

Rezoning Council-owned land at the Medowie Town Centre being part of lot 1 DP 1215257 and the adjoining road reserves to B2 Local Centre

Proposal Title : Rezoning Council-owned land at the Medowie Town Centre being part of lot 1 DP 1215257 and the adjoining road reserves to B2 Local Centre

Proposal Summary : The Planning Proposal (PP) would rezone a 1.7 hectare site adjoining the existing Medowie Town Centre from R2 Low Density Residential to B2 Local Centre in the Port Stephens Local Environmental Plan 2013. The building height limit would be changed from 9 m to 8 m and the minimum lot size would change from 500 sq.m to no minimum lot size.

PP Number : PP_2016_PORTS_005_00 **Dop File No :** 16/09625

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 : part of 795 Medowie Road

Suburb : **City :** Medowie **Postcode :** 2318

Land Parcel : Part of lot 1 DP 1215257 and the adjoining Peppertree Road and Muir Street road reserves

DoP Planning Officer Contact Details

Contact Name : Ben Holmes

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RPA Contact Details

Contact Name : Matthew Borsato

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : N/A **Release Area Name :**

Regional / Sub Regional Strategy : Lower Hunter Regional Strategy **Consistent with Strategy :** Yes

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MDP Number :

Date of Release :

Area of Release (Ha) 1.70

Type of Release (eg Residential / Employment land) :

Employment Land

No. of Lots : 0

No. of Dwellings (where relevant) : 0

Gross Floor Area : 0

No of Jobs Created : 50

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 : **JOB NUMBERS**

While the PP would provide for an additional 1.7 ha of B2 zoned land, jobs numbers have not been provided by Council. The jobs number listed in this report for the proposal is based on the assumption that 50 % of the site would be developed, and that 1 job would result for every 170m2 of commercial floor space. This yields a figure of 50 jobs.

Should Council provide an estimate of jobs based on its local knowledge, then this figure can be updated.

External Supporting Notes : **DOCUMENTATION RECEIVED**

Council has submitted a number of documents in support of this planning proposal and they are listed in the Documents section of this report. This includes a "proponent" planning proposal prepared by RPS which applies to a larger land area (ie all of lot 1, rather than part).

The Department's assessment has not focused on the RPS proposal. It focuses instead on the "Council" planning proposal which has the Port Stephens Council logo on the cover which has been submitted for a Gateway determination.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The Statement of Objectives notes the PP is to facilitate the potential commercial redevelopment of the land consistent with local strategic planning for Medowie.

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

Is an explanation of provisions provided? Yes

Comment : The Explanation of Provisions notes the PP would amend the following maps
- land zoning: from R2 Low Density Residential to B2 Local Centre;
- lot size: remove the minimum lot size so that no minimum lot size applies; and

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- height of buildings: show the maximum height of buildings as 8 m.

The proposed changes would make the planning controls for this site the same as those already applying to the existing town centre which adjoins the site. The controls remain appropriate for the Medowie centre due to the range of uses allowed in the B2 zone and Council's long term vision for the town centre.

However, should the rezoning proceed a strip of residential zoned land would remain bounded by the expanded B2 centre and Medowie Road. Given this, it is appropriate that Council review the zoning for this land because the B2 zone may be more suitable. This is not a matter which requires consideration as part of this PP, how it may be considered as part of the broader review of Medowie being undertaken through the review of the Medowie Strategy

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
- 1.3 Mining, Petroleum Production and Extractive Industries
- 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? 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 :

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

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 :

There are several maps provided in the PP however they do not consistently show the same site boundary (ie some omit part of Mulr Street). Council should update the maps to ensure the same site boundary is show through the PP package. This should occur prior to exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

Council intends to exhibit the PP for 14 days. As the proposal generally aligns with Council's recently exhibited draft Medowie Strategy, this period is considered adequate.

The site is Council-owned and so Council should disclose the benefits it is likely to receive from the rezoning. The Department's guide "LEPs and Council Land - Best Practice Guideline 1997" contains useful advice about the additional matters that should

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be included in the exhibition package.

Additional Director General's requirements

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

If Yes, reasons : **PLAN-MAKING DELEGATION**

Council has not requested plan-making delegation for this PP. Given Council owns the site and stands to benefit from the rezoning, delegation is not recommended.

COMPLETION TIMEFRAME

Council's project timeline indicates a six month completion timeframe. A nine month completion timeframe is recommended to account for any unexpected delays.

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 early 2014.**

Assessment Criteria

Need for planning proposal :

Council states that the PP results from the identification of Medowie as a proposed urban area in the various local and State planning strategies.

The Department notes that the intention to rezone this site to a business zone is proposed by the Medowie Strategy, and is further reinforced by the revised draft Medowie Strategy and draft town centre masterplan. The draft Strategy sets a new direction for the provision of commercial uses within Medowie. Where the existing strategy would disperse these activities throughout the township, the revised draft seeks to consolidate them into the town centre.

Although the drafted strategy has not yet been reviewed, the Department supports Council's new approach in relation to consolidation. By concentrating activities, and in turn investment into the existing town centre, Council's vision of creating a social and economic 'heart' for Medowie is more likely to be achieved. This would be a positive outcome for the Medowie community and is more likely to be realised through the redevelopment of a large site (as is the case here).

Whether the amount of commercial floor space proposed by this PP is too little or too much should be further evaluated by Council through a commercial floor space needs assessment post-Gateway. Notwithstanding this, the Department generally supports the progression of the PP.

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Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The LHRS promotes the continued growth of centres like Medowie. It encourages job growth, new commercial to locate in existing commercial centres, and the creation of vibrant centres that provide an array of functions to their local community. This proposal would help to facilitate those outcomes and so the PP is consistent with the LHRS.

DRAFT HUNTER REGIONAL PLAN (dHRP)

The PP broadly aligns with the dHRP direction to focus service growth towards the Hunter City (which includes Medowie). It also consistent with the plan's direction to provide services which meet the needs of local communities, and the related action to support retail growth in centres to promote vibrant, liveable communities.

DRAFT HUNTER CITY PLAN (dHCP)

Guidance relevant to this proposal is limited in the dHCP. However, it states that growth in Medowie needs to consider impacts on the drinking water catchment. Council would be required to consult with Hunter Water should the PP be supported by the Gateway.

PORT STEPHENS COMMUNITY STRATEGIC PLAN (CSP)

Council advises that the PP is consistent with this plan, particularly the direction to balance environmental, social and economic needs of Port Stephens to the benefit of current and future generations.

The Department concurs with this assessment.

PORT STEPHENS PLANNING STRATEGY (PSPS)

Council states that the PSPS identifies this land for residential development. The PP's inconsistency with the PSPS is not discussed by Council and no advice is provided to suggest that the PSPS would be updated to align with this PP.

The Department notes the PSPS was adopted in 2011, it has not been endorsed and is due for a review. The work Council is undertaking through the revised draft Medowie Strategy should inform a new revised PSPS.

Given the above, the Department does not raise concern with the PP's inconsistency with the PSPS.

MEDOWIE STRATEGY

Council advises that the site is identified in the Strategy for commercial use with the exception of a small area in the northern part of the site which is to be developed for residential. The submitted PP applies commercial across the whole site. Council states that this inconsistency is minor because multi-dwelling housing would continue to be permitted should the site be rezoned to B2.

The Department is of the view that the PP's small amount of variation from the existing strategy for this site is minor, particularly when considered in the broader context of the outcomes Council wants to deliver for the town centre and the intention of the new strategy to concentrate commercial uses there. The Medowie Strategy has not been endorsed by the Department.

Given these circumstances, no issue is raised with the PP's inconsistency with the Medowie Strategy.

DRAFT MEDOWIE STRATEGY AND MASTERPLAN

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Council states that both the draft strategy and masterplan identify this site for commercial use. Both documents have been exhibited and Council is now reviewing submissions.

The Department considers the PP to be consistent with the draft strategy. However, it is not evident from the draft Strategy whether the additional commercial floor space that would be provided by this PP is appropriate given Medowie growth scenarios. This matter needs further investigation.

PORT STEPHENS COMMERCIAL AND INDUSTRIAL LANDS STUDY (2010)

This study was prepared by SGS for Council and is used by Council to inform its strategic planning. The PP does not refer to this study. The study estimates a commercial floor space gap by 2031 of -1,045 sq.m (low scenario) and 6,753 sq.m (high scenario) at Medowie using Transport Data Centre employment forecasts from 2009.

Council's PP includes a preliminary economic analysis undertaken by the proponent which suggests that this gap in floor space has since been filled by the new Woolworths supermarket. However, it is also critical of the study's use of employment forecasts to determine demand and suggests "an industry best practice, expenditure-based approach to retail modelling" be undertaken to better determine future floor space demand.

In the circumstances it is considered The Department agrees that a new up-to-date assessment specific to Medowie is required to better understand commercial floor space needs, and to inform this PP and any other future land use changes.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP 44 Koala Habitat Protection - Council states that the site is mapped as "link over cleared land" and "100 m buffer over cleared land" and as such has considered the proposal against its Comprehensive Koala Plan of Management rezoning criteria. It concludes that the PP may not satisfy the criterion regarding hindering koala movement and intends to further examine this issue post-Gateway.

The Department supports this approach. As the site may already be developed (for residential), koala movement is already an issue for this site. Nevertheless, this matter can be further examined through consultation with OEH.

SEPP 55 Remediation of Land - Council intends to undertake a preliminary assessment post-Gateway to evaluate the potential for land contamination.

The Department notes that the site may already be developed for residential purposes which generally provides for more sensitive uses than the B2 zone. However, the Department does not raise issue with Council's intention to investigate potential contamination issues at this time.

SECTION 117 DIRECTIONS (s117)

Council has identified a number of s117 directions as being relevant to this PP. Further discussion is provided below for those directions where additional work is required before consistency can be determined or where the PP is inconsistent.

1.1 Business and Industrial Zones - inconsistent because the PP proposes new employment areas (B2 zoned land) but not in accordance with a strategy approved by the Secretary (subclause 4e).

While the Department does not have concerns with the location of the proposed B2 zoned land or intent of the PP, further analysis is required to determine whether the amount of floor space this PP would enable is suitable for Medowie.

Council may seek the Secretary's agreement to the inconsistency per the relevant terms of

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the direction once this assessment has been completed.

2.3 Heritage Conservation - heritage assessment and consultation with the Local Aboriginal Land Council should occur before consistency with this direction can be fully determined.

4.1 Acid Sulfate Soils - inconsistent because the PP would intensify the use of ASS affected land without undertaking an ASS study (subclause 6)

The site has class 5 ASS. Any future DA would be subject to an ASS assessment due to clause 7.1 Acid Sulfate Soils of the Port Stephens LEP 2013. In this context the risk of ASS impacts is considered minor and so undertaking an ASS study as required by the direction is unnecessary at this time. It is recommended that the Secretary agree that the inconsistency with the direction is of minor significance (subclause 8b).

4.4 Planning for Bushfire Protection - the site is bush fire prone. Consultation with RFS is required before consistency with this direction can be determined (subclause 4).

Note: Council identifies the PP as being inconsistent with s117 direction 1.3 Mining, Petroleum Production and Minerals Extraction because those activities would be restricted as a result of the rezoning (subclause 3). This assessment is not supported. The existing R2 Low Density Residential zone already restricts these activities on this site. As such, this direction is not considered to be relevant to the PP.

Environmental social economic impacts :

This PP should facilitate additional employment in Medowie, a broader range of commercial activity for the community, and help realise Council's vision of creating an economic and social 'heart' for Medowie.

As discussed, additional work is required relating to floor space demand. Other matters, including koala impacts, traffic, waste water management, aboriginal heritage, and bushfire require further examination. To this end, consultation with OEH, RMS, Hunter Water, the Local Aboriginal Land Council and the RFS is proposed by Council and is supported.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	NSW Aboriginal Land Council Office of Environment and Heritage Hunter Water Corporation 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. :			

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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 : **State contributions are not collected for B2 zoned land.**

Documents

Document File Name	DocumentType Name	Is Public
Council Request Letter.pdf	Proposal Covering Letter	Yes
Council Report Minutes.pdf	Study	Yes
Planning Proposal.pdf	Proposal	Yes
Supporting information - Site Location Aerial.pdf	Map	Yes
Supporting information - Current Zoning Map.pdf	Map	Yes
Supporting information - Proposed Zoning Map.pdf	Map	Yes
Supporting information - RPS Planning Proposal.pdf	Study	Yes
Supporting information - Biodiversity Report.pdf	Study	Yes
Supporting information - Flooding and Stormwater.pdf	Study	Yes
Supporting information - Preliminary Economic Report.pdf	Study	Yes
Supporting Information - Traffic Report.pdf	Study	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
 - 1.3 Mining, Petroleum Production and Extractive Industries
 - 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:
 - (a) update the maps included in the planning proposal to ensure that the site boundary is consistently identified; and
 - (b) undertake a commercial floor space needs analysis which considers different population growth scenarios for Medowie. The planning proposal should be updated following this assessment.
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 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 (Planning & Infrastructure 2013).

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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
- Roads and Maritime Services
- 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 9 months from the week following the date of the Gateway determination.

Plan-making delegation should not be given to Council given Council owns the site.

The Gateway determination letter should:

- suggest Council consider the Department's guide "LEPs and Council Land - Best Practice Guideline 1997" to ensure adequate disclosure as part of the exhibition process; and
- suggest Council review the appropriateness of the residential zone that applies to the land bounded by the B2 centre and Medowie Road as part of the draft Strategy process.

Supporting Reasons :

Per this report.

Signature:



Printed Name:

K. O'Flaherty

Date:

11/8/16

