

City Strategy Committee Meeting 13 April 2015

15STRAT022 **Proposal to rezone former Swansea Bowling Club**

Council Ref: RZ/1/2014 - D07290993

Report By: Senior Strategic Landuse Planner - Grant Alderson

Précis:

Council has received a request to rezone part of the former Swansea Bowling Club at 2 Charles Street and 27 Lake Road, Swansea, from RE2 Private Recreation, to allow redevelopment of the land for medium density housing.

The land is surrounded by land that is zoned R3 Medium Density Housing, but is generally being used for standard residential housing. The land is affected by the current 1% probability flood, and that flood risk will increase with sea level rise. Part of the land may also be affected by permanent inundation with a 900mm rise in sea level.

Rezoning flood prone land for residential housing is inconsistent with *Ministerial Direction 4.3 – Flood Prone Land*, unless a 'flood risk management plan' supports the proposed rezoning. Council's flood risk management plan (the *Lake Macquarie Waterway Flood Risk Management Study and Plan*) adopted by Council in 2012 does not recommend rezoning flood prone land if it increases development 'intensity', unless flood risk and sea level rise risk has been adequately assessed and determined to be manageable.

The proponent has not submitted a flood risk management plan with the rezoning request, and has asked for the rezoning proposal to be reported to Council on the basis that flood and sea level rise matters be deferred at the rezoning stage, and be considered at the development assessment stage.

This report seeks a resolution from Council to initiate a LEP amendment process to investigate rezoning the former Swansea Bowling Club land from RE2 to a zone to a zone determined on the basis of more detailed flood risk management planning. The Planning Proposal would be referred to the Department of Planning and Environment for a Gateway determination. The Gateway determination will advise if the proposal is consistent with *Ministerial Direction 4.3 – Flood Prone Land*, the need for studies, and will detail public exhibition requirements.

Recommendation:

Council:

- A. Support the investigation required to amend Lake Macquarie Local Environmental Plan 2014 to rezone part of the former Swansea Bowling Club at 2 Charles Street and 27 Lake Road, Swansea.
- B. Request a Gateway determination for the planning proposal, contained in Attachment 1, from the Department of Planning and Environment, pursuant to the *Environmental Planning and Assessment Act 1979*.
- C. Request the Gateway determination include a condition requiring that a flood risk and sea level rise risk management study is undertaken for the land prior to public exhibition. The study should be undertaken in accordance with Council procedures by a suitability-qualified party, and at the cost of the proponent, and address the matters outlined in Section 4.1 of Appendix 3 of the planning proposal contained in Attachment 1.

City Strategy Committee Meeting 13 April 2015

- D. Undertake consultation with State Government agencies and service authorities in accordance with the Gateway determination.
- E. Place the planning proposal on public exhibition in accordance with the Gateway determination.
- F. Notify stakeholders and affected landowners of the Gateway determination and public exhibition period, as required.

Background:

The subject land is part of the former Swansea Bowling Club at 2 Charles Street and 27 Lake Road, Swansea, as shown in Figure 1.

The bowling club opened in the 1950's. Many years later, it was discovered that part of the club was constructed on Council owned land at 27 Lake Road. Between the years 2006 and 2011, Council reclassified and rezoned 27 Lake Road from 6(1) Public Open Space to 6(2) Tourism and Recreation under Lake Macquarie Local Environmental Plan 2004 (06CS008 and 10CORP033), and sold the land to the bowling club (11COPR025). The bowling club ceased operations in March 2013.

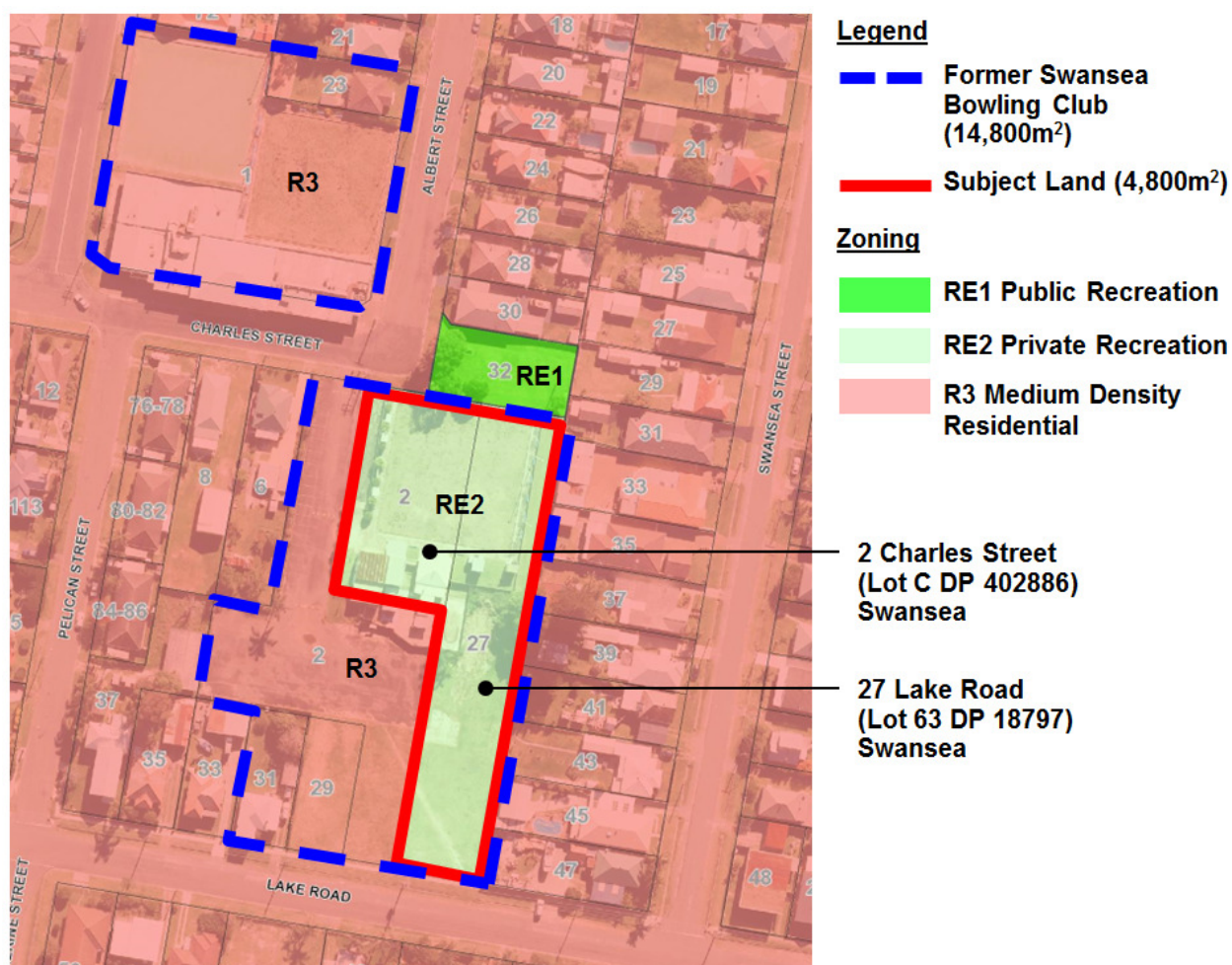


Figure 1 – Subject Land and Zoning Map

City Strategy Committee Meeting 13 April 2015

The subject land is currently zoned RE2 Private Recreation under Lake Macquarie Local Environmental Plan 2014 (LMLEP), and the remainder of the Swansea Bowling Club is zoned R3 Medium Density Residential. These zones reflect a conversion of the zones that had applied previously under LMLEP 2004. The land is surrounded by land that is zoned R3 Medium Density Housing, but is generally being used for standard residential housing.

In February 2014, the proponent submitted a request to rezone the subject land to allow redevelopment for medium density housing. Rezoning the subject land would allow redevelopment of the entire former Swansea Bowling Club site for medium density housing.

Council staff evaluated the rezoning request and identified that it is generally consistent with the adopted planning framework including the Lower Hunter Regional Strategy and Lifestyle 2030 Strategy. However, the subject land is flood prone and parts may be at risk of permanent inundation from predicted future sea level rise. Specifically, the subject land is located between 1m to 1.5m Australian Height Datum (AHD), and:

- the current 1% flood level for the land is 1.5m AHD, which is predicted to increase to 2.32m AHD with 900mm future sea level rise; and
- land below 1m AHD is also at risk of permanent inundation with 900mm future sea level rise.

Rezoning flood and sea level rise prone land for residential housing is controlled by *Ministerial Direction 4.3 – Flood Prone Land*, and should not occur unless it is consistent with a ‘flood risk management plan’.

Request to Defer Flood and Sea Level Rise Matters

In April 2014, Council staff provided feedback on the rezoning request and invited the proponent to attend a concept plan meeting to discuss flood and sea level rise matters and potential mitigation options. The proponent was dissatisfied with feedback and declined to attend a concept plan meeting. In July 2014, the proponent requested that the rezoning investigation be placed on hold.

In January 2015, the proponent submitted additional information, asked for the rezoning proposal to be reported to Council and requested that flood and sea level rise matters be deferred at the rezoning stage, and be considered at the development assessment stage.

The additional information is summarised in Attachment 2, along with planning responses from Council staff. In general, the submission states that Council’s flood and sea level rise policy settings are not legitimate, appropriate, or correctly interpreted. Council staff do not support the claims made in the submission, and do not support deferring consideration of flood or sea level rise matters until the development assessment stage.

Proposal:

The subject land is surrounded by residential uses and is generally suitable for housing, however, a flood and sea level rise assessment is required to determine whether flood risk and sea level rise risk is manageable. Several options were considered in response to the rezoning request and are outlined in the ‘Options’ section of this report.

The proposal is that Council initiate a LEP amendment to commence rezoning the land and undertake a flood risk and sea level rise risk management study, at the cost of the

City Strategy Committee Meeting 13 April 2015

proponent, as part of the rezoning process to determine the appropriate housing density, if any, on the land.

Proceeding with the proposal will result in forwarding the planning proposal, as contained in Attachment 1, to the Department of Planning and Environment (DoPE) for a Gateway determination. If a Gateway determination is issued, a flood risk and sea level rise risk management study will be undertaken. Following completion of the study, the planning proposal will be updated and placed on public exhibition. The submissions from the public exhibition process will be reported to Council, along with a recommendation to make, modify, or discontinue the LEP amendment.

Consultation:

Internal Consultation

Council's Rezoning Advisory Panel (RAP) and Sea Level Rise (SLR) Taskforce reviewed the rezoning request. RAP and the SLR Taskforce include representatives from the following internal departments of Council - Integrated Planning, Community Planning, Development Assessment and Compliance, Property and Business Development, Sustainability, and Asset Management. Both RAP and the SLR Taskforce identified that the land was subject to flood risk and potential future sea level rise risk, and that the land may not be suitable for medium density housing. In response, the planning proposal identifies that a flood risk and sea level rise risk management study is required to determine the appropriate housing density on the land.

Government Agencies and the Community

Consultation with state government agencies and the community will occur if Council resolves to proceed with the proposal.

Implications:

Policy Implications:

Lower Hunter Regional Strategy (LHRS)

The planning proposal is generally consistent with the LHRS. The subject land is located in an existing urban area under the LHRS map, and promotes infill housing adjacent to the Swansea town centre. However, the LHRS also identifies that future urban development should not be located in areas of high risk from natural hazards (including flooding and sea level rise).

Lifestyle 2030 (LS2030)

The planning proposal aligns with the following strategic directions and outcomes in LS2030:

Strategic Direction 1: A city responsive to the environment

Outcome 1.12: The LGA is prepared for the impacts of climate change, including adaptable infrastructure and buildings.

Strategic Direction 3: A well designed adaptable and liveable city

Outcome 3.1: The role of centres is consistent with the Centres Hierarchy as discussed, and shown on the Urban Structure map.

Strategic Direction 4: A well serviced and equitable city

City Strategy Committee Meeting 13 April 2015

Outcome 4.2: The capacity of existing urban areas to support more intensive urban development has been assessed and density provisions applied accordingly.

The subject land is also identified in the 'urban structure' map as urban area adjacent to the Swansea town centre, which is also an area most at risk of inundation from predicted future sea level rise

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

The proposal will rezone the subject land from RE2 Public Recreation zone to a residential zone if studies deem this suitable. A flood risk and sea level rise risk management study is required to be undertaken to determine the appropriate zone.

State Environmental Planning Policies (SEPPs)

The proposal is generally consistent with relevant SEPPs.

Ministerial Directions Section 117(2)

The planning proposal is consistent with the relevant Ministerial Directions, except for *Direction 4.3 – Flood Prone Land*, which states that rezoning flood prone land from recreation uses to residential housing is not allowed, unless it is in accordance with a 'flood risk management plan'.

Council's flood risk management plan (the *Lake Macquarie Waterway Flood Risk Management Study and Plan*) adopted by Council in 2012, does not recommend rezoning flood prone land if it increases development 'intensity', except where the flood risk and sea level rise risk has been adequately assessed and determined to be manageable.

An evaluation of the proposal's consistency with Council's flood risk management plan is contained in the planning proposal in Attachment 1 under the heading 'Appendix 3 – Preliminary Evaluation of Flood Risk and Sea Level Rise Risk'. Rezoning the subject land for medium-density housing would likely result in intensification, and the proponent has not provided a flood and sea level rise assessment demonstrating that the risks are manageable to justify the rezoning.

Adaptation Planning

The *Lake Macquarie Waterway Flood Risk Management Study and Plan* recommends development of local adaptation plans to provide further area-specific guidance to manage flood and sea level rise risk. Council is currently piloting an adaptation planning process for the Marks Point and Belmont South area. In the future, an adaptation plan for Swansea intends to be prepared that will provide additional guidance on the management of flood and sea level rise risk.

Environmental Implications:

No adverse environmental implications have been identified. However, the subject land is flood prone and parts are at risk of permanent inundation by predicted future sea level rise. A flood risk and sea level rise risk management study requires to be undertaken to determine the appropriate housing density for the land.

Social Implications:

The proposal is not anticipated to result in any adverse social or economic impacts. The Swansea Bowling Club has already ceased operations, and rezoning the land is not

City Strategy Committee Meeting 13 April 2015

anticipated to have a significant impact on the supply of land zoned for private recreation uses. Rezoning the land for residential purposes will increase the supply of land for housing around the Swansea town centre.

However, the subject land is flood prone and parts are at risk of permanent inundation by predicted future sea level rise. A flood risk and sea level rise risk management study is required to be undertaken to determine the appropriate zone for the land.

Infrastructure Asset Implications:

The proposal has the potential for infrastructure asset implications. The subject land and servicing infrastructure including roads, drainage, water and sewage services is flood prone and may be at risk of permanent inundation by predicted future sea level rise. A flood risk and sea level rise risk management study will include an evaluation of whether the servicing infrastructure will require upgrading to respond to predicted future sea level rise.

Financial Implications:

There will be no financial implications for Council apart from staff resources involved in the processing of the LEP amendment in accordance with Council's Local Environmental Plan Amendment Procedure.

Risk and Insurance Implications:

There is minimal risk or insurance implications to Council with the processing of this LEP amendment. The preparation of a LEP amendment is a regular Council activity governed by the provisions of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*. The level of risk attached to this activity will be minimised through following the process as established by the *EP&A Act 1979* and *Environmental Planning and Assessment Regulation 2000* as well as Council's Local Environmental Plan Amendment Procedure.

Options:

1. Commence the rezoning process for the land and undertake a flood risk and sea level rise risk study to determine the appropriate housing density as part of the rezoning process. This is the recommended option.
2. Reject the rezoning request.
3. Defer consideration of flood and sea level rise matters to the development assessment stage and rezone the land R3 Medium Density Residential zone. This option is not recommended, as it is inconsistent with *S117(2) Direction 4.3 - Flood Prone Land*, and Council's flood risk management plan.

Conclusion:

Council has received a request to rezone part of the former Swansea Bowling Club for medium density housing. The land is flood prone with the flood risk expected to increase as sea level rise occurs. The land is generally suitable for housing, however, further investigation is required. It is recommended that Council initiates a LEP amendment to commence rezoning the land, and further investigations are undertaken as part of the rezoning process to determine the appropriate zoning for the land.

Manager - Integrated Planning - Sharon Pope

City Strategy Committee Meeting 13 April 2015

Attachments:

- | | |
|---|-----------|
| 1. Planning Proposal - Former Swansea Bowling Club Rezoning | D07346554 |
| 2. Additional Information submitted by Proponent | D07346630 |