

**Subject        11.2.5 Planning Proposal No. 14 - Calderwood Valley  
Golf Course (10259777)**

317        RESOLVED: Rankin/Murray

1. Council prepare a Planning Proposal (No. 14) to amend Shellharbour Local Environmental Plan 2013 to rezone part of Lot 6 DP 2534 Calderwood Road, Calderwood from RU1 Primary Production to RE2 Private Recreation.
2. The Council authorise the General Manager to submit the Planning Proposal (Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14) to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
3. That Council as part of its gateway submission apply to the Department of Planning and Environment to use its plan making related delegations including to make or not make the plan under section 59 of the *Environmental Planning and Assessment Act*, after any public exhibition of the draft plan.
4. The Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 14 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
5. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14 be publically exhibited in accordance with the gateway determination.
6. A report be submitted to the Council on the public exhibition of the Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14 detailing the outcomes of the community and government agency engagement.
7. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 14 be reported back to the Council for final consideration and with further recommendations regarding adoption.

CARRIED UNANIMOUSLY

**Subject            11.2.5 Planning Proposal No. 14 - Calderwood Valley Golf Course (10259777)**

To the General Manager

**Directorate:**    **City Outcomes**

**Department:**   **City Strategy**

**Manager:**        Geoff Hoynes - Group Manager, City Strategy

**Author:**          Cheryl Lappin - Senior Strategic Planner

---

## **Summary**

This report recommends that Council support a Planning Proposal to amend *Shellharbour Local Environmental Plan 2013* (the LEP) to rezone Part of Lot 6 DP 2534, 532 Calderwood Rd, Calderwood from RU1 Primary Production to RE2 Private Recreation.

The site is currently occupied by Calderwood Valley Golf Course and has Development Approval for a Rural Tourist Facility which was approved under the provisions of Shellharbour Rural LEP 2004. These uses are currently prohibited on this land under Shellharbour LEP 2013 and any future development of this type would rely on existing use rights.

The purpose of the Planning Proposal is to rezone the land to RE2 Private Recreation which would be a more appropriate zone to reflect the existence of the existing golf course and the approved Rural Tourist Facility and assist the facilitation of investment in the development of the site.

This report also recommends that the Planning Proposal be submitted to the NSW Department of Planning & Infrastructure for their consideration, and to enable the Planning Proposal to go on public exhibition.

## **Background**

This report will form part of Council's submission to the NSW Department of Planning and Environment requesting that the proposal be submitted to the Gateway Review Panel allowing it to be placed on public exhibition. The subject land is 51ha in area, 32.78ha of the land is located in the Shellharbour LGA, and the remainder of the land is located in the jurisdiction of Wollongong LGA. The proposal only relates to the land located within the Shellharbour LGA as the existing use is permissible under Wollongong LEP 2009. A locality map can be found in Attachment 1.

The site comprises RU1 (primary production) zoned land under LEP 2013 which is occupied by a 17-hole golf course which was approved by Council in 1993 (DA93/43), the 18<sup>th</sup> hole is located on the land in the Wollongong LGA. Various amendments to the relevant Shellharbour LEP applicable to the site since 1993 mean that the existing golf course (excluding the hole in the Wollongong LGA) lawfully operate under the existing use rights provisions of the Environment Planning and Assessment Act, 1979.

The current buildings and structures associated with the existing golf course are quite basic. On 25 July 2013, under the provisions of Shellharbour Rural LEP 2004 which was in force at lodgement of the development application, Council approved a 24-cabin Rural Tourist

Facility, including a golf clubhouse with bar and restaurant/function centre, and associated golf course infrastructure including a new workshop and storage facilities (DA383/2012). These uses are currently prohibited under the RU1 Primary Production zone for the land under Shellharbour LEP 2013.

The purpose of the planning proposal is to rezone the land from RU1 Primary Production to RE2 Private Recreation to more appropriately reflect the existence of the golf course and the approved rural tourist facility as private recreational activities.

All other existing mapping layers including the Lot size map which specifies a 40ha minimum lot size and Height of building map which specifies a 9m height limit are proposed to remain unchanged.

Additional uses that will also be permitted with consent if the land is rezoned to RE2 Private Recreation include Backpackers' accommodation, Camping grounds, Caravan parks, Educational facilities, Function centres, Hotel or Motel accommodation, Information and educational facilities, Kiosks, Places of public worship, Recreation areas (indoor), Recreation facilities (major), Recreation facilities (outdoor), Registered clubs, Restaurants or cafes and signage.

It is considered that these uses may be suitable on this site. Any proposal would require a development application and would be assessed on planning merit.

### **Financial/Resource Implications**

Preparing the relevant information for a Planning Proposal will utilise staff time and resources. However these expended resources are at least partially offset by the fee relating to a Planning Proposal Application.

### **Legal & Policy Implications**

While Shellharbour LEP 2013 does not prevent the carrying out of the development that is approved on the land, it is not commercially attractive to invest significantly in the site where over time, the continued operation of the golf course and the proposed tourist facility needs to rely on potentially complex existing use right provisions. In this regard even the most basic amendment to any existing development consent can become complicated by existing use right provisions.

The proposed Planning proposal will make the existing golf course and tourist facility a permissible use with consent under Shellharbour LEP 2013.

The Planning Proposal is required to be assessed in accordance with the requirements of the *Environmental Planning & Assessment Act* and *Regulations* and the Guide to Preparing Planning Proposals and the Guide to Preparing Local Environmental Plans prepared by the NSW Department of Planning & Infrastructure.

### **Local Planning Directions (S117(2) Environmental Planning & Assessment Act)**

The Planning Proposal is consistent with all of the Local Planning Directions.

### **Public/Social Impact**

The proposed zoning will allow the private golf course land use to be properly characterised under the Shellharbour Local Environmental Plan 2013 and most importantly, an appropriate

zoning will facilitate investment through properly secured commercial arrangements to enable redevelopment of the golf course as a recreation destination in Shellharbour.

### **Link to Community Strategic Plan**

The submission and assessment of a Planning Proposal is linked to the Community Strategic Plan in the following ways

Objective: 2.3 A liveable City that is connected through places and spaces

Strategy: 2.3.2 Undertake all land use planning addressing social, economic and environmental principals whilst reflecting the current and future community's needs

2.3.4 Facilitate the provision of development that meets the changing needs and expectations of the community

## **Consultations**

### **Internal**

City Outcomes - Development

### **External**

Nil

### **Political Donations Disclosure**

Under Section 147(4) of the *Environmental Planning and Assessment Act 1979* (the Act) a person who makes a relevant planning application to Council is required to disclose any reportable political donations and gifts made by any person with a financial interest in the application within the period commencing two years before the application is made and ending when the application is determined, including:

- a) all reportable political donations made to any Councillor of this Council
- b) all gifts made to any Councillor or employee of this Council.

Under Section 147(5) of the Act, these disclosure requirements also apply to a person, or any associate of a person, who makes a relevant public submission to Council in relation to a relevant planning application.

**Note:** Section 147(1) of the Act states: 'political donations or gifts are not relevant to the determination of any such planning application, and the making of political donations or gifts does not provide grounds for challenging the determination on any such planning application'.

The Disclosure Statement received by Council indicates that no reportable donations or gifts have been made.

## **Recommendation**

1. **Council prepare a Planning Proposal (No. 14) to amend Shellharbour Local Environmental Plan 2013 to rezone part of Lot 6 DP 2534 Calderwood Road, Calderwood from RU1 Primary Production to RE2 Private Recreation.**

2. The Council authorise the General Manager to submit the Planning Proposal (Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14) to the NSW Department of Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
3. That Council as part of its gateway submission apply to the Department of Planning and Environment to use its plan making related delegations including to make or not make the plan under section 59 of the *Environmental Planning and Assessment Act*, after any public exhibition of the draft plan.
4. The Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 14 if and as required by the NSW Department of Planning & Environment's LEP Review Panel and gateway determination.
5. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14 be publically exhibited in accordance with the gateway determination.
6. A report be submitted to the Council on the public exhibition of the Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No 14 detailing the outcomes of the community and government agency engagement.
7. The Draft Shellharbour Local Environmental Plan 2013 Planning Proposal No. 14 be reported back to the Council for final consideration and with further recommendations regarding adoption.



Approved for Council's consideration:

**Date of Meeting:** 30 September 2014

**Attachments**

1. Locality Map

## Attachment 1 – Locality Map

