent with this direction.
- (iv) **Direction 4.3 Flood Prone Land** - the objectives of this direction are to ensure that development is consistent with the NSW Government's Flood Prone Land Policy and the principles of the *Floodplain Development Manual 2005* and to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazards and includes potential impacts both on and off-site. The direction applies when an LEP alters a zone or a provision that affects flood prone land. Due to the propensity to locate sporting facilities on low lying land, such land may also be flood-labile. Use of buildings associated with sporting facilities as kiosks/restaurants may increase the level of capital investment (fit out for restaurant use) in a building or structure that could be impacted upon by flooding. Individual proposals would need to be considered on their merits as part of the DA process giving due consideration to the effects of flooding. The proposal is not inconsistent with this direction.

- (v) **Direction 4.4 Planning for Bushfire Protection** - the objective of this direction is to protect life, property and the environment from bushfire hazards by discouraging incompatible landuses in bush fire prone areas and to encourage sound management of bush fire prone areas. Some areas where sporting and community facilities are located are in bushfire prone areas and any DAs to enable use of these facilities for kiosks/restaurants would need to consider bushfire as part of the DA assessment process. The proposal is not inconsistent with this direction.
- (vi) **Direction 5.1 Implementation of Regional Strategies:** Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure. As outlined in Section 4 above, the proposal is considered to be consistent with the CCRS.

The Planning Proposal is consistent, with all other S117s Directions (including Directions 1.1 Business and Industrial Zones, 2.1 Environmental Protection, 2.3 Heritage Conservation, 2.4 Recreational Vehicle Areas, 3.2 Caravan Parks and Manufactured Home Estates, and 6 Local Plan Making).

Section C Environmental, social and economic impact

- 8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

As the proposal is to amend the landuse tables, this will not in itself affect any threatened species, etc. Consideration of individual applications would of necessity undertake an environmental assessment.

- 9 Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

No. Any affects would be considered on an individual case by case basis when a DA is lodged for specific proposal at a specific location.

- 10 How has the Planning Proposal adequately addressed any social and economic effects?**

In general terms, the proposal to allow kiosks/restaurants in open space zones by sporting and community groups, as an adjunct to their core activities, will have economic benefits to these organisations to provide diversity to their income stream. It will also have beneficial social effects by increasing the range of experiences offered at sporting facilities, opportunities for social interaction and a focal point for club activities. It will also serve the immediate need of patrons.

Section D State and Commonwealth interests

- 11 Is there adequate public infrastructure for the Planning Proposal?**

The LEP amendment in itself does not generate the need for additional public infrastructure. Each DA would be assessed on its merits.

- 12 What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the Planning Proposal?**

No consultations have yet been undertaken with State and Commonwealth agencies as the gateway determination has not yet been issued.

Part 4 Community Consultation that is to be undertaken

S55(2)(e) Details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument.

Subject to Gateway support, community consultation will be undertaken in accordance with Gateway's requirements and Council's procedures to ensure the community is informed about the Planning Proposal.

ATTACHMENT A – Planning Proposal Process Flowchart

FINANCIAL IMPACT STATEMENT

The recommendation does not impact on Council's financial position.

Conclusion

The Planning Proposal to prepare a draft Local Environmental Plan to amend the landuse table to allow kiosks and restaurants in the 6(a) Open Space (Recreation) zone (in the GPSO and IDO 122) is considered to be in the interests of sporting/community groups and the wider community. It will remove any ambiguity as to the permissibility of these uses and allow sporting/community groups to diversify their income streams in the more immediate future, through operation of these facilities themselves or through options to sublet, subject to Council approval. These activities will enhance the recreational/community values of public lands in appropriate locations and are considered complementary to the activities of sporting and community groups.

Should Council wish to reconsider the matter after public exhibition where no submissions have been received the following resolution should be adopted as Part D of the recommendation: "Should Council wish to reconsider the submission after public exhibition, a report to be referred to council on the matter".

RECOMMENDATION

- A Council initiate the Local Environmental Plan (LEP) 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal to amend the landuse table for the 6(a) zone in the Gosford Planning Scheme Ordinance and Interim Development Order No 122 to allow kiosks and restaurants, together with inserting the definition of kiosk (from the SI LEP 2011) as follows:

"'kiosk' means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like with a floor area of less than 50 square metres"

Council then forward the LEP to the Department of Planning and Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and that Council staff prepare all necessary documentation and process the matter according to the Department of Planning and Infrastructure directives and this report.

- B After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, if no submissions are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.

ATTACHMENT A – Planning Proposal Process Flowchart (DoP&I extract showing the stage at which this Planning Proposal has reached)

Extract from “A Guide to Preparing Local Environmental Plans”,
Department of Planning and Infrastructure

