

Upper Hunter Local Environmental Plan 2013 Murrurundi B4 Mixed Use Amendment

Proposal Title : **Upper Hunter Local Environmental Plan 2013 Murrurundi B4 Mixed Use Amendment**

Proposal Summary : **The Planning Proposal will determine whether land along Mayne Street (New England Highway), Murrurundi should be rezoned from R1 General Residential to B4 Mixed Use under the Upper Hunter Local Environmental Plan 2013. It is proposed to amend the floor space ratio map and height of buildings map so that the land has a maximum floor space ratio of 1:1 and maximum building height of 10 metres.**

The planning proposal also proposes two additional permitted uses to recognise and allow the potential expansion of bus depot at Boyd Street and vehicle body repair station at Mayne Street, Murrurundi.

PP Number : **PP_2015_UHUN_001_00**

Dop File No :

15/04197

Proposal Details

Date Planning Proposal Received : **16-Mar-2015**

LGA covered :

Upper Hunter

Region : **Hunter**

RPA :

Upper Hunter Shire Council

State Electorate : **UPPER HUNTER**

Section of the Act :

55 - Planning Proposal

LEP Type : **Precinct**

Location Details

Street : **Various properties along Mayne Street**

Suburb : **Murrurundi**

City : **Upper Hunter**

Postcode : **2337**

Land Parcel :

Street :

Suburb :

City :

Postcode :

Land Parcel : **Additional Permitted Use - Existing bus depot located at Lots 1 and 2, Section 5, DP 758738, and Lot 1 DP 742085, Boyd Street, Murrurundi,**

Street :

Suburb :

City :

Postcode :

Land Parcel : **Additional Permitted Use - Existing vehicle body repair workshop located at Lot 1 DP 1 12569 and Lot 2 DP 770132, Mayne Street, Murrurundi,**

DoP Planning Officer Contact Details

Contact Name : **Trent Wink**
Contact Number : **0249042716**
Contact Email : **trent.wink@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Mathew Pringle**
Contact Number : **0265401139**
Contact Email : **mpringle@upperhunter.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 :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	Employment Land
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 : Yes			
If No, comment :			
Have there been meetings or communications with registered lobbyists? : No			
If Yes, comment :			

Supporting notes

Internal Supporting Notes : **The zoning of the land was recently changed from 2(v) Village under the former Murrurundi Local Environmental Plan 1993 to R1 General Residential under the Upper Hunter Local Environmental Plan 2013. As a consequence, a number of previously permitted land uses, including commercial premises, became prohibited.**

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives explains the purpose of the Planning Proposal, which includes:-**
a) reinstate a range of permissible land uses that were previously permitted on the land under the former Murrurundi Local Environmental Plan 1993,
b) more accurately reflect the diversity of existing land uses present,
c) provide greater flexibility and opportunity for business growth and development,
d) encourage the establishment of innovative and creative businesses that respond to market needs, and
e) promote a diverse mix of land uses to reinforce the village character and appeal of Murrurundi.

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

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

Comment : **The Planning Proposal aims to rezone land along Mayne Street (New England Highway), Murrurundi from R1 General Residential to B4 Mixed Use under the Upper Hunter Local Environmental Plan 2013. It is proposed to amend the floor space ratio map and height of buildings map so that the land has a maximum floor space ratio of 1:1 and maximum building height of 10 metres. This is consistent with the development controls applying to other land zoned B4 Mixed Use in the Upper Hunter Local Government Area.**

The planning proposal also proposes two additional permitted uses to recognise and allow the potential expansion of the following uses:-

- 1. Existing bus depot located at Lots 1 and 2, Section 5, DP 758738, and Lot 1 DP 742085, Boyd Street, Murrurundi, and**
- 2. Existing vehicle body repair workshop located at Lot 1 DP 1 12569 and Lot 2 DP 770132, Mayne Street, Murrurundi.**

The current planning proposal is unclear whether the land subject to the additional permitted uses will retain the existing residential zoning. Council advises that it wants to retain the residential zoning for the existing bus depot and rezone the vehicle repair workshop from R1 General Residential to B4 Mixed Use to be consistent with surrounding properties. The existing land uses will remain prohibited in both zones. It is recommended that the planning proposal and draft zoning maps be updated before commencing community consultation.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.2 Rural Zones**

* May need the Director General's agreement

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

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

d) Which SEPPs have the RPA identified? **SEPP No 55—Remediation of Land**

e) List any other matters that need to be considered : **SEPP 55**
Council has considered the requirements of SEPP 55 and advises that the planning proposal does not trigger the need for any remediation or further investigation of land contamination as the additional land uses permitted in the proposed B4 Mixed Use zone are no more sensitive to land contamination than the uses currently permitted in the R1 General Residential zone.

Minister's s117 Directions

Direction 1.1 Business and Industrial Zones

The planning proposal is inconsistent with this Direction 1.1 because it rezones land and includes two additional permitted land uses without being in accordance with an endorsed strategy.

The Upper Hunter Land Use Strategy endorsed by the Director General on 21 January 2010, recognises the potential to rezone some land along the highway frontages to a mixed use zone to provide for ancillary commercial business and tourist activities. Council's strategy is not being used as the basis to approve this inconsistency because it didn't specifically identify the subject lands as a new employment area.

The planning proposal aims to reinstate a number of previously permitted land uses, including commercial premises, under the previous 2(v) Village zoning under Murrurundi Local Environmental Plan 1993. Council's land use map identifies a mixture of commercial land uses operating along Mayne Street, such as registered club, community facilities, café and medical centre. The proposed B4 Mixed Use zoning is considered suitable in this locality and will continue to permit dwelling houses and potential commercial opportunities to support the Murrurundi town centre.

It is recommended that the Secretary's delegate approve this inconsistency as a matter of minor significance. The planning proposal is considered consistent with the underlying objectives of this direction, which encourages employment growth in suitable locations and to support the viability of centres.

2.3 Heritage Conservation

The planning proposal is consistent with this direction. It will not affect the existing heritage provisions of the Upper Hunter Local Environmental Plan 2013 and is unlikely to lead to any adverse impact on the significance of heritage items or the conservation area.

3.1 Residential Zones

The planning proposal is consistent with this direction. The proposed B4 Mixed Use zone will continue to permit residential accommodation with consent.

4.3 Flood Prone Land

The planning proposal is considered consistent with this direction. The proposed B4 Mixed Use zoning will not result in an increased flood risk to development relative to that under the existing residential zoning of the land. The planning proposal does not adjust the existing flood planning provisions of the Upper Hunter Local Environmental Plan 2013.

6.3 Site Specific Provisions

The planning proposal includes two additional permitted land uses to allow for future enlargement and expansion of those uses. The planning proposal is considered consistent with this direction as it will permit the existing land uses on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

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

If No, explain :

It is recommended that the Gateway determination approve the planning proposal's inconsistency with Direction 1.1 Business and Industrial Zones.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has already undertaken extensive community consultation and held two public meetings to discuss the proposed B4 Mixed Use zoning. In response to community concerns the proposed B4 zoning has been extended along Mayne Street to provide greater opportunity for commercial development and employment opportunities. Also, the planning proposal proposes two additional permitted uses to recognise and allow the potential expansion of bus depot at Boyd Street and vehicle body repair station at Mayne Street, Murrurundi.

It is recommended that Council exhibit the planning proposal for 28 days to provide sufficient time for the community members unable to attend the public briefing to form an opinion about the planning proposal.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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 :

Principal LEP completed

Assessment Criteria

Need for planning
proposal :

Yes. The preparation of a Planning Proposal is the most appropriate mechanism to investigate whether the subject land should be rezoned and whether to include two additional permitted land uses under Schedule 1 to allow for future enlargement and expansion of those uses.

Identifying the existing transport depot in Boyd Street and vehicle body repair workshop in Mayne Street as additional permitted uses in Schedule 1 of the Upper Hunter LEP 2013 is considered to be the most appropriate way of protecting the existing land uses whilst allowing for future business expansion.

Council considered permitting transport depots and vehicle body repair workshops with consent in the B4 Mixed Use land use table but this has potential negative consequences for other land zoned B4 Mixed Use throughout the Upper Hunter Shire.

It is possible to rely on existing use rights under the Environmental Planning and Assessment Act 1979 to ensure their lawful continuance, however there are limitations imposed by the Act in relation to the enlargement, expansion, intensification or change of an existing use and there is a degree of uncertainty regarding the continuance of a use where a use ceases for a period of time.

The planning proposal is considered consistent with the Department's draft practice note, which advises that Schedule 1 should only be used if it can be demonstrated the proposed land use is appropriate on the particular parcel of land, but not generally within the zoning.

Upper Hunter Local Environmental Plan 2013 Murrurundi B4 Mixed Use Amendment

Council has demonstrated that the use of schedule 1 is appropriate and the Department supports the proposed additional permitted land uses to recognise and allow the potential expansion of these businesses.

It is recommended that the Gateway determination requires consultation with Roads and Maritime Services, because Mayne Street is the New England Highway, which runs through Murrurundi. Roads and Maritime Services may have concerns about the zone change and reinstating a number of permissible land uses that were previously permitted on the land under the former Murrurundi Local Environmental Plan 1993.

Consistency with strategic planning framework :

The Planning Proposal is not the result of a strategic study or report.

One of the objectives of the Upper Hunter Strategic Regional Land Use Plan 2012 is to diversify the region's economy and build economic resilience. The planning proposal is consistent with this objective by providing greater opportunities and flexibility for future business development in Murrurundi and supporting the growth of local tourism, retail and cottage industries by removing existing zoning restrictions.

The endorsed Upper Hunter Land Use Strategy, recognises the potential to rezone some land along the highway frontages to a mixed use zone to provide for ancillary commercial business and tourist activities. However it does not identify any specific lands as a new employment area.

The proposed B4 Mixed Use zoning more accurately reflect existing development in the area and will facilitate the future development of compatible land uses (such as tourism development) to support the Murrurundi town centre.

Environmental social economic impacts :

The proposal should have a net community benefit by providing employment opportunities. Business growth and development along the New England Highway should also support the Murrurundi town centre.

Recognising the additional permitted uses under Schedule 1 will provide the land owners with greater certainty regarding the continuation, expansion, alteration or change of existing uses by eliminating the reliance on existing use rights.

The planning proposal is unlikely to have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitats.

Assessment Process

Proposal type :	Precinct	Community Consultation Period :	28 Days
-----------------	-----------------	---------------------------------	----------------

Timeframe to make LEP :	9 months	Delegation :	RPA
-------------------------	-----------------	--------------	------------

Public Authority Consultation - 56(2) (d) :	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 :

Upper Hunter Local Environmental Plan 2013 Murrurundi B4 Mixed Use Amendment

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 1_2014 proposed Amendment to Upper Hunter LEP 2013 Rezone Part Mayne St Murrurundi Version 03.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported and Council be given the Minister's plan making delegations. Council is unable to use the Minister's plan making delegations if there is an unresolved objection from another Government agency.

2. Update the planning proposal and the draft zoning maps to retain the R1 General Residential zones for the existing bus depot located at Lots 1 and 2, Section 5, DP 758738, and Lot 1 DP 742085, Boyd Street, Murrurundi.

3. Update the planning proposal and the draft zoning maps to rezone the existing vehicle body repair located at Lot 1 DP 1 12569 and Lot 2 DP 770132, Mayne Street, Murrurundi from R1 General Residential to B4 Mixed Use to be consistent with surrounding properties.

4. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:

- (a) the Planning Proposal be made publicly available for 28 days;**
- (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department for Planning 2009).**

5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Roads and Maritime Services**

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. The Secretary (or delegate) approves the minor inconsistencies with the Minister's

Upper Hunter Local Environmental Plan 2013 Murrurundi B4 Mixed Use Amendment

S117 Direction 1.1 Business and Industrial Zones as a matter of minor significance. The planning proposal is considered consistent with the underlying objectives of this direction, which encourages employment growth in suitable locations and supports the viability of commercial centres.

7. 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.

8. The timeframe for completing the LEP is 9 months from the date of the Gateway Determination.

Supporting Reasons :

The proposed B4 Mixed Use zoning more accurately reflects existing development in the area and will facilitate the future development of compatible land uses (such as tourism development) to support the Murrurundi town centre.

In the circumstances, the Department supports the proposed additional permitted land uses to recognise and allow the potential expansion of these businesses. It is agreed that permitting transport depots and vehicle body repair workshops with consent in the B4 Mixed Use land use table has potential negative consequences for other land zoned B4 Mixed Use throughout the Upper Hunter Shire.

Signature:



Printed Name:

K O'Flaherty Date: 20/3/15