

**CORPORATE & BUSINESS SYSTEMS**

**ATTACHMENT B**

**PLANNING PROPOSAL - CIVIC PRECINCT  
PROJECT, LAKE & WEST STS, FORSTER**

**EXTRAORDINARY MEETING**

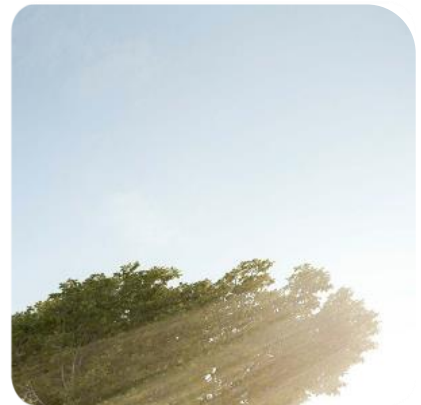
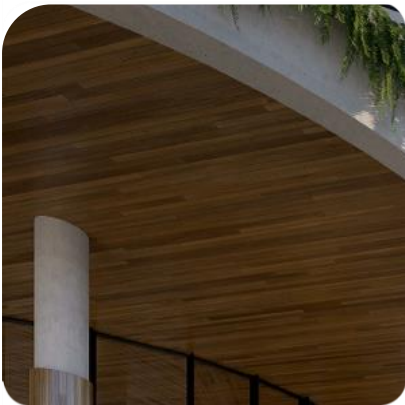
**14 MARCH 2017**

# INDEPENDENT REVIEW OF A PLANNING PROPOSAL

## *Civic Precinct Project - Lake and West Streets, Forster*

Prepared for **Mid-Coast Council**

31 JANUARY 2017



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## I.0 Purpose of this Report

RPS has been engaged by Mid Coast Council to provide an independent review of documentation relating to a proposed amendment to *Great Lakes Local Environmental Plan 2014* (GL LEP 2014).

Specifically RPS has reviewed a draft Planning Proposal dated December 2016 (Version 1.0 / Date: December 2016). The draft Planning Proposal, which is provided under separate cover, suggests the amendment of building heights and floor space ratio mapping relating to land on the corner of Lake and West Streets, Forster which is in the ownership of Mid Coast Council.

This report reviews the strategic merit of the draft Planning Proposal and also advises whether the draft Planning Proposal complies or not with the NSW Department of Planning and Environment (DP&E) guideline titled "*Planning Proposals: A guide to preparing planning proposals.*"

## 2.0 The Site

The site is bounded by Lake, West and Middle Streets Forster and described as lots 11 to 13 in DP 47987 and illustrated in **Figure 1**.

The site is located on the southern side of the Forster Town Centre and is currently zoned B4 Mixed Use under GL LEP 2014. GL LEP 2014 specifies a maximum building height ranging from 24 metres on the Lake Street/West Street corner, 21 metres along some of the West Street frontage and 18 metres over the remaining part of the site. GL LEP 2014 specifies and a Floor Space Ratio (FSR) of 2:1 across the site.

The site is a large development site being an old school site, approximately 12,150m<sup>2</sup> in size. The site is vacant but still includes some trees within the site as well as along the street boundaries.

The site is adjacent to existing services between Little Street and West Street including the Police Station, Visitor Information Centre and other community facilities.

The site is owned by Mid Coast Council who is seeking a private sector participant in its development.



Figure 1 Site Location



## 3.0 The Draft Planning Proposal

Mid Coast Council has entered into a contract with a developer which requires delivery of a number of Civic Centre facilities on the site. These facilities will be delivered in Stage 1 of the development of the site.

Development across the site will be subject to a development application which will be exhibited and considered concurrently with the Planning Proposal.

The draft Planning Proposal has been prepared to facilitate development of a significant site within the Forster town centre. The amended planning controls stemming from the Planning Proposal will provide the opportunity for commercial/residential development integrated with an expanded civic precinct which will provide community facilities in the form of a new library, multipurpose community space for meetings, activities and performances and a new visitor information centre.

Should the Planning Proposal be supported and ultimately GL LEP 2014 amended it will enable the site to be developed by a private developer who will construct and hand over the community facilities to Mid Coast Council, enabling modern high quality facilities to be developed which would otherwise be beyond the means of Mid Coast Council. In return, the developer will obtain development rights over the remainder of the land and airspace above to develop a commercial, entertainment, tourism and seniors housing development which integrates with the community facilities. The overall development concept includes buildings that exceed the maximum height of building controls and floor space ratio controls that apply to the land and hence the need for the Planning Proposal.

The draft Planning Proposal proposes to retain the existing B4 Mixed Use zoning but proposes to increase the building heights (ranging from 33 metres to 26 metres) and to increase the FSR to 3:1.

The draft Planning Proposal is supported by an Urban Design Analysis Report which assesses the suitability of the overall development concept of the site in terms of existing and future character, development footprint and provides a view analysis of the proposed built form with existing surrounding built form and proposed surrounding built form. The Urban Design Analysis Report also reviews the overall development concept of the site against the existing Great Lakes Development Control requirements and the Draft *NSW Architecture and Design Policy*.

It is clear from the Urban Design Analysis Report that:

- The site is the only large development site in the Forster CBD.
- The proposed development as depicted in the overall development concept of the site includes two multi-storey buildings separated by a laneway, ranging in height from 36.3 metres on the Lake St frontage to 28 metres on the Middle St frontage.
- Incorporation of the land within the civic precinct makes the site a key site and a landmark site which justifies greater height and presence.
- The overall development concept of the site will create high quality spaces for the proposed community facilities.
- Without the civic facilities incorporated as proposed, the residential and commercial outcomes would be largely compliant with the current controls.
- The building heights and floor space controls are generally similar to controls for adjoining land to the north and integrate with the planned urban form for the area.
- There have been no significant negative impacts for surrounding areas identified.

The draft Planning Proposal is also supported by an Economic Impact Assessment which concludes as follows:

- The proposed development, subject to the new building heights and FSR, would provide residential accommodation, retail, commercial and employment uses while delivering greater diversity and increased housing supply in the Forster CBD.
- The proposed development, subject to the new building heights and FSR would facilitate the creation of approximately 236 jobs during construction. On this basis existing retailers in Forster/Tuncurry would enjoy around \$0.9m in revenue from retail sales.
- The proposed development, subject to the new building heights and FSR would facilitate the creation of approximately 260 on going jobs on what is currently vacant land.
- The Great Lakes LGA is undersupplied by supermarket and grocery retail by 1775m<sup>2</sup>. The Planning Proposal and resultant development will provide 1000m<sup>2</sup> of supermarket space.
- Given the demographics for the area there is potential un-met demand for an additional cinema in the LGA.
- Total estimated spend by residents, workers and tourists on the subject site will be around \$5.5m every year.

### 3.1 Strategic Merit of the Draft Planning Proposal

The draft Planning Proposal provides for modest increases in building height and FSR on the site. The impacts of the changes are limited largely to the built environment. The built environment impacts have been adequately examined within the Urban Design Report.

Key strategic merits of the draft Planning Proposal include:

- The site is one of the largest vacant development sites in the town centre and provides an opportunity to create a well-designed mixed use development with a range of community, commercial and residential uses;
- The site will be a landmark site in the Forster town centre connected with the waterfront and CBD;
- As a landmark site, taller buildings can be considered and the site will contribute to the CBD's legibility and create a gateway at the southern end of the CBD;
- The resultant development will provide high quality community and retail entertainment uses which require higher ceiling space to create quality space and desired urban outcomes;
- Increases to height and FSR are justified as the Planning Proposal and resultant development will deliver public benefits with high quality community buildings and outdoor spaces. In the absence of the community facilities, the development standards could largely be met;
- The integration of the mixed uses has significant benefits in terms of urban form and structure;
- The proposed building heights still meet the height objectives under the GL LEP 2014 with the scale of the proposed buildings compatible with the planned building heights for the town centre;
- The built form includes stepping down of buildings to the south and east to integrate with lower building heights in those areas;
- The proposed FSR still meets the objectives of the control in that it is compatible with the controls for land to the north within the town centre and provides for a broad range of uses consistent with the objectives of the zone, and is the same as the B4 Mixed Use Zone on the northern side of Lake Street (adjacent to the subject site);



- The overall development concept of the site may result in some overshadowing of land to the south on 21 June, however, the property most affected is an office / administration building (Department of Education Lot 2 DP 46697) and most properties still received at least three (3) hours of sunlight in midwinter. It should be noted that the shading impacts depicted are similar to the shadows of the previously approved five (5) storey development on the land; and
- The overall development concept of the site resulting from the Planning Proposal includes retention of large trees on the site perimeter, including the Norfolk pines, which are of similar scale to the proposed buildings.

## 4.0 Relevant Strategic Plans and other documentation

A review of the draft Planning Proposal against the Hunter Regional Plan, the DP&E “*Planning Proposals: A guide to preparing planning proposals.*”, state environmental planning policies and relevant directions under Section 117 of the *Environmental Planning and Assessment Act 1979* (S117 Ministerial Directions) is provided below.

### 4.1 The Hunter Regional Plan

It is considered that the draft Planning Proposal is consistent with the Hunter Regional Plan as follows:

#### **Goal 1 – The leading regional economy in Australia**

##### *Direction 6 – Grow the economy of Mid Coast and Port Stephens*

The Planning Proposal will provide for commercial development as well as civic development which will support the growth of the Forster township and provide economic growth in the region.

##### *Direction 9 – Grow tourism in the region*

A key issue identified in the Council's previous studies and strategies is the need for services and activities in and around the town centre to support the large tourist population in the area. The proposed civic facilities and entertainment facilities provide activities that support tourism in the area, whilst the proposed small retail components (including express supermarket) provide for low scale retail which can provide essential everyday items for tourists staying in the area.

The new hotel and serviced apartments proposed in the overall development concept also provide for additional tourism accommodation of a type which is not found in the locality and which provides a greater diversity of tourist accommodation in the area, allowing for growth into new tourism sectors for the area.

#### **Goal 3 – Thriving communities**

##### *Direction 17 – Create healthy built environments through good design*

The development concepts for the site provide housing on the land which is integrated with civic and commercial development, as well as linking with the Foreshore open space, boardwalk and the CBD, providing strong pedestrian and bicycle connectivity promoting healthy design.

##### *Direction 20 – Revitalise existing communities*

A key goal of the civic precinct is the revitalisation of the Forster town centre. The Planning Proposal delivers social infrastructure and new activity at this key site to support and revitalise the central business district and high density residential areas of the town centre.

#### **Goal 4 – Greater housing choice and jobs**

##### *Direction 21 – Create a compact settlement*

The Planning Proposal will result in a proposed integrated civic centre, commercial and residential development consistent with the outcomes for the strategies affecting the Forster town centre which provide for a compact settlement.

##### *Direction 22 – Promote housing diversity*

The proposed development concept provides units for seniors housing in a central location, in an apartment fashion which proposes greater housing diversity in the area and promotes housing suitable for ageing in place for seniors which are a key demographic in the local area.

#### *Direction 23 – Grow centres and renewal corridors*

The proposed development concept provides for growth in Forster-Tuncurry which is identified as a strategic centre within the regional plan.

#### *Direction 26 – Deliver infrastructure to support growth and communities*

The proposed development concept provides for the delivery of social infrastructure (library, community hall etc) consistent with this direction.

## 4.2 Department of Planning Guide to Preparing Planning Proposals

The draft Planning Proposal has been assessed in the light of the DP&E guidelines titled “*Planning Proposals: A guide to preparing planning proposals*”. It is noted that the draft Planning Proposal is structured in a manner consistent with the required Planning Proposal structure and provides adequate responses to the matters contained within the guidelines including the provision of a Urban Design Analysis Report and an Economic Impact Assessment.

However it is noted that the DP&E Guidelines state inter alia as follows:

*“there will be a presumption against a Rezoning Review request that seeks to amend LEP controls that are less than 5 years old unless the proposal can clearly justify that it meets the Strategic Merit Test”.*

### **Justification to amend controls less than 5 years old**

The draft Planning Proposal seeks to amend the GL LEP 2014 which is less than 5 years old. However it is noted that the strategic planning for the part of the Forster CBD which includes the site has changed since the master plan for Forster was undertaken in 2008/2009. Relevant recommendations in relation to height and FSR from the master plan for Forster were incorporated into the GL LEP 2014.

It is considered that the draft Planning Proposal meets the relevant objectives of the site specific DCP, notwithstanding that the master plan did not propose community facilities for the site. To that extent the existing site specific DCP is no longer relevant given Councils intentions for the site.

Consequently it is considered that the proposed changes to the LEP, as proposed in the draft Planning Proposal are fully justified.

## 4.3 State Environmental Planning Policies

The draft Planning Proposal is considered to be generally consistent with the relevant state environmental planning policies.

A summary of the of the draft Planning Proposal’s consistency with relevant State Environmental Planning Policies is provided as Appendix E within the draft Planning Proposal and the summary is considered appropriate subject to a minor amendment which is:

- SEPP 44 – Koala Habitat Protection – The Planning Proposal is not likely to impact on critical habitat, threatened species, populations or ecological communities. Ecological impact assessment of the proposal will be undertaken as part of the concurrent development application and should be exhibited concurrently with the Planning Proposal.

## 4.4 S117 Ministerial Directions

The draft Planning Proposal is considered to be generally consistent with the relevant S.117 Ministerial Directions.

A summary of the of the draft Planning Proposal’s consistency with relevant S 117 Ministerial Directions is provided as Appendix F within the draft Planning Proposal and the summary is considered appropriate subject to the following minor amendment:

- Direction 2.3 – Heritage Conservation – This Direction applies however the proposal does not change permissible uses on the land or permit additional development. Previous assessment of the site was provided by the Forster Local Aboriginal Land Council which did not reveal any constraints to development on the site. Discussions between Council’s Strategic Planning Manager and the Office of Environment and Heritage confirmed that an Aboriginal Cultural Heritage Assessment is not required for this Planning Proposal, however a due diligence assessment will be required at the development approval stage.

## 5.0 Local Planning considerations

### 5.1 Great Lakes LEP 2014

The objectives of the Planning Proposal is to amend the GL LEP 2014 over a landmark development site to facilitate development of the expanded Forster Civic Precinct which will deliver substantial social and economic benefits to the community.

The current zoning of the subject site under the GL LEP 2014 is B4 Mixed Use. The zoning will not change under this Planning Proposal.

The intended outcomes of the draft Planning Proposal are to amend the Height of Building and Floor Space Ratio map layers under GL LEP 2014 as they affect Lots 11-13 DP 47987 at the corner of Middle, Lake and West Streets, Forster so that:

- Height of Building Controls applying to the subject land under Clause 4.3 are increased to allow buildings heights over the land between 26 metres and 33 metres; and
- Floor Space Ratio Controls applying to the subject land under Clause 4.4 will be increased to allow maximum floor space ratios of 3:1.

The Planning Proposal will be considered concurrently with a development application for the development of the site which will include detailed design outcomes for the land.

It is noted that the development concept for the site may seek development consent for development that is slightly greater than that proposed by the draft Planning Proposal. However as with all development applications clauses 4.3 and 4.4 of GL LEP 2014 allow for a 10% increase in maximum building height and floor space ratio in the following circumstances:

- Internal lift access will be provided to all levels in the building, and
- The design of the building is consistent with AS 4299–1995, Adaptable housing.

The appropriateness of the development will be the subject of a future development application and will be assessed based upon the individual merit of the future application.

### 5.2 Great Lakes DCP

The Great Lakes Development Control Plan (GL DCP) includes specific controls for the subject site described in Section 16.12 - Lake and West Streets Forster.

#### **16.12 – Lake and West Streets, Forster**

The site comprises 3 large vacant lots with total area of 1.2ha situated on the south-east end of the Forster CBD adjoining the Civic precinct to the west, the 'tall buildings' precinct to the north and the medium density precinct to the south.

#### **16.12.1 - Objectives**

The aim of the controls is to provide guidelines to achieve the objectives of the DCP and to promote appropriate urban design to:

- Ensure site design meets the strategic objectives of its context;
- Optimise development potential;
- Provide a high level of amenity within the site and reduce amenity impacts to adjoining sites;
- Improve legibility of the townscape;

- Improve the quality of the surrounding public domain;
- Achieve environmentally sustainable design;
- Address demographic trends including design for an aging population;
- Encourage a range of accommodation opportunities that address prevailing demographic trends within a high quality residential environment;
- Achieve a built environment that is sympathetic to climate comfort and promotes a high level of social comfort and residential amenity; and
- Maximise opportunities for public domain improvements and architectural and design excellence through development bonuses.

It is considered that the draft Planning Proposal and the likely resultant development, based upon the information reviewed, will be consistent with the above objectives.

### **16.12.2 – Development Controls**

The proposed development has been assessed in relation to the site specific DCP controls as indicated in the **Table 1**. These controls are relevant particularly at the development application stage. The proposed development is consistent with the principles of the DCP and variations can be dealt with at the development assessment stage.

**Table 1 GL DCP Section 16.12.2 Development Controls**

Development Concept	Comment
<b>Site is to be development generally in accordance with the Master Plan including:</b>	
1. Four separate buildings close to existing street boundaries.	1. Four separate buildings are proposed fronting onto the surrounding street network
2. The introduction of ground floor commercial space on the corner of Lake and West streets.	2. Ground floor retail uses are proposed in the corner of Lake and West streets.
3. The introduction of a new vehicle linkage between Lake Street and Lake Lane.	3. The proposal does not incorporate a vehicle linkage between Lake Street and Lake Lane. This variance is to ensure the principles of CPTED apply and secure spaces for the community uses as required.
4. Building height to emphasise the topography as shown in the Building Height Concept Plan.	4. The building heights have been increased to ensure its landmark status providing community uses and revitalising the southern end of the CBD.
5. The articulation of the Lakes Street /West Street corner by building height and form.	5. The proposal incorporates articulation of the building on the corner.
6. Preserving most of the trees on site.	6. The proposal retains most of the trees along the street boundaries including the Norfolk Island Pines.
<b>Site Permeability</b>	
7. The development to provide a through link from Lake to Middle streets to improve connectivity to Peneton Creek.	7. A through link has not been provided however connectivity is maintained along the existing streets to Peneton Creek.
8. The pedestrian linkage from Lake Lane to Middle Street is to be finished in high quality materials.	8. The boundaries and setbacks will be landscaped to create a pleasant environment.
<b>Street Address</b>	
9. The building fronting corner of Lake and West Streets shall incorporate active street frontages including shops and cafes/restaurants.	9. The ground floor incorporates a range of uses including cafes, restaurants, shops, library, visitor centre and entry to residential apartments.



Development Concept	Comment
10. Ground floor outdoor dining is encouraged.	10. Ground floor outdoor dining is proposed.
<b>Building Setbacks</b>	
11. The building setbacks should allow for the retention of existing trees.	11. The proposed building setbacks are greater than recommended to retain existing trees.
12. The street setback at ground level for retail uses shall be a max of 2m if this does not affect existing trees.	12. Variable setbacks are proposed to allow for the retention of existing trees.
13. The street setback at ground level for residential uses shall be in the range of 4.5m to 5m if this does not affect existing trees.	13. Residential apartments are incorporated on the ground floor and setback to retain existing trees.
14. The side boundary setback for the first 3 levels shall be a minimum of 3m.	14. The side boundary setback for the first three levels is greater than 3m.
15. The side boundary setback for any level above 3 storey shall be 9 metres.	15. The side boundary setback above the first 3 levels is generally 9 metres except for some small encroachments at corners.
16. The internal separation between buildings with habitable rooms/balconies facing habitable rooms/balconies shall be a minimum of 18 metres.	16. Internal separation will be resolved as part of the detail design.

### 5.3 Consideration of other lands within the Planning Proposal

When development intentions for the adjacent Department of Education site (Lot 2 DP 46697) are clear it may be appropriate to consider revising the planning controls at that time.

## 6.0 Conclusion

The draft Planning Proposal to increase the building heights and floor space ratio on the site displays strategic merit and complies with the NSW Department of Planning and Environment guideline titled *“Planning Proposals: A guide to preparing planning proposals”*.

It is considered that the Planning Proposal should be supported for the following reasons.

- The strategic planning for this part of the Forster CBD, including the site, has changed since the master planning undertaken in 2008/2009 and the subsequent implementation of the GL LEP 2014 and the GL DCP.
- The Civic Precinct between Little and West Street, including the Police Station and Visitor Information Centre, is now extended to include the site.
- Council requires the site to incorporate some key community facilities and public infrastructure to form part of the Civic Precinct.
- The site is one of the largest vacant sites in the one ownership within the Forster CBD and provides the opportunity to create a well-designed mixed use development incorporating a range of community facilities.
- The Planning Proposal and resultant development should act as a catalyst for further development in the southern part of the CBD.
- The Planning Proposal and resultant development is likely to meet the relevant objectives of the site specific DCP, notwithstanding that the DCP concept master plan did not propose community facilities on this site. To that extent the existing site specific DCP is no longer relevant given Councils intentions for the site.
- Increases in height and FSR are justified where it allows development to incorporate a wide range of community facilities and infrastructure including extensive outdoor spaces at street level.
- An increase in height for the site still meets the height objectives under the GLLEP 2014 in that the scale of the proposed buildings is compatible with the desired future urban character of the locality as indicated in the Urban Design Analysis report.
- The proposed maximum height of 33m represents a height applicable to other sites within the CBD. The increase in height has been adequately justified within the Urban Design Analysis report.
- An increase in the FSR for the site still meets the FSR objectives under the GL LEP 2014 in that it is compatible with the desired future urban character of the locality. The proposal will also provide a broad range of uses that will benefit the public.
- There will be some overshadowing on land to the south and southeast on 21 June, however most properties will receive a minimum of 3 hours solar access.
- The resultant development will retain the existing trees along Lake Street including the Norfolk pines.

## 7.0 References

- Draft Planning Proposal (Version 1, December 2016);
- NSW Department of Planning and Environment (DP&E) guideline titled "*Planning Proposals: A guide to preparing planning proposals*";
- Urban Design Analysis Report, Peter Andrews and Associates Pty Ltd (December 2016); and
- Economic Impact Assessment, Hill PDA (December 2016).