

TITLE PLANNING PROPOSAL 86/2015 S.55 REPORT TO INCLUDE OFF-SITE DIRECTIONAL SIGNAGE AS EXEMPT DEVELOPMENT IN GOSFORD LEP 2014 (IR 20830801)

Department: Governance & Planning
Service Unit: Development & Compliance

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).

Council is initiating the subject Planning Proposal, therefore it is not a ‘relevant planning application’ that requires disclosure per Section 147(4).

EXECUTIVE SUMMARY

Council has been requested to consider allowing the erection of off-site signage directing potential customers to housing estate developments. Such signage is currently prohibited in Gosford City.

On 22 September 2015 a report was presented to the Strategy Policy Workshop canvassing the pros and cons of such development and the current legislative position. It recommended:

- A Council consider adoption of provisions similar to those adopted by Lake Macquarie Council by way of amendment to GLEP 2014.
- B Accompany this amendment with an amendment to Clause 3.7.8.5 of Gosford DCP 2013 to allow third party advertising for major real estate/housing developments.

Council has not yet endorsed the recommendation of the Strategy Policy Workshop in relation to this matter, which is in part the intention of this report.

The approach taken by Lake Macquarie Council is to list such directional real estate signs as exempt development in the LEP.

In order to amend the Gosford LEP 2014 in a similar manner requires the preparation of a Planning Proposal. This report outlines the statutory requirements of a Planning Proposal.

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).

Environmental Planning Instrument – Current Zone: Various

Recommendation: For Support

'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 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.

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*.

Part 1 Objectives or Intended Outcomes

The objective/intended outcome of the Planning Proposal is to permit, as exempt development, the erection of off-site signage directing potential customers to housing estate developments

Part 2 Explanation of Provisions

The objectives/intended outcomes are to be achieved by inserting in Schedule 2 Exempt Development of Gosford Local Environmental Plan 2014 the following:

Directional real estate signs on certain land

- (1) Must be on land in a residential, business or industrial zone or on land in Zone RU1, Zone RU2, Zone RE2, or Zone SP2 that is not part of an approved subdivision that is being advertised for sale.

- (2) Must comply with the general requirements for signage and advertising specified in clause 2.83 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- (3) Maximum area:
 - (a) in a rural or residential zone – 4.5 m²
 - (b) in any other zone – 6.0 m²
- (4) Must be located within a 3 km radius of the subdivision.
- (5) Maximum - 4 signs/subdivision estate as a whole
- (6) If the nearest arterial road is located outside the 3 km radius, 2 additional signs may be located outside the 3 km radius.
- (7) Must relate to the subdivision as a whole and not to individual lots.
- (8) Must only relate to land subdivision comprising more than 25 allotments.
- (9) Must not be an illuminated sign, nor comprise of moving text or images.
- (10) Must be removed within 14 days after all the land in the subdivision has been sold.
- (11) Must be maintained in good order, for example, graffiti free, safe and not in a state of disrepair.

Part 3 Justification for objectives & outcomes

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 a strategic study or report.

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 amending the Gosford LEP 2014 and thereby achieving the objectives/intended outcomes as stated above.

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)?

The Central Coast Regional Strategy (CCRS) applies to the Planning Proposal. The Planning Proposal consists of a minor operational issue which is not explicitly inconsistent with the outcomes or actions of the regional strategy. An individual provision relating to exempt development is unable to be specifically planned for in a document such as a regional strategy.

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 CCRS has been addressed in Question 3 and 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.

The proposal will have the outcome of directing motorists from main roads to the housing estate. This is considered beneficial as it supports the economic activity of providing additional housing in Gosford. It is compatible with surrounding land uses as the size of the sign is smaller in residential and rural zones (4.5 sqm in area) and larger in other zones such as Business, Industrial and SP2 Road (6 sqm in area).

The dis-benefit would be the proliferation of third party advertising material with the consequent degradation of the visual environment, well removed from the subject land/activity being promoted. So that every small subdivision is not able to erect off-site directional signage, and thus cause visual pollution, it is proposed to prohibit them for subdivisions comprising less than a minimum of 25 lots.

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

The Community Strategic Plan – Gosford 2025 applies to the subject land. The Planning Proposal is not explicitly inconsistent with the strategies outlined in the Community Strategic Plan. An individual planning provision is unable to be specifically accounted for in a document such as this; nor in any of Council's other strategic documents.

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 (SEPPs).

SEPP No 64 – Advertising and Signage

This SEPP controls signage in the State but is generally only applicable to signage that, under another environmental planning instrument that applies to signage, can be displayed with or without development consent. Given the current provisions in Gosford LEP 2014, this would not permit off-site directional real estate signs.

SEPP (Exempt and Complying Development Codes) 2008

This SEPP identifies real estate signs as exempt development but only if located on the land to which the signs apply. The off-site directional real estate signs are not exempt development under the SEPP.

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 1 September 2009. Section 117 Directions are only discussed where applicable. The Planning Proposal is consistent, with all other Section 117s Directions or they are not applicable.

Direction 4.4 Planning for Bushfire Protection

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 (RFS) following receipt of a gateway determination.

The Planning Proposal relates to making certain directional real estate signage Exempt Development and it is unknown on what land the signs will ultimately be erected. Consultation with the RFS will be dependent on the conditions of the 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.

The Central Coast Regional Strategy (CCRS) applies to the Planning Proposal. The Planning Proposal consists of a minor operational issue which is not explicitly inconsistent with the outcomes or actions of the regional strategy. An individual provision relating to exempt development is unable to be specifically planned for in a document such as a regional strategy.

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.

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?

It is likely that the directional signs will be erected within road reserves which, by their nature, are unlikely to be ecologically constrained.

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

None.

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

The Planning Proposal will assist in the sale of land and ultimately development of housing by advising people of the land release and directing motorists from main roads to the subdivision.

The proposed limitations on this exempt development are to benefit the community by preventing the proliferation of such signage. These controls relate to limiting the size and number of signs pertaining to any one land release subdivision and only permitting such signage for large subdivisions.

Section D State and Commonwealth interests

10 Is there adequate public infrastructure for the Planning Proposal?

No public infrastructure is required for this Planning Proposal.

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.

Part 4 Mapping

This Planning Proposal has no associated mapping. It relates to textual changes only.

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 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.

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.

Gosford Development Control Plan 2013 requirements

Gosford Development Control Plan 2013, Chapter 3.7 – Advertising Signage, lists third party advertisements as being prohibited. To be consistent with the provisions of the Planning Proposal, the clause 3.7.8.5 in the DCP will have to be amended accordingly. The proposed changes are set out below.

3.7.8 Prohibited Advertisements and Advertising Structures

The following classes of advertising structures are considered contrary to the objectives of this plan and are accordingly prohibited.

3.7.8.5 Third Party Advertisements and Advertising Structures

Third party advertisements and advertising structures erected on any parcel of land or premises which do not relate to the business or undertaking or product so advertised, other than advertisements on community buildings, tourist information signs, directional signs, ***directional real estate signs*** and third party advertisements associated with illuminated street signs.

Conclusion

The Planning Proposal seeks to permit off-site directional real estate signs for land releases by including such signage as exempt development in Gosford LEP 2014. This will assist in ensuring potential customers can locate the land release site and therefore enable the purchase of land for housing.

To protect the amenity of the local area controls have been included to limit the number of signs, stipulate that such signs only apply to large land releases and that the signs are to be static and not illuminated.

As a consequence of this Planning Proposal the relevant clause in Gosford DCP 2013 will require an amendment to be made to advise that directional real estate signs are permitted.

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 recommendation does not impact on Council's financial position.

Attachment: A Planning Proposal Flowchart

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 for including off-site directional real estate signage as exempt development under Schedule 2 of Gosford Local Environmental Plan 2014.
- 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 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.

- E Clause 3.7.8.5 of Gosford Development Control Plan 2013 be amended to reflect the changes proposed in the Gosford Local Environmental Plan 2014 and the amendment be exhibited with the Planning Proposal.

ATTACHMENT A – Planning Proposal Flowchart**LEP plan making process**