

74 South Street, Medowie

Proposal Title : **74 South Street, Medowie**

Proposal Summary : **The planning proposal (PP) would facilitate an additional residential lot at 74 South Street, Medowie by rezoning the site from R5 Large Lot Residential to R2 Low Density Residential in the Port Stephens LEP 2013. The site's minimum lot size would change from 2,000 sq.m to 900 sq.m and a maximum building height of 9 m would be applied.**

In addition, the PP would correct a mapping anomaly on the adjoining land being 66, 68, 70 and 72 South Street, Medowie. The minimum lot size for these lots would change from 2,000 sq.m to 900 sq.m to reflect the lot sizes now that the land has been developed. No additional development potential would result for these lots.

PP Number : **PP_2017_PORTS_001_00**

Dop File No : **16/03620**

Proposal Details

Date Planning Proposal Received : **16-Dec-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 : **74 South Street**

Suburb :

City : **Medowie**

Postcode : **2318**

Land Parcel : **Lot 712 DP 1077195**

Street : **66, 68, 70, 72 South Street**

Suburb :

City : **Medowie**

Postcode : **2318**

Land Parcel : **Lots 2-5 DP 280007**

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**
Contact Number : **0249042709**
Contact Email : **ben.holmes@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Matthew Borsato**
Contact Number : **0249800282**
Contact Email : **Matthew.Borsato@portstephens.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Hunter Regional Plan 2036	Consistent with Strategy :	
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.20	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	1
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? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

External Supporting
Notes : **SITE DESCRIPTION**

74 South Street, Medowie is predominantly cleared and is surrounded by land developed for residential that makes up the Pacific Dunes residential estate. It adjoins both R5 zoned land of lot sizes approximately 2,000 sq.m and R2 zoned land of lot sizes approximately 900 sq.m.

66, 68, 70 and 72 South Street, Medowie have been developed for R2, and forms part of the

Adequacy Assessment

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

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

Comment : **The Objectives of the PP are consistent with the Department's guide. They clearly explain the intent of the PP, being to facilitate a two lot subdivision at 74 South Street and to ensure consistency in the minimum lot size provisions that apply in the immediate area.**

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

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

Comment : **The Explanation of Provisions is consistent with the Department's guide. It states that the following LEP mapping changes would occur:**
- amend the Land Zoning Map to rezone 74 South St from R5 to R2 and to amend the height of buildings map by applying a 9 m height limit (no height limit applies currently); and
- amend the lot size map for 66, 68, 70, 72 and 74 South St by changing the minimum lot size from 2,000 sq.m to 900 sq.m.

The Explanation also refers to maps (attachments to the PP) which show the existing and proposed LEP controls spatially.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.3 Heritage Conservation

* May need the Director General's agreement

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? **Yes**

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 :

s117 direction 5.10 Implementation of Regional Plans

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

If No, explain :

Further discussion is provided in the 'Consistency with the Strategic Framework' section of this report.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The maps show the existing and proposed LEP controls for the sites in the context of the controls for the locality. They are suitable for community consultation.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **A 14 day consultation period is proposed by Council. As this is a low impact proposal, the 14 day period is supported.**

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : **PROJECT TIMEFRAME**

The project timeline indicates a 12 month completion timeframe would be required. This includes 3 months being allocated by Council for the issuing of a Gateway determination and to obtain a PC Opinion/ finalise the plan. As the PP is minor, a 9 month timeframe is considered more appropriate.

PLAN-MAKING DELEGATION

Council has accepted plan-making delegation and has requested it be granted in this instance. As the proposal is minor, plan-making delegation should be given to Council for this PP.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

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

Assessment Criteria

Need for planning proposal :

The PP is not the result of a strategic study or report. It appears to have been initiated by the landowner of 74 South St, Medowie. Council asserts that the PP is justified because it would facilitate minor infill within an existing urban growth area identified in the Medowie Strategy.

Council's assessment is relevant to the 74 South St component of the PP, not the lot size provisions for the adjoining lots - they would not facilitate any new development.

The Department supports Council's assessment regarding 74 South St. The site is on the border of the existing R2 and R5 areas in this locality and so changing it from R5 to R2 is minor and any development resulting from the PP (should it be finalised) would be consistent with the adjoining development (to the east). There are limited undeveloped R5 lots in this area which could be similarly rezoned. Those lots do not directly adjoin an existing developed R2 area and so it is unlikely that this PP would set a precedent.

The proposed changes to the minimum lot sizes for the adjoining lots is also supported. This land has already been subdivided and developed for residential purposes. Council's intention to apply lot size provisions more consistent with the final lot size outcome is appropriate and consistent with that applying to the remainder of the R2 land in this locality.

The need for the PP is considered adequately justified.

Consistency with strategic planning framework :

HUNTER REGIONAL PLAN (HRP)

Council states the PP is consistent with the HRP, specifically direction 21 which seeks to create a compact settlement and its related actions. While minor, the additional lot that would be created in an infill location, consistent with the compact settlement objective of the plan. No specific guidance is provided that is relevant to the minor changes to the minimum lot size for the adjoining lots component. The PP is considered consistent with the HRP.

The HRP has replaced the Lower Hunter Regional Strategy (2006).

LOWER HUNTER REGIONAL STRATEGY (LHRS)

As Council submitted the PP to the Department after the HRP commenced but before s117 direction 5.1 Implementation of Regional Strategies was amended (to omit the LHRS), the LHRS needs to be considered.

The PP is considered consistent with the LHRS because it would facilitate urban infill development in an identified growth centre (Medowie). While minimal, the additional dwelling resulting from this PP would contribute to Council achieving the dwelling targets identified in the Strategy.

Council has not considered the LHRS and so the PP would need to be updated accordingly.

PORT STEPHENS COMMUNITY STRATEGIC PLAN (CSP)

Council asserts that the PP is consistent with the CSP direction to balance environmental, social and economic needs of Port Stephens for the benefit of present and future generations, and its delivery program to provide strategic land use planning services.

The Department considers the CSP to be a high level document which because of the PP's minor nature does not contain any specific guidance relevant to the PP.

PORT STEPHENS PLANNING STRATEGY (PSPS)

Council states that the PP is consistent with the PSPS because the site is located within Medowie which is identified in the PSPS as a priority infill and new release area. The Department agrees with this assessment.

MEDOWIE PLANNING STRATEGY (MPS)

The PP does not state whether the PP is consistent with the draft MPS. Council notes that minor infill sites such as this may be considered on their own merit. No guidance is provided regarding the minimum lot size for the adjoining lots component.

The Department notes that the MPS does not refer to the potential for the intensification of existing residential areas (infill) to be considered, focusing instead on providing guidance regarding greenfield opportunities.

Notwithstanding, this is a minor proposal and Council's approach to consider infill on merit is supported, and aligns with the direction set by the HRP and PSPS. Council should update this section of the PP to refer to the MPS (adopted by Council Dec 2016) and not the draft MPS.

CONSISTENCY WITH STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat Protection - The site is mapped as buffer in Council's Comprehensive Koala Plan of Management (CKPOM). Council has assessed the PP against the performance criteria of the CKPOM. The assessment does not identify any issues.

Given the size of the site, its existing R5 zoning and that the surrounds are already developed for residential development, development resulting from the PP would not adversely affect koalas. The PP is therefore considered consistent with the CKPOM and SEPP.

CONSISTENCY WITH S117 DIRECTIONS

The PP is considered consistent with the relevant s117 directions except the following where the PP is either inconsistent or further work is required before consistency may be determined.

4.1 Acid Sulfate Soils - the direction requires an acid sulfate soils (ASS) study to be undertaken when a PP would result in an intensification of land uses. As this would occur for the 74 South St site and no study is proposed, the PP is inconsistent with this direction. As Council states however, the site contains class 5 soils and ASS may be adequately assessed at the DA stage through the existing LEP ASS provisions. The Department agrees with Council's assessment and the Secretary should agree that the PP's inconsistency with this direction is of minor significance.

4.4 Planning for Bushfire Protection - the site is bushfire prone and so consultation with the RFS is required before consistency with this direction can be determined. Council intends to consult with the RFS post-Gateway.

5.1 Implementation of Regional Strategies - Council has listed this direction but the consistency assessment included in the PP relates to the Hunter Regional Plan and not the Lower Hunter Regional Strategy. As the PP was submitted while this direction required the PP to be consistent with the Regional Strategy, the Strategy remains relevant to this PP. The PP therefore needs to be updated to include Council's assessment of how the PP is consistent with the Regional Strategy.

5.10 Implementation of Regional Plans - Council has assessed the PP against the Hunter Regional Plan but in reference to direction 5.1 Implementation of Regional Strategies. This should be changed to refer to direction 5.10.

Environmental social
economic impacts :

Any environmental, social and economic impacts that may result from this PP are likely to be minimal due to the proposal being minor.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - s56(2)(d) :	NSW Rural Fire Service		
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. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **Under the existing State infrastructure framework for the Lower Hunter, State contributions would not be required for this site. However, the Department is currently reviewing State contributions and as a result this position may change.**

Documents

Document File Name	DocumentType Name	Is Public
Council Request.pdf	Proposal Covering Letter	Yes
Council Minutes and Report.pdf	Study	Yes
Council Planning Proposal.pdf	Proposal	Yes
Subject Land.pdf	Map	Yes
Proponent Report.pdf	Study	Yes

Planning Team Recommendation

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

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 : **This planning proposal should proceed subject to the following conditions:**

1. Prior to exhibition Council is to amend the planning proposal to refer to:
 - (a) section 117 Direction 5.10 Implementation of Regional Plans and include Council's consistency assessment against the requirements of this direction;
 - (a) section 117 Direction 5.1 Implementation of Regional Strategies and include Council's consistency assessment against the requirements of this direction; and
 - (c) Council's adopted Medowie Planning Strategy and delete references to the draft of that strategy.
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 local environmental plans (Department of Planning & Environment 2016) 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 2016).
3. Consultation is required with the NSW Rural Fire Service under section 56(2)(d) of the EP&A Act. The NSW Rural Fire Service is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on

the proposal. Council's assessment of consistency with s117 direction 4.4 Planning for Bushfire Protection should then be updated.

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 9 months from the week following the date of the Gateway determination.

Other matters:

The Secretary should agree that the PP's inconsistency with s117 direction 4.1 Acid Sulfate Soils is of minor significance.

Plan-making delegation should be given.

Supporting Reasons : per this report

Signature:



Printed Name:

K O'Flaherty

Date:

20-1-2017

