

TITLE PLANNING PROPOSAL LOT 3 SP829025 HN608 PAINTERS LANE TERRIGAL TO REZONE FROM RESIDENTIAL 2(B) TO GENERAL BUSINESS 3(A) APPLICANT SJH PLANNING (IR 10402200)

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).

Application Received: 9 September 2011

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

Area: 1493 m²

Background / Landuse History:

The subject site is owned by Serapark Pty Ltd and is located on Painters Lane Terrigal close to the intersection of Terrigal Drive and Painters Lane. Painters Lane is currently a residential lane with mostly unformed edges and limited parking. The site is a regular shaped parcel of land with a total area of 1493m² and is currently used for residential purposes. Adjoining the site to the rear and western boundary is the land known as the "Rapedo" site.

The site is currently zoned 2(b) under the Gosford Planning Scheme Ordinance (GPSO).

The rezoning of this site to B2 under the Draft Gosford Local Environmental Plan 2009 was **recommended** as part of the **draft Gosford Centres Strategy**, which recommended that "*peripheral sites could be included in the zoned centre, where improved urban design outcome would result, or where the lots easily integrate with existing commercial landuse activities, in particular where land is surrounded by a commercial zone and physically segregated from adjoining residential zone by road or other feature*". The draft Strategy also notes that development controls would need to be formulated for this site

The adjoining "Rapedo" site was the subject of a site specific rezoning proposal which was supported by Council based on a specific development which provided community benefits in the form of a retail lined public plaza and through site links. The proposal provided for retail/commercial development fronting Campbell Crescent and The Esplanade with residential above and low scale residential fronting Painters Lane. It was on this basis that a Floor Space

Ratio (FSR) and height greater than that for the surrounding Terrigal Centre was supported. Some lots fronting Painters Lane were also rezoned to 3(a) under LEP 432 as part of this rezoning which created a commercial frontage on Painters Lane for approximately 60 metres. It was Council's intention at the time that the land along the Painters Lane frontage be used for residential purposes associated with the larger development however the Department of Planning and Infrastructure (DoPI) included the whole site in the 3(a) zone.

This rezoning resulted in the subject site Lot 3 being surrounded on three sides by land zoned for commercial/retail purposes. The reason why this lot was not included in the rezoning at the time was that it was separately owned and did not form part of the proposed "Rapedo" development. The subject site is now owned by a company associated with the developer of the "Rapedo" complex. The "Rapedo" development has not however proceeded according to the original proposal, with one lot fronting The Esplanade being developed under a separate development consent (DA 38182).

Council at its meeting of 31 May 2011 resolved:

Lot 3 DP 829025 Painters Lane, Terrigal, be retained within the B2 zone and reinstate the height of RL 23.6 and FSR of 2.3:1 as per exhibited draft Local Environmental Plan 2009 for the Rapedo lands.

Applicant's Submission:

The DLEP is currently being considered by the Department of Planning and Infrastructure (DoPI) and due to time constraints involved, the applicant requests the bringing forward of the zoning and planning controls contained in the DLEP as they apply to the subject site as part of this planning proposal. The DLEP proposes to zone the site B2 with a Reduced Level (RL) of 23.6 and FSR of 2.3:1. In order to facilitate the early implementation of the Council's adopted controls for the subject site, the Applicant proposes that the site be zoned 3(a) Business under the GPSO with a height of RL 23.6 and FSR of 2.3:1.

It is argued that the rezoning of the site should be brought forward in order to facilitate the immediate redevelopment of the whole "Rapedo" land for what will ultimately be a mixed business/residential/tourist development. It is stated that in the immediate future the site will be developed at and below ground level for a commercial/retail enterprise for a major chain supermarket and additional retail shops. It is argued will provide employment for over 500 full and part time jobs and generate in excess of \$10 million annually in terms of wages to the local economy.

The planning proposal states that issues relating to site specific concerns in relation to vehicular access, loading, parking and the like are detailed matters that can be addressed at the Development Application stage and should not delay the adoption of the planning proposal.

It is further requested that Council resolve not to require public exhibition of the planning proposal and advise the Minister of Planning that the proposal is consistent with the terms of the Council resolution of 31 May 2011 and for this reason no further public exhibition is required. It is noted that the plan exhibited as part of the DLEP contained similar provisions with respect to zoning, height and floor space ratio (FSR).

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 a 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 ensures that 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 & forwarded to DoPI.
- DoPI will consider then forward a recommendation to the *LEP Review Panel*.
- LEP Review Panel will consider and then forward a recommendation for 'gateway' determination to the *Minister for Planning and Infrastructure* (or delegate), together with DoPI'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 & timeframes for each step.
- Attachment A is a flowchart of the process extracted from DoPI documents.

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 DoPI.

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

Tabled Items: Nil

PLANNING PROPOSAL GOSFORD CITY COUNCIL LOT 3 DP 829025, 6-8 PAINTERS LANE TERRIGAL TO REZONE FROM RESIDENTIAL 2(B) to GENERAL BUSINESS 3(A)

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

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

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 Lot 3 DP 829025 to be zoned 3(a) Business (General) under the Gosford Planning Scheme Ordinance and to assign a height of RL 23.6 and FSR of 2.3:1 to the site in order to facilitate the development of this and the adjoining "Rapedo" site for retail/commercial/residential purposes.

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 through 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 from Residential 2(b) to Zone 3(a) Business (General) under the GPSO to enable the land to be developed for commercial/retail (a supermarket/retail complex) and residential purposes creating employment opportunities in the local area.

2 Subject Land

This plan applies to Lot 3 DP 829025, 6-8 Painters Lane, Terrigal.

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....Sheet 1

- (b) Insert in appropriate order:

XX Floor Space ratio and height controls for land at Terrigal

- (1) This clause applies to Lot 3 DP 829025 Painters Lane Terrigal.
- (2) Despite clause 29B, the maximum floor space ratio for any building erected on the land to which this clause applies is 2.3:1
- (3) A building must not be erected on the land if the height of the building exceeds RL 23.6 metres above the Australian Height Datum (AHD).

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

It is intended to zone the subject site to 3(a) Business (General) under the Gosford Planning Scheme Ordinance. Maps are provided in Attachment B to this report.

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 not the result of a strategic study or report. The applicant seeks to “bring forward” the provisions of the DLEP 2009 to rezone the subject land from 2(b) – Residential to 3(a) Business (General).

The “bringing forward” of the zone and controls will permit the immediate development of the site in conjunction with the larger “Rapedo” site for the purposes of a retail/commercial/residential complex which will have significant economic benefits for the community.

The Planning Proposal is consistent with a Council resolution of 31 May 2011 for the DLEP 2009 regarding the subject site.

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

The planning proposal facilitates the early commencement of the development process associated with the redevelopment of the subject site in conjunction with the “Rapedo” site. Any delay in the process may result in a lost opportunity with regard to the development of the site for the purposes of a “supermarket”.

The zoning of the land to 3(a) Business (General) is **consistent** with Council’s resolution of 31 May 2011 for the DLEP 2009 and is considered the best means of achieving the objectives of the Planning Proposal.

3 Is there a net community benefit?

The net community benefit of the Planning Proposal is to be assessed based on answers to the following questions which show that the Planning Proposal will produce a net community benefit.

Will the LEP be compatible with agreed State and Regional strategic directions for development in the area?

The Council’s resolution for the DLEP 2009 of the 31 May 2011 confirms that incorporating this land in the 3(a) Business General Zone is **consistent** with the Council’s desired outcomes for this land, and consistent with the broader development options for the established Business Precinct.

Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?

The subject land is located within the Terrigal Centre which is identified by the Central Coast Regional Strategy 2006 -2031’s centres hierarchy as a “village” centre.

Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landowners?

No, the planning proposal will not create a precedent or change the expectations of other landowners, it seeks to “bring forward” intentions of Council to zone the subject land for commercial purposes under the provisions of the Draft Gosford Local Environmental Plan 2009.

Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?

The Council at its meeting of 31 May 2011 when considering DLEP 2009 resolved to incorporate the subject land into the B2 zone and adopt a height of RL 23.6 and FSR of 2.3:1 similar to the adjoining “Rapedo” site.

Will the LEP generate permanent employment generating activity or result in a loss of employment lands?

The subject site is proposed to be rezoned 3(a) Business and as such should result in employment generating activity. However the site in isolation is not oriented towards the Terrigal Centre as it fronts a residential lane and as such the extent of employment generating activity may not be fully realised. If the site however is developed as part of a larger proposal and combined with the larger “Rapedo” site which fronts the town centre there is greater potential for significant employment generation.

Will the LEP impact on the supply of residential land and therefore housing supply and affordability?

No, the LEP will remove one parcel of land that is currently zoned 2(b) for residential purposes. The 3(c) zone however permits residential flat buildings and the Applicant has stated a mixed use residential resort/retail commercial development is contemplated for the site.

Is the existing public infrastructure (roads, rail, and utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?

The site is located adjacent to the existing Terrigal Village Centre and is well located in terms of pedestrian and cycling access and public transport is available to the land.

Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of green house gas emissions, operating costs and road safety?

No customers and employees are likely to be drawn from the surrounding area.

The proposal will result in increased truck movements within the already busy Terrigal Centre and this will need to be managed appropriately in particular any proposed increase in the vehicular use of Painters Lane given its capacity limitations and limited sight lines.

Are there significant Government investments in infrastructure, or services in the area whose patronage will be affected by the proposal? If so what is the expected impact?

There are no significant government infrastructure investments that would be affected by the proposal.

Will the proposal impact on land that the Government has identified as needed to protect (eg land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?

The land is not identified by the Government for environmental protection. It is not constrained by environmental factors.

Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?

The LEP could result in retail/commercial development that is compatible/complementary to the surrounding business zones if the site is developed in conjunction with the larger adjoining "Rapedo" site.

Depending on the building design the development has the potential to have impacts on the views of surrounding residents, as well as significant noise and traffic and amenity impacts. The additional height and floor space being allowed for the site has the potential to impact surrounding residents if the resultant development is not designed with this in mind. In this regard it should be noted that the subject site and adjoining Rapedo site are not subject to the detailed development controls contained in DCP 55 which apply to the rest of the Terrigal Town Centre.

The original "Rapedo" development proposed to improve the public domain through the provision of plazas and through site links. It is unclear if the subject site if developed in conjunction with the Rapedo site proposes to provide such public domain benefits.

Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?

The LEP will increase choice and competition as it proposes additional retail and commercial activities within the Terrigal Centre.

If a stand alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?

The proposal is located adjacent to the existing Terrigal Village Centre.

What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time.

The LEP is in the public interest as it has the potential to **create employment opportunities** and could have **economic benefits** for the surrounding area.

If the LEP was not to proceed potential economic opportunities associated with the development of the site in conjunction with the "Rapedo" site for the purposes of a commercial/retail/residential (supermarket) development may not be realised.

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 2006 – 2031 is applicable to the subject land and the proposed rezoning. The Planning Proposal will assist Council in meeting the targets set by the State Government in the Regional Strategy for provision of jobs. This will be particularly the case if the subject site is developed in conjunction with the broader “Rapedo” site as is the stated intent of the Applicant. This Planning Proposal to rezone the land for business purposes is **consistent** with the following objectives/actions contained within the Regional Strategy for 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*. The Planning Proposal will concentrate business development in the centre near public transport and increase employment opportunities, thus aligning with the Community Strategic Plan 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.

- 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

The planning proposal will create up to 500 full and part time jobs.

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.

(i) SEPP 55 – Remediation of Land

Clause 6 of this instrument requires contamination and remediation to be considered in a proposal. In this case, the issues raised in Clause 6 of SEPP 55 **do not arise** as the subject land has not previously been used for a purpose referred to in "Table 1 Some Activities that may Cause Contamination".

(ii) SEPP 71 – Coastal Protection

Clause 8 of State Environmental Planning Policy 71 identifies “matters for consideration” with the most relevant being the relationship of this site to the surrounding area and any negative impacts in relation to the coastal foreshore; views, overshadowing and access to, from and along the foreshore, the suitability of development given its type, location and design and relationship with the surrounding area.

The planning proposal is seen to satisfy and be **consistent** with the relevant matters for consideration under this instrument. Detailed matters of design, overshadowing etc are able to be dealt with at the development consent stage.

(iii) Other SEPPs: No other SEPP has application to this planning proposal, although any future development application on the land will be required to consider any relevant SEPPs.

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 or they are not applicable.

(i) Direction 1.1 Business and Industrial Zones

The direction applies when a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed business or industrial zone. 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, encouraging employment growth by permitting business used on the site. If the site is developed in conjunction with the adjoining Rapedo site and developed as a supermarket and shops as is the stated intent by the applicant, there is the potential for the sites collectively to generate significant employment opportunities and income production for the local economy.

(ii) Direction 2.2 Coastal Protection

The subject site which is located within the Coastal Zone. It must therefore 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)

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 and is consistent with the Council's adopted directions for the Terrigal Centre in the DLEP. It does not prevent or inhibit the protection, rehabilitation and improvement of the natural environment of the coastal zone as the subject site is located within a well established residential/commercial precinct.

The Coastal Design Guidelines relate to the design and location of new settlements and the design of development in the coastal zone. The subject site is located in an existing village centre, however the design of any future development on the site will need to have consideration to these guidelines. It should be noted that the Coastal Design Guidelines recommend heights of generally up to 4 storeys for Coastal Towns and three storeys for coastal villages. The guidelines also state that:

"Heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere avoid overshadowing of public open spaces, the foreshores and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time."

The proposed heights for the subject site are not the subject of a place specific urban design study nor do they comply with the generally recommended heights for centres on this scale. They are however **consistent** with the provisions of LEP432 and the heights permissible on adjoining land. The proposal is also **consistent** with Council's resolution of 31 May 2011 regarding the DLEP 2009.

The NSW Coastline Management Manual has no direct application due to the fact that the site does not fall within the inter tidal area where coastal processes are most prevalent.

(iii) Direction 2.3 – Heritage Conservation

- (i) This direction applies when a relevant planning authority prepares a planning proposal. A planning proposal must contain provisions that facilitate the conservation of:-
- (ii) 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;
- (iii) Aboriginal objects or Aboriginal places that are protected under the *National Parks and Wildlife Act 1974*, and
- (iv) 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 cleared and 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 existed in the first place. Council records do not indicate the presence of Aboriginal relics on the land.

(iv) 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 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.

Whilst the Planning Proposal is inconsistent with this direction as it intends to remove land zoned residential, the proposed business zone permits residential flat buildings and the Applicant states that the planning proposal will enable the Rapedo sites to be developed together with the subject site for a mixed use development which includes residential development. Therefore the impact on residential development will be minimised and it is considered that inconsistency with this direction can be **justified**.

(v) Direction 3.4 Integrating Land Use and Transport

Clause 4 of the Direction requires a planning proposal to locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of *Improving Transport Choice – Guidelines for Planning and Development 2001* and *The Right Place for Business and Services – Planning Policy 2001*.

The proposal is **consistent** with this direction as it locates business uses adjacent to an existing centre which is located on a major bus route. If the site is developed in conjunction with the Rapedo site for a supermarket it will improve the services available to the residents of Terrigal and has the opportunity to reduce car dependence and distances travelled by car for both residents and tourists.

(vi) Direction 5.1 Implementation of Regional Strategies:

Clause (4) of the Direction requires Planning Proposals to be consistent with a Regional Strategy released by the Minister for Planning and Infrastructure.

The Planning Proposal is considered to be **consistent** with the objectives and actions contained in the Central Coast Regional Strategy 2006 – 2031 as indicated in the response to B4 above.

(vii) 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.

(viii) 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.

The Direction states that a planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- (a) allow that land use to be carried out in the zone the land is situated on, or
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing development standards or requirements in addition to those already contained in that zone, or
- (c) allow that land use 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.

The Planning Proposal is inconsistent with this Direction as the applicant is requesting a height and FSR that are not consistent with those controls for other 3(a) zoned land within the Terrigal Village Centre. Height and floor space controls within the Terrigal village centre were the result of the Terrigal Bowl Strategic Plan study.

The Applicant requests heights of RL 23.6 and an FSR 2.3:1 which are **consistent** with the adjoining “Rapedo” site. These controls for were the result of a site specific LEP which was supported by Council the DoPI and ultimately gazetted as LEP 432.

The heights and FSR’s being requested by the Applicant are also **consistent** with those adopted by Council in the DLEP 2009 adopted by Council on 31 May 2011.

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?

The land has been developed for urban purposes for a number of years and has been cleared for development purposes. Council’s vegetation mapping does not indicate any vegetation on the site. An inspection of the site confirmed that the vegetation is consistent with Bells mapping adopted by Council’

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

The rezoning of the land to 3(a) will not result in any other significant environmental effects.

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

The planning proposal will allow the subject site to be developed for business purposes. If the site is developed in conjunction with the “Rapedo” site for the purposes of a mixed use development including a major chain supermarket there is the potential for economic benefits including the generation of significant local jobs both full and part time.

The planning proposal was referred to Councils Senior Social Planner who stated:

“The current planning proposal does not consider the social impacts (both positive and negative ones) of a development happening on the site. The only comments on the social effects are around an increase in employment opportunities, there appears to be no consideration of the impacts of the proposed development on existing businesses, impact/access to community infrastructure/services, public transport, community amenity, impacts on neighbours etc.”

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

Conventional urban services are available to the land.

Council’s Integrated Planning Transport Planners note that Painters Lane has limited traffic capacity (12m wide) and has westerly increasing grades with limited vertical sight lines combined with poor pedestrian facilities. There is also limited traffic visibility (horizontal sight lines) at the intersection of Painters Lane and Terrigal Esplanade.

The Transport Planners advise that they have no objections to the planning proposals subject to the following:

- The above mentioned capacity limitations of Painters Lane should be considered and addressed in the design of any future development on the site.
- Future development on the proposed site should be consistent with recommendations of current traffic/parking studies and Development Control Plans applicable for the area.

It is also pointed out that the RTA Guide to Traffic Generating Developments states:

Access to the development and the road system must be designed to minimise conflicts between vehicles and pedestrians. Redevelopment in particular, and in some cases new development, frequently provides an opportunity to consolidate individual sites, thereby reducing fragmented roadside activity. Site consolidation design should keep direct access

Water and Sewer (W&S) are available at the site and the Water and Sewer Directorate have no objection to the proposal subject to the following:

1. The applicant shall be responsible for undertaking a water supply and sewer systems capacity analysis on the water and sewer reticulation mains servicing the proposed development. The analysis shall extend to a point within the

reticulated water supply and sewerage systems where proposed demands / loadings from the rezoned area represent 5% or less than the total capacity of each system. The analysis shall assess the impact the proposed rezoning / development has on Council's existing water and sewerage reticulation systems. The capacity analysis shall be in accordance with WSAA Method for determining system capacity and shall be based upon full development of the area serviced by the water and sewer systems utilising the current land zonings without the rezoned area and a second analysis with the inclusion of additional demands / loads created by the proposed rezoning and subsequent development. Analysis, augmentation and costs would need to meet with W&S Asset Management approval.

2. Prior to development consent being granted on the land the developer shall be responsible for the design and full cost of any specific augmentation works identified by the systems analysis as being necessary due to the proposed rezoning / development. All works identified shall be constructed by and at the full cost of the developer prior to transferring to Council for care and control.
3. Prior to development consent being granted the applicant shall submit for consideration and approval by the W&S Asset Management Development Group a Plan of Management for Water Supply incorporating water saving initiatives.

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.

The applicant has requested that no additional community consultation be undertaken as the planning proposal is **consistent** with Council's resolution of 31 May 2011 relating to this site.

In this regard DoPI have advised that:

"there is potential under a PP for Council to make a case for 'no public exhibition' of a PP. The LEP Panel has the authority to waive it should they be convinced by Council's argument that it is not required."

As the intent of the proposed zoning (including height and FSR provisions) has already been exhibited it is recommended that the LEP Panel be requested to **waive** community consultation in this instance

Should however the Gateway support community consultation it 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.

Other Matters for Consideration

No other matters need to be considered for the Planning Proposal.

Conclusion

The planning proposal is intending to implement the provisions of the draft Gosford LEP 2009 as they would apply to the subject site by “bringing forward” the DLEP provisions contained in Council’s resolution of 31 May 2011 to rezone the site for business purposes and permit a height of RL 23.6 and FSR of 2.3:1 on the site similar to that of the adjoining “Rapedo” site.

The applicant has argued that “bringing forward” the DLEP controls will facilitate the development of the broader “Rapedo” site for the purposes of a commercial/retail/residential (supermarket) and that this will have economic and employment benefits for the area. It is worth noting that in rezoning the subject site there is nothing to prevent this property from being developed as a single property on its own. If this occurs the economic and employment benefits may be significantly reduced, and the site would still be privileged to a height and FSR that exceeds that of the surrounding Terrigal Centre. If the site however is developed as part of a larger proposal and combined with the larger “Rapedo” site which fronts the town centre there is greater potential for significant employment generation.

The recommendation is **consistent** with Councils resolution of 31 May 2011

FINANCIAL IMPACT STATEMENT

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

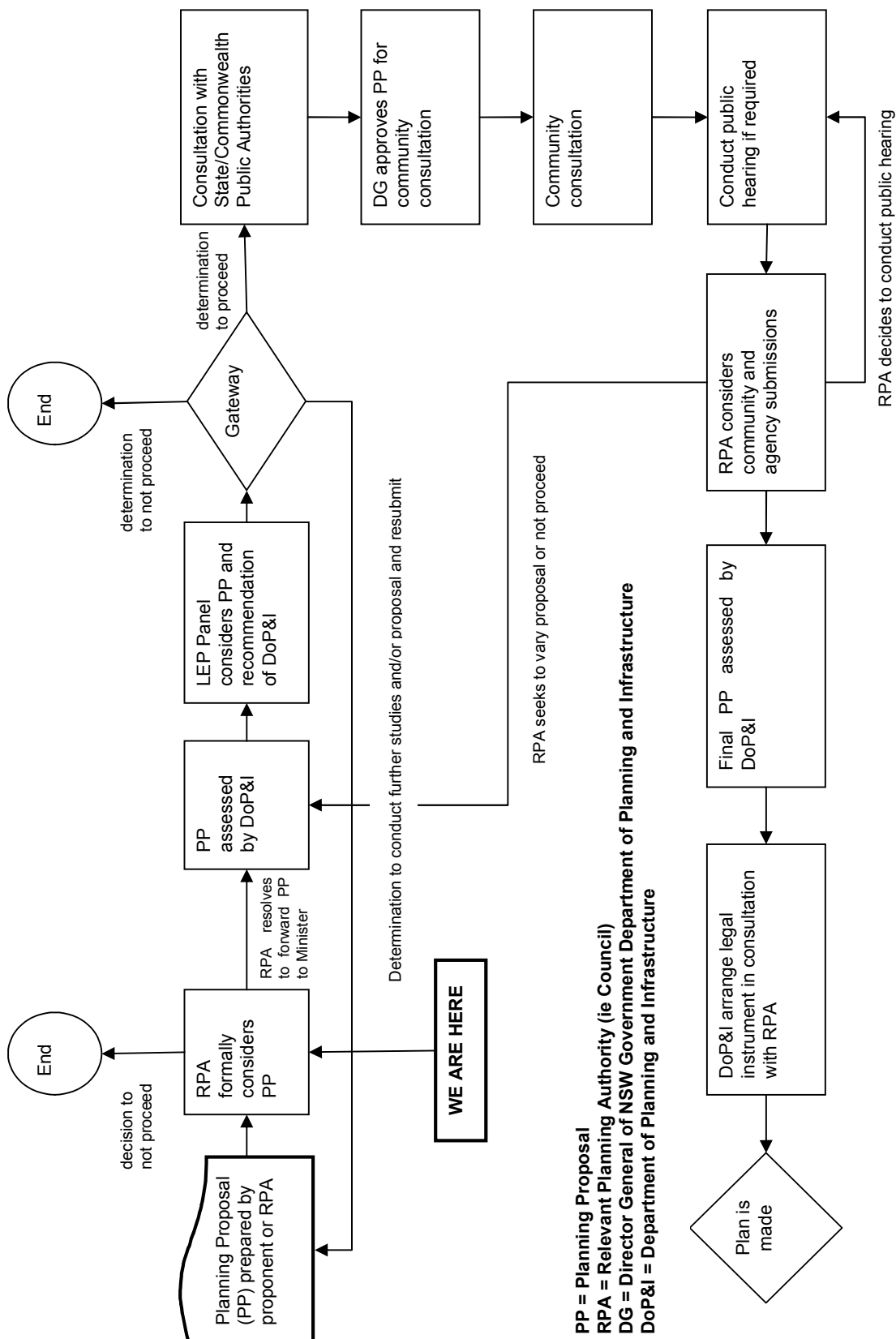
RECOMMENDATION

- 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 to rezone Lot 3 DP 829025 Painters Land Terrigal from 2(b) Residential to 3(a) Business under the Gosford Planning Scheme Ordinance and assign a building height of RL 23.6 and Floor Space Ratio of 2.3:1 to the site and 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 directives and this report.
- B Council waive public exhibition of the Planning Proposal, should the Minister for Planning and Infrastructure support it, 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.

ATTACHMENT A – Planning Proposal process - extract from, DoP&I documents (RPA = Relevant Planning Authority, i.e. Council)

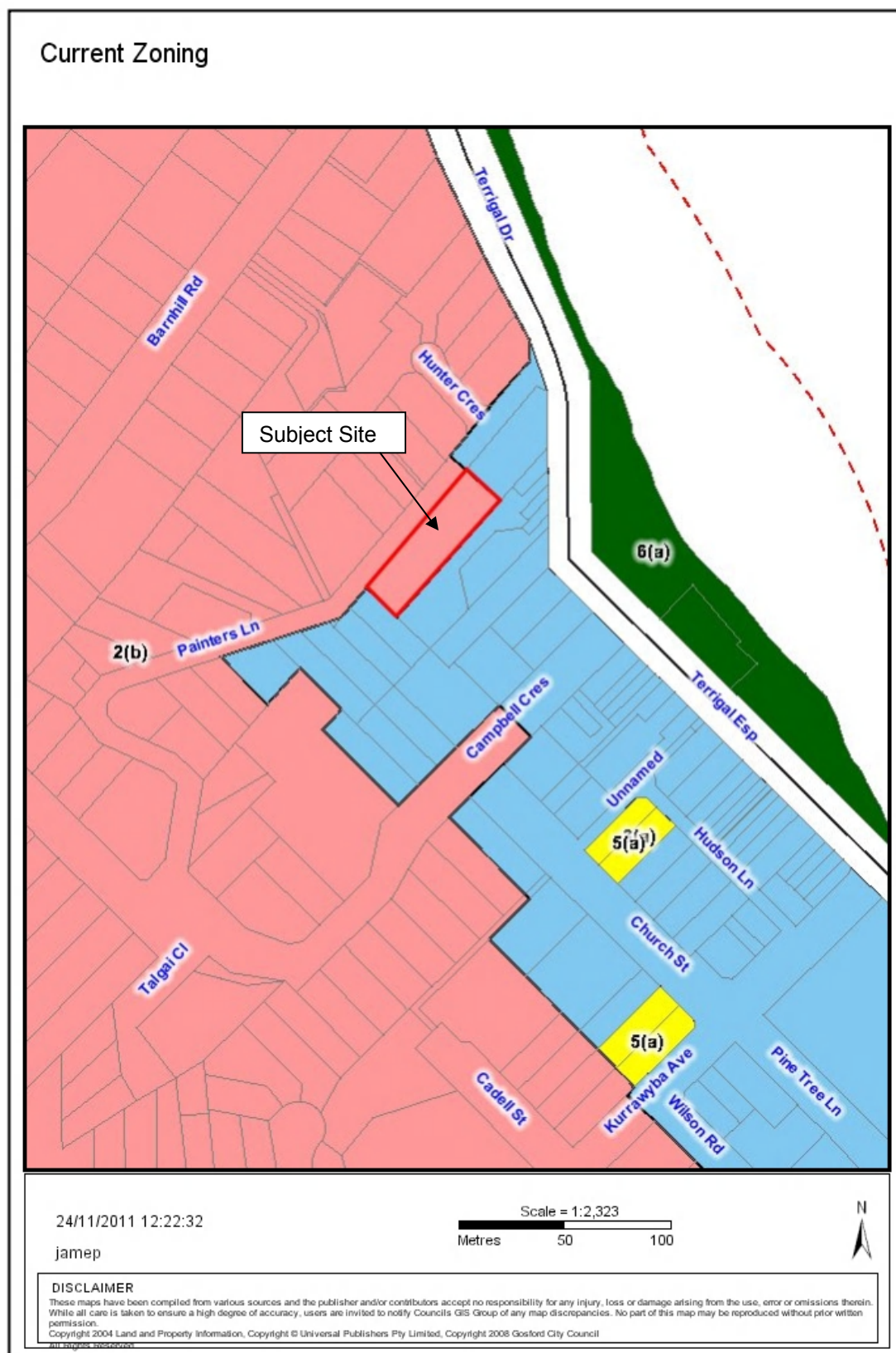
**Extract from “A Guide to Preparing Local Environmental Plans”,
Department of Planning and Infrastructure**

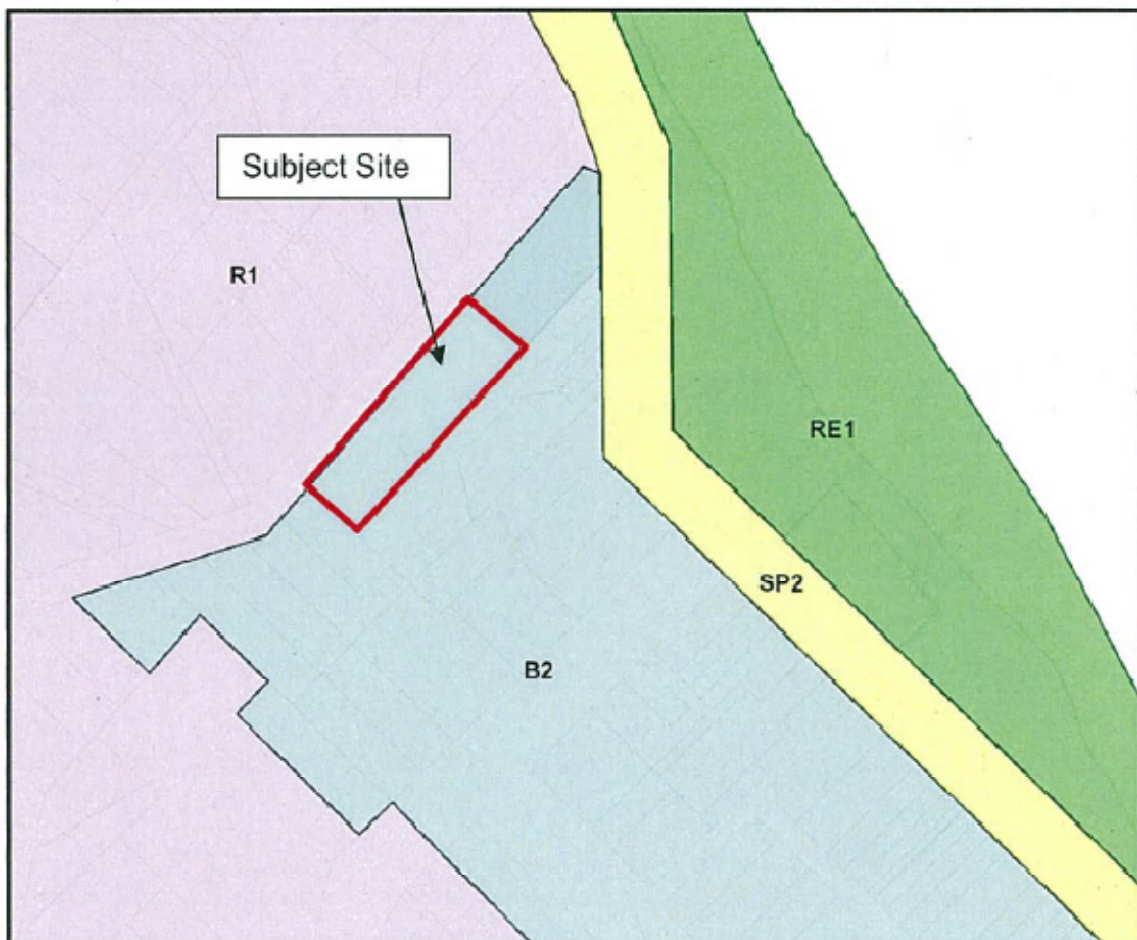
Process to make a local environmental plan



ATTACHMENT B – Planning Proposal Mapping

APPENDIX 1 Existing Zoning Map



APPENDIX 2 Proposed Zoning under Draft Gosford LEP

APPENDIX 3 Aerial Photograph

APPENDIX 4 - SEPP 71 - Coastal Protection

