

ITEM NO. 6

**FILE NO: PSC2015-01000/559
TRIM REF NO: PSC2014-00920**

PLANNING PROPOSAL - KINDLEBARK DRIVE MEDOWIE

REPORT OF: TIMOTHY CROSDALE - STRATEGY AND ENVIRONMENT
SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at (**ATTACHMENT 1**) for the purposes of Section 55 of the *Environmental Planning and Assessment Act 1979* seeking to amend the *Port Stephens Local Environmental Plan 2013* to:
 - a) Rezone land 142 Kindlebark Drive (Lot 10, DP1154803); 1A Heritage Avenue (Lot 61, DP 1106425); 140A Kindlebark Drive (Lot 2, DP 270731); 140 Kindlebark Drive (Lot 3, DP 270731); 1/1 Heritage Avenue (Lot 4, DP 270731); 2/1 Heritage Avenue (Lot 5, DP 270731); and 140B Kindlebark Drive (Lot 6, DP 270731) from R5 Large Lot Residential to R2 Low Density Residential;
 - b) Amend Schedule 1 'Additional permitted uses' in respect of land at 142 Kindlebark Drive (Lot 10, DP 1154803) to permit:
 - hotel or motel accommodation;
 - function centre;
 - restaurant or café;
 - small bar;
 - cellar door premises;
 - commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.
 - 2) Forward the Planning Proposal (**ATTACHMENT 1**) to the NSW Department of Planning and Environment for a Gateway Determination and request delegated authority to make the Plan.
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**ORDINARY COUNCIL MEETING - 28 JULY 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

**Mayor Bruce MacKenzie
Councillor Chris Doohan**

That the recommendation be adopted.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan, Sally Dover, Ken Jordan, Peter Kafer, Paul Le Mottee, Bruce MacKenzie and Steve Tucker

Those against the Motion: Nil

**ORDINARY COUNCIL MEETING - 28 JULY 2015
MOTION**

214	<p>Councillor Geoff Dingle Councillor Paul Le Mottee</p> <p>1) Adopt the Planning Proposal at (ATTACHMENT 1) for the purposes of Section 55 of the <i>Environmental Planning and Assessment Act 1979</i> seeking to amend the <i>Port Stephens Local Environmental Plan 2013</i> to:</p> <p>a) Rezone land 142 Kindlebark Drive (Lot 10, DP1154803); 1A Heritage Avenue (Lot 61, DP 1106425); 140A Kindlebark Drive (Lot 2, DP 270731); 140 Kindlebark Drive (Lot 3, DP 270731); 1/1 Heritage Avenue (Lot 4, DP 270731); 2/1 Heritage Avenue (Lot 5, DP 270731); and 140B Kindlebark Drive (Lot 6, DP 270731) from R5 Large Lot Residential to R2 Low Density Residential;</p> <p>b) Amend Schedule 1 'Additional permitted uses' in respect of land at 142 Kindlebark Drive (Lot 10, DP 1154803) to permit:</p> <ul style="list-style-type: none">- hotel or motel accommodation;- function centre;- restaurant or café;- small bar;- cellar door premises;- commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'. <p>2) Forward the Planning Proposal (ATTACHMENT 1) to the NSW Department of Planning and Environment for a Gateway Determination and request delegated authority to make the Plan.</p>
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In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Crs Geoff Dingle, Chris Doohan , Sally Dover, Ken Jordan , Peter Kafer, Paul Le Mottee , Bruce MacKenzie and Steve Tucker

Those against the Motion: Nil

BACKGROUND

In February 2013, Council received a request to amend the *Port Stephens Local Environmental Plan 2013* (PS LEP2013) for land at the corner of Medowie Road and Kindlebark Drive to part B4 Mixed Use and part R2 Low Density Residential.

This request was revised in July 2014 to rezone the subject land to part B1 Neighbourhood Centre and part R2 Low Density Residential through consultation with the Proponent and landowners. The Proposal was resubmitted in April 2015 to rezone the subject lands to R2 Low Density Residential and request additional permitted uses on part of the subject land comprising of Pioneer Ridge Boutique Winery (142 Kindlebark Drive, Lot 10, DP 1154803) (**ATTACHMENT 2**).

This Report recommends that Council proceeds with a planning proposal for the subject land contained within (**ATTACHMENT 1**).

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)
(**ATTACHMENT 3**)

Proponent: Untapped Planning (on behalf of the landowners)

Total Area: 1.06 Hectares

Existing Zoning: R5 Large Lot Residential

Proposed Amendment:

1. Rezone from R5 Large Lot Residential to R2 Low Density Residential (including an amendment to the lot size map and height of building map).
2. Additional permitted uses (Schedule 1) within 142 Kindlebark Drive including hotel or motel accommodation; function centre; restaurant or café; small bar; cellar door premises; business premises; shops; and takeaway food and drink premises.

3. Restriction of size of additional permitted use clause on 142 Kindlebark Drive by limiting the retail floor space of individual tenancies to 100sqm; and restrict the combined commercial premises to 15% of the land to which the provision applies.

Potential Lot Yield: Approximately 15 residential allotments and 1 lot with an additional permitted uses provision to allow development as specified in the proposed amendment statement.

Location Map and Site Maps are included at **(ATTACHMENT 3)** and **(ATTACHMENT 4)** respectively.

The subject lands are currently zoned R5 Large Lot Residential and occupied by a boutique winery with cellar door sales; restaurant and function centre; garden centre and gift gallery (Lot 10, DP 1154803); a dwelling (Lot 61, DP 1106425); and an approved seniors housing complex approved under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. The seniors housing complex has four of the approved 17 units constructed or under construction (Lot 1-6, 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, the table below outlines existing approved land uses on 142 Kindlebark Drive and land uses the Proponent is requesting:

Existing approved land uses	Requested land uses
Rural Industry (winery), refreshment room (restaurant) (ancillary to the Rural Industry), gallery (ancillary to the Rural Industry)	hotel or motel accommodation, function centre, restaurant or café, small bar, cellar door premises, business premises, shops, takeaway food and drink premises. (As per the definitions in the Planning Proposal).

The Planning Proposal seeks to rezone the subject lands to R2 Low Density Residential to increase the opportunity for infill residential development consistent with the adjoining land use to the south. The subject site is also bound on three sides by the street network: Medowie Road to the west, Kindlebark Drive to the south, and Heritage Drive to the east, creating a discrete and appropriate area for residential development.

The Planning Proposal also seeks an amendment to Schedule 1 Additional Permitted Uses of the PS LEP2013 to formalise and reflect the existing development consents

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on part of the subject land at 142 Kindlebark Drive (Pioneer Ridge Boutique Winery). This will allow the landowner to expand and intensify uses on the site (with development consent) which cannot be done through the current limitations of 'existing use rights' under the *Environmental Planning & Assessment Act 1979*.

Rather than rezoning the site to a commercial zone, the Additional Permitted Uses clause permits specific uses on the site, which will enable and facilitate controlled growth and commercial development, and ensures the types and scale of development does not detract from the existing Medowie town centre.

The following additional information will be required post-Gateway Determination if the Planning Proposal is to be supported:

- A Traffic Impact Assessment to demonstrate management of any intensification of the sites; and
- Further economic advice to be undertaken by a suitably qualified economist to demonstrate the economic merit and any implications on the existing town centre.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2013-2017
Balance the environmental, social and economic needs of Port Stephens for the benefit of present and future generations.	Provide strategic land use planning services.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal has been assessed within Council's existing resources. There are no direct financial implications if Council adopts the recommendation of this Report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	2,000	Stage 1 Planning Proposal fees.

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979

Under Part 3 of the *Environmental Planning & Assessment Act 1979*, only the Minister or Council as a delegate can initiate a local environmental plan. If Council resolves to proceed with the recommendation of this Report and prepare a Planning Proposal, it will be forwarded to the NSW Department of Planning and Environment for a Gateway Determination.

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 preparation and adoption of the Medowie Strategy.

Port Stephens Planning Strategy 2011-2036

Limited infill will occur through the further subdivision and additional dwellings on rural residential lots. The Port Stephens Planning Strategy identifies Medowie as a Priority 1 Infill and New Release Area. The Planning Proposal is generally consistent with the Port Stephens Planning Strategy.

The Port Stephens Commercial and Industrial Lands Study (SGS, July 2010) informs the Port Stephens Planning Strategy and outlines sufficient existing occupied floor space in Medowie. Furthermore, the recent supermarket development on Peppertree Road has assisted in meeting the predicted occupied floor space demand.

The Planning Proposal does not seek to impact on floor space demand in the town centre by limiting the permitted land uses and floor space through Schedule 1 Additional Permitted Uses of LEP2013.

Medowie Strategy 2009

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 is likely to encourage consolidation of commercial uses within the town centre, and acknowledge existing unique commercial uses on prominent sites (such as Pioneer Ridge Boutique Winery).

The subject land is located on the fringe of the R5 Large Lot Residential Zone, adjacent to land zoned R2 – Low Density Residential with potential for infill development. The proposed rezoning is consistent with the existing adjacent land zoning to the south. The subject land is a large land holding close to the town centre, providing opportunity for infill development and urban consolidation to help achieve housing targets in Medowie.

The existing Medowie Strategy does not identify commercial land uses on the subject land. However, the introduction of a Schedule 1 clause would allow the established existing use to expand to encompass specific complementary uses contained within

the clause. This approach permits the future growth of the business and does not impact on existing commercially zoned land in the town centre. The proposed limitations will ensure the activities on the site will not jeopardize or fragment the commercial hierarchy of the LGA or the Medowie town centre, but will allow a modest expansion of the subject land.

Port Stephens Local Environmental Plan 2013

The Planning Proposal seeks to rezone the subject land from R5 Large Lot Residential to R2 Low Density Residential and to permit (with consent) additional land uses which complement the existing development at 142 Kindlebark Drive (Lot 10, DP 1154803) including: hotel or motel accommodation; café; small bar; business premises; shops; and takeaway food and drink premises.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that the expansion of the commercial uses could negatively impact on other centres.	Medium	Limited the range of permitted land uses via Schedule 1 Additional Permitted Uses of the PS LEP2013.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal will have a positive social and economic effect through the estimated provision of 15 residential allotments in close proximity to services, public transport, pedestrian and cycle linkages. The additional population will support local businesses in Medowie and Raymond Terrace.

The additional uses on the site will facilitate job creation and an increase in the local economy. The Proponent submits the inclusion of a Schedule 1 – Additional Permissible Uses provision for a portion of the subject site will ensure the ongoing viability, and allow for the growth of the existing business, which includes the winery and restaurant.

The Proponent submits that given the proximity of the site to the major access road to Medowie and siting that there would be minimal additional impacts by allowing additional uses in comparison to the existing and ongoing activities on the site. There is some potential that the proposed additional uses could create amenity impacts for existing nearby residents. Consultation with adjoining landowners will be undertaken post-Gateway Determination during public exhibition.

Any environmental impacts can be managed at the development application stage. The subject land is largely cleared, with only a few remnant trees remaining. The Port Stephens Comprehensive Koala Plan of Management has part of the site as buffer to Preferred Koala Habitat, and the remnant trees could be feed or refuge trees. Future

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development would need to ensure connectivity is maintained and preferably enhanced.

CONSULTATION

Subject to a Gateway Determination, the Planning Proposal will be placed on public exhibition for comment from State agencies and the community for a minimum period of 28 days.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Planning Proposal - Port Stephens Council. (Provided under separate cover)
- 2) Locality Map. (Provided under separate cover)
- 3) Site Maps. (Provided under separate cover)
- 4) Planning Proposal - Untapped Planning (April 2015). (Provided under separate cover)

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.