

DE16.18 Possible Change - Height of Buildings - Shoalhaven Local Environmental Plan 2014 - Anson Street, St. Georges Basin

HPERM Ref: D16/350122

Group: Planning & Development Services Group
Section: Strategic Planning

Purpose / Summary

Detail the options that are available to Council to consider reducing the 'height of building' controls in the Shoalhaven Local Environmental Plan (LEP) 2014 that apply to land on Anson Street, St. Georges Basin.

Recommendation (Item to be determined under delegated authority)

That the Development Committee decide whether it wishes to pursue reducing the 'height of building' controls in Shoalhaven Local Environmental Plan 2014 over Lots 1 and 6 DP1082382 Anson Street, St. Georges Basin and if so which of the options outlined in the report to pursue.

Options

1. Retain the current 8 metre height control over the western part of Lot 1 DP1082382 and prepare a Planning Proposal (PP) to amend the 'height of buildings' map over the remainder of Lot 1 and the whole of 6 DP1082382 Anson Street, St. Georges Basin to remove the current 13 metre height and replace it with a more suitable mapped height (Note: Council would need to determine what height it wishes to apply should it proceed with this option).

Implications: This option if successful would see the existing 8 metre height retained over the western part of Lot 1 DP1082382 and a new height placed over the remainder of the subject land. That new height would however need to be determined.

In the absence of detailed work in this regard an 8.5 metre height could be applied to Lot 6 DP1082382 which is currently zoned R1 General Residential. An 8.5 metre height would be consistent with other residential zones in the area and in keeping with the scale/character of the existing adjacent residential development. It would however be inconsistent with the majority of other R1 zones city wide, where there is no mapped height (the general 11 metre maximum currently applies) to enable some flexibility given the development nature of the zone.

The remainder of Lot 1 DP1082382 (eastern part) is zoned B4 Mixed Use. There is no consistent height that has been applied to this zone city wide. In most cases the general 11 metre maximum applies, but in other specific locations higher heights have been mapped based on detailed work that has been undertaken.

2. Retain the current 8 metre height over the western part of Lot 1 DP1082382 and prepare a PP to amend the 'height of buildings' map over the remainder of Lot 1 (eastern part) and the whole of 6 DP1082382 Anson Street, St. Georges Basin to remove the current 13 metre height.

Implications: This option would be consistent with the recommended approach that was suggested during the preparation of the Shoalhaven LEP 2014, in that it maintained the 'status quo' that previously applied. It would mean that the majority of the land would have no mapped height and the general 11 metre maximum in the LEP would apply. This would enable some flexibility up to 11 metres given the nature of the zone.

Background

It was resolved on the 25th October 2016 that:

The General Manager prepare a report in respect to options that consider reducing the height limits at Lot 1 & 6 DP1082382 Anson Street, St. Georges Basin.

As such, this report provides relevant background and details the options that are available to Council to consider amending the LEP in this regard.

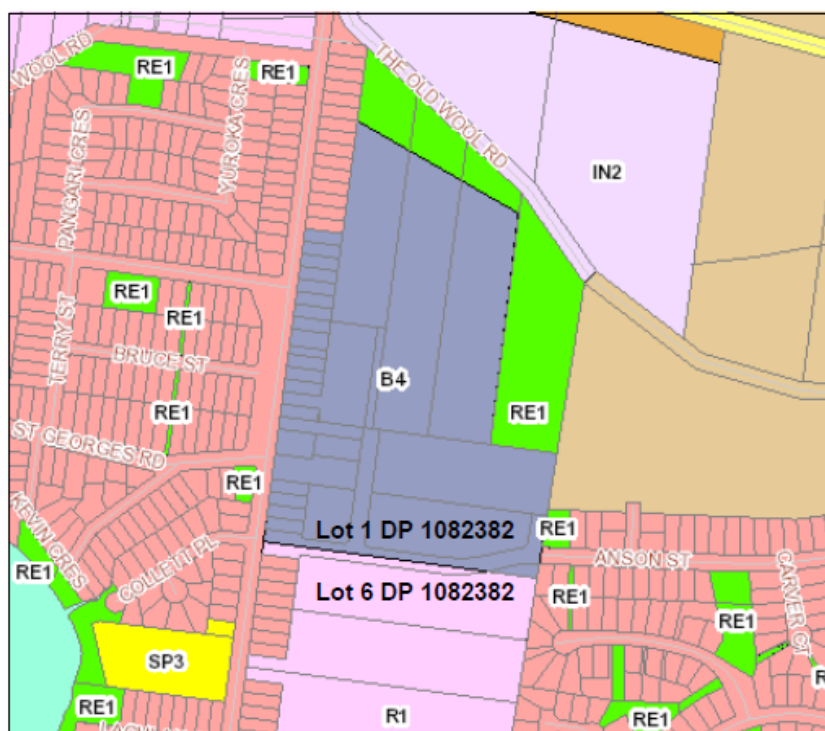
LEP Existing Zones

Under the Shoalhaven LEP 2014 the subject land has the following zoning:

Lot 1 DP 1082382 – B4 Mixed Use (Note: lot is in 3 parts)

Lot 6 DP 1082382 – R1 General Residential.

The existing zones are shown on the following map:



*Extract: Shoalhaven LEP2014 – Zones
St. Georges Basin*

The B4 Mixed Use zone allows a mix of compatible land uses including business, office, residential, retail and other development in accessible locations. The R1 General Residential zone provides for a variety of housing types and densities. It also allows other land uses that provide facilities or services to meet the needs of residents. As such both zones in this location are relatively flexible and allow a range of land uses.

LEP Background – Height of Buildings

Prior to the preparation of the Shoalhaven LEP 2014, building height controls largely sat outside the LEP and in appropriate areas or zones were controlled via Development Control Plans (DCP's) and a provision in the previous Illawarra Regional Environmental Plan (REP) that enabled Council to consider development up to 11 metres.

With the move to the new Standard LEP Instrument in NSW, Council was required to include 'height of building' controls in its new LEP. This occurred in our LEP in two ways:

- Zones, areas or sites were mapped at a specific height based on existing controls that may have been in place in existing DCP's
- Provision included in Clause 7.3 Height of Buildings in the LEP instrument for those areas that are not mapped, requiring the height of buildings on the land to not exceed 11 metres.

Throughout the LEP preparation and exhibition processes, the 'height of building' control was an issue of general community concern throughout Shoalhaven.

Specific 'height of building' decisions were made during the LEP preparation process and in respect to the land which is the subject of this resolution, these are summarised below.

Draft LEP 2011 Exhibition – two submissions were received that commented on the proposed height controls in the vicinity of the St. Georges Basin Village Centre.

- One supported the proposed mapped height limit of 8 metres for the St. Georges Basin Village Centre (note not all the zoned area) that was consistent with the former DCP No.17 that covered this area.
- One requested a 13 metre building height for Lot 1 and 6 DP1082382 to ensure that a realistic development opportunity for the subject land was economically feasible (Note: economic feasibility study was included with the submission).

It was noted in the Council report following the exhibition that changing the height of buildings map for Lots 1 and 6 DP1082382 to 13 metres would be inconsistent with the DCP and maybe inconsistent with the existing and desired future character for the area. The report went on to note that the submission argued that higher density residential development, as per the master plan that the landowner has developed for the site, was only economically viable if the height of buildings for the two sites is increased to 13 metres. The submission acknowledged that this was not likely to be popular with the community.

Staff noted that should a future development proposal warrant heights that are inconsistent with the DCP then a future PP can be considered for the site and this would enable specific dialogue with the community on the proposal. As a result the report recommended that the height of buildings remain unchanged in this location – 8 metres for the village centre as per the DCP and the 11 metres general maximum elsewhere.

Council however ultimately resolved on 30 May 2012 to:

Change the maximum height of buildings for Lots 1 and 6 DP 1082382 St. Georges Basin to 13 metres to facilitate the feasibility of higher density development on the site.

Draft LEP 2013 Exhibition – during this exhibition five submissions (including one from the Basin Villages Forum) were received on the change that was made to the height of buildings for Lot 1 and 6 DP 1082382 St. Georges Basin, noting that it was a significant change that was contrary to the LEP ground rules and as such should not be supported.

One submission was also received on behalf of the owners who requested that the height for Lot 1 DP 1082382 be increased from 13 metres to 14 metres to enable buildings up to four storeys and to enable a commercial component consistent with the zoning provisions.

The Council report following the exhibition again recommended that the exhibited maximum 8 metre height of building overlay for the western portion of Lot 1 DP 1082382 be retained and that the overlay be removed from the remaining eastern portion of Lot 1 DP 1082382 and entirely from Lot 6 DP 1082382.

Council however ultimately resolved on 17 July 2013 to:

Retain the exhibited maximum 8 metre Height of Building overlay for the western portion of Lot 1 DP 1082382, and the Height of Building overlay for the remaining eastern portion of Lot 1 DP 1082382 and Lot 6 DP 1082382 be retained at 13 metres.

As such the Shoalhaven LEP 2014 was finalised and ultimately notified on 8 April 2014 with the following 'height of building' controls:

- Western portion of Lot 1 DP 1082382 – mapped at 8 metres.
- Eastern portion of Lot 6 DP 1082382 – mapped at 13 metres.

The following map provides shows the current mapped areas and their heights in this location:



Extract: Shoalhaven LEP2014 – Height of Buildings Map
St. Georges Basin

The above map shows the following:

Green and notated I1 – mapped 'height of buildings' is 8 metres. Note this is consistent with the area identified at this height in the former DCP No.17 – St. Georges Basin Village Centre.

Brown and notated N1 – mapped 'height of buildings' is 13 metres.

Uncoloured – no specific mapped height, however the provision in Clause 7.3 Height of Buildings in the LEP instrument enables buildings up to 11 metres to be considered. This

provision also applies to the remainder of the land zoned B4 Mixed Use to the north of Anson Street and R1 General Residential to the south of Anson Street.

Community Engagement

Should Council decide to proceed with a PP to amend the Shoalhaven LEP 2014 to adjust the 'height of building' controls in this location and the matter receives a favourable Gateway determination from the NSW Department of Planning & Environment (DP&E), then there will be a formal community consultation opportunity as part of the PP process.

Policy Implications

It is noted that the specific 'height of building' controls in this location resulted from a submission during the draft LEP 2014 preparation process. They did not result from any strategic work that justified specific heights in this location.

It is noted that the Council reports in 2012 and 2013 both recommended against placing the requested building height in this location as part of the new LEP process. The reports noted that should a future development proposal warrant heights that are inconsistent with the then DCP or the generic height controls then a future PP could be considered for the site. This would have enabled specific dialogue with the community on the proposed changes.

Given that the 'height of building' controls were effectively a 'one-off' change that occurred during the new LEP process, changing or adjusting them is unlikely to be inconsistent to any great deal with existing Council or NSW Government Policy. As such Council is able to consider making this change and appropriate justification for any change would be included in the PP that is forwarded to the DP&E.

Should the 'height of building' controls in this location ultimately change and depending on the outcome of the development application in this this location it could result in a 13 metre development eventuating on part of Lot 6 and the remainder of the land having a lesser height control. This is a potential outcome given that a development application is currently pending over part of the lot.

Financial Implications

Any future PP would be undertaken using existing resources in Councils Strategic Planning Section and as such would be managed within existing budgets.