

PLANNING PROPOSAL – LAKE STREET, FORSTER

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File No. /ECM Index S1842 / SP-PP-44

Date of Meeting 22 April 2020 Ordinary Meeting

Authorising Director Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

The purpose of this report is to seek a formal resolution of Council to request a Gateway Determination to support the processing of a Planning Proposal for a change in land use zone from R3 Medium Density Residential to R4 High Density Residential and increased height from 12m to 30m for a site bounded by Lake Street, Macintosh Street and Lake Lane in Forster.

SUMMARY OF RECOMMENDATION

1. That a Gateway Determination on the attached Planning Proposal for Lake Street Forster be sought from the NSW Department of Planning, Industry and Environment pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979*
2. That the NSW Department of Planning Industry and Environment be advised that Council does not wish to be the local plan making authority for this Planning Proposal;
3. That the applicant be required to complete any additional studies that may be required by the Gateway Determination;
4. That government agency consultation be undertaken;
5. That the Planning Proposal be updated to incorporate the outcomes of additional studies and agency consultation;
6. That the Planning Proposal be exhibited; and
7. That in the event that no objections are received during the exhibition of the Planning Proposal, that the associated Local Environmental Plan amendment be referred to the NSW Department of Planning, Industry and Environment to be drafted and made without referral back to Council.

FINANCIAL/RESOURCE IMPLICATIONS

Nil as all work associated with the rezoning is being funded by the applicant on a full cost recovery basis.

LEGAL IMPLICATIONS

A Planning Proposal must be considered by Council in a manner consistent with its obligations under the *Environmental Planning and Assessment Act 1979* and its corresponding *Environmental Planning and Assessment Regulation 2000*.

The applicant submitted a Planning Proposal Application in 2019 and was subsequently reviewed by Council's independent planning consultants, All About Planning Pty Ltd and Council officers. On 28 February 2020 the applicant was notified that the submitted documentation, as modified by Council's independent consultants to include additional

strategic merit details, met its requirements pursuant to Council's *Planning Proposals and Development Control Plan Applications Policy* as an acceptable Planning Proposal .

The Planning Proposal as fully reviewed and amended is ready to be referred to DPIE for a Gateway for Determination.

ATTACHMENTS

A: Lake Street Forster Planning Proposal – as amended by All About Planning Pty Ltd

Attachment A has been circulated to the Councillors and Senior Staff, and will be publicly available on Council's website.

BACKGROUND

Location and Land Ownership

The Planning Proposal relates to six parcels of land (the land) in Lake Street, Forster. The subject land includes:

- Lot A DP 334388 (16 Lake Street Forster), being 650 m² and owned by Ampol Pty Ltd (Caltex Service Station);
- Lot B DP 334388 (18 Lake Street Forster), being 650 m² and owned by Ampol Pty Ltd (Caltex Service Station);
- Lot 3, Section 13, DP 758422 (6-8 Lake Street Forster) being 2,060 m² and owned by Merrylands RSL Club;
- Lot 4, Section 13, DP 758422 (10-12 Lake Street Forster) being 2,060 m² and owned by Merrylands RSL Club;
- Lot 1 DP 863309 (14 Lake Street Forster), being 2,800m² and owned by Ingleburn RSL; and
- Lake Lane, being 795 m² and owned by Mid-Coast Council.

The total combined site area of the proposed rezoning is 9,015m².

The land is currently zoned R3 Medium Density Residential under *Greater Lakes Local Environmental Plan (GL LEP) 2014*.

The land is developed, except Lake Lane. The subject site is generally flat with surface levels across most of the site varying between 4 and 5 metres Australian Height Datum.

Lot 3 and Lot 4, Section 13, DP 758422 are known as Gallipoli Court. They contain 20 self-contained holiday apartments. The apartments are 1 and 2 stories in height each containing 2/3 bedrooms. Gallipoli Court also contains an in-ground swimming pool and BBQ area, at grade car parking and landscaped areas.

Lot 1 DP 863309 is known as Ingleburn RSL (Sunseeker Motor Inn) and is an L shaped parcel with frontage to Lake Street and also Macintosh Street. It includes 13 single storey self-contained holiday apartments, with a mixture of 1, 2 and 3 bedrooms. The Sunseeker

Lake Lane is at the rear of Gallipoli Court and the Sunseeker Motor Inn and is a 10 metre wide unformed (but maintained by regular mowing) laneway.



To the immediate east of the Sunseeker Motor Inn on the south-west corner of the intersection of Lake Street and Macintosh Street is an operating Caltex Service Station. The service station occupies Lot A and Lot B DP 334388 and forms part of the Planning Proposal area.

To the south of the site there are approximately ten separate land parcels zoned R3 Medium Density Residential under GL LEP 2014. These lots contain mostly single storey detached dwellings and the Forster Gardens Holiday Cottages and units.



Photo 1: View of site looking south from Lake Street Source: All About Planning Pty Ltd



Photo 2: View of site looking west from Macintosh Street into Lake Lane Source: All About Planning Pty Ltd



Photo 3: View of site looking west from Macintosh Street at existing service station, located corner of Lake Street and Macintosh Street Source: All About Planning Pty Ltd



Photo 4: View of site looking north west from Macintosh Street at existing Sunseeker holiday units, that are located on the corner of Lake Lane and Macintosh Street Source: All About Planning Pty Ltd

Processing of the Planning Proposal

The land has been identified by Council, in its current exhibited Draft Housing Strategy 2020, as suitable for the R4 High Density Residential land use zone and a commensurate increase in building height (to 30m).

If the site is rezoned it will expand opportunities for high density living in a central location and will support the Forster CBD and adjacent Civic Precinct development through increased pedestrian movement and economic activity.

Process for preparing the Planning Proposal

Council engaged independent consultants, All About Planning Pty Ltd to review and process the Planning Proposal submitted by the applicant. The cost of the consultants is being funded by the applicant.

Reason for the rezoning

The Planning Proposal will enable an increase in built form (height, bulk and scale) consistent with a high-density residential environment. The delivery of the Planning Proposal is supported by an Urban Design Analysis Report (UDAR) provided in Appendix D of the amended Planning Proposal (Attachment A) and more recent strategic planning work undertaken by MidCoast Council to develop a consistent, region-wide plan for the MidCoast (Draft Housing Strategy), as discussed in Part 3 - Section B of the Planning Proposal.

The UDAR (at Appendix 4 of the Planning Proposal) notes the subject site's central location within close proximity to the Forster commercial core, the waterfront and the adjoining Civic Precinct and along two significant transport corridors emphasising its importance as a key development site for Forster. Further, Lake Street is identified as a key pedestrian street linking the southern part of the CBD to the waterfront, commercial core and the beach.

Planning for this part of Forster has changed since the implementation of GL LEP 2014 and Great Lakes Development Control Plan (GL DCP) 2014. The relocation of the Civic Precinct to the corner of Lake and West Streets will provide an opportunity for more intense development within the immediate area.

The Civic Precinct incorporates a mixed-use zone that will provide a range of community facilities, retail and commercial floor space and residential and tourist accommodation. It is proposed to increase the height to support these more intense land uses.

The UDAR investigated two development scenarios (rezoning to R4 High Density Residential and rezoning to B4 Mixed Use). Modelling and visual analysis discussion is contained in Appendix D to the Planning Proposal (Attachment A). For both scenarios, the building heights and floor space controls are generally similar to controls for land opposite to the north and will integrate with the planned future urban form for the area.

The UDAR did not identify any significant negative impacts for the surrounding areas for either scenario with regard to visual impacts. Further, the development of this site would have beneficial impacts by complementing the Civic Precinct and an opportunity to invigorate the area and improve aesthetics as outlined in the *Good Design Guidelines* by the NSW Government Architect.

The following strategies have been carefully reviewed to ensure consistency with Council's and the NSW Government's strategic objectives:

- Hunter Regional Plan 2036
- Draft MidCoast Housing Strategy, recently on exhibition (February - April 2020) and which identifies the subject Lake Street Forster site for high density residential use.
- Urban Land Monitor 2016-2036, exhibited October 2019, which identifies Forster as a local centre that will require additional high density residential zoned land, based on growth projections, post 2026.
- Draft Employment Zones Review – Part A and B, recently on exhibition (February - April 2020) a key objective of which is to secure CBD activation
- MidCoast 2030 Community Strategic Plan

Notwithstanding the consistencies with the above design analysis and local strategic framework, the Planning Proposal must also demonstrate planning merit in its own right. Strategic merit has been successfully demonstrated by the provision of information now included in the attached amended Planning Proposal – Lake Street Forster Planning Proposal (Attachment A).

DISCUSSION

Planning Context

The subject land is not specifically identified in any statutory State Strategy however the Planning Proposal is consistent with the Directions and Actions of the Hunter Regional Plan 2036 as it provides for greater housing choice and encourages growth in centres (Forster-Tuncurry is a nominated centre in the plan).

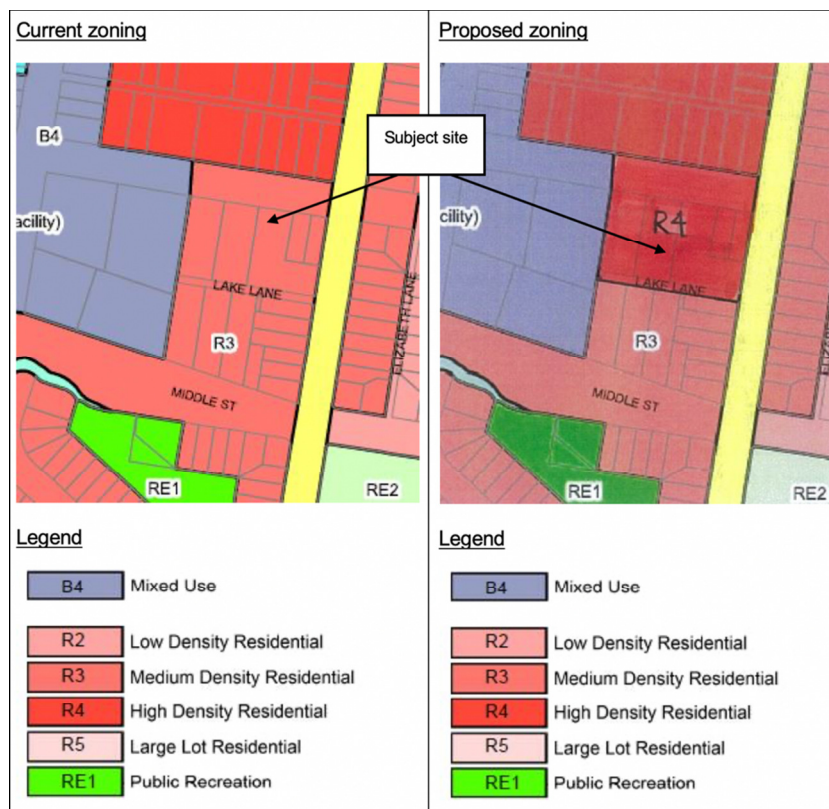
The rezoning of this land will result in additional high density living options for local residents and will assist in sustaining a viable future dwelling supply of well-located housing in Forster.

Having regard for these attributes it is believed that strategic merit can be demonstrated to DPIE for this Planning Proposal, a necessary planning requirement for it to receive a favourable Gateway Determination.

Draft LEP Amendments

The following changes to the planning controls within the GL LEP 2014 are proposed in the Planning Proposal:

- Amend zoning map (Tile LZN_011D) as it affects the subject site by changing the zone from R3 Medium Density Residential to R4 High Density Residential



Amend the height of buildings map (Tile HOB_011D) as it affects the subject site by changing the maximum building height from 12 metres to 30 metres.



Current and proposed zoning maps and height of buildings maps are as above.

- Amend the floor space ratio map (tile FSR_011D) to remove this site from the map.

The subject proposal has strong site specific merit, being an existing brownfield site in immediate proximity of the Forster CBD and adjacent to the Civic Precinct development currently under construction.

Additionally, Council's Draft Housing Strategy and Community Strategic Plan and related statistical analysis, all as referenced, supports creation of additional high density zoned land in well located areas.

Main rezoning issues

Lake Lane forms part of the Planning Proposal site area. The Urban Design Analysis at Appendix D to the Planning Proposal (Attachment A) assumes that Lake Lane will form part of the future development of the site. As Council does not usually rezone land based around particular development scenarios, Council staff have indicated that they will include Lake Lane in the subject rezoning, however no assumptions are to be made that Lake Lane will

form part of any future development footprint or setback.

Any decision regarding Lake Lane will be subject to a separate approval process and formal agreement from Council. It is possible that Lake Lane may be best retained in public ownership to provide a viable public pedestrian and vehicle access to the subject site and to the adjacent Civic Precinct development site and through connection to Macintosh Street.

Outstanding studies

The Planning Proposal, as amended by All About Planning Pty Ltd, is sufficient and no additional studies are identified as being required.

If the Gateway Determination identifies the need to undertake additional studies, these would be completed prior to exhibition.

Agency consultation

Government agency consultation will be undertaken in accordance with the advice contained within the Gateway Determination.

Use of delegations

Council has been issued with plan making delegations from the NSW Minister for Planning in regard to processing Planning Proposals. What this means is that Council can bypass DPIE following exhibition of the Planning Proposal to seek the LEP amendment to be made (formally called gazettal). For this to occur Council needs to resolve to use these delegations and the Gateway Determination needs to then confirm that Council can use these.

In deciding whether to request to use its delegations Council must decide whether it has a potential or actual conflict of interest in the Planning Proposal.

In regard to this Planning Proposal it is noted the site is located immediately adjacent to the Civic Precinct development in which Council is a major stakeholder. It is additionally noted that Lake Lane, being a Council road, forms part of the subject Planning Proposal.

For these reasons it is recommended that Council advise DPIE that it does not wish to use its plan making delegations for this Planning Proposal.

CONSULTATION

The Gateway Determination will direct Council regarding consultation for this Planning Proposal, though Council's standard minimum 28-day exhibition period is usually granted by the State.

Formal consultation with identified government agencies will occur post-Gateway, prior to public exhibition.

Preliminary discussions have been held with Ampol who are the owners of Lot A & Lot B DP 334388 (16-18 Lake Street). Ampol have advised Council that they are not supportive of any zoning change to their site at this time. Further formal consultation with Ampol will be undertaken during the exhibition period.

COMMUNITY IMPACTS

The positive impacts of the Planning Proposal and the development it will provide include:

- The provision of additional residential accommodation within the Forster CBD edge
- Strengthening the function of the Forster CBD through increased pedestrian activity and economic investment.

The negative impacts of the Planning Proposal include:

- Increased traffic, traffic noise and amenity impacts, all commensurate with other residential development. This may have an impact, though unlikely to be significant, on existing residents and businesses operating in the surrounding areas.

The Planning Proposal is seen as having a clear overall positive community impact and is recommended for support on this basis.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

Processing of Planning Proposals to rezone land is core business for Council.

This particular Planning Proposal is in alignment with the following actions from the MidCoast 2030 Shared Vision, Shared Responsibility – Community Strategic Plan 2018-2030:

- Provide an environment to grow and strengthen local business and attract new businesses;
- Support a diverse housing mix that provides choice and meets the needs of our community;
- Optimise land use to meet our environmental, social, economic and development needs; and
- Develop and promote our region as an attractive visitor destination offering products and experiences that meet the needs of our visitors and residents.

TIMEFRAME

Council has until 28 May 2020 to resolve to support the Planning Proposal or not, otherwise the applicant is entitled to lodge a request for a review of the Planning Proposal to DPIE in accordance with Council's *Planning Proposal and Development Control Plan Applications Policy*.

BUDGET IMPLICATIONS

The assessment of this Planning Proposal is being funded by the applicant and there is no impact on Council's budget.

RISK CONSIDERATION

The major risks arise from Council not following due process, not maintaining probity or taking too long to consider the Planning Proposal. All of these represent a legal and reputational risk.

These risks have been mitigated by staff following due process, managing access by the applicant to Council's consultant involved in the assessment of this application and by seeking that Council resolve this matter within legislative timeframes.

Further by requesting not to be the local plan making authority for this Planning Proposal Council reduces the risks associated with the processing of this Planning Proposal.

RECOMMENDATION

1. That a Gateway Determination on the attached Planning Proposal for Lake Street Forster be sought from the NSW Department of Planning, Industry and Environment pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979*.
2. That the NSW Department of Planning Industry and Environment be advised that Council does not wish to be the local plan making authority for this Planning Proposal.
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