



Regional Manager
Department of Planning
PO Box 1226
NEWCASTLE NSW 2300

Our Ref: SP-LEP-46

Your ref: NEW 000233 – 1
10/05889

Contact: Mr Roger Busby
Telephone: (02) 6591 7254



10 August 2010

Dear Sir

**RE: PLANNING PROPOSALS FOR CURRENT LEPs – DRAFT AMENDMENT
NO. 46, FOLLYFOOT FARM PRECINCT, SOUTH FORSTER**

Reference is made to the letter from the Department of 16 March 2010 setting out the transitional provisions for current LEPs.

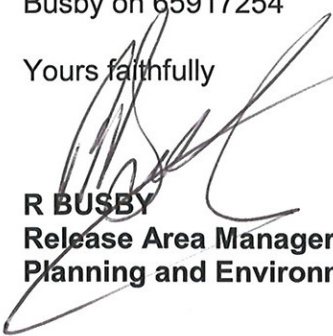
Council seeks a review of the considerable work undertaken for above draft LEP and requests that the draft plan be brought into the current Part 3 process. The draft LEP is to be exhibited from 22 October to 3 November in accordance with the s65 Certificate issued by the Department of Planning on 31 August 2010.

Council believes that it is important to the implementation of its strategic plans that the pending amending LEP continue as a Planning Proposal under the Gateway process. In this regard a Planning Proposal for this area is attached.

Given the considerable effort that has already been devoted to this area over recent years Council believes that the rezoning should now be finalised in as short a timeframe as possible. Rather than lose the current momentum by incorporation of the rezoning in the new Principal LEP for Great Lakes Council believes that it is appropriate for the deferred areas to continue as a separate amending LEP.

Should you have inquiries regarding Council's proposal please contact Mr Roger Busby on 65917254

Yours faithfully



R BUSBY
Release Area Manager
Planning and Environmental Services

Planning Proposal – Draft Amendment No. 46 to Great lakes local Environmental Plan 1996

Background

This Planning Proposal is for the transfer of draft Amendment No. 46 to Great Lakes Local Environmental Plan 1996 to the gateway process.

Draft Amendment No. 46 provides for urban expansion and the protection of important environmental features in the South Forster Release Area. This is achieved by rezoning about 30 of land from the current 1(c) Future Urban Investigation zone to 2(a) Low Density Residential, 2(b) Medium Density Residential and 7(a1) Environmental Protection.

Much of the land has been identified in the adopted Forster/Tuncurry Conservation and Development Strategy as a potential urban release area while the balance was identified as having environmental constraints. The rezoning is consistent with the South Forster Structure Plan that was adopted by Council in 2007.

Residential development adjoins the land to the west, to the south west a tourist facility has been approved and physically commenced and the land to the south is heavily vegetated. The Lakes Way forms the eastern boundary beyond which is further residential development and the balance of the South Forster Release Area.

Property Details

The draft LEP applies to Lot 2 DP 548504 and Lot 401 DP 773088, Tea Tree Rd, and Lots 21, 22, 23 and 24 DP 838699, Lot 402 DP 773088 and Lot 496 DP 1018916, The Lakes Way, South Forster.

A locality plan is contained in Attachment 1 and aerial images are contained in Attachment 2.

Status of Current Draft LEP

A Local Environmental Study has been prepared and this was forwarded to the Department of Planning along with a request for the issue of a s65 certificate on 3 June 2010. The Director-General of the Department of Planning issued a s65 certificate to exhibit the draft LEP on 31 August 2010. In issuing the certificate the Department advised that the inconsistency with s117 Direction 4.3 Flood Liable Land was of a minor nature and justified.

The draft LEP will be exhibited at Council's offices for 43 days from 22 September to 3 November 2010. To ensure that the community is aware of the exhibition Council will directly notify adjoining and nearby owners (approximately 40), place two advertisements in the local newspaper and issue press releases.

Council will also send the draft LEP and LES to DECCW, Hunter Central Rivers CMA, Mid Coast Water and the State Emergency Service.

INFORMATION REQUIRED TO BE SUBMITTED WITH PLANNING PROPOSALS

Part 1 - Objectives or Intended Outcomes

The objectives are to:

- A. Provide for the growth and efficient functioning of the future South Forster urban release area in accordance with Council's adopted Strategic Planning framework.
- B. Ensure sufficient land is available for a variety of housing types for the growth of the Forster/Tuncurry community.
- C. Ensure the protection of features of ecological importance.

The objectives will be achieved by rezoning the land for low and medium density residential and environmental protection purposes.

Part 2 - Explanation of provisions

The land use zones proposed to be applied to the land are:-

- Approximately 16ha of 2(a) Low Density Residential
- Approximately 6.5 ha of 2(b) Medium Density Residential – located in the northern section of the site near the neighbourhood shops, playing fields and community facilities.
- Approximately 7.5 ha of 7(a1) Environmental Protection over land that contains EEC, threatened fauna species, aboriginal midden and is low lying.

The draft LEP will also include special provisions to:

- Ensure Water quality objectives will be achieved for any development of the land and to ensure that arrangements satisfactory to Council have, or will be made, for the management of water quality treatment facilities.
- Allow an area in the cleared south western part of the site to be used for stormwater treatment and storage. The land in this part of the site is proposed to be zoned 7(a1) Environmental Protection. Normally this use would be prohibited in the zone but Council proposes, in this instance, to make the use permissible with approval.

The draft LEP to be exhibited by Council is contained in Attachment 3.

Part 3 - Justification

Section A - Need for Planning Proposal

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

The Forster/Tuncurry Conservation and Development Strategy, adopted by Council in 2003 nominated the land for urban expansion. In 2007 Council adopted the South Forster Structure Plan which updated the 1992 South Forster Planning Study. The Structure Plan provided guiding principles and a more detailed framework for development of the land.

The Precinct Plan from the South Forster Structure Plan for the draft LEP study area is contained in Attachment 4.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is only a limited amount of zoned residential land currently available for development in Forster and Tuncurry.

In 2005 the Forster/Tuncurry Housing Strategy estimated that at that time, there was about 7 to 8 years of land available for residential development. This included all existing residential lots, areas zoned but not subdivided and assumed that rezonings to allow a further 530 lots would be finalised in the next 2 to 3 years. The Housing Strategy stated that if not all the areas were released there would be a need to rezone further land in the next 2 to 3 years. Since this time not all the areas identified in the Housing Strategy have been released and the rezonings referred to in the Strategy have not been finalised. Therefore, if the market were more buoyant there would be a critical shortage of residential land in Forster and Tuncurry.

Rezonings currently underway in Forster/Tuncurry will yield about 800 lots if the full potential of each area is realised. This will still only cater for about 5 to 6 years in an average market.

To facilitate further growth and to enable choice in housing locations and styles and to cater for the various markets further land needs to be made available in different locations as soon as possible. Rezoning and development of the land will yield about 200 residential lots as well as opportunities for medium density housing.

Rezoning of the land is the only way to give a sound social, economic and environmental outcome for the community and to implement a key component of the South Forster Structure Plan.

Studies and Reports

The following studies, reports and investigations were drawn upon to prepare the LES and draft LEP:

- Austeco Environmental Consultants (February 2005) Review of Amelioration Measures for Squirrel Glider, Proposed Residential Development Lakes Way, Forster.
- Anne Clements and Associates Pty Ltd Environmental and Botanical Consultants (February 2005) Flora Assessment Lot 2 DP 548504, Lots 21 –

24 DP 838699, Lots 401 and 402 DP 773088 and WR 12790, The Lakes Way, Forster.

- Ecotone Ecological Consultants Pty Ltd (October 2004) Flora and Assessment for Local Environmental Study at Lot 2 DP 548504, Lots 21 – 24 DP 838699, Lots 401 and 402 DP 773088 and WR 12790, The Lakes Way, Forster.
- Archaeological Surveys and Reports Pty Ltd (November 2005) The Archaeological Investigations for Sites of Indigenous Significance at “Follyfoot Farm”, The Lakes Way, South Forster, NSW, Section 87 Consent # 2454
- Archaeological Surveys and Reports Pty Ltd (May 2007) The Archaeological Subsurface Investigation of PAD at “Follyfoot Farm”, The Lakes Way, South Forster, NSW, Section 87 Consent # 2454.
- Building Code and Bush Fire Hazard Solutions (December 2005) Bush Fire Hazard Assessment Report Proposed Residential Development Brookwaters Residential Estate.
- Coffey (May 2004) Proposed Rezoning for Residential Development Lots 401 and 402 DP 773088 The Lakes Way, South Forster, Urban Capability Assessment.
- Coffey (January 2005), Follyfoot Farm, Forster, Geotechnical Investigation.
- GHD (2006) Flooding Assessment and Water management Strategy, Follyfoot Study Area, South Forster.
- Worley Parsons (March 2010) Follyfoot Farm Rezoning - Alternate Flood Management Proposal and Stormwater Management Plan.
- BMT WBM (February 2010) Follyfoot Farm – Review of Floodplain and Stormwater Management Proposals.
- Worley Parsons (April 2010) Follyfoot Farm Rezoning – Revised Flood Management Concept.

Net Community Benefit

The Department, in issuing a s65 Certificate and in accepting the s117 inconsistency must have been satisfied that there was a net community benefit stemming from the draft LEP.

Section B - Strategic Planning Framework

State and Regional Planning Framework

The land is nominated in the Mid North Coast Regional Strategy Growth Area Maps as an urban area with constraints. Detailed studies done as part of the LES process have enabled Council to identify and quantify areas that are constrained and areas that are suitable for development.

Is the proposal consistent with Council's Community Strategic Plan?

Council has not as yet produced its final Community Strategic Plan but has exhibited a draft plan that was prepared after considerable community engagement. The draft LEP is consistent with two of the two Key Directions that emerged as critical issues from the community engagement process the two Key Directions are "Embracing and Protecting Our Natural Environment" and "Planning for Balance".

State Environmental planning Policies

There is one SEPP that is of relevance to the subject land, namely SEPP No 71 – Coastal

There is only one SEPP applicable to the land, namely SEPP No 71 – Coastal protection. The draft LEP is consistent with this SEPP.

S1127 directions

The Department has advised Council that the inconsistency with s117 Direction 4.3 Flood Liable Land was of a minor nature and justified.

Section C – Environmental, social and economic impact

The main issues have been identified and will be addressed as set out below.

Habitat and vegetation Significance

The vegetated area nearer the southern boundary is habitat for threatened species and also contains an Endangered Ecological Community listed under the Threatened Species Conservation Act. This vegetated area comprises part of a habitat node that is more broadly spread over the land in another ownership to the south and on land to the east on the opposite side of The Lakes Way. No development should be permitted within this area and it should be ascribed an environmental protection zone.

Flooding

A substantial part of the study area is affected by flooding in the 1% event from both Wallis Lake and Dunns Creek. Flooding from Dunns Creek is significant because this water course is the main conveyance channel for stormwater from the upstream catchment of South Forster.

A corridor along Dunns Creek to convey flood water through the site will be required. This corridor should be landscaped as a riparian corridor provide the landscaping does not impede the flow of water to extent that backup of water occurs. Detailed design will have to occur at the development stage.

Even with the creation of the flood conveyance corridor along Dunns Creek it will still be necessary to fill much of the study to above the 1% flood level. Advice from the consultants acting for the proponent of the rezoning is that in the vicinity of 100,000 m³ of fill will be required.

Sea Level Rise

Much of the land will be affected by sea level rise and any development of the area will have to comply with the Government's benchmark and any applicable guidelines. It is possible that for some of the land the cost of complying with the government's requirements, especially for the raising of the land by filling, may be prohibitive. This can only be determined at the time development is contemplated. It is reasonable to rezone as large an area as is reasonable,

subject to other constraints, so that an evaluation can be undertaken at the appropriate time.

Water Quality

All stormwater runoff from future urban development on the land will ultimately discharge to the Pipers Bay area of Wallis Lake. Studies done as part of the Wallis Lake Estuary Management Plan and Wallis Lake Catchment Management Plan have identified Pipers Bay as an area of concern for water quality. Stormwater discharge from urban development the study area will therefore have to be of the highest possible quality so that there is no further deterioration of water quality in this receiving water.

Best-practice water quality management systems, such as artificial wetlands, bio-swales and rain gardens will have to be constructed to treat urban runoff before it enters the lake. Council will set the criteria and standards that will have to be met for these systems.

Aboriginal heritage

Investigations found a subsurface Aboriginal midden in the western part of the study area. Council considered various options to manage the midden. Consultation with the Forster Local Aboriginal has resulted in the following outcome

- Preservation of the midden on the southern side of the creek but acceptance that development can occur on the northern side.
- Ensure that a buffer of no less than 30m is provided around the preserved midden.
- Undertaking of subsurface investigations of the part of the midden on the northern side of the creek after obtaining a permit from DECC.

Section D – State and Commonwealth Interests

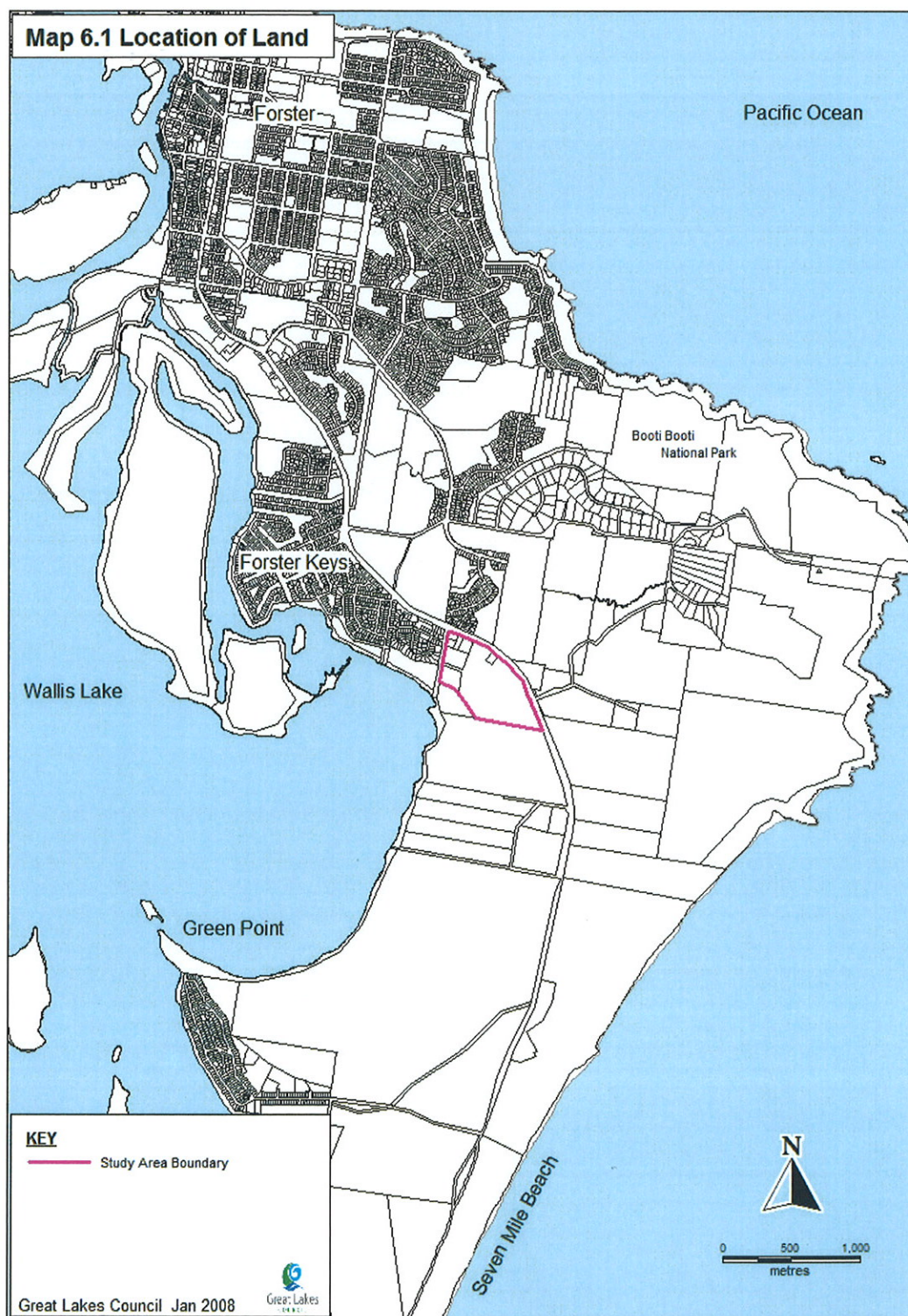
Infrastructure is available to service the development. The following Public Authorities were consulted in the preparation of the draft LEP:

- Rural Fire Service
- Hunter Central Rivers Catchment Management Authority
- Department of Environment Climate Change and Water
- NSW Office of Water (numerous ongoing consultation as water management strategy has evolved)
- Infrastructure Planning and Natural Resources
- Department of Primary Industries
- Forster Local Aboriginal Land Council
- Midcoast Water
- Roads and Traffic Authority
- Country Energy

Party 4 - Community Consultation

This is addressed under the section above "Status of Current Draft LEP".

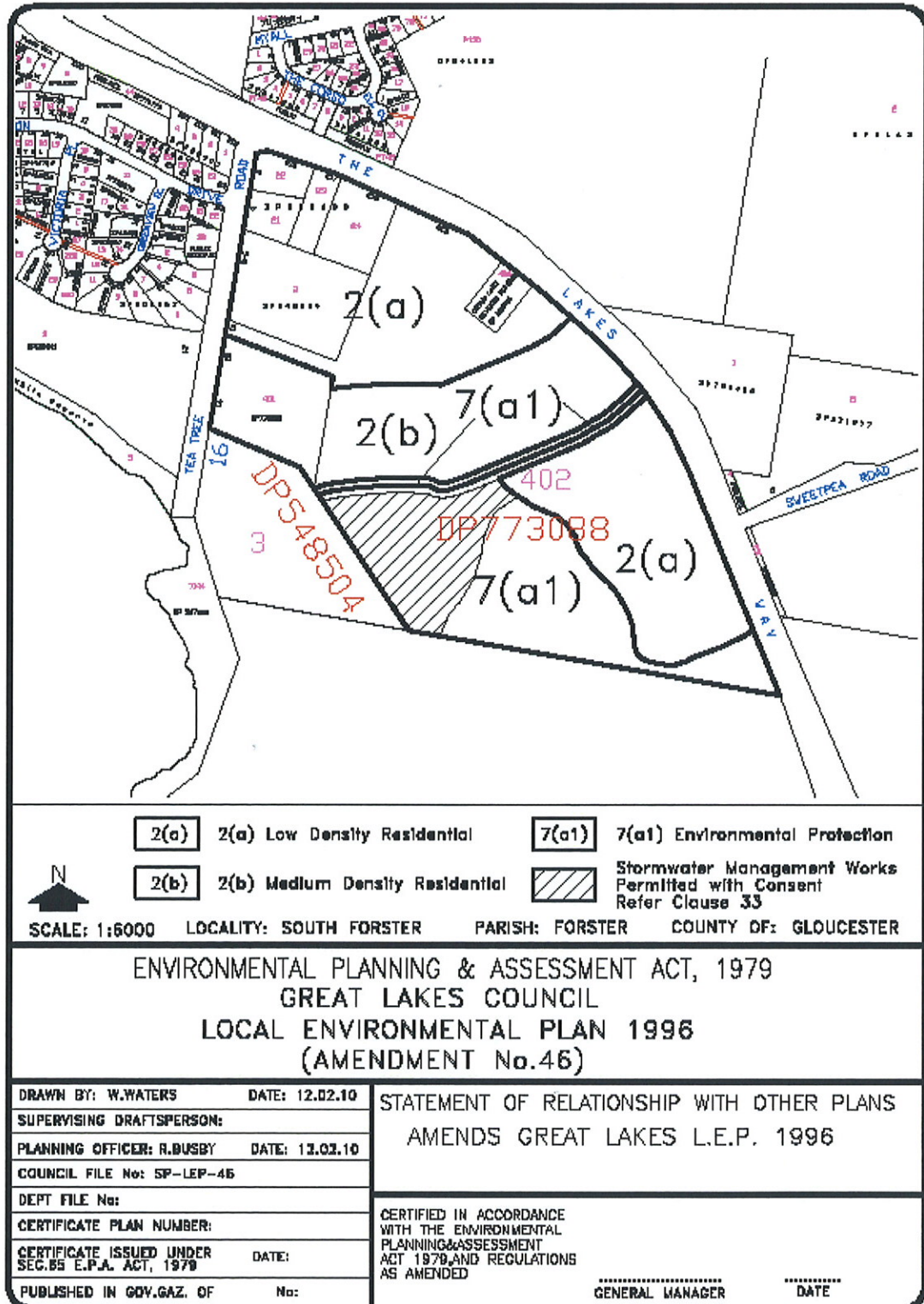
Attachment 1 - Locality Plan



Attachment 2 – Aerial Images



Attachment 3 – Draft LEP to be Exhibited



The Structure Plan

- FORSTER SHOPPING CENTRE
- ARTERIAL ROAD
- SUB-ARTERIAL ROAD
- SURROUNDING AREA
- VILLAGE CENTRE
- MEDIUM DENSITY HOUSING
- LOW DENSITY HOUSING
- SCHOOL
- INDUSTRY ORIENTED
- SMALL EMPLOYMENT SITE
- OPEN SPACE / DRAINAGE / CONSERVATION
- 5 MINUTE WALKING DISTANCE

Labels on map:

- STOCKLAND FORSTER SHOPPING CENTRE
- THE LAKES
- RETIREMENT VILLAGE
- PUBLIC SCHOOL
- CAPPE HAWKE DRIVE
- RURAL RESIDENTIAL
- RURAL AREA
- POTENTIAL QUARRY EXPANSION / INDUSTRIAL
- SAND
- SEWERAGE TREATMENT PLANT
- SWEET PEA ROAD
- WALLIS LAKE
- POSSIBLE TOURIST USES
- BOOTI BOOTI NATIONAL PARK

Scale: 0m 200 5min 600 800 1Km
walk 1:20000 @ A4