

Planning Services

Gateway Determination Report

LGA	Shoalhaven LGA
RPA	Shoalhaven City Council
NAME	St Vincent and Deering Streets, Ulladulla – rezoning to B4 Mixed Use and increase in building heights. (82 dwellings and jobs numbers to be determined following proposed visual and feasibility assessments)
NUMBER	PP_2017_SHOAL_004_00
LEP TO BE AMENDED	Shoalhaven LEP 2014
ADDRESS	116, 118, 120, 122, 124 & 126 Vincent Street, Ulladulla and 37, 39 and 41 Deering Street, Ulladulla.
DESCRIPTION	Lots 1- 9, DP 21597 and Lot CP SP 42583
RECEIVED	26 July 2017 (Additional information provided on 11 August 2017)
FILE NO.	17/11459
QA NUMBER	qA417150
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

INTRODUCTION

Description of Planning Proposal

The planning proposal (PP) seeks to rezone 10.2 hectares of land comprising nine lots located at the intersection of St Vincent and Deering Streets, Ulladulla from B5 Business Development Zone to B4 Mixed Use Zone under the Shoalhaven Local Environmental Plan 2014 to provide the opportunity for higher density residential development on the site, most likely in the form of residential flat buildings or shop top housing.

The PP also seeks to increase the current maximum building height for the subject land from 7.5 metres to up to 14 metres, subject to the outcome of a review of building heights study for the subject site and adjoining land, which Council has commenced, as well as additional visual assessment/modelling and an economic feasibility study for the subject land as proposed by Shoalhaven City Council.

Site Description

The subject land is located within the Ulladulla Central Business District approximately 100 metres west of the Princes Highway. Existing development on the subject land comprises a combination of commercial and industrial land uses including steel fabrication, office premises, vehicle mechanic, retail premises (shops, equipment hire), sign manufacturer and a physiotherapist. The site is located on a ridgeline that slopes to the east. It contains a number of large trees and other vegetation. A site map is provided at Figure 1.

Figure 1 – Site map



Surrounding Area

The land adjoins low, medium and high density residential development to the west, south west and north and one and two storey retail and commercial premises to the east and south. The land drains to the Ulladulla Harbour which is located approximately 580 metres to the north east. A map identifying the wider area and surrounding uses is provided at Figure 2.

Figure 2 - Surrounding area



Summary of Recommendation

It is recommended that the Planning Proposal is supported to proceed as submitted subject to conditions.

PROPOSAL

Objectives or Intended Outcomes

The stated objectives and intended outcomes of the planning proposal (PP) are to rezone the site from B5 Business Development Zone to B4 Mixed Use Zone under the Shoalhaven Local Environmental Plan 2014 to provide an opportunity for higher density residential development on the subject land, most likely in the form of residential flat buildings/shop top housing. The PP also seeks to possibly increase the current maximum building height from 7.5 metres up to 14m subject to the outcome of detailed visual/urban design and economic feasibility assessments.

It is considered that the statement of the objectives is clear and concise and meets the requirements of the Department's guide to preparing planning proposals.

Explanation of Provisions

The explanation of provisions describe amendments to the Land Zoning and the Height of Building Maps as follows:

1. Land Zoning Map (LZN_016D) – amend zoning of subject land from B5 Business Development Zone to B4 Mixed Use Zone;
2. Height of Buildings Map (HOB_016D) – amend height of building from 7.5m to a maximum height of 14m to be determined by:
 - Outcome of Council's Review of Building Heights Study; and
 - Economic feasibility analysis and visual impact assessment/modelling as required by Council.

It is considered that the proposed provisions are clear and concise and meet the requirements of the Department's guide to preparing planning proposals.

Mapping

The PP provides a location map, subject land map, aerial photo as well as current and proposed zoning map for the subject land. It is considered that the mapping provided is suitable for the purposes of public consultation, subject to a height of buildings map being prepared when Council has selected a building height.

Suitable LEP zoning and height of building maps will need to be prepared that meet the Department's technical requirements for LEP maps prior to the finalisation of the PP.

NEED FOR THE PLANNING PROPOSAL

The PP arose from an application from the proponent seeking flexibility to construct a residential flat building on the land without the restrictions associated with shop top housing. The proponent also considers that an increase in height is also required to make the development economically feasible.

The PP states that changing the zoning and increasing the building height control is the best means of achieving the intended outcome to enable higher density residential development on the site. Residential flat buildings are a prohibited use in the current B5 Business Development zoning that applies to the subject land under the Shoalhaven LEP 2014 whereas residential flat buildings are permissible in the B4 Mixed Use Zone.

The site is considered suitable for residential flat buildings because Ulladulla is identified as a regional centre in the Illawarra Shoalhaven Regional Plan which has potential for higher density residential development. The site also adjoins residential land zoned B4 which has a 14m building height control, although it also adjoins low density residential areas that are limited by a 7.5m building height control.

It is considered that amending the planning controls for the site under the Shoalhaven LEP 2014 via the PP process is the best way of facilitating the intended outcome.

STRATEGIC ASSESSMENT

Regional

The PP states that it is not inconsistent with the Illawarra Shoalhaven Regional Plan (RP) which seeks to provide for a variety of housing choice and homes to meet the Region's changing housing demands. Direction 2.2 of the RP seeks to support housing opportunities close to existing services, jobs and infrastructure in the region's centres.

It is considered that the PP is consistent with the RP because Ulladulla is identified as a regional centre with a focus for increased housing activity including medium and higher density housing.

Local

The PP states that it is broadly consistent with Council's Milton Ulladulla Structure Plan (1996) (MUSP) and is also consistent with the Community Strategic Plan, Shoalhaven 2023 (CSP). The MUSP identifies the Ulladulla CBD as the sub regional retail core and commercial hub of southern Shoalhaven. It identifies the site, as well as adjoining land to the south and east, as 'tourist oriented retail with preference for off street parking.' The MUSP was endorsed by the Department as part of the preparation of the Shoalhaven LEP 1985 (Amendment No.195) which implemented the outcomes of the MUSP.

Council's view that the PP is consistent with the local strategic planning is supported. There is a potential inconsistency with the MUSP in that the applicant does not consider that basement car parking is feasible for the development of the site. Council intends to prepare an economic feasibility analysis to further consider whether basement parking is economically feasible for the site.

Section 117(2) Ministerial Directions

The PP has identified that the following Section 117 Directions apply:

1.1 Business and Industrial Zones

The PP states that it is consistent with the Direction because it encourages employment growth in a suitable location within the Ulladulla CBD and supports the viability of that centre. The PP does not seek to reduce the total floor space area for employment uses and related public services in business zones, rather the proposed increase in building height control is likely to increase the potential available floor space for employment use.

It is considered that the proposed change from a B5 to a B4 zoning may potentially be inconsistent with the Direction because the B4 zoning does not permit industrial uses whereas the current B5 zoning does. Any inconsistency with the Direction is, however, considered to be of minor significance and/or is justified by the Milton Ulladulla Structure Plan which identifies the subject land for "tourist oriented retail" development rather than for industrial use.

Recommendation: That the Secretary's delegate can be satisfied that any inconsistency with the Direction is of minor significance and/or is justified by the Milton Ulladulla Structure Plan which identifies the site for "tourist oriented retail" development.

2.2 Coastal Protection

The PP states that it is not inconsistent with the Direction as it is consistent with the NSW Coastal Policy: A Sustainable Future for the NSW Coast, the NSW Coastline Management Manual 1990 and the Coastal Design Guidelines 2003.

The site is located on a prominent ridgeline which will make it visible from the surrounding area as well as the Princes Highway. The PP states that Council has commenced a Review of Building Heights Study for the southern part of the Ulladulla CBD comprising the two adjacent blocks immediately north of Deering Street including the land subject to the PP. The Study will consider principles relating to visual connections and coastal views, appropriate scaled buildings and future desired character.

It is considered that the Review of Building Height Study will provide important input to the determination of suitable building height controls that protect the coastal amenity. It is recommended that the building heights study and the incorporation of the outcomes in the PP is included as a condition of the Gateway determination.

Recommendation: That the outcomes of Council's Review of Building Heights study for part of the Ulladulla CBD currently being undertaken by Council, are reflected in the Planning Proposal in relation to the proposed building height controls.

3.1 Residential Zones

The PP identifies that it is consistent with the Direction because it will provide a greater variety of housing types (including residential flat buildings) within the Ulladulla CBD and will make use of existing infrastructure and services. Council's view is supported for the reasons provided in the PP.

3.4 Integrating Land Use and Transport

The PP states that it is consistent with the Direction because the site is located in an area which is serviced by pedestrian infrastructure and public transport which should reduce car dependency and increase the viability of public transport services. Council's view is supported for the reasons provided in the PP. The site is within the walking distance of the Ulladulla CBD.

4.1 Acid Sulfate Soils

The PP identifies that the site is mapped as Class 5 acid sulphate soils and is located over 500m from any land within a higher acid sulfate soil classification. It also states that the PP is consistent with the Acid Sulfate Soils Planning Guidelines and does not propose to intensify land uses. Significant earthworks e.g basement carparking, are not proposed, and so any disturbance of potentially acid sulfate soil is likely to be minimal and able to be managed. It is considered that the PP is not inconsistent with the Direction for the reasons provided above. Council may, however, need to reassess this matter if it is determined, following the proposed economic feasibility study, that basement car parking is feasible for the site.

5.10 Implementation of Regional Plans

The PP states that it is consistent with the applicable Illawarra-Shoalhaven Regional Plan and with the Direction. As discussed previously, Council's view is supported.

6.3 Site Specific Provisions

The PP states that it is consistent with the Direction because it seeks to rezone the site to a B4 Zone, a zone which already applies to the Shoalhaven LEP 2014. The view expressed in the PP is supported for the reasons provided above. The PP does not seek to include any site-specific provisions such as additional development standards or matters for consideration.

State Environmental Planning Policies

The PP identifies that SEPP 55 Remediation of land is particularly relevant as discussed below:

SEPP 55 Remediation of Land

The PP identifies that part of the subject land (116-118 Vincent Street) has historically been used for industrial/manufacturing processes including boat building. The Proponent's planning proposal provides statements indicating that land at 116-118 St Vincent Street is unlikely to be contaminated because part of the site is concreted and there are no underground storage tanks. The PP states that the information provided by the applicant in relation to 116-118 St Vincent Street constitutes a Stage 1 Preliminary assessment which Council considers to be acceptable at this stage. The PP indicates, however, that further contamination assessment of the land will be undertaken at the development application stage.

No contamination information has been provided by the applicant or Council for the remainder of the land subject to the PP namely lots 3-7, 9 DP 21597 and Lot CP SP 42583. Council has requested that a Stage 1 preliminary assessment is required to be prepared for this land as a condition of a Gateway determination. Council's assessment that the information provided in relation to 116-118 Vincent Street meets the requirements of a Stage 1 Assessment is supported to ensure consistency with SEPP 55 and the Managing Contaminated Land Planning Guidelines. It is noted that the current zoning of the land already permits residential development.

Recommendation: That a Stage 1 Preliminary assessment is undertaken for the remainder of the land subject to the PP ie lots 3-7, 9 DP 21597 and Lot CP SP 42583 as required by the "Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land" and a report on the outcomes of the preliminary assessment is exhibited with the planning proposal.

SITE SPECIFIC ASSESSMENT

Social

The PP states that the proposed zone change to B4 Mixed Use to enable residential flat development would be more complementary to the surrounding residential area than the current manufacturing/boat building business on the site.

The proposal may result in additional housing opportunities.

The PP, however, indicates that the proposed increase in building height control to up to 14 metres, which has been requested by the landowner, could potentially impact on the streetscape and character of the surrounding residential properties that have a maximum building height of 7.5 metres or 8.5 metres. Furthermore, there is potential for future development of the land, which is located on a ridgeline, to impact on the visual appearance of the town centre from the civic centre/harbour area.

Building heights is a highly contentious matter for the Ulladulla community. In 2010 Shoalhaven City Council undertook a review of building height controls provided in its Development Control Plan (DCP) No. 56 for the Ulladulla Town Centre. The review identified a range of building heights for the town centre and adjoining land that provide view corridors to and from the Harbour sympathetic with the sloping topography of the area which forms a natural amphitheatre. Although the land subject to this PP is not located within the DCP area, the site adjoins the DCP area to the south west.

Council has indicated that following the completion of the review of building height study it intends to undertake further visual impact assessment and/or modelling as well as economic analysis of the PP area to ensure the final building height control is appropriate, economically feasible and in the best interests of the community. Council has requested that this work is included as a condition of a Gateway determination. It is considered that the further work proposed by Council has merit and should be supported. Once completed it is recommended that Council revise the PP to update the explanation of provisions section and any other relevant information prior to public exhibition. The studies should be exhibited with the revised PP.

Environmental

The PP states that the land is developed and is located in an urban area. There is no anticipated impact on critical habitat or threatened species, populations or ecological communities, or their habitats. It is considered that the proposed mixed use residential development of the site would be compatible with the surrounding residential uses.

The main environmental impacts are considered to be contaminated land, water quality, visual impact, traffic and parking because of a future mixed use development on the site. The contaminated land and visual impact issues and proposed measures to manage any impact have been discussed previously. It is considered that these issues are satisfactorily addressed in the PP.

Economic

The PP states that it seeks to facilitate development of the site to allow for a greater diversity of housing choice in the Ulladulla CBD which will have broader social and economic benefits. Council proposes to undertake an economic feasibility analysis to consider the proposed heights following the review of building heights study for part of the Ulladulla CBD. It has requested the Department include a requirement to undertake an economic feasibility analysis as a condition of the Gateway determination.

It is considered that the proposal will have positive economic benefits for the local area. As previously discussed, the Ulladulla CBD is identified as a regional centre with a focus for increased housing activity including medium and higher density housing. The site has access to the necessary infrastructure and services. There are no state infrastructure issues associated with the proposal.

It is recommended that:

1. Following the completion of the Review of Building Heights Study (part of the Ulladulla CBD), Council will prepare:
 - Additional visual impact assessment and/or modelling; and
 - An economic feasibility analysis,to ensure the final building height control is appropriate, economically feasible and in the best interests of the community.
2. The Planning Proposal is to be revised following the completion of the studies and investigations to update the explanation of provisions, particularly in relation to height of building controls. The revised Planning Proposal is to be provided to the Department prior to public exhibition.

CONSULTATION

Community

The PP states that it is intended to exhibit the PP for a 28-day period and that it will notify the community about the exhibition via the local newspapers and a notice on Council's website. Hard copies of the PP would also be made available at Council's administration buildings in Nowra and Ulladulla. The PP states that targeted consultation is currently being undertaken as part of Council's review of building heights study. It is considered that the proposed community consultation for the PP is adequate.

Agencies

The PP does not identify any specific agencies that would be consulted. It is considered that, as the proposal is of local planning significance which is consistent with the strategic planning for the area that agency consultation is not required.

Recommendation: That no agency consultation is required on the PP.

TIMEFRAME

The PP indicates a July 2018 timeframe to finalise and notify the plan. This timeframe is considered to be appropriate.

DELEGATION

Council has sought the use of plan making delegations as Council considers the PP to be minor in nature. The PP is potentially contentious with the community as it is seeking to increase the building height controls for a site within the Ulladulla CBD. Council intends to undertake urban design and economic feasibility assessments as part of the PP process to identify a suitable building height control that is in the community's interest. It is considered that Council's request should be supported for the reasons provided in the PP and because the proposal is consistent with the strategic planning for the area.

CONCLUSION

The preparation of the PP is supported to proceed with conditions because it is considered that the PP will provide additional housing, including high density housing and commercial development in the Ulladulla CBD consistent with the role identified for Ulladulla as a Major Regional Centre in the endorsed strategic planning for the area, including the Illawarra Shoalhaven Regional Plan.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree any inconsistencies with Section 117 Direction 1.1 Business and Industrial Zones are minor and/or are justified by the Milton-Ulladulla Structure Plan.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The preparation of an economic feasibility analysis and additional visual impact assessment following completion of Council's Review of Building Heights Study (part of the Ulladulla CBD).
2. A Stage 1 Preliminary Assessment is to be prepared for Lots 3-7, and 9 in DP 21597 and Lot CP SP 42583 in accordance with the "Managing Land Contamination Planning Guidelines SEPP 55 – Remediation of Land 1998, Department of Urban Affairs and Planning and Environment Protection Authority".
3. The Planning Proposal is to be revised following the completion of the studies and investigations to update the explanation of provisions, particularly in relation to height of building controls. The revised Planning Proposal is to be provided to the Department prior to public exhibition.
4. The planning proposal and associated studies and reports including the Economic Feasibility Analysis, additional visual impact assessment and Stage 1 Contamination Assessment will be made available for community consultation for a minimum of 28 days.
5. Consultation is not required with public authorities.
6. The timeframe for completing the LEP is to be 12 months from the date of the Gateway determination.

7. Given the nature of the planning proposal, Council should be authorised to exercise delegation to make this plan.

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28/08/17

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