

Agenda Report

ACTION ITEM

Ordinary Council
Tuesday, 9 December 2014

**SUBJECT: CCL 09/12/14 - MEREWETHER GOLF COURSE -
ENDORSEMENT OF PROPOSED AMENDMENT TO
NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

RESOLVED: (Councillors Compton/Rufo)

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 Merewether Golf Course, Part Lot 902 DP 1032728 fronting Ella Street, Adamstown, as follows:
 - i) Amend the Land Zoning Map to rezone the land from Zone RE2 Private Recreation to Zone R2 Low Density Residential.
 - ii) Amend the Height of Buildings Map to include a maximum permissible height of 8.5 metres over the land.
 - iii) Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.6.
 - iv) Amend the Minimum Lot Size Map to reduce the minimum lot size to 400m².
- b) Forward the planning proposal to the Minister for Planning and Infrastructure for gateway determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Director-General of Planning and Infrastructure that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Receive a report back on any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*; otherwise forward the planning proposal to Planning and Infrastructure requesting to make the proposed amendments to Newcastle LEP 2012.

**SUBJECT: CCL 09/12/14 - MEREWETHER GOLF COURSE -
ENDORSEMENT OF PROPOSED AMENDMENT TO
NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

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

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.

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 Merewether Golf Course, Part Lot 902 DP 1032728 fronting Ella Street, Adamstown, as follows:
 - i) Amend the Land Zoning Map to rezone the land from Zone RE2 Private Recreation to Zone R2 Low Density Residential.
 - ii) Amend the Height of Buildings Map to include a maximum permissible height of 8.5 metres over the land.
 - iii) Amend the Floor Space Ratio (FSR) Map to include a maximum permissible FSR of 0.6.
 - iv) Amend the Minimum Lot Size Map to reduce the minimum lot size to 400m².
- b) Forward the planning proposal to the Minister for Planning and Infrastructure for gateway determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Director-General of Planning and Infrastructure that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Receive a report back on any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*; otherwise forward the planning proposal to Planning and Infrastructure requesting to make the proposed amendments to Newcastle LEP 2012.

KEY ISSUES

- 2 The planning proposal (**Attachment A**) was prepared in accordance with Department of Planning and Environment's (DPE) guidelines and Council's Local Environmental Plan – Request for Amendment Policy.
- 3 The requested rezoning from private recreation to residential will permit residential development which is considered a suitable use for this site as the planning proposal details. The Proposal is consistent with the Newcastle Urban Strategy which promotes urban consolidation and allows infill residential development within existing urban areas. The land which this proposed LEP amendment relates is peripheral to the Merewether Golf Course and forms part of the Ella Street residential neighborhood having a direct frontage to Ella Street.
- 4 The planning proposal documents the appropriateness of the proposed amendment, and identifies the level of further information that may be required.
- 5 If endorsed by Council, the planning proposal will be forwarded to the Minister of Planning and Infrastructure for gateway determination. Gateway determination will confirm initial State government support for the draft planning proposal, and identify what further technical studies and community consultation are required prior to the proposed amendments being determined.
- 6 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.
- 7 There is an underground stormwater pipeline at the rear of the subject land and the proximity of this to future development has been noted within the planning proposal as it would require relocation at a future stage in the development process. The detail of this would be assessed as part of a future development application for subdivision or development at the site. Specifics would be included in a stormwater management plan that would accompany the development application.

FINANCIAL IMPACT

- 8 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*.
- 9 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.

- 10 Where costs are unable to be recouped partly or in full, work will be undertaken by Council's Strategic Planning Services staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 11 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.
- 12 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

- 13 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

- 14 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.
- 15 Justification has been provided by the applicant for the formal LEP amendment requests.
- 16 Further consultation with stakeholders (including the broader community) will occur in accordance with the Minister's requirements following gateway determination. This will ensure all relevant parties are able to consider and comment on the draft planning proposal prior to it being reported back to Council for final adoption of the proposed amendment.

RELATED PREVIOUS DECISIONS

- 17 Newcastle LEP 2012 was adopted by Council on 21 June 2011.

CONSULTATION

- 18 The planning proposal outlines the level of consultation required as per Planning and Infrastructure NSW guidelines 'Preparing Local Environmental

Plans'. The proposal is identified as a low impact proposal, meaning it is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not for a principal LEP, and does not reclassify public land. Hence, the planning proposal is proposed to be exhibited for 14 days, unless otherwise advised by the gateway determination.

- 19 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 the Mines Subsidence Board.

OPTIONS

Option 1

- 20 The recommendation as at Paragraph 1.

Option 2

- 21 Council resolves not to proceed with the planning proposal. This is not the recommended option as it would not enable the necessary amendments to allow efficient administration of the LEP, or the opportunity for the community to provide feedback on this proposal. This is not the recommended option.

BACKGROUND

- 22 Council received a request to amend Newcastle LEP 2012 to enable land at Merewether Golf Course (Land fronting Ella Street) to rezone land for residential purposes.
- 23 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 supporting the proposal.
- 24 The planning proposal (**Attachment A**) provides the necessary justification to satisfy Council that the proposed amendment to Newcastle LEP 2012 can be endorsed and forwarded to Planning and Infrastructure to seek gateway determination.

ATTACHMENTS

Attachment A: Planning Proposal – Merewether Golf Course

Attachment A distributed under separate cover.