

City Strategy Committee Meeting 8 July 2013

13STRAT035 Planning Proposal - Charlton Christian College - 43 Fassifern Road, Fassifern

Council Ref: RZ/6/2013 - D02930994
Report By: Strategic Landuse Planner - Angel Troke

Précis:

Council has received a request to amend Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone the Charlton Christian College site at Fassifern from 10 Investigation to 2(1) Residential, 7(2) Conservation (Secondary) and Infrastructure.

The changes will allow the continued operation and expansion of an educational establishment, protect environmentally significant vegetation in the western portion of the site, and appropriately zone the existing railway corridor

A Planning Proposal has been prepared following consultation with internal staff. This report seeks a resolution of Council to support preparation of the LEP amendment and to forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) for a Gateway determination. The Gateway determination will set the public exhibition period, consultation requirements, and timeframes for finalisation of the amendment.

Recommendation:

Council:

- A. Supports the preparation of an LEP amendment to rezone the Charlton Christian College site and adjoining land.
- B. Requests a Gateway determination from the Department of Planning and Infrastructure pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), in relation to the Planning Proposal in Attachment 1.
- C. Requests the use of delegations in respect of the Minister for Planning and Infrastructure's plan making function under section 59 of the *EP&A Act 1979* for the Planning Proposal.
- D. Places the Planning Proposal on exhibition as directed by the Gateway determination.
- E. Notifies stakeholders and affected landowners of the Gateway determination and public exhibition period as required.
- F. Agrees that if no public submissions are received during the exhibition period, that a report be prepared, under delegation of the General Manager, and forwarded to the Minister to make the plan.

Background:

The Charlton Christian College site was zoned Rural 1(a) in the Lake Macquarie Local Environmental Plan 1984. Council granted development consent for the College in 1998. The zoning was changed to 10 Investigation zone in LMLEP 2004. An educational establishment is prohibited in the 10 Investigation zone and in the RU6 Transition zone in the draft Lake Macquarie Local Environmental Plan 2013 (draft LMLEP 2013).

City Strategy Committee Meeting 8 July 2013

The approval of subsequent development applications have been relying on modifications to the original development consent and existing use rights. Charlton Christian College have plans to submit an application for expansion of the College, which is unlikely to be considered using existing use rights. Subsequently, the zoning of the site needs to be addressed to enable future development applications to be considered and to provide certainty to the ongoing operation of the school.

There is also a small area of land located between the College and the railway line that is owned by Railcorp and is zoned 10 Investigation. This area will also be rezoned.

Proposal:

It is proposed that Council resolves to prepare and support an amendment to LMLEP 2004 by rezoning the Charlton Christian Community school site from 10 Investigation to 2(1) Residential, and 7(2) Conservation (Secondary), which will recognise the use of the site as an educational establishment. The bushland on the western edge of the site will be conserved by the 7(2) Conservation (Secondary) zoning.

The Planning Proposal also seeks to rezone Railcorp land from 10 investigation to 5 Infrastructure to allow for the railway use and the vegetated portion of Railcorp's land will be rezoned 7(2) Conservation (Secondary).

A Planning Proposal outlining the proposed changes has been prepared and is provided in Attachment 1.

Consultation:

Representatives from Community Planning, Sustainability, Development Assessment and Compliance, Asset Management, Property and Economic Development were consulted during the preparation of the Planning Proposal. The proposal was considered to have merit, however some potential ecological issues were raised with the need for the retention of an effective vegetation corridor and a number of habitat trees. It was identified that the conservation zone may need to be widened to ensure biodiversity values are maintained. Further consultation will occur with the various Council departments to ensure the studies are submitted to address the issues raised.

The Gateway determination will outline the consultation requirements including government agencies to be consulted and public exhibition timeframes.

Implications:

Policy Implications:

Implications relating to Council's Lifestyle 2030 Strategy, State Planning Policies, and Guidelines are detailed in the Planning Proposal. The Planning Proposal is generally consistent with all relevant policies and planning strategies.

Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004)

The Planning Proposal will amend the LMLEP 2004.

Draft Lake Macquarie Local Environmental Plan 2013 (draft LMLEP 2013)

It is currently expected that draft LMLEP 2013 will be finalised late 2013 or early 2014. Therefore, the Planning Proposal in Attachment 1 considers both LMLEP 2004 and draft LMLEP 2013.

City Strategy Committee Meeting 8 July 2013

Under draft LMLEP 2013, the Planning Proposal would rezone the Charlton Christian College site from RU6 Transition to R2 Low Density Residential and E2 Environmental Conservation as well as rezone part of the railway corridor from RU6 Transition to SP2 Railway and E2 Environmental Conservation.

Lifestyle 2030 Strategy

Council's Lifestyle 2030 Strategy identifies the site as being on the border between an urban area and proposed conservation lands. The Planning Proposal is consistent with the following Strategic Directions and outcomes:

- Strategic Direction 1 – A City responsible to the environment

Outcome 1.2 - Biodiversity values are protected and managed.

Comment: The western proportion of the site will be conserved through appropriate zoning. The extent of the conservation zone will be determined following review of the Ecological Assessment to ensure biodiversity values are protected.

- Strategic Direction 6 – A City responsive to the wellbeing of its residents

Outcome 6.12 – Facilities and mechanisms that ensure education, health care, community development, income distribution, employment and social welfare (social infrastructure) are developed and recognised as an important component of place making.

Outcome 6.16 – There is an adequate supply of appropriately located educational facilities, with opportunities for co-sharing with community groups (to be provided with appropriate consultation with the Department of Education and Communities).

The rezoning of the site to allow the continued use and expansion of the Charlton Christian College will assist in providing for the educational needs of the community. The College is well located with bus, train, road and cycle access.

Lake Macquarie Development Control Plan (DCP No.1) and draft Development Control Plan 2013 (Draft DCP 2013)

Future development applications for the expansion of the College will need to consider the requirements of Lake Macquarie DCP No.1. Draft DCP 2013 also contains relevant development controls that would apply to the site when this draft DCP becomes effective.

Lake Macquarie Community Plan 2008 – 2018

The proposal is consistent with Council's 10 Year Community Plan and the objective to provide a balanced range of well-maintained and accessible recreation, community, education, sporting, arts, and cultural facilities across the city.

Policy for Managing Contaminated or Potentially Contaminated Land

The site has been evaluated against Council's Initial Contamination Checklist. The site is unlikely to be contaminated due to it being a vacant vegetated area up until 1998 when the College was built. The site is not identified as potentially contaminated on Council's Register of Contaminated Lands or been subject to any known contaminating activities. The site may have been subject to some illegal dumping in the past, however the College is now fenced and cleared of any dumping. Based on these findings, the site is not likely to be contaminated.

City Strategy Committee Meeting 8 July 2013

Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals

The proposal has been assessed against the provisions of Council's Biodiversity Planning Policy and Guidelines for LEP Rezoning Proposals. The Planning Proposal will conserve the western portion of the site, protects the threatened flora species, *Tetratheca juncea* and will allow the retention of the majority of habitat trees. The proposal is generally considered consistent with this Policy and Guidelines. Some adjustment of the conservation zone boundary may be required to ensure biodiversity values are protected.

Lower Hunter Regional Strategy

The site is located within Fassifern, which is not located within close proximity to any identified regional centre, however it is located in proximity to the Toronto Town Centre. Whilst a residential zone will be applied to the site, consistent with other school sites, that adjoin residential areas, the site is proposed to continue its use as an educational establishment. The continued use of the site as an educational establishment will assist in providing for the educational needs of the increasing population identified in the Lower Hunter Regional Strategy. The conservation of part of the site is consistent with the conservation objectives of the Lower Hunter Regional Strategy.

Lower Hunter Regional Conservation Plan

The Lower Hunter Regional Conservation Plan outlines biodiversity principles and requirements for the retention and improvement of biodiversity within the region. The conservation of part of the site is consistent with the Lower Hunter Regional Conservation Plan.

State Environmental Planning Policies (SEPPs)

The proposal has been assessed as being consistent with the provisions of relevant SEPPs.

Section 117 Ministerial Directions

The proposal has been assessed against relevant Ministerial Directions and included in the Planning Proposal in Attachment 1. In summary, the proposal is consistent with the majority of relevant Ministerial Directions except direction 4.3 - Flood Prone Land. The inconsistency with this direction is of minor significance and the concurrence of the Director General of the Department of Planning and Infrastructure will be sought for this minor inconsistency.

Environmental Implications:

The site is densely vegetated in the northwest and southwest and contains the threatened plant species, *Tetratheca juncea*. The site also contains threatened fauna species. Flora and fauna studies and a Conservation Management Plan have been prepared which outline management strategies for the preservation and rehabilitation of key species.

There is expected to be some flora and fauna impacts with the removal of vegetation associated with the expansion of the College within the proposed residential zone. The boundary of the proposed conservation and residential zone may need to be adjusted to ensure flora and fauna impacts are minimised. This will be reviewed as the Planning Proposal progresses.

Social Implications:

City Strategy Committee Meeting 8 July 2013

The rezoning will allow the continued operation and expansion of the Charlton Christian College and will assist in providing educational facilities to meet the needs for the community. The proposal did identify potential noise and traffic impacts, from expansion of the school, onto nearby residents. However, acoustic and traffic assessments identify opportunities to mitigate impacts. These recommendations can be implemented at any future development application stage

The continued use and expansion of the College is likely to have positive economic impacts through construction jobs as well as further employment opportunities in the College.

If the school was to close, the site is also ideally located for housing.

Infrastructure Asset Implications:

The site is well serviced in terms of access to public infrastructure. The site has access to Fassifern Road and is within 200m of Fassifern Train Station. The site is serviced by all relevant utility infrastructure including water, sewer, electricity and telecommunications. The site also has sports and playground areas to meet the needs of students.

Financial Implications:

There will be no specific financial implications for Council apart from staff resources involved in the processing of the LEP amendment in accordance with Council's LEP amendment process. The applicant has paid the relevant fee. The applicant will be required to enter into a standard LEP Amendment Agreement with Council, following submission of the Planning Proposal to the Gateway to cover the cost of processing the LEP amendment.

Risk and Insurance Implications:

There is minimal risk or insurance implications to Council with the processing of this amendment. The preparation of an amendment to LMLEP 2004 is a regular Council activity governed by the provisions of the *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 Amending Local Environmental Plan Procedure and Policy.

Options:

1. Council resolves to prepare and support the Planning Proposal, and to request a Gateway determination. This will ensure that the educational use of Charlton Christian College is a development type that is permitted with consent. This is the recommended option.
2. Council does not support the Planning Proposal and ceases the LEP amendment process. This is not the preferred option as this will leave an unresolved 10 Investigation zone for the College and may result in problems with the determination of future development applications and also undermine funding opportunities for the school.

Conclusion:

Integrated Planning has undertaken internal consultation and determined that the rezoning has merit. It is recommended that Council resolves to request Gateway

City Strategy Committee Meeting 8 July 2013

determination from the Department of Planning and Infrastructure to enable the Planning Proposal to progress.

Manager - Integrated Planning - Sharon Pope

Attachments:

1. Planning Proposal - Charlton Christian College - 43 Fassifern Road, Fassifern D02996880