

Planning Proposal
Lot 1 DP 249781, 35 Ferodale Road, Medowie
Medowie Hardware

Part 1 – Objectives or Intended Outcomes

The intended outcome of the Planning Proposal is to rezone the subject land from a Rural Small Holdings zone to 3(a) Business General Zone and to remove the reference to the subject site in site specific Clause 62 of Port Stephens LEP 2000.

Part 2 – Explanation of Provisions

Medowie has been identified in the Department's Lower Hunter Regional Strategy (LHRS) as a proposed urban area with boundaries to be defined through local planning. The proposal relates to a site identified in the Port Stephens Council's Medowie Strategy (the Strategy) as amended by and adopted by Council as an area of commercial development. It should be noted this site was not originally reflected in the Strategy as an area for commercial expansion, however an amendment to the Strategy was undertaken to reflect Council's resolution of July 2008.

Clause 62 of Port Stephens LEP 2000 permits development consistent with the following: Timber yard and the fabrication, storage, sale, hire and exhibition of hardware and building materials and associated products. The current activities reflect these uses. The landowner has expressed concern relating to the changing nature of Hardware shops, the request seeks to rezone their land to formalise the existing "commercial use".

Part 3 – Justification

Section A – Need for the planning proposal.

Is the planning proposal a result of any strategic study or report?

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies Medowie as a proposed urban area subject to Local Planning. The site is now identified in Council's Medowie Strategy for commercial use. The exhibited draft Medowie Strategy did not include this as part of the commercial area.

The site is separated from the Medowie Town Centre by a drainage channel. The site is used as a hardware store in accordance with clause 62 of the Port Stephens LEP 2000.

The current use is contrary to the existing rural zone, however this is accommodated for in Clause 62.

The landowner has expressed concern to Council that the changing nature of Hardware Shops would make uses inconsistent with those activities permitted under Clause 62.

The site adjoins the existing Medowie Town Centre commercial precinct.

The site is located on Ferodale Road, Medowie a main axis of the town and is within 500m of the main transport corridor (Medowie Road) and has access to existing bus stops.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The current and future use of the site is adequately addressed by Clause 62 of the Port Stephens LEP 2000. The planning proposal is consistent with recent Department of Planning directives to eliminate site specific clauses.

Implications for not proceeding at this time

The land will remain as 1(c4) Rural Small Holdings. Clause 62 of Port Stephens LEP 2000 will still identify the site and uses permitted. As such, the

activities currently undertaken will still be permissible under Port Stephens LEP 2000 pursuant to the above clause.

Is there a community benefit?

The Medowie Hardware shop has been in operation on this site since 1981 and currently employs 20 people. The current activities are permissible and the draft Plan will not alter this. The draft Plan will not increase or decrease any economic or employment generating activities.

Section B – Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Lower Hunter Regional Strategy

The proposed rezoning is generally consistent with the Lower Hunter Regional Strategy 2006 (LHRS). The site is indicated on the LHRS Map as a Proposed Urban Area, the boundaries of which are to be determined by local planning. The Medowie Strategy as amended and adopted by Council indicates the site as suitable for commercial activity.

Clause 62 of Port Stephens LEP 2000 currently enables the existing activities to occur.

Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

The Port Stephens Community Settlement and Infrastructure Strategy (Port Stephens Council, 2007) (PSCSIS) provides the policy framework for managing urban growth and building communities in the Port Stephens local government area (LGA). It identifies areas and priorities for future urban development in Port Stephens and a framework to guide the planning, design and implementation of development of these areas. The PSCSIS recognises

Medowie as one of only two significant new release areas for development in the Port Stephens LGA for the next 25 years.

The Medowie Strategy will be the key guiding document for Port Stephens Council in its consideration of rezoning requests for ongoing development of the Medowie area over the next 15-20 years. The purpose of the Strategy is to identify how to manage urban growth and build communities in Medowie, while delivering the desired outcomes of the Lower Hunter Regional Strategy (NSW Department of Planning, 2007), the draft Lower Hunter Regional Conservation Plan (DEC, 2006), and the Port Stephens Community Settlement and Infrastructure Strategy (Port Stephens Council, 2007).

The revised draft Strategy identifies the location of existing places of commercial activity, as distinct from commercial zoned land.

Is the planning proposal consistent with applicable state environmental planning policies?

SEPP 44 Koala Habitat Protection

The subject land is identified in Port Stephens Comprehensive Koala Plan of Management as providing a link over cleared land and the preferred link over marginal land. It is considered that as the site contains no vegetation of conservation significance, and is mainly cleared, that it does not contain any Koala habitat nor does it provide a buffer or link between Koala habitat.

Is the planning proposal consistent with applicable Ministerial Directions?

Direction 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land.

The site is identified as Prime Agricultural Land (Classes 1-3). Regardless of the site's current Rural Small Holding zone, the site is used as the Medowie

Hardware Store and associated infrastructure permitted under Clause 62 of Port Stephens LEP 2000 and is unlikely to be productive agricultural land.

Direction 1.5 Rural Lands

The objectives of this direction are to:

- protect the agricultural production value of rural land,
- facilitate the orderly and economic development of rural lands for rural and related purposes.

The direction requires consistency with the principles of State Environmental Planning Policy (Rural Lands) 2008 as follows:

- the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas:

The site is currently used for commercial activities and provides no agricultural value.

- Recognition of the significance of rural land uses to the state and rural communities including the social and economic benefits of rural land use and development:

Not relevant

- In planning for rural lands, to balance the social, economic and environmental interests of the community:

Not relevant

- The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land:

Not relevant

- The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities:

Not relevant

- The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing:

Not relevant

- Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General:

Not relevant

Direction 4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.

The site and its surroundings are mapped as comprising Class 5 acid sulfate soils; the lowest mapped category of risk.

Direction 4.3 Flood Prone Land

The objectives of this direction are:

- to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and
- to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

The planning proposal is not consistent with Direction 4.3. The site is identified as flood prone land on Councils Flood Prone Land Maps. Any filling of the identified site or on lands identified as flood affected on the northern side of Ferodale Road will ultimately have great implications for the displacement of water on those lands on the southern side. However, the site is currently filled and existing operations approved.

Direction 4.4 Planning for Bushfire Protection

The objectives of this direction are:

- to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and
- to encourage sound management of bush fire prone areas.

The site is identified on Council's mapping as bushfire affected. The current activities on the site have been approved and are permitted under Port Stephens LEP 2000. The draft Plan will not create a use incompatible with any nearby mapped bushfire threat however, a commercial zone will increase the potential risk and resultant requirements due to the proposed zone allowing residential development. The planning proposal will not alter existing bush fire requirements for development of the subject land.

Direction of 5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.

The proposed rezoning is consistent with the LHRS. The site is indicated on the LHRS Map as a Proposed Urban Area, the boundaries of which have been determined by the Medowie Strategy as amended and adopted by Council.

Section C – Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject land (Lot 1 DP 249781) is cleared of vegetation and contains a number of buildings and security fencing. The site does not contain remnant or urban bushland nor any endangered ecological communities. Lands adjacent to the north, south and west are also cleared of vegetation. The site

contains no conservation significance associated with vegetation and has limited potential for any faunal habitat.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Land north of Ferodale Road, including the subject land plus the 3(a) Business zoned land adjacent and to the east, has been identified in a study by a flood consultant for Council to be flood affected. Prior to this study, it was formally recognised that flood affected land existed primarily on the southern side of Ferodale Road down stream of the subject land. The consultant's study further identified that any filling of the identified flood affected land on the northern side Ferodale Road has greater implications for the displacement of water for down stream properties than filling flood affected land on the southern side of Ferodale Road. There are no adequate mechanisms to deal with the impacts of flooding associated with this proposal.

How was the planning proposal adequately addressed any social and economic effects?

Locating town centre activities on the subject land and land adjacent and to the west along Ferodale Road, to allow shops including supermarkets would displace the existing and intended future focus of the growing town centre. The location and size of commercially zoned land is crucial to creating competitive, convenient, vibrant and efficient town centres. The dispersal of commercial zoned land in town centres is likely to lead to outcomes such as that currently being experienced in the Tanilba Bay town centre following the recent development of a new supermarket and specialty shops.

The 3(a) Business zone is the zone applied to all town centres under the Port Stephens LEP 2000. Relying on a single zone for all retail activity within and around town centres does not distinguish nor accommodate town centre core activities and town centre support activities. Therefore, the presence of a hardware store on the subject land, as recognised by Clause 62, is an effective method of accommodating a centre support activity whilst still

retaining the current and future focus on the town centre core within the Peppertree Road area.

Consideration of changes to zoning should be based on long term needs and public benefit regardless of current activities and land owner intent. Therefore, the planning authority should consider the potential long term issues such as the hardware business cease trading, relocating or the land sold to another party that decides to redevelop the site for town centre core activities.

Extending town centre activities is likely to create an expectation that land adjacent and to the west (on the corner of Kirrang Drive and Ferodale Roads) should also be for town centre core activities. This land is subject to a rezoning request that was submitted to Council some 2 years ago with a proposal to construct a new supermarket and specialty shops. This request has not been reported to Council as the draft Medowie Strategy does not recommend that this land should form part of the future Medowie town centre. The proponent for this rezoning request has recently submitted another rezoning request on land on the corner of Peppertree and Ferodale Roads consistent with the draft Medowie Strategy. Subsequently Council Strategic Committee has recommended that Council resolve to support this request and prepare a draft LEP in May 2008.

Section D – State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The proposal is unlikely to unduly strain allocation of existing services and infrastructure.

What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

Council consulted with relevant state government authorities on 27 January 2010. No objections received in response to the proposal.

Part 4 – Community Consultation

The planning proposal may result in an increase in the amount and extent of commercial land available for development in Medowie. The planning proposal will be exhibited for a period of 28 days. Notice of the planning proposal, and all relevant documentation, will be placed in the local newspaper, on the Council website and in writing to adjoining landowners.