

**TITLE PLANNING PROPOSAL FOR LOTS 9 & 10 KURRAWYBA AVE
TERRIGAL TO REZONE FROM 5(A) SPECIAL USES (CHURCH) TO 3(A)
BUSINESS (GENERAL) APPLICANT: DOUG SNEDDON PLANNING PTY
LTD (IR 8731116)**

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, 3, 4 and 5 outline locality map, existing zoning map, aerial photograph, SEPP 71 Coverage and proposed zoning map.

Application Received: 18 October 2010

Environmental Planning Instrument – Current Zone: 5(a) – Special Uses (Church)

Area: 973.8 m²

Background / Landuse History:

The subject land is currently occupied by a Church building which has occupied the site for many years. The Anglican Church which used the building has now relocated to a new building at Serpentine Road Terrigal and the building is now redundant. The land is proposed to be zoned for Business purposes under the draft Gosford LEP 2009 and covered by the controls for the Terrigal Town Centre in the accompanying DCP.

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) and to be covered by DCP 55 (Amendment 1) for the Terrigal Town Centre.

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 allows a Planning Proposal to be reviewed at an early stage by State Government Department of Planning (DoP) to make a decision whether to proceed further, i.e. 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 & forwarded to DoP.
- DoP 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's advice.
- Minister will determine if the PP should 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.

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. Attachment B is a Department of Planning 'flow chart' of the PP / LEP process.

Tabled Items: Nil

FINANCIAL IMPACT STATEMENT

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

PLANNING PROPOSAL GOSFORD CITY COUNCIL – Lots 9 and 10 DP 7861 Kurrawyba Ave Terrigal

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

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

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 facilitate the redevelopment of a redundant church site for mixed business and residential use.

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:

- Amending the Gosford Planning Scheme Ordinance by zoning Lots 9 and 10 DP 7861 Kurrawyba Ave Terrigal to Zone 3(a) Business (General)
- Amending the map referred to in clause 49S (1) of the Gosford Planning Scheme Ordinance to include the subject land.

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.

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?

No. The land though had been considered as part of the Terrigal Bowl Area Strategic Plan which formed the basis for the current planning controls that applies to business zoned land in the Terrigal Town Centre. Reflecting its inclusion in the strategic planning for Terrigal the land was included in the map that accompanied DCP 55 which applies to the Terrigal Town Centre.

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

No, as DLEP 2009 upon gazettal will achieve the intended outcomes.

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 housing and/or jobs. This Planning Proposal is consistent with the following objectives/actions contained within the Regional Strategy for the reasons specified:

- Strategy Action 5.1 which requires LEPs to be consistent with the Central Coast Regional Strategy, the related employment capacity targets and to provide distribution that reflects the centres hierarchy.
- Strategy Action 5.11 which requires new retail and commercial development to be located within centres.

3 Is there a net community benefit?

The assessment provided in Attachment A demonstrates that the Planning Proposal will produce a net community benefit.

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 housing and/or jobs. This Planning Proposal is consistent with the following objectives/actions contained within the Regional Strategy for the reasons specified:

- Strategy Action 5.1 which requires LEPs to be consistent with the Central Coast Regional Strategy, the related employment capacity targets and to provide distribution that reflects the centres hierarchy.
- Strategy Action 5.11 which requires new retail and commercial development to be located within 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 *Gosford Vision 2025 – A Strategic Direction for the Future* which incorporates a number of strategies for example IPR Strategic Plan, Biodiversity Strategy, draft Gosford Landuse Strategy, draft Residential Strategy and draft Centres Strategy. With regard to Gosford Vision 2025 the following strategies are relevant-

- To promote compact, efficient development that balances commercial, industrial, institutional and residential uses with natural areas, recreation and sport, through landuse based on smart growth principles;
- To concentrate growth in urban areas where infrastructure, transport and services can support it.

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.

- (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 of the contaminated land planning guidelines.
- (ii) **SEPP 71 – Coastal Protection-** Clause 8 lists a series of Matters for Consideration in the preparation of draft local environmental plans. Relevant matters for consideration are;
 - d) the suitability of development given its type, location and design and its relationship with the surrounding area
 - e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore
 - o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities

The Planning Proposal it is considered is in conformity with the relevant matters of consideration in clause 8 of SEPP 71.

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.

Direction 1.1 Business and Industrial Zones – the planning proposal is consistent with the objectives of the Direction to encourage employment growth in suitable locations and to support the viability of identified strategic centres.

Direction 2.2 – Coastal Protection – the planning proposal is located within the coastal zone and must give effect to the and be consistent with the NSW Coastal Policy; the Coastal Design Guidelines; and the NSW Coastline Management Manual 1990.

The planning proposal gives effect to the Direction being consistent with the strategic actions contained in the NSW Coastal Policy relevant to the preparation of LEPs (Table 1) and consistent with the principles of coastal settlement structure contained within the Coastal Design Guidelines. The NSW Coastline Management Manual has no practical application to this planning proposal as the subject land is not located within a coastal environment to which the manual relates.

Direction 3.4 – Integrating Landuse 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 planning proposal is consistent with the objective to locate businesses which generate transport demand in locations that offer a choice of transport and increase opportunities for people to make fewer and shorter trips.

The planning proposal is consistent with objectives to integrate landuse and transport as the subject land is located within a centre identified in the Central Coast Centres and Employment Hierarchy (Central Coast Regional Strategy 2006 – 2031) where a substantial and diverse range of business premises are located. The centre is well served by public transport (bus routes) connecting with other activity centres and to the major Gosford Rail interchange.

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 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 B1 above.

Direction 6.1 – Approval and Referral Requirements: Clause (4) of the Direction requires a Planning Proposal to minimise the inclusion of concurrence/consultation provisions and not identify development as designated development.

This Planning Proposal is consistent with this direction as no such inclusions, or designation is proposed.

Direction 6.3 – Site Specific Provisions: The Planning Proposal is consistent with this Direction as it will apply the provisions of the Gosford Planning Scheme Ordinance similarly applicable to all land zoned 3(a) Business (General) throughout the City without imposing

any landuse restrictions, development standards or special provisions additional to those already applicable to that zone.

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?

No, the land has been used for the purposes of a church for many years and no native flora or fauna exists on the properties.

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 and use of the land for mixed business/residential use will not result in any other significant environmental effects.

- The land and its future development are able to be serviced by Council's reticulated sewage and stormwater drainage systems, thereby avoiding adverse impacts on water quality.
- Sedimentation and waste management controls can be appropriately implemented in the consideration of future development applications lodged in respect of the subject land;
- Development of the land for mixed business/residential purposes will be consistent with the streetscape and built character of the locality and will not result in any unacceptable visual impacts; and
- Potential amenity impacts of future mixed use development will be mitigated by architectural design consistent with the design guidelines of Terrigal Town Centre Development Control Plan No.55 (Amendment No.1).

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

The planning proposal will not have any adverse social and economic effects. The planning proposal will enable the subject land to be put to an alternate economic use in a manner consistent with local planning strategies and resulting in social and economic benefits to the community.

Section D State and Commonwealth interests

11 Is there adequate public infrastructure for the Planning Proposal?

Water, sewer, electricity, telephone and gas utilities are available to the land to service redevelopment of the land for mixed use. The site is well served by public transport (bus services) providing access to other centres and readily accessible from residential areas throughout the City.

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.

IDEP Comments:

No objections from the Independent Development and Environment Panel

Other Matters for Consideration

No other matters need to be considered for the planning proposal

Conclusion

The subject land is proposed to be zoned from 5(a) Special Uses - Church to Zone B2 Local Centre under the draft Gosford LEP 2009. The applicant does not wish to wait until the DLEP 2009 is gazetted so that development of the land can proceed and is therefore requesting that the land be zoned 3(a) - Business (General) under the current planning provisions. The situation that the applicant highlights for this property is one that many owners are subject to while they await the gazettal of the draft Gosford LEP 2009.

Other planning proposals currently being considered by Council are ones that have been subject to resolutions by Council to proceed prior to the preparation of the draft Gosford LEP 2009, the Department of Planning had requested the commencement of a planning proposal as a condition of the issuing of a Section 65 certificate to enable exhibition of the draft LEP 2009 or the planning proposal is for a use that has not been catered for in the draft Gosford LEP 2009.

Given this could be the first of many such Planning Proposals which will divert resources away from finalising the DLEP 2009 and other high priority projects a resourcing issue may arise. To manage this it is recommended that Council not accept any new Planning Proposals, effective immediately, which seek to bring forward provisions generally outlined in DLEP 2009. Given this Planning Proposal has been made to, and accepted by Council, it is considered unreasonable not to allow it to continue due to this situation.

Should Council wish to reconsider the matter after public consultation, should the Minister support the PP, then the following resolution should be adopted:

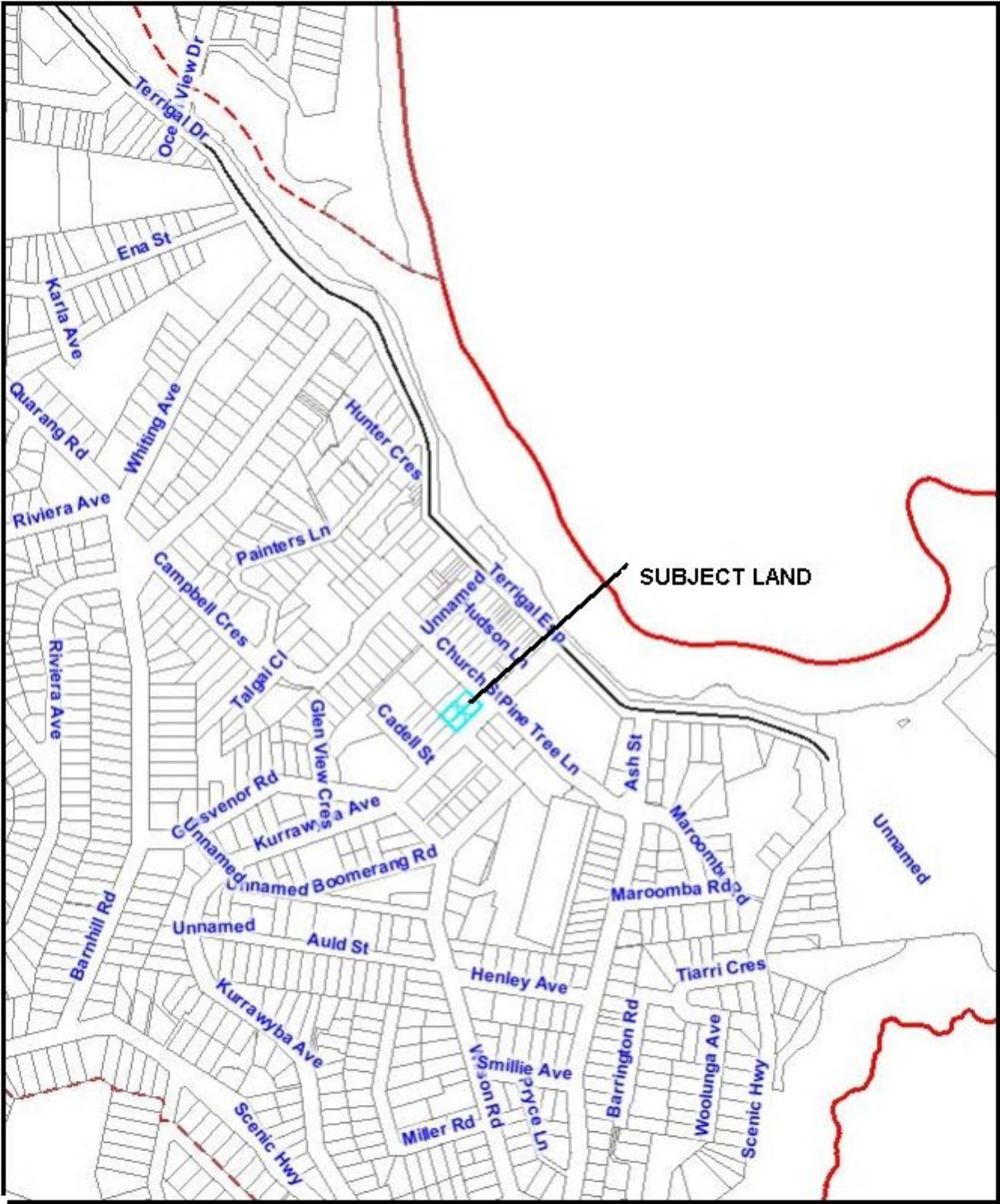
'After public consultation, should the Minister support the Planning Proposal, the matter is to be reported to Council for re-consideration.'

Attachments: **ATTACHMENT A – Net Community Benefit evaluation**

ATTACHMENT B – DoP's Planning Proposal 'flow chart' of processing

Tabled Items: Nil

APPENDIX 1 - LOCALITY MAP



Appendix 2 - Current Zoning



APPENDIX 3 -PROPOSED ZONING GOSFORD LEP 2009



APPENDIX 4- AERIAL PHOTOGRAPH



APPENDIX 5 - SEPP 71 COVERAGE



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 (Attachment A) for Lots 9 and 10 DP 7861 Kurrawyba Ave Terrigal to rezone the land from Zone 5(a) Special Purposes (Church) to Zone 3(a) Business (General) and to forward it to the Department of Planning 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's directives and this report.
- B The applicant be advised of the Council's decision.
- C A notice be placed in the local newspaper and on Council's website stating that from 24 November 2010 no Planning Proposals will be accepted and processed by Council which generally seek to bring forward provisions contained in the exhibited Draft Gosford LEP 2009.
- D That Council review this decision in six months in consideration of the progress of Draft Gosford LEP 2009.

ATTACHMENT A

NET COMMUNITY BENEFIT TEST – EVALUATION CRITERIA.

The net community benefit of the planning proposal is to be assessed based on answers to the following questions:

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

Assessment: Yes. The subject land is located within an existing urban area and an 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?*

Assessment: Yes. The LEP is located within the Terrigal Village Centre identified in the Central Coast Centres and Employment Hierarchy adopted by the Central Coast Regional Strategy 2006 – 2031.

- *Is the LEP likely to create a precedent or create or change the expectation of the landowner or other landowners?*

Assessment: No. The purpose of the LEP is to replace the redundant special uses zoning with a more appropriate zone to facilitate the economic redevelopment of the land for mixed business/residential use.

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

Assessment: There have not been any spot rezonings in the locality in recent years.

- *Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?*

Assessment: The LEP will facilitate additional employment generating development within Terrigal Town Centre.

- *Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?*

Assessment: The LEP will provide additional housing supply and choice within Terrigal Town Centre.

- *Is the existing public infrastructure (roads, rail, 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?*

Assessment: Yes.

- *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 greenhouse gas emissions, operating costs and road safety?*

Assessment: The proposal will consolidate retail, commercial and residential development within Terrigal Town Centre, accessible by walking and will not increase car distances travelled by residents, customers, employees or suppliers.

- *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?*

Assessment: No. The proposal will not affect the patronage of Government infrastructure or services.

- *Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?*

Assessment: The land is not identified by the Government for environmental protection purposes and 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?*

Assessment: Yes, the LEP will be compatible and complementary to other business premises and residences in the locality. The LEP will activate the streetscape and improve amenity and the public domain at a significant street corner within the town centre.

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

Assessment: Yes, The LEP will facilitate retail/commercial development on the land in a manner which will increase the range and consumer choice of businesses operating within the Terrigal Town Centre.

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

Assessment: The LEP is not a 'stand alone' proposal as it is centrally located within Terrigal Town Centre.

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

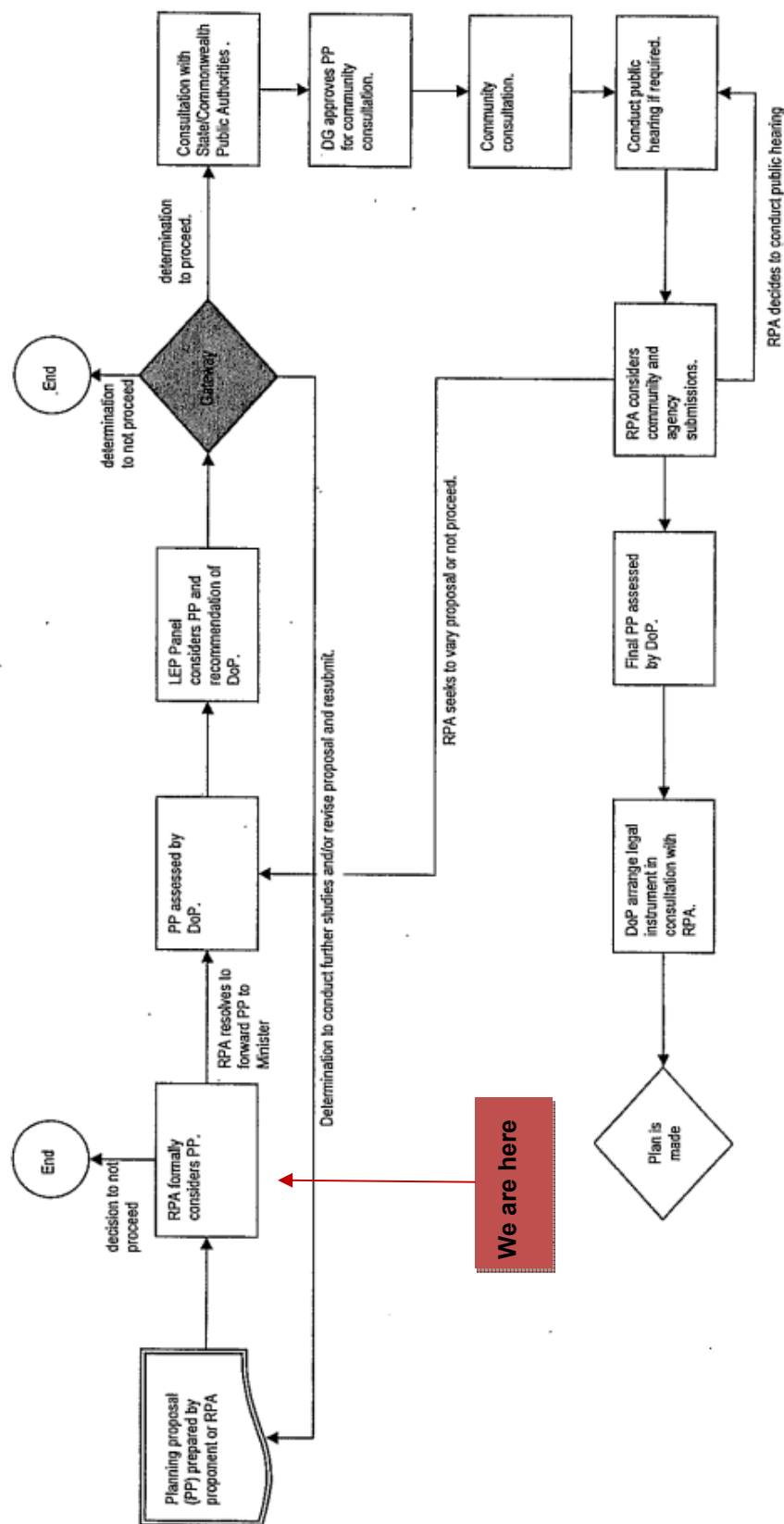
Assessment: The LEP would benefit the public interest by facilitating employment generating development; providing additional retail and commercial services/facilities for the community; and increasing the supply of housing within an established business centre. The implication of not proceeding at this time is to lose the opportunity for early economic development in advance of the timetable for finalising Draft Gosford Local Environmental Plan 2009.

Conclusion: The answers to the above questions demonstrate that the planning proposal would produce a net community benefit.

ATTACHMENT B

Extract from "A Guide to Preparing Local Environmental Plans", Department of Planning

Figure 5 – Process to make a local environmental plan



PP = Planning Proposal
 RPA = Relevant Planning Authority (ie Council)
 DG = Director General of Planning