

SECTION 59 PLANNING REPORT

Port Stephens Local Environmental Plan 2013 (Amendment No. 17)

Planning proposal details:

Title:	Rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindlebark Drive and Heritage Avenue, Medowie.
Department Ref:	PP_2015_PORTS_006_00
Planning proposal summary:	<p>To amend Port Stephens LEP 2013 by:</p> <ul style="list-style-type: none">• Rezone the subject land to R2 Low Density Residential (including an amendment to the Lot Size Map to 500m² and Height of Building Map to 9m).• Introduce additional permitted uses to Schedule 1 Additional Permitted Uses of Port Stephens Local Environmental Plan 2013 to permit with development consent: hotel or motel accommodation; function centre; restaurant or café; small bar; cellar door premises; business premises; shops; and takeaway food and drink premises on Lot 10 DP 1154803 (only).• Restrict the additional permitted uses by limiting the retail floor space of individual tenancies to 100m²; restrict the combined commercial premises to 15% of the land to which the provision applies on Lot 10 DP 1154803 (only).
Date of Gateway Determination:	15 September 2015

1.0 SUMMARY

Subject Land

142 Kindlebark Drive (Lot 10 DP 1154803) (Pioneer Ridge Boutique Winery)

140 Kindlebark Drive (Lot 3 DP 270731)

140A Kindlebark Drive (Lot 2 DP 270731)

140B Kindlebark Drive (Lot 6 DP 270731)

140C Kindlebark Drive (Lot 1 DP 270731)

1A Heritage Avenue (Lot 61 DP 1106425)

1/1 Heritage Avenue (Lot 4 DP 270731)

2/1 Heritage Avenue (Lot 5 DP 270731)

Background

The planning proposal seeks to amend the Port Stephens Local Environmental Plan 2013 in accordance with the following:

- Amending the Port Stephens Local Environmental Plan 2013 Land Zoning Map relating to Lot 10 DP 1154803, 142 Kindlebark Drive; Lot 3 DP 270731, 140 Kindlebark Drive; Lot 2 DP 270731, 140A Kindlebark Drive; Lot 6 DP 270731, 140B Kindlebark Drive; Lot 1 DP 270731, 140C Kindlebark Drive; Lot 61 DP 1106425, 1A Heritage Avenue; Lot 4 DP 270731, 1/1 Heritage Avenue; Lot 5 DP 270731, 2/1 Heritage Avenue, Medowie. The proposal seeks to rezone the lots from R5 Large Lot Residential to R2 Low Density Residential;
- Amending the Port Stephens Local Environmental Plan 2013 Lot Size Map relating to Lot 10 DP 1154803, 142 Kindlebark Drive; Lot 3 DP 270731, 140 Kindlebark Drive; Lot 2 DP 270731, 140A Kindlebark Drive; Lot 6 DP 270731, 140B Kindlebark Drive; Lot 1 DP 270731, 140C Kindlebark Drive; Lot 61 DP 1106425, 1A Heritage Avenue; Lot 4 DP 270731, 1/1 Heritage Avenue; Lot 5 DP 270731, 2/1 Heritage Avenue, Medowie. The proposal seeks to amend the lot size map to reflect a lot size of 500m²;
- Amending the Port Stephens Local Environmental Plan 2013 Height of Building Map relating to Lot 10 DP 1154803, 142 Kindlebark Drive; Lot 3 DP 270731, 140 Kindlebark Drive; Lot 2 DP 270731, 140A Kindlebark Drive; Lot 6 DP 270731, 140B Kindlebark Drive; Lot 1 DP 270731, 140C Kindlebark Drive; Lot 61 DP 1106425, 1A Heritage Avenue; Lot 4 DP 270731, 1/1 Heritage Avenue; Lot 5 DP 270731, 2/1 Heritage Avenue, Medowie. The proposal seeks to amend the height of building map to reflect a height of 9m;
- Amending the Port Stephens Local Environmental Plan 2013 Schedule 1 Additional permitted uses as follows:

8. Use of certain land at 142 Kindlebark Drive, Medowie
- (1) This clause applies to land at 142 Kindlebark Drive, Medowie being Lot 10 DP 1154803.
- (2) Development for the following purposes is permitted with development consent:
- (a) hotel or motel accommodation,
 - (b) function centre,
 - (c) restaurant or café,
 - (d) small bar,
 - (e) cellar door premises,
 - (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.
- (3) Development consent for commercial premises under subclause (2f) must only be granted to development that has:
- (a) tenancies which have a retail floor area that does not exceed 100 square metres, and
 - (b) the combined commercial premises not exceeding 15% of the land to which this clause applies.

Public exhibition

The proposal was placed on public exhibition for 14 days from 2 June 2016 until 16 June 2016.

Key changes

No changes as a result of consultation.

2.0 GATEWAY DETERMINATION

- Date of Gateway Determination: 15 September 2015
- Timeframe for completion of planning proposal: 12 months with a request sent to the Department for a further extension of 3 months
- the Gateway determination was not subject to a review request
- The conditions of the Gateway determination have been complied with.

3.0 COMMUNITY CONSULTATION

- The planning proposal was exhibited 14 days from 2 June 2016 until 16 June 2016.
- No submissions were received
- Consultation was undertaken in accordance with the Gateway determination
- No amendments were made to the planning proposal as a result of issues raised during community consultation

4.0 VIEWS OF PUBLIC AUTHORITIES

In accordance with the Gateway Determination, Council consulted with the following government agencies:

Public Authority	Summary of Advice Received	Council Response
Hunter Water Corporation	<p>No objections to the rezoning proposal. The developer will have to continue to liaise with Hunter Water as additional information will be required at development application stage.</p> <p>Water Supply The development site has frontage to a 200mm UPVC water main in Meadowie Road. There is currently sufficient capacity available in this main to serve the proposed development.</p> <p>Wastewater Transportation The nearest point of connection to the existing sewer system is to manhole J4387</p>	The comments can be addressed at development application stage.

	<p>as shown in Figure 1. The developer should confirm by field survey the ability of all land within the development site to drain to this point. There is currently sufficient capacity available in this main to serve the proposed development.</p> <p>Water Resources The majority of the development site falls within Hunter Water's Grahamstown Dam Drinking Water Special Area as gazetted in the Hunter Water Regulation 2015. The site falls entirely within the Campvale Canal catchment, which drains to Grahamstown Dam. Hunter Water expects that all development in drinking water catchments will demonstrate Neutral or Beneficial Effect on Water Quality (NorBE). The development application should demonstrate how the stormwater and drainage systems will meet NorBE.</p>	
NSW Rural Fire Service	<p>No objection to the proposal. The future subdivision of the land must comply with the <i>Planning for Bushfire Protection 2006</i>. This includes:</p> <ul style="list-style-type: none"> • Provision of Asset Protection Zones within the proposed lots in accordance with Table A2.4 and Table A2.6; and • Access and services to be provided in accordance with the design specification set out in section 4.1.3. 	The comments can be addressed at development application stage.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

Section 117 Directions

The planning proposal is consistent with s117 directions.

1.1 Business and Industrial Zones

Consistent.

This direction applies because the Planning Proposal may affect land within an existing or proposed business or industrial zone. The proposal seeks to include additional permitted uses for one site (142 Kindlebark Drive, Lot 10 DP 1154803) to facilitate the limited future expansion.

The Planning Proposal will not reduce or alter existing business and industrial zones.

The Planning Proposal limits the range and floor space of the proposed additional use to be compatible with the existing town centre. The site is also a walkable distance to the town centre.

2.2 Heritage Conservation

Consistent.

This direction applies when a relevant planning authority prepares a planning proposal.

There are no known items of environmental heritage significance and indigenous heritage significance on the subject sites. The Proponent submits that given the historical use of the site and its cleared nature it is not anticipated that there are any heritage items that will be adversely impacted.

The existing heritage provisions in the Port Stephens Local Environmental Plan 2013 provide adequate provision for the protection of any heritage matters related to the development of the site.

An archaeological report and consultation with Worimi Local Aboriginal Land Council can be undertaken at the development application stage if required.

3.1 Residential Zones

Consistent.

The Planning Proposal is consistent with this direction because it seeks to provide increased residential housing to provide for the existing and future housing needs.

The rezoning of the site will allow for additional housing opportunities without consuming rural or undeveloped land on the rural fringe. It also makes efficient use of existing infrastructure and services by being located in a developed and serviced area.

3.4 Integrating Land Use and Transport

Consistent.

The Planning Proposal is consistent with Improving Transport Choice – Guidelines for planning and development (DUAP 2001) and the aims of The Right Place for Business and Services – Planning Policy (DUAP 2001). The Planning Proposal is justified and supported by an Economic Impact Assessment (Jenny Rand, 2016), Addendum (Untapped Planning, 2016) and Traffic Impact Assessment (Better Transport Futures, 2016). The Economic Impact Assessment and Traffic Impact Assessment are summarised in Section C of the planning proposal.

The Planning Proposal is an evolution of an existing business on the site; is located within an existing urban area; approximately 100 metres from the edge of the town centre precinct; and located on a primary transport route

(Medowie Road). There is also an existing nearby shared pathway and bus stop on Medowie Road.

The Planning Proposal may be inconsistent with this Direction if it is justified by a strategy which gives consideration to the objective to this direction.

The subject land is not identified for a change in land use in the Medowie Strategy. However, the Medowie Strategy is currently under review and encourages consolidation of commercial uses within the town centre, and at the same time acknowledges existing unique commercial uses on prominent sites (such as Pioneer Ridge Boutique Winery) as important local attractions.

4.4 Planning for Bushfire Protection

Consistent.

The site is identified within a buffer on Councils bushfire prone land maps. The land mapped as bushfire hazard to the south is mostly developed resulting in a decrease in vegetation and fuel loads.

Consultation occurred with the Rural Fire Service and raised no objection subject to the requirement that the future subdivision of the land complies with Planning for Bushfire Protection 2006.

5.1 Implementation of Regional Strategies

Consistent.

The Lower Hunter Regional Strategy identifies Medowie as a proposed urban area with boundaries to be defined by local planning. It seeks to maximise redevelopment and infill opportunities for medium and high density housing within walking distance of centres.

The Planning Proposal is consistent with the overall intent of the Regional Strategy and does not undermine the achievement of its vision, or of the local planning strategy (i.e. the Medowie Strategy). The Planning Proposal is consistent with the Strategy because it facilitates increased housing in an existing urban area, in close proximity to the town centre and adjacent to a main transport route.

The subject land is not identified for a change in land use in the Medowie Strategy. However, the Medowie Strategy is currently under review and encourages consolidation of commercial uses within the town centre, and at the same time acknowledges existing unique commercial uses on prominent sites (such as Pioneer Ridge Boutique Winery) as important local attractions.

6.3 Site Specific Provisions

Consistent.

This direction applies because the Planning Proposal seeks to permit site specific uses via Schedule 1 Additional permitted uses of the Port Stephens Local Environmental Plan 2013.

The proposed Schedule 1 Additional permitted uses clause has merit compared to rezoning the site to a commercial zone. A commercial zone would have the potential to introduce undesirable land uses and excess floorspace that would detract from, and compete with, the existing town centre.

The introduction of a Schedule 1 clause would allow limited expansion of the established existing use to include specific complementary uses contained within the clause. This approach permits the future growth of the business without impacting on existing commercially zoned land in the town centre. The proposed limitations will ensure the activities on the site will not fragment the commercial hierarchy of the LGA or the Medowie town centre, but will allow a modest expansion of the subject land as a specific local attraction. This is supported by the findings of the Economic Impact Assessment (Jenny Rand, 2016).

The inconsistency with this direction is considered to be of minor significance. The delegate of the Secretary of the Department of Planning and Environment determined on the 22 August 2016 that this inconsistency is of minor significance.

State Environmental Planning Policies

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided as follows:

SEPP 55 (Remediation of Land)

Consistent.

The site has a history of use as farmland therefore triggered the NSW Managing Land Contamination Planning Guidelines 1999.

A Phase 1 Potential Contamination Report (Forum Consulting Engineers, 26 November 2015) was carried out on the site. The report examined the site description, history, geology, review of environmental licenses, notices and a review of historical aerial photographs. There was no indication or evidence of contamination on the site.

The report concludes that the site contains minimal risk to human health or environment due to contamination and as such the Investigation Area is suitable for the purposes of R2 Low Density Residential land uses.

Council's Natural Resources Team reviewed the report and their recommendations are outlined in Section C of the Planning Proposal.

SEPP 44 – Koala Habitat Protection

Consistent.

The Port Stephens Comprehensive Koala Plan of Management has updated maps for Medowie (updated in 2006). The site is identified as 'mainly cleared land', 'link over cleared land' and '100m buffer over cleared land'. This is consistent with the cleared nature of the majority of the site.

An Addendum to the Proponents Planning Proposal provides a review of the performance criteria of the Port Stephens Comprehensive Koala Plan of Management based on superseded and outdated koala habitat mapping.

Council's Natural Resources Team reviewed the submitted performance criteria assessment and advised that the Planning Proposal is unlikely to have major ecological impact as the existing environment is largely cleared.

SEPP Housing for Seniors or people with a Disability 2004

Consistent.

Part of the subject lands are currently occupied by an approved Seniors Housing complex with four of the approved 17 units constructed or under construction (Lot 1-6 DP 270731). These allotments range in size from approximately 260m² to 350m².

Rezoning from R5 Large Lot Residential to R2 Low Density Residential will facilitate more flexible use of the site.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies Medowie as a proposed urban area with boundaries to be defined through local planning. This local planning was undertaken by Council through the Medowie Strategy.

a) Rezoning to R2 Low Density Residential

The planning proposal is considered consistent with the Lower Hunter Regional Strategy.

The Lower Hunter Regional Strategy seeks to maximise redevelopment and infill opportunities for medium and high density housing within walking distance of centres. The Site is a walkable 800m distance from the Medowie town centre. The Planning Proposal is consistent with the Strategy because it facilitates increasing housing density in an existing urban area in close proximity to the town centre and adjacent to public transport. This allows for better use of existing infrastructure, reduced travel by car and encourages resource efficiency. It is consistent with the Lower Hunter Regional Strategy Neighbourhood Planning Principles.

a) Additional Permitted Uses Provision

The Lower Hunter Regional Strategy aims to facilitate the concentration of activities along transport routes and within and adjacent to centres.

The proposed additional permitted uses complement the existing land uses on the site and allow the landowner to evolve and diversify them in the future without compromising the Medowie town centre. The Planning Proposal also concentrates development on the main transport route Medowie Road.

Draft Hunter Regional Plan

The Draft Plan for Growing Hunter City identifies goals, directions and actions to guide strategic planning for land use and infrastructure across the whole of the Hunter region between now and 2036. Medowie is identified in the Northern Gateway District.

Action 1.2.1 Identify new opportunities for housing in the existing urban area to increase supply and improve housing choice.
The Planning Proposal is consistent as it seeks to provide housing within an existing urban footprint with good access to jobs and services.

Port Stephens Integrated Strategic Plan

The Planning Proposal is consistent. The Port Stephens Integrated Strategic Plan states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and affordability. The Planning Proposal will potentially add approximately 15 residential allotments within an existing town.

Port Stephens Planning Strategy

The Port Stephens Planning Strategy identifies Medowie as a Priority 1 Infill and New Release Area. Urban growth is ongoing as the Medowie Strategy is implemented. Limited infill will also occur through the further subdivision. The Planning Proposal will contribute towards infill development in Medowie.

Port Stephens Commercial and Industrial Lands Study

The Study identifies Medowie as a 'town centre' in the proposed retail hierarchy and defines it as a "*Shopping and business centre for the district, including health and professional services mixed with medium and higher density residential*". It includes a gap analysis summarised in the following table which indicate a shortfall of supply in Medowie.

	2009 Occupied Floorspace (sqm)	2016 Floorspace Demand (sqm)	2031 Floorspace
Medowie centre precinct	7,257	8,117	9,493

A gap analysis with two supply scenarios concluded the following:

			Low scenario		High Scenario	
	2016	2031	2016	2031	2016	2031

	Floorspace Demand (sqm)	Floorspace Demand (sqm)	Supply Gap (sqm)	Supply Gap (sqm)	Supply Gap (sqm)	Supply Gap (sqm)
Medowie	8,117	9,493	330	-1,045	8,129	6,753

The gap analysis highlighted under a low supply scenario there will be insufficient capacity to accommodate this demand and that more commercial-zoned land will be required for the town centre. Since 2009 an additional supermarket has been constructed in the town centre and assisted in meeting the predicted occupied floor space demand referenced in the Study.

The Planning Proposal does not seek to facilitate uses or additional floorspace to impact the existing centre and commercial hierarchy through the application of an amendment to Schedule 1 Additional permitted uses of the *Port Stephens Local Environmental Plan 2013*.

Draft Revised Medowie Planning Strategy

The Site is not identified for a change in land use in the Draft Revised Medowie Planning Strategy. The Draft Revised Medowie Planning Strategy encourages consolidation of commercial uses within the existing town centre; however the Strategy does acknowledge site-specific in locations outside of the town centre to cater for existing uses and attractions along the main transport routes (including the Pioneer Ridge Boutique Winery). The introduction of a Schedule 1 Additional permitted uses clause would allow the expansion of an established existing use to encompass specific limited additional uses. This approach permits limited future growth of the business on the subject land and does not impact on existing commercially zoned land in the town centre.

The Draft Revised Medowie Planning Strategy facilitates consideration of the Planning Proposal because it is an expansion of existing urban areas and is located along a main transport route. The subject land is located on the fringe of the R5 Large Lot Residential Zone and is adjacent to land zoned R2 Low Density Residential to the south. The subject land is a large holding close to the town centre, providing opportunity for infill development and urban consolidation to help achieve additional housing in Medowie.

6.0 PARLIAMENTARY COUNSEL OPINION

A request to prepare the legal drafting of the draft Plan was made to Parliamentary Counsel on 5 October 2016.

7.0 OTHER RELEVANT MATTERS

Council has not met with the Minister or any members for Parliament in relation to this plan.

8.0 MAPPING

- Amending the land zone map LZN_004B for the subject site to replace the Zone R5 Large Lot Residential with Zone R2 Low Density Residential
- Amending the lot size map LSZ_004B for the subject site to include a lot size of 1 – 500 sq m
- Amending the height of building map HOB_004B for the subject site to include 9m height of building limit

9.0 RECOMMENDATION

It is recommended that the plan be made, without any amendments.

10.0 NOTES:

- Final version of the Planning Proposal (including Council report and resolution dated 27 September 2016)