

01

Assessment & Endorsement

A. Council Report

Report Purpose:

The purpose of this report is for Council to consider a planning proposal which seeks to amend the *Gosford Local Environmental Plan (LEP) 2014* to rezone a portion of the site from 7(c2) Conservation and Scenic Protection Rural Small Holdings to R2 Low Density Residential.

This report recommends that Council prepare a planning proposal to amend *Gosford LEP 2014*.

Recommendation:

- 1 That Council prepare a planning proposal to amend Gosford Local Environmental Plan 2014, to rezone part of Lot 23 DP 815468, 8 Ocean Palms Close, from 7(c2) Conservation and Scenic Protection to R2 Low Density Residential, pursuant to Section 55 of the Environmental Planning and Assessment (EP&A) Act 1979;**
- 2 That Council forward the planning proposal to the Department of Planning and Environment (DP&E) requesting a gateway determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 56 (1) of the EP&A Act, 1979;**
- 3 That Council undertake community and public authority consultation, in accordance with the gateway determination requirements.**
- 4 That Council consider a further report on results of the agency and community consultation.**
- 5 That Council request from the Department of Planning and Environment delegations for the Chief Executive Officer (or delegate) to finalise and make the draft Local Environment Plan.**

The Site:

The site is legally identified as Lot 23 DP 815468, known as 8 Ocean Palms Close, Wamberal. The site is currently accessed via Ocean Palms Close however the site also has a frontage to Central Coast Highway. A signalised pedestrian crossing is located adjacent the Central Coast Highway frontage.

The total area of the site is approximately one hectare. The site contains a dwelling house, associated buildings and swimming pool.

The topography is generally level at the frontage to Central Coast Highway with a gradual down slope of approximately 5 – 15% toward Ocean Palms Close.

A small drainage path and dam are located at the site's western boundary.

Two bus stops are located within close proximity to the site on Central Coast Highway.



Figure 1: Locality Context Aerial with subject site indicated in blue.

Surrounding land uses include:

- North: a large child care centre is located immediately north of the subject site. A planning proposal to rezone this site to R2 Low Density Residential has recently received a Gateway from the NSW Department of Planning and Environment.
- East: The Central Coast Highway forms the eastern boundary of the site. Further east is predominantly low density residential development.
- South: Predominantly low density residential development.
- West: Predominantly rural-residential lots.

The entire site is currently zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) under Interim Development Order No. 122 (IDO).



Figure 2: Current zoning of site 7(c2)

The Proposal:

The request seeks to amend the land zoning maps under *Gosford Local Environmental Plan 2014*.

The application proposes that the eastern-most 'panhandle' of the lot be rezoned from the current 7(c2) Rural Small Holdings zone under the IDO to the R2 Low Density Residential zone under *Gosford Local Environmental Plan 2014*. This will also involve a minor boundary readjustment of 767 The Entrance Road (refer Lot 2 of Figure 3) to accommodate access to the new site due to the location of the signalised traffic lights adjacent its Central Coast Highway frontage. The proposed rezoning to R2 will also require amendments to the minimum lot size map, floor space ratio map and maximum building height map.



Figure 3: Proposed Zoning

Figure 3 and Table 1 indicate the resultant lot sizes:



Figure 4: Proposed lots

Table 1: Existing and Proposed Lot Sizes		
Proposed Lot	Existing Lot Size	Proposed Lot Size
Lot 1	n/a	664m ²
Lot 2	594m ²	798m ²
Lot 3	10,000m ²	9,449m ²

Assessment:

A preliminary assessment of the concept indicates the proposal has merit. Council's Environmental and Urban Edge Zone Review identified that the proposed lot does not contain environmental criteria which would satisfy the requirements of an environment protection zoning but reflects elements of the surrounding urban character. The planning proposal has not been informed by preliminary studies.

The outcome of the Planning Proposal would result in one additional lot of R2 Low Density Residential zoned land. The rear lot would be retained as a rural-residential lot.

The rezoning has strategic merit on the basis that:

- The proposed R2 lot would not contain environmental criteria which would justify its retention as an environmental zone;
- The lot achieves the R2 zone objectives in that it reflects the size and shape of surrounding R2 lots;
- The lot would not impede on access to the existing dwelling as access will be retained from Ocean Palms Close.

The following additional matters will need to be considered as part of any future gateway determination granted:

- Preliminary land contamination assessment;
- Water and sewer systems analysis;
- Bushfire hazard assessment;
- Drainage, flooding and stormwater management investigation.

Land contamination

The subject land has evidence to suggest previous use for agricultural purposes (crops and orchards). A preliminary land contamination assessment will be required to be undertaken to satisfy the requirements of SEPP 55 – Contaminated Lands.

Water and Sewer

Water is available to service the land. The proposed additional residential lot is not located within Council's defined sewer service area. Connection of the proposed lot to Council's sewer reticulation system is subject to the developer extending the existing sewerage reticulation system to the boundary of the proposed additional residential lot. Sewer designs must be submitted to Council for approval and shall be in accordance with Council's sewer design standards. The design must be approved by Council's Water Assessment Team and must be to Council's and WSAA Sewerage Code of Australia Sydney Water Edition sewer design standards.

The developer shall obtain approval from the relevant consent authority to remove trees / vegetation including any endangered ecological community where located within 2 metres either side of the centreline of the proposed sewer main, prior to submission of sewer design plans to Council. The developer shall comply with requirements Under Part 5 of the Environmental Planning and Assessment Act, 1979. Payment of the current water and sewer headworks / augmentation contributions will be required in accordance with Council's Services Charges policy.

Bushfire

The subject land is classified as bushfire prone land and will require a bushfire assessment to be prepared as a post gateway consideration. The planning proposal will therefore need to be referred to the Rural Fire Service as a post gateway determination matter.

Flooding

There has been no formal flood study undertaken for the catchment where this property is located, however from broad flood information held by Council there may be some flooding to the western end of the parent property. There is no flooding to the eastern end of this property where the proposed minor rezoning is proposed.

It is considered that the proposed rezoning will have no adverse impacts on flooding or drainage if the proposed subdivision complies with the requirements of Councils LEP and DCP.

Drainage

The Applicant has not submitted concept stormwater drainage plans. The submitted planning report states that stormwater drainage will be required to be connected to the local drainage network.

Due to the fall of the land gravity drainage to the local drainage network in the Central Coast Highway is highly unlikely. An interallotment drainage easement traversing through the subject property will be required as far as the dam on-site. Any interallotment drainage system should also be designed to cater for stormwater from the adjoining property 767 The Entrance Road Wamberal, particularly as significant runoff will be generated by the proposed access driveway.

Statutory Compliance and Strategic Justification:

The NSW Department of Planning and Environment (DP&E) in May 2016 issued guidance for merged Councils on planning functions. In accordance with these guidelines, merged Councils are to continue to progress planning proposals with strategic merit. This planning proposal is consistent with the guidelines and is appropriate to be progressed.

The proposal has been assessed having regard for all State Environmental Planning Policies, Ministerial s.117 Directions and the relevant guidelines set out within the regional plans including the Central Coast Regional Plan (CCRP) 2036.

The request is considered to be consistent with these considerations and suitable for forwarding to the DP&E for a Gateway determination.

Internal Consultation

The planning proposal was referred to the following staff within Council.

- Flooding Engineer;
- Drainage Engineer;
- Traffic Strategic Transport Planning;
- Water & Sewer Assessment Section;

No objections were raised to the planning proposal proceeding and issues raised are reflected in the issues assessment section of this report.

External consultation

Government agency and public consultation requirements will be detailed in the gateway determination and conducted accordingly. It is anticipated that the following agencies will need to be consulted:

- NSW Roads and Maritime Service

Budget Impact

There are no immediate budget impacts as the assessment of the planning proposal could be funded by the proponent in accordance with Council's adopted fees and charges.

Conclusion

The request to rezone part of the site for low-density residential development is considered to have merit. Preliminary assessment of the proposal indicates that the site is suitable for such development subject to further studies.

An assessment of the request has not identified any issues that would prevent Council seeking a gateway determination for this proposal.

It is therefore considered that a planning proposal should be prepared and forwarded to the DP&E for a gateway determination.

External consultation:

Government agency and public consultation requirements for the planning proposal will be detailed in the gateway determination and conducted accordingly. It is anticipated that the following agencies will need to be consulted:

- NSW Roads and Maritime Service

The applicant advised that initial consultation with the NSW Roads and Maritime Service had been undertaken however no written correspondence was provided with the application.

Budget Impact:

There are no immediate budget impacts as the assessment of the Planning Proposal is being funded by payment of a Phase 1 Rezoning Fee. Further assessment work conducted by Council staff and all of the required supporting technical studies will be funded by the proponent.

Conclusion:

The request to rezone part of the subject site for residential development is considered to have merit. Preliminary assessment of the proposal indicates that the site is suitable for such development subject to further studies.

An assessment of the planning proposal request has not identified any issues that would prevent Council seeking a gateway determination for this proposal.

It is considered that a planning proposal should be prepared and forwarded to DP&E for a gateway determination.

Attachments:

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|---------------------------------|-----------|
| 1. Summary of Planning Proposal | D24251976 |
| 2. Strategic Assessment | D24262318 |

Council Minutes

2.5 Planning Proposal - 8 Ocean Palms Close, Wamberal

RESOLVED on the motion of Mr REYNOLDS:

- 280/17** That Council prepare a planning proposal to amend Gosford Local Environmental Plan 2014, to rezone part of Lot 23 DP 815468, 8 Ocean Palms Close, from 7(c2) Conservation and Scenic Protection to R2 Low Density Residential, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979.
- 281/17** That Council forward the planning proposal to the NSW Minister for Planning requesting a gateway determination, as well as requesting delegation for Council to finalise and make the draft Local Environmental Plan, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act 1979.
- 282/17** That Council undertake community and public authority consultation, in accordance with the gateway determination requirements.
- 283/17** That Council consider a further report on results of the agency and community consultation.
- 284/17** That Council request from the NSW Minister for Planning, delegations for the Chief Executive Officer (or delegate) to finalise and make the draft Local Environment Plan.

B. Central Coast Regional Plan 2036 Assessment

19	Direction 19: Accelerate housing supply and improve housing choice	
	Action	Assessment
19.3	Monitor land and housing delivery and accelerate housing supply to meet a projected housing demand of 41,500 additional dwellings by 2036.	Consistent The proposal will contribute to the provision of housing to meet projected housing demand targets.
20	Direction 20: Grow Housing Choice in and around Local Centres	
	Action	Assessment
20.1	Improve housing choice by supporting housing delivery in and near the growth corridors and local centres.	Consistent The proposal is within proximity to the Terrigal Local Centre and Somersby to Erina Growth Corridor. The proposal will support housing delivery and housing choice in the area.
21	Direction 21: Provide Housing Choice to Meet Community Needs	
	Action	Assessment
21.1	Provide greater housing choice by delivering diverse housing, lot types and sizes, including small lot housing in infill and greenfield housing locations.	Consistent The rezoning proposal will provide opportunity for additional low-density residential development.

C. State Environmental and Sydney Regional Planning Policy Assessment

Planning Policy	Comment
SEPP No. 44 – Koala Habitat	
Aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline: (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and (b) by encouraging the identification of areas of core koala habitat, and (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones	The area of the proposed new residential lot does not contain any trees or significant vegetation. It is not considered that the proposed additional residential lot will impact on koala habitat.
SEPP 55 – Remediation of Land	
Aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment (a) by specifying when consent is required, and when it is not required, for a remediation work, and (b) by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and (c) by requiring that a remediation work meet certain standards and notification requirements.	The land has evidence to suggest that it may have been used for agricultural purposes (orchards) although it is unclear from aerial photography on where past agricultural uses were conducted. Much of the land nearby has been developed as a residential subdivision, so it is unlikely that the subject land is contaminated. However, a preliminary contamination assessment will be undertaken prior to public exhibition if a Gateway is issued for the request.
SEPP No. 71 – Coastal Protection	
The policy aims to:	The subject land is located within the area as defined by SEPP 71. An assessment of the

Planning Policy	Comment
(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and (e) to ensure that the visual amenity of the coast is protected, and (f) to protect and preserve beach environments and beach amenity, and (g) to protect and preserve native coastal vegetation, and (h) to protect and preserve the marine environment of New South Wales, and (i) to protect and preserve rock platforms, and (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and (l) to encourage a strategic approach to coastal management.	proposal against Clause 8 of the SEPP has been undertaken (refer below). The proposed land use is considered to be consistent with the location.
SEPP No. 71 – Clause 8	
a) The aims of the Policy:	The request seeks to rezone part of the land from 7(c2) to Conservation and Scenic Protection to R2 Low Density Residential. The request will not impact on state significant

Planning Policy	Comment
	vegetation and wetlands, and is not considered to have a potential impact on the marine environment. The request is consistent with the aims of the policy.
b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved	The subject site does not have direct foreshore frontage and does not front a public reserve. Future development of the site is not likely to impede access to any reserve.
c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability	The subject site does not have direct foreshore frontage and does not front a public reserve. No future opportunity for access is warranted.
d) the suitability of development given its type, location and design and its relationship with the surrounding area	The locality comprises predominantly low density single and double storey dwellings and large lot rural residential. The request is compatible in this regard. The site is generally clear of vegetation and considered suitable.
e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore	It is considered that there will be no loss of view to nearby coastal foreshores from the request or any associated future development.
f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.	The request and future development would require minimal removal of existing vegetation from the subject site. It is not considered that the proposal will detract from the scenic qualities of the locality.
g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats	The area for the proposed additional residential lot is general void of tree or significant vegetation.
h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	The request is not considered to have any adverse impact on the marine environment.
i) existing wildlife corridors and the impact of	The subject land does not adjoin any existing or

Planning Policy	Comment
development on these corridors,	proposed wildlife corridors.
j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards	The subject site is not identified to be subject to coastal processes (e.g. erosion, dune instability etc.)
k) measures to reduce the potential for conflict between land-based and waterbased coastal activities	No land-based and water-based coastal activity conflict is considered to result from this request.
l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals	An Aboriginal Heritage Information Management System (AHIMS) search of the area indicates no aboriginal sites or places in or near the location.
m) likely impacts of development on the water quality of coastal waterbodies	The request is not considered to have a potential impact on the marine environment of coastal waterbodies.
n) the conservation and preservation of items of heritage, archaeological or historic significance	There are no identified European Heritage items or areas in the vicinity of the site.
o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities	The locality comprises predominantly low density single and double storey dwellings. The proposed development is compatible in this regard.

D. Section 117 Ministerial Direction Assessment

Relevant Direction	Comment
Environment & Heritage	
2.1 Environment Protection Zones	
Aims to protect and conserve environmentally sensitive areas. Applies when the relevant planning authority prepares a planning proposal.	Consistent The area of the site proposed to be rezoned to R2 – Low Density Residential is already cleared of significant vegetation.
2.2 Coastal Protection	
The objective of this direction is to implement the principles in the NSW Coastal Policy. This direction applies to the coastal zone, as defined in the <i>Coastal Protection Act 1979</i>. This direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone.	Consistent. The <i>NSW Coastal Policy</i> sets out the following goals relevant to the Planning Proposal: - Protecting, rehabilitating and improving the natural environment of the coastal zone. - Protecting and enhancing the aesthetic qualities of the coastal zone. - Providing for ecologically sustainable human settlement in the coastal zone. The subject land is generally cleared of native vegetation so the rezoning to allow closer human settlement is ecologically sustainable. The aesthetic qualities of the coastal zone are maintained as the subject land adjoins an area already used for low density residential development. The Coastal Design Guidelines relate to design of dwellings and location of new settlements and is relevant to this Planning Proposal. The following objectives are relevant to this Planning Proposal: - To protect and enhance the cultural, ecological and visual characteristics of a locality. - To limit coastal sprawl by establishing separation and greenbelts between

	settlements. - To integrate new development with surrounding land uses. - To encourage new coastal settlements to be appropriately located. - To create neighbourhoods centred around services and facilities. The subject land adjoins existing residential developments thus future subdivision will be visually consistent with the residential character of the area and integrate with the adjoining land use. The NSW Coastline Management Manual provides "information to assist present and potential users and occupiers of the coastline to understand the nature of coastline hazards and the options available for their management." As the site is not subject to immediate coastal processes this is not relevant to the Planning Proposal.
2.3 Heritage Conservation	
Aims to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. Applies when the relevant planning authority prepares a planning proposal.	Consistent. There are no identified European Heritage items or areas in the vicinity of the site. An Aboriginal Heritage Information Management System (AHIMS) search of the area provided with the application indicates no Aboriginal sites or places in or near the location.
Housing, Infrastructure and Urban Development	
3.1 Residential Zones	
Aims to encourage a variety and choice of housing types to provide for existing and future housing needs, to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and to minimise the impact of residential development on the environmental and resource lands. Applies when a planning proposal affects land within an existing or proposed residential	Consistent. Under Gosford Local Environment Plan (LEP) 2014 the R2 Low Density Residential zone provides for a variety of housing forms including small lot and secondary dwelling development in addition to traditional single dwelling houses. The provisions of Gosford LEP 2014 and the conditions of any development consent issued will ensure that the land is adequately serviced for

zone, and any other zone in which significant residential development is permitted or proposed to be permitted.	residential development.
3.3 Home Occupations	
Aims to encourage the carrying out of low impact small business in dwelling houses. Applies when the relevant planning authority prepares a planning proposal.	Consistent The proposal does not impact on the permissibility of home occupations.
3.4 Integrating Land Use & Transport	
Aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts to achieve: improving access to housing, jobs and services by walking, cycling and public transport; increasing choice of available transport and reducing transport on cars; reducing travel demand; supporting efficient and viable public transport services; and provide for efficient movement of freight. Applies when a planning proposal creates alters or moves a zone or provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.	Consistent The proposal will integrate with the established road and public transport system.
Hazard & Risk	
4.4 Planning for Bushfire Protection	
Aims to protect life, property and the environment from bushfire hazards, and encourage sound management of bushfire prone areas. Applies when a planning proposal affects or is in proximity to land mapped as bushfire prone land.	To be determined This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. In the preparation of a planning proposal request, the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination. The proposed new lot will be located in proximity to the buffer area of Bushfire Category 1 vegetation. Should Council and DP&E support the planning

	proposal, then the gateway determination would require consultation with the Rural Fire Service.
Regional Planning	
5.10 Implementation of Regional Plans	
The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning and Environment (or an officer of the Department nominated by the secretary), that the extent of inconsistency with the Regional Plan: (a) is of minor significance; and, (b) the planning proposal achieves the overall intent of the Regional Plan and does not undermine the achievement of its vision, land use strategy, goals, directions or actions.	Consistent The proposal has been assessment against the actions of the Central Coast Regional Plan and is consistent with the document.
Local Plan Making	
6.1 Approval and Referral Requirements	
Aims to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. The planning proposal will not increase the need for referrals for development applications. Referral requirements will be generally in accordance with Section 91 of the Environmental Planning and Assessment Act 1979.
6.3 Site Specific Provisions	
Aims to discourage unnecessarily restrictive site specific planning controls.	Consistent. While a Development Application is yet to be lodged for the subject site it is apparent that there

Applies when the relevant planning authority prepares a planning proposal to allow particular development to be carried out.	will be an application lodged for residential subdivision as soon as possible. It is proposed that the relevant LEP mapping be updated only subsequent to this proposal and no additional development standards than currently exist will apply.
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E. Community Strategic Plan Assessment

CSP Objective	Consistency
A3.4 – Increase the availability of appropriate housing.	Consistent The subject land is within an existing residential area with good access to services. The potential subdivision from the request will increase the availability of housing to the locality.
B6.3 – Plan for population growth within existing development footprints	Consistent The subject land has been assessed as being of minimal natural or environmental value and suitable for residential development.