

Port Stephens Local Environmental Plan 2013 Amendment 17 Ferodale Road Medowie

Proposal Title : **Port Stephens Local Environmental Plan 2013 Amendment 17 Ferodale Road Medowie**

Proposal Summary : **The Planning Proposal seeks to amend the Port Stephens Local Environmental Plan 2013 by changing the zoning from RU2 Rural Landscape to R5 Large Lot Residential for 17 Fairlands Road (lot 100 DP 583216) and 2 Ferodale Road (lot 101 DP 583216). The proposal seeks to facilitate the creation of up to 6 additional lots**

PP Number : **PP_2016_PORTS_002_00**

Dop File No :

16/07941

Proposal Details

Date Planning Proposal Received : **19-Jul-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 : **17 Fairlands Road**

Suburb :

City : **Medowie**

Postcode : **2318**

Land Parcel : **Lot 100 DP 583216**

Street : **2 Ferodale Road**

Suburb :

City : **Medowie**

Postcode : **2318**

Land Parcel : **Lot 101 DP 283216**

DoP Planning Officer Contact Details

Contact Name : **Katrine O'Flaherty**

Contact Number : **0249042700**

Contact Email : **Katrine.O'Flaherty@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Matthew Borsato**

Contact Number : **0248980028**

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

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	8.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	6
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 : **Council advise that the Planning Proposal seeks to enable further subdivision of 17 Fairlands Road (lot 100 DP 583216) and 2 Ferodale Road (lot 101 DP 5832160) for rural residential development, which Council consider is consistent with the Draft Revised Medowie Planning Strategy.**

The land is currently zoned RU2 Rural Landscape which is consistent with the land immediately surrounding the site. The Planning Proposal intends to rezone the land to R5 Large Lot Residential and amend the minimum lot size. The future minimum lot size is currently proposed to be 1.0ha.

An earlier Planning proposal for the subject site was refused at Gateway due to concerns regarding the proposed intensity of the development given its proximity and drainage to Grahamstown Dam. At the time a minimum lot size of 1,000sqm was proposed. Council was encouraged to await the progression of the Revised Medowie Strategy, which was to test the Strategy's original assumptions and development forecasts with regard to various constraints including drainage and impacts on water quality in the catchment.

Council have since completed a Draft Revised Medowie Strategy which was placed on exhibition from February 2016 to April 2016. Council are currently reviewing submissions and further work is expected to occur. Council acknowledges that the Drainage Strategy for the area is yet to be completed.

External Supporting Notes : **Due to the concerns regarding a previous proposal for the site, advice from Hunter Water was sought as part of the considerations. A meeting with Council and Hunter Water was held on 7 July 2016 and subsequent written advice received from Hunter Water on 13 July 2016. Council submitted a preliminary concept plan for the site on 19 July 2016. It is this date that the proposal was considered adequate for assessment.**

Adequacy Assessment

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

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

Comment : **Council identify that the objective of the Planning Proposal is to enable further subdivision of the site for rural residential development consistent with the Draft Revised Medowie Strategy.**

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

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

Comment : **Council note in the Planning Proposal that the objective of the Planning Proposal will be achieved by:**
- Amending the Port Stephens Local Environmental Plan 2013 Land Zoning Map to zone the site R5 Large Lot Residential in accordance with the Draft Land Zoning Map.
- Amending the Port Stephens Local Environmental Plan 2013 Lot Size Map to change the minimum Lot size for the site to 1.0 hectare in accordance with the Draft Lot Size Map.

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

1.1 Business and Industrial Zones
1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
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
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **No**

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
SEPP (Rural Lands) 2008

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

Hunter Water have provided advice on the proposal that should be considered and where relevant incorporated into the proposal prior to it proceeding.
Due to the sensitive nature of the site a site specific DCP is recommended to be prepared.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Consistency of the proposal can be determined through further investigation and consultation. In particular the final minimum lot size and zone boundary as well as the site specific development control plan will need to respond to issues raised.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council propose to exhibit the Planning Proposal for 28 days and notify adjoining and subject landowners in writing. The notice of the exhibition will be placed in the local newspaper, The Examiner. The Planning Proposal will be on display at the following locations:

- Council's website
- During business hours at Council's Administration Building
- Medowie Community Centre

28 days is considered an appropriate period of time for the exhibition period given the recommendation to co-exhibit a site specific development control plan.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Port Stephens Standard Instrument (PS LEP 2013) commenced 22 February 2014.**

Assessment Criteria

Need for planning proposal :

The Planning Proposal seeks to amend the Port Stephens Local Environmental Plan 2013 by changing the zoning from RU2 Rural Landscape to R5 Large Lot Residential for 17 Fairlands Road (lot 100 DP 583216) and 2 Ferodale Road (lot 101 DP 583216). A PP is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY 2006 (LHRS)

Medowie, including the site, is identified within the Lower Hunter Regional Strategy as a 'proposed urban area, with boundaries to be defined through local planning'. Progression of development in Medowie since release of the LHRS has highlighted challenges in balancing residential growth with environmental constraints such as koala habitat, flooding and drainage. The Regional Strategy is under review and Hunter Water has highlighted the need for the future Regional Plan to address the protection of drinking water catchments including the Grahamstown Dam catchment. The draft Hunter Regional Plan recognises the need to protect the Hunter's water supplies to meet the needs of the environment and support the growth and development of towns and industries.

The PP aims to rezone rural land for large lot residential purposes, rather than for more intensive urban development. This is not supported by an endorsed Strategy and is therefore inconsistent with the LHRS which limits further rural residential development. However proceeding with a more intensive proposal, while more consistent with the LHRS does not reflect the site constraints identified. The inconsistency of the proposed additional rural residential development at this site can be considered justified because the reduced density is a consequence of local investigation and in response to Hunter Water's concerns.

The revised proposal responds to the direction of the draft plan for Growing Hunter City which proposes to identify opportunities for sustainable development outcomes at Medowie, that do not affect water quality.

Grahamstown Dam Drinking Water Source

The site is located within the Grahamstown Catchment Area as defined within the Hunter Water Regulation 2015, which protects Grahamstown Dam drinking water source. Due to the sensitivity of the drinking water catchment and evidence that at least part of the subject site drains directly into Grahamstown Dam Hunter Water have requirements for the control of development. This includes requirements in relation subdivision pattern, building footprint and development type, as well as a need for further investigation into hydrology and stormwater. Further work is required to demonstrate that the proposed zone boundary and 1 hectare minimum lot size is appropriate given Hunter Waters requirements. As such a site specific development control plan is proposed and will need to be prepared and exhibited with the planning proposal.

LOCAL PLANNING STRATEGIES

Port Stephens Planning Strategy 2011-2036 (not endorsed)

The Port Stephens Planning Strategy identifies Medowie as a Priority 1 'infill and new release area' with the potential yield of 2, 400 dwellings and new development to be guided by the Medowie Strategy.

Medowie Strategy (not endorsed) initially adopted in 2009 and amended to include additional sites in 2013.

The current Medowie Strategy identifies the site for large lot residential development (1,000sqm-1,500sqm). The proposal is not consistent with the proposed sequence of development at Medowie nor with the Strategy's requirement for all rezonings to investigate drainage and impacts on water quality.

Council is currently reviewing its Medowie Strategy, which will test the Strategy's original assumptions and growth forecasts with regard to various constraints, including fragmented ownership, flooding, drainage, koala habitat, vegetation and traffic. This review provides an opportunity to strategically address matters such as drainage and water quality in the catchment and identify catchment wide mitigation measures to maintain water quality standards and identify water quality treatment areas and flow paths.

Council are currently reviewing submissions and further work is expected to occur. Council acknowledges that the Drainage Strategy for the area is yet to be completed. Proceeding with this proposal ahead of the finalisation of the Medowie Strategy and in the absence of the Drainage Strategy and comprehensive Servicing Plan is not preferred.

However this amended proposal has responded to the issues raised and further work may be conditioned to address these matters through an individual PP.
Given the minor nature of the development and extent of work undertaken to date to address the concerns, conditional agreement to proceed is warranted.

State Environment Planning Policies (SEPPs)

SEPP 44 - Koala Habitat

The Port Stephens Comprehensive Koala Plan of Management (CKPoM) is applied in Port Stephens LGA for the purposes of implementing SEPP 44. The site is cleared farmland with the exception of a small number of trees in the south-west corner of the site comprising a minor area being classified as 'Preferred Koala Habitat with a further associated 50m buffer'. Preferred Koala habitat is the most important category of koala habitat in the Port Stephens LGA and the koala plan of management recommends no development of this habitat or its defined habitat buffers. The mapping also shows a buffer along parts of the site's western boundary associated with vegetation on adjacent land owned by Hunter Water Corporation. Hunter Water has provided comments for Council to consider in relation to this land. These matters can be considered through the preparation of the site specific development control plan and further assessment of consistency with the SEPP can be informed by that process.

SEPP 55 - Remediation of Land

The site has a history of use as farmland. Council has proposed a Site Contamination Study be undertaken. Following these investigations the PP should be updated to demonstrate the suitability of the subject land for residential use.

SEPP (Rural Lands) 2008

Consistency with the SEPP's Rural Planning Principles (cl. 7) and Rural Subdivision Principles (cl. 8) is required by S117 Direction 1.5 Rural Lands. Rezoning the land from rural (RU2) to large lot residential (R5) is potentially inconsistent with several principles of the SEPP. These matters are addressed in the assessment in relation to the s117 directions.

S117 DIRECTIONS

The following assessment has been completed for S117 Directions identified by Council:

1.1 Business and Industrial Zone

Council has indicated Direction 1.1 applies as it will affect land within an existing or proposed business or industrial zone. However the PP is not within a business or industrial zone and therefore this direction does not apply.

1.2 Rural Zones and 1.5 Rural Lands

Council has indicated the PP is consistent, however it is considered the PP is inconsistent with Direction 1.2 and Direction 1.5 as it rezones existing rural land for large lot residential purposes and will change the minimum lot size by increasing the permissible density of land.

The PP seeks to rezone agricultural land in the vicinity of land identified within the Lower Hunter Regional Strategy as a 'proposed urban area, with boundaries to be defined through local planning'.

The site is surrounded by land currently zoned RU2 Rural Landscape with a minimum lot size of 20 hectares or SP1 (Hunter Water Corporation). Land zoned R5 Large Lot Residential with a minimum lot size of 1 and 2 hectares is located to the north east, south and south-east of the site. The site is approximately 2.6 kilometres from the town centre of Medowie

The site is not mapped as Prime Agricultural Land, and proposes to rezone a comparatively small area of agricultural land on the edge of Medowie village, when compared with the greater agricultural land area within the LGA.

The Medowie strategy has not been endorsed by the department and is currently under

review. Further consideration of consistency with this direction may occur as the planning proposal proceeds.

1.3 Mining, Petroleum Production and Extractive Industries

The PP proposes to rezone land from RU2 Rural Landscape to R5 Large Lot Residential land, and consequently permit a land use that is unlikely to be compatible with mining of coal or other minerals, petroleum or extractive industries. Consultation with Department of Primary Industries needs to occur before consistency with Direction 1.3 can be determined.

2.1 Environment Protection Zones

The south-west corner of the site has been classified as 'Preferred Koala Habitat with a further associated 50m buffer'. The mapping also shows a buffer along parts of the site's western boundary associated with vegetation on adjacent land owned by Hunter Water Corporation. Hunter Water has provided comments for Council to consider in relation to this land. The proposed site specific DCP provides the opportunity to facilitate the protection and conservation of these environmentally sensitive areas. Consideration of consistency or otherwise with this direction may be determined following the preparation and assessment of this work.

2.3 Heritage Conservation

Council has requested an archaeological study be undertaken, but considers it unlikely any indigenous heritage would be located on the site. Assessment of the archaeological study and consultation with the Local Aboriginal Council should occur to assist in determining consistency with Direction 2.3.

3.1 Residential Zones

Council has requested an Infrastructure Delivery Strategy be prepared to demonstrate suitability of the site for development. Hunter Water has provided further advice in relation to this matter. Consistency with Direction 3.1 can be considered following assessment of the Infrastructure Delivery Strategy.

3.4 Integrating Land Use and Transport

In accordance with the objectives, the PP is consistent with Direction 3.4.

3.5 Development Near Licensed Aerodromes

Council has indicated that the subject land is not affected by the ANEF 2012 or 2025. The PP is consistent with Direction 3.5. Council has indicated that it will refer the matter to Department of Defence. This approach is supported.

4.1 Acid Sulfate Soils

The Port Stephens Acid Sulfate Soils Planning Map site identifies most of the site as Class 5 ASS (requiring consent for works within 500m of adjacent soil classes.) This is a low risk classification. The PP inconsistency is of minor significance because any future development requiring excavation will be managed in accordance with Acid Sulfate Soils Planning Guidelines and ASS requirements within cl.7.1 of PS LEP 2103. The Secretary should agree that the inconsistency with Direction 4.1 is of minor significance (clause 8b).

4.3 Flood Prone Land

The PP is consistent with Direction 4.3 as the land is not mapped as being Flood Prone.

4.4 Planning for Bushfire Protection

The western boundary and north eastern corner of the site are mapped as Bushfire Prone Land. Consultation with RFS needs to occur before consistency with Direction 4.4 can be determined.

5.1 Implementation of Regional Strategies

Consistency with the LHRS is discussed earlier under Strategic Planning Framework. The proposal is inconsistent with the LHRS which limits future rural residential development of land identified within an endorsed Strategy. The Lower Hunter Regional Strategy also identifies Medowie, including the site as 'proposed urban area, with boundaries to be

Port Stephens Local Environmental Plan 2013 Amendment 17 Ferodale Road Medowie

defined through local planning'.

The inconsistency of the proposed additional rural residential development at this site can be considered justified because the reduced density is a consequence of local investigation and in response to Hunter Water's concerns.

Environmental social
economic impacts :

Council has identified further studies to develop a better understanding of the environmental, social and economic impacts of the proposal. Examples include a infrastructure delivery strategy, drainage strategy, contaminated land study, bushfire report and archaeological report. This work would also be informed by community and agency consultation.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **18 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) **NSW Aboriginal Land Council
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
Hunter Water Corporation
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. :

Other - provide details below

If Other, provide reasons :

Drainage

Site-specific DCP

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 : **The site is identified as an Urban Release Area within the Environmental Planning and Assessment Amendment (Lower Hunter - Special Contributions Area) Order 2011. However the proposed minimum lot size does not represent intensive urban development and no contribution would be payable under the currently policy. The site does not need to be mapped as an urban release area and the site-specific DCP is to be prepared prior to the rezoning being completed.**

Documents

Document File Name	DocumentType Name	Is Public
Preliminary Concept Plan.pdf	Proposal	No
PSC Planning Proposal.pdf	Proposal	Yes
Hunter Water Corporation Advice.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 1.5 Rural Lands
- 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
- 4.3 Flood Prone Land
- 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 address the advice of Hunter Water.
 - prepare a site specific Development Control Plan in consultation with Hunter Water. The DCP should be exhibited concurrently with the Planning Proposal.
 - undertake the studies as identified by Council including but not limited to a contamination assessment, archaeological study and Infrastructure Delivery 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 must be made publicly available for a minimum of 28 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 (Planning & Infrastructure 2013).
 3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Hunter Water
 - NSW Rural Fire Service
 - Office of Environment and Heritage
 - NSW Department of Primary Industries
 - Department of Defence
 - Local Aboriginal Land Council
 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 18 months from the week following the date of the Gateway determination.
- Plan-making delegation should not be given to Council given the matters to be addressed.

Supporting Reasons : Per report

Port Stephens Local Environmental Plan 2013 Amendment 17 Ferodale Road Medowie

Signature:



Printed Name:

K O'Flaherty

Date:

28-7-16