

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

Proposal Title : **Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct**

Proposal Summary : **The Planning Proposal aims to amend the Building Height and Floor Space Ratio controls in the Forster Civic Precinct. The proposed commercial, residential and community purpose development is permissible in the B4 Mixed Use Zone.**

PP Number : **PP_2017_MCOAS_004_00** Dop File No : **17/04556**

Proposal Details

Date Planning Proposal Received : **29-Mar-2017** LGA covered : **Mid-Coast**

Region : **Hunter** RPA : **Mid-Coast Council**

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

LEP Type : **Precinct**

Location Details

Street : **Lake and West Street**

Suburb : City : **Forster** Postcode :

Land Parcel : **Lot 11-13 DP 47987),**

DoP Planning Officer Contact Details

Contact Name : **Paul Maher**

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RPA Contact Details

Contact Name : **Alexandra MacVean**

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DoP Project Manager Contact Details

Contact Name : **Paul Maher**

Contact Number : **0249042719**

Contact Email : **paul.maher@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Hunter Regional Plan 2036** Consistent with Strategy : **Yes**

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

MDP Number :		Date of Release :	
Area of Release (Ha) :	0.60	Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	0	No. of Dwellings (where relevant) :	145
Gross Floor Area :	0	No of Jobs Created :	260

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 :

External Supporting Notes : **BACKGROUND**

History:

The site was previously used for a public school which has since been demolished. It is primarily cleared, with several mature trees remaining.

A Development Application (DA 856/2006) was approved for a five (5) storey residential flat building for 134 units on the land in 2007. It was commenced in 2007 but did not proceed.

Council prepared an Urban Design Density Review and Civic Precinct Master Plan in 2008 which identified the adjoining site as the preferred civic precinct, to build on its waterfront location and to provide an active link with the town centre's coastal walk. The subject site was identified in those plans as being suitable for mixed use. Further analysis by council identified that there were commercial and natural constraints to the Civic Precinct being built on the adjoining site (see further detail under Consistency with Strategic Planning Framework).

The Forster Tuncurry Employment Lands Implementation Strategy 2009 recommended the subject site be zoned B4 Mixed Use zone and this was implemented through the making of the Great Lakes LEP 2014. Council acquired the land in 2014 to realise its vision for a Civic Precinct.

The proposal:

At Council's 28 April 2015 meeting it resolved to examine a new Civic Precinct incorporating community and commercial uses on the subject site and investigate a private partnership to deliver community facilities in return for development of the remainder of the site.

In these negotiations, it was determined that it would be feasible to develop the subject site as intended but only with increased yields which would require changes to the building height and floor space controls.

MidCoast Council was formed after this decision in May 2016.

The accompanying development application has not yet been lodged and will be finalised and submitted to Council subject to the Gateway Determination. Council intends to exhibit the Planning Proposal and Development Application concurrently which should assist the community to understand the intended design/development outcome on the site.

A Planning Agreement or similar is being negotiated between Midcoast Council and a private developer to construct the Civic Precinct community facilities including library, meeting rooms and visitor information centre in exchange for the rights to develop an entertainment facility, retail and seniors housing on the site.

The proposal will provide the following facilities;

- 1,700 m2 library space;
- 485 m2 community space;
- 400 m2 community lounge;
- Visitor information centre;
- Car parking;
- Supermarket;
- Shops;
- Restaurants;
- Cinema;
- Hotel;
- Nightclub;
- Child Care Centre;
- Gymnasium; and
- Residential Apartments (145 seniors living units)

In January 2017 an independent review of the Planning Proposal was carried out by RPS Group which found the proposal had strategic merit (Review attached).

DELEGATIONS

Council has not requested use of delegations for this Planning Proposal as the proposal is over Council-owned land. It is recommended that Council not be granted plan making delegations to avoid any perceived conflict of interest.

Adequacy Assessment

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

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

Comment : The objective of the Planning Proposal is to amend development controls under Great Lakes LEP 2014 over Lots 11-13 DP 47987 at the corner of Lake and West Streets, Forster as follows:

- Increase the Height of Building controls applying to the subject land under Clause 4.3
- Increase the Floor Space Ratio controls applying to the subject land under Clause 4.4

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

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

Comment : It is proposed to amend Great Lakes LEP 2014 as follows;

- Amend the Great Lakes LEP 2014 Height of Building Map from 18, 21 and 24 metres to 26 and 33 metres across the site.
- Amend the Great Lakes LEP 2014 Floor Space Ratio Map from 2:1 to 3:1 over the site.

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

It is acknowledged that the proposed development is permissible with consent in the B4 Mixed Use Zone and therefore a zone change is not required.

Information and education facilities are permissible with consent within the B4 Mixed Use Zone which means a building or place used for providing information or education to visitors, and includes a library, visitor information centre and the like.

The proposed variation to heights and FSR could potentially be dealt with via a variation to development standards under Clause 4.6 of the Great Lakes LEP 2014. Council has advised it is proceeding with the Planning Proposal to allow the community to comment on the proposed development control amendments.

A planning proposal is considered the most effective and timely method available to implement this proposal.

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

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

6.3 Site Specific Provisions

5.10 Implementation of Regional Plans

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 44—Koala Habitat Protection

SEPP No 65—Design Quality of Residential Flat Development

SEPP No 71—Coastal Protection

SEPP (Building Sustainability Index: BASIX) 2004

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

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

S117 DIRECTIONS

The Planning Proposal is consistent with most s117 Directions or they are not applicable. Further consideration of relevant Directions is provided below:

2.3 Heritage Conservation – the Planning Proposal is consistent with Direction 2.3 as the existing LEP provisions contain terms to facilitate conservation. Council advises that a 2006 heritage assessment prepared by the Forster Local Aboriginal Land Council (Aboriginal Heritage Assessment, Corner of Lake and Middle Streets, Forster 2006) did not identify any Aboriginal objects or places. This assessment was considered adequate by Office of Environment and Heritage (OEH) and further archaeological assessment is not required. However due diligence assessment will be required through the Development Application process. The previous Aboriginal heritage assessment should be exhibited as part of the Planning Proposal, along with the relevant advice from OEH.

4.1 Acid Sulfate Soils (ASS) – the Planning Proposal is consistent with Direction 4.1 under clause (6) Council has considered Acid Sulfate Soils studies for the site (2006 and 2016). While the Great Lakes LEP 2014 ASS map identifies class 3 and 4 soils on the site, the on-site geological assessment (2016) did not detect actual or potential ASS. The relevant ASS studies are to be exhibited as part of the Planning Proposal.

4.3 Flood Prone Land – Great Lakes LEP 2014 Flood Planning map identifies a small part of the site is marginally identified as Flood Prone Land. The Planning Proposal is

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

inconsistent with clause (6)(c) as it permits a significant increase in the development of the land by increasing the FSR from 2:1 to 3:1. The inconsistency is considered of minor significance as the portion of the land affected is minor and any impacts can be identified and addressed through the development design and assessment process.

The inconsistency is considered of minor significance and agreement of the Secretary's delegate is required.

5.10 Implementation of Regional Plans - The Planning Proposal is consistent with Direction 5.10 (refer to Assessment Criteria).

STATE POLICIES

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Seniors Housing is permissible with consent under the SEPP as the land is zoned primarily for urban purposes. The Planning Proposal is consistent with the State policy.

SEPP 44 – the Planning Proposal is consistent with the State policy as there are no koala feed trees identified on site so it is not potential or core koala habitat.

SEPP 65 Design Quality of Residential Apartment Development – The development will be designed to comply with the requirements of SEPP 65.

SEPP 71 – The site is identified as being in the Coastal Protection Zone and is therefore in a sensitive coastal location. Council indicates the proposal is consistent with the State policy as it will retain and enhance the public foreshore access. Council has advised pedestrian paths in the Civic Precinct development will connect to planned shared path/cycleway connection along Lake Street (along the opposite side of the road to the development) to the lakefront. The Gateway has been conditioned to update the Planning Proposal to identify these proposed linkages and demonstrate how access to the coastal walk into the town centre will be enhanced.

SEPP (Infrastructure) 2007 – Council indicates that the proposed development application will be identified as Traffic Generating Development under Schedule 3 of the State policy and referred to Roads and Maritime Services. This will be carried out as part of the development application process.

SEPP (State and Regional Development) 2000 – the proposed development is identified by Council as Regional Development under the State policy as the capital investment value exceeds the threshold and therefore the Joint Regional Planning Panel will be the consent authority for the development application.

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The maps included in the Planning Proposal are adequate for exhibition as they illustrate the building height and FSR controls before and after the proposed amendment in relation to the subject site. Standard instrument maps will be prepared when a Legal Opinion is sought on the draft Plan.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed a 28 day consultation period. This is supported. Additional material to be included in the public exhibition is as follows;

- Forster LALC – Aboriginal Heritage Assessment, Corner of Lake and Middle Streets,

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

Forster (Forster LALC 2006)

- Geotechnical Investigation - Proposed Residential Development corner of Lake, West and Middle St, Forster (Coffey 2006)
- Geotechnical Assessment - Proposed Civic Precinct corner of Lake, West and Middle St, Forster (Regional Geotechnical Solutions 2016)
- Ecological Assessment - Old Forster Primary School, Corner Lake and Middle Street, Forster (Orogen Pty Ltd 2006)

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons :

PROJECT TIMELINE

Council's project plan indicates that it will take 9 months for the Planning Proposal to be made. Given delegations have not been issued and the time required to prepare LEP maps, a 12 month completion timeframe is recommended. This will not preclude Council from completing the proposal earlier, if possible.

DELEGATION AUTHORISATION

Council has accepted plan-making delegation for Planning Proposals generally. However Council does not seek to exercise delegations for this Planning Proposal because the land is owned by Council and it is necessary to have a separation of powers in such instances.

It is recommended that authority to exercise delegations not be issued in this instance.

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 Great Lakes LEP 2014 was prepared in accordance with the Standard Instrument.

Assessment Criteria

Need for planning proposal :

The purpose of the Planning Proposal is to facilitate a mixed use development of community facilities, retail uses and seniors living units. Council maintains there will be significant benefit from these community uses being located in one precinct and that the combined development will provide a catalyst for new development elsewhere in Forster town centre.

There are few vacant sites of a size and scale in Forster town centre that can accommodate the combination of uses proposed.

The proposed land uses are permitted within the B4 Mixed Use Zone and therefore there is no zone change required. The stated need for the Planning Proposal is to render the development financially feasible for the private development partner through altering the development controls over the site. Delivering the community facilities is leveraged off increasing the FSR and building height development controls so the whole development can be accommodated on one site.

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

The Planning Proposal notes that Clause 4.6 Exceptions to Development Standards is available to vary standards where it can be justified that compliance is unreasonable and the outcome is in the public interest. However, as the land is council-owned, a transparent process is supported to avoid any perceived conflict of interest and allow the community to comment on the proposed changes.

Under Great Lakes LEP 2014 it is also possible to achieve a 10% height increase under (Clause 4.3 Height of buildings) and a 10% FSR increase (under Clause 4.4 Floor space ratio) in the B4 Mixed Use zone if lift access is provided to all levels in compliance with AS 4299-1995 Adaptable housing. Clauses 4.3 and 4.4 are currently being updated to require buildings to be designed in accordance with the Liveable Housing Design Guidelines, instead of AS4299-1995. Council states that using these clauses to increase the height and FSR is not satisfactory in this instance as it will not meet the development feasibility objectives.

A Planning Proposal is considered the most effective and timely method available to implement this objective.

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

Consistency with strategic planning framework :

HUNTER REGIONAL PLAN 2036 (HRP 2036)

The proposal is consistent with HRP 2036 Directions relating to tourism, healthy built environments, compact settlement, centres growth, recreation and open space, housing diversity and delivering community infrastructure. The HRP 2036 identifies the tourist economy and ageing communities as two of the primary drivers of Midcoast's future economic growth. The proposal will provide suitable accommodation for seniors and community facilities that support the Forster town centre.

An explanation of how the proposed development will integrate walking and cycling networks in accordance with Action 17.3 of the Plan is contained above in State Policies under SEPP 71.

The HRP 23036 identifies Forster as part of the Forster-Tuncurry strategic centre in Midcoast Council Local Area Narrative. Its regional priorities are maintaining retail, civic and tourism activities as well as consolidating commercial activities in existing precincts and enhancing facilities for the ageing population. The proposal is consistent with these priorities and builds on the existing provision of aged services. The site is within 400 metres of the traditional town centre and is considered to be within the existing centre.

LOCAL STRATEGIC PLANNING FRAMEWORK

The proposal is consistent with Council's local strategic planning framework.

URBAN DESIGN DENSITY REVIEW 2008 (UDDR)

The UDDR analysed the urban form of Forster Tuncurry and recommended several improvements to the urban structure of the town centre. The UDDR recommended the adjoining site, be identified as a Civic Precinct site and the subject site as part of a mixed use zone. The Civic Precinct was proposed to activate and revitalise the area and build on the qualities of the waterfront. The UDDR recommended incentives be put in place for seniors housing in the area due its proximity to services and facilities.

CIVIC PRECINCT MASTER PLAN

Following the UDDR, a master plan was produced in 2008 for the Civic Precinct which showed the civic buildings and spaces on the adjoining site and commercial and residential development on the subject site.

Council has advised that its subsequent investigations into the adjoining site concluded that the affects of its size and gradient were not conducive to collocating community facilities on one level which limited its ability to be developed as the Civic Precinct. Council subsequently acquired the subject site in 2014 to advance its Civic Precinct concept.

As a consequence of Council deviating from the UDDR's findings, the adjoining site remains zoned SP2 (Public Facility) and there is no current plan for its future public use. The adjoining site contains the Visitor Information Centre (VIC) and Police Station. Once the VIC building is relocated, the Police Station will be the only facility on the street block. Council intends to consult with the community in the future to identify the most appropriate use for the adjoining site.

FORSTER TUNCURRY EMPLOYMENT LANDS IMPLEMENTATION STRATEGY 2009 (FTELIS)

The FTELIS provides a framework to plan retail, commercial, bulky goods and industrial activities within Forster - Tuncurry. The site was zoned B4 Mixed Use as a result of the FTELIS recommendations.

Environmental social economic impacts :

ENVIRONMENTAL

There are a small number of native and introduced trees on the site which are remnant

playground shade trees. The ecological assessment prepared for DA 856/2006 identified a threatened specimen which is not part of a viable local population and will be retained as part of the proposed development. The Department is satisfied that there is unlikely to be adverse environmental impacts from the Planning Proposal and the Development Application process will adequately address this issue.

SOCIAL

The Department is satisfied that any potential adverse social impacts as a result of the loss of the current library from the local centre/administrative centre on Breeze Parade Forster will be short term and out-weighed by the benefits of the new Civic Precinct.

ECONOMIC

The supporting HillPDA Economic Impact Assessment report (HillPDA 2016) identifies the following positive economic benefits as a result of the proposed development:

- Increase in local expenditure of \$3.4m and \$3.04m tourist spending per annum;
- The inclusion of a 1,000m² express supermarket in the complex will fill part of the estimated 1,775m² undersupply of supermarket floor space; and
- Creation of 260 new jobs and 236 construction jobs.

The report acknowledges there is likely to be an impact on local businesses such as cinemas and on the main street (Wharf Street) from the shops and supermarket in the development. The Department is satisfied that the increase in height and FSR will not present a more significant impact than what is currently permissible with consent in the B4 Mixed Use zone.

There is sufficient evidence to agree that there will be positive benefits of the development with potentially minor environmental impacts. Council also provided additional material regarding the negotiation process to determine the joint-venture development arrangements. It explains that a single development application will be lodged for the two stages; Stage 1 including construction of the community facilities and Stage 2 includes the private/commercial part of the development. The developer will construct the community portion and then transfer this to Council through Strata Subdivision. The agreement specifies that Council will not be entitled to any revenue or costs arising from the private portion of the development.

Through negotiations with the private developer, Council maintains that increasing the height and FSR controls under Great Lakes LEP 2014 is required to achieve the proposed development's size and scale. However, further justification is required to determine that the development is not feasible without the increase in size and scale. The Planning Proposal should be updated to justify the the amendment in relation to development feasibility.

Consultation with the NSW Office of Local Government should also occur around the public/private partnership process and public benefits associated with the proposal.

URBAN DESIGN

The B4 Mixed Use zone applied in a midblock approach presents overshadowing impacts on the adjoining lots to the south-east. Shadow diagrams indicate most properties will receive at least three (3) hours of sunlight in midwinter. The zone adjoining to the east is zoned R3 Medium Density Residential Zone and permits a maximum building height of 12 metres and is currently developed for tourist accommodation in the form of multi-dwelling housing. The existing development in the B4 Mixed Use portion immediately to the south contains a Department of Education office. It is considered that any adverse impacts or community concerns relating to the increased height could potentially be addressed through a revised Planning Proposal following exhibition. In addition, these development control matters can be addressed more comprehensively through the development

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

assessment process.

The development is supported by the Forster Civic Centre Project Urban Design Analysis Report (UDAR) 2016 attached to the Planning Proposal which will be placed on public exhibition with the Planning Proposal. The UDAR recommends Council also review the height controls over the Department of Education building to the south. It is agreed that further analysis is likely to result in a more integrated approach to height controls in this part of Forster town centre through a future LEP Amendment.

The UDAR provided design analysis including view analysis which concludes that taller buildings on key sites are justified in creating a stronger presence and contribute to the CBD legibility. It is considered that the proposed taller building can provide positive benefits in this regard through quality building design subject to the overshadowing impacts being managed satisfactorily.

LOCAL STREET NETWORK

The Forster town centre street pattern is characterised by an east west street block configuration divided by east-west rear service lanes. The subject site's street block has a rear land that does not extend through the subject site and connect to West Street. The DCP Master Plan (2008) for the precinct indicated a new vehicle linkage from Lake Lane extended by a right hand turn along the eastern boundary to connect to Lake Street and provide access to the proposed mixed use development.

Contrary to the DCP and Master Plan, the final proposal does not incorporate a vehicle linkage between Lake Street and Lake Lane to ensure Crime Prevention Through Environmental Design (CPTED) principles are adhered to for the community uses and surrounding common areas on the site. The east-west lane way alignment with Lake Lane is proposed to be separated by landscaped gardens.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
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Timeframe to make LEP :	12 months	Delegation :	Minister
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Public Authority Consultation - 56(2)(d)

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 :

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

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 Urban Design Analysis Report andHIIIPDA Economic Impact Assessment report.pdf	Proposal	Yes
Attachment_ Letter to DPE seeking Gateway Determination - Forster Civic Precinct.pdf	Proposal Covering Letter	Yes
14-MARCH-2017-EXTRAORDINARY-MINUTES.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
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 6.3 Site Specific Provisions
- 5.10 Implementation of Regional Plans

Additional Information :

1. Prior to undertaking public exhibition, Council is to update the Planning Proposal to:
 - Explain Council's intentions for the previously identified Civic Precinct in terms of the objectives of the SP2 (Public Facility) zone;
 - Explain how the proposal will integrate with walking and cycling networks including the coastal walk into Forster town centre; and
 - Provide further information regarding the joint-venture development arrangements and how this relates to the increase in height and FSR controls.

2. The following studies are to be exhibited as part of the Planning Proposal;
 - Forster LALC – Aboriginal Heritage Assessment, Corner of Lake and Middle Streets, Forster (Forster LALC 2006)
 - Geotechnical Investigation - Proposed Residential Development corner of Lake, West and Middle St, Forster (Coffey 2006)
 - Geotechnical Assessment - Proposed Civic Precinct corner of Lake, West and Middle St, Forster (Regional Geotechnical Solutions 2016)
 - Ecological Assessment - Old Forster Primary School, Corner Lake and Middle Street, Forster (Orogen Pty Ltd 2006)

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

- (a) the planning proposal must be made publicly available for a minimum of 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to preparing local environmental plans (Department of Planning & Environment 2016).

4. Consultation is required with the Office of Local Government under section 56(2)(d) of the EP&A Act. The Office of Local Government is to be provided with a copy of the

Amendment to Great Lakes LEP 2014 to enable mixed-use development including 145 dwellings – Forster Civic Precinct

planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

5. 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 (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

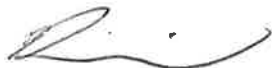
Supporting Reasons :

1. The PP should be a catalyst for growth in Forster town centre. It will provide community infrastructure and Seniors' accommodation needed for a growing, ageing population.

2. There is sufficient merit for the proposal to proceed to Gateway because;

- It is consistent with the State and local strategic planning framework;
- It will consolidate community services and activity in the Forster town centre;
- Provide seniors housing and community facilities in an accessible location; and
- Reinforce existing connections from the Civic Precinct to the existing town centre.

Signature:



Printed Name:

Robert Hodgkins

Date:

5/4/2017.