



NSW GOVERNMENT
Department of Planning

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Mr Peter Wilson
General Manager
Gosford City Council
PO Box 21
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Our ref: Y09/803
Your ref:
File: CC0000047

Dear Mr Wilson

Subject: draft Gosford LEP 2009

I refer to Council's request for a certificate under s.65 of the Environmental Planning and Assessment Act 1979 to allow draft Gosford Local Environmental Plan 2009 (the dLEP) to be publicly exhibited.

A conditional certificate issued under s.65 (2) of the Act is attached. The certificate requires Council to amend the plan in accordance with the amended draft plan attached and to make mapping amendments. Once finalised, a digital and hardcopy version of the maps should be provided to the Department's Gosford office for final review prior to public exhibition.

A primary objective of introducing the Standard Instrument (SI) is to standardise local environmental plans across the State. Most of the amendments to the dLEP have been made for the purpose of complying with the Standard Instrument as the plan submitted by Council was not consistent in some respects. Amendments have also been made at the request of Council such as amendments to Gosford City Centre provisions and the addition of the Coastal Open Space System clause. In several cases the Department has made amendments where a better planning outcome can be achieved through alternative provisions.

While there are a number of matters still to be resolved, the Department considers that the attached plan is adequate for the purposes of public exhibition. Matters still to be addressed include further work to bring Gosford's planning into line with the Central Coast Regional Strategy (CCRS). Attachment A sets out the Department's requirements for further work to be progressed and Council is requested to continue to liaise with the Department's regional team regarding the scoping of this work and its timely delivery.

One of the items of further work affects Erina. The Department has previously written and spoken to the Council requesting that it nominate an appropriate urban zone for land generally opposite the Erina Fair regional shopping centre, on the south side of Karalta Road, which has good accessibility to public transport, and for which the proposed zoning under the draft LEP appears to be redundant and inconsistent with the CCRS. Council is asked to initiate, in conjunction with affected land owners, an appropriate planning proposal within 3 months to rezone the land, either in this plan or, if this is not feasible, as a subsequent amendment in the near future. This work would provide some immediate implementation for at least part of the CCRS actions, and may proceed ahead of the broader review of planning controls for Erina.

The s.65(2) certificate requires Council to change the zones of two sites at Springfield and Woy Woy Bay from SP2 Recycling Facility to E2 (a zone corresponding to the current 7(a) zone). This is consistent with how Council has zoned a number of other quarries and former quarries. The Department considers that there is insufficient documentation at this stage to support the rezoning of these sites and a separate planning proposal to amend the zonings should be prepared if Council wishes to proceed with these rezonings. The Department is happy to discuss this further with Council staff.

The Department is continuing to work on a State-wide approach to short term holiday letting of dwellings. For the purposes of public exhibition, some provisions have been included in the dLEP based on those proposed by Council. It is likely however that Council's proposed provisions will need to be altered before the plan is finalised, to align with the Department's State-wide approach.

The Department has liaised with Council's strategic planning staff in preparing the amended dLEP. In some cases, Council staff have advised that they are unable to support proposed amendments without reference to the elected Council. The Department understands that it is now intended that the draft plan will be considered by the Council prior to its public exhibition. While I appreciate the need to brief Councillors on the amended dLEP, the Department strongly encourages Council to place the draft LEP on public exhibition as soon as possible to allow the community to have its say and to allow the LEP to progress.

As the dLEP is primarily a conversion of Council's existing planning provisions into SI format, it is acknowledged that public exhibition may uncover situations where alternative zones, development standards and permissible land uses are proposed and it is understood that Council staff have advised some landowners to make submissions in this regard. The Department will need to closely consider how Council has assessed such requests when the dLEP is returned at the s.69 stage and will be supportive of well-founded planning control amendments that avoid the need for future plan amendments. Where post-exhibition amendments could require re-exhibition, Council will need to balance the need for amendment with the need for the dLEP to proceed swiftly to finalisation. I encourage your staff to continue to discuss these and other matters with the Department's regional team.

Several issues with permitted land uses have been identified such as the inclusion of non-industrial uses in industrial zones and the potentially adverse effect on supply of industrial land, the non-inclusion of marinas as a permitted use around the foreshore of Brisbane Water, and the limited opportunity for development of new manufactured housing estates. These issues will need to be addressed and substantiated in more detail while the dLEP is on exhibition, and it should be noted that changes to the draft plan could be required after public exhibition. It is suggested that a land use matrix be prepared to review permitted uses (further advice on this is contained in Planning Circular PS09-011) and that this be submitted at the s.69 stage for the Department's consideration.

A number of matters in the draft LEP and s.62 submissions will require Council to further consult with government agencies during the exhibition period, and the Department can assist in such discussions where Council and/or agencies request.

New advice on the SI continues to be issued as the Department and councils' experience with SI implementation develops. Guidance on the use of E zones was released too late for inclusion in the draft LEP submitted to the Department, however the draft plan is now inconsistent with Practice Note 09-002 in relation to E zones. Council will be required to review its use of E zones and bring them into line with PN09-002 and this should occur as soon as practicable. This may mean that some zonings change in a future amendment to the LEP.

Guidance on the drafting of zone objectives within LEPs has also now been released (PN09-005). Council will need to amend its draft LEP in accordance with PN09-005 prior to returning the plan to the Department for finalisation.

The Department will continue to release practice notes on the use of the SI that may require review of Council's planning instrument. As further guidance is released, Council should continue to review the need for plan amendments.

The Department is aware that the Gosford Challenge will involve a review and potential amendment of the planning provisions applying to the City Centre. The Department will continue to work with Council on the Gosford Challenge and will assist Council in making planning provision amendments should these be considered necessary.

The Department understands that Council is currently undertaking community consultation on a sea level rise planning level and is happy to discuss how Climate Change may impact on Council's future planning controls.

At this point none of the strategies that Council has submitted with the draft LEP have been endorsed by the Director-General. Should Council wish to seek the DG's endorsement then this should be discussed further with the regional team.

Please continue to liaise with the Department's regional team on all matters relating to the dLEP. As you are aware, the Gosford comprehensive LEP is an identified "Priority LEP", and the Department will be in contact in the near future to discuss the setting of milestones between now and finalisation of the plan so as to meet the targets for Priority LEPs.

Council is requested to exhibit this letter and the attachment in the exhibition material for the dLEP. This will allow those viewing exhibition material to understand that further work is required that may mean future changes to zones and planning provisions.

Yours sincerely

Neil McGaffin
Executive Director
Planning Operations



25.9.09

ATTACHMENT A – FURTHER PLANNING WORK

1. Matters for which a planning proposal is required to be commenced within 3 months
 - 1.1. Erina – a planning proposal to rezone land on the south side of Karalta Road to an appropriate urban zone is to be initiated within 3 months. The extent of land to be included, and proposed zones need to be developed in conjunction with the regional team.
2. Matters for which a commitment to prepare, and an agreed timetable is required, prior to the plan being returned to the Department at s.69
 - 2.1. Erina – a broad review of planning controls in line with the Central Coast Regional Strategy (CCRS). Scope to be agreed to by Department of Planning and to include assessment of appropriate zones, land uses and development standards.
 - 2.2. Industrial land – review supply and expand existing employment nodes in accordance with CCRS.
 - 2.3. Other centre investigations – timetable to be established for review of further centres in accordance with CCRS. Priorities include centres with railways stations, West Gosford, Wyoming and Kincumber.
 - 2.4. Review of urban fringe zonings in accordance with CCRS.
 - 2.5. Address consistency with the E zone practice note (PN09-002) and amend zones and other planning provisions as required.

It is anticipated that much of the work above could be carried out internally by Council and the Department is happy to assist.

3. Matters to be completed before the plan is resubmitted to be made (s.69 submission to include advice on how these matters have been addressed)
 - 3.1. Ash Street Terrigal – Council has proposed a rezoning that is inconsistent with its strategic planning for the Terrigal town centre. Council should ensure that its Strategic Plans are updated to reflect this proposed rezoning, should consider other potential extensions to the Terrigal town centre and should ensure that there is an appropriate transition between the Ash Street site and the adjacent residential zone.
 - 3.2. Hawkesbury River Caravan Parks - Consider the appropriateness of the entry in Schedule 1 of the dLEP given the owners' intention to upgrade the site and ensure that similar situations are appropriately provided for.
 - 3.3. Quarries – Liaise with the Department of Primary Industries to ensure that regionally significant extractive resources are appropriately zoned.
 - 3.4. Provide an updated land use matrix.
 - 3.5. Council to clearly document and exhibit as part of exhibition material Council initiated rezonings. It is also recommended that Council consider notifying any landowners whose land is being rezoned and where the zoning is other than a Standard Instrument zone translation.
 - 3.6. Provide an updated assessment of the dLEP against SEPPS, SREPs and s.117 directions. Attention must be given, but is not limited to, the following s.117 directions:

- 1.1 Business and Industrial Zones – impact of non-industrial uses such as places of public worship and motor vehicle showrooms (now vehicle sales or hire premises) on industrial land supply;
- 1.3 Mining, Petroleum and Extractive Industries – to determine appropriate planning provisions for sites identified as significant by DPI; and
- 3.2 Caravan Parks and Manufactured Housing Estates – the opportunity for future MHE provision within the LGA.

3.7. Council is to provide documentation and substantiation of its policy position and details of community feedback during exhibition for the following matters:

- the permissibility of marinas
- non-industrial uses in industrial zones
- short-term holiday letting of dwellings
- changes to permissibility of places of public worship and educational establishments.

3.8. Amend dLEP to be consistent with Practice Note PN09-005 Local environmental plan zone objectives.

4. Other matters

4.1. Several local clauses have been retained in this version of the dLEP as they reflect recent LEP amendments (eg. Somersby, Avoca). In due course these clauses may be removed and Council should consider any opportunities available that will allow them to be deleted.