

**SUBJECT: CCL 24/11/15 - 4 MAYO STREET, JESMOND -
ENDORSEMENT OF PROPOSED AMENDMENT TO
NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

**REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER
STRATEGIC PLANNING**

PURPOSE

This report seeks Council's endorsement of a planning proposal to commence the statutory process to prepare amendments to Newcastle Local Environmental Plan (LEP) 2012. The planning proposal is in relation to land that Council owns at 4 Mayo Street, Jesmond and involves the reclassification and rezoning of the land.

RECOMMENDATION

1 Council resolves to:

- a) Endorse the attached planning proposal (**Attachment A**), pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to amend Newcastle Local Environmental Plan 2012 for land at Part 4 Mayo Street Jesmond, as follows:
 - i. Amend the Land Zoning Map to rezone part of the site from RE1 Public Recreation to R2 Low Density Residential.
 - ii Amend the Height of Buildings Map to include a maximum permissible height of 8.5 metres over the land proposed to be zoned R2 Low Density Residential.
 - iii Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.75 over the land proposed to be zoned R2 Low Density Residential.
 - iv Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 450m² over the land proposed to be zoned R2 Low Density Residential.
 - v Amend the Minimum Lot Size Map to reduce the minimum lot size of 40 hectares to 4000m² over the land to remain RE1 Public Recreation.
 - vi Include the subject land within Part 2 – Land classified or reclassified, as operational land – interests changed within Schedule 4 Classification and reclassification of public land, as follows:
 - Column 1 to read “*Jesmond*”
 - Column 2 to read “Part of Lot 20 DP 230341, being the land in Zone R2 Low Density Residential and part of 4 Mayo Street”.

- Column 3 to read “Easement for sewage pipeline (R906718) as noted on *Certificate of Title Folio Identifier 20/10396*”.
- b) Forward the planning proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Secretary of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Consult with the community and relevant government agencies as instructed by the Gateway Determination, noting that section 29 of the Local Government Act 1993 requires a public hearing to be held in respect of the reclassification of the land.
- e) Receive a report back on the planning proposal following completion of the required consultation.

KEY ISSUES

- 2 The planning proposal (**Attachment A**) was prepared in accordance with Department of Planning guidelines and Council's Local Environmental Plan – Request for Amendment Policy.
- 3 Council resolved on 9 December 2014 to endorse the preparation of a planning proposal to enable the appropriate rezoning and reclassification of the site. Council's Commercial Property section engaged City Plan Services to investigate the site and prepare a planning proposal on Council's behalf.
- 4 A request to amend the Newcastle Local Environmental Plan (LEP) 2012 was lodged with Council's Strategic Planning section. The original request proposed to rezone part of Maclure Reserve from RE1 Public Recreation to R2 Low Density Residential and reclassify Maclure Reserve in its entirety from Community to Operational removing the 40 hectare minimum lot size from the part of the land to remain zoned RE1 Public Recreation.
- 5 Following assessment of the LEP amendment request, Council officers concluded that the reclassification of Maclure Reserve in its entirety and the removal of the 40 hectare minimum lot size from the RE1 zoned land should not proceed.
- 6 Following further consultation with the applicant, the request was amended and the attached planning proposal has been prepared to reclassify to operational only the portion of Maclure Reserve that is to be rezoned to R2 Low Density Residential and leave the part of the reserve that is to remain zoned RE1 Public Recreation classified as community land. The planning proposal documents the issues considered in assessing the appropriateness of the proposed amendments.

- 7 The minimum lot size map will also be amended to provide a minimum lot size of 450m² on the part of the land to be zoned R2 Low Density Residential and 4,000m² on the part of the land to remain zoned RE1 Public Recreation.
- 8 Maclure Reserve currently is approximately 10,400m². The proposed amendments will result in a Maclure Reserve being reduced to 6,100m² and the proposed R2 Low Density Residential area being approximately 4300m². As the minimum lot size is proposed to be 450m², the residential lot could yield approximately 7-9 lots.
- 9 If endorsed by Council, the planning proposal will be forwarded to the Minister for Planning and Environment for Gateway Determination. Gateway Determination will confirm initial support for the draft planning proposal, and identify what further technical studies and community consultation are required prior to the proposed amendments being determined.
- 10 Strategic Planning staff recommend that Council do not seek delegations under Section 59(1) of the *EP&A Act 1979* given the added impost on Council resources without any additional influence on the outcomes. These delegations obligate Council to prepare the final reporting, drafting and mapping in order for the Minister of Planning and Infrastructure to 'make' the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, Planning and Infrastructure undertakes these requirements.

FINANCIAL IMPACT

- 11 Council is able to recoup costs associated with the preparation of a draft planning proposal, undertaking consultation, and preparation of technical studies, pursuant to Clause 11 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*.
- 12 Fees (as outlined within Council's Fees and Charges Register) will be applied in accordance with Council's LEP Request for Amendment Policy (2012). That is, prescribed fees apply to all formal requests, except where required for the provision of public infrastructure or as a result of correcting a minor anomaly.
- 13 Where costs are unable to be recouped partly or in full, work will be undertaken by Council's Strategic Planning staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 14 The preparation and processing of the attached draft planning proposal aligns to the strategic direction '*Open and Collaborative Leadership*' identified within the Newcastle 2030 Community Strategic Plan.
- 15 Compliance with the LEP amendment process, in particular, Section 57 of the *EP&A Act 1979*, will assist in achieving the strategic objective; "*Consider decision-making based on collaborative, transparent and accountable leadership*" and the identified strategy 7.2b, which states: "*Provide opportunities*

for genuine and representative community engagement in local decision making” as identified within the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

- 16 The preparation of the attached planning proposal was undertaken in accordance with Council’s Local Environmental Plan – Request for Amendment Policy (2012). This policy identifies Council’s processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act 1979* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 17 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act 1979*. Adherence to the legislative framework reduces the risk to both applicant and Council by ensuring that a planning proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.

RELATED PREVIOUS DECISIONS

- 18 Newcastle LEP 2012 was adopted by Council on 21 June 2011.
- 19 Council resolved at its meeting held on 9 December 2014 to endorse all required property actions to enable appropriate land zoning and reclassification of the property.

CONSULTATION

- 20 The planning proposal outlines the level of consultation required as per the Planning NSW guidelines ‘Preparing Local Environmental Plans’. The planning proposal will be exhibited in accordance with the requirements of section 57 of the *EP&A Act 1979* and section 29 of the *Local Government Act 1993*. The proposal will be placed on public exhibition for a minimum of 28 days.
- 21 A public hearing will be required to be held because the proposal is reclassifying land from Community to Operational. In accordance with the Department of Planning Circular (PN09-003) the public hearing will be held after the close of the exhibition period. Public notice of the public hearing will be sent and published at least 21 days before the start of the public hearing.
- 22 The Gateway Determination will confirm which State agencies the planning proposal is to be referred to, which is likely to include but not be limited to Roads and Maritime Services (RMS).

OPTIONS

Option 1

- 23 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 24 Council resolves not to proceed with the planning proposal. This is not the recommended option as it would not allow the opportunity for the community to provide feedback on this proposal or enable Council to efficiently manage land that has been identified as surplus to Council and community needs.

BACKGROUND

- 25 Council received a request to amend Newcastle LEP 2012 to enable land at 4 Mayo Street, Jesmond to be developed for low density residential uses.
- 26 The request was considered by Council's internal LEP Advisory Panel, as per Council's 'Local Environmental Plan – Request for Amendment Policy'. The panel consists of a range of experts in various fields who advise on potential issues to be addressed and identify studies required to support the proposal. All issues raised by the Panel have been resolved.
- 27 The planning proposal (**Attachment A**) provides the necessary justification to satisfy Council that the proposed amendment to Newcastle LEP 2012 may be endorsed and forwarded to NSW Planning and Environment to seek Gateway Determination.

REFERENCES

ATTACHMENTS

Attachment A: Planning Proposal – 4 Mayo Street Jesmond

Attachment A distributed under separate cover.