



Contact: Glenn Hornal
Phone: (02) 4348 5000
Fax: (02) 4323 6573
Email: Glenn.Hornal@planning.nsw.gov.au
Postal: PO Box 1148, Gosford NSW 2250

Mr Paul Anderson
General Manager
Gosford City Council
PO Box 21
GOSFORD NSW 2250

Our ref: PP_2014_GOSFO_002_00 (14/04325)
Your ref: 14431515

Dear Mr Anderson,

Planning proposal to amend Gosford Local Environmental Plan 2014

I am writing in response to your Council's letter dated 4 March 2014 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 make various housekeeping amendments including: to increase the maximum period development consent may be granted for temporary use of land; introduce a new item in Schedule 2 'Exempt development' for temporary events or activities on public land or public places; introduce new provisions regarding development of closed crown roads and lots partially affected by Gosford Local Environmental Plan (LEP) 2014; remove the definition of 'flood planning level'; and permit 'storage premises' in zone IN1 General Industrial.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the variations outlined in the conditions in the attached Gateway determination.

As discussed with Council, while the intention to prevent undersized lots with a dwelling entitlement being created as a result of the closure of crown roads is supported, the proposed draft clause to achieve this outcome is not. Prohibiting residential accommodation on land where this use is already permitted via the land use table creates a subzone, which is inconsistent with the Standard Instrument LEP. Council is to remove the draft clause from the planning proposal and instead provide a plain English explanation of the intention of the clause and advise that this will be achieved via the use of an amended model local clause 4.2A 'Erection of dwelling houses on land in certain rural and environmental protection zones.' Council is to work with the Department of Planning and Environment's regional office to assist in amending the model clause to achieve Council's desired outcome.

I understand the deferral of land from Gosford LEP 2014 has resulted in some lots being partially affected by two environmental planning instruments. The subject lots need to comply with the minimum lot size provisions under both Gosford LEP 2014 and Interim Development Order (IDO) No 122 in order to subdivide along the instrument boundary. As council's draft clause does not achieve the desired outcome, the clause is to be removed from the planning proposal and the affected land is to either be brought into the Gosford LEP 2014 and an appropriate minimum lot size allocated for the land or alternatively a clause should be introduced into both Gosford LEP 2014 and IDO No 122 that prevents development on lots below the minimum lot size.

Council may still need to obtain the Secretary's agreement to satisfy the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

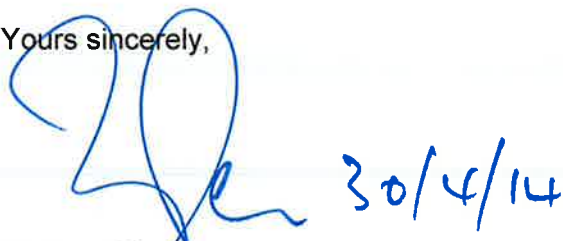
Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 6 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to The Department of Planning and Environment for administrative purposes.

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 section 54(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, I have arranged for Mr Glenn Horal of the Department of Planning and Environment's regional office to assist you. Mr Horal can be contacted on (02) 4348 5000.

Yours sincerely,

A handwritten signature in blue ink, followed by the date '30/4/14' written in blue ink.

Richard Pearson
Deputy Director General
Growth Planning and Delivery

Encl:

Gateway Determination

Written Authorisation to Exercise Delegation

Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2014_GOSFO_002_00): to make various housekeeping amendments to Gosford Local Environmental Plan 2014.

I, the Deputy Director General, Growth Planning and Delivery at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Gosford Local Environmental Plan (LEP) 2014 to make various housekeeping amendments including: to increase the maximum period development consent may be granted for temporary use of land; introduce a new item in Schedule 2 'Exempt development' for temporary events or activities on public land or public places; introduce new provisions regarding development of closed crown roads and lots partially affected by Gosford LEP 2014; remove the definition of 'flood planning level'; and permit 'storage premises' in zone IN1 General Industrial should proceed subject to the variations as outlined in the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal to:
 - remove the draft clause relating to development of closed crown roads and instead provide a plain English explanation of the intention of the draft clause and advise that this will be achieved via the use of an amended model local clause 4.2A 'Erection of dwelling houses on land in certain rural and environmental protection zones';
 - remove the draft clause relating to lots partially affected by Gosford LEP 2014 and amend the planning proposal to either bring the subject sites wholly into Gosford LEP 2014 and allocate an appropriate minimum lot size for the land or alternatively introduce a clause into both Gosford LEP 2014 and IDO No 122 that prevents development on lots below the minimum lot size;
 - consider including a timeframe for temporary events or activities on public land or public places within Schedule 2 'Exempt development';
 - remove reference to State Environmental Planning Policy (SEPP) Temporary Structures 2007 and replace with SEPP (Miscellaneous Consent Provisions) 2007;
 - confirm that removing the definition of 'flood planning levels' from the LEP and relying on the definition within the Floodplain Development Manual 2005 will not provide flood related development controls beyond the 1:100 flood level plus freeboard; and
 - demonstrate consistency with S117 Directions 4.3 Flood Prone Land and 4.4 Planning for Bushfire Protection, once the planning proposal has been updated and consultation with public authorities undertaken.
2. 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 and Environment 2013)* and must be made publicly available for a minimum of **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 5.5.2 of *A Guide to Preparing LEPs (Department of Planning and Environment 2013)*.



Planning & Environment

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

- NSW Trade and Investment - Crown Lands
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

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

4. 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).

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

Dated

30

day of

April

2014.

Richard Pearson
Deputy Director General
Growth Planning and Delivery
Department of Planning and Environment

Delegate of the Minister for Planning



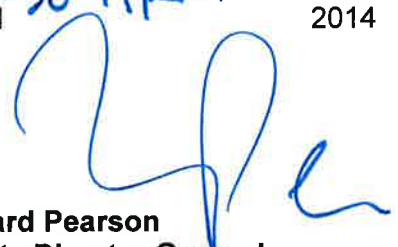
WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Gosford City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2014_GOSFO_002_00	Planning proposal make various housekeeping amendments including: increase the maximum period development consent may be granted for temporary use of land, introduce a new item in Schedule 2 'Exempt development' for temporary events or activities on public land or public places, introduce a mechanism to achieve Council's proposal regarding development of closed crown roads and lots partially affected by Gosford Local Environmental Plan (LEP) 2014, remove the definition of 'flood planning level' and permit 'storage premises' in zone IN1 General Industrial.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 30 April 2014


Richard Pearson
Deputy Director General
Growth Planning and Delivery
Department of Planning and Environment

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2014_GOSFO_002_00
Date Sent to DoP&E under s56	4/3/2014
Date considered at LEP Review Panel	3/4/2014
Gateway determination date	30/04/2014

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: