

**TITLE            PLANNING PROPOSAL 75/2015 REPORT S55 IN RESPECT OF  
LOT 21 DP 270678 MANNS ROAD WEST GOSFORD TO PERMIT  
BUSINESS PREMISES AS AN ADDITIONAL PERMITTED USE:  
APPLICANT MATTHEW GIBBENS (IR 20413010)**

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

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

**Disclosure of Political Donations and Gifts - s147 Environmental Planning and Assessment Act (EP&A Act)**

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

No disclosure was made by the applicant.

**EXECUTIVE SUMMARY**

Lot 21 DP 270678 Manns Road, West Gosford is zoned IN1 General Industrial and has been developed for a hardware and building supplies outlet (i.e. Masters). On the eastern end of this building is a lower ground floor area of 1,552 sqm which has approval for a medical centre however some of the area remains vacant (see Appendix 2). The Planning Proposal seeks to amend Schedule 1 of Gosford LEP 2014 to permit business premises, with a total floor area of 1,560 sqm, as an additional permitted use at the site in Manns Road, West Gosford, identified on the Additional Permitted Uses Map as “Riverside” (see Appendix 4).

This Planning Proposal will permit the lower ground floor area of the Masters building to be economically utilised. This area was approved for a medical centre under the previous 4(a) Industrial (General) zone and constructed to accommodate such a use. Consequently the proposal to permit business premises in this floor area will not adversely impact the character of the precinct. Furthermore the approved medical centre is not a typical industrial use so altering it to business premises will not reduce the potential of the floor area for industrial usage.

Currently, under Schedule 1 development for the purpose of bulky goods premises with a maximum floor area of 12,500 sqm is permitted on the “Riverside” site with consent. However the development has only included 9,484 sqm of bulky goods premises on the site. The owner is willing to reduce the floor area of bulky goods premises permissible on the site by 1,800 sqm to compensate for the 1,560 sqm of business premises proposed. Consequently the overall potential floor space of permissible non-industrial floor space will not be increased.

Given the unique circumstances surrounding the existing development on the site and its approved uses, the proposed amendment to Schedule 1 Additional Permitted Uses of the Gosford LEP 2014 to permit business premises is supported in this instance.

## BACKGROUND

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

A meeting was held on 22 October 2014 to discuss the concept of a Planning Proposal.

**Application Received:** 10 March 2015

**Environmental Planning Instrument – Current Zone:** IN1 General Industrial under Gosford Local Environmental Plan 2014.

**Area:** 1,552 m<sup>2</sup>

**Recommendation:** That Council support the preparation of a Planning Proposal for the subject site.

## Map



## Landuse History

In 1968 the subject land was zoned 4(a) Industrial (General) under Gosford Planning Scheme Ordinance (GPSO).

In January 2013 LEP No 477 came into effect which amended the GPSO to permit, on the Riverside Site, development for the purpose of bulky goods premises with a maximum floor space of 12,500 square metres.

In February 2014 Gosford LEP 2014 came into effect and incorporated the recent amendment (LEP 477) into the Standard Instrument format. The matter is set out in Schedule 1 Additional Permitted Uses:

### **11 Use of certain land at Manns Road, West Gosford**

- 1) *This clause applies to land at Manns Road, West Gosford, being part of Lots 1 and 4 and Lots 5-8, DP 270678, and part of SP 84324, identified as "Riverside" on the Additional Permitted Uses Map.*
- 2) *Development for the purpose of bulky goods premises with a maximum floor area of 12,500 square metres is permitted with development consent.*

## Overview of Applicant's Submission

*"Lot 21 DP 270678 has an area of 3.112 ha, with frontage to Manns Road of approximately 164m and a variable depth of between 152m and 221m.*

*Erected on the subject land is a large floor plate ground level hardware and building supplies outlet (Masters – 13,391m<sup>2</sup>) and a lower ground floor of 1,552m<sup>2</sup>, approved and constructed under Development Consent No 40353/2011.*

*Existing approved uses [in the lower ground floor area] include medical centre, dental surgery and fitness centre (total area of 880m<sup>2</sup>) with approximately 671.26m<sup>2</sup> of the lower ground floor being currently vacant.*

*This Planning Proposal seeks to amend Gosford Local Environmental Plan 2014 to introduce site specific "enabling provisions" in order to allow up to 1,552m<sup>2</sup> of the existing lower ground floor premises erected on the subject land to be used for the purpose of "Business Premises", whilst retaining the IN1 General Industrial zone over the land and maintaining the dominant use of Lot 21 DP 270678 for compliant uses within the IN1 General Industrial zone.*

*The existing IN1 General Industrial zone is preventing the opportunity of accommodating a number of tenant enquiries seeking to locate in the subject premises in view of their high quality; ample available ground level car parking; and desirable location within the "Riverside" business "hub". This demand is unable to be accommodated under the existing zoning regime, whilst alternatively there is no commercial enquiry to locate the limited range of "compliant" uses currently permitted on the land under its existing IN1 General Industrial zoning. The previous provisions of the Gosford Planning Scheme Ordinance, under which the subject premises were constructed and existing uses commenced, permitted a number of additional business uses on the subject land that are now prohibited under LEP 2014.*

*The objective/intended outcomes are to be achieved by amending Gosford Local Environmental Plan 2014 to enable the use of up to 1,552m<sup>2</sup> of the existing premises erected on the subject land, to be used for "Business Premises". This would be achieved by listing the subject land and the additional permitted use of "Business Premises of up to 1,552m<sup>2</sup> gross floor area" in Schedule 1 of Gosford Local Environmental Plan 2014.*

*No zoning maps are required to accompany this Planning Proposal as it is proposed to retain the existing IN1 General Industrial zone over the land. The inclusion of the subject land and proposed Business Premises use in Schedule 1 of LEP 2014 will achieve the planning outcomes sought by this application.*

*Under Clause 2.5 (Schedule 1 - Item 11) of LEP 2014, the subject premises form part of a much larger "Riverside Park" site owned by the Gibbens Group, where development for the purpose of bulky goods premises with a maximum floor area of 12,500 m<sup>2</sup> are permitted with the consent of the council. Bulky goods premises (maximum floor area of 9,484m<sup>2</sup>) are currently under construction at the northern site boundary under Development Consent No. 44293/2013.*

*In conjunction with the preparation of a Planning Proposal to enable the additional use of business premises within the subject premises (1,552m<sup>2</sup>), the owners would be prepared to agree to a 1,800m<sup>2</sup> reduction of the maximum floor area of bulky goods premises, otherwise permitted within the "Riverside Park" site under Clause 2.5 (Schedule 1). This amendment could, if supported by Council, form part of the Planning Proposal application and would ensure that the overall floor area of business premises/bulky goods premises within "Riverside Park" would not increase, but be merely reallocated from the currently permitted bulky goods retailing premises to business premises."*

The issues raised in the applicant's 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.

A Planning Proposal application is the mechanism by which a LEP is amended.

The aims of the Gateway planning process are to enable early consideration by the Department of Planning and Environment (DP&E) (former Department of Planning and Infrastructure) and, if supported, allow early public consultation to begin. The Gateway process ensures that there is sufficient justification from a planning perspective to support a change to statutory planning provisions. The Gateway therefore acts as a checkpoint before significant resources are committed to carrying out technical studies, where these may be required.

Attachment A contains the former Department of Planning and Infrastructure Planning Proposal 'Flow Chart' and shows the stage which this request for a Planning Proposal has reached, plus the draft Planning Proposal and an overview of the Gateway process.

Certain plan-making functions may be delegated by the Department of Planning and Environment to Council (see Planning Circular PO12-006).

## **ASSESSMENT**

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

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

### **PART 1: Objectives or Intended Outcomes**

#### ***Section 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 permit "business premises" (with a total floor area of 1,560 sqm) as an additional permitted use on the IN1 General Industrial zoned site identified as "Riverside" on the Additional Permitted Use Map of Gosford LEP 2014.

Schedule 1 of Gosford LEP 2014 currently permits "bulky goods premises", with a maximum floor area of 12,500 square metres, on the Riverside site. The owner has offered to relinquish 1,800 sqm of the permissible 12,500 sqm of bulky goods premises floor space in return for the proposed 1,560 sqm of business premises floor space. This is considered satisfactory as the floor area of additional, non-industrial uses permitted on the site will not increase; in fact the potential floor area of such uses will decrease by 240 sqm.

The inclusion of the additional permitted use of business premises, as opposed to rezoning the Riverside site to the adjoining zone of B5 Business Development, has the benefit of restricting uses to those nominated in Schedule 1 of Gosford LEP 2014 and not opening the land up to a wider range of uses, permissible under the B5 zone, which may adversely impact on the viability of the Gosford Regional Centre.

Furthermore, the road widening works currently under way in Manns Road, West Gosford have required the resumption of part of land originally identified as the "Riverside" site in Gosford LEP 2014. Consequently, this is an ideal opportunity to realign the boundary of "Riverside" on the Additional Permitted Uses Map to exclude that land that has been acquired for road widening by the Roads and Maritime Service (see Appendix 5).

The lot description of the subject land has also changed so should be amended accordingly.

In summary, the objectives of the Planning Proposal are as follows:

- a) permit business premises, with a total floor area of 1,560 sqm, as an additional permitted use at the Riverside site at Manns Road, West Gosford;
- b) reduce the total floor area of bulky goods premises currently permitted on the Riverside site from 12,500 sqm to 10,700 sqm;
- c) amend the area on the Additional Permitted Uses Map shown as "Riverside" to delete the area resumed for road widening;
- d) amend the lot descriptions relating to the subject Riverside site.

## **PART 2: Explanation of Provisions**

### ***Section 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 Schedule 1 of Gosford LEP 2014. The revised wording of Schedule 1 would be:

#### **11 Use of land at Manns Road, West Gosford**

- 1) This clause applies to land at Manns Road, West Gosford, being part of Lot 1 and Lots 18-21 DP 270678, and part of SP 84324, identified as "Riverside" on the Additional Permitted Uses Map.
- 2) Development for the purpose of bulky goods premises with a maximum floor area of 10,700 square metres, and business premises with a maximum floor area of 1,560 square metres, is permitted with development consent.

Reliance will be made on the definition of "business premises" under the Standard Instrument and in Gosford LEP 2014 which is:

***business premises*** means a building or place at or on which:

- a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

### ***Section 55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land – a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.***

Attachment B to this report contains all relevant mapping to the Planning Proposal.

## **PART 3: Justification for Objectives & Outcomes**

### ***Section 55(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?**

The Planning Proposal is not the result of any strategic study or report.

In this section of Manns Road, and on this site in particular, traditional “industrial” use is somewhat compromised by a number of more commercially orientated activities such as home and building supply outlets (e.g. Masters) and large “retail” type uses associated with bulky goods premises. Although these uses are permissible in the IN1 zone and in Schedule 1 Additional Permitted Uses, they are not “conventional” industrial uses. Support of an additional permitted use could relieve pressure on other less compromised industrial areas to accommodate this form of development.

The eastern end of the Masters building is 2 storeys in height with the lower ground floor having been approved as a medical centre under the previous 4(a) zone in the Gosford Planning Scheme Ordinance. Not all this area has been able to be leased and the current IN1 zone under Gosford LEP 2014 does not permit uses conducive to this standard of construction. Allowing “business premises” as an additional permitted use on the site will enable this under-utilised floor space to be put to economical use.

**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 only means of achieving the objectives/intended outcomes as the Gosford LEP 2014 is required to be amended.

**Section B: Relationship to Strategic Planning Framework**

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

Yes. Regional strategies include outcomes and specific actions for a range of different matters relevant to the region. In all cases the strategies include specific housing and employment targets also. The Central Coast Regional Strategy 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for the provision of jobs.

This Planning Proposal is consistent with the following Actions:

- 5.1 Promote economic and employment growth in the Region to increase the level of employment self containment and achieve capacity for more than 45,000 new jobs on the Central Coast over the next 25 years.*
- 5.7 Investigate, through the preparation of LEPs, options to expand existing employment land nodes and ensure future development occurring on employment land does not result in inappropriate fragmentation of that land.*

The subject site is located within the West Gosford business node so the location of business premises in the node will enhance the locality via the provision of additional potential for similar uses, albeit minor. As the additional permitted use is located within an existing building on the site fragmentation of employment land will not occur.

The Planning Proposal is inconsistent with Action 5.11 which states:

*Ensure new retail and commercial development is located in centres.*

The provision of an additional permitted use on the site will enhance the clustering of business premises in the locality of West Gosford which is taking on the form of a centre, and as such, the inconsistency with action 5.11 is considered justifiable.

**3a Does the proposal have strategic merit and is it consistent with the Regional Strategy and Metropolitan Plan, or can it otherwise demonstrate strategic merit in light of Section 117 Directions?**

The Planning Proposal is consistent with the Central Coast Regional Strategy as set out in Question 3. Section 117 Directions are addressed in Question 6.

**3b Does the proposal have site-specific merit and is it compatible with the surrounding land uses, having regard to the following: the natural environment (including known significant environmental values, resources or hazards) and the existing uses, approved uses, and likely future uses of land in the vicinity of the proposal and the services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.**

Yes. The Planning Proposal has site specific merit as it is compatible with surrounding uses and other uses on the subject site. As the building in which it is proposed to accommodate the future business premises is in existence, the inclusion of an additional permitted use applying to the site will not affect matters relating to the natural environment or required infrastructure.

The Planning Proposal is unlikely to create a precedent or change expectations of landowners because the subject land has already been developed and the building intended to be used for the business premises is in existence.

The previously approved medical centre was approved with 60 car parking spaces. Gosford DCP 2013 does not specify the parking requirement for business premises because of the diverse nature of the uses hence the number would be assessed on an individual basis. As a comparison, if all the floor space was used for retail premises it would generate 52 spaces; or if all the floor space was used for office premises it would generate 39 spaces. As business premises would likely generate car parking spaces somewhere between 39 and 52 spaces, the existing number of parking spaces provided on site is considered sufficient.

The fact that the site is large enough to provide the car parking spaces required for the existing industrial uses and bulky goods premises as well as the proposed business premises means that this site is unusual. Consequently the permission of such an additional use cannot be used to justify non-industrial uses on all IN1 zoned lots because amongst other things, most lots have an insufficient area to accommodate the additional parking spaces required.

**4 Is the Planning Proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?**

Yes. The Planning Proposal is consistent with the Community Strategic Plan - Gosford 2025. The inclusion of business premises as an additional permitted use on the subject site with a limitation on its floor space will be consistent with the following strategies outlined in the Community Strategic Plan:

C1.3 Increase and broaden the range of local jobs across existing and emerging employment sectors.

C2.1 Provide tools and framework for business growth.

## **5 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.

### **SEPP 55 - Remediation of Land**

This SEPP requires that when a planning instrument is being prepared, a planning authority (e.g. council) is required to consider whether land is contaminated, and if so, is suitable in its contaminated state for the proposed use, or that remediation can be undertaken to make it suitable for its proposed use. The fact that the land has only recently been developed does not give rise to concerns that the land may be contaminated. The existing uses do not fall within activities listed in "Table 1: Some Activities that may Cause Contamination" of Managing Land Contamination Planning Guidelines. The proposal does not propose to rezone the land to allow residential, educational, recreational, childcare purposes or a hospital. The site is not identified in Council's records as a known contamination site, a known remediation site or a potentially contaminated site. As the proposal involves the inclusion of an additional use (i.e. business premises) within the existing building it is not inconsistent with SEPP 55.

### **SEPP 71 - Coastal Protection**

The land is within the boundary of SEPP 71. The broad aim of the SEPP is to ensure the effective management and protection of coastal areas and encourage a strategic, comprehensive approach to coastal management and development. It also sets out a range of matters for consideration, including public access, suitability of development, detrimental effects, scenic qualities, measures to conserve animals and fish and wildlife corridors, effects on coastal processes, cultural values, and water quality and for rezonings, the means to encourage compact cities and towns. The land is already within an existing urban (industrial) zone and the addition of business premises as a permissible use on this land would not raise any significant issues having regard to the provisions of the SEPP.

### **SEPP (Exempt and Complying Development Codes) 2008**

The aim of the SEPP is to identify exempt and complying development that has minimal environmental impact and can be carried out without development consent or may be carried out in accordance with certain development standards.

Should the additional permitted use of business premises become permitted on the site, future changes of use to listed uses permitted as exempt development or complying development under this SEPP can only occur if the new use is permissible with consent in the land use zone in which it is carried out; in this case the IN1 zone. Hence, business premises cannot be changed to the uses listed as exempt development (i.e. medical centre, shop, food and drink premises, kiosk, and office) as these uses are prohibited in the IN1 zone.

## **Draft SEPP (Competition) 2010**

The aims of this draft SEPP are to promote economic growth and competition, and to remove anti-competitive barriers in environmental planning and assessment. Its requirements mean the commercial viability of proposed commercial development is not a matter to be taken into consideration for the purposes of determining a Development Application. It also requires that a restriction in an Environmental Planning Instrument (EPI) or DCP on the number of a particular type of retail premises in a development or in an area does not have effect, nor does a restriction on proximity to other developments. However, it does not apply to any restriction that relates to the scale of development and as such, the limitation on floor space of the business premises component is not inconsistent with the provisions of the SEPP.

**Other SEPPs:** No other SEPP has application to this Planning Proposal, although any future development application on the land may be required to consider other SEPPs as may be relevant at the time.

### **6 Is the Planning Proposal consistent with applicable Ministerial Directions (Section 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. The Planning Proposal as amended to allow business premises with a limitation of floor space whilst retaining the primary industrial zone is consistent with all other S117 Directions or they are not applicable.

#### **Direction 1.1 - Business and Industrial Zones**

This direction applies when a planning authority prepares a Planning Proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any boundary between the two). A Planning Proposal must: give effect of the objectives of this direction, retain the areas and location of business and industrial land, not reduce total floor space for employment generation within business zones, not reduce the total potential floor space for industrial uses in industrial zones and ensure any new employment areas are in accordance with a strategy.

The inclusion of business premises as an additional permitted use on the subject land, with a limitation on the floor space, to some extent overcomes the inconsistency with this direction. It means that the land can still be used for uses compliant with the IN1 zone and that the floor space for compliant industrial component will not be reduced.

#### **Direction 2.2 - Coastal Protection**

This direction applies with the objective of implementing the principles of the NSW Coastal Policy. The land is within SEPP 71 and as such this direction applies. Given that the Planning Proposal involves allowing the use of part of the site for business premises, whilst retaining the IN1 zone there are considered to be no inconsistencies with this direction.

#### **Direction 2.3 - Heritage Conservation**

This direction applies when a relevant planning authority (Council) prepares a Planning Proposal and requires that the Planning Proposal must contain provisions that facilitate

the conservation of heritage items, aboriginal objects, places and landscapes either protected by the National Parks and Wildlife Act or identified through an aboriginal survey. No survey was undertaken for aboriginal items and given that the land is already zoned industrial and developed for such uses, it is considered unlikely that any aboriginal relics exist on the land and the Planning Proposal is consistent with this direction.

#### **Direction 3.4 - Integrating Landuse and Transport**

This direction requires a Planning Proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with aims, objectives and principles of *Improving Transport Choice - Guidelines for planning and development* (DUAP 2001) and *the Right Place for Business and Services - Planning Policy* (DUAP 2001). The land is located within an existing urban area and enjoys a high level of accessibility in terms of the arterial/regional road network, and is considered consistent with this direction.

#### **Direction 4.3 - Flood Prone Land**

This direction requires that a Planning Proposal must be consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.

The subject site is located adjacent to the Narara Creek floodplain and its floor level complies with the current flood planning level for Narara Creek which is 0.5m above the 1% flood event for Narara Creek. The car park of the site is within the Flood Planning area and has been constructed to the Council's DCP requirements. The proposed change of use therefore complies with s117 Ministerial Direction – item 4.3 Flood Prone Land.

The current IN1 zoning and the proposed change of existing floor space to permit business premises would not change impervious surfaces and therefore not increase stormwater runoff. The proposed change of use is compatible for the area with respect to floodplain risk management.

#### **Direction 4.4 - Planning for Bushfire Protection**

This direction applies when a planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land and gives effect to *Planning for Bushfire Protection 2010*. A very small section of the site in the south east corner is identified as Category 2 Vegetation and buffer. Council is required to consult with the Rural Fire Service (RFS) following receipt of a gateway determination.

#### **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.

Gosford Regional Centre is identified as the capital of the Central Coast. Hence, any Planning Proposal that would detract from growing Gosford Regional Centre is not supported. However, the enabling clause for business premises (in conjunction with the other IN1 compliant activities on the site) is considered to be consistent with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031 as discussed in Question 3.

### **Direction 6.1 - Approval and Referral Requirements**

Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development. This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.

### **Direction 6.3 - Site Specific Provisions**

The Planning Proposal is inconsistent with this Direction as it will allow the business premises component of the overall development on the land and it intends to restrict the floor area component of the business premises to 1,560m<sup>2</sup>. This inconsistency is considered to be minor and justified as it will ensure the overall integrity of the industrial zone is not compromised and the limitation on floor area is essential to achieve a sound planning outcome given the unique circumstances of the case (i.e. situation of the land and relationship to surrounding zones, continuing the dominant industrial activities and approved uses compliant with an industrial zoning).

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. The site specific planning controls proposed are not "unnecessarily restrictive" as they exist in the current planning instrument and the existing premises have been constructed in accordance with the site specific planning controls. Furthermore, permitting the business use throughout the IN1 zone is not justifiable because such an approach would effectively make the Industrial zone a Business zone and erode the character of that zone.

## **Section C: Environmental, Social and Economic Impact**

### **7 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?**

No. The subject site is fully developed and the Planning Proposal is purely for the inclusion of an additional permitted use on the land within the Gosford LEP 2014.

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

The subject land is included in Character Precinct 8 – Main Road Employment as identified in Chapter 2.1 of Gosford DCP 2013. The inclusion of business premises as an additional permitted use on the site will not alter this classification in Character Precinct 8.

### **9 How has the Planning Proposal adequately addressed any social and economic effects?**

Council is committed to the revitalisation of the Gosford Regional Centre and permitting uses at the subject site, such as business premises, away from Gosford may be seen as being contrary to this purpose.

The Planning Proposal aims to facilitate the use of a relatively small area of an existing premises for the purpose of business premises. This limitation on floor area will not detract from the economic viability of Gosford Regional Centre or other retail centres

and will encourage a greater diversity of uses in this West Gosford locality. The Planning Proposal will result in an increase in permanent employment and the provision of increased business services to the community.

## **Section D: State and Commonwealth Interests**

### **10 Is there adequate public infrastructure for the Planning Proposal?**

Yes. Public infrastructure already exists to service the subject site. Water and sewer is available to the site. Vehicular access/egress is via a signalised intersection on Manns Road and the Central Coast Highway. The parking area and road network have adequate capacity to cater for the proposed additional use.

### **11 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.

It is anticipated that the RFS will be consulted in accordance with Section 117 Direction 4.4.

## **PART 4: Mapping**

***S55(2)(d) If maps are to be adopted by the proposed instrument, such as maps for proposed land use zones, heritage areas, flood prone land - a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument.***

Attachment B to this report contains all relevant mapping to the Planning Proposal.

## **PART 5: Community Consultation**

***Section 55(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 involve an exhibition period of 14 or 28 days. The community will be notified of the commencement of the exhibition period via a notice in the local newspaper and on the web-site of Gosford City Council. A letter will also be sent to the adjoining landowners.

The written notice will:

- give a brief description of the objectives or intended outcomes of the planning proposal,
- indicate the land affected by the planning proposal,
- state where and when the planning proposal can be inspected,
- give the name and address of Gosford City Council for receipt of submissions, and
- indicate the last date for submissions.

During the exhibition period, the following material will be made available for inspection:

- the planning proposal, in the form approved for community consultation by the Director-General of Planning,
- the gateway determination, and
- any studies relied upon by the planning proposal.

### **Conclusion**

This Planning Proposal seeks to amend Schedule 1 of Gosford LEP 2014 to permit business premises, with a total floor area of 1,560 sqm, as an additional permitted use at the site in Manns Road, West Gosford, identified on the Additional Permitted Uses Map as "Riverside".

Currently, under Schedule 1 development for the purpose of bulky goods premises with a maximum floor area of 12,500 sqm is permitted on the "Riverside" site with consent. However the development has only included 9,484 sqm of bulky goods premises on the site. The owner is willing to reduce the floor area of bulky goods premises permissible on the site by 1,800 sqm to compensate for the 1,560 sqm of business premises proposed. Consequently the overall floor space of permissible non-industrial floor space will not be increased.

The Planning Proposal will permit the lower ground floor area of the Masters building to be economically utilised. This area was approved for a medical centre under the previous 4(a) zone and constructed to accommodate such a use. Consequently the proposal to permit business premises in this floor area will not adversely impact the character of the precinct. Furthermore the approved medical centre is not a typical industrial use so altering it to business premises will not reduce the potential of the floor area for industrial usage.

Given the unique circumstances surrounding the existing development on the site and its approved uses, the proposed amendment to Schedule 1 Additional Permitted Uses of the Gosford LEP 2014 to permit business premises is supported in this instance.

Should Council wish to reconsider the matter after public exhibition where no submissions objecting to the matter have been received, Part C of the recommendation should be amended to include the words:

"After public exhibition of the Planning Proposal a report is referred to Council on the matter."

### **FINANCIAL IMPACT STATEMENT**

The direct cost to Council is the preparation of the Planning Proposal and Council's fee has been paid for this service.

**Attachments:** A Planning Proposal Flowchart  
B Planning Proposal Mapping

**Tabled Items:** Nil

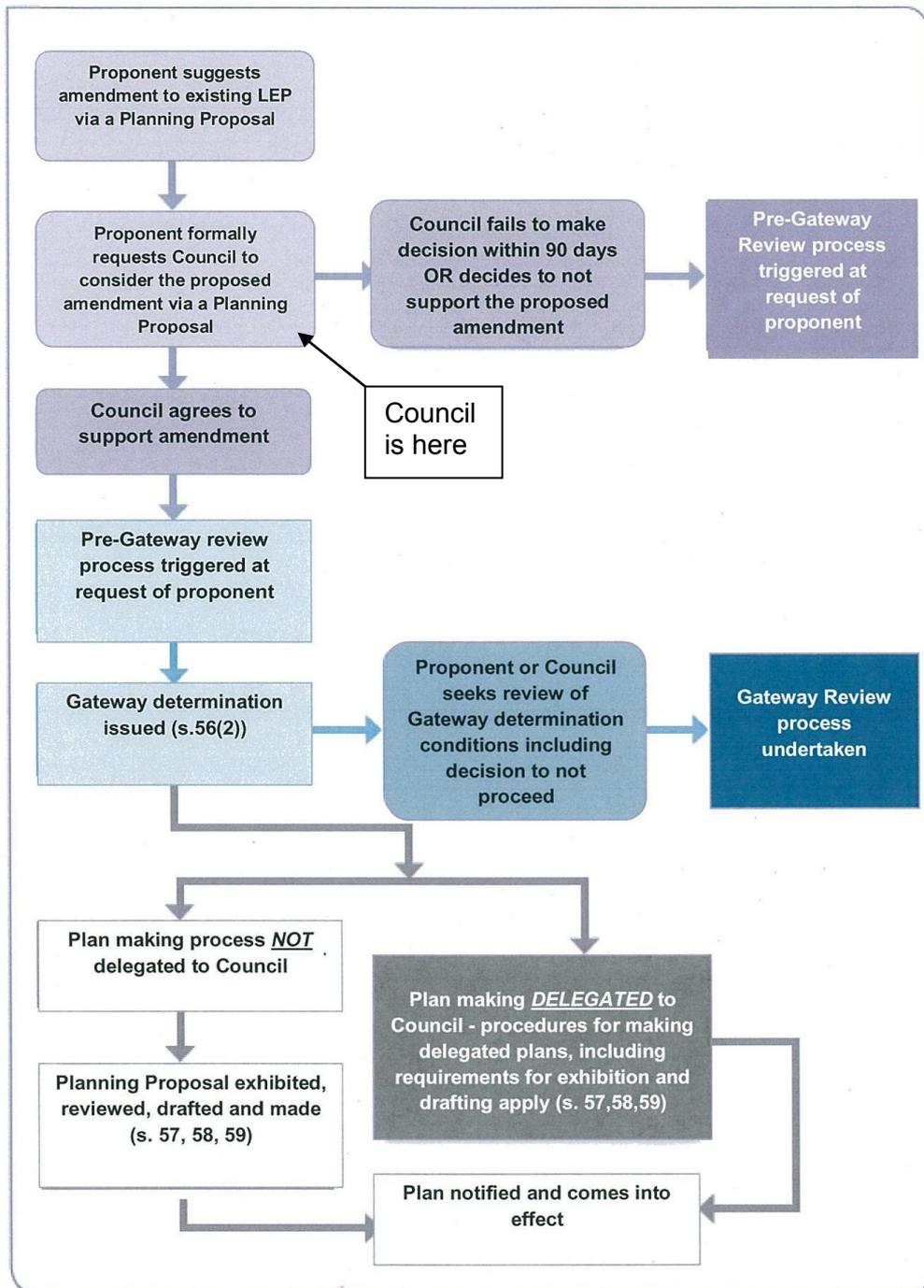
## RECOMMENDATION

- A Council initiate the Local Environmental Plan 'Gateway' process pursuant to Section 55 Environmental Planning and Assessment Act by endorsing the preparation of a Planning Proposal as outlined in this report to amend Schedule 1 Additional Permitted Uses of Gosford Local Environmental Plan 2014 to:
- a) permit business premises, with a total floor area of 1,560 sqm, as an additional permitted use at the Riverside site at Manns Road, West Gosford;
  - b) reduce the total floor area of bulky goods premises currently permitted on the Riverside site from 12,500 sqm to 10,700 sqm;
  - c) amend the area on the Additional Permitted Uses Map shown as "Riverside" to delete the area resumed for road widening;
  - d) amend the lot descriptions relating to the subject Riverside site.
- B Council notify the Department of Planning & Environment of Council's resolution requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and forward the Planning Proposal and all necessary documentation according to their requirements and this report.
- C After public exhibition of the Planning Proposal, should the Minister for Planning support it, if no submissions objecting to the Planning Proposal are received, the Planning Proposal is to be processed in order to make the plan.
- D The applicant be advised of Council's resolution.
- E Council seeks delegations from the Department of Planning & Environment for this Planning Proposal.

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

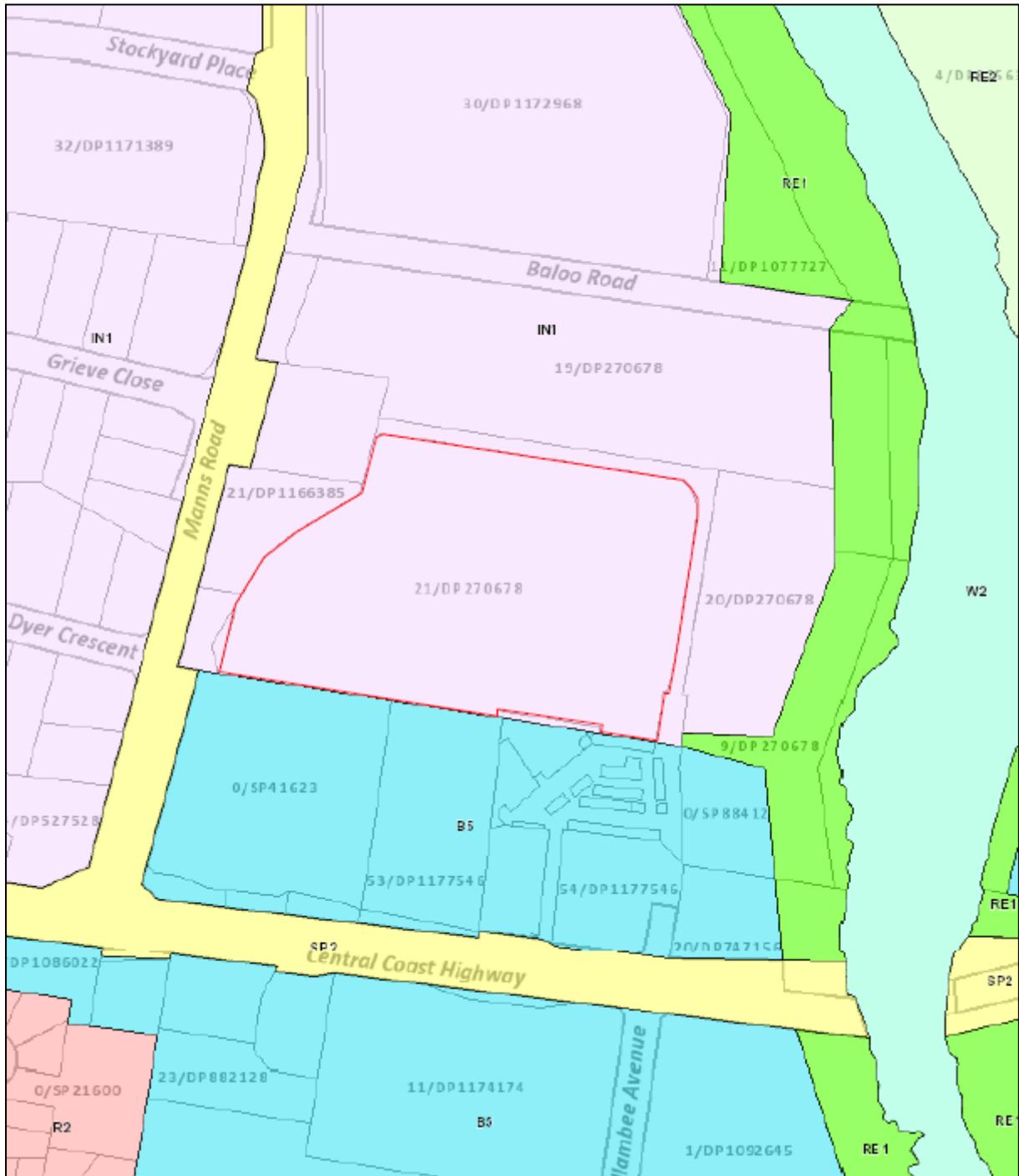
### ATTACHMENT A – Planning Proposal Flowchart

#### LEP plan making process



### ATTACHMENT B – Planning Proposal Mapping

#### APPENDIX 1 - Existing Zoning Map

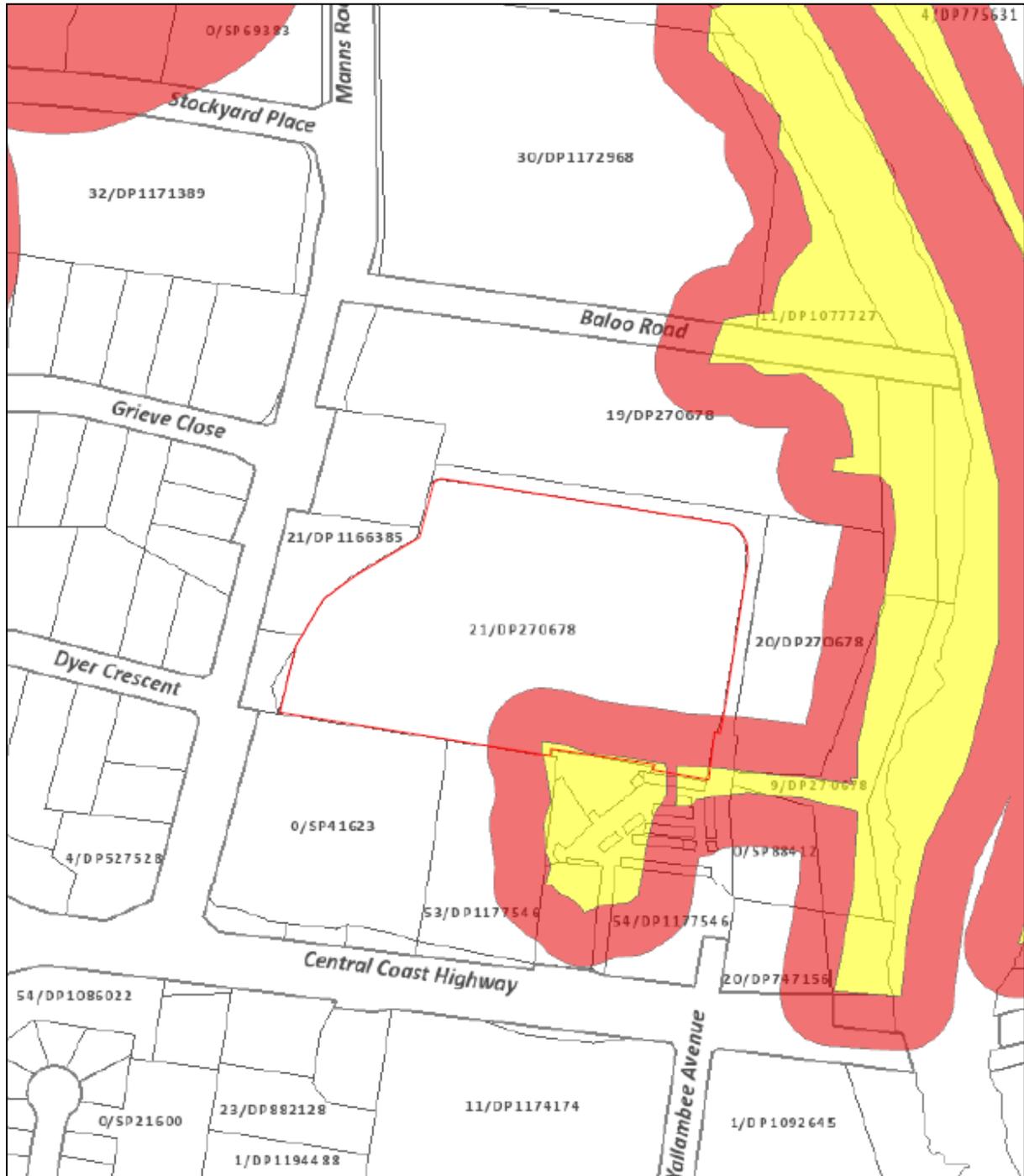


IN1 - General Industrial  
B5 - Business Development

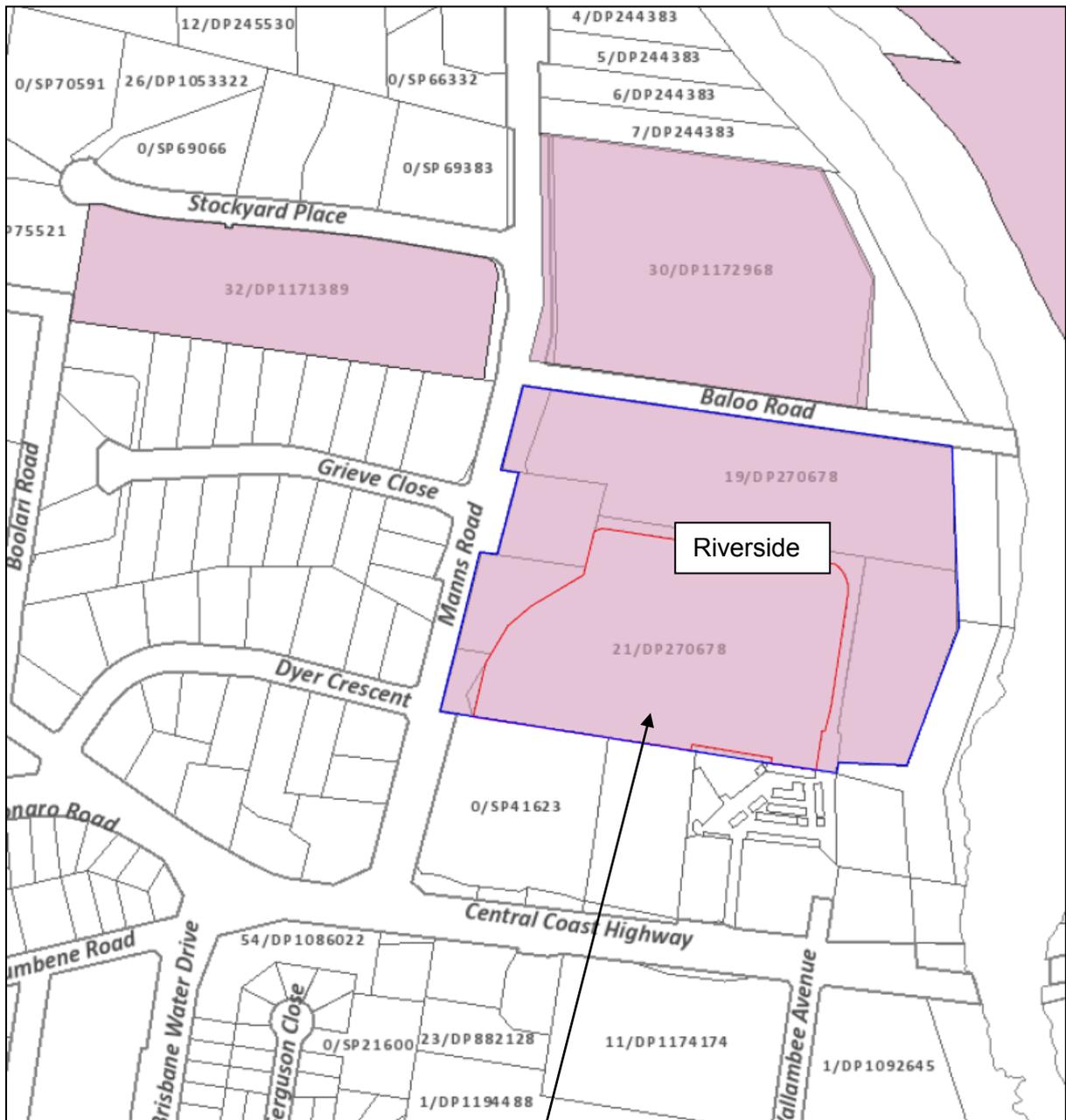
**APPENDIX 2 – Aerial Photo Showing the Location of Proposed Business Premises within Lot 21 DP 270678**



### APPENDIX 3 – Bushfire Hazard

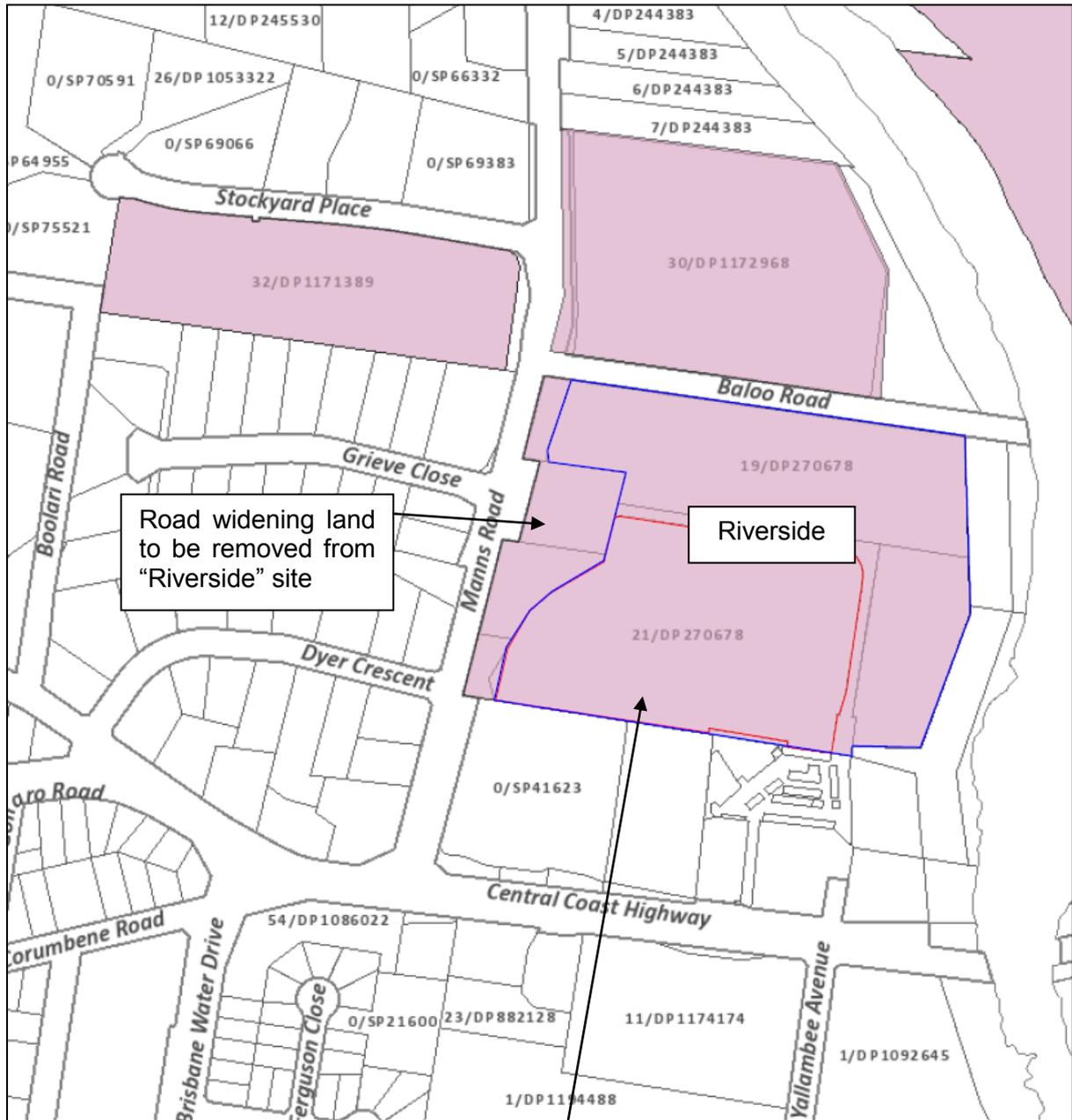


**APPENDIX 4 – Location of Lot 21 DP 270678 within the “Riverside” site on the Additional Permitted Uses Map**



Location of Lot 21  
DP 270678 within  
“Riverside” site

**APPENDIX 5 – Location of Lot 21 DP 270678 within the Proposed Amendment to “Riverside” Boundary on the Additional Permitted Uses Map**



Road widening land to be removed from “Riverside” site

Riverside

Location of Lot 21 DP 270678 within amended “Riverside” site