

Planning Proposal Nambucca LEP Amendment No 19

Rezoning of Certain land at Adin Street, Scotts Head

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1.0 Preliminary

1.1 Context

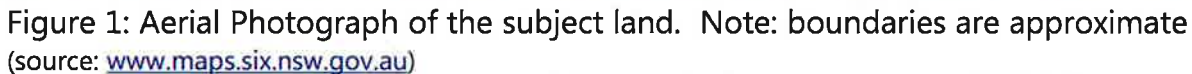
This Planning Proposal has been drafted in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* and the Department of Planning and Infrastructure's *"A guide to preparing planning proposals"* (DoPI, 2012). A gateway determination under Section 56 of the Act is requested.

1.2 Subject Land

This Planning Proposal applies to the allotments identified in Table 1 below and the following figure.

Table 1: Property Description and Current Land Use

Address	Real Property Description	Current Land Use
1 Adin Street	Lot 16 Section F DP20823	Dwelling
3 Adin Street	Lot 15 Section F DP20823	Dwelling
5 Adin Street	Lot 14 Section F DP20823	Retail shop, Pharmacy and shop top housing
7 Adin Street	Lot 13 Section F DP20823	Dwelling
9 Adin Street	Lots 1 ,2 & 3 SP39823	Bakery, Butcher and shop top housing
11 Adin Street	Lot 11 Section F DP20823	Dwelling
13 Adin Street	Lot 10 Section F DP20823	Dwelling
15 Adin Street	Lot 91 DP854122	Vacant
2A Gloucester Street	Lot 92 DP854122	Dwelling



In mid 2013 CivilTech contacted Nambucca Shire Council on advice on an LEP amendment that would allow residential development without the requirement to have an associated business premises. To gauge local landholders thoughts on the matter a letter was sent to the residents of the B2 zoned land at Adin Street. Of the twelve (12) landholders consulted, four (4) responses were received, each in support of a B4 Mixed Use zone.

Part 1 Objectives or Intended Outcomes

The primary objective of this LEP Amendment is to:

1. rezone Commercial land at Adin Street Scotts Head from B2 Local Centre to B4 Mixed Use; and
2. to apply a Floor Space Ratio of 1:1.

Part 2 Explanation of Provisions

The objectives of the proposal will be achieved by:

- a) amending Land Zoning Map – Sheet LZN_006F relating to the properties mentioned in Table 1 from B2 Local Centre to B4 Mixed Use; and
- b) Amending Floor Space Ratio Map – Sheet FSR_006C to allow a Floor Space Ratio of 1:1.

Part 3 Justification

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. The proposal seeks to amend the current zoning and to apply an appropriate FSR to reflect the mixed land use of the locality.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes, the Planning Proposal is the best way to achieve the objectives as the Mixed Use zone provides the best fit for the different land uses currently occurring on the land.

To gauge local landholders thoughts on the matter a letter was sent to the residents of the B2 zoned land at Adin Street. Of the twelve (12) landholders consulted, four (4) responses were received all of each in support of a B4 Mixed Use zone.

Consideration was also given to a potential residential zone to match the adjoining land zoning and predominant use of the site for residential purposes. However, this would then rely on existing use rights for the existing commercial development.

Whilst the proposed FSR of 1:1 is greater than the surrounding FSR (being 0.75:1), existing development controls relating to residential development within the Nambucca Development Control Plan 2010 such as building height, setbacks, Deep soil zones, open space and site coverage will ensure that future development is undertaken in a manner that maintains the existing character of the area. In addition, there is presently no FSR for the land, and applying an FSR of 1:1 is more likely to maintain the character of the locality.

Section B – Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Yes, the proposal is not inconsistent with the Mid North Coast Regional Strategy as it seeks to amend the NLEP to reflect the existing land uses of the allotments.

4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

Yes. The planning proposal is not inconsistent with Council's Community Strategic Plan. Council's Community strategic plan states the following in regard to sustainable development and housing:

"Provide diverse, sustainable, adaptable and affordable housing options through effective land use planning"

The Scotts Head Masterplan for the Crown reserve has been considered during the preparation of this LEP amendment. As explained in the body of this report the planning proposal is essentially embedding the existing character of the area into planning controls by allowing mixed use development. It is not expected that the proposed amendment will provide for any conflicts with the Masterplan for the Crown reserve located opposite.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes. See **Appendix 1**.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Yes. See **Appendix 2**.

Section C – Environmental, social and economic impact

7. 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 proposal relates to existing Commercial zoned land within the Village of Scotts Head.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The proposal seeks to maintain the existing land uses. Should development applications be received over the land in the future, appropriate consideration to environmental impacts will form part of the assessment process.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The planning proposal will allow flexibility in the use of the area for a number of different purposes in line with the current land uses. Simply speaking, the proposal will allow residential dwellings to be erected on the land, whilst maintaining the permissibility of commercial development.

The existing zone allows for shop top housing and/or commercial development and approximately 66% of the lots already have existing use rights for residential development. For that reason the planning proposal is unlikely to create a situation that is significantly different from the existing land uses and the amendment is unlikely to exacerbate any existing conflicting land uses.

In regards to conflicting land uses Council has other areas in the shire that permit both residential and commercial activities. As an example , the proposed mixed use zone will be similar in nature to the RU4 Village Zone in Bowraville. Although Council has the occasional issue in relation to conflicting uses, they are usually addressed through discussions with the landholders or regulatory action as necessary.

In regards to economic effects There is risk associated with a potential loss of commercial land should the market proceed to favour residential development in the area. However it is noted that there is commercial zoned land nearby along Short Street, Ocean Street and additional vacant commercial zoned land located on Scotts Head Road near the entrance to the village. Should commercial land be lost through the development of the subject land for residential uses (i.e. the 3 allotments that do not have existing use rights for residential development) there is sufficient vacant commercially zoned within Scotts Head land to cater for any increase demand.

Further to this an identified future growth area on the southern side of Scotts Head Road has the potential to accommodate a small commercial area should it be considered necessary.

The proposal has also given consideration to the Scotts Head Masterplan for the Crown Reserve on the opposite side of the road and it is considered unlikely the proposed mixed use zone would conflict with any of the proposed actions presented in the masterplan.

Section D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes. The proposal will not increase the number of allotments or densities. All the existing allotments are connected to relevant services.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

As no gateway determination has been made in respect to this planning proposal at this stage, the views of State and Commonwealth public authorities are unknown.

Part 4 Mapping

The following maps (Appendix 3) have been prepared to support the planning proposal:

- Proposed Land Zoning and Floor Space Ratio Map; and
- Proposed Land Zoning and Floor Space Ratio Map (aerial photo).

Part 5 Community Consultation

Having regard to the scale, nature and issues relating to the Planning Proposal, it is considered that the Planning Proposal is a "low impact proposal" under section 5.5.2 of *"a guide to preparing local environmental plans"*. A 14 day exhibition period will be undertaken in accordance with normal practices.

Part 6 Project Timeline

Plan Making Step	Estimated Completion (Before)
Gateway determination (Anticipated)	September 2014
Completion of Technical Assessment	December 2014
Government Agency Consultation	January 2015
Public Exhibition Period	January 2015
Public Hearing (if required)	Not Required
Submissions Assessment	February 2015
RPA Assessment of Planning Proposal and Exhibition Outcomes	February 2015
Submission of Endorsed LEP to DP&I for Finalisation	March 2015
RPA Decision to Make the LEP Amendment (If delegated)	March 2015
Forwarding of LEP Amendment to DP&I for Notification (if delegated)	April 2015

Appendix 1 – State Environmental Planning Policies

State Environmental Planning Policy	Comments
SEPP 1 – Development Standards	Not Applicable
SEPP 14 – Coastal Wetlands	Not Applicable
SEPP 15 – Rural Landsharing Communities	Not Applicable
SEPP 19 – Bushland in Urban Areas	Not Applicable
SEPP 21 – Caravan Parks	Not Applicable
SEPP 26 – Littoral Rainforests	Not Applicable
SEPP 29 – Western Sydney Recreation Area	Not Applicable
SEPP 30 – Intensive Agriculture	Not Applicable
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	The Planning Proposal seeks to allow residential development.
SEPP 33 – Hazardous and Offensive Development	Not Applicable
SEPP 36 – Manufactured Home Estates	Not Applicable
SEPP 39 – Spit Island Bird Habitat	Not Applicable
SEPP 44 – Koala Habitat Protection	Not Applicable
SEPP 47 – Moore Park Showground	Not Applicable
SEPP 50 – Canal Estate Development	Not Applicable
SEPP 52 – Farm Dams and Other Works in Land and Water Management Plan Areas	Not Applicable
SEPP 55 – Remediation of Land	The planning proposal seeks to amend the zone to reflect the mixed use of the subject allotments. Any future development application should consider the relevant provisions of SEPP 55.
SEPP 59 – Central Western Sydney Regional Open Space and Residential	Not Applicable
SEPP 62 – Sustainable Aquaculture	Not Applicable
SEPP 64 – Advertising and Signage	Not Applicable
SEPP 65 – Design Quality of Residential Flat Development	Not Applicable
SEPP 70 – Affordable Housing	Not Applicable

(Revised Scheme)	
SEPP 71 – Coastal Protection	The Planning Proposal seeks to reflect the existing development situation, legitimise the existing residential development and allow new residential development . While also maintaining permissibility of commercial activities. The proposed amendment will provide reflection of the current land use in the area. The Planning Proposal is not inconsistent with the objectives of the SEPP nor will it be inconsistent with the matters for consideration under Clause 8 of the SEPP. The proposal is also consistent with Part 4 of the SEPP pertaining to public access, effluent disposal and stormwater. Any future development application will need to consider the provisions of SEPP 71.
SEPP (Affordable Rental Housing) 2009	Not Applicable
SEPP (Building Sustainability Index: BASIX) 2004	Not Applicable
SEPP (Exempt and Complying Development Codes) 2008	Not Applicable
SEPP (Housing for Seniors or People with a Disability) 2004	Not Applicable
SEPP (Infrastructure) 2007	Not Applicable
SEPP (Kosciuszko National Park – Alpine Resorts) 2007	Not Applicable
SEPP (Kurnell Peninsula) 1989	Not Applicable
SEPP (Major Development) 2005	Not Applicable
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Not Applicable
SEPP (Miscellaneous Consent Provisions) 2007	Not Applicable
SEPP (Penrith Lakes Scheme) 1989	Not Applicable
SEPP (Port Botany and Port Kembla) 2013	Not Applicable

SEPP (Rural Lands) 2008	Not Applicable
SEPP (SEPP 53 Transitional Provisions) 2011	Not Applicable
SEPP (State and Regional Development) 2011	Not Applicable
SEPP (Sydney Drinking Water Catchment) 2011	Not Applicable
SEPP (Sydney Region Growth Centres) 2006	Not Applicable
SEPP (Urban Renewal) 2010	Not Applicable
SEPP (Western Sydney Employment Area) 2009	Not Applicable
SEPP (Western Sydney Parklands) 2009	Not Applicable

Appendix 2 – Section 117 Directions

Section 117 Direction	Compliance	Comments
1. Employment and Resources		
1.1 Business and Industrial Zones	Complies.	Whilst mindful that the proposal has the potential to reduce the total floor space for commercial uses, there is existing commercial zoned land within the area (including significant vacant land) to cater for future demand for commercial uses. Given the existing and vacant commercial zoned land in Scotts Head and the fact that 66% of the land has existing use rights for residential development, the possible reduction in commercial uses in Adin Street is considered negligible. It is further noted that the planning proposal does not remove the permissibility of commercial activities to be undertaken on the land.
1.2 Rural Zones	Not applicable.	
1.3 Mining, Petroleum Production and Extractive Industries	Not applicable.	
1.4 Oyster Aquaculture	Not applicable.	
1.5 Rural Lands	Not applicable.	
2. Environment and Heritage		
2.1 Environmental Protection Zones	Not applicable.	
2.2 Coastal Protection	Complies.	Given the minor nature of the planning proposal, it is not inconsistent with the applicable provisions of this direction (see

		also SEPP 71 discussion).
2.3 Heritage Conservation	Not applicable.	
2.4 Recreation Vehicle Areas	Not applicable.	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Complies.	The planning proposal is compliant with this direction as residential development is currently permissible within the B2 zoning in the form of shop top housing. The planning proposal will broaden the choice of housing types within the area to provide for existing and future housing needs.
3.2 Caravan Parks and Manufactured Home Estates	Not applicable.	
3.3 Home Occupations	Not applicable.	
3.4 Integrating Land Use and Transport	Complies.	The proposal will not impact upon transport as it simply seeks to reflect the existing land uses of the land.
3.5 Development Near Licensed Aerodromes	Not applicable.	
3.6 Shooting Ranges	Not applicable.	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Complies.	The land is partially mapped as having the potential for Class 5 Acid Sulfate Soils. Any future development should have regard to the potential for ASS.
4.2 Mine Subsidence and Unstable Land	Not applicable.	
4.3 Flood Prone Land	Not applicable.	
4.4 Planning for Bushfire Protection	Not applicable.	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Complies.	The proposal is not inconsistent with the objectives of the Mid North Coast Regional Strategy with no specific provisions of this strategy required to be

		implemented as part of this Planning Proposal. The proposal will allow a range of housing types and densities (including affordable housing) within an existing urban area that is consistent with the actions for settlement and housing. The proposal does not increase the need for additional infrastructure to be constructed. The proposal is also consistent with the economic development and employment growth actions of the Mid North Coast Regional Strategy as the proposal does not inhibit the potential for commercial activities to be undertaken on the land, if anything it could be argued it improves them as the planning proposal has the potential to facilitate home-based employment opportunities.
5.2 Sydney Drinking Water Catchments	Not applicable.	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable.	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable.	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)(Revoked 18 June 2010)	Not applicable.	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)	Not applicable.	

5.7 Central Coast (Revoked 10 July 2008)	Not applicable.	
5.8 Second Sydney Airport: Badgerys Creek	Not applicable.	
5.9 North West Rail Link Corridor Strategy	Not applicable.	
6. Local Plan Making		
6.1 Approval and Referral Requirements	Complies.	The planning proposal does not create the need to obtain the concurrence, consultation or referral of a Minister or public authority in future development applications.
6.2 Reserving Land for Public Purposes	Complies.	The planning proposal does not create, alter or reduce existing zonings or reservations of land for public purposes.
6.3 Site Specific Provisions	Not applicable.	
7. Metropolitan Planning		
7.1 Implementation of the Metropolitan Plan for Sydney 2036	Not applicable.	

Appendix 3 – Maps

