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Planning Proposal

To

Rezone Lot 365 in DP 654892,

No. 10 Hillside Road, Avoca Beach

From

**Part Zone E4 Environmental Living
and Part 7A Conservation and
Scenic Protection (Conservation)**

to:

**E3 Environmental Management and
to have the minimum lot size map
amended to 1ha so as to permit the
two (2) lot rural – residential
subdivision**

Introduction

This Planning Proposal (PP) has been prepared in accordance with the Department of Planning's "*A guide to preparing planning proposals*" (July 2009) by Paul De Fina, Town Planner. (CV – annexure 1).

The intention of the PP is to rezone the subject site from Tourist accommodation to Rural Residential and to seek future development consent from Council for a two (2) lot rural / residential subdivision.

The Site – No. 10 Hillside Road Avoca Beach

Property Description: House No. 10 Lot 365 DP 654892 Hillside Road, Avoca Beach

Site Area: 2.14 ha

Site Zoning: E4 Environmental Management and Part 7(a) Conservation and Scenic Protection (conservation)

Currently Approved: Tourist Units - 14 Tourist Units + Manager's Residence + Caretaker's Residence 21 April 1999

Physical Commencement: Acknowledged Gosford City Council - 02 February 2011

Works Commenced: Half road / road shoulder reconstruction, kerb and gutter, footpath, driveway crossover, internal driveway bulk earthworks, sewer storage / pump well, sewer connection, and Contributions.

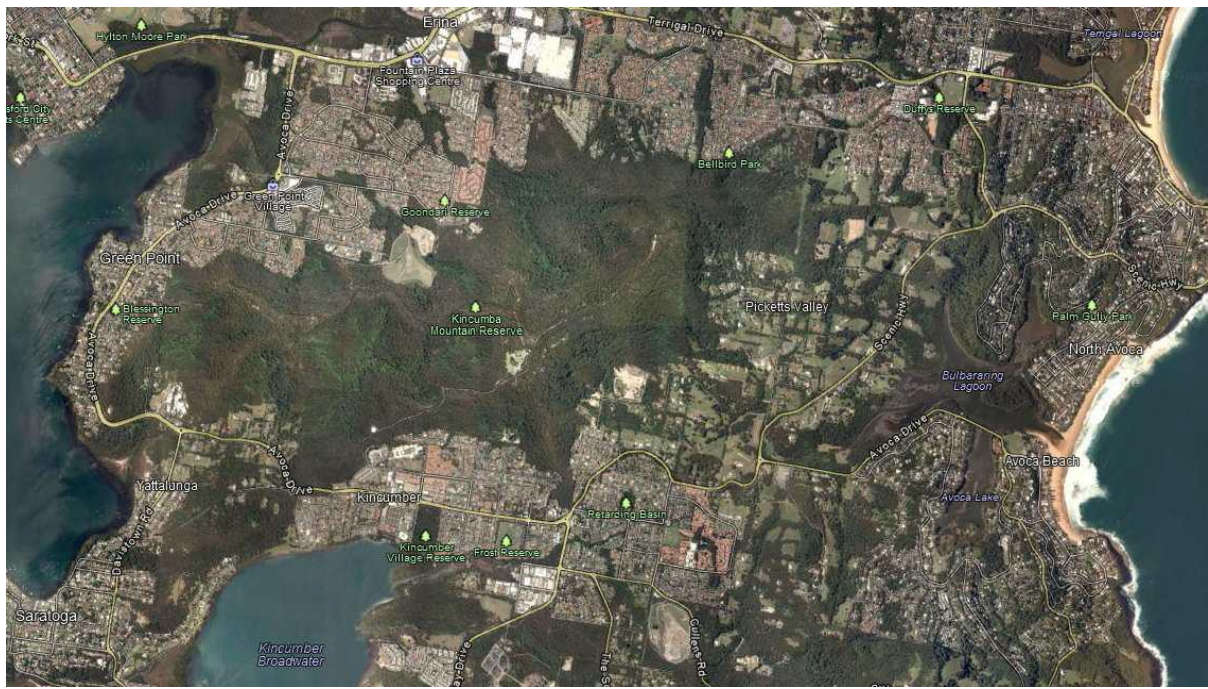


Figure 1 Aerial View of Avoca and surrounds

older visitors to negotiate thereby restricting the potential occupancy to younger and more physically able persons.

The intended outcome of this planning proposal is to rezone the subject site to E3 Environmental Management and to have the minimum lot size map amended from 2ha to 1ha to subsequently permit the subdivision of the site in two (2) rural – residential allotments.

The potential rural / residential lots would each be less than the prescribed two (2) hectare minimum area and therefore the planning proposal will need to acknowledge that the potential development is for two rural / residential lots.

2. Explanation of Provisions of Proposed LEP

The objective of the Planning Proposal will be achieved by:

- Amending the Land Zoning Map to Gosford Local Environmental Plan 2014 to rezone the entire Lot 365 in DP 654892, No. 10 Hillside Road, Avoca Beach from Part E4 Environmental Living and Part 7A Conservation and Scenic Protection (conservation) to E3 Environmental Management and;
- to have the minimum lot size map amended from 2ha to 1ha to subsequently permit the subdivision of the site in two (2) rural – residential allotments.

3. Justification

3.1. Is the Planning proposal a result of any strategic study or report?

No, the planning proposal is not the result of any strategy or study.

The owner obtained development approval to construct 14 tourist units and a manager's residence in 1999. This project has been physically commenced and remains a valid consent.

In 2014 the situation has changed with regard what tourists are seeking and it is now the owner's opinion that the approved density of tourist units is below the viable threshold to financially develop the site. In addition, the topography restricts the future guests to those persons physically able to manage the walk up and down the site.

The best use for the site is a two (2) lot rural / residential subdivision. This style of development will have minimal impact on the area and will act as a buffer between the adjoining Avoca Pub and the residential areas in Hillside Road.

In addition, the potential use of residential dwellings for Holiday Letting means so much more competition that the approved development is no longer considered to meet the tourist market hence this application to rezone the subject site.

Further justification is provided (Appendix 5.) that addresses Council's Policy D2.02 Rezoning of Land zoned Conservation and Scenic Protection (Conservation) 7(a) / Environmental Conservation E2.

3.2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The existing zoning under the *Gosford LEP 2014* and the *Gosford Interim Development Order No. 122* does not permit the subdivision of the site into two rural / residential allotments. The intended outcome can only be achieved by changing the zoning and minimum lot size map.

It is intended that the allotment be rezoned to E3 – Environmental Management which would be commensurate with the current zone no. 7(c2) conservation and scenic protection (scenic protection - rural small holdings) zone objectives outlined within the *Gosford Interim Development Order No.122*.

Additionally to enhance the protection of the conservation zoned land this PP recommends that a restriction-to-user (to be placed over the area of land outlined in the Flora and Fauna report prepared by *Clarke Dowdle and Associates*)

The restriction would be implemented within the s.88b instrument with the terms set out by Council and that Council would be only authority able to modify the restriction. As indicated in the, the area proposed to be protected would include a much greater area than the current area previously zoned 7(a) Conservation and Scenic Protection (conservation). This area of land has been determined to be valuable in regards to maintaining a flora and fauna corridor and would incur a higher level of protection under this a restriction-to-user.

The PP also seeks to amend the minimum lot size map to from 2 ha to 1 ha in accordance with provision afforded to 7(c2) conservation and scenic protection (scenic protection - rural small holdings) zoned land under clause 18(4).b. of the *Gosford Interim Development Order 122*. This clause allows a variation of the minimum lot size from 2ha to 1ha for the dedication of valued conservation land or monetary contribution “to the Council an amount of money to be used by the Council for the purchase for use as a public reserve of land within Zone No. 7(a) or for the improvement or embellishment of any public reserve owned by the Council which is within Zone No. 7(a) or which was formerly within Zone No. 7(a) under this Order.”

Given the rezoning of the land would meet the objectives of the conservation zoned land and actually strengthens / formalises the protection and preservation of this land with the ‘dedication’ of the land of a restriction-to-user over the bushland over the rear of the property the PP would provide and enhanced outcome to maintaining and preserving the objectives of the conservation zoned land.

3.3. Is there a net community benefit?

Yes. It is considered that there is a net community benefit of this planning proposal.

Benefits include:

- (a) Continued protection of the Conservation land.
- (b) Reduced land use conflicts in relation to the adjoining residential land and tourist land.

(c) Provide a choice of rural residential housing in the Region that does not lead to the fragmentation of agricultural land and subsequent loss of efficiencies.

(d) Reduced vehicular movements to and from the site

(e) Scenic protection of the land not occupied by dwellings and associated structures, and

(f) Take advantage of the services, shops and public transport.

B. Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Yes.

The **Central Coast Regional Strategy 2006 – 2031** is the applicable Regional Strategy.

This primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing needs and promote local employment opportunities over the next 25 years.

The **Central Coast Destination Management Plan for Tourism 2010 – 2013** provides information regarding tourism but nothing that relates specifically to the subject land.

Development Control Plan 159 (Character) Avoca locates the subject site within Area 12. The Council's **Desired Character** for Area 12 is:

“These should remain rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City’s major roads and tourist routes are preserved by appropriate very-low density residential developments associated with low impact rural activities, and by small-scale businesses or community and educational facilities that have a modest impact on semi-rural or natural scenic qualities plus the amenity enjoyed by surrounding properties.

Retain natural slopes and prevent further fragmentation of the tree canopy in order to maintain habitat values and informal scenic characters of hillside or valley properties, plus meandering roads with unformed verges.

Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants that provide scenically-prominent backdrops visible from any road or nearby property.

Limit intrusion of structures upon their landscape setting by concentrating new buildings and pavements in existing clearings.

Use low-impact construction such as suspended floors and decks rather than extensive cut-and-fill, particularly on elevated slopes or near bushland.

In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire resistant siting, design and construction for all new structures plus effective management of gardens. The ideal compromise between desired scenic quality and hazard-reduction would limit clearing to the understorey plus thinning of the canopy to establish breaks between existing trees.

Maintain the informal character of existing semi-rural hillsides by avoiding tall retaining walls, extensive terraces or broad driveways that would be visible from any road or nearby property, and provide boundary fences that are see-through such as traditional post-and-rail designs.

Surround all buildings with extensive garden setbacks, planted with new trees and shrubs that are predominantly indigenous to complement the established canopy. Noxious or environmental weeds must not be planted, and existing infestations should be controlled.

In order to minimise their scale and bulk, all new structures that would be visible from a road or nearby property should reflect the modest character and simple articulation of traditional farm buildings. For example, divide floorspace into a series of linked pavilion structures or wings of rooms that are surrounded by landscaped courtyards, and preferably, provide parking in carports or separate garages.

Roofs should be simple hips or gables without elaborate articulation, gently-pitched to minimise the height of ridges and flanked by wide eaves or extensive verandahs to disguise the scale of exterior walls. (In bushfire prone areas, verandahs, roofs and suspended floors must be screened to prevent the entry of sparks and flying embers.)

Disguise the scale of facades that are visible from the street by incorporating extensive windows and verandahs, some painted finishes rather than expanses of plain masonry, and avoid wide garages that would visually-dominate any frontage. Ensure that outbuildings are compatible with the scale and design of their associated dwelling, particularly by using a similar roof pitch and wide eaves. Any commercial signs should be limited in size and number”.

The Planning Proposal supports the DCP159 (Character) Avoca requirements as detailed above.

The planning proposal does not create a significant change to the settlement pattern of the area. To the contrary it will allow the subject land to become a “rural-residential buffers where the scenically-distinctive semi-rural and natural qualities of prominent backdrops to Gosford City’s major roads and tourist routes are preserved by appropriate very-low density residential developments associated with low impact rural activities”.

2. Is the planning proposal consistent with Council's Community Strategic Plan?

The planning proposal is consistent with the Gosford Community Strategic 2025.

By 2031 the population of Gosford is forecast to increase by 15,238 persons to around 182,000. As the population continues to increase both in number and influence, there is more pressure on the natural environment.

"Gosford possess unique environmental assets that are appealing to both residents and visitors. As awareness and appreciation of the benefits of the environment grow, greater emphasis is being placed on the sustainability and preservation of the environment".

Source: Gosford Community Strategic 2025, page 13

The goals of the Gosford Community Strategic 2025 underlie Council's decision making. This Planning Proposal is consistent with these goals.

The purpose of this planning proposal is to allow for the two lot rural residential subdivision of the subject land rather than the approved tourist development.

The **Draft Gosford Community Strategic Plan 2031** (page 1) states:

"The main aim of Gosford Landuse Strategy 2031 is to implement strategic landuse directions from the community's Gosford Vision 2025 and statutory obligation such as the Central Coast Regional Strategy 2031".

And continues:

"Gosford Landuse Strategy 2031 provides Council's future major strategic landuse directions by considering regional and state priorities and legislation; the community's Gosford Vision 2025 for the city; and how current trends and drivers influence the context in which the city exists.

Strategic plans are not static and must be monitored to assess whether the assumptions made were correct, whether the city is moving in the direction envisaged, and whether the city is achieving the community's Gosford Vision 2025.

Reviews at four-yearly intervals by the newly-elected Council will allow for adjustments to be made if circumstances or assumptions alter.

All subsequent Council landuse oriented plans, policies and strategies prepared must be consistent with Gosford Landuse Strategy 2031, which provides a transparent planning process illustrating Council's leadership and governance. The strategy therefore provides the foundation upon which the new Gosford Citywide Draft Local Environment Plan (LEP) entitled 'Draft Gosford LEP 2009' is based"

The Central Coast Regional Strategy provides for the strategic directions of Gosford City and Wyong Shire Council's to guide future planning until 2031 and is overviewed in the following directions regarding rural residential development:

“That rural-residential/rural small holding development will continue to provide a choice of housing however ‘opportunities for new rural residential development will be limited to those already provided in the region’.”

With regard to the intent of this planning proposal the Draft Community Strategic Plan 2031 has no comment on tourist development.

3. Is the planning proposal consistent with the State Environmental Planning Policies?

The Planning Proposal has to be assessed for consistency with the applicable State Environmental Planning Policies (SEPP’s). Several State Environmental Planning Policies would apply to the future development on the site.

The applicable SEPP’s are contained in Appendix 2

4. Is the planning proposal consistent with applicable Ministerial Directions (S 117 Directions)?

The relevant Section 117 Directions of the Environmental Planning and Assessment Act 1979 include

- **1.2 Rural Zones**

The objective of this direction is to protect the agricultural production value of rural land.

DLEPs shall not rezone rural land for an urban purpose unless such action is justified by an environmental study. This planning proposal seeks to rezone the site from tourist to rural residential.

The rezone reduces the occupancy from 14 tourist units to two rural residential lots.

- **2.1 Environment Protection Zones**

The subject site is not listed as environmentally sensitive land. This Direction does not affect the site or planning proposal.

- **2.2 Coastal Protection**

The subject site is not within the Coastal protection zone.

- **4.3 Flood Prone Land**

The subject site is not flood affected land.

- **4.4 Planning for Bushfire Protection**

Due to the existing cleared nature of the site and adjoining developments the land is not subject to a high risk of potential bushfire. The land will need to be maintained as allow bushfire hazard which includes future landscaping.

- **5.1 Implementation of Regional Strategy**

Planning proposals must be consistent with a Regional Strategy released by the Minister for Planning. The subject proposal is consistent with the Central Coast Regional Strategy.

- **6.1 Approval and Referral Requirements.**

No concurrence or referral requirements are intended as part of this planning proposal.

A planning proposal must not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of the appropriate Minister or public authority, and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General), prior to undertaking community consultation in satisfaction of section 57 of the Act

The proposed development is not designated development and does not require an Environmental Impact Statement.

The applicable SEPP's are contained in Appendix 3

C. Environmental, social and economic impact.

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

From reading of the "*Ecological Assessment*" by Clarke Dowdle and Associates dated August 2014 plus personal site inspections, there is little likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be affected as a result of this proposal. See Appendix 4

As at 1998 the site contained no threatened species of Fauna or Flora however, if 2014 the land affected by this planning proposal is found to contain appropriate fauna and flora habitat it will be necessary to carry out an assessment of significance in accordance with section 5A of the EP&A Act and the "Threatened Species Assessment Guidelines" issued by the Department of Environment and Climate Change.

The *Integrated Site Planning and Management* Report described on page 20 that "*no Koala food tree species listed in Schedule 2 of SEPP No. 44 Koala Habitat Protection were found on the site*"

The *Ecological Assessment* concluded that no threatened flora and fauna species were found on the site.

The proposed development is not identified as a threatening process under the Threatened Species Conservation Act 1995.

The Report concluded that no further consideration of ecological assessment is necessary, subject to compliance with their recommendations.

The site does not occur with any key habitat or wildlife corridors as mapped by National Parks.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The owner of the subject land has obtained a number of Environmental Reports regarding the site. These Reports comprise:

- a) *Ecological Assessment*” by Clarke Dowdle and Associates dated August 2014
- b) *“Flora and Fauna Assessment Report”* by Integrated Site Planning and Management, dated August 1998; and
- c) *“Bushfire Protection Assessment”* by Eco Logical Australia Pty Ltd dated 23 April 2012.

The above reports concluded that there are no detrimental environmental effects with regard the approved development. A lesser development, as proposed is assumed to be therefore even less likely to adversely affect the environment.

- **Servicing**

Water supply, reticulated sewer, electricity, telephone, and garbage collection are all available to the site.

- **Drainage and Flooding**

The site is located within the Erina Soil landscape. The slopes contain yellow podzolic Soils which have a brownish to grey coloured fine sandy or sandy loam topsoil with a weak pedal structure.

The soils have a moderate erosion hazard.

- **Traffic and Access.**

Traffic will use Hillside Road to enter and exit the site. The road reserve has a suitable grade that will enable construction of an intersection that will meet the Austroads and RTA Guidelines or a two lot subdivision.

- **Flora and Fauna.**

The Flora and Fauna Report found no threatened or endangered species on the site. The site is not mapped as a wildlife corridor or key habitat.

- **Land Contamination.**

The site has been the subject of a contamination assessment in 2001 that concluded that the site has no contaminants and is suitable for residential development.

- **Bushfire.**

The site has been inspected and the "*Bushfire Protection Assessment*" by Eco Logical Australia Pty Ltd dated 23 April 2012, no threats found on the site.

- **Slope.**

Any slope over 20% will be excluded from development.

Note: the site has some slopes greater than 15%.

Any development application prepared for the site will need to consider the relevant aspects of a site specific Development Control Plan, including flooding, drainage, water sensitive urban design, heritage, and geotech.

- **Development Control Plan**

The requirements of Section 74C (2) of the EP&A Act identify that only one DCP per planning authority can apply to the same land. The requirement that only one DCP applies to particular land took effect when a DCP is made on or after 30 September 2005.

The Department of Planning has recently advised that compliance with Section 74C(2) and (5) will only be required once a council has prepared its new principal LEP that adopts the provisions of the Standard Instrument or by 31 March 2011, whichever is sooner.

3. How has the planning proposal adequately addressed any social and economic effects?

There are no heritage items identified on the site.

An investigation of the social and economic effects of the planning proposal is not considered necessary given the nature of the proposal.

D. State and Commonwealth Interests.

1. Is there adequate public infrastructure for the planning proposal?

Existing services / utilities are adequate to cater for the level of additional demand created by two rural / residential allotments.

Note, the question of State or Commonwealth interests applies to a planning proposal that may result in residential subdivision in excess of 150 lots, substantial urban renewal, or infill development.

2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Planning Proposals are an evolving process with information to be added upon advice of the Minister through the Gateway determination.

This section will be added to following consultation with State and Commonwealth authorities identified in the gateway determination.

E. Community Consultation.

This planning proposal is considered to be a low impact proposal requiring public display for 14 days and call for submissions from interested persons. Community consultation will be in accordance with the Department of Planning's "*A Guide to preparing an LEP*" and any requirements of the Gateway process

Paul De Fina

B.App.Sc (Environmental Planning)

MPIA

Certified NSW Local Government Town & Country Planner No. 474

Appendix 1

Paul De Fina - CV

Name: Paul John De Fina, MPIA

EDUCATION

1991 Bachelor of Applied Science (Environmental Planning), Charles Sturt University, Bathurst, NSW.

1978 Local Government "*Town and Country Planner*", NSW Local Government Act, 1919.

Clients 2002 – 2013

Byron Shire Council

Preparation of seventeen (17) Planning Proposal's for Byron Shire Council under the NSW Gateway Process for Dwelling Entitlements.

Birrigan Gargle Aboriginal Land Council

Investigate on the Development Potential of 600 ha. of Coastal Land at Yamba and Iluka, NSW.

Arakwal Aboriginal Land Council

Project co-ordinator for four dwellings for the *Arakwal Elders at Byron Bay* including brief the architect, engage flora and fauna consultants , bushfire consultants, contamination reports, prepare a Statement of Environmental Effects and present the application to a Council meeting.

Landpartners Ltd.

Prepare Local Environmental Study for Dry Dock Road, Tweed Heads.
Tweed Heads Shire Council

Prepare Development Application for a Seniors Living Park (80 dwellings) at Yamba. **Clarence Valley Council**

Prepare DA for the Seabreeze Caravan Park, South Ballina. **Ballina Shire Council**

Coordinate a development application at Banora Point Caravan Park.
Tweed Shire Council

Harden- Murrumburrah Shire Council

Acting Director of Environmental Services

Preparation of LEP No. 7 Harden Shire to rezone rural land to residential;

Statement of Environmental Effects for the Regional Medical Centre in Harden.

Appendix 2

State Environmental Planning Policies

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 1 Development Standards.	Not applicable.	Not applicable.
SEPP 2 Minimum Standards for Residential Flat Buildings. Repealed by SEPP 20.	Repealed.	
SEPP 3 Castlereagh Liquid Waste Depot. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 4 Development Without Consent and Miscellaneous Complying and Exempt Development.	Not applicable.	Not applicable.
SEPP 5 Housing for Older People with a Disability. Repealed by Seniors Living SEPP.	Repealed.	
SEPP 6 Number of Storeys in a Building	Not applicable.	Not applicable.
SEPP 7 Port Kembla Coal Loader. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 8 Surplus Public Land. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 9 Group Homes. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 10 Retention of Low Cost Rental Accommodation.	Not applicable.	Not applicable.
SEPP 11 Traffic Generating Developments.	Repealed.	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
Repealed by Infrastructure SEPP.		
SEPP 12 Public Housing (dwelling houses). Repealed by SEPP 53	Repealed.	
SEPP 13 Sydney Heliport. Repealed by Sydney REP 26.	Repealed.	
SEPP 14 Coastal Wetlands.	Complies	The subject land is not affected by SEPP 14 wetlands
SEPP 15 Multiple Occupancy of Rural Land. Repealed by SEPP 42. SEPP 15 Rural Land-Sharing Communities.	Not applicable.	Not applicable.
SEPP 16 Tertiary Institutions. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 17 Design of Buildings In Certain Business Centres.	Did not Proceed	
SEPP 18 Public Housing	Did not proceed	
SEPP 19 Bushland in Urban Areas.	n/a	Not applicable.
SEPP 20 Minimum Standards for Residential Flat Buildings. Repealed by SEPP 53.	Repealed.	
SEPP 21 Caravan Parks.	n/a	Not applicable.

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 22 Shops and Commercial Premises.	n/a	Not applicable.
SEPP 23	Not allocated.	
SEPP 24 State Roads.	Did not proceed	
SEPP 25 Residential Allotment Sizes. Repealed by SEPP 53.	Repealed.	
SEPP 26 Littoral Rainforests.	Complies	The subject land is not affected by SEPP 26 Littoral Rainforests.
SEPP 27 Prison Sites. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 28 Town Houses & Villa Houses. Repealed by SEPP 25 Amendment 4.	Repealed.	
SEPP 29 Western Sydney Recreation Area.	Not applicable	
SEPP 30 Intensive Agriculture	n/a	Not applicable
SEPP 31 Sydney (Kingsford Smith) Airport. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 32 Urban Consolidation (Redevelopment of Urban Land).	n/a	Not applicable.
SEPP 33 Hazardous & Offensive Development.	n/a	Not applicable.
SEPP 34 Major Employment Generating Industrial Development. Repealed by Major projects SEPP.	Repealed.	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 35 Maintenance Dredging of Tidal Waterways. Repealed by Infrastructure SEPP.	Repealed/	
SEPP 36 Manufactured Home Estates.	n/a	Not applicable.
SEPP 37 Continued Mines & Extractive Industries Repealed by Mining, Petroleum Production and Extractive Industries	Repealed.	
SEPP 38 Olympic games & Related Projects. Repealed by Major Projects SEPP.	Repealed.	
SEPP 39 Split Island Bird Habitat.	Not Applicable	
SEPP 40 Sewerage Works.	Did not proceed.	
SEPP 41 Casino/Entertainment Complex.	Not Applicable	
SEPP 42 Multiple Occupancy & Rural Land. .	Repealed by SEPP 15	
SEPP 43 New Southern Railway. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 44 Koala Habitat Protection	Complies	The subject land has been under cultivation and is not core koala habitat.
SEPP 45 Permissibility of Mining. Repealed by Mining, Petroleum Production and Extractive Industries SEPP.	Repealed.	
SEPP 46 Protection & Management of Native Vegetation. Repealed by Native Vegetation Conservation Act 1997.	Repealed.	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 47 Moore Park Showground.	Not Applicable	
SEPP 48 Major Putrescible Landfill Sites. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 49 Tourism Accommodation in Private Homes.	Draft only.	
SEPP 50 Canal Estate Development.	n/a	Not applicable.
SEPP 51 Eastern Distributor. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 52 Farm Dams & Other Works in Land & Water Management Plan Areas.	Not Applicable	
SEPP 53 Metropolitan Residential Development	Not Applicable	
SEPP 54 Northside Storage Tunnel. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 55 Remediation of Land.	Complies	Soil testing for contaminants related to agricultural use of the land should be carried out for the proposed rural residential lots.
SEPP 56 Sydney Harbour Foreshores & Tributaries. Repealed by Major Projects SEPP Amendment.	Repealed.	
SEPP 57	Not allocated.	
SEPP 58 Protecting Sydney's Water Supply. Repealed by Drinking Water Catchments REP No 1.	Repealed.	
SEPP 59 Central Western Sydney Economic & Employment Area.	Not Applicable	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 60 Exempt & Complying Development.	Not Applicable	
SEPP 61 Exempt & Complying Development for White Bay & Glebe Island Ports. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 62 Sustainable Aquaculture.	n/a	Not applicable.
SEPP 63 Major Transport Projects. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 64 Advertising & Signage.	n/a	Not applicable.
SEPP 65 Design Quality of Residential Flat Buildings.	n/a	Not applicable.
SEPP 66 Integration of Land Use & Transport. Draft.	n/a	Not applicable.
SEPP 67 Macquarie Generation Industrial Development Strategy. Repealed by Infrastructure SEPP.	Repealed	
SEPP 68	Not allocated.	
SEPP 69 Major Electricity Supply Projects. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 70 Affordable Housing (Revised Schemes).	Not Applicable	
SEPP 71 Coastal Protection	Complies	The majority of the subject land is within the coastal zone. The planning proposal does not impact on foreshore areas

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
SEPP 72 Linear Telecommunications Development - Broadband. Repealed by Infrastructure SEPP.	Repealed.	
SEPP 73 Kosciuszko Ski Resorts Repealed by SEPP Kosciuszko National Park – Alpine Resorts.	Repealed.	
SEPP 74 Newcastle Port & Employment Lands Repealed by Major Projects SEPP.	Repealed.	
SEPP (Housing for Seniors or People with a Disability) 2004	n/a	Not applicable.
SEPP Building Sustainability Index: BASIX 2004	n/a	Not applicable.
SEPP (ARTC Rail Infrastructure) 2004 Repealed by Infrastructure SEPP.	Repealed.	
SEPP (Sydney Metropolitan Water Supply) 2004 Repealed by Infrastructure SEPP.	Repealed.	
SEPP (Development on Kurnell Peninsula) 2005	Not applicable	
SEPP (Major Projects) 2005	n/a	Not applicable.
SEPP (Sydney Regional Growth Centres) 2006	Not applicable	
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable.	
SEPP (Temporary Structures) 2007	n/a	Not applicable.
SEPP (Infrastructure) 2007	n/a	Not applicable.
SEPP (Kosciuszko National Park – Alpine	Not applicable.	

STATE ENVIRONMENTAL PLANNING POLICY	COMPLIANCE	COMMENTS
Resorts) 2007		
SEPP (Rural Lands) 2008	Complies	The planning proposal is consistent with the Aims of the Rural Lands SEPP in that rezoning from tourist to rural residential has the potential to reduce land use conflicts while facilitating the orderly and economic use and development of rural lands for rural / residential purposes. The aim of the planning proposal is to rezone tourist land to rural residential and minimise land use conflicts by creating a buffer between residential land and existing tourist development along Avoca Drive.
SEPP (Exempt and Complying Development Codes) 2008	n/a	Not applicable.
SEPP (Western Sydney Parklands) 2009	Not applicable	
SEPP (Affordable Rental Housing) 2009	n/a	Not applicable.
SEPP (Western Sydney Employment Area) 2009	Not applicable	
SEPP – North Coast Regional Environmental Plan 1988 (NCREP)	Not applicable	This document now has the status of a SEPP – specific relevant provisions are addressed below.

APPENDIX 3:

SECTION 117 DIRECTION CHECKLIST

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Not applicable.	
1.2 Rural Zones A planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.	Complies	The planning proposal seeks to rezone the site from tourist to rural residential. The rezone reduces the occupancy from 14 tourist units to two rural residential lots.
1.3 Mining, Petroleum Production and Extractive industries	Not applicable.	
1.3 Oyster Aquaculture	Not applicable.	
1.5 Rural Lands (1) The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	Not applicable to Gosford.	Not applicable.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental protection Zones	Not applicable.	

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
2.2 Coastal protection	Complies	No controls related to the coastal zone are changed by the planning proposal.
2.3 Heritage Conservation	Not applicable.	
2.4 Recreation Vehicle Areas	Not applicable.	
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Not applicable.	
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	
3.3 Home Occupations	Not applicable.	
3.4 Integrated Land Use and Transport	Not applicable.	
3.5 Development Near Licensed Aerodromes	Not applicable.	
4. HAZARD AND RISK		
4.1 Acid Sulphate Soils	Complies.	The subject land is affected by acid sulfate soils. LEP controls related to acid sulfate soils still apply.
4.2 Mine Subsidence and Unstable land	Not applicable.	

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
4.3 Flood Prone Land	Complies	The majority of the subject land is flood prone land. Existing development controls related to flood impacts are not proposed to be changed by the planning proposal. The proposal transfers potential dwellings from flood prone land to flood free land.
4.4 Planning for Bushfire Protection	Complies	A proportion of the lot where the dwellings are to be located is bushfire prone. Bush fire management controls apply to the subject land regardless of the planning proposal. A detailed "Bushfire Protection Assessment" by Eco Logical Australia Pty Ltd is included as Annexure 4
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	Complies	The planning proposal is generally consistent with the Central Coast Regional Strategy
5.2 Sydney Drinking Water Catchments	Not applicable.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	
5.5 Development in the Vicinity of Ellalong, Paxton and Millfield	Not applicable.	

SECTION 117 DIRECTION	COMPLIANCE	COMMENTS
(Cessnock LGA)		
5.6 Sydney to Canberra Corridor	Not applicable.	
5.7 Central Coast	Not applicable.	Revoked
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	Not applicable.	
6.2 Reserving Land for Public Purposes	Not applicable.	
6.3 Site Specific Provisions	Not applicable.	

Appendix 5

Assessment of the PP in relation to Gosford City Council's policy D2.02 - Rezoning of Land zoned Conservation and Scenic Protection (Conservation) 7(a) / Environmental Conservation E2

1. Land Capability

Drainage and Flooding

The site is located within the Erina Soil landscape. The slopes contain yellow podzolic Soils which have a brownish to grey coloured fine sandy or sandy loam topsoil with a weak pedal structure.

The soils have a moderate sensitivity rating that would be acceptable for the erection of building(s) in accordance with the relevant standards and building codes.

Traffic and Access.

Traffic will use Hillside Road to enter and exit the site. The road reserve has a suitable grade that will enable construction of an intersection that will meet the Austroads and RTA Guidelines for a two lot subdivision.

Flora and Fauna.

The Flora and Fauna Report found no threatened or endangered species on the site. The site is not mapped as a wildlife corridor or key habitat.

Land Contamination.

The site has been the subject of a contamination assessment in 2001 that concluded that the site has no contaminants and is suitable for residential development.

Bushfire.

The site has been inspected and the "*Bushfire Protection Assessment*" by Eco Logical Australia Pty Ltd dated 23 April 2012, no threats found on the site.

Slope.

Any slope over 20% will be excluded from development.

Note: the site has some slopes greater than 15%.

Any development application prepared for the site will need to consider the relevant aspects of a site specific Development Control Plan, including flooding, drainage, water sensitive urban design, heritage, and geotech.

2. Vegetation and Faunal Analysis

The ecological assessment prepared by *Clarke Dowdle & Associates* attached with this report (Appendix 6) provides an outline of the flora and fauna communities that exist on the allotment. The ecological report recommends the implementation of a Restriction as to user pursuant to Section 88B of the Conveyancing Act 1919.

The implementation of the restriction to user along the top pf the allotment will formalise the protection of the vegetated corridor and meets the intent of the current 7(a) zone objectives.

3. Visual Assessment

The site is located within the scenic buffer zone within the Avoca Beach catchment. The site elevates from Hillside Road towards the top of a ridgeline that is well vegetated and acts a flora and fauna corridor.

The majority of the land below is clear of vegetation with excavation for accessway undertaken in association with the approved Tourist Units - 14 Tourist Units + Manager's Residence + Caretaker's Residence 21 April 1999.

The subject allotment is located in the suburb of Avoca Beach and is classified as being located within Place 2: *Open Parkland* within the Character Statement map.

The desired character for development within this precinct "is to remain low-density residential neighbourhoods where existing streetscape quality and amenity are enhanced substantially by further "greening" of gardens and street verges, enhancing the present leafy settings around each dwelling.

It is noted that the PP adheres to this desired character outlined in Chapter 2 of Councils DCP 2013.

4. Bushfire Hazard Analysis

A bushfire report was undertaken for the site in undertaken in association with the approved Tourist Units 14 Tourist Units + Manager's Residence + Caretaker's Residence. The report prepared by Ecological Australia concluded the proposal would be acceptable subjects to the recommendations outlined within the report. It is noted that the intent of the PP is to accommodate the permissibility of the land to be subdivided which would allow the erection of a single dwelling-house and ancillary structures. Given that future development would be less intensive than the tourist accommodation; it would be envisaged that the subdivision would be acceptable in regards potential bushfire impacts on the less intensive development of the land.

5. State Environmental Planning Policy No. 19 – Bushland in Urban Areas

The specific aims of the State Environmental Planning Policy No. 19 – Bushland in Urban Areas

are:

- (a) to protect the remnants of plant communities which were once characteristic of land now within an urban area,*
- (b) to retain bushland in parcels of a size and configuration which will enable the existing plant and animal communities to survive in the long term,*
- (c) to protect rare and endangered flora and fauna species,*
- (d) to protect habitats for native flora and fauna,*
- (e) to protect wildlife corridors and vegetation links with other nearby bushland,*
- (f) to protect bushland as a natural stabiliser of the soil surface,*
- (g) to protect bushland for its scenic values, and to retain the unique visual identity of the landscape,*
- (h) to protect significant geological features,*
- (i) to protect existing landforms, such as natural drainage lines, watercourses and foreshores,*
- (j) to protect archaeological relics,*
- (k) to protect the recreational potential of bushland,*
- (l) to protect the educational potential of bushland,*
- (m) to maintain bushland in locations which are readily accessible to the community, and*
- (n) to promote the management of bushland in a manner which protects and enhances the quality of the bushland and facilitates public enjoyment of the bushland compatible with its conservation.*

As addressed in the Flora and Fauna Report prepared by *Clarke Dowdle and Associates* and the discussion within the PP, the proposal to rezone and instigate a restriction-to-use over the bushland corridor to the rear of the lot adheres to the aims of the SEPP.

6. Areas to COSS

As outlined in this PP the formal protection of the bushland corridor to the rear would be commensurate with the overarching principles of the implementation of the Coastal Open Space System.

7. Strategic basis for exchange from additional development rights

As outlined within the Flora and Fauna Report prepared by *Clarke Dowdle and Associates* and the discussion within this PP, the proposal to rezone the allotment and to instigate a restriction-to-use over the bushland corridor to the rear of the lot would be commensurate with the bonus lot provisions Clause 18(4)(b) within the *Gosford Interim Development Order No. 122*.

The overarching rationale behind this instrument is to provide additional development rights for the contribution of land that would serve to protect and conserve the biodiversity of flora and fauna in bushland networks within the Gosford LGA and to implement a Coastal Open Space System (COSS).

As outlined in the *Coastal Open Space System (COSS) Strategy*

“COSS is a network of reserves supporting native vegetation that are managed by the Gosford City Council for a number of environmental and community values. The COSS reserves are consistent with the community land classification of 'bushland' as defined in section 36 The Local Government Act 1993. The network is not contiguous, and the reserves are situated predominately in six separate units that are located close to each other in the eastern part of the Gosford Local Government Area (LGA).”

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The Planning Proposal aims to protect the bushland corridor to the rear of the site for the benefit of additional development rights; in this instance to reduce the minimum lot size area reduced from 2ha to 1ha, therefore allowing the subdivision of one (1) lot into two (2) subject to consent.

On the basis outlined above, the PP meets the Strategic basis for exchange from additional development rights.

8. Central Coast Regional Strategy

The Central Coast Regional Strategy 2006 – 2031 is the applicable Regional Strategy.

This primary purpose of the Regional Strategy is to ensure that adequate land is available and appropriately located to sustainably accommodate the projected housing needs and promote local employment opportunities over the next 25 years.

The purpose of the PP is to rezone of the entire property to E3 – Environmental Management and to amend the minimum lot size map to from 2 ha to 1 ha. This would allow the potential to subdivide the allotment and have a future dwelling-house erected on the rear allotment whilst protecting the vegetated bushland corridor to the rear of the site. This proposal therefore provides a balance between the aims of the Central Coast Regional Strategy and the objectives of the (7(c2) conservation and scenic protection (scenic protection - rural small holdings), 7(a) Conservation and Scenic Protection (conservation) as well as the proposed E3 - Environmental Management zone.