

City Strategy Committee Meeting 21 March 2011

11STRAT010 Exhibition of Draft Amendment 46 to LMLEP 2004 - Land off Ada Street and Macquarie Road, Cardiff South

Council Ref: RZ/11/2009 - D02012139
Report By: Strategic Planner - Andrew Donald

Précis:

On 27 November 2006, Council resolved to prepare an amendment to Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone a number of parcels of land, including the golf driving range and disused soccer field, off Ada Street and Macquarie Road, Cardiff South.

Consultation with relevant government agencies was undertaken in accordance with section 62 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* in the first half of 2007. Additionally, a number of specialist studies have been undertaken to help determine the appropriate land use zones.

Due to changes to the *EP&A Act*, and in order to proceed, the draft amendment must be converted to a Planning Proposal and submitted to the Department of Planning (DoP) for Gateway determination. The Gateway will advise of the required exhibition period, consultation requirements, and timeframes for the finalisation of the draft amendment.

Recommendation:

Council:

- A. Requests a Gateway Determination from the Department of Planning in relation to the Planning Proposal for land at Cardiff South included as Attachment 1.
- B. Resolves to place the Planning Proposal on exhibition, subject to the outcome of the Gateway Determination.
- C. Notifies stakeholders and affected landowners of the Gateway Determination and public exhibition period, if required.

Background:

Lot 1 DP 788892, 50 Ada Street, Cardiff South, is zoned 10 Investigation and has an area of 5.6 hectares. The site was previously used as a soccer field. The field and spectator mounds remain while the clubhouse has been demolished. Cardiff Soccer Association sold the land to the current owner in 2001. In 2004, the owners submitted a rezoning application to enable residential development of the site.

Lot 2 DP 788892, 158 Macquarie Road, Cardiff South, is zoned 6(2) Tourism and Recreation, has an area of 5.2 hectares, and is currently used as a golf driving range. The owners of Lot 2 made a formal application to Council in 2005 to have the land rezoned to enable residential development of the site.

Directly adjoining the western boundary of Lots 1 and 2 is a 40 metre wide strip of Council-owned land described as Lot A DP 398188 (116 Macquarie Road Cardiff). This parcel is approximately 2 hectares in size and is partly zoned 6(1) Open Space, 2(1) Residential, and 5 Infrastructure. Planning staff determined that the zoning of Lot A should be reviewed concurrently with the proposed rezoning of Lots 1 and 2.

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On 27 November 2006, Council resolved to prepare a group amendment to LMLEP 2004 (06ST031), for various locations throughout the City, including the above parcels at Cardiff South. The Department of Planning (DoP) was notified of Council's resolution on 24 January 2007. This notification was made in accordance with Section 54 of *EP&A Act*. The DoP responded to Council's notification on 2 March 2007, confirming that a Local Environmental Study was not required.

Consultation with relevant government agencies was undertaken in accordance with section 62 of *EP&A Act* in the first half of 2007. Further detail on the outcome of this consultation is provided in the "Consultation" section of this report.

The Cardiff South site was subsequently removed from the group LEP amendment, due to unresolved access, flooding, and drainage issues. This allowed the other components of the original proposal to proceed without further delays.

A number of specialist studies have been undertaken to identify appropriate land use zones for the site, and to test the implications of a change in zone. These include:

- Flooding investigation and concept detention basin design (July 2006, Patterson Britton & Partners Pty. Ltd.)
- Geotechnical report (February 2007, Coffey Geotechnics Pty Ltd)
- Traffic study (January 2008, TPK & Associates Pty. Ltd.)
- Biodiversity assessment (April 2008, Total Earth Care Pty. Ltd.)
- Hydrology assessment (August 2008, BMT WBM Pty. Ltd.)

Proposal:

It is proposed that Council:

- Supports the conversion of the draft LEP Amendment to a Planning Proposal under Part 3 of the *EP&A Act 1979* (see Attachment 1);
- Seeks a Gateway Determination on the Planning Proposal from the DoP, pursuant to Section 56(2) of the *EP&A Act 1979*; and
- Places the Planning Proposal on public exhibition, subject to the outcome of the Gateway Determination.

The Planning Proposal involves amending Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to rezone land at Cardiff South from 10 Investigation, 6(2) Tourism and Recreation Zone, 6(1) Open Space Zone, 5 Infrastructure Zone and 2(1) Residential Zone to 2(1) Residential Zone, 2(2) Residential (Urban Living) Zone and 7(3) Environmental (General) Zone. The changes to the zones would permit a mixture of low density and medium density housing on Lot 1 DP 788892 (50 Ada Street, Cardiff South) and Lot 2 DP 788892 (158 Macquarie Road, Cardiff South), and the conservation of native vegetation on Lot A DP 398188 (116 Macquarie Road Cardiff).

The Planning Proposal is expected to facilitate a development yield of at least 100 dwellings. An existing and proposed zone map is included in Attachment 1.

The proposal also includes inserting a local clause into LMLEP 2004 to ensure site-specific constraints relating to stormwater detention are adequately addressed prior to consent being granted for development.

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Changes to draft Lake Macquarie LEP 2011, the new citywide LEP being prepared in accordance with Standard Instrument template, will be required as a result of the Planning Proposal. The anticipated changes are also outlined in the Planning Proposal at Attachment 1.

Consultation:

Representatives of relevant Council departments including Asset Management, Development Assessment and Compliance, Property, Community Planning and Sustainability have been consulted in relation to the Planning Proposal and/or the content of this report. Council's Property department has advised that the Council land within the subject site is classified as community land and the Community Planning department has advised that the Council owned land is subject to a generic plan of management for natural area bushland. There are no outstanding comments raised during consultation with Council departments.

Consultation with relevant government agencies was undertaken in accordance with Section 62 of *EP&A Act* (now repealed) in the first half of 2007.

Responses were received from the Department of Environment and Conservation (now Department of Environment, Climate Change, and Water), Department of Natural Resources, Heritage Council NSW, Mine Subsidence Board, Roads and Traffic Authority (RTA), Rural Fire Service and Hunter Water Corporation.

Details of each response and a planning comment where necessary, are contained within Part 3, Section D of the Planning Proposal at Attachment 1 to this report. A summary of the main issues and a planning comment is provided below.

Issue – Mine Subsidence:

The Mine Subsidence Board advised that there are mine subsidence issues that could restrict development of the site. These issues include shallow mine workings under the site. The MSB indicated that specific measures need to be implemented prior to development taking place.

Planning comment:

The potential risks associated with the shallow mine workings will only be identified accurately at the development application stage. It is considered reasonable for this issue to be addressed at the development application stage when details of the location and type of development are known. Consultation with the MSB at the development application stage will be undertaken to determine what measures need to be implemented to enable development of the site.

Issue – Traffic Impacts:

The RTA advised that upgrades to the local and state road network will be required to accommodate the increase in traffic associated with the proposed development.

Planning comment:

A Traffic Study was undertaken in 2008, which has been endorsed by the RTA. The study recommends upgrades to the intersection of Ada Street and Macquarie Road. As the expense of the identified intersection upgrade affect the viability of the development of the land, alternative options may be investigated in consultation with

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the RTA closer to the development stage, when traffic volumes can be estimated with more accuracy.

Issue – Stormwater Detention:

During heavy rainfall events, the soccer field within Lot 1 acts as a stormwater detention basin, with stormwater ponding on the football field behind the spectator mounds. According to modelling by Hunter Water, removing the stormwater storage capacity currently provided by the soccer field (estimated at 7000m³) would lead to a three to four centimetre increase in flood levels downstream in Cardiff town centre. As the Cardiff commercial area is already subject to severe flooding, any further increase in flooding would be unacceptable.

Council wrote to Hunter Water in December 2007 requesting a contribution towards construction of an alternative detention basin on nearby Council owned land. The request was made on the basis that Hunter Water is responsible for flood management and stormwater infrastructure in the Winding Creek catchment and collects a special rate for this purpose. Hunter Water has advised, however, that they would not contribute funds for the project and that their responsibility is with existing infrastructure such as concrete drainage channels. Hunter Water is reviewing the management arrangements for the Winding Creek catchment with a view to either transferring responsibility for stormwater management in the catchment to Council, or establishing a memorandum of understanding to clarify each party's specific responsibilities. Discussions between Council's Asset Management Department and Hunter Water in this regard are ongoing.

Planning comment:

This issue will be managed by requiring the existing stormwater detention volume to be retained in the catchment following any development. It may be possible to reconfigure or relocate the detention basin to reduce the impact on the development site, but this would be subject to detailed design by the developer at the development application stage and would have to be fully funded by the developer. In addition, stormwater runoff as a result of future development of the site would also need to be managed on-site by the inclusion of appropriate stormwater management facilities and water-sensitive urban design measures.

A site-specific clause is proposed to be included in the LEP amendment requiring that, prior to development consent being granted, the applicant must demonstrate that existing stormwater detention volume contained within the site will be retained in the catchment following any development.

Implications:

Policy Implications:

Lifestyle 2020 Strategy

The Lifestyle 2020 Strategy informed the preparation of Lake Macquarie LEP 2004, in which part of the site was zoned 10 Investigation. One of the key objectives of the 10 Investigation Zone is to provide land for future development and/or conservation. This planning proposal seeks to rezone the site to 2(1) Residential, 2(2) Residential (Urban Living), and 7(3) Environmental (General) Zones to facilitate residential development and conservation of sensitive areas of the site.

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The proposal (including the land currently zoned 6(2) Tourism and Recreation) is consistent with the overall strategic directions of Lifestyle 2020 Strategy (LS2020). For example, Lifestyle 2020 Strategy seeks to facilitate the supply of land and housing, through:

- *Encouraging housing in locations that support public transport and Centres.* The proposed rezoning is located approximately 1 kilometre from Cardiff town centre, which is identified as a Sub-Regional Centre in LS2020. Cardiff/Glendale is an emerging regional centre identified in the Lower Hunter Regional Strategy.
- *Maximising redevelopment and infill opportunities within a five and ten minute walk of centres and public transport nodes or stops.* The site is within walking distance of public buses that connect to Glendale, Charlestown, Kotara, and Newcastle, and is approximately 1.3 kilometres from Cardiff railway station.
- *Facilitating the consolidation of under developed lands to contribute to the supply of residential land.* The proposal seeks to consolidate two parcels that may not be financially viable to develop individually. The concept plan (included in Attachment 1) for the site proposes an integrated road and lot layout.
- *Encouraging a diverse range of allotments and housing types in new and urban areas.* The proposed 2(1) Residential, and 2(2) Residential (Urban Living) zones would facilitate a mix of housing types including single dwellings, dual occupancies, multiple dwelling housing, seniors housing, including residential care facilities and (potentially) residential flat buildings.

Lower Hunter Regional Strategy (LHRS)

The LHRS estimates an additional 115,000 dwellings will be required to house the Region's growing population between 2006 and 2031. Lake Macquarie is expected to accommodate 36,000 of those new dwellings, with approximately 7,000 dwellings to be constructed in urban infill areas. The proposal will facilitate the construction of at least 100 dwellings that would contribute to the infill dwelling target of the LHRS. A greater overall number of dwellings may result if part of the site was developed for seniors housing. The northern part of the site would be suitable for this purpose.

The proposal is consistent with the Strategy's neighbourhood planning principles, such as locating housing close to town centres with a range of shops and services; providing a wide range of housing choices; and promoting conservation lands in-and-around development sites to help protect biodiversity.

State Environmental Planning Policies (SEPPs)

Relevant SEPPs have been considered in the preparation of the Planning Proposal (refer to Attachment 1). The draft Amendment is consistent with the relevant SEPPs and no issues have been identified that would prevent the Planning Proposal being placed on public exhibition.

Section 117(2) Ministerial Directions

The Planning Proposal is generally consistent with the relevant Ministerial Directions (made Pursuant to section 117(2) of the *EP&A Act 1979*. A table showing the relevant directions and comments against each is included in the Planning Proposal documentation at Attachment 1. In the instances where the Proposal is inconsistent with

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those directions, justification has been provided for the inconsistencies. The concurrence of the Director General of the DoP will be sought regarding these inconsistencies.

Council's Biodiversity Planning Policy

The proposal is consistent with Council's Biodiversity Planning Policy and Guidelines For LEP Rezoning. As outlined below, the site contains no threatened species or endangered ecological communities. Land within the study area of highest conservation value is already in Council ownership and is proposed to be rezoned from 6(1) Open Space, 5 Infrastructure, and 2(1) Residential to 7(3) Environmental Management.

Environmental Implications:

A biodiversity assessment was conducted over the subject site in April 2008. No threatened plant species, populations or ecological communities, or fauna populations listed under the Threatened Species Conservation (TSC) Act or Environment Protection and Biodiversity Conservation (EPBC) Act, were recorded on the site. Parts of the site do, however, constitute potential habitat for several threatened flora and bat species. The majority of remnant vegetation and potential habitat for threatened flora and bat species within the site is contained within the Council-owned parcel (Lot A) that is to be zoned 7(3) Environmental (General), and will therefore be protected.

Social Implications:

The proposal is expected to deliver social and economic benefits, by providing land for a variety of housing types in a location convenient to schools, transport, and employment within the emerging major regional centre of Glendale and the Cardiff Industrial estate. The proposed housing will integrate well with existing residential areas surrounding the site, and raises no potential land use conflict issues.

Financial Implications:

There will be no specific financial implications for Council apart from use of staff resources in processing the draft Amendment.

Risk and Insurance Implications:

The preparation of a Planning Proposal to amend LMLEP 2004 is a regular Council activity governed by the provisions of the *EP&A Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. The level of risk associated with this activity is minimised by following the process outlined in the *EP&A Act 1979* and Regulation.

Options:

1. Council resolves to send the Planning Proposal to the DoP and request a Gateway Determination. Council also resolves to place the Planning Proposal on public exhibition, subject to the outcome of the Gateway Determination. This is the recommended option.
2. Council resolves to make amendments prior to sending the Planning Proposal to the DoP.
3. Council resolves to not proceed with the Planning Proposal and not rezone the land.

Conclusion:

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The proposed rezoning of the subject site at Ada Street, Cardiff South is consistent with both Council and State policy in regard to the provision of housing in appropriate infill locations. Mine subsidence and the management of stormwater are issues that will be addressed during future development stages. There are no outstanding issues raised by Council or Government departments that preclude the public exhibition of the Planning Proposal.

It is recommended that Council resolve to request a Gateway Determination from DoP to enable the Planning Proposal to progress.

Manager - Integrated Planning - Sharon Pope

Attachments:

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| 1. Planning Proposal - 50 Ada Street and 158 Macquarie Road Cardiff South | D02049787 |
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