

City Strategy Committee Meeting - Tuesday 12 June 2012

12STRAT017 Amendment to LM LEP 2004 - 2A Maude Street Belmont - Belmont Sportsman's Club

Council Ref: RZ/3/2011 - D02527683
Report By: Strategic Planner - Hannah Benson

Application Details:

<u>Location:</u>	<u>Lot 20 DP 1046905, No. 2A Maude Street, Belmont</u>
<u>Map Ref:</u>	<u>Map 171, Ref C5, Newcastle and Central Coast UBD, 3rd Edition</u>
<u>Zoning:</u>	<u>6(1) Open Space and 6(2) Tourism and Recreation</u>
<u>Owner:</u>	<u>Belmont Sportsman's Club Co-Operative Limited</u>

Précis:

Council has received a request to amend Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) to permit seniors housing with development consent on the western portion of land at 2A Maude Street, Belmont.

The applicant has provided environmental investigations to support the LEP amendment request. Integrated Planning has considered a number of options to allow seniors housing on the site. An amendment to Schedule 7 of LMLEP 2004 is the preferred option.

The purpose of this report is to seek a resolution of Council to support the LEP amendment and forward the Planning Proposal for a Gateway determination.

Recommendation:

Council resolves to:

- A. Request 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 at Attachment 1;
- B. Enter into a standard Local Environmental Plan (LEP) Amendment Agreement with the proponents, following submission of the Planning Proposal to the Gateway, with LEP Amendment costs paid by the proponents in accordance with Council's fees and charges;
- C. Place the Planning Proposal on exhibition, subject to the outcome of the Gateway determination; and
- D. Notify stakeholders and affected landowners of the Gateway determination and public exhibition period.

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Background:

The subject land contains the Belmont Sportsman's Club, associated car parking, and three existing bowling greens. The site is approximately 1.9 hectares in size and is predominantly zoned 6(2) Tourism and Recreation, with a small portion in the south and south-west of the site zoned 6(1) Open Space under LMLEP 2004.

The applicant has requested an amendment to LMLEP 2004 to permit redevelopment of part of the site for seniors housing. The Planning Proposal applies to the western portion of the site, which contains three existing bowling greens. The Sportsman's Club building and associated car parking on the eastern portion of the site is not part of this Planning Proposal.

An existing zoning map is contained in Attachment 2, showing the area and zone of land to which the proposed LEP Amendment request applies.

The Social Impact Assessment submitted by the proponent states that approximately 30 Belmont Sportsman's Bowling Club members use one of the greens 2-3 times per week and the other two greens have been unused for at least 3 years. The Belmont Sportsman's Club is seeking a more viable use of the western portion of the subject site and believe there is strong demand for seniors housing in this area.

The subject site is within walking distance of a variety of retail and commercial services, community services, recreational facilities, medical practices, and public transport services located within the core commercial area of the Belmont Town Centre. Immediately to the west of the subject site is land zoned 3(2) Urban Centre (Support) and approximately 40 metres further west is land zoned 3(1) Urban Centre (Core). Immediately to the north-west of the site is land zoned 2(2) Residential (Urban Living) that provides for medium and high-density housing around Belmont Town Centre.

The Belmont Senior Citizens Centre and Belmont Community Child Care Centre adjoin the site to the south. Belmont Park recreational facilities, including Cahill Oval, Miller Oval, Lumsdon Field, Molly Smith Netball Courts, and tennis courts, adjoin the site to the northeast and east. These lands are zoned 6(1) Open Space.

Despite the site being in close proximity to the Belmont Town Centre, the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 and clause 41 of LMLEP 2004 are currently not applicable to the site due to the zoning of the immediately adjoining land.

Proposal:

It is proposed that Council resolves to prepare and support an amendment to Schedule 7 of LMLEP 2004 to permit seniors housing with development consent on the western portion of land at 2A Maude Street, Belmont. A Planning Proposal outlining the proposed changes has been prepared and is provided in Attachment 1.

The Planning Proposal applies to approximately 1.05 hectares of the western portion of the site, which contains three existing bowling greens. The Belmont Sportsman's Club building and car parking areas on the eastern portion of the site are not part of this Planning Proposal.

Consultation:

Relevant departments within Council were consulted during the preparation of the Planning Proposal, including the Rezoning Assessment Panel, Community Planning,

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Development Assessment and Compliance, Asset Management, and the Waste, Environment and Rangers Department.

Development Assessment and Compliance and the Department of Planning and Infrastructure

Pre-lodgement meetings with Council's Development Assessment and Compliance (DAC) department, as well as communications with the Department of Planning and Infrastructure (DoPI), have indicated that the proposal for seniors housing is not permitted under the provisions of LMLEP 2004 or State Environmental Planning Policy (SEPP).

Clause 24 of the SEPP (Housing for Seniors or People with a Disability) 2004 provides that a Site Compatibility Certificate may be sought from DoPI on 'land that is used for the purposes of an existing registered club' and 'land that adjoins land zoned primarily for urban purposes' where seniors housing is otherwise prohibited by local planning controls. The subject site fulfils these provisions by containing the Belmont Sportsman's Club and meets the intentions and objectives of the SEPP to provide seniors housing in areas with good access to urban services and infrastructure. However, DoPI have advised that the SEPP does not apply in this instance because land zoned 6(1) Open Space is not considered to be used 'primarily for urban purposes'.

DoPI have encouraged Council to proceed with a LEP amendment as a way of progressing seniors housing on the site.

Rezoning Assessment Panel (RAP)

The RAP considered the request to amend LMLEP 2004 for Belmont Sportsman's Club on 28 September 2011. The RAP considered that the site is well suited to seniors housing and supported amending Schedule 7 of LMLEP 2004 to accommodate the land use.

The RAP requested the proponent provide a Social Impact Assessment (SIA) that analyses the impact of the loss of recreational land. The SIA outlines that only one of the three greens is currently in use and notes that an alternative, modern bowling facility is available at the Belmont Bowling Club located off Singleton Street, within the Belmont Town Centre. The Belmont Sportsman's Club also hosts rugby league, baseball, cricket, and soccer sporting clubs, which will not be impacted by this Proposal.

The RAP also raised concerns about the impacts of the Planning Proposal on the adjoining Seniors Citizen Centre and Child Care Centre to the south, in particular parking, traffic, and access impacts. However, the RAP recognised that these concerns were not a strategic land use planning nature, and would be better addressed in the detailed design of a development application.

Community Planning

Community Planning commented that the SIA provides a good analysis of the social profile of Belmont and the services that are located in the Belmont area, but does not adequately address:

- the impacts of the loss of the recreational land (for all the various stakeholders),
- the need for seniors housing in the locality,
- the services and infrastructure needs of the future residents, and
- how the needs of the future residents are proposed to be met.

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Integrated Planning Response:

Strategic documents such as the Lower Hunter Regional Strategy (LHRS), Lifestyle 2020, and Council's Ageing Population Plan outline the need to provide housing for an aging population in the Lake Macquarie Local Government Area. The LHRS notes that an ageing population is one of the 'regional challenges' facing the Hunter and there is a need for smaller, easier to maintain dwellings for seniors. Lifestyle 2020 encourages medium density housing, including retirement housing, in proximity to town centres.

The needs of future residents, such as the need for common meeting and recreational space, and services such as meals and house keeping, are details that can be resolved as part of any future development application.

While the proposal will result in the existing bowling greens being replaced with aged care housing, subject to development consent, there are a range of other open space areas and recreation facilities nearby. The Belmont Sportsman's Club has indicated that there is not sufficient demand for bowling to be able to fund the maintenance of the greens on the site. The impacts of the loss of private recreational land are discussed further in response to the LM LEP 2004, draft LM LEP 2012, the Lake Macquarie City Council Sports Facility Strategy 2009 – 2014, and under Social Implications.

Asset Management

Asset Management have no objection to the proposed rezoning based on a review of the traffic study submitted by the proponent and preliminary discussions with the Roads and Maritime Service (formerly known as the RTA).

Waste, Environment and Rangers Department (WER)

WER have no objection to the Proposal. Parts of the site appear to have been filled in the past, so the proponent will be required to undertake a Preliminary Contamination Assessment, including sampling of the site and the subsoil layers of the bowling greens, to satisfy the requirements of SEPP 55, following Gateway determination and prior to finalising any LEP Amendment on the site. The applicant will be required to provide a report specifying the findings of a preliminary investigation carried out in accordance with the contaminated land planning guidelines.

The Proposal will also need to assess the potential noise impact from the existing club on any future senior's housing development. A Noise Impact Assessment will be required as part of any future development application.

Implications:

The following implications are based on the Planning Proposal in Attachment 1.

Policy Implications:

Lower Hunter Regional Strategy (LHRS)

The LHRS notes that an ageing population is one of the 'regional challenges' facing the Hunter:

The Lower Hunter is characterised by a population which is older than, and continuing to age at a rate faster than, the NSW average... projections suggest that a much greater proportion of the population will be ages 65 and over in the future. This has implications for the Regions social diversity and future infrastructure and servicing needs, including health, education, and transport needs. Significantly, the

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ageing of the population will also require a different approach to the provision of housing as smaller and easier to maintain dwellings will be necessary.

The LHRS also encourages 'greater opportunities for housing to be provided within the existing urban areas' and specifically identifies Belmont as a 'Town Centre' that provides a 'shopping and business centre for the district, including health and professional services mixed with medium density and higher density residential.' The proposed development of the site for seniors housing is consistent with the strategic directions of the LHRS to provide higher density aged care facilities close to an existing urban centre.

Lifestyle 2020 Strategy (LS 2020)

The Planning Proposal is consistent with the aims and objectives of LS 2020 by contributing to 'a well serviced and equitable city', a 'well designed and liveable city', and an 'easily accessible city'. LS 2020 encourages medium density housing, including retirement housing, in proximity to centres within the City's urban area.

The Urban Structure Map contained within Lifestyle 2020 encourages medium density housing, including 'retirement homes' and seniors housing within a ten minute walk of town centres such as Belmont, a five minute walk of bus stops, and in high amenity areas, such as 'adjacent to public open spaces', as is the case with the Belmont Sportsman's Club site.

Draft Lifestyle 2030 Strategy

This Proposal is consistent with the provisions of draft Lifestyle 2030 Strategy, in the same way that it is consistent with LS 2020.

State Environmental Planning Policies (SEPPs)

Relevant SEPPs have been considered in the preparation of the Planning Proposal (refer to Attachment 1). The Planning Proposal is generally consistent with the relevant SEPPs. The proponent will be required to undertake preliminary contamination testing of the site, including sampling, to satisfy the requirements of Clause 6 of SEPP 55 following Gateway determination and prior to public exhibition of the Planning Proposal.

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 commenting on the relevant directions is included in the Planning Proposal in Attachment 1.

An Asset Sulfate Soil Study and testing is required on the site following Gateway determination and prior to exhibition of the Planning Proposal to satisfy the requirements of Section 117 Direction 4.1, as discussed in Environmental Implications below.

Lake Macquarie Local Environmental Plan 2004 (LM LEP 2004)

Seniors housing is a prohibited land use in the 6(2) Tourism and Recreation Zone under LMLEP 2004. The applicant has requested an LEP Amendment to permit seniors housing on the site and the following options have been considered:

- Clause 41 of the LMLEP 2004 permits and sets out criteria for retirement village development 'in appropriate locations'. Clause 41 applies to land within Zone 2(1) and 'land that is not within Zone 2(1), 7(1), 7(4), 8 or 9, but part of or all of which immediately adjoins, or is within 400 metres of, land within the 2(1) zone'. The

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subject site is approximately 620 metres southeast of land zoned 2(1) residential and therefore exceeds the distance requirements of Clause 41 of the LMLEP 2004.

- 'Seniors housing' is permitted with development consent in the 2(1) Residential Zone, 2(2) Residential (Urban Living) Zone, 3(1) Urban Centre (Core) Zone, 3(2) Urban Centre (Support) Zone, and the B4 Mixed Use Zone under LM LEP 2004. The subject site could be rezoned to a residential, mixed use or urban centre zone in order to permit seniors housing with development consent. However, these zones also permit land uses other than seniors housing, such as medium to high-density standard residential development, and there is sufficient land zoned for these purposes in the LGA to not be able to justify a change in land zone and a permanent loss of recreation-zoned land.
- Schedule 7 – The intention of Schedule 7 of the LM LEP 2004 is to allow additional development on certain land. Inclusion in Schedule 7 is the preferred mechanism for enabling seniors housing on the subject site, as it retains the recreation zoning of the site. It will also ensure that the site is used for seniors housing, tourism or recreation land uses, rather than other land uses permitted with consent in the adjoining residential and mixed use zones.

Draft Standard Instrument Local Environmental Plan 2012 (LM LEP 2012)

The current timeframe of the draft LM LEP 2012 is that it is likely to be gazetted in 2012/2013. Therefore, the Planning Proposal in Attachment 1 considers both LMLEP 2004 and the draft LM LEP 2012.

Under the draft LMLEP 2012, the 6(1) Open Space Zone is converted to RE1 – Public Recreation and the 6(2) Tourism and Recreation Zone is converted to Zone RE2 – Private Recreation. Draft LM LEP 2012 does not permit seniors housing in the recreational zones.

Schedule 7 – Additional development allowed on certain land of the LMLEP 2004 is converted to Schedule 1 – Additional permitted uses of the draft LMLEP 2012.

Lake Macquarie City Council Social Plan 2009 – 2014 (Social Plan)

The Social Plan states that *'Lake Macquarie will face an increasing need for housing options for older people, with the number of people aged 65 years and over forecast to increase from 30,755 (in 2006) to 56,270 in 2025'*. The proposed LEP Amendment meets the objectives of the Social Plan by providing an opportunity for well-located seniors housing that would be connected, sustainable, and accessible to public transport and town centre services and facilities.

Lake Macquarie City Council Sports Facility Strategy 2009 – 2014 (Strategy)

The Strategy acknowledges that Council is the main financial contributor to the development and embellishment of sports facilities. Council funds many of these works through Section 94 contributions levied on new development. A development application seeking seniors housing on land at Belmont Sportsman's Club would be levied for Section 94 Contributions subject to relevant legislation, ministerial directions, and the contributions plan in place at the time of development approval. These levies may provide funds for the provision and embellishment of public open space and recreation land, as well as community facilities.

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Ageing Population Plan 2008 – 2017

The Planning Proposal meets the aims and objectives of Council's Ageing Population Plan, which outlines that Lake Macquarie will have more people aged 65 years over the coming decades than is currently the case. The Plan notes that older people who move from their own home are often constrained by a lack of suitable housing alternatives within their local community and there is a need for additional supply in well located, well serviced areas. The subject site meets the criteria for well located seniors housing and will help to meet the need for seniors housing.

Environmental Implications:

The site is comparatively free of environmental constraints and is suitable for residential development, as demonstrated in the Planning Proposal. Environmental impacts not addressed elsewhere in this report are summarised below.

Acid Sulfate Soils (ASS)

The site is identified as Acid Sulfate Soils Class 3. Douglas Partners prepared an Acid Sulfate Soil Data Assessment for the site dated 7 March 2012, that recommends soils and groundwater exposed by excavation or dewatering be managed in accordance with an Acid Sulfate Soils Management Plan. However, the Assessment does not include sampling to test for the presence of ASS on the site. The applicants will be required to prepare an ASS study assessing the appropriateness of seniors housing given the presence of ASS. The Study will be required prior to Gateway determination and exhibition of the Planning Proposal. A copy of the study must be provided to the Director-General prior to undertaking community consultation in satisfaction of section 57 of the *EP&A Act 1979* in order to fulfil the requirements of Section 117 Direction 4.1.

Flooding

A Preliminary Flooding Assessment found that the subject site is affected by localised ponding of runoff due to the site's location in a natural drainage depression. The Assessment establishes a Probable Maximum Flood (PMF) level for this site.

The Preliminary Flooding Assessment makes recommendations for stormwater management and design to be addressed as part of any development application, including that habitable floor levels of the building are recommended to be set above the PMF, plus freeboard. The Assessment demonstrates that it will be possible to address localised flooding in the study area to make the site suitable for seniors housing development.

Social Implications:

The Planning Proposal will facilitate seniors housing in a location that offers close proximity to services such as public transport, retail and banking facilities, medical services and recreational land. This will help to meet the demand for seniors housing in Lake Macquarie that result from an ageing population and lack of existing suitable housing.

Community Planning have outlined their concerns regarding the loss of recreational land. The current zone permits many uses that could replace the existing bowling greens and Club, with development consent, without providing for recreational use, such as hotel and motel accommodation and function centres. The site is a good location for seniors housing because it is within 400 metres or a five-minute walk of the Belmont Town Centre and it has access to urban services such as water, sewer, electricity, telecommunications, public transport, retail shopping, banking, medical practitioners, and recreational land.

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The land is not considered a prime tourism site, is relatively free of physical constraints, and contains and is surrounded by land of generally low gradient for easy pedestrian access. In this instance, it is therefore considered that the community benefit resulting from the provision of seniors housing outweighs the loss of private recreational land.

Prior to lodgement of a development application, the applicant would be required to update the SIA to better evaluate the availability and capacity of community, recreational, and transport facilities in the area and detail the onsite facilities that will be provided to meet the needs of residents.

Financial Implications:

There are no major financial implications resulting from the Planning Proposal. The applicant will be required to enter into a standard LEP Amendment Agreement with Council following submission of the Planning Proposal to the Gateway, which requires the applicant to pay the LEP Amendment costs in accordance with Council's fees and charges. The applicant has paid Phase 1 and Phase 2 rezoning fees for the work undertaken to date.

Risk and Insurance Implications:

The risk associated with preparing a Planning Proposal is minimised by following the process outlined in the *EP&A Act 1979*, the *EP&A Regulation*, and Council's LEP Amendment Procedure.

Options:

1. Council resolves to support the Planning Proposal to amend Schedule 7 of the LMLEP 2004 to permit seniors housing with development consent on part of the subject site, and to request a Gateway Determination. This is the recommended option.
2. Council resolves to support a Planning Proposal to rezone the site to a zone that permit seniors housing with development consent, and to request a Gateway Determination. This option is not recommended, as it would result in the permanent loss of private recreation zoned land.
3. Council resolves that further information and amendments are required prior to sending the Planning Proposal to DoPI.

Conclusion:

The proponent has provided environmental investigations to support the LEP amendment request, which have informed the Planning Proposal provided in Attachment 1. Integrated Planning has undertaken internal consultation, conducted preliminary consultation with some government agencies, and considered a number of options to allow seniors housing on the site. An amendment to Schedule 7 of LMLEP 2004 is the preferred option.

It is recommended that Council resolve to request Gateway determination from DoPI to enable the Planning Proposal to progress.

Manager - Integrated Planning - Sharon Pope

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Attachments:

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| 1. Draft Planning Proposal for Belmont Sportsmans Club | D02551239 |
| 2. Belmont Sportsmans Club Existing Zone Map | D02539008 |