

WAMBERAL, 893 The Entrance Road

Proposal Title : **WAMBERAL, 893 The Entrance Road**

Proposal Summary : **The proposal seeks to rezone land identified as a deferred matter in Gosford LEP 2014 and currently zoned 7(a) Conservation and Scenic Protection (Conservation) and 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) under Gosford Interim Development Order (IDO) No 122 and include it in Gosford LEP 2014 with R2 Low Density Residential and E2 Environmental Conservation zones to enable development for a 'residential care facility'.**

PP Number : **PP_2016_GOSFO_003_00** Dop File No : **15/18323**

Proposal Details

Date Planning Proposal Received : **17-Feb-2016** LGA covered : **Gosford**

Region : **Hunter** RPA : **Gosford City Council**

State Electorate : **TERRIGAL** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **893 The Entrance Road**

Suburb : **Wamberal** City : Postcode :

Land Parcel : **Lot 4 DP603395**

DoP Planning Officer Contact Details

Contact Name : **Glenn Hornal**

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RPA Contact Details

Contact Name : **Brian McCourt**

Contact Number : **0243258260**

Contact Email : **brian.mccourt@gosford.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	2.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment :

Supporting notes

Internal Supporting Notes :	The planning proposal was received on 17 December 2015. Additional information and clarification was requested in relation to the inclusion of a time limited enabling clause, maximum building heights in the proposed zones, provision of traffic information, a project timeline and agency consultation requirements. Council provided an amended planning proposal on 17 February 2016.
External Supporting Notes :	The planning proposal submitted by Council seeks to enable development for a 'residential care facility' on land currently zoned for conservation and scenic protection purposes. Council's approach is to rezone a pocket of land for low density residential in order to permit the development and include the land (which is a deferred matter) in the Gosford LEP 2014. Council has not considered any other options in the planning proposal to enable the development. The Planning Team Report includes consideration of other options including alternative zones, additional permitted uses, enabling clauses, as well as consideration of the appropriate environmental planning instrument to facilitate the development. The Planning Team Report concludes the existing zones and development standards that currently apply be retained and an enabling clause be included to permit development for a 'residential care facility' in the Gosford Interim Development Order No 122.

Adequacy Assessment
Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **Council's stated objective is to enable development of the land for a 'residential care facility' by rezoning the land for residential and environmental protection purposes.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **Council seeks to achieve the objective by:**

- including land currently identified as a deferred matter in Gosford LEP 2014 by rezoning the land from part 7(a) Conservation and Scenic Protection (Conservation) and part 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings) under IDO No 122 to part R2 Low Density Residential and part E2 Environmental Conservation. The following development standards are proposed:
- apply a minimum lot size of 40 hectares for the E2 and 550m2 for the R2 zoned land;
- apply an 8.5m maximum building height for the R2 and E2 zoned land.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**
- 6.3 Site Specific Provisions**

Is the Director General's agreement required? **Unknown**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 19—Bushland in Urban Areas**
- SEPP No 55—Remediation of Land**
- SEPP No 71—Coastal Protection**

e) List any other matters that need to be considered :

SEPP No 55—Remediation of Land
Council should satisfy itself the land is suitable for the proposed use for a 'residential care facility'.

SEPP No 71—Coastal Protection
Council should reconsider clause 8 matters following additional investigations and agency consultation given the proximity of the site to Wamberal Lagoon Nature Reserve.

Have inconsistencies with items a), b) and d) being adequately justified? **Unknown**

If No, explain :

S117 DIRECTIONS

2.1 Environment Protection Zones

The land is currently zoned 7(a) and 7(c2) under Gosford IDO No 122. Part of the land is proposed to be zoned for residential purposes thereby reducing the environmental protection standards that apply to the land and the planning proposal is therefore inconsistent with the direction. Council will need to seek the Secretary's agreement for the inconsistency following the provision of supporting information on biodiversity and following consultation with OEH.

2.3 Heritage Conservation

This direction applies when an RPA prepares a planning proposal. Council should update the planning proposal to address the terms of the direction.

3.1 Residential Zones

The proposal is inconsistent with the direction as it does not reduce the consumption of

land for housing and associated urban development on the urban fringe. Council will need to seek the Secretary's agreement for the inconsistency following the provision of supporting information and agency consultation confirming the land is suitable for the proposed use.

4.3 Flood Prone Land

Part of the site is identified as being flood prone. Council considers further information is required in regards to flooding impacts on and off site. Consistency with the direction will need to be addressed following provision of additional information on flooding and drainage and consultation with OEH on flooding matters.

4.4 Planning for Bushfire Protection

The planning proposal affects land that is bushfire prone and, as required by the direction, the RPA must consult with the NSW Rural Fire Service.

5.1 Implementation of Regional Strategies

Council considers the proposal is generally consistent with the CCRS however the proposal seeks to rezone land for housing outside of an existing urban area and is therefore inconsistent with the CCRS. The CCRS also contains an action for Councils to review the adequacy and accuracy of existing urban boundaries and allows for new land release through an assessment against the Sustainability Criteria in Appendix 3 of the CCRS.

Council is currently progressing a review of the Urban Edge and E Zones in Gosford LGA however it is likely to take some time before it is complete. Council has not provided an assessment against the Sustainability Criteria for New Land Release in Appendix 3 of the CCRS and this should be included if the rezoning for residential purposes progresses. Subject to satisfactory further investigations and agency consultation Council will need to seek the Secretary's agreement for any inconsistency with the direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The maps provided are adequate for assessment. The land is currently a deferred matter in Gosford LEP 2014 and the Land Application Map will need to be updated to include the subject land if Council seeks to include it in the Gosford LEP 2014.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes a 28 day exhibition period. This is supported.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **TIMEFRAME**
Council's project timeline anticipates notification of the plan in January 2017. A 12 month time frame is considered sufficient time to make the plan.

DELEGATIONS

Council has resolved to seek delegation for this planning proposal. Given the proposal is a minor spot rezoning of local significance Council should be granted delegation to make the plan.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The proposal seeks to amend Gosford LEP 2014 by including land identified as a deferred matter.

The site, in addition to a number of other sites zoned 7(a) and 7(c2), was excluded from the Gosford LEP 2014 as a deferred matter due to a Council resolution to defer some 7(a) and 7(c2) lands to preserve Council's Coastal Open Space System (COSS) provisions relating to bonus lot subdivision. The land was publicly exhibited as E3 Environmental Management prior to Council's resolution to defer 7(a) and 7(c2) lands from Gosford LEP 2014.

Assessment Criteria

Need for planning
proposal :

Council has advised the planning proposal is not the result of any strategic study or report. The proposal seeks to enable the development of a 180 bed nursing home (residential care facility) on part of the site. Council has advised its Draft Residential Strategy (2008) identified the need for 'residential care facilities' and similar uses however these were preferably to be provided as vertical villages in Gosford City Centre and Woy Woy Town Centre. The proposed 'residential care facility' is not located in or near any identified strategic centre.

COUNCIL'S URBAN EDGE STUDY AND E ZONE REVIEW

Council is undertaking an Urban Edge Study and a review of E Zones in the LGA which commenced in 2015. It would be preferable to await the outcomes of these reviews including other land in the vicinity of the site to identify appropriate zones however Council advised it is likely to be some time before its reviews are complete and Council seeks to progress the matter in advance of the outcomes of these reviews.

CURRENT LAND USES

Part of the land has been cleared for a landscape supply business and Council has identified the surrounding land uses (i.e. motel, restaurant, school and child care centre) are characteristic of urban support uses. These urban support uses are located west of the site however the other surrounding land uses to the north appear to be principally rural residential uses with dwellings on large lots. The land opposite the site to the south of the Central Coast Highway is zoned E1 and forms part of Wamberal Lagoon Nature Reserve. A pocket of RE1 zoned land is also located to the south of the site. Council's proposal to locate the R2 zone on non-urban land between the residential suburbs of Forresters Beach and Wamberal will result in an isolated pocket of residential zoned land physically separated from the residential urban fringe and will pre-empt the outcomes of Council's Urban Edge and E Zones reviews.

THE PROPOSED R2 ZONE

The Council report submitted with the proposal includes discussion on the use of E Zones and the Department's 'Northern Councils E Zone Review'. Council identifies the land should be zoned according to its primary use to be consistent with the recommendations of the Department's review and considers an E2 zone is appropriate for the eastern part due to its biodiversity value. The application of a residential zone appears to be based on the land being already cleared to enable the proposed development. Council has not included or discussed any other options in the planning proposal to enable the 'residential care facility' on the site.

PROPOSED LOT SIZES

The proposal identifies an R2 zone and lot size of 550m² to enable the 'residential care facility' on part of the site. It is unclear why a 550m² min lot size is required for a 'residential care facility' other than to be generally consistent with lot sizes for other R2 land in the LGA. The proposed 550m² lot size has the potential to create a low density residential subdivision isolated from other existing urban land should the 'residential care

facility' development not progress.

PRECEDENT

The rezoning of the site to a residential zone could potentially create a precedent for other 7(a) and 7(c2) landowners whose land is deferred from Gosford LEP 2014 to seek ad-hoc spot residential rezonings on their land without sufficient strategic justification and in advance of Council's strategic review of E Zones and the Urban Edge.

OTHER MATTERS

Council incorrectly refers to an E3 Environmental Management zone surrounding the site (page 3) however the surrounding land is identified as a Deferred Matter and zoned 7(a) and 7(c2) under IDO No 122 or is zoned E4, R2 or SP2 under Gosford LEP 2014. Council should correct this reference prior to exhibition.

OPTIONS

There are other potential alternative options to enable the 'residential care facility' on the site under the existing IDO No 122 or under Gosford LEP 2014:

- including the land in Gosford LEP 2014 and applying another Standard Instrument E zone or urban zone and including an additional permitted use to permit the development for a 'residential care facility'.
- retaining the existing zones and development standards in IDO No 122 and including an enabling clause to facilitate the 'residential care facility' development on the land.

CONSIDERATIONS

Gosford LEP 2014

Including the deferred land in the Standard Instrument would require an appropriate zone and permissible land use to enable the development. Council has identified a R2 zone would enable the development however there is no land in the vicinity that is in a similar zone and this would create an isolated pocket of residential zoning located on environmental and scenic protection land.

The adjoining land to the west of the site is zoned E4 and an extension of the E4 zone may be a more appropriate zone however 'seniors housing' is not permitted in the E4 zone and it would require an additional permitted use to enable the development. There is a precedent for using an additional permitted use in a SI LEP for a 'residential care facility'. Penrith LEP 2010 includes in Schedule 1 Additional Permitted Use (Use of certain land at 2065-2113 The Northern Road and 1-29 Bradley Street, Glenmore Park) and is zoned E4 Environmental Living.

It is noted Council has commenced a review of the Urban Fringe and E Zones and applying zones before the outcomes of this strategic work are known has the potential to undermine these reviews and is considered premature.

IDO No 122

The option of retaining the current zones and development standards of 40ha for 7(a) and 2ha for 7(c2) in IDO No 122 and including an enabling clause on the 7(c2) land would allow the development of a 'residential care facility' on part of the site but would allow Council to conclude its reviews of the Urban Fringe and E Zones including other land within the vicinity of the site. It is anticipated that the outcomes of these strategic reviews would result in deferred lands being included in the Gosford LEP 2014 and given appropriate zones and development standards.

This approach would provide an interim outcome to enable the development whilst allowing an appropriate zone to be identified through Council Urban Fringe and E Zones reviews. It would also limit the potential for land use conflict with inappropriate zones or

lot sizes being applied to the site in advance of the outcomes of Council reviews by maintaining existing zones and subdivision arrangements that are consistent with large lots in the vicinity of the site.

RECOMMENDATION

Given the above considerations and subject to satisfactory resolution of bushfire, flooding, biodiversity and environmental impacts, retaining the existing zones and development standards in IDO No 122 and including an enabling clause to permit the development is recommended. It would allow the proposal for a 'residential care facility' to progress while Council completes its strategic review of E Zones and the Urban Edge which would provide future strategic justification for any proposed zones on and in the vicinity of the site.

Consistency with strategic planning framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

Council has identified actions in the CCRS which are relevant to the planning proposal:

- Action 4.2 Provide for a mix of housing, including housing for an aging population;
- Action 5.1 Promote economic and employment growth to increase the level of employment self-containment;
- Action 6.5 Incorporate appropriate land use buffers around environmentally sensitive, rural and resource lands.
- Action 6.16 Ensure LEPs have regard to SEPP71 - Coastal Protection.
- Action 4.6 Land rezoned for housing is to be located in existing urban areas, MDP areas, areas identified through preparation of LEPs and greenfield NWSSP areas.

The planning proposal to rezone the land to accommodate a residential care facility will assist in providing housing for an aging population, would provide ongoing local employment opportunities and provides for the protection of environmentally sensitive lands. Council has provided limited consideration of SEPP 71 as discussed earlier and a proper assessment is required by clause 7 of the SEPP.

Council has identified an inconsistency with Action 4.6 and although the land is located outside of an existing urban area, Action 4.5 requires Council to review the adequacy and accuracy of existing urban boundaries and zonings in fringe areas. Council is currently undertaking a review of E Zones and progressing an Urban Edge study in the LGA. Council's proposal to zone land R2 in advance of E Zone and Urban Edge Reviews requires justification. Consistency with the CCRS would need to be re-assessed following appropriate studies and agency consultation supporting the proposed 'residential care facility' use.

Sustainability Criteria for New Land Release

Council's proposal to rezone part of the site for residential purposes should have been assessed against the CCRS Appendix 3 sustainability criteria for new release areas to identify whether the site is suitable for additional residential development. Should the residential rezoning progress an assessment against the sustainability criteria will be required.

DRAFT CENTRAL COAST REGIONAL PLAN (dCCRP)

The dCCRP was released in November 2015 and includes actions which are relevant to the proposal:

- Action 1.5.1 Support delivery of greater housing choice in and near centres with existing services
- Action 4.1.1 Protect areas of high environmental value.

The land is not identified in or near a centre however it is located on environmental lands on the Central Coast Highway with public transport links (bus) between the urban areas of Wamberal and Forresters Beach and may be appropriate for an alternative zone through further investigation. The proposal seeks to apply an environmental protection zone to land with high environmental values and is consistent with action 4.1.1 in the dCCRP.

COMMUNITY STRATEGIC PLAN - GOSFORD 2025 (CSP)

Council has identified the proposal is consistent with specific strategies in its CSP.

GOSFORD DCP 2013

Council includes discussion on the existing and desired character of Wamberal Mixed Use Corridor and Forresters - Wamberal Landscape Unit and considers a 'residential care facility' on the land would not alter the character of this precinct or be in conflict with scenic quality provisions in its DCP.

Environmental social economic impacts :

Environmental Impacts

Council's Endangered Ecological Community (EEC) map shows an EEC is located in some small pockets on the western part of the site and principally the eastern part of the site. Council proposes to protect the EECs with an E2 zoning. The land is located opposite E1 zoned land and is proximate to an identified SEPP 14 wetland at Wamberal Lagoon. Given the environmental sensitivity of Wamberal Lagoon Nature Reserve further

information on the impacts on any future development as well as impacts on biodiversity in the vicinity of the Nature Reserve in consultation with OEH and National Parks and Wildlife Service will be required to confirm whether the proposed zones and future development is appropriate.

Water and Sewer

Council has indicated a water and sewer systems capacity analysis is required to ensure Council's existing water system and augmentation to the sewer system has sufficient capacity to accommodate the future development. Further information on the potential off site impacts from the development on Wamberal Lagoon Nature Reserve is also required.

Traffic

Council refers to a traffic study which indicates the transport system has capacity to cater for the proposed development. The site is located on a main public transport route with bus services to Gosford, Erina and The Entrance. Council should consult with Roads and Maritime Services and Transport for NSW and include the traffic study in the public exhibition material.

Flooding and Drainage

Part of the site is floodprone and Council considers further work on flooding impacts is required to ascertain the development footprint for the 'residential care facility'. The impacts from the development will also need to mitigate downstream impacts on existing development. Consultation with OEH on flood matters will be required.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Transport for NSW Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :			
Resubmission - s56(2)(b) : No			
If Yes, reasons :			
Identify any additional studies, if required. :			
If Other, provide reasons :			
Identify any internal consultations, if required :			
No internal consultation required			
Is the provision and funding of state infrastructure relevant to this plan? No			
If Yes, reasons :			

Documents

Document File Name	DocumentType Name	Is Public
Council Report.pdf	Proposal	Yes
Council Resolution.pdf	Proposal	Yes
Planning Proposal - 17 February 2016.pdf	Proposal	Yes
Project timeline.pdf	Proposal	Yes
Additional Information - Traffic Engineer Comments - 16 Feb 2016.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.3 Site Specific Provisions

Additional Information : The planning proposal should proceed subject to the following conditions:

1. Update the objectives, explanation of provision and planning proposal to identify the planning proposal will include an enabling clause to permit development for a 'residential care facility' on land zoned 7(c2) under Gosford IDO No 122 and existing lot sizes under the IDO No 122 will continue to apply to the site.
2. Update the planning proposal 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. Council should satisfy itself that sufficient information has been provided to address the following matters prior to exhibition:
 - impacts on biodiversity
 - impacts on Wamberal Lagoon Nature Reserve
 - flooding and drainage analysis
 - water and sewer systems capacity analysis
 - bushfire
 - traffic, transport and access
4. Council is to update the planning proposal's consideration of SEPPs
 - SEPP 55 - Remediation of Land
 - SEPP 71 - Coastal Protection
5. Council is to update the planning proposal's consideration of S117 Directions:
 - 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
6. Consultation with:
 - NSW Rural Fire Service
 - Transport for NSW
 - Transport for NSW - Roads and Maritime Services

• Office of Environment and Heritage - Flooding, Biodiversity, National Parks and Wildlife Service.

7. 12 months timeframe.

8. 28 day exhibition period.

9. Council be granted delegation to make the plan.

Supporting Reasons : *

Signature:



Printed Name:

G P HOPKINS

Date:

2 March 2016

