

Planning Services

Gateway Determination Report

LGA	Port Stephens
RPA	Port Stephens Council
NAME	South Street and Sylvan Avenue (Nil dwellings)
NUMBER	PP_2017_PORTS_003_00
LEP TO BE AMENDED	Port Stephens LEP 2013
ADDRESS	111 South Street and 1C Sylvan Avenue, Medowie
DESCRIPTION	Lot 14 DP1079392, Lot 11 DP1105086
RECEIVED	14 July 2017
FILE NO.	17/08033
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of Planning Proposal

The planning proposal seeks to rezone land at 111 South Street and 1C Sylvan Avenue, Medowie from R2 Low Density Residential to R5 Large Lot Residential, and increase the minimum lot size from 450m² to 2000m².

Site Description

The proposal applies to two adjacent lots on the corner of South Street and Sylvan Avenue, Medowie.

The sites are currently zoned R2 Low Density Residential, with a minimum lot size of 450m² and maximum height of 8.5m under the Port Stephens LEP 2013.

The land is identified as vegetation buffer Bushfire Prone land.

The sites each currently contain a single residential dwelling and associated out buildings.

Figure 1 shows an aerial of the subject site and surrounding development.



Figure 1: Aerial photograph of subject site, Six Maps.

Surrounding Area

The land to the south east, adjacent on South Street, is zoned R2, with a minimum lot size of 600m² and are developed with single residential dwellings.

The land to the north and west is zoned R5, with a minimum lot size of 2000m² and generally contain single residential dwellings. The R5 land is not subject to a maximum building height.

The subject site was rezoned for low density residential purposes in 2013 along with other land in the wider Medowie area (PP_2012_PORTS_007_00).

The site is approximately 7km to the Williamstown RAAF Base and Newcastle Airport, however is not affected by the Aircraft Noise Exposure Forecast (ANEF).

Figure 2 shows an aerial of the subject site, surrounding development and the current zone.



Figure 2: Land Zoning Map, Port Stephens LEP 2013.

Summary of Recommendation

The proposal should proceed with conditions.

PROPOSAL

Objectives

The objective of the planning proposal is to implement the Port Stephens Council Notice of Motion dated 9 May 2017 which stated the planning proposal is to *provide consistencies with surrounding zoning and prevent subdivision into smaller lots, creating traffic parking hazards that have a significant impact on the amenity and streetscape of the surrounding area.*

Explanation of Provisions

The explanation of provisions states that Council would achieved the objective by amending the:

- Land Zoning Map from R2 Low Density Residential to R5 Large Lot Residential; and
- Minimum Lot Size Map from 450m² to 2000m².

Mapping

The mapping provided is sufficient for assessment and community consultation.

NEED FOR THE PLANNING PROPOSAL

Background

Council's proposal provides background for this proposal stating that the site was originally rezoned to R2 in association with other land in the immediate vicinity in 2013. However, there was a mapping error at the time of gazettal which resulted in the site having a 450m² minimum lot size instead of 700m².

Council received a DA16-2017-480 to subdivide 111 South Street into two Torrens title lots. The DA was not supported in the Council Meeting held on 11 July 2017.

Port Stephens had intended to rectify the error in a housekeeping planning proposal, however in a Notice of Motion on 9 May 2017 Council decided to prepare a separate planning proposal for the subject sites.

Planning Context

Land zone and Minimum Lot Size

PP_2012_PORTS_007_00 intended to rezone the site from 1c(5) Rural Small Holdings with a minimum lot size of 2000m² to R2 Low Density Residential with a minimum lot size of 700m². As noted a mapping error resulted in the site having a minimum lot size of 450m².

The proposal does not intend to rectify the error, instead it will reinstate the original standard instrument equivalent zone and 2000m² minimum lot size. Council's planning proposal should be amended to adequately discuss both the proposed zone and minimum lot size.

Height of Building

Council has not proposed to amend the Height of Buildings Map. This would result in the proposed R5 site have different height controls to the surrounding R5 land. Council should amend the Height of Buildings Map to create consistent controls with the adjacent R5 land.

Planning proposal

The planning proposal was triggered by a development application to subdivide 111 South Street, Medowie which was not supported by Council as the increased density would result in traffic and parking hazards, as well as impact amenity and streetscape.

The planning proposal has merit to proceed given the site was mapped incorrectly and the currently controls would result in development that is inconsistent with the existing subdivision pattern and character of the locality. However, Council should provide further discussion around the proposed zone, lot size and height limits.

Council state a planning proposal is the most appropriate means of achieving the desired outcome and objective of the planning proposal and this stance is supported.

STRATEGIC ASSESSMENT

Regional

HUNTER REGIONAL PLAN 2036 (HRP)

Council's assessment notes the proposal is consistent with the HRP in that it will facilitate infill residential development and promote housing choice. Residential development utilises essential services and existing infrastructure.

The proposal is consistent with Goals 1 and 4 of the HRP. The proposal will contribute to this goal by meeting the following Directions:

- Direction 13 – Plan for greater land use compatibility; and
- Direction 22 – Promote housing diversity.

The proposal will contribute to the HRP goals by providing zones which result in compatible development outcomes for local communities. Although, the proposal will reduce the development capacity of the site, the 450m² lot size was created in error and the proposal will provide additional rural residential development which is compatible with other development in the area.

Local

INTEGRATED STRATEGIC PLAN (PORT STEPHENS 2022) (ISP)

Council's assessment indicates the proposal is consistent with the ISP.

The proposal meets the objectives of the ISP as it provides for a range of housing needs.

PORT STEPHENS PLANNING STRATEGY 2011-2036 (PSPS)

Council's assessment indicates the proposal is consistent with the directions of the PSPS as it identifies additional housing requirements.

The PSPS notes that there is merit for minor rural residential development where there is no adverse impact. The proposal is consistent as it is a minor rezoning within an existing urban area.

MEDOWIE PLANNING STRATEGY 2016 (MPS)

Council's assessment notes the site is located within an urban growth area and it is not specifically identified.

The proposal is consistent with the MPS as the site is consistent with existing rural residential area and contributes to the rural setting of the southern portion of Medowie.

Section 117(2) Ministerial Directions

Council has identified that the proposal is consistent with the following Section 117 Directions:

- 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; and
- 5.1 Implementation of Regional Strategies.

The Department raises concern with Council's assessment of several Section 117 Directions. Inconsistency with the following Directions are of minor significance:

3.1 RESIDENTIAL ZONES

This Direction applies to the proposal as it will amend a residential zone. The proposal is inconsistent with the Direction as it will reduce the residential density of the site. However,

given the site is already developed and the 450m² lot size was made in error, inconsistency with this Direction is considered to be of minor significance.

3.4 INTEGRATING LAND USE AND TRANSPORT

This Direction applies as the proposal will amend the zoning and density of land within an existing residential area. Council's assessment does not address the objectives of the transport guidelines. However, given the site is reducing the development capacity, inconsistency with this Direction is considered to be of minor significance.

4.1 ACID SULPHATE SOILS

This Direction applies as the site is identified as being class 5 Acid Sulphate Soil. Council has not provided an acid sulphate management plan. However, given the site is class 5 and Council's development control plan provides guidance for land affected by acid sulfate soils any issues can be addressed at the development application stage. The inconsistency with this Direction is considered to be of minor significance.

Council should update the PP to show consistency with the following Direction:

3.5 DEVELOPMENT NEAR LICENSED AERODROMES

This Direction applies as the site is in the vicinity of the Williamstown RAAF Base and Newcastle Airport. The proposed R5 zone would not permit development that affects the Obstacle Limitation Surface (OLS) limits and the site is not within the Australian Noise Exposure Forecast (ANEF) zone. Council should demonstrate consistency with this Direction following consultation with the Department of Defence.

4.4 PLANNING FOR BUSHFIRE PROTECTION

The site is bushfire prone and no bushfire report was provided. Council should demonstrate consistency with the direction following consultation with the NSW Rural Fire Service.

5.10 IMPLEMENTATION OF REGIONAL PLANS

Council should update the planning proposal to remove reference to 5.1 Implementation of Regional Strategies include Direction 5.10 Implementation of Regional Plans.

State Environmental Planning Policies

There are no SEPPs that apply to this planning proposal.

SEPP – MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES 2007

The SEPP maps the site as Future Residential Growth Area, which denotes a coal seam gas exclusion zone. This SEPP does not apply to the site.

SITE SPECIFIC ASSESSMENT

Social

The intended outcome is also to reduce potential traffic and amenity impacts resulting from inappropriately dense subdivision of the site.

Environmental

Council's report states that there are no anticipated environmental effects from the proposal.

Council's stance is supported, given the proposal will provide a zoning and lot size that is consistent with the surrounding land and will ensure future development is consistent with the character of the area.

The site is mapped as being vegetated buffer bushfire prone land, the proposal will reduce the number of properties under bushfire risk.

Photographs 1 and 2 show the subject site and surrounding development.



Photograph 1: Corner of South Street and Sylvan Avenue, Medowie.



Photograph 2: Low density residential development on the southern side of South Street, Medowie.

Economic

Council's assessment concludes the proposal will have minimal economic impact.

Council's stance is supported as proposal will not result in any additional servicing requirements. However, it should be noted that Council will be reducing the site's

development potential and this may have a negative impact on the current land owners, especially if the land was purchased whilst current zone and minimum lot size was in place.

Infrastructure

The planning proposal will not have a negative impact on the provision of infrastructure.

CONSULTATION

Community

Council has proposed 14 day community consultation period. A minimum 14 day exhibition period is supported.

Agencies

Commonwealth Department of Defence and Newcastle Airport

The site is approximately 7km from the Williamstown RAAF Base and Newcastle Airport. Section 117 Direction 3.5 Development near licensed aerodromes requires planning proposals within the vicinity of aerodromes to consult with the Commonwealth department responsible for aerodromes and the lessee of the aerodrome.

Rural Fire Service NSW

The site is identified as vegetation buffer, bushfire prone land. Section 117 Direction 4.4 Planning for Bushfire Protection requires planning proposals over bushfire prone land to consult with the Rural Fire Service NSW.

TIMEFRAME

Council's projected timeline suggests the planning proposal would be finalised by June 2018, providing a twelve (12) month timeframe. This is generous given limited state agency consultation or studies are required. A nine (9) month completion timeframe is sufficient.

DELEGATION

Council has not requested plan making delegations. Given the potential negative impact on the landowners Council should not be granted plan making delegations.

CONCLUSION

The PP is supported to proceed with conditions for the following reasons:

- will meet the objectives of the planning proposal and Council's Motion;
- will result in development controls which is similar to the surrounding land; and
- will permit development that is compatible with the surrounding development.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree the proposal is consistent with section 117 Directions 4.3 Flood Prone Land; and
2. Agree any inconsistencies with Section 117 Directions 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, and 4.1 Acid Sulfate Soils are minor or justified; and

3. Note that the inconsistency with Section 117 Directions 3.5 Development Near Licensed Aerodromes, 4.4 Planning for Bushfire Protection and 5.10 Implementation of Regional Plans will require amendment and justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities and organisations:
 - Commonwealth Department of Defence; and
 - Rural Fire Service NSW.
3. The timeframe for completing the LEP is to be 9 months from the date of the Gateway determination.
4. Council is to update the planning proposal prior to community consultation to:
 - Remove reference to Section 117 Direction 5.1 Implementation of Regional Strategies and correct the reference to refer to Section 117 Direction 5.10 Implementation of Regional Plans;
 - Consider amending the Height of Building Map to be consistent with the surrounding R5 land; and
 - Provide further discuss as to why the site is being rezoned, rather than rectify mapping error.



7/8/2017

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