



Planning Proposal

Kindlebark Drive, Medowie

Proposed amendment to Port Stephens Local Environmental Plan 2013

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

Version – Post Exhibition (25 August 2016)

Further Information:

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FILE NUMBERS

Council: PSC2014-00920
Department of Planning and Environment: PP_2015_PORTS_006_00

SUMMARY

Subject land in Medowie: 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)
(refer to Figure 1: Site Identification Map and Figure 2: Site Maps)

Proponent: Untapped Planning (on behalf of landowners)

Total Area: 1.06 Hectares

Existing Zoning: R5 Large Lot Residential

Proposed Amendment:

1. 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).
2. Introduce additional permitted uses to Schedule 1 *Additional permitted uses of Port Stephens Local Environmental Plan 2013* to permit with development consent on Lot 10 DP 1154803: hotel or motel accommodation; function centre; restaurant or café; small bar; cellar door premises; business premises; shops; and takeaway food and drink premises.
3. Restrict the additional permitted uses by limiting the retail floor space of individual tenancies to 100m² and restrict the combined commercial premises to 15% of the land to which the provision applies on Lot 10 DP 1154803 (only).

Potential Lot Yield: Approximately 15 residential allotments and 1 lot with additional permitted uses.

- Supporting Studies:**
- Economic Assessment (Jenny Rand, 2016)
 - Preliminary Contaminated Site Investigation (Forum Consulting Engineers, 2015)
 - Traffic Impact Statement (Better Transport Futures, 2016)
 - Addendum (Untapped Planning, 2016)
 - Council Report, Resolution and Attachments – 28 July 2015 (including the Proponents Planning Proposal, Untapped Planning, April 2015)

BACKGROUND

In February 2013 Council received a Planning Proposal from the Proponent to amend the *Port Stephens Local Environmental Plan 2013* (PS LEP 2013). Following discussions the planning proposal was resubmitted in February 2015 to rezone the subject lands from R5 Large Lot Residential to R2 Low Density Residential (including an amendment to the Lot Size Map and Height of Building Map) and to permit additional permitted uses on 142 Kindlebark Drive (Lot 10 DP 1154803) (currently occupied by the Pioneer Ridge Boutique Winery).

On the 28 July 2015 Council resolved to support the Planning Proposal and forward it to the Department of Planning and Environment for a Gateway Determination. The Council report stated the following additional information will be required post-Gateway Determination:

- A traffic impact assessment to demonstrate management of any intensification of the site; and
- Further economic advice from a suitably qualified economist to demonstrate the economic merit and any implications on the existing town centre.

A Gateway Determination was received on the 15 September 2015 (**Attachment 7**). It required further information to satisfy the clause 6 of *State Environmental Planning Policy No. 55 – Remediation of Land*; further consideration of S117 Directions in relation to 3.4 *Integrating Land Use and Transport*, 5.1 *Implementation of Regional Strategies* and 6.3 *Site Specific Provisions* and the performance criteria for rezoning requests in the *Port Stephens Comprehensive Koala Plan of Management* (*State Environmental Planning Policy No. 44 Koala Habitat Protection*).

An Addendum (Untapped Planning 2016) was submitted in January 2016 which satisfied the request for additional information prior to consultation with public authorities and undertaking community consultation. Agency consultation was undertaken in April 2016 and a summary of the responses is detailed in Section D of this Planning Proposal.

The proposal was placed on public exhibition from 2 June to 16 June 2016. No submissions were received.

THE SITE

142 Kindlebark Drive (Lot 10 DP 1154803)	Pioneer Ridge Boutique Winery with cellar door sales, restaurant and function centre, garden centre and gift gallery.
140 Kindlebark Drive (Lot 3 DP 270731)	A single dwelling on Lot 61 DP 1106425 and seniors housing complex on Lot 1-6 DP 270731 (with four of the approved 17 units constructed or under construction). Lot 1 DP 270731 is also known as Middleby Road and is an open access way.
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)	

Part of the site has operated since 1991 as a Rural Industry (winery) with refreshment room and gallery as ancillary uses. Several development applications and modifications have been lodged over time including restaurant, wine tasting and ancillary/minor components. The current owner envisages a boutique winery similar to a small-scale version of the Hunter Valley Gardens village shops; accommodation and restaurant on the Pioneer Ridge Boutique Winery site facilitated by the Planning Proposal.

The site is bound on three sides by the street network. It is adjacent to R2 Low Density Residential zoned land to the south. It is located approximately 1,200m from the Medowie town centre. The proposal makes efficient use of existing infrastructure and services by being located in a developed and serviced area. The site is primarily cleared of native vegetation with some individual trees present.

Figure 1 – Aerial Map of Site (p. 4), **Figure 2 – Aerial Map with Distance to Medowie Town Centre** and **Figure 3 Cadastral Map** (p.5) provide site context.



Figure 1 – Aerial Map of Site



Figure 2 – Aerial Map with Distance to Medowie Town Centre

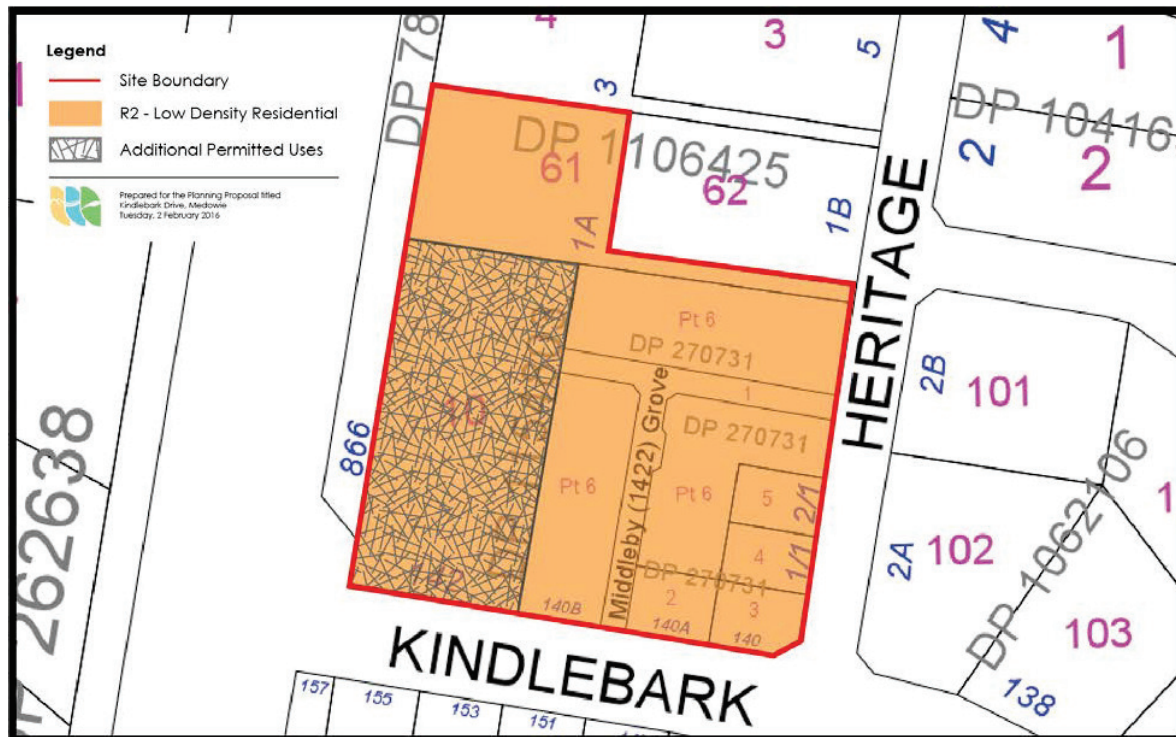


Figure 3 - Cadastral Map

PART 1 – Objectives of the proposed Local Environmental Plan

The objective of this Planning Proposal is to enable the development for residential purposes on; Lot 10 DP 1154803; Lot 3 DP 270731; Lot 2 DP 270731; Lot 6 DP 270731; Lot 1 DP 270731; Lot 61 DP 1106425; Lot 4 DP 270731 and Lot 5 DP 270731 (142 Kindlebark Drive; 140 Kindlebark Drive; 140A Kindlebark Drive; 140B Kindlebark Drive; 140C Kindlebark Drive; 1A Heritage Avenue; 1/1 Heritage Avenue and 2/1 Heritage Avenue, Medowie).

The Planning Proposal also seeks to formalise and provide limited expansion of the existing uses on Lot 10 DP 1154803 (142 Kindlebark Drive, Medowie) by introducing *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. This includes a restriction 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.

PART 2 – Explanation of Provisions to be included in proposed LEP

The objectives of the Planning Proposal will be achieved by:

- 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 Planning Proposal seeks to rezone the lots from R5 Large Lot Residential to R2 Low Density Residential (**Attachments 1 & 2**)

- 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 Planning Proposal seeks to amend the lot size map to reflect a lot size of 500m² (**Attachments 3 & 4**)
- 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 Planning Proposal seeks to amend the height of building map to reflect a height of 9m (**Attachments 5 & 6**)
- 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.

The proposed additional uses on site, as defined by PS LEP 2013 are:

hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

(a) comprises rooms or self-contained suites, and
(b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles, but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

restaurant or café means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

small bar means a small bar within the meaning of the Liquor Act 2007.

Note. Small bars are a type of food and drink premises—see the definition of that term in this Dictionary.

cellar door premises means a building or place that is used to sell wine by retail and that is situated on land on which there is a commercial vineyard, and where most of the wine offered for sale is produced in a winery situated on that land or is produced predominantly from grapes grown in the surrounding area.

business premises means a building or place at or on which:

(a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
(b) a service is provided directly to members of the public on a regular basis, and includes a funeral home and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

shops means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises.

takeaway food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

a) Rezoning to R2 Low Density Residential

The Planning Proposal is not the result of a strategic study or report. It seeks to rezone the land from R5 Large Lot Residential to R2 Low Density Residential to facilitate infill development of existing large lot residential land. The proposed R2 Low Density Residential zone is consistent with the adjoining land use zone to the south and is compatible with existing residential development to the north and to the east. The site is also bound on three sides by the street network facilitating the increased development of a discrete and limited area (see Figure 1 and Figure 2).

Rezoning the subject lands is consistent with neighbourhood planning principles and maximises infill development opportunities for housing within walking distance to the town centre. The Planning Proposal will facilitate development that is compatible with the existing streetscape and subdivision layout in the immediate area.

b) Additional Permitted Uses

The Planning Proposal seeks additional permitted uses on the land comprising the existing Pioneer Ridge Boutique Winery to allow limited future development and expansion. Rather than rezoning the site to a commercial zone, the Schedule 1 *Additional permitted uses* clause allows specific uses on the site within the proposed R2 Low Density Residential zone. This approach limits the range of permissible uses on the site and ensures the scale of potential development will not detract from the existing town centre. It will facilitate small-scale commercial premises that are supportive of the dominant use of the site, being a restaurant, cellar door premises and function centre with accommodation.

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

The proposal can only be achieved through an amendment to the *Port Stephens Local Environmental Plan 2013*.

SECTION B – Relationship to Strategic Planning Framework

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

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 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 1,200m distance from the Medowie town centre. The Planning Proposal facilitates increasing housing density in an existing urban area in close proximity to the town centre and near 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

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 Plan for Growing Hunter City

The *Draft Plan for Growing Hunter City* identifies Medowie in the Northern Gateway District.

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

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

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. The Planning Proposal will contribute towards infill development in Medowie.

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 Floorspace Demand (sqm)	2031 Floorspace Demand (sqm)	2016 Supply Gap (sqm)	2031 Supply Gap (sqm)	2016 Supply Gap (sqm)	2031 Supply Gap (sqm)
Medowie	8,117	9,493	330	-1,045	8,129	6,753

The gap analysis highlights 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.

5. Is the planning proposal consistent with applicable State environmental planning policies?

An assessment of the Planning Proposal against the relevant State environmental planning policies is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 44 – Koala Habitat Protection	Provides consideration to the protection of koalas.	Consistent. The <i>Port Stephens Comprehensive Koala Plan of Management</i> 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 (refer to Figure 1). An Addendum (Attachment 9) provides a review of the performance criteria of the <i>Port Stephens Comprehensive Koala Plan of Management</i> 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 55 – Remediation of Land	Provides consideration to the suitability based on contamination.	Consistent. The site has a history of use as farmland requiring investigation under the <i>NSW Managing Land Contamination Planning Guidelines 1999</i>. 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 this Planning Proposal.
SEPP Housing for Seniors or people with a Disability 2004	Provides consideration to the suitability of housing for seniors	Consistent. Part of the subject lands are occupied by an approved seniors housing complex (with four of the approved 17 units constructed or under construction on 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.

Section 117 Ministerial Directions

6. Is the planning proposal consistent with applicable Ministerial Directions?

An assessment of the Planning Proposal against the relevant s.117 Directions is provided in the table below. Further investigations may be required to establish consistency in some instances.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified	Consistent. This direction applies because the Planning Proposal may affect land within an existing or proposed business or

	strategic centres.	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. ENVIRONMENT AND HERITAGE		
2.2 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	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 <i>Port Stephens Local Environmental Plan 2013</i> 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. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	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	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	Consistent. The Planning Proposal is consistent with <i>Improving Transport Choice – Guidelines for planning and development</i> (DUAP 2001) and the aims of <i>The Right Place for Business and Services – Planning Policy</i> (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. 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 (Meadowie 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 <i>Medowie Strategy</i>. However, the <i>Medowie Strategy</i> 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. HAZARD AND RISK		
4.4 Planning for Bushfire	The objectives of this direction are to protect life,	Consistent. The site is identified

Protection	property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	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 <i>Planning for Bushfire Protection 2006</i> .
5. REGIONAL PLANNING		
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.	Consistent. The <i>Lower Hunter Regional Strategy</i> 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 <i>Regional Strategy</i> and does not undermine the achievement of its vision, or of the local planning strategy (i.e. the <i>Medowie Strategy</i>). 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 <i>Medowie Strategy</i>. However, the <i>Medowie Strategy</i> 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. LOCAL PLAN MAKING		
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. This direction applies because the Planning Proposal seeks to permit site specific uses via Schedule 1 <i>Additional permitted uses</i> of the <i>Port Stephens Local Environmental Plan 2013</i>. The proposed Schedule 1 <i>Additional permitted uses</i> 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 (Attachment 13).
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SECTION C – Environmental, Social and Economic Impact

7. 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?

NSW Office of Environment and Heritage (OEH) records for threatened species within 300m of the site identified five records for the Koala which is listed under the *Threatened Species Conservation Act 1995* (TSC Act) and *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). The five records are more than 20 years old (from 1988 to 1992) and are likely associated with vegetation present in the area prior to subdivision and development.

The *Port Stephens Comprehensive Koala Plan of Management* has revised maps for Medowie (updated in 2006). The site is located within an area mapped 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.

The vegetation present on site is not identified as part of a wildlife corridor is unlikely to comprise any significant vegetation, habitat or ecological communities. Any further development on the site would result in minimal, if any impact, or changes to the existing impacts on koala populations. The vegetation currently remaining within the site would be adequately protected by existing development controls relating to boundary and street setbacks.

Council has reviewed the Proponent's *Port Stephens Comprehensive Koala Plan of Management* performance criteria assessment, details of the existing environment and the Planning Proposal. The potential impacts on koalas and their habitat have been adequately considered and no further consideration is required for the Planning Proposal. It is unlikely the Planning Proposal will have an ecological impact as the existing environment is largely cleared.

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

Drinking Water Catchment

The site is partly located in the Grahamstown Dam Water Catchment. Any future development will have to ensure consideration on water quality and adequate water quality measures. Hunter Water raised no objection to the Planning Proposal.

Preliminary Contamination Site Investigation

A Preliminary Contamination Site Investigation has been prepared to assess any potential contamination in accordance with the *State Environmental Planning Policy No. 55 Remediation of Land* (refer to Forum Consulting Engineers, 2015).

It concludes that the site contains minimal risk to human health or environment due to contamination and the site is suitable for the purposes of a R2 Low Density Residential land use.

Council reviewed the Preliminary Contamination Site Investigation, and recommends for any future developments on the site, appropriate environmental management measures be in place for any unexpected contaminated soil encountered during construction activities (particularly excavations). Any potential contaminated soil should be appropriately classified and disposed of at an appropriately licensed landfill in accordance with *Waste Classification Guidelines* (NSW EPA 2014).

9. Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have a positive social and economic effect through the provision of a lot yield of 15 residential allotments in a town identified for urban growth in strategic plans, in a location close to services, public transport and town centre.

From a net increase of 15 dwellings, it is estimated that the additional housing capacity could support an increase of 38 persons. Based on the typical employment profile for people residing in Port Stephens, 14 people would be in the workforce across industry sectors. It is estimated that 8 of these jobs would remain in Port Stephens, with the remainder working outside of the region.

'Remplan' economic modelling predicts Gross Region Product could increase by \$1.392 million (0.04%) to \$3,827.355 million. Contributing to this is: a direct increase in output of \$2.167 million; 8 jobs; \$0.625 million more in wages; and salaries and a boost in value-added of \$0.868 million. From this direct expansion in the economy, flow-on industrial and consumption effects result in: total output expected to rise by \$3.284 million; a total of 12 jobs; and \$0.867 million in wages and salaries.

The economic impacts in the construction phase include: total effects on output of \$4.727 million; total employment 12 jobs; total contribution to wages and salaries of \$0.849 million; and total value added \$1.65 million from 5 construction jobs.

The Schedule 1 *Additional permissible uses* clause is considered the most acceptable and appropriate approach to deliver the desired outcomes on the site. The alternative to rezone the land to a commercial zone was not a desirable option because it could give a wide range of uses that would conflict and detract from the town centre and create excess commercial floor space.

The figures above are based on Council 'Remplan' economic modelling and planning system, which are generally consistent with the analysis in the Economic Impact Assessment (Jenny Rand, 2016) undertaken by the Proponent.

SECTION D – State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Traffic

The Traffic Impact Statement (Better Transport Futures, 2016) indicates that the additional daily traffic generated by the Planning Proposal is within the capacity of both Medowie Road and Kindlebark Drive. It concludes no specific capacity improvements are warranted for Medowie Road or Kindlebark Drive as a result of the Planning Proposal.

Additional works which require further consideration at the development application stage are:

- Parking supply;
- Site access (site access from the public reserve to Medowie Road is not allowable and any access and egress to the site will be required via Kindlebark Drive or Heritage Avenue);
- The existing road reserves (Middleby Grove) will need to be widened to meet the requirements of Council's Infrastructure Specifications and to allow safe and efficient access for residents;

- Footpath connections will be required to existing bus facilities on Medowie Road and an extension of the shared path along the property frontage of Medowie Road.

Stormwater

Impacts relating to stormwater and drainage are to be investigated at development application stage. Lot 1-6 DP 270731 have an existing consent for the purpose of 'seniors living'. During that process issues relating to stormwater and drainage were resolved, indicating that this issue is also able to be resolved at the development application stage for the potential future development.

Water Delivery and Wastewater Transport

Part of the subject site currently has consent for 'seniors living', which has a similar density to the proposed R2 Low Density Residential zone and is serviced by reticulated water and sewer.

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

The following is an overview of the consultation that has been undertaken, in April 2016, in accordance with the Gateway Determination:

Public Authority	Summary of Advice Received
Hunter Water Corporation	No objections to the Planning Proposal. The developer will have to continue to liaise with Hunter Water as additional information will be required at development application stage. <u>Water Supply</u> The development site has frontage to a 200mm UPVC water main in Medowie Road. There is currently sufficient capacity available in this main to serve the proposed development. <u>Wastewater Transportation</u> The nearest point of connection to the existing sewer system is to manhole. 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. <u>Water Resources</u> The majority of the development site falls within Hunter Water's Grahamstown Dam Drinking Water Special Area as gazetted in the NSW <i>Hunter Water Regulation 2015</i>. 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.
NSW Rural Fire Service	No objection to the proposal. The future subdivision of the land must comply with the <i>Planning for Bushfire Protection 2006</i>. This includes: • 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 4.1.3 Standards for Bush Fire Protection Measures for Residential and Rural Residential Subdivision.

Part 4 - Mapping

The relevant mapping is listed under Part 2 – Explanation of the Provisions and included under Attachments.

Part 5 – Community Consultation

The Planning Proposal was exhibited from 2 June to 16 June 2016 (14 days) at the following locations:

- Council's Administration Building, 116 Adelaide Street, Raymond Terrace (during normal business hours);
- Council's website at www.portstephens.nsw.gov.au under "What's on Exhibition";
- Medowie Community Centre;

Notification in writing was provided to affected and adjoining landowners.

No submissions were received during the exhibition period.

Part 6 – Project Timeline

Pending Council's resolution to exercise its delegation and make the Plan the proposal will be forwarded to the Parliamentary Counsel to make the plan.

The proposal is following this timetable:

	Task Description	Estimated Timeline
1.	Gateway Determination	September 2015
2.	Completion of required technical information	October – February 2016
3.	Government agency consultation	April 2016
4.	Community consultation period	June 2016
5.	Consideration of submissions and finalise the draft Plan	July 2016
7.	Submission to Department with request to make the Plan.	October 2016
8.	Legal drafting and making of the Plan	November 2016

Attachments

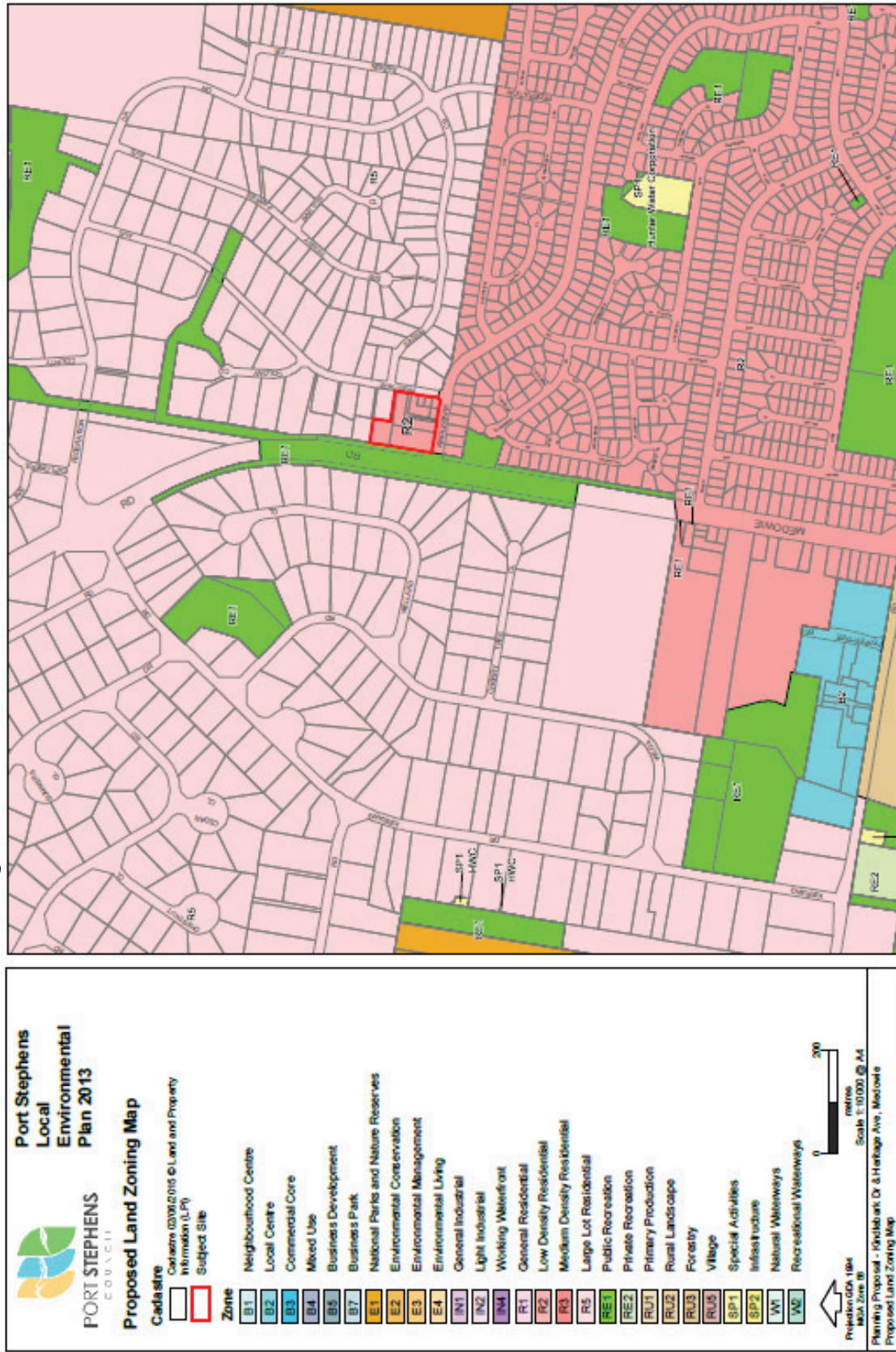
The following attachments are provided with this Planning Proposal:

- ATTACHMENT 1: Existing Land Zoning Map
- ATTACHMENT 2: Proposed Land Zoning Map
- ATTACHMENT 3: Existing Lot Size Map
- ATTACHMENT 4: Proposed Lot Size Map
- ATTACHMENT 5: Existing Height of Building Map
- ATTACHMENT 6: Proposed Height of Building Map
- ATTACHMENT 7: Gateway Determination – 15 September 2015
- ATTACHMENT 8: Council Report, Resolution and Attachments – 28 July 2015
- ATTACHMENT 9: Post-Gateway – Addendum (Untapped Planning, 2016)
- ATTACHMENT 10: Post-Gateway – Economic Assessment (Jenny Rand, 2016)
- ATTACHMENT 11: Post-Gateway – Preliminary Contaminated Site Investigation (Forum Consulting Engineers, 2015)
- ATTACHMENT 12: Post-Gateway – Traffic Impact Statement (Better Transport Futures, 2016)
- ATTACHMENT 13: Public Authority Submissions

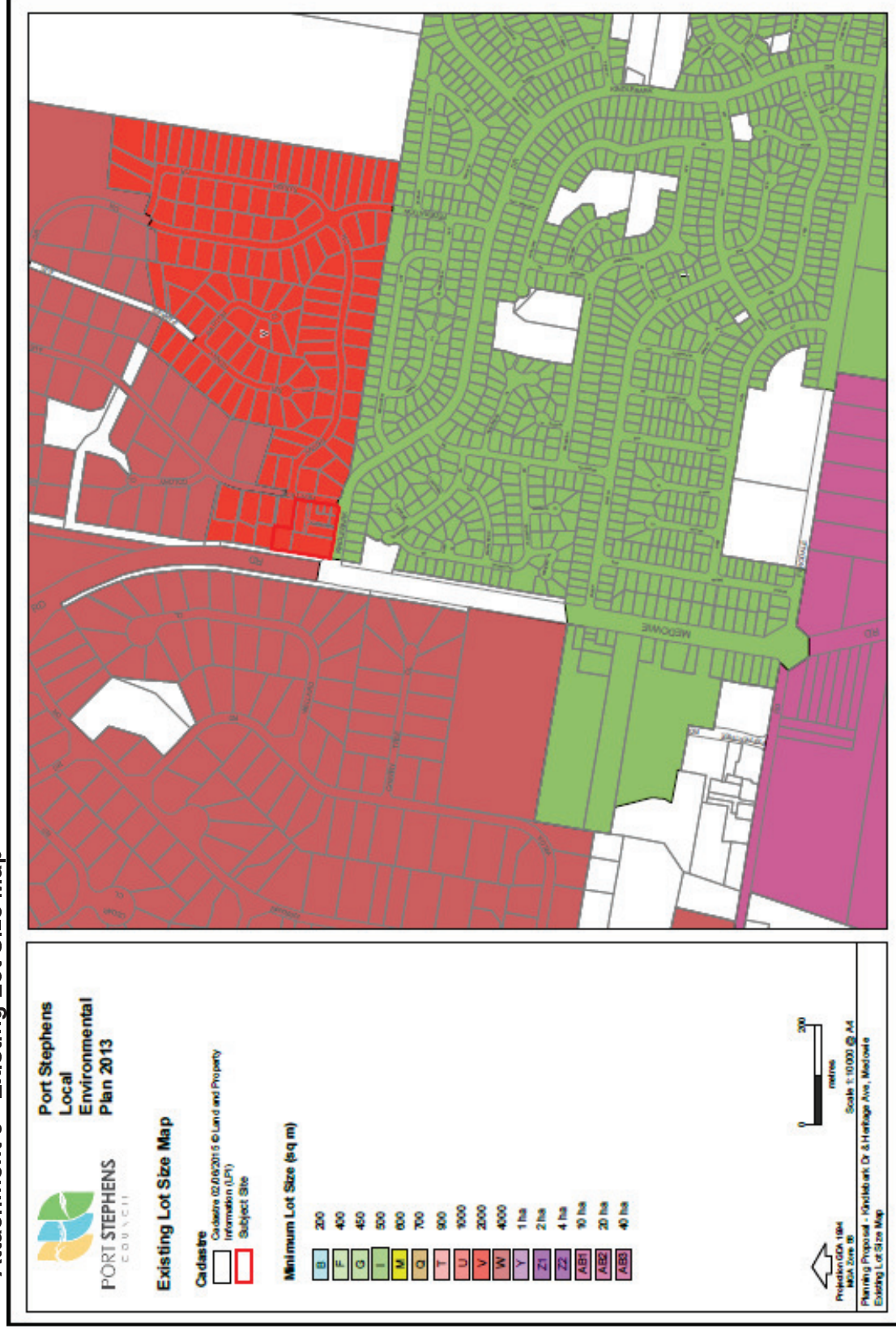
Attachment 1 – Existing Land Zoning Map



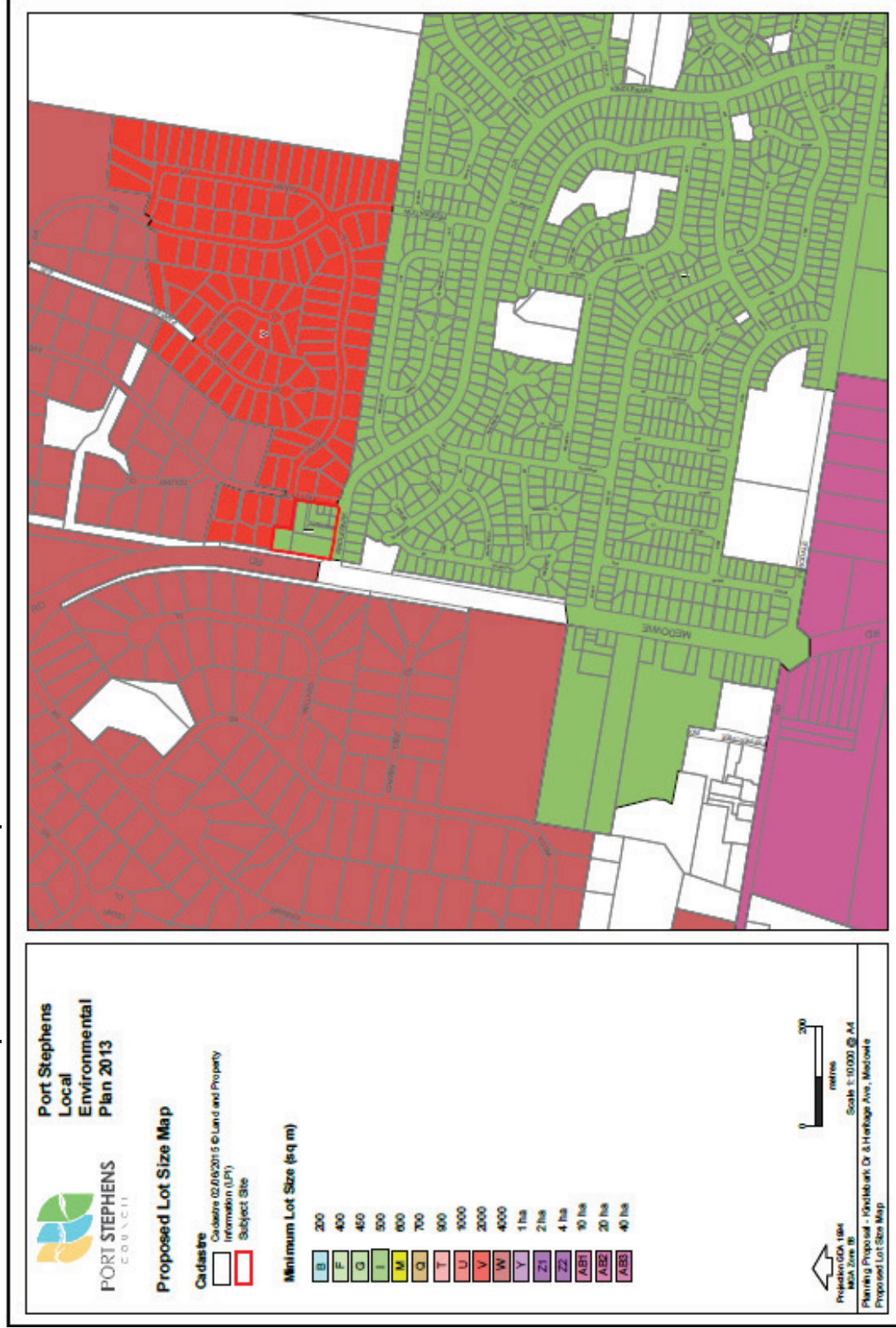
Attachment 2 - Proposed Land Zoning Map



Attachment 3 - Existing Lot Size Map



Attachment 4 – Proposed Lot Size Map



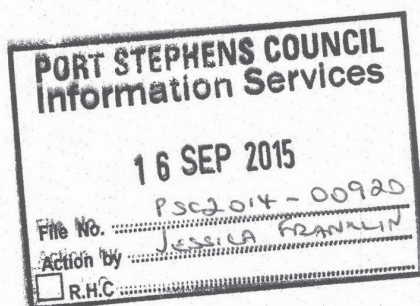
Attachment 5 – Existing Height of Building Map



Attachment 6 - Proposed Height of Building Map



Attachment 7: Gateway Determination – 15 September 2015



Mr Wayne Wallace
General Manager
Port Stephens Council
PO Box 42
Raymond Terrace NSW 2324

Our ref: PP_2015_PORTS_006_00 (15/11885)
Your ref: PSC2014-00920

Att: Ms Jessica Franklin

Dear Mr Wallace,

Planning Proposal to amend Port Stephens Local Environmental Plan 2013

I am writing in response to your Council's letter dated 31 July 2015 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land from R5 Large Lot Residential to R2 Low Density Residential and to allow additional permitted uses on land at Kindiebark Drive and Heritage Avenue, Medowie.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistency with S117 Direction 4.1 Acid Sulfate Soils. No further approval is required in relation to this Direction. Further consideration of S117 Directions is required in relation to 3.4 Integrating Land Use and Transport, 5.1 Implementation of Regional Strategies and 6.3 Site Specific Provisions following Council's proposed economic impact assessment and consideration of net community benefit as required by the Department's guide *Right Place for Business and Services* for existing isolated commercial developments. The Secretary's agreement to the planning proposal's inconsistency with the relevant S117 Directions will be required before the plan may be made.

I note Council is currently preparing a revised Medowie Strategy. Should the draft strategy be exhibited or adopted before this planning proposal is exhibited, Council should update the proposal to detail how it aligns with the revised strategy's directions. A copy of the strategy (either exhibited draft or adopted, depending on timing) should be included in the exhibition package for this planning proposal, if available.

The Minister delegated plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 6 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the Department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Attached for your assistance is a simplified guide to the plan making process and reporting requirements to ensure that the LEP Tracking System is kept updated.

Should you have any questions regarding this matter, I have arranged for Ben Holmes from the Hunter office to assist you. Mr Holmes can be contacted on (02) 4904 2709.

Yours sincerely,

15 September 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services

Gateway Determination

Planning Proposal (Department Ref: PP_2015_PORTS_006_00): to 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.

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Port Stephens Local Environmental Plan (LEP) 2013 to 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 should proceed subject to the following conditions:

1. Council is to update the Explanation of Provisions section in the planning proposal to refer to the correct lot size map LSZ_004B and amend the Objectives section to refer to the full list of additional permitted uses proposed for the site.
2. Council is to confirm whether the proposal satisfies the requirements of clause 6 of SEPP 55 Remediation of Land and the performance criteria for rezoning requests in its Comprehensive Koala Plan of Management (SEPP 44 Koala Habitat Protection).
3. 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 is classified as low impact as described in *A Guide to Preparing LEPs (Planning & Infrastructure 2013)* and 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)*.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - NSW Rural Fire Service
 - Hunter Water Corporation

The public authorities are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Direction 4.4 Planning for Bushfire Protection.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Dated 15th day of September 2015.

**David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment**

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Stephens Council is authorised to exercise the functions of the Minister for Planning under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2015_PORTS_006_00	Planning proposal to 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.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 15 September 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment