

Additional permitted use for a medical centre at Niclins Rd, Mangrove Mountain

Proposal Title : Additional permitted use for a medical centre at Niclins Rd, Mangrove Mountain

Proposal Summary : The planning proposal would permit a medical centre at lot 981 DP 862346 being 40-60 Niclins Road, Mangrove Mountain. Council proposes this occur as an additional permitted use in the Interim Development Order 122 (IDO 122).

Council proposes that the LEP provision would sunset and that a floor space limit for the medical centre and associated buildings apply.

PP Number : PP_2013_GOSFO_002_00 **Dop File No :** 13/04635

Proposal Details

Date Planning Proposal Received : 14-Mar-2013 **LGA covered :** Gosford

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

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

LEP Type : Spot Rezoning

Location Details

Street : 40-60 Niclins Road

Suburb : Mangrove Mountain **City :** **Postcode :** 2250

Land Parcel : Lot 981 DP 862346

DoP Planning Officer Contact Details

Contact Name : Ben Holmes

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RPA Contact Details

Contact Name : Brian McCourt

Contact Number : 0243258260

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Central Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : **SITE DESCRIPTION**

The site is located on a 14.9 ha rural property and consists of large cleared areas. It is surrounded by other rural properties that are used for a variety of agricultural purposes. The Mangrove Mountain village is located approximately 1-1.5 kilometres from the site.

BACKGROUND & INFORMATION PROVIDED BY COUNCIL

Council advises this planning proposal (PP) seeks to permit a medical centre that has been operating without consent on the site, and results from legal action taken by Council for the illegal use and building works.

Council indicates it has considered this planning proposal on three occasions prior to submitting it to the Gateway:

1. 5 February 2013 - resolved to undertake site inspection and reconsider proposal;
2. 12 February 2013 - resolved to support the preparation of a PP and to consider options for limiting the scale of the medical centre; and
3. 5 March 2013 - resolved to support the introduction of a floor space limit and to sunset the additional permitted use.

Council has provided documentation relating to the above with the Planning Proposal but has not consolidated the information following Council's final resolution. As a result, the information provided by Council is potentially confusing for the community and Gateway.

The Planning Proposal submitted to the Gateway by Council has been prepared by a consultant on behalf of the landowner. This is the formal Planning Proposal. However it has not been updated to include Council's desired floor space limit or sunset provision.

Further, one of the Council reports (Council_Report_5&12_Feb_2013) also includes a "Planning Proposal Gosford City Council" which looks like a planning proposal. This 'planning proposal' however is the Council officers' assessment of the proposal and does

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not support the progression of the proposal to the Gateway. It is not the formal Planning Proposal submitted to the Gateway.

Should the Gateway support the progression of the Planning Proposal, the Gateway should require Council to update the PP and consolidate the supporting information. This is important for community consultation.

COMMUNITY INTEREST

Community correspondence has been received by the Department on this proposal - both for and against permitting a medical centre on this site.

POTENTIAL JOBS

As Council reports the use is already operating on the site, it is not anticipated the PP would result in any new jobs.

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The "Objectives or Intended Outcomes" is generally consistent with the Department's "A guide to preparing planning proposals".

Reference is made in this section of the PP to amending clause 93 in the IDO 122. This reference should be removed as it may limit options at the drafting stage eg if a new site specific clause needs to be introduced.

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

Is an explanation of provisions provided? Yes

Comment : The "Explanation of Provisions" should be updated:

- Reference is made to amending clause 93 here also. This should be removed.
- A definition of a medical centre is provided, but this definition is different to the existing definition in the IDO 122. While the difference is minor, the existing definition should be used.
- It should also be updated to recognise that, depending on when the draft SI LEP is finalised, the PP may amend the SI LEP.
- If the Gateway supports the inclusion of a sunset provision or floor space limit (discussed later), then this should be reflected in this section of the PP also.

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

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.4 Integrating Land Use and Transport
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

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6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SREP No 9—Extractive Industry (No 2—1995)

SREP No. 8 - Central Coast Plateau Areas

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Further discussion on inconsistencies is provided in the "Consistency with Strategic Framework" section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

A zone map has been provided but this should be updated with a GIS type map so that the community can clearly identify the land. Details presented on the existing map are not clear.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The PP identifies a 28 day community consultation period.

Additional Director General's requirements

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

If Yes, reasons :

PROJECT TIMELINE

Council's timeline anticipates the PP would be finalised in October 2013, approximately six months after the Gateway Determination. This timeframe may be able to be reduced given two months are unallocated following GD determination (nominated April) and agency consultation (nominated July).

DELEGATION AUTHORISATION

Council has accepted plan-making delegation for PPs generally, however it has not been sought for this PP. The reason for this is not discussed by Council.

Planning Circular PS12-006 provides the Gateway with the option of delegating a PP to Council if it determines the matter is of local significance.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : June 2013

Comments in relation to Principal LEP :

The draft SI LEP is currently with Council following review by the Parliamentary Counsel's Office. Council is reviewing the latest version of the dLEP, and considering whether re-exhibition is necessary as a result of post-exhibition changes made by Council (eg

biodiversity overlay, new E zone, deferred lands).

Assessment Criteria

Need for planning
proposal :

The need for the PP does not result from a strategic study or report. It has been initiated by the landowner so as to ultimately gain development consent for the landowner's medical centre that Council states has been operating on the site illegally. Medical centres are currently prohibited in the 1(a) Rural (Agriculture) zone applying to the site. The landowner is the doctor who runs the medical centre.

Retaining medical centres in rural communities is a good social outcome. While some could argue that the medical centre should be located in the nearby village (where it formerly operated under existing use rights) to assist that village, the village is similarly zoned 1(a) and so the medical centre is not permitted there either.

It could also be argued that allowing a medical centre on the site may result in land use conflicts with adjoining farms. However the use has already been occurring on the site and the DA process could put in place formal conditions to ensure impacts on staff/patients (eg odour, dust, noise) are limited and in turn not affect adjoining farm operations.

This proposal will provide for a valuable community service and on balance, the need for the PP is considered adequately justified such that it can proceed to exhibition and allow the community to have its say.

Council proposes to permit the medical centre as an additional permitted use. Alternative options to this approach exist, but are not ideal.

- rezone to 2(Village) (equivalent to RU5) and use the ISEPP: would create a second village in the Mangrove Mountain area;
- permit medical facilities in the 1(a) zone: land use conflicts would be less than educational establishments (already permitted in the 1(a) zone) however Council is unlikely to support this approach;
- rezoning to an urban zone that permits medical centres: the site is in a rural area and an isolated urban site would not be suitable; and
- lodge a DA for a home occupation/business: Council advises that the operational needs/scale of the facility do not satisfy these definitions.

Council also intends to sunset the provision 'once the use no longer occupies the structures' and to cap the floor space - 206 m2 for the medical centre and 4 m2 for the adjoining shed.

The purpose of the proposed sunset provision as worded is not clear but could be to prevent any further applications for medical centres on the subject land. If this is the case, then this could be achieved by sunseting the proposed enabling clause after a suitable period sufficient to allow a development application to be determined. (There are a number of similar enabling clauses in IDO 122 including cl. 50AB, 97A, 97B, 97C, 97E). Given the Council's preference to see such uses in the nearby village, once formalised as RU5 in the SI LEP, this could be supported. A development application for the existing medical centre could be approved and then operate under existing use rights. Thereafter, and following conclusion of the sunset period, future applications on this site could not be permitted. If Council intends to include more elaborate sunset provisions then further discussion on this aspect may be required.

Capping the floor space is not supported. The scale of the facility could be determined through DA merit assessment and consent conditions.

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Consistency with strategic planning framework :

CENTRAL COAST REGIONAL STRATEGY (CCRS)

The CCRS identifies the importance of protecting the region's rural land from urban purposes and seeks to minimise land use conflicts which may affect agricultural production. It is a high level document which does not provide specific advice in relation to the location of medical centres in rural areas.

As a medical centre could be perceived to be an urban purpose, the PP could be inconsistent with the CCRS. However, medical centres are also non-urban purposes as rural communities need medical services also. This, coupled with the PP being for a single site and the potential for consent conditions to minimise impacts on adjoining farms, suggest that in this instance any inconsistency is minor.

LOCAL STRATEGIES

The PP states that it is consistent with the Gosford Strategic Plan - Gosford 2025.

STATE ENVIRONMENTAL PLANNING POLICIES

This section of the PP needs to be updated in order to demonstrate that consideration has been given to the SEPP provisions triggered by this proposal.

Consideration should be given to SEPP 55 Remediation of Land (clause 6), SREP 8 Central Coast Plateau Areas (clause 11) and SREP 20 Hawkesbury-Nepean (clause 4(2)).

S117 DIRECTIONS

The discussion of s117 direction consistency in the PP is limited. It should be updated by Council, noting the comments below:

1.2 Rural Zones - as this PP would permit a medical centre on rural land, it is potentially inconsistent with the Objective of this direction. Consultation with the DPI (Agriculture) should occur in order to inform consistency with this direction.

3.4 Integrating Land Use and Transport - the PP is inconsistent with this direction because the medical centre would not be located in a centre that can be accessed by a choice of transport. This objective is less relevant in rural areas where the settlement pattern is generally dispersed and rural villages are not frequently serviced by a choice of transport. Given the social benefit that this PP would provide, it is recommended the DG agree that the PP's inconsistency with this direction is of minor significance.

4.4 Planning for Bushfire Protection - Council reports the site is bushfire prone. Consultation with RFS should occur in order to determine consistency with this direction.

5.1 Implementation of Regional Strategies - as discussed above, the PP is potentially inconsistent with this direction. It is recommended the DG agree that the inconsistency is of minor significance.

6.3 Site Specific Provisions - the proposed sunset provision and floor space cap would make this PP inconsistent with direction 6.3 however these inconsistencies are considered minor.

Environmental social economic impacts :

Environmental impacts associated with a medical centre on rural land are not anticipated to be substantial. Concern could arise however about the possibility for the medical centre to affect the operations of adjoining farms. This issue could be considered as part of the DA process, with consent conditions put in place to make sure impacts are managed at the medical centre.

Concern may also arise about the potential for this proposal to undermine rural villages. However, as it stands the medical centre would not be permitted in the nearby village and the facility is already set up at its existing location. Sunsetting the additional permitted use however would ensure that future medical centres are oriented towards village centres.

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In light of the above, it is considered that on balance the social benefit of the proposal supports the progression of the PP to exhibition to allow the community to have its say.

In addition to RFS and DPI (Agriculture), Council identifies the need to consult with Trade and Investment (Mineral Resources and Energy) due to the site being located within the Somersby Plateau Southern Potential Sand Resource Area.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **6 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Agriculture
Department of Trade and Investment
NSW Rural Fire Service**

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
Planning_Proposal.pdf	Proposal	Yes
Planning_Proposal_Annexure_1.pdf	Proposal	Yes
Plannng_Proposal_Annexure_2.pdf	Proposal	Yes
Plannng_Proposal_Annexure_3.pdf	Proposal	Yes
Plannng_Proposal_Annexure_4.pdf	Proposal	Yes
Plannng_Proposal_Annexure_5.pdf	Proposal	Yes
Plannng_Proposal_Annexure_6.pdf	Proposal	Yes
Plannng_Proposal_Annexure_7A.pdf	Proposal	Yes
Plannng_Proposal_Annexure_7B.pdf	Proposal	Yes
Plannng_Proposal_Annexure_7C.pdf	Proposal	Yes
Plannng_Proposal_Annexure_8.pdf	Proposal	Yes
Plannng_Proposal_Annexure_9.pdf	Proposal	Yes
Council_Project_Timeline.pdf	Proposal	Yes
Council_Report_5&12_February_2013.pdf	Study	Yes

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Council_Resolution_5_February_2013.pdf	Study	Yes
Council_Resolution_12_February_2013.pdf	Study	Yes
Council_Report_5_March_2013.pdf	Study	Yes
Council_Resolution_5_March_2013.pdf	Study	Yes
Plannng_Proposal_Annexure_7D.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.4 Integrating Land Use and Transport
- 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 following conditions are recommended in order to advance the PP:

- reference to amending clause 93 in the IDO 122 in the Objectives and Explanation of Provisions should be removed;
- the existing IDO 122 medical centre definition should be referred to in the Explanation of Provisions;
- the Explanation of Provisions should note that the PP may amend the finalised SI LEP;
- include an updated zone map that clearly identifies the site and surrounding properties;
- support for proposed sunset provision;
- no floor space cap is to apply;
- update consistency assessment with the relevant SEPPs (SEPP 55 Remediation of Land, SREP 8 Central Coast Plateau Areas and SREP 20 Hawkesbury-Nepean River);
- undertake consultation with the RFS and update s117 direction 4.4 accordingly;
- consult with DPI (Agriculture) and T&I (Mineral Resources and Energy);
- 28 day consultation period;
- 6 month completion timeframe.

It is recommended the DG (or delegate) agree that any inconsistencies with directions 3.4 Integrating Land Use and Transport, 5.1 Implementation of Regional Strategies and 6.3 Site Specific provisions are of minor significance.

It is recommended the Gateway determine that the PP is a matter of local significance and issue delegation to the Council.

Supporting Reasons :

Signature:

G HOPKINS

Printed Name:

G HOPKINS

Date:

15.3.2013