

Port Stephens Local Environmental Plan 2013 Amendment - Medowie - 93-96 Boundary Road

Proposal Title : Port Stephens Local Environmental Plan 2013 Amendment - Medowie - 93-96 Boundary Road

Proposal Summary : The planning proposal will amend the Port Stephens LEP 2013 to rezone part of Lots 93 to 96 DP753194 on Boundary Road, Medowie and apply relevant planning controls (height of buildings, minimum lot sizes) in order for the land to be redeveloped, as well as to amend the E2 Environmental Conservation zone boundary to better align with survey data.

PP Number : PP_2016_PORTS_008_00 Dop File No : 16/14701

Proposal Details

Date Planning Proposal Received :	22-Nov-2016	LGA covered :	Port Stephens
Region :	Hunter	RPA :	Port Stephens Council
State Electorate :	PORT STEPHENS	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Boundary Street		
Suburb :	Medowie	City :	Port Stephens
		Postcode :	2318
Land Parcel :	Lots 93 to 96 DP753194, Boundary Road Medowie (38 ha)		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :
 Contact Number :
 Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Hunter Regional Plan 2036	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	38.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	135
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Port Stephens City Council previously progressed a planning proposal to amend the Port Stephens LEP 2000, to rezone land at Boundary Road, Medowie from 1(c1) Rural Small Holdings Zone to 1(c5) Rural Small Holdings Zone, 1(c4) Rural Small Holdings Zone and 7(a) Environmental Protection Zone to facilitate 300 large lot residential allotments and 73 hectares of environmental conservation. This was done before the commencement of the Port Stephens SI LEP 2013.**

Following the commencement of the Port Stephens SI LEP 2013 on 22 of February 2014, the site was transitioned to R5 Large Lot Residential zone and E2 Environmental Conservation zone.

This current planning proposal will further amend planning controls in the area by rezoning part of Lots 93 to 96 DP753194 on Boundary Road Medowie from R5 Large Lot Residential zone to R2 Low Density Residential zone. It will apply relevant planning controls (height of buildings, minimum lot sizes, floor space ratios), in addition to amending the boundary of E2 Environmental Conservation zone to better align with survey data.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **To provide for the housing needs of the community in a low density residential environment by increasing lot yield on the site from 345 to approximately 480 lots, and to create a more accurate and regular-shaped zone boundary for the environmental zoned land within the developable area.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions propose to amend the Port Stephens LEP 2013 as follows:**

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Land Zoning Map to reflect the change in zone on part of the subject land from R5 Large Lot Residential to R2 Low Density Residential, and the change in the boundary of the land zoned E2 Environmental Conservation.

Lot Size Map to reflect a reduction in minimum lot size from R5 Large Lot Residential with a minimum lot size of 1,000m² to R2 Low Density Residential with a minimum lot size of 500m², on a 38ha part of the subject land.

Height of Buildings Map to show the maximum height of building as 9m.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified?

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Adequate mapping is provided.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **It is proposed to exhibit the planning proposal for 14 days, and to notify adjoining landowners in writing. The 14 day public exhibition period for this planning proposal is supported because it is unlikely to be contentious.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

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Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Port Stephens LEP 2013 commenced 22 February 2014**

Assessment Criteria

Need for planning proposal :

Medowie has been identified for urban development in various planning strategies, and the planning proposal will assist to deliver additional yield for housing. In order to rezone the land and apply relevant planning controls (height of buildings, minimum lot size), as well as to change the boundary of the environmental zone, an amendment to the Port Stephens LEP 2013 is required.

Consistency with strategic planning framework :

The Hunter Regional Plan 2036 recognises a need for diverse housing options across the Hunter, through the regionally focused goal of "Greater Housing Choice and Jobs". Direction 22 of this goal "Promote Housing Diversity" outlines actions to encourage housing diversity to meet the needs of local communities and forecast changes in household sizes. Additionally, Direction 14 "Protect and Connect Natural Areas" outlines actions including protecting biodiversity by maintaining and where possible, enhancing the existing production of high environmental areas, implementing appropriate measures to conserve validated high environmental value areas, and developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors. The proposal is consistent with this plan, as the proposed rezoning aims to provide an affordable alternative to the surrounding large lot residential development, and the area of E2 Environmental Conservation will be slightly expanded from 0.9ha to 1.0ha.

The Lower Hunter Regional Strategy also applies to the Site. The Strategy contains actions that outline a need to ensure a mix of housing types, and a need for compact urban areas. It also identifies 12,500 projected dwellings for Port Stephens. The proposal is consistent with the Strategy as it aims to create more housing, in a more compact manner than surrounding large lot residential development.

The Port Stephens Planning Strategy 2011-2036 also applies to the proposal. It identifies Medowie as one of the main urban release areas in Port Stephens, and as a priority area for new release and infill development in order to meet projected population growth. It additionally outlines the development of new towns and town centres at Medowie as having a substantial impact on economic growth and jobs. The proposal is consistent with the Strategy as rezoning aims to increase dwelling yield in a priority growth area, within an existing approved residential footprint, and will make more efficient use of infrastructure.

The Medowie Strategy (Amended 2013) was adopted by Port Stephens Council in 2009 to manage urban growth in Medowie. This Strategy envisions Medowie as a town surrounded by rural and natural landscapes with a wide choice of housing types available. The planning proposal is consistent with this Strategy, as it provides another choice of housing in the area, and continues to preserve the existing E2 Environmental Conservation zone. Port Stephens Council resolved in June 2011 to include the Boundary Road site for development and conservation purposes in the Medowie Strategy, as a large lot residential with a minimum lot size of 1000m². The site was rezoned and a residential subdivision for 345 lots was approved (DA 16-2015-336-1). A draft revised Medowie Strategy was endorsed for public exhibition by Council in November 2015 and exhibited February/April 2016. Whilst it has not yet been considered for adoption, the site has been identified as 'residential' and is consistent with the objective of the R2 zone to provide for the housing needs of the community within a low density residential environment, and to protect and enhance the existing residential amenity and character of the area by continuing to preserve the E2 Environmental Conservation zone.

State Environment Planning Policies

SEPP No. 44 Koala Habitat

This Policy applies to the whole of the Port Stephens local government area. The objectives of this policy are to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The koala feed trees currently protected by the E2 zoning will remain within the amended zone boundary. The site has been identified as potential habitat for koalas in the Flora and Fauna Impact Assessment of the site, and on the Port Stephens Comprehensive Koala Plan of Management Medowie and Tilligerry Region Koala Planning Map as containing three areas of 'Preferred Koala Habitat' with associated buffers and links. However, the retention of the koala feed trees and 'Preferred Koala Habitat' within the E2 zone, in addition to the availability of vegetation surrounding the site is suggested to reduce the potential impacts upon local populations of the species in the Flora and Fauna Impact Assessment of the site.

SEPP No. 55 Remediation of Land

This policy applies to the whole of the State. Clause 6 of the policy requires that Councils must consider the likely contamination of land before it can be rezoned. Contamination issues were considered during previous rezoning in 2012, which determined that the potential for contamination, outside of a small mound of bitumen road material observed in Lot 93 and an area of imported fill material, truck parts and waste drums, and a surface oil stain approximately 5m² in Lot 94, in the remaining areas of the site is considered to be low. The planning proposal states that there is no change to the existing potential development footprint under the planning proposal, and proposes to review existing information and prepare an updated report of this matter. The planning proposal is consistent with this policy as it has considered contamination and is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used.

Section 117 Directions

Council has identified the following Section 117 Directions as applicable:

2.1 Environmental Protection Zones

The boundary of the E2 Environmental Conservation zoned land will slightly increase the size of the boundary (and consequently the area protected) from 0.9ha to 1.0ha, and the koala feed trees located within this zone will remain within the amended zone boundary. The environmental impact of the increased density of development has not yet been assessed. Further assessment and consultation will determine whether the proposal is consistent with this direction.

2.3 Heritage Conservation

The planning proposal is considered consistent with this direction as it states that there is no change to the proposed extent of the development footprint, and that heritage has already been assessed and addressed as part of the previous rezoning on the site and development application. Additionally, any heritage items, areas, objects, or places will be conserved by existing heritage provisions of the Port Stephens Local Environment Plan 2013 and the National Parks and Wildlife Act 1974.

3.1 Residential Zones

The planning proposal is considered consistent with this direction as it will increase the overall potential lot yield of the site from 345 to approximately 480 lots, making more efficient use of the land and existing infrastructure and services. Additionally, the use of R2 Low Residential zone will broaden the choice of building types that are permissible on the site compared to R5 Large Lot Residential zone (e.g. multi dwelling and senior housing), and reduce the consumption of land for housing on the urban fringe by increasing permissible development density. The single ownership of the land provides provisions for good design, as there is opportunity for a master planned development.

3.4 Integrating Land Use and Transport

The planning proposal is considered consistent with this direction. The site is located in close proximity to existing services. Whilst there are no existing pedestrian or cyclist facilities in the Boundary Road area, the site is located adjacent to Medowie Road, which leads directly to the town centre, and an extension of a cycleway linking to the town centre is to be provided. Public transport services are limited to the existing urban area to the south, with the closest service running along Federation Drive. The Traffic Impact Statement states that there is an opportunity for longer term improvements to the public transport in this area, and the proposed road layout of the site allows for a bus route to give good coverage of the site. Additionally, the site of the planning proposal is already approved for existing development.

3.5 Development Near Licensed Aerodromes

The planning proposal is inconsistent as it has not consulted with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome. The previous planning proposal was provided to the Department of Defence in accordance

with the Port Stephens Aircraft Noise Policy. The Department of Defence's previous comments are summarised as follows; while the site is located outside of the current Australian Noise Exposure Forecast Contour (2012), this should not be interpreted to imply that the land will not be subject to aircraft noise; the proposed development site will be exposed to very high aircraft noise on a regular basis, as the land is regularly overflown by military aircraft undertaking training at the SAAWR which is gazetted to be used up to 115 days per year, and; should complaints arise, Defence cannot readily modify or curtail activities, and Defence will not be responsible for any future liabilities in relation to military aircraft noise. Council proposes to refer to the Department of Defence in accordance with the Port Stephens Aircraft Noise Policy and consistency with this direction can be determined following that consultation.

4.1 Acid Sulfate Soils

The planning proposal is consistent with this direction as it has considered the Acid Sulfate Soils Planning Guidelines adopted by the Director-General of the Department of Planning. The site is classed as 'Class 5 – Works Within 500m of Adjacent Class', the lowers risk classification, and has already been approved for residential development.

4.4 Planning for Bushfire Protection

The planning proposal is considered inconsistent with this direction, as it has not provided a bushfire threat assessment. The existing approved development application was integrated development under section 100B of the Rural Fires Act 1997 (NSW), and concerns raised in the assessment process meant that the applicant was required to provides an alternate access point to fire trail standard from the western part of the development, through the electricity easement and connecting with Country Close. Additionally, the previous rezoning proposal provided a bushfire hazard assessment, and was required to consult with the Rural Fire Service to determine the scope of protection required for the planning proposal. Further consultation is required as per Section 117 directions and consistency with this direction can be determined following that consultation.

5.1 Implementation of Regional Strategies

The planning proposal is considered consistent with this direction, as it was previously rezoned to facilitate development following consideration under the Lower Hunter Regional Strategy, and is consistent with the objectives of the Hunter Region Plan 2036 to encourage housing diversity and enhance the existing production for high environmental areas, as the proposed rezoning aims to provide an affordable alternative to the surrounding large lot residential development, and the area of E2 Environmental Conservation will be slightly expanded from 0.9ha to 1.0ha.

Environmental social
economic impacts :

Additional impacts as a result of this planning proposal are considered in context against the existing zoning and approved DA. However this proposal will increase the permissible density of development on the site and the environmental impacts have not been assessed. The previous Flora and Fauna Impact Assessment of the site conducted by RPS identified four vegetation communities, including the Riparian Melaleuca Swamp Woodland (which corresponds to the Swamp Sclerophyll Forest Endangered Ecological Community (EEC) listed under the TSC Act) that will potentially be impacted upon by the proposal. No threatened flora species were identified on the site. 21 species of fauna listed as threatened under the TSC Act and/or EPBC Act were considered to be potentially impacted upon by the proposal The site was also found to provide a small area of Preferred Koala Habitat and associated Supplementary Koala Habitat under the Port Stephens Comprehensive Koala Plan of Management, and also provided potential breeding habitat for the Powerful Owl and Masked Owl which are known to occur on the site and surrounds. Several species of microbat and woodland birds listed as threatened under the TSC Act and migratory species listed under the EPBC Act including the Rufus Fantail and White-throated Needletail were also observed on the site. Given the sensitivity of the site further assessment and consultation is required.

The availability of additional lots for housing under the planning proposal will have a positive social and economic impact, as it will add to housing stock in proximity to major employment areas (such as the RAAF Base Williamtown), and support the growth of

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businesses in the Medowie town centre and surrounding areas. There may be some adverse social effects caused by aircraft noise from the RAAF Base William and the Salt Ash Air Weapons Range that are located in close proximity to the site.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Bushfire

Other - provide details below

If Other, provide reasons :

Consultation with Defence is supported.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **A voluntary planning agreement is in place however further subdivision of the land will require reconsideration of state contributions payable.**

Documents

Document File Name	DocumentType Name	Is Public
Port Stephens Council_15-11-2016_Request for Gateway Determination - 93-96 Boundary Road Medowie_.pdf	Proposal Covering Letter	No
8 November 2016 - Ordinary Council Meeting - Attachments under Separate Cover.pdf	Proposal	No
16 363478 Monteath and Powys (for McCloy Group) - Boundary Road Planning Proposal - Inc Traffic Impact Statement and Flora and Fauna ~ 24 June 16.pdf	Study	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

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S.117 directions:

- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Additional Information : The Planning Proposal should proceed subject to the following conditions:

1. Consultation is required with the NSW Rural Fire Service in relation to s117 direction 4.4 Planning for Bushfire Protection. Council is to amend the Planning Proposal to address the advice provided.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Environment 2013) and must be made publicly available for a minimum of 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2013).
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act 1979:
 - (a) Office of Environment and Heritage (regarding Section 117 Direction Environment Protection Zones);
 - (b) Transport for NSW - Roads and Maritime Services; and
 - (c) Department of DefenceEach public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons : As per report

Signature:



Printed Name:

KOFLAHERTY

Date:

09-12-2016

