

MATTERS TO BE SUBMITTED TO THE OPEN COUNCIL

To be held at 6.45 pm on Tuesday, 2 August 2011

MATTERS SUBMITTED BY THE DIRECTOR - ENVIRONMENT AND PLANNING

ENV.51 PLANNING PROPOSAL FOR LOTS 4-8 DP 8872 NO'S 430 - 438 OCEAN BEACH ROAD UMINA BEACH TO REZONE FROM RESIDENTIAL 2(B) TO GENERAL BUSINESS 3(A) APPLICANT: WALES AND ASSOCIATES PTY LTD (IR 10039806)

Directorate: Environment and Planning
Business Unit: Integrated Planning

Disclosure of political donations and gifts - s147 Environmental Planning and Assessment Act (EP&A Act).

"A relevant planning application means: (a) a formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument or development control plan in relation to development on a particular site". The following item is an *initial report* to consider a request to Council to prepare a *Planning Proposal*; hence it falls under the definition of a '*relevant planning application*'.

No disclosure was made by the applicant pursuant to s147 EP&A Act.

INTRODUCTION

Reason for Referral to Council: This report discusses merits for Council's consideration and decision of whether or not to prepare a Planning Proposal (PP) (*which, if supported would result in an LEP*), pursuant to Section 55 *Environmental Planning & Assessment Act, 1979* (State). Appendices 1, 2 and 3 outline locality map, existing zoning map, proposed zoning map under Gosford LEP 2009, aerial photograph, SEPP 71 Coverage and proposed zoning map.

Application Received: 8 June 2011

Environmental Planning Instrument – Current Zone: Gosford Planning Scheme Ordinance 2(b) - Residential

Area: 2,232 m²

Background / Landuse History: The subject sites are owned by McDonalds Australia and are located on Ocean Beach Road Umina Beach close to the intersection of West Street/Sydney Avenue on the eastern side of the road. It is a regular shaped parcel of land comprising of five (5) allotments with a total area of approximately 2,232.05 m². The sites currently operate as single dwelling residential properties.

To the south of the site lies the recently constructed Caltex Service Station (Woolworths) on the corner of Ocean Beach Road and West Street. Immediately to the east is the recently refurbished Bi Lo Supermarket (now Coles) with its adjacent upgraded carpark.

Applicant's Submission:

The applicant has stated that due to the uncertainty associated with the timing of finalisation of the draft Gosford LEP 2009 and the need for the owners to proceed with the development of this site at the earliest opportunity, the applicant is requesting Council to rezone the land to Zone 3(a) Business (General).

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 standards to control development and it may reserve land for public purposes and protect trees and vegetation. The purpose of an LEP is to achieve the objects of the EP&A Act and they are a means to implement strategies.

The first step in council developing a *local environmental plan* (i.e. zones, landuses, building heights, etc) under the *gateway* process is preparing a *Planning Proposal (PP)*. The PP *explains the proposed LEP* via objectives / intended outcomes, provisions, justification of outcomes.

The 'gateway' process allows a Planning Proposal to be reviewed at an early stage by State Government Department of Planning and Infrastructure (DOP&I) to make a decision whether to proceed further, ie does the PP have merit to proceed to community consultation stage. The 'gateway' determination will ensure there is sufficient justification early in the process to proceed. It is a checkpoint before significant resources are committed to carrying out technical studies.

The key stages in a PP are as follows:

- Assessed by Council, and if supported is prepared and forwarded to DOP&I.
- DOP&I will consider then forward a recommendation to the *LEP Review Panel*.
- LEP Review Panel will consider then forward a recommendation for 'gateway' determination to the *Minister for Planning* (or delegate), together with DOP&I's advice.
- Minister will determine if it will proceed (with/without variation), be re-submitted to Council (for studies/revision), community consultation required, Government authorities consultation, need for a public hearing and timeframes for each step.

Following completion of all the above processes by Council, the Minister may make, vary, not proceed, defer certain matters or delegate making of the plan to the Director General of DOP&I. Attachment B is a Department of Planning and Infrastructure (DOP&I) 'flow chart' of the PP/LEP process.

PLANNING PROPOSAL GOSFORD CITY COUNCIL LOTS 4-8 SECTION A DP 8872 NO'S 430-438 OCEAN BEACH ROAD UMINA BEACH

This Planning Proposal (PP) has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act, 1979* and DOP&I's *A Guide to Preparing Planning Proposals*.

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

Part 1 Objectives or Intended Outcomes

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

The objective/intended outcome of the Planning Proposal is to allow Lots 4 to 8 Section A in DP8872 No's 430-438 Ocean Beach Road at Umina Beach to be zoned for business purposes to allow it to be used as a McDonalds Operation. The proposal will provide a McDonalds adjacent to the Umina Beach commercial centre that will employ 130 full time and part time employees (the majority of which will be young people) and contribute \$1.0 million to the local economy in wages.

Part 2 Explanation of Provisions

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

The objectives/intended outcomes are to be achieved by the Planning Proposal shall be achieved through the site specific rezoning of the subject land from 2(b) – Residential to 3(a) – Business (General) under the Gosford Planning Scheme Ordinance.

The likely wording of the site specific rezoning local environmental plan is set out below.

1 Aims of Plan

This plan aims to rezone the land to which this plan applies to Zone No 3(a) – Business (General) to enable the land to be developed for business purposes to create employment opportunities in the local area.

Explanation: This provision states the objective of the planning instrument as it applies to the use of the subject land.

2 Subject Land

This plan applies to Lots 4 to 8 Section A in DP8872 No's 430-438 Ocean Beach Road at Umina Beach as shown in appendix 1.

Explanation: The provision states the legal description of the land and ensures that the site to which the proposed zone applies can be identified.

3 Amendment to the Gosford Planning Scheme Ordinance

City of Gosford – Gosford Planning Scheme Ordinance is amended by:-

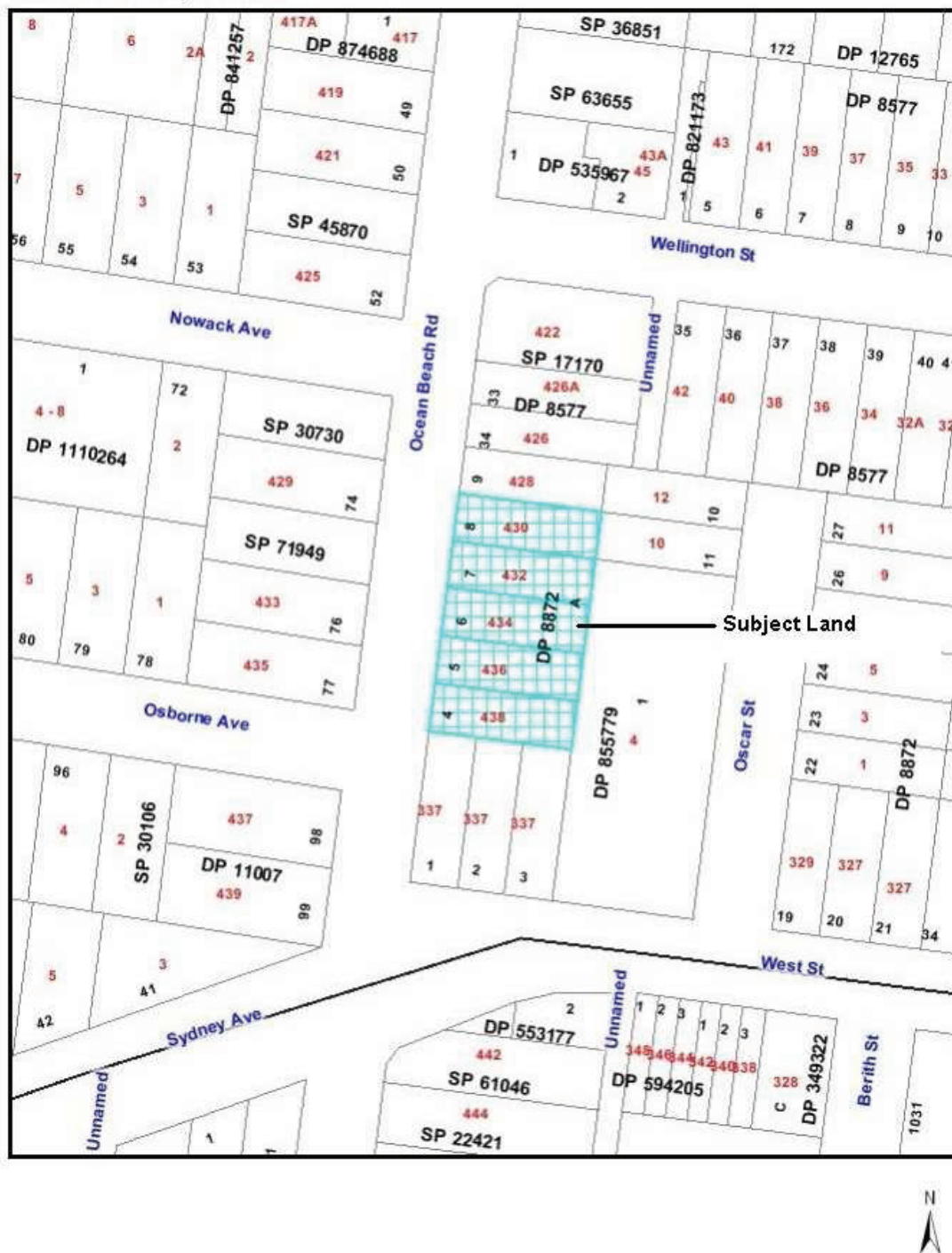
- (a) inserting in appropriate order in the definition of GPSO “Scheme map” in clause 3(1) the following words:

Gosford Local Environmental Plan No.

Explanation: This provision allows for the McDonalds Operation to be a permissible use on the subject land and be defined in the land use table.

s.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.

APPENDIX1 - Subject Land





[illegible]

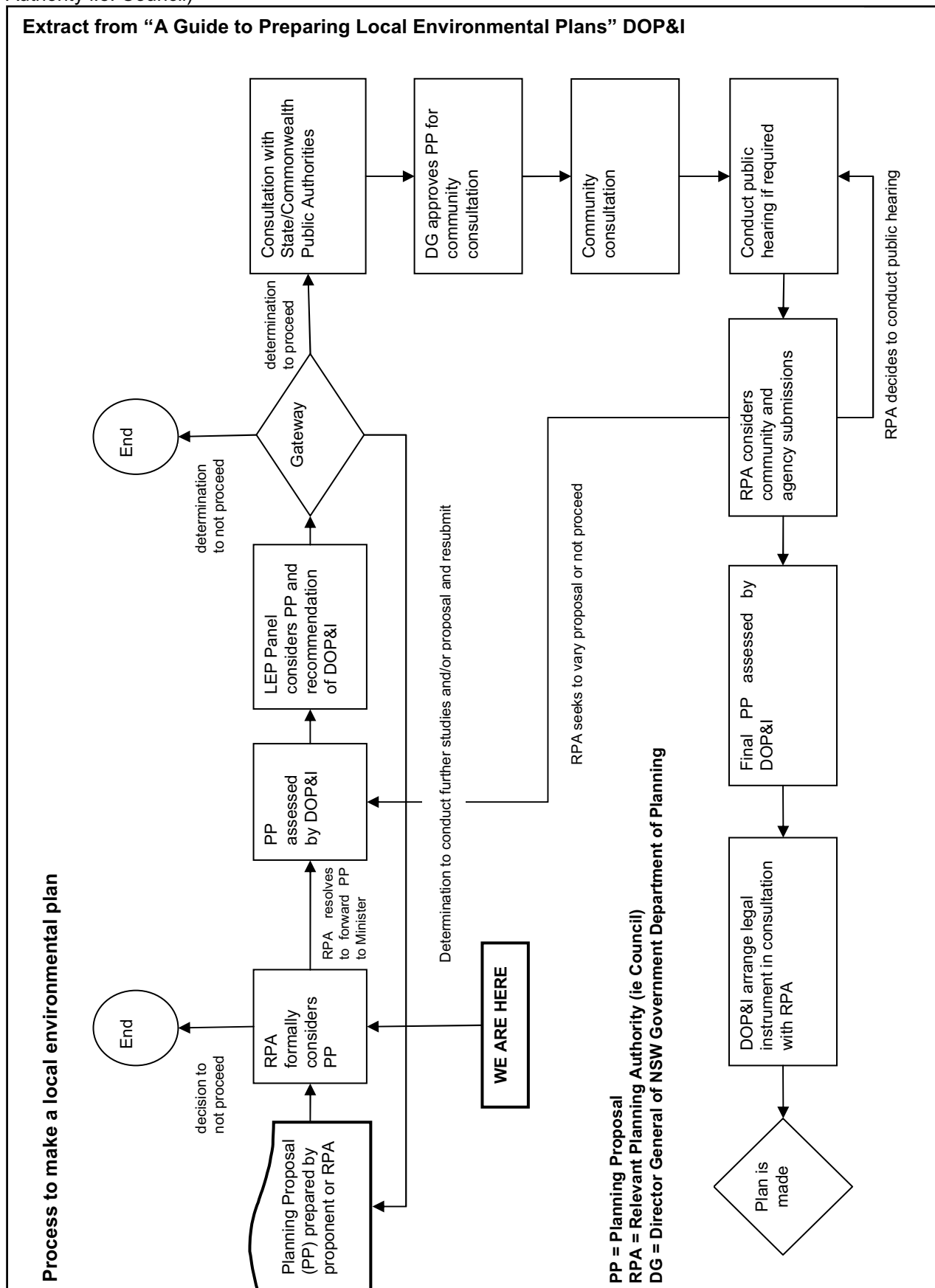
APPENDIX 4 - SEPP71 Application



APPENDIX 5 - Aerial Photograph



Appendix 6 - Planning Proposal process - extract from DOP&I documents (NB: RPA = Relevant Planning Authority i.e. Council)



Part 3 Justification

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

Section A Need for the Planning Proposal

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

The Planning Proposal is the result of the Peninsula Urban Directions Strategy which was adopted by Gosford City Council on the 11th April 2006. In 2003, the draft *Shaping the Central Coast Action Plan* recommended that improved strategic planning is undertaken for the Woy Woy Peninsula.

Funding was provided by the then DIPNR, at which time Council resolved in December 2003 to prepare a consultant's brief for an integrated planning study providing for the Woy Woy Peninsula as a basis for future strategic landuse planning actions. Newbold Planning were engaged to undertake the Strategy which commenced in March 2004.

In April 2005, Newbold Planning undertook a presentation to Council on the draft Strategy. The recommended directions from the Strategy provided integrated solutions to major development issues relating to residential and commercial development on the Peninsula, including poor urban design and urban decay of commercial centres. The recommendations from the Strategy were to be implemented in part through review of existing zonings of land, the preparation of revised development controls and the review of existing Contributions Plans that cover the Peninsula.

Some of the key findings and recommendations from the project included increasing the potential for centre development (ie: expanding the Umina Beach centre from West Street through to Wellington Street) as a means of encouraging urban renewal of the centres and to correspondingly improve the opportunity for increased public transport use as a means to relieve local traffic congestion. Improved development controls and commercial expansion was seen as a way to enliven the centres, thus increasing business opportunities and employment.

On the 5th May 2005, Council resolved to place the draft strategy on public exhibition with the results reported to the Council Meeting on the 4th October 2005. Council resolved to adopt the exhibited Draft Peninsula Urban Directions Strategy on the 11th April 2006 and include its provisions as part of the review and preparation of the Residential Development Strategy and preparation of a City Planning Strategy and Comprehensive LEP for the City. Part E(2)(ii) of the adopted Peninsula Urban Directions Strategy states:-

"Extend the boundary of the Umina centre north to Wellington Street in order to incorporate carparks and to contain town centre impacts upon the residual 2(b) allotments that have not yet been redeveloped"

As a result of the adopted Peninsula Urban Directions Strategy (PUDS), the recommendations (including Part E(2)(ii)) were incorporated into the Draft Gosford Local Environmental Plan 2009.

The proposed expansion of the commercial centre is being supported by increased commercial development activity in the Umina Village centre with the completion of the new Woolworths Supermarket between Bullion Street and Trafalgar Avenue, the refurbishment of the Bi Lo (now Coles) Supermarket in Oscar Street and the imminent construction of the new Aldi Supermarket in Trafalgar Avenue.

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

It is considered that the Planning Proposal is the best means of achieving the objective of establishing a ready to commence business activity on the subject site as the timing of gazettal of Draft Gosford LEP 2009 is currently unknown.

The zoning of the land to the 3(a) - *Business (General)* zone is consistent with the recommendations of the Peninsula Urban Directions Strategy and reflects the fact that the use is part of the longer term commercial expansion strategy for the Umina Beach Village centre.

3 Is there a net community benefit?

It is considered that changing the current zone from 2(b) – *Residential* to 3(a) – *Business (General)* and therefore permitting the proposed McDonalds Operation use on the subject site will benefit the community by:-

- (i) providing commercially zoned land that is consistent with both the Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009, albeit in advance of the Draft LEP 2009;
- (ii) enabling the proposed McDonalds Operation to be approved and constructed in a more timely fashion;
- (iii) creating 130 full time and part time jobs especially in the younger age bracket; and
- (iv) injecting \$1.0 million/annum to the local economy in wages

The Planning Proposal site is located on the Ocean Beach Road corridor with minimal potential to impact on adjoining residents. Residential properties lie immediately to the north, some of which are already used for commercial purposes (ie: chiropractors etc). These properties are similarly identified for rezoning to commercial land uses in the Draft Gosford LEP 2009. Residential properties also lie to the west of Ocean Beach Road and will not be significantly impacted by the proposal. The Woolworths Service Station lies immediately to the south of the site with the Shell Service Station located to the south west on the corner of Sydney Avenue and Ocean Beach Road.

The site specific rezoning will not create a precedent or change expectations of nearby landowners as the proposed use is consistent with both the Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009, both of which have been extensively advertised and have been the subject of wide community consultation and adopted by Council.

Section B Relationship to strategic planning framework

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

The Central Coast Regional Strategy (CCRS) 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Region Strategy for provision of jobs. This Planning Proposal to rezone the land for business purposes is consistent with the following objectives/actions contained within the Regional Strategy for the reasons specified:

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

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

The Planning Proposal is consistent with the *Community Strategic Plan – Continuing our journey (CSP)*, Biodiversity Strategy, draft Gosford Landuse Strategy, draft Residential Strategy and draft Centres Strategy

The Planning Proposal will concentrate business development in the centre near public transport, and increase employment opportunities, thus aligning and furthering certain Community Strategic Plan (CSP) objectives and strategies, ie:

C1 - Gosford is a place that attracts people to work, live and visit

Attracting investment and strengthening the economy responds to a high level of commuting, variability of employment, underemployment, youth unemployment, and the need for secure local jobs and senior job opportunities.

Strategies

C1.1 Broaden range of business and industry sectors

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

C2 – Gosford attracts and supports new and existing businesses and investment

New business and investment will broaden the narrow based economy, and there is a need for infrastructure and regional enterprise. In turn this responds to a variety of local employment issues.

Whilst Gosford *Vision 2025* has recently been superseded by the CSP, there are some relevant facts contained in the document pertaining to this Planning Proposal. The Vision listed the four main areas of employment in the area (see Page 15) as being:-

- (i) retail trade (16.2%);
- (ii) health and community services (12.1%);
- (iii) business services (11.2%), and
- (iv) manufacturing (9.9%)

Clearly, retail employs the greatest number of people. This reflected in the resurgence of retail activity in the Umina Beach centre precinct with major retailers making significant investment in the centre. The Planning Proposal is consistent with this trend with the aim of capitalizing on the strong growth in the retail/service industry base.

Gosford Vision 2025 also states that:-

"In the period 2003-04, Gosford's unemployment rate was 6.1%, compared with the State average of 5.2% and the Central Coast region of 8.6% (Source: Australian Bureau of Statistics). Youth unemployment is high at 16.1%, compared with the State average of 13.3%" (see Page 16).

The Planning Proposal seeks to redress the high youth unemployment rate, particularly on the Woy Woy Peninsula, by facilitating the early rezoning of commercial zoned land to allow the development to proceed which will generate 130 full time and part time jobs with specific emphasis on youth employment.

Gosford Biodiversity Strategy 2008

The CSP contains certain objectives and strategies that implement the *Biodiversity Strategy*. The PP is consistent with the following:

B6 – Land use and development protects the value and benefits provided by the natural environment

Land use and development relates to sustainable economic growth, securing our water supply, the human impacts on native species, threatened and endangered species and communities, the effectiveness of environmental monitoring, increasing the representation of conservation lands, adequate funding for projects and the protection and celebration of environmental heritage.

Strategy

B6.3 Plan for population growth within existing developed footprint

Clause 1.7 - *Objectives of the Biodiversity Strategy* details the relevant objectives. The Planning Proposal meets the relevant objectives in the following ways:-

Ensure biodiversity management is a critical consideration in Council's Strategic Planning process that informs the City Wide Local Environmental Plan.

The proposal recognises that biodiversity management is a critical consideration in Council's Strategic Planning process that informs the City Wide Local Environmental Plan. The proposal is consistent with that process in that the lands to be rezoned form part of the expansion of the Umina Beach centre (retail sector) as recommended under the Peninsula Urban Directions Strategy;

Maintain or improve Gosford's Biodiversity for present and future generations.

The proposal maintains Gosford's biodiversity as the lands are already used for intensive residential use and have been cleared of native vegetation. Therefore native vegetation is not affected.

Ensure all Council's development controls, identify biodiversity conservation issues and provide protection for biodiversity.

The proposal is consistent with Council's current development controls.

Conserve the diversity of locally occurring native flora and fauna in the Gosford City Council area at the genetic, species and ecosystem level and ensure actions support recovery of species which have become threatened.

The proposal meets the objective as the lands are already used for intensive residential use and have been cleared of native vegetation. Therefore threatened native vegetation is not affected.

The Planning Proposal does not conflict with the principles and actions set out in the in the *Biodiversity Strategy*.

Draft Gosford Landuse Strategy Plan 2031

The primary aim of *Gosford Landuse Strategy 2031* is to implement strategic landuse directions from the community's *Gosford Vision 2025 (superseded)* which are reflected in the CSP and statutory obligations such as the Central Coast Regional Strategy 2031. Under Clause 2.6 – Economy, the Strategy states:-

"A strong local economy is vital in providing the means for the Gosford community to achieve its social, environmental and lifestyle aims. The economy needs to expand to provide jobs for its growing population and to develop a broader and more secure foundation".

The Planning Proposal is consistent with this requirement by providing commercially zoned lands that have already been identified under the Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009 that will:-

- strengthen the local economy and allow for development that will provide for important localised employment opportunities, especially for younger people in an area where job opportunities are limited;
- contribute to achieving social and lifestyle aims by providing a new high quality and convenient locally based McDonalds Operation that will enhance and improve the attractiveness of the surrounding precinct by setting new design standards
- create business opportunities by revitalizing this section of the Ocean Beach Road arterial road corridor;

Whilst the targeted growth in population of 30,000 forecast by 2031 (*Central Coast Regional Strategy*) will of itself generate some jobs, these will be in the sectors that serve these extra people, such as health, education, retail and community services.

However, more than just these jobs will be needed to offer wider employment opportunities to residents, and to reduce the number of people who commute to Sydney for work. This requires that local businesses expand, new local businesses are started and some new business is attracted into the region. The Planning Proposal is consistent with this approach by providing additional commercially zoned land that will enable McDonalds to build a new McDonalds Operation that will generate significant local youth employment and add over \$1.0m per annum in local wages into the Peninsula economy.

Under Clause 5.3.2 - Residential Development Scenarios (Scenario 1), the Strategy states:-

"The secondary population growth focus will be in and around the three (3) centres on the Woy Woy Peninsula, in the manner outlined in the adopted Peninsula Urban Direction Strategy (PUDS), which is implemented in this DLEP".

The Planning Proposal is consistent with Scenario 1 in that the subject lands have been identified in the Draft Gosford LEP 2009 as part of the expansion of the Umina Beach Centre (retail precinct). The additional commercially zoned land is required to support secondary growth in and around the Umina Beach Centre precinct.

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

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

SEPPS

SEPP No 71 - Coastal Protection

The "coastal zone" is generally 1 kilometre landward of any coastal water, bay, estuary, coastal lake or lagoon and the boundary is to be shown to the nearest cadastral boundary. Lots 4 to 8 in Section A DP8872 No's 430-438 Ocean Beach Road at Umina Beach have been identified as being in the coastal zone. The following comments are made in relation to the aims and objectives of the act.

(a) Aim – to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast

The proposed Business zone will not adversely affect the *natural attributes* of the NSW coast as the proposal occurs within an established commercial/residential area that already has substantial retail/commercial and multi unit development along Ocean Beach Road and West Street.

The proposal will not adversely affect the *cultural attributes* of the NSW coast as it is consistent with established commercial/residential activities. It does not diminish the existing cultural values which are centred predominantly on retail and residential activities.

With regards to the *recreational attributes* of the precinct, the proposal will not adversely impact on the traditional retail and seaside activities in the area. The area is, and has been, a busy retail and residential location to which the proposal is considered to be a complementary activity required to service the needs of the precinct.

The proposal will act in a positive way to the *economic attributes* of the precinct by generating additional building activity and contributing to the local retail base. It will not adversely affect the economic attributes of the NSW coast but rather improve on them.

The proposal therefore **COMPLIES** with the above aim.

- (b) Aim – 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

The subject site is not in close proximity to the Umina Beach beach front and does NOT impede public access to these areas.

The proposal therefore **COMPLIES** with the above aim.

- (c) Aim – to ensure that new opportunities for public access to and along the coastal foreshores are identified and realized to the extent that this is compatible with the natural attributes of the coastal foreshore

As above, the subject site is not in close proximity to the Umina Beach beach front and does NOT impede public access to these areas.

The proposal therefore **COMPLIES** with the above aim.

- (d) Aim – to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge

The proposed rezoning does not impact on any items of Aboriginal cultural heritage and therefore **COMPLIES** with the above aim.

- (e) Aim – to ensure that the visual amenity of the coast is protected

The proposed commercial development is proposed within the existing 2(b) – *Residential* zone and whilst inconsistent with the Gosford Planning Scheme Ordinance, it is considered generally consistent with Council's draft character statements for the Umina area under Draft Gosford Development Control Plan 2009 – Part 2: Chapter 2.1 – *Character*. The proposal is considered consistent with the provisions of the Draft DCP under "**Umina**" (13 – Mainstreet). The issue of character is discussed in detail under Clause 19.5 – Visual Amenity Effects.

The proposed bulk, height and scale controls are also consistent with the existing built form in the precinct which represents an area in transition. The subject site is located in a relatively prominent position, but will not have any significant visual impact on the coast line due to its high degree of architectural treatment and articulation.

Therefore, it is considered that the proposal **COMPLIES** with the above aim.

(f) Aim – to protect and preserve beach environments and beach amenity

The proposal is not located in close proximity to the Umina Beach foreshore or beachfront and is located within a well established residential/commercial precinct. Therefore, the proposal will not adversely impact on the beach environment or affect the existing beach amenity.

It is considered that the development **COMPLIES** with the above aim.

(g) Aim – to protect and preserve native coastal vegetation

Native coastal vegetation is not present on the subject site as the land has been previously cleared for the purposes of residential development. It has been continuously occupied since the 1940's. Therefore, the protection and preservation of vegetation is not relevant.

It is considered that the proposal **COMPLIES** with the above aim.

(h) Aim – to protect and preserve the marine environment of New South Wales

The proposal is not in close proximity to the Umina Beach foreshore or beachfront and it will have no significant impact of the marine ecosystem. All necessary measures will be undertaken to protect the marine ecosystem from sediment and nutrient runoff before and after construction.

All necessary erosion and sedimentation controls will be implemented in accordance with Council's existing codes and practices so as to ensure that runoff and sediment which may discharge into Council's existing stormwater system does not adversely affect the Umina Beach foreshore.

It is considered that the proposal **COMPLIES** with the above objective.

(i) Aim – to protect and preserve rock platforms

The proposal is not located adjacent to any natural rock platforms.

Therefore, the proposal **COMPLIES** with the above aim.

(j) Aim – 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*)

The proposal has been designed in accordance with the principles of ecologically sustainable development and therefore **COMPLIES** with the above aim.

(k) Aim – 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

The proposed McDonalds Operation is to be within the existing 2(b) – *Residential* zone and whilst inconsistent with the Gosford Planning Scheme Ordinance, it is considered generally consistent with Council's draft character statements for the Umina area under Draft Gosford Development Control Plan 2009 – Part 2: Chapter 2.1 – Character. The proposal is considered consistent with the provisions of the Draft DCP under “**Umina**” (13 – Mainstreet).

It is considered that the development is appropriate for the location and improves the natural scenic attributes of the surrounding area by enhancing the architectural quality of the existing built form.

Therefore, it is considered that the proposal **COMPLIES** with the above aim.

(I) Aim – to encourage a strategic approach to coastal management

Whilst the proposal does not comply with the current Gosford Planning Scheme Ordinance, it does **COMPLY** with the provisions of the Draft Gosford City Local Environmental Plan 2009 and the Draft Gosford DCP 2009. These documents form part of Gosford City Council's strategic approach to development within the city.

Therefore, the proposal fits within the Council's management process for coastal development.

It is considered that the development **COMPLIES** with the above aim.

The proposed design has been prepared giving due consideration to all matters that are required to be addressed under SEPP 71 in that it:-

- (i) complies with the aims and objectives of the SEPP as described above;
- (ii) does not affect existing public access to and along the coastal foreshore;
- (iii) does not affect opportunities for provide new public access to and along the coastal foreshore;
- (iv) addresses and considers the issue of sustainability given its type, location and design and its relationship to the surrounding area. This has been addressed this report.
- (v) does not cause any detrimental impact on the amenity of the coastal foreshore especially in relation to overshadowing or loss of views;
- (vi) does not adversely impact on the scenic qualities of the NSW coastline. Whilst the property is in a prominent location, the design (including setbacks and articulation) are complementary to the precinct;
- (vii) does not impact on threatened flora or fauna nor impact on sensitive habitats;
- (viii) does not impact on marine life or marine vegetation;
- (ix) does not impact of wildlife corridors;
- (x) has no effect on coastal processes nor is it affected by coastal hazards;
- (xi) has no impact on land based and water based coastal activities;
- (xii) is not affected by Aboriginal cultural places, beliefs, customs or traditional knowledge;
- (xiii) will not impact on water quality. All appropriate erosion and sedimentation controls will be implemented in accordance with Council's codes and practices;
- (xiv) does not affect any items of heritage, archaeological or historic significance; and
- (xv) is consistent with the Draft Gosford Local Environmental Plan 2009

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

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

The Planning Proposal is consistent, with all other S117s Directions. The applicable Directions are discussed below.

Direction 1.1 – Business and Industrial Zones

This direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone (including the alteration of any existing business or industrial zone boundary).

The objectives of the Direction are to:-

- (i) encourage employment growth in suitable locations;
- (ii) protect employment land in business and industrial zones, and
- (iii) support the viability of identified strategic centres.

The change from 2(b) – *Residential* to the proposed 3(a) – *Business (General)* zone is consistent with the Direction and will meet the objectives in the following ways:-

- (i) encourages employment growth by permitting the proposed McDonalds Operation that will employ 130 full time and part time jobs in a location that is supported by the adopted Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009;
- (ii) does not affect the supply of employment land and industrial zones;
- (iii) supports the viability of the Umina Beach commercial centre which is undergoing significant economic growth with the recent increase in capital investment by major retailers including Woolworths; Coles Group and Aldi Supermarkets.

Direction 2.2 – Coastal Protection

This direction applies when a relevant planning authority prepares a planning proposal that applies to land in the coastal zone. A planning proposal must include provisions that give effect to and are consistent with:-

- (i) the NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997;
- (ii) the Coastal Design Guidelines 2003, and
- (iii) the manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993* (the NSW Coastline Management Manual 1990)

Whilst the subject properties are located within 1 kilometre of Broken Bay, they do not fall within those areas identified under DCP 125 – Coastal Frontage.

Notwithstanding, the NSW Coastal Policy sets out the following goals relevant to the Planning Proposal:-

- (i) protecting, rehabilitating and improving the natural environment of the coastal zone; and
- (ii) providing for ecologically sustainable development and use of resources.

The zoning of the subject site will result in a more efficient use of the property which is consistent with the adopted Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009. It does not prevent or inhibit the protection, rehabilitation and improvement of the natural environment of the coastal zone as the subject site is sufficiently removed from the beachfront areas and is located in a well established residential/commercial precinct.

The Coastal Design Guidelines relates to design of dwellings and location of new settlements, hence is not relevant to this Planning Proposal.

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"* and *"Hazards peculiar to the coastline must be recognised in the design of new developments, in the planning of changed land use patterns and in the protection of present developments at risk"*.

Whilst the subject site is located within 1kilometre from the coast and at an elevation of approximately 6.0m AHD, it does not experience any hazards peculiar to the coastline.

Direction 2.3 – Heritage Conservation

This direction applies when a relevant planning authority prepares a planning proposal. A planning proposal must contain provisions that facilitate the conservation of:-

- (i) Items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area;
- (ii) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- (iii) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

Having regard to the disturbed nature of the site due to its long term usage for residential purposes, it is unlikely that there are any remaining aboriginal relics if they were there in the first place. Council records do not indicate the presence of Aboriginal relics on the land.

Direction 3.1 – Residential Zones

This direction applies to all relevant planning authorities and to when that relevant planning authority prepares a planning proposal that will affect land within:-

- (i) an existing or proposed residential zone (including the alteration of any existing residential zone boundary);
- (ii) any other zone in which significant residential development is permitted or proposed to be permitted.

In this instance, the Planning Proposal is inconsistent with the terms of the Direction but the inconsistency is justified by the Peninsula Urban Directions Strategy (PUDS) adopted by Council on the 11th April 2006 which is embodied in the Draft Gosford Local Environmental Plan 2009 adopted by Council on the 31st May 2011.

Both the Peninsula Urban Directions Strategy and the Draft Gosford LEP 2009:-

- (i) give consideration to the objective of this direction but demonstrate the need for the extension of the existing Umina Beach village centre;
- (ii) identify the land which is the subject of the planning proposal; and
- (iii) are in accordance with the Central Coast Regional Strategy prepared by DOP&I which gives consideration to the objective of this direction.

Further, PUDS as reflected in the draft Gosford LEP 2009 provides a strategy for the Woy Woy Peninsula that aims in part to increase the variety and housing choice in the area by increasing potential residential densities in the Town and Village centres.

Therefore, it is considered that the inconsistency with this direction can be justified.

Direction 3.4 – Integrating Land Use and Transport

This direction applies to all relevant planning authorities and applies when that relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:-

- (i) improving access to housing, jobs and services by walking, cycling and public transport;
- (ii) increasing the choice of available transport and reducing dependence on cars;
- (iii) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car;
- (iv) supporting the efficient and viable operation of public transport services; and
- (v) providing for the efficient movement of freight.

The proposal is consistent with this direction as it locates business uses within an area designated under relevant planning strategies and a City – wide draft local environmental plan and adjacent to a major commercial/retail centre on the Woy Woy Peninsula. The centre is a focal point for bus services in the local area and the land is located on a major bus route.

Direction 4.4 – Planning for Bushfire Protection

This direction applies to all local government areas in which the responsible Council is required to prepare a bush fire prone land map under section 146 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act), or until such a map has been certified by the Commissioner of the NSW Rural Fire Service, a map referred to in Schedule 6 of that Act. 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 the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made. A Planning Proposal must:-

- (i) have regard to Planning for Bushfire Protection 2006;
- (ii) introduce controls that avoid placing inappropriate developments in hazardous areas, and
- (iii) ensure that bushfire hazard reduction is not prohibited within the APZ.

As the land is not classified as Rural Fire Service Bushfire Category 1, 2 and/or Buffer, the Planning Proposal will not have to be referred to the Rural Fire Service for comment after the Gateway Determination by the Minister.

Direction 5.1 – Implementation of Regional Strategies

This direction applies when a relevant planning authority prepares a planning proposal. Planning Proposals must be consistent with a regional strategy released by the Minister for Planning.

The Central Coast Regional Strategy applies to the subject site. The Planning Proposal is consistent with the actions of the regional strategy under Chapter 5 – Economy and Employment which, in part, states:-

“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”.

The Planning Proposal will facilitate development that will contribute to economic and employment growth in the Region by way of 130 full time and part time jobs and over \$1m in wages for the local economy.

Direction 6.1 – Approval and Referral Requirements

The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development and applies when a relevant planning authority prepares a planning proposal. In accordance with the provisions, the planning proposal:-

- (i) does not contain provisions that require the concurrence, consultation or referral of development applications to a Minister or public authority, and
- (ii) does not identify development as designated development

Direction 6.3 – Site Specific Provisions

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls and applies when a relevant planning authority prepares a planning proposal that will allow a particular development to be carried out (viz: the McDonalds Operation).

The proposal is consistent with the Direction in that:-

- (i) it rezones the site to an existing zone already applying in the environmental planning instrument (ie: 3(a) – *Business (General)*) that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone;
- (ii) it allows that land use (ie: McDonalds Operation) on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

Section C Environmental, social and economic impact

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

Council's adopted Bells vegetation mapping showed no endangered ecological communities or regionally significant vegetation on the site and an inspection of the site confirmed that the vegetation is consistent with the mapping.

As the majority of the land has been cleared for past residential activities, the likelihood that there is critical habitat or threatened species, populations or ecological communities, or their habitats, on the subject site is low.

The subject area of the proposed development is already cleared of its original vegetation. As no significant native vegetation exists on the site, no endangered flora or wildlife corridors will be affected. There are no endangered ecological communities on the site.

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

No, due to the disturbed nature of the sites and their use for urban purposes for some decades (see previous related comments).

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

Support for the Planning Proposal will have many positive socio-economic benefits for the local community including significant employment opportunities within the Umina Beach centre precinct.

Benefits will include:-

- (i) the provision of a business zone which is consistent with the desired outcomes under the Draft Gosford Environmental Plan 2009 which will service the local community;
- (ii) the ability to utilise local commercial and lifestyle facilities without the need to drive to other centres to undertake similar activities;
- (iii) creation of up to one hundred and thirty (130) part time and full time jobs in the retail/commercial areas and ancillary services;

- (iv) potential increase in local employment as a future development will draw on the local population for labour. This is particularly the case with youth employment;
- (v) interim employment opportunities during the construction phase;
- (vi) injection of \$1.0m/annum in wages to the local economy; and
- (vii) increased economic activity and services

Social Impact Effects

Support for the Planning Proposal will result in benefits for the health and safety of the community by providing a high quality development which meets the latest health and building standards.

With regards to the issue of social cohesion, the proposed development will enhance the immediate locality through the provision of a high quality facility that will act as a meeting place for local residents and therefore assist in building social cohesion.

In relation to the interaction between the new development and the local community, the proposed development will stimulate interaction with the local community by providing a meeting place and centre of activity albeit with well planned landscaping, security and acoustic controls. The social benefit of the proposal in terms of the new development is to provide updated local retail facilities that do not currently exist to this standard in the precinct.

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

The proposed rezoning of land for the extension of the Umina Beach Village Centre was referred to Council Asset managers, no objections were received in relation to infrastructure matters.

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

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

Part 4 Community Consultation that is to be undertaken

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

Subject to Gateway support community consultation will involve an exhibition period of 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.

Other Matters for Consideration - No other matters need to be considered at this stage of the plan preparation process.

Conclusion

The Planning Proposal is intending to implement the provisions of the draft Gosford LEP 2009 by zoning the land for business purposes. The applicant has indicated that completion of the Planning Proposal will enable development on land to proceed providing important economic benefits for the local area.

The Peninsula Urban Directions Strategy has supported the rezoning of this land and adjoining land for business purposes and this is being implemented through the draft Gosford LEP 2009. Issues relating to the specific development proposed ie traffic impacts will need to be assessed when a development application is considered by Council.

Should Council wish to reconsider the matter after public exhibition where no submissions have been received, the following resolution should be adopted. "After public exhibition of the Planning Proposal a report be referred to Council on the matter."

Tabled Items: Nil

FINANCIAL IMPACT STATEMENT

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

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 for Lots 4 – 8 Section A DP 8872 No's 430 – 438 Ocean Beach Road Umina Beach Zone to 3(a) Business (General) and to forward it to the Department of Planning and Infrastructure requesting a 'Gateway' determination pursuant to Section 56(1) Environmental Planning and Assessment Act and that Council staff prepare all necessary documentation and process the matter according to the Department of Planning and Infrastructure's directives and this report.
- B After public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, if no submissions are received, the Planning Proposal is to be sent to the Department of Planning and Infrastructure in order to make the plan.
- C The applicant be advised of Council's resolution.