

Planning and Assessment

SF20/35397

Gateway determination report

LGA	MidCoast
PPA	MidCoast Council
NAME	Rezoning of 8-18 Lake Street, Forster from R3 Medium Density Residential to R4 High Density Residential
NUMBER	PP_2020_MCOAS_001_00
LEP TO BE AMENDED	Great Lakes LEP 2014
ADDRESS	8-18 Lake Street, Forster
DESCRIPTION	Lots A & B DP 334388, Lots 3 & 4 Sec,13, DP 758422Lot 1, DP 863309 public road (Lake Lane)
RECEIVED	29 April 2020
FILE NO.	EF20/21264
POLITICAL DONATIONS	There are no donations or gifts to the knowledge of the Regional Team
LOBBYIST CODE OF CONDUCT	There has been no communication with registered lobbyists to the knowledge of the Regional Team.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend Great Lakes Local Environmental Plan 2014 (LEP) to facilitate high density residential development for the subject site located at 8-18 Lake Street, Forster (see **Attachment A**).

The proposal would rezone the site from R3 Medium Density Residential to R4 High Density Development. The maximum height of building is proposed to be increased from 12m to 30m and to remove the floor space ratio control for the site (currently 1:1). The proposal also includes the rezoning of Lake Lane which is currently owned by MidCoast Council.

1.2 Site description

The site covers an area of 9,015m² and is bound by Lake Street to the north, MacIntosh Street to the east and Lake Lane in the south. The site is relatively flat with an elevation between 4m and 5m AHD.

The site is located with Forster, immediately east of the CBD and immediately west of the Forster Civic precinct site (discussed further in this report).

With the exception of Lake Lane, the site is fully developed (Figure 1). The current uses on the site include:

- 16 Lake Street – this site is currently used as a service station and has frontage to both Lake Street and Macintosh Street;
- 8 Lake Street – this site contains 20 self-contained holiday apartments up to 2 storeys known as Gallipoli Court; and
- 14 Lake Street – this site contains the Sunseeker Motor Inn, a single storey development containing 13 apartments.



Figure 1: Lots comprising the site and their current uses

1.3 Existing planning controls

Under the Great Lakes LEP 2014, the site is subject is zoned R3 Medium Density Residential (Figure 2). The site has a floor space ratio of 1:1 and a maximum building height of 12m (Figures 3 and 4).



Figure 2: Existing zoning



Figure 3: Existing height of building

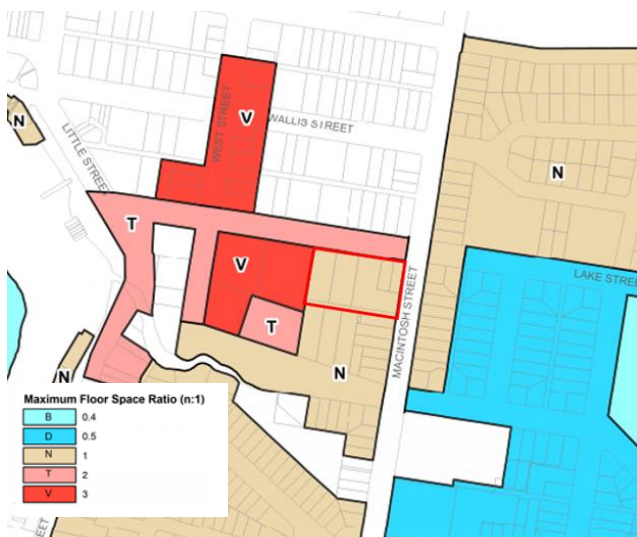


Figure 4: Existing floor space ratio

1.4 Surrounding area

The site is located to the east of the Forster CBD and directly adjoins the Forster Civic Precinct on the western boundary (see Figure 5). The Civic Precinct is an approved development comprising of new Council facilities including a new library, indoor and outdoor community space, customer service centre and visitor information centre. Construction has commenced on the Civic Precinct.

Land surrounding the site has the following uses:

- North: Development north of Lake Street is zoned R4 High Density Residential and comprises of a variety of housing types.
- South: Development to the south of the site comprises of detached dwellings zoned R3 Medium Density Residential.
- East: Directly to the east is MacIntosh Street, a busy state road, and on the eastern side of the road is primarily detached dwellings but also includes a mix of community and commercial properties.
- West: As identified, Forster Civic Precinct is located directly to the west of the site as well as the existing community hub and Forster CBD fronting Wallis Lake.



Figure 5: Surrounding area (source: Planning proposal)

1.5 Summary of recommendation

It is recommended that the proposal proceed to Gateway subject to conditions.

The site is strategically located adjoining the Civic Precinct and close proximity to the Forster CBD, as well as adjoining existing R4 High Density Residential zoned land across Lake Street. The proposal provides a logical extension to the existing high density residential area and is consistent with the Hunter Regional Plan.

The existing planning controls warrant review given the new adjoining Civic Precinct. Conditions are recommended to ensure agency and community input on the planning controls proposed to address consistency with 9.1 directions and relevant SEPPs.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of the proposal are to rezone the land to allow for higher density residential development and to provide for increased housing diversity to achieve a higher permanent population to support Forster CBD. The objectives of the proposal are clear and no changes are required.

2.2 Explanation of provisions

The explanation of the provisions notes the proposal would amend the LEP by:

- rezone the site from R3 Medium Density Residential to R4 High Density Residential;
- increase maximum building height of the site from 12m to 30m; and
- remove the floorspace ratio (FSR) control currently applying to the site (consistent with existing R4 provisions in the Forster CBD).

The explanation of provisions is clear and no further changes are required.

2.3 Mapping

The proposal identifies that the following LEP maps would be amended:

- land zoning;
- height of buildings; and
- floor space ratio.

The maps included within the planning proposal have been marked-up by hand and will required updating prior to exhibition to meet DPIE GIS mapping standards. A condition of Gateway is recommended accordingly.

3. NEED FOR THE PLANNING PROPOSAL

Council advises that the proposal has been informed by a local strategy. The draft MidCoast Housing Strategy was exhibited in April 2020 and identifies the site as being suitable for high density residential development. The draft strategy includes a direction to expand the high density zone to facilitate additional population and activity in the CBD, given the take up of existing land, the proposal is considered to be consistent with this direction.

The proposed development is supported by an Urban Design Analysis that is provided as an attachment to the proposal. The analysis advises that two development options were considered for the site, rezoning to high density residential or a mixed use zone, with the residential zone being the preferred option. The proposed zoning controls are consistent with the zoning controls for the high density residential areas on the northern side of Lake Street and will integrate with the existing urban form. The urban design analysis did not identify any significant negative impacts.

Council advises that the proposal is also consistent with the Hunter Regional Plan by providing additional urban land to facilitate small-scale renewal in an appropriate location. The MidCoast LGA has the oldest median age of any LGA in NSW and relies significantly on tourism and the provision of additional dwellings would assist in accommodating these demands.

In terms of supply of residential land, the MidCoast LGA has adequate supply of residential land, however there is increased pressure in coastal centres. The proposal indicates that there is approximately 10 years supply of R4 High Density Residential zoned land in Forster to cater for both permanent residents and the tourist population. It is considered that there is adequate short term supply, but medium and long term sites should be further investigated. Despite the existing supply, due to the sites strategic location close to the CBD and adjacent to the civic precinct as well as located on two key transport corridors and proximity to high amenity/tourist destinations, the rezoning of this site is justified and will complement the existing centre.

Council considers the planning proposal the best means of achieving its desired outcome for the site. The Department address and it is recommended that the planning proposal proceed.

4. STRATEGIC ASSESSMENT

4.1 State

Better Placed (NSW Government Architect)

Better Placed (2017) is the NSW Government Architect's design policy for the built environment and is a high-level reference to guide strategic frameworks and master planning. The Urban Design Analysis attached to the proposal addresses the requirements and objectives of Better Placed and the proposal is considered to have adequately addressed Better Placed.

4.1 Regional

The proposal states that it is consistent with the Hunter Regional Plan 2036, specifically:

Direction 6 – Grow the economy of MidCoast (and Port Stephens)

The proposal will provide housing supply and diversity for the area which will have a positive economic impact on the community and local services and therefore is considered consistent with this direction. By providing a greater variety of dwelling types and greater population density, it seeks to reduce the seasonal nature of tourism in the CBD.

Direction 16 - Increase resilience to hazards and climate change

The site is identified within the Flood Planning Area, it is noted that flood-free evacuation is a matter for consideration and is discussed under Ministerial Direction 4.3. The site is also not identified as bushfire prone. Council advised that further technical studies such as acid sulfate soils and geotechnical studies will be required in the future development application process. The proposal is considered consistent with this direction.

Direction 20 – Revitalise existing communities

The proposal is consistent with this direction and will facilitate the revitalisation of the Forster centre. The proposal does not provide an estimate of the number of dwellings proposed and this would be beneficial to understand what infrastructure requirements are required to support this increased density. It is recommended that the proposal be updated to include estimated dwelling numbers for the proposal.

The proposal strengthens the Forster CBD by providing increased densities closer to the CBD and encouraging healthy built environments, such as active transport. The proposal is considered consistent with this direction.

Direction 21 – Create a compact settlement

The site is identified in an endorsed regional strategy (MidNorth Coast Regional Strategy) and the proposal encourages compact settlement through providing for urban renewal in a located well located to the Forster CBD and civic facilities. The proposal will maximise use of existing infrastructure and provide for a diversity of dwelling types in Forster and does not encroach on areas with high environmental value. It is notes the Regional Plan includes a housing action to investigate renewal and infill housing opportunities that respond to changing demographics, and this proposal implements the outcomes envisaged in this direction.

4.3 Local

Draft MidCoast Housing Strategy

In early 2020, Council exhibited its Draft MidCoast Housing Strategy which took account of the HRP and Council's Community Strategic Plan. Forster-Tuncurry has experienced a 1% per year population growth rate over an extended period and during this time its housing has developed with the most diverse range of house-types of the Midcoast area.

The draft strategy identifies the site for high density housing as shown in Figure 6 and the proposal is considered consistent with this strategy.



Figure 6: Extract from the Draft Midcoast Housing Strategy

MidCoast Community Strategic Plan (CSP)

The proposal will support Forster by providing accommodation within walking distance of the town centre and is considered consistent with the CSP.

Urban Land Monitor 2016-2036 (ULM)

The ULM is a document produced by Council and has been used by Council to determine the strategic merit. The ULM provides context for growth in the area, including that MidCoast has the second oldest median age in Australia and oldest in the state. It also identified that there is adequate residential supply on Forster-Tuncurry, however this is dependent on a significant rezoning at North Tuncurry that has not yet been rezoned. Council's ULM notes there is 10 years supply of high density zoned land that cater for both residents and tourism accommodation.

It is acknowledged that there is an existing supply of high density land, however given the site is well located and that it would complement the Civic Precinct, this proposal is considered to have merit.

4.4 Section 9.1 Ministerial Directions

The proposal is consistent with the relevant section 9.1 directions except the following which require further discussion.

Direction 2.2 Coastal Protection

This direction requires the proposal to include provisions that are consistent with the objects of the Coastal Management Act 2016, the NSW Coastal Management Manual and Toolkit, NSW Coastal Design Guidelines and relevant Coastal Management Program.

The site is entirely located within the Coastal Environment Area as identified in the *SEPP (Coastal Management) 2018*, however the site is not identified in a coastal vulnerability area. The site lies 260m east of Wallis Lake. The direction requires a planning proposal not to rezone land increased development within a coastal vulnerability area. The proposal is consistent with the direction as the site is not located in a coastal vulnerability area.

However, it is recommended that the proposal is updated prior to exhibition to demonstrate how the proposal is consistent with the direction and to also addresses consistency with the NSW Coastal Design Guidelines as required in the direction.

Direction 2.3 Heritage Conservation

As the site has been already developed and substantially disturbed, the likelihood for heritage significance is minimal and the proposal is considered consistent with this direction.

Council notes that Aboriginal due diligence assessment will be undertaken at the Development application state.

Direction 2.6 Remediation of Contaminated Land

This Direction came into effect on 17 April, following the submission of this proposal to the Department. The direction requires a plan-making authority to satisfy itself that the land is suitable for residential use (a scheduled sensitive use in the contaminated land guidelines) either in its contaminated state or after remediation prior to

finalisation. The Direction requires that the authority obtain and have regard to a preliminary contamination investigation report.

Whilst the proposal does not change the land use, it noted that an existing use on one of the sites is a service station which is identified in Table 1 of the contaminated land planning guidelines.

It is noted that Council intends undertaken a Phase 1 Investigation if required at Gateway. The proposal is currently inconstant with this direction, and it is recommended as a condition of Gateway that the proposal be updated prior to exhibition to address this direction. A Phase 1 Assessment may be required for Council to adequately address this condition.

Direction 3.2 Caravan Parks and Manufactured Homes Estates

This use is permissible in the current zone, however the proposed R4 High Density Residential zone prohibits caravan parks. The planning proposal is therefore inconsistent with this direction, however the Department considers given the strategic location of this site, the inconsistency to be minor and justified.

Direction 3.4 Integrating Land Use and Transport

The proposal is consistent with this direction as it will provide housing diversity that is in an accessible location close to the commercial and civic centres in Forster. The site is also located on an existing transport corridor.

However, the proposal does not include analysis of the potential traffic impacts. Whilst it is acknowledged that this proposal will increase active transport usage, as discussed later in this report it is recommended that the proposal be updated to include a discussion on traffic impacts and then consistency may then be determined.

Direction 4.1 Acid Sulfate Soils

The site is mapped as containing Class 4 acid sulfate soils. As the proposal would intensify the land uses on the land, the proposal is inconsistent with this direction. However it is noted that Council intend to undertake a geotechnical studies for the site. This significant is of minor significance because the LEP includes a clause to ensure these issues can be adequately addressed at the development application stage. It is recommended that the Secretary agree that the inconsistency is of minor significance.

Direction 4.3 Flood Prone Land

The land is not currently directly affected by flooding is not identified within the Flood Planning Area, therefore the direction does not apply.

Direction 6.2 Reserving Land for Public Purposes

Whilst this direction does not apply, it is noted that Lake Lane forms part of the planning proposal and is owned by Council. The urban design analysis assumes that the lane will form part of the development of the site. However, Council advised that it does not rezone land around specific scenarios, and the no assumptions have been made the lane will form part of any future development footprint. A separate approval process and agreement by Council would be required.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all relevant SEPP's, included those listed under:

SEPP 55 – Remediation of Land

The planning proposal states that no change to the land use is proposed and that a Phase 1 Investigation will be provided post-Gateway should it be required.

As identified in the proposal, whilst the site is currently zoned residential, it is noted that part of the site is currently operating as a service station. Service stations are listed as a land use within Table 1 of the Contaminated Land Planning Guidelines. Given the recent amendments to the SEPP and the removal of Clause 6 from the SEPP, it is recommended that the proposal is updated to address the SEPP, and the new 9.1 ministerial direction. It is recommended that a Phase 1 Investigation be undertaken for the site.

SEPP 65 - Design Quality of Residential Apartment Development

Residential flat buildings are assessed based on the criteria in SEPP 65 and the ADG. The ADG is also used in conjunction with SEPP 65 as a tool to support strategic planning processes such as this planning proposal, where controls are proposed to be amended.

The proposal includes an urban design analysis and Council identified that the ADG can be achieved at the development application stage and appropriate separation distances and solar access principals have been considered as part of the conceptual design. The proposal is considered consistent with this SEPP.

SEPP Coastal Management 2018

As discussed, Council identified that the site is located within a Coastal Environment Area. The proposal will retain an existing residential zoning for the site. The SEPP seeks to guide development assessment as it applies to development consent and does not apply to amending LEPs. The proposal is consistent with the SEPP and matters under the SEPP will be assessed at the development application stage.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The redevelopment of the site as proposed by Council is anticipated to have a positive impact for the community by permitting higher density development adjoining the civic precinct and close to the CBD in a strategically located site. The proposal also states that it intends to increase the permanent population to the centre of Forster and would complement the civic precinct. The proposal would also provide housing diversity and provide a logical extension to the existing high density area.

The proposal however should be updated to clarify the future of Lake Lane as this is a Council owned road and clarity should be provided.

5.2 Environmental

The site is subject to environmental constraints including acid sulphate soils and potentially contamination as discussed previously. Visual and traffic impacts are also relevant.

Visual Impact

The urban design analysis includes modelling and a visual analysis. The proposed planning controls are consistent with the land opposite to the north and it is considered that the proposal will integrate with the existing built form. The urban design analysis did not identify any significant negative impacts with regards to visual impacts and the proposal would likely complement the Civic Precinct. The proposal is considered to be consistent and complementary to the existing bulk and scale of the adjoining high density area and are considered appropriate. Specific details such as setbacks, building envelope and overshadowing would be considered at the development application stage.

The proposal itself does not provide commentary on the applicable development control plan, and whether the DCP would be updated. Appendix D, however states that the proposed development controls are generally in accordance with Council's DCP. The planning proposal is requested to be updated to clarify this prior to exhibition.

Traffic Impact

The increased density for the site will likely result in additional traffic movements on the local network. The site also adjoins the intersection with a state road. The proposal does not address the potential increased traffic impacts and it is recommended that the proposal address the potential traffic impacts and consult with Transport for NSW.

5.3 Economic

The proposal will facilitate the development of residential development on the site and will enable the development of a site adjacent to the Civic Precinct. It will provide for development activity and housing supply which will support economic growth of the region, particularly Forster. The development of additional dwellings will contribute to making Forster less reliant on seasonal tourism. It will provide housing diversity as well as supporting local services.

5.4 Infrastructure

The site is developed and located in an existing urban area and can be adequately serviced. Council's Water Services Division advised that there is capacity in the existing water and sewer network.

6. CONSULTATION

6.1 Community

The planning proposal states that community consultation would occur for a minimum 28 days. This is considered appropriate.

6.2 Agencies

Consultation with Transport for NSW should occur regarding the potential traffic and transport impacts from the proposed development.

7. TIME FRAME

Council has indicated that the planning proposal should be completed within 9 months. A 12 month timeframe is therefore recommended to account for any unanticipated delays.

8. LOCAL PLAN-MAKING AUTHORITY

Council has not specifically requested to be the local plan-making authority. As the proposal includes Lake Lane which is owned by Council, it is therefore recommended that Council not be authorised as the local plan-making authority

9. CONCLUSION

The planning proposal should proceed subject to conditions for the following reasons:

- given the site's strategic location adjacent to the civic precinct and proximity to the CBD, the site the planning controls warrant review;
- the proposal provides a logical extension to the existing R4 High Density Residential zone; and
- the proposal is consistent with the revitalisation and connectivity outcomes in the draft Local Housing Strategy and Hunter Regional Plan.

10. RECOMMENDATION

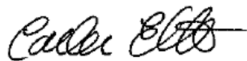
It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions; 3.2 Caravan Parks and Manufactured Home Estates, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils are minor or justified; and
2. note that the consistency with section 9.1 Directions; 2.2 Coastal Protection and 2.6 Remediation of Contaminated Land is unresolved and will require justification.

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

1. Prior to community consultation, Council is to update the planning proposal to:
 - a. address consistency with section 9.1 directions:
 - i. 2.6 Remediation of Contaminated Land and SEPP 55, noting that a Phase 1 Assessment may be required to demonstrate consistency;
 - ii. 2.2 Coastal Protection including addressing the *NSW Coastal Design Guidelines*;
 - b. include a traffic and transport analysis;
 - c. provide an estimated dwelling number for the proposal;
 - d. update proposed LEP maps in accordance with the Department's GIS guidelines;
 - e. update the missing property description on page 5;
 - f. include a higher resolution copy of Appendix D – Urban Design Analysis; and
 - g. update the planning proposal (not appendix) to detail how the proposed planning controls have considered the existing DCP controls including matters such as setbacks, bulk and scape, separation and solar access.

2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with the following public authorities:
 - Transport for NSW
4. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



Caitlin Elliott
Team Leader
Central Coast and Hunter



27/05/2020
Dan Simpkins
Director
Central Coast and Hunter
Planning and Assessment

Assessment officer: Ken Phelan
Planning Officer, Central Coast and Hunter
Phone: 4904 2705