

Mr Paul Anderson
Chief Executive Officer
Gosford City Council
PO Box 21
Gosford NSW 2250

Our ref: PP_2016_GOSFO_003_00
(15/18323)

Attn: Brian McCourt

Dear Mr Anderson

Planning proposal to amend *Gosford Local Environmental Plan 2014*

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) in respect of the planning proposal to rezone land for residential and environmental conservation purposes to enable development for a residential care facility at 893 The Entrance Road, Wamberal.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

Council's request to rezone the site to part R2 Low Density Residential and apply a 550m² minimum lot size is not supported. I consider it appropriate to retain the existing 7(a) Conservation and Scenic Protection (Conservation) and 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) zones and existing development standards for subdivision on the site and to allow the proposed use for a 'residential care facility' through an enabling clause in Gosford Interim Development Order No 122.

I note Council has commenced a strategic review of E Zones and the Urban Edge and I consider it appropriate to await the outcomes of these reviews to ensure there is strategic justification for any future rezoning on and in the vicinity of the subject site.

It will be necessary to amend the planning proposal to ensure consistency with the conditions of the Gateway determination. The Department can assist Council by reviewing the revised planning proposal, if requested.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

Plan making powers were delegated to councils by the Minister in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning and Environment for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Mr Glenn Hornal of the Department's regional office to assist you. Mr Hornal can be contacted on (02) 4348 5000.

Yours sincerely



Marcus Ray
Deputy Secretary
Planning Services

23/03/2016
Encl: Gateway determination

Written Authorisation to Exercise Delegation
Attachment 5 – Delegated Plan Making Reporting Template

Gateway Determination

Planning proposal (Department Ref: PP_2016_GOSFO_003_00): to enable development for a 'residential care facility' on part of Lot 4 DP603395 at 893 The Entrance Road, Wamberal.

I, the Deputy Secretary, Planning Services at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Gosford Interim Development Order No 122 to include an enabling clause to permit development for a 'residential care facility' on part of Lot 4 DP603395 at 893 The Entrance Road, Wamberal should proceed subject to the following conditions:

1. Council is to update the planning proposal including the 'objectives' and the 'explanation of provisions' to identify that an enabling clause to permit development for a 'residential care facility' on part of the land zoned 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) and the existing zones and lot sizes will continue to apply under Gosford Interim Development Order No 122.
2. Council should update the planning proposal prior to exhibition to remove the reference to the E3 Environmental Management zone surrounding the land (page 3) and identify the correct surrounding land zones prior to exhibition.
3. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - impacts on biodiversity
 - impacts on Wamberal Lagoon Nature Reserve
 - flooding and drainage impacts
 - water and sewer systems capacity analysis
 - bushfire
 - traffic, access and transport

Once the above information has been obtained and consultation with public authorities has been undertaken, Council is to update its consideration of the S117 Directions to reflect the outcomes of the work and consultation undertaken.

4. Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. If required, Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
5. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and State Environmental Planning Policy (SEPP) once it has undertaken consultation with public authorities:
 - 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 3.1 Residential Zones
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - SEPP 71 Coastal Protection

6. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
- (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning and Infrastructure 2013).
7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
- Office of Environment and Heritage
 - National Parks and Wildlife Service
 - NSW Rural Fire Service
 - Transport for NSW – Roads and Maritime Services
 - Transport for NSW
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
8. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
9. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

23rd

day of

March

2016.



Marcus Ray
Deputy Secretary
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning

WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Gosford City Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2016_GOSFO_003_00	Planning proposal to enable development for a 'residential care facility' on part of Lot 4 DP603395 at 893 The Entrance Road, Wamberal.

In exercising the Minister's functions under section 59, the Council must comply with the Department of Planning and Environment's "*A guide to preparing local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 23rd day of March 2016.



Marcus Ray
Deputy Secretary
Planning Services

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the Department of Planning and Environment following receipt of the planning proposal
- The Department of Planning and Environment will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the Department of Planning and Environment with the RPA's request to have the LEP notified

Table 1 – To be completed by Department of Planning and Environment

Stage	Date/Details
Planning Proposal Number	PP_2016_GOSFO_003_00
Date Sent to DoP&E under s56	17 December 2015
Date considered adequate	17 February 2016
Date considered at LEP Review Panel (if applicable)	N/A
Gateway determination date	23 March 2016

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DoP&E requesting notification		

Table 3 – To be completed by Department of Planning and Environment

Stage	Date/Details
Notification Date and details	

Additional relevant information: