

4. PLANNING PROPOSAL – LAKE STREET FORSTER

Report Author	Rebecca Underwood - Land Use Planner and All About Planning Pty Ltd
File No. / ECM Index	PP 03/02
Date of Meeting	30 June 2021
Authorising Director	Paul De Szell - Director Liveable Communities

SUMMARY OF REPORT

This report provides the results of the community consultation undertaken on the Draft Lake Street Forster, Planning Proposal (the Planning Proposal) which occurred between 10 December 2020 and 5 March 2021.

It recommends that Council adopt the Planning Proposal subject to a minor amendment to remove Lake Lane from the subject area.

SUMMARY OF RECOMMENDATION

1. That Council note the submissions received in response to the exhibition of the Draft Lake Street Planning Proposal as shown in Attachment C.
2. That the Draft Lake Street Planning Proposal be amended to exclude Lake Lane and that the applicant be advised that access to the subject site for any future development shall only be provided via Lake Street.
3. That Council adopt the Draft Lake Street Planning Proposal as shown in Attachment A with the above additional amendment to exclude Lake Lane.
4. That Council seek approval from the Secretary of the Department of Planning Industry and Environment that changes made to the Draft Lake Street Planning Proposal to address compliance with 9.1 Ministerial directions: 2.2 Coastal Protection, 2.6 Remediation of Contaminated Land, 3.4 Land Use and Transport and 4.1 Acid Sulfate Soils are satisfactory.
5. That Council formally request the NSW Department of Planning, Industry and Environment to make the amendments to give effect to the Draft Lake Street Planning Proposal.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal has been assessed on a user-pays basis. All required studies and consultant fees have been paid to Council by the applicant.

LEGAL IMPLICATIONS

The Planning Proposal process has been undertaken in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the associated *Environmental Planning and Assessment Regulation 2000*.

ATTACHMENTS

- A: Draft Lake Street Planning Proposal
- B: Summary of issues raised and responses
- C: Submissions
- D: Correspondence from Public Authorities – Transport for NSW

Attachments A, B & D have been circulated to the Councillors and Senior Staff, however these Attachments are publicly available on Council's website.

Attachment C has been circulated to the Councillors and Senior Staff, however this attachment is publicly available on Council's website. The copy on the website has had the personal information redacted to protect the privacy of the members of the public providing submissions.

BACKGROUND

The draft Planning Proposal involves changing the land use zone from R3 Medium Density Residential to R4 High Density Residential, increasing the height of buildings from 12m to 30m and removing floor space ratio provisions over the subject site.

Location and ownership

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

- 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 MidCoast Council (*refer to notes regarding the laneway under 'Discussion'*).

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

As indicated, the subject site is currently zoned R3 Medium Density Residential under *Greater Lakes Local Environmental Plan (GL LEP) 2014*.

Other than Lake Lane, the subject site is developed and 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 known as Gallipoli Court, contains 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 and Macintosh Streets. It includes 13 single storey self-contained holiday apartments, with a mixture of 1, 2 and 3 bedrooms. The Sunseeker Motor Inn includes an in-ground swimming pool, BBQ area, at grade car parking, landscaped areas and a two storey managers' residence at the Lake Street frontage.

Lake Lane is at the rear of Gallipoli Court and the Sunseeker Motor Inn and is a 10 metre wide partly 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 subject 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 Holiday Village offering self-contained accommodation.

Reason for rezoning

The subject site has been identified in Council's Housing Strategy 2020, as suitable for R4 High Density Residential development and an increase in building height to 30m. Further details regarding the Planning Proposal's consistency with the Housing Strategy is provided in Part 3 - Section B of the Planning Proposal.

If supported, the Planning Proposal will enable an increase in built form (height, bulk and scale) consistent with a high-density residential environment. The Planning Proposal is supported by an Urban Design Analysis Report provided in Appendix D to the Planning Proposal

The Urban Design Analysis Report describes the subject site's central location to Forster's commercial core, waterfront and adjoining Civic Precinct. It also notes that it fronts two significant transport corridors and emphasises its importance as a key development site for Forster. The Urban Design Analysis Report identifies Lake Street as a key pedestrian street linking the southern part of the CBD to the waterfront, commercial core and 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 mixed-use 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. Increased height over the subject site is proposed to support these more intense land uses.

DISCUSSION

Community consultation was originally undertaken for 10 weeks between 10 December 2020 and 19 February 2021. However, due to concern at the timing of the consultation along with the level of community interest, the consultation period was extended by an additional 2 weeks to 5 March 2021.

Two (2) community information sessions were held on 17 December 2020 and 26 February 2021. A total of 31 people attended the sessions.

A total of 47 submissions were received on the Planning Proposal. These submissions are provided in Attachment C. Attachment B provides a summary of the issues raised in the submissions along with a response.

Submission issues

Of the 47 submissions received, the following concerns were raised in order of most common to least common:

- The proposed development will place unreasonable additional pressure on traffic congestion particularly associated with the existing Forster/Tuncurry bridge and general carparking, increasing safety concerns.

Comment:

The proposed change in zoning from R3 Medium Density Residential to R4 High Density Residential, and increased height and FSR controls over the subject site are not in themselves assessed as significantly likely to change traffic flows, carparking demands and associated safety concerns in the area (compared to what is currently permitted under current LEP controls). Whilst it is acknowledged that issues with traffic are being experienced year-round in the CBD and at the Forster/Tuncurry bridge, it is considered that changes proposed under the Planning Proposal will not noticeably worsen this situation. Based on the advice provided by Council's Engineers and TfNSW more detailed traffic studies will be required in conjunction with any future development of the site to address traffic issues.

- Forster's seaside village culture is under threat, concern about loss of amenity and character. Proposal will block views, create shadowing, create privacy and noise impacts and destroy the calm beauty and tranquil amenity of the locality.

Comment:

It is considered that any future development on the site (arising from the proposed revised zoning, height and FSR controls) will need to meet stringent development assessment requirements to ensure that it is in keeping with both the existing and developing character and nature of development within Forster which includes a number of existing and proposed high density developments.

- Detrimental impact on general public infrastructure including schools, water and need for increased infrastructure services/provision and associated infrastructure maintenance costs.

Comment:

Changes to planning controls under the Planning Proposal will not make a fundamental difference (compared to the sites current development potential under the existing LEP) to the demand for public infrastructure in the locality. Further, Council levies development contributions to provide additional/upgraded public infrastructure as part of future development.

- There are already more than 10-12 undeveloped high-rise sites within 500m of the subject site which is already providing 20-30 years supply of development.

Comment:

The number of alternative potential development sites within the vicinity, is not, in isolation a valid reason to object to a proposal. In any case, the supply of land which may or may not become available for development over time is subject to several factors including but not limited to ownership, access and site suitability and most of all the desire of the owner to actually develop the site.

Further, MidCoast Council's Urban Land Monitor 2016 – 2036 provides the following commentary regarding the supply of land available for high density development in the locality:

"There is only a short term (approximately 10 year) supply of R4 High Density Residential zoned land in Forster, which has historically accommodated the bulk of high density residential and tourist accommodation for the MidCoast. The R4 High Density

Residential zone in Forster caters for both the tourism market and permanent residents. This zone has sufficient short-term redevelopment supply but is constrained in the medium to long term. It is important to examine areas of potential future expansion and any factors that would support that growth”.

The submission summary table contained in Attachment B addresses each of the submission themes in detail.

Lake Lane

The inclusion of Lake Lane in the Planning Proposal was also raised as an issue in submissions. After careful consideration it is recommended that Lake Lane be removed from the land subject to the Planning Proposal as the lane is in public ownership and forms part of Council's existing road reserve network.

At the time of writing, the intention is that the lane will function as a potential pedestrian access to the subject site, adjoining Civic Precinct development and the existing development to the south. It is noted that TfNSW will not permit any vehicular access to any new development via the laneway – refer discussion under 'Consultation' below.

Consequently, the recommendation is that the Planning Proposal be amended to exclude Lake Lane.

Caltex Service Station

The owners of the Caltex Station (Ampol Pty Ltd) were contacted in 2019 to gauge their level of support for the rezoning. At this time, they advised that they were not supportive of any rezoning over their land. As part of the community consultation, Ampol were notified on the exhibition their feedback was sought once again. Council did not receive a submission from Ampol on the Planning Proposal during this time.

Additional comments

In accordance with the Gateway Determination, Council will need to seek agreement from the Secretary of Department of Planning Industry and Environment (DPIE) that changes to the Planning Proposal document to addresses compliance with 9.1 Ministerial directions: 2.2 Coastal Protection, 2.6 Remediation of Contaminated Land, 3.4 Land Use and Transport and 4.1 Acid Sulfate Soils are satisfactory. Council has been advised this can occur concurrently with the request to DPIE to make the plan.

The final stage of the Planning Proposal involves making the plan. Council did not request to be the local plan making authority for this Planning Proposal given its proximity to the Civic Precinct development. As a result, the Planning Proposal will be forwarded to DPIE with a request to make the plan. This process generally takes 4-6 weeks.

CONSULTATION

As previously stated, community consultation was originally undertaken for 10 weeks between 10 December 2020 and 19 February 2021. Due to concern regarding the timing of the consultation and the level of community interest the consultation period was extended by an additional 2 weeks to 5 March. The following was undertaken as part of the consultation:

- an advertisement in the local newspaper (Myall Coast News of the Area);
- a media release;

- providing information about the proposal at Council's Administration Buildings and on Council's website;
- a number of informal meetings with community members to discuss the proposal;
- the development of 450 flyers, provided to the community to hand out, advising of the upcoming community information session;
- a mail out to surrounding landowners advising of the proposal; and
- two (2) Community Information Sessions held on 17 December 2020 and 26 February 2021 (appointment only – due to Covid-19) with a total of approximately 31 community members attending.

A total of 47 submissions were received as outlined in the Discussion section of this report.

Public Authority consultation – Transport for NSW

As required by the Gateway Determination, Transport for NSW (TfNSW) was consulted on the Planning Proposal. A copy of comments received is provided in Attachment D.

The following comments were provided by TfNSW:

Access:

- *Any proposal to provide access to the site (excluding existing Caltex Service station access) shall be provided via Lake Street only;*
- *Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the locations of all access driveways to site promotes safe vehicle movements.*

Traffic Planning and Engineering Advice:

TfNSW provides the following advice to assist the applicant with future revisions of the Traffic Planning and Engineering Advice report (Appendix F to the Planning Proposal contained in Attachment A), which will require updating:

- *Traffic and transport study shall be prepared in accordance with the RTA Guide to Traffic Generating Developments, RMS Traffic Modelling Guidelines, Austroads Guide to Traffic Management, Part 6, Intersections, Interchanges and Crossings, and Austroads Guide to Traffic Management, Part 12, Integrated Transport Assessments for Developments, and is to include (but not be limited to) the following:*
 - *Assessment of all relevant vehicular traffic routes and intersections for access to/from the subject properties.*
 - *Current traffic counts for all of the traffic routes and intersections.*
 - *The anticipated additional vehicular traffic generated from both the construction and operational stages of the project.*

- *The distribution on the road network of the trips generated by the proposed development. It is requested that the predicted traffic flows are shown diagrammatically to a level of detail sufficient for easy interpretation.*
- *Consideration of the traffic impacts on existing and proposed intersections, in particular, the intersections of Lake Street/Macintosh Street (signalised intersection), Head Street/West Street, Head Street/Beach Street, Middle Street/Macintosh Street, and Lake Street and access to proposed Civic Project at lots 11 -13 DP: 47987, and the capacity of the local and classified road network to safely and efficiently cater for the additional vehicular traffic generated by the proposed development during both the construction and operational stages. The traffic impact shall also include the cumulative traffic impact of other proposed developments in the area including the approved Civic Project at lots 11, 12 AND 13 DP: 47987.*
- *Identify the necessary road network infrastructure upgrades that are required to maintain existing levels of service on both the local and classified road network for the development. In this regard, preliminary concept drawings shall be submitted with the Environmental Impact Statement for any identified road infrastructure upgrades. However, it should be noted that any identified road infrastructure upgrades will need to be to the satisfaction of Transport for NSW and Council.*
- *Traffic analysis of any major/relevant intersections impacted, using SIDRA or similar traffic model, including:*
 - *Current traffic counts and 10-year traffic growth projections*
 - *With and without development scenarios*
 - *95th percentile back of queue lengths*
 - *Delays and level of service on all legs for the relevant intersections*
 - *Electronic data for TfNSW review.*
 - *Any other impacts on the regional and state road network including consideration of pedestrian, cyclist and public transport facilities and provision for service vehicles.*

General advice

TfNSW has provided the following advice to Council regarding the Planning Proposal:

- *TfNSW has no proposal that requires any part of the property.*
- *Discharged stormwater from the development shall not exceed the capacity of the Macintosh Street (MR692) stormwater drainage system. Council shall ensure that drainage from the site is catered for appropriately and should advise TfNSW of any adjustments to the existing system that are required prior to final approval of the development.*
- *Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site, in particular, noise generated by Macintosh Street, a classified State road (MR692). In this regard, the developer, not TfNSW, is responsible for providing noise attenuation measures in accordance with the NSW Road Noise Policy*

2011, prepared by the department previously known as the Department of Environment, Climate Change and Water.

- *If any implements to the road network are identified, TfNSW recommends that Council or the developer undertake consultation in accordance with the Roads Act Part 8 for the amendments to the intersections and ensure relevant environmental assessment undertaken as part of Council's assessment.*

Internal consultation – Transport Assets

Council's Transport Assets section has reviewed the Planning Proposal, additional traffic engineering advice prepared by the applicant and comments from TfNSW. The following comments were provided:

- *The traffic assessment document does a basic review of the likely increase of traffic of this rezoning and it concluded that the existing roads and intersection would cater for it. This may be the case but the roads within the CBD are becoming congested and the traffic lights (Lake and MacIntosh Streets) in the peak periods can have some queuing, so more formal confirmation is needed. Therefore, traffic modelling of this intersection and Lake & West Streets roundabout should be undertaken to confirm the existing road network can handle this additional traffic.*
- *The above detailed traffic assessment with intersection modelling can be submitted as part of the future Development Application for the site.*
- *All new developments on this site should have vehicular access only via Lake Street, excluding any redevelopment of the service station with a similar business.*
- *Lake Lane should be assessed for future usefulness to this rezoning and access to properties on the south side of the lane. The objective would be to close the lane to provide one less access point onto the major thoroughfare of MacIntosh Street.*

These matters should either be addressed as part of any future development application for the site. The final point regarding closure of Lake Lane would need to be considered more broadly taking into consideration future pedestrian requirements.

COMMUNITY IMPACTS

As outlined in the discussion section (and Attachments B and C) a number of concerns were raised regarding the proposal. A couple of the submissions received included some partial support for the intentions of the project, whilst also raising concerns.

The main issues identified by the community relate to existing pressures on traffic flows/parking in the area, the character and scale of the future development of the site and the pressure it will put on existing infrastructure. These matters reflect existing community concerns and there is a strong belief within the community that changes proposed under the Planning Proposal will worsen these issues.

It is considered that proposed changes to planning controls over the subject site will not significantly worsen issues currently being experienced in the area. Addressing these issues needs to be part of a broader conversation about the overall growth of Forster/Tuncurry moving forward.

Regarding character and scale, the future development outcome on the site (arising from the proposed changes to planning controls) will need to be in keeping with both the existing and

the developing character of Forster's CBD. It is noted that there is already a number of high-density developments in the locality. Whilst concerns regarding character are noted, the Urban Design Analysis Report address the issue of character and scale and indicates that impacts associated with the development can be managed.

Any future development of the site will need to be in accordance with GL LEP and DCP which have controls around bulk and scale. Currently however, the process involves rezoning of the subject land and applying associated controls for height and floor space ratio. More detail on the nature and extent of development will not be confirmed until a Development Application is lodged. At that time, the impacts relating to the development will be appropriately assessed through the development application process.

ALIGNMENT WITH COMMUNITY PLAN/OPERATIONAL PLAN

The Planning Proposal has been assessed against *MidCoast 2030 Shared Vision, Shared Responsibility 2018-2030* - being MidCoast Council's Community Strategic Plan.

In particular, the Planning Proposal assists to meet the value of "our unique, diverse and culturally rich communities" by supporting the action to "Support a diverse housing mix that provides choice and meets the needs of our community".

The Planning Proposal also seeks to support the value of "our environment" through the objective to "balance the needs of our natural and built environments".

TIMEFRAME

A revised Gateway Determination was issued in May 2021 providing a five (5) month extension to complete the Planning Proposal. In accordance with the extension, the anticipated timeframe for completion is 1 November 2021.

RECOMMENDATION

1. That Council note the submissions received in response to the exhibition of the Draft Lake Street Planning Proposal as shown in Attachment C.
 2. That the Draft Lake Street Planning Proposal be amended to exclude Lake Lane and that the applicant be advised that access to the subject site for any future development shall only be provided via Lake Street.
 3. That Council adopt the Draft Lake Street Planning Proposal as shown in Attachment A with the above additional amendment to exclude Lake Lane.
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5. That Council formally request the NSW Department of Planning, Industry and Environment to make the amendments to give effect to the Draft Lake Street Planning Proposal.

172/2021 RESOLUTION

(Moved Cr C Pontin/Seconded Cr L Roberts)

That the above recommendation be adopted.

FOR VOTE - Cr D West, Cr K Smith, Cr K Bell, Cr K Hutchinson, Cr B Christensen, Cr C Pontin, Cr L Roberts

AGAINST VOTE – Cr T Fowler, Cr P Epov

ABSENT. DID NOT VOTE - Nil