ATTACHMENT 4 – EVALUATION CRITERIA FOR THE DELEGATION OF PLAN MAKING FUNCTIONS

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:Port Stephens

Name of draft LEP:Waropara Road

Address of Land (if applicable):Lot 10 DP 1051742, No. 8 Waropara Road, Medowie

Intent of draft LEP: The planning proposal aims to amend the minimum lot size applying to part of the Lot from 1 hectare to 1000m2 under the Local Environmental Plan 2000 or the Draft Local Environmental Plan 2013.

Additional Supporting Points/Information: Planning proposal attached

Evaluation criteria for the issuing of an Authorisation **(Note: where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)**	**Council response**		**Department assessment**	
	Y/N	**Not relevant**	**Agree**	**Not agree**
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Yes			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Yes			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Yes			
Does the planning proposal contain details related to proposed consultation?	Yes			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Yes			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Yes			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Yes			
Minor Mapping Error Amendments	**Y/N**			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		N?A		
Heritage LEPs	**Y/N**			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		N/A		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		

Reclassifications	**Y/N**			
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		N/A		
If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		N/A		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land?		N/A		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		N/A		
Spot Rezonings	**Y/N**			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	No			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	No			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	No			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		N/A		

Does the planning proposal create an exception to a mapped development standard?	No			
Section 73A matters				
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?; b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A(1)(c) of the Act in order for a matter in this category to proceed).	No			

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

Port Stephens
C·O·U·N·C·I·L

PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2000:

Proposal to amend the minimum lot size at Lot 10 DP 1051742, No. 8 Waropara Road, Medowie

June 2013

Contacts

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PLANNING PROPOSAL – Waropara Road, Medowie

Local Government Area: Port Stephens Council

Address: Lot 10 DP 1051742, No. 8 Waropara Road, Medowie

PART 1 – Objective of the proposed Local Environmental Plan Amendment

The planning proposal aims to amend the minimum lot size applying to part of the Lot from 1 hectare to 1000m^2 under the Local Environmental Plan 2000 or the Draft Local Environmental Plan 2013.

PART 2 – Explanation of the provisions to be included in proposed LEP

The proposal will be implemented by an amendment to the draft Port Stephens Local Environmental Plan 2013 Minimum Lot Size map as detailed in **Attachment 1,** which will reduce the minimum lot size of part of the subject Lot from 1 hectare to 1000m^2, allowing subdivision of the land.

Should the Port Stephens LEP 2000 still be in force at the time that this Planning Proposal is made, provisions relating to the specific land will be introduced to the Port Stephens Local Environmental Plan 2000 to permit a minimum allotment size of 1000m^2 as follows:

"This clause applies to Part of Lot 10 DP 1051742 and zoned 1(c5) Rural Small Holdings.

For the purposes of Clause 13(1) of this Plan, the consent authority may grant consent to the subdivision of the land to a minimum allotment size of 1000 square metres."

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?

The Planning Proposal has been prepared in response to the Medowie Strategy, which identifies the site for residential development.

A number of studies have been undertaken to justify the planning proposal, including an ecological assessment, drainage assessment, bushfire assessment and koala habitat assessment. Notwithstanding, prior to progressing the Planning Proposal beyond the initial Gateway Determination a number of updated studies are required as the original studies are outdated and do not provide sufficient information.

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

The Planning Proposal and amendment to the Local Environmental Plan is the only way to achieve the intended outcomes as the lot size is controlled by the LEP.

3. Is there a community benefit?

The Medowie Strategy and the Port Stephens Planning Strategy recognise the need to provide housing opportunities to meet the needs of future residents in the Port

Stephens LGA whilst encouraging the growth of diverse housing choice and accessibility to services.

The Planning Proposal has been prepared with respect to these strategies. The Planning Proposal will assist in the provision of housing stock in the area and support Medowie's retail and community services.

SECTION B – Relationship to Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy
Medowie is identified as a new urban release area in the Lower Hunter Regional Strategy. The Planning Proposal is consistent with the LHRS.

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

Port Stephens Planning Strategy 2011
The Planning Proposal is consistent with the PSPS which identifies the site for 'Potential Future Residential" development.

Medowie Strategy 2009
The Planning Proposal is consistent with the Medowie Strategy, which identifies the site for residential development. The site is located within the "Waropara Neighbourhood", with future development aimed at complimenting the two schools in the neighbourhood.

Land surrounding the subject site is generally large lot residential development, with lot sizes of approximately 8,000m^2. The Medowie Christian School adjoins the site to the south. The Medowie Strategy identifies the subject site with a range of lot sizes, from 'standard residential (500m^2 – 600m^2) to 'Environmental Living' and 'Rural Smallholdings (1000m^2 – 1500m^2). The Planning Proposal seeks to average the lot sizes of those identified in the Strategy to 1000m^2, given the surrounding large lot development and the constraints of the site.

The zone and minimum lot size applying to the remaining area of the lot will be investigated in the progression of the Planning Proposal. Additional information, particularly regarding the koala habitat, is required to determine the most appropriate treatment for that part of the site. It is anticipated that this part of the site will have a dwelling entitlement with limited subdivision potential.

The figure below shows the "Waropara Neighbourhood" in the Medowie Strategy.

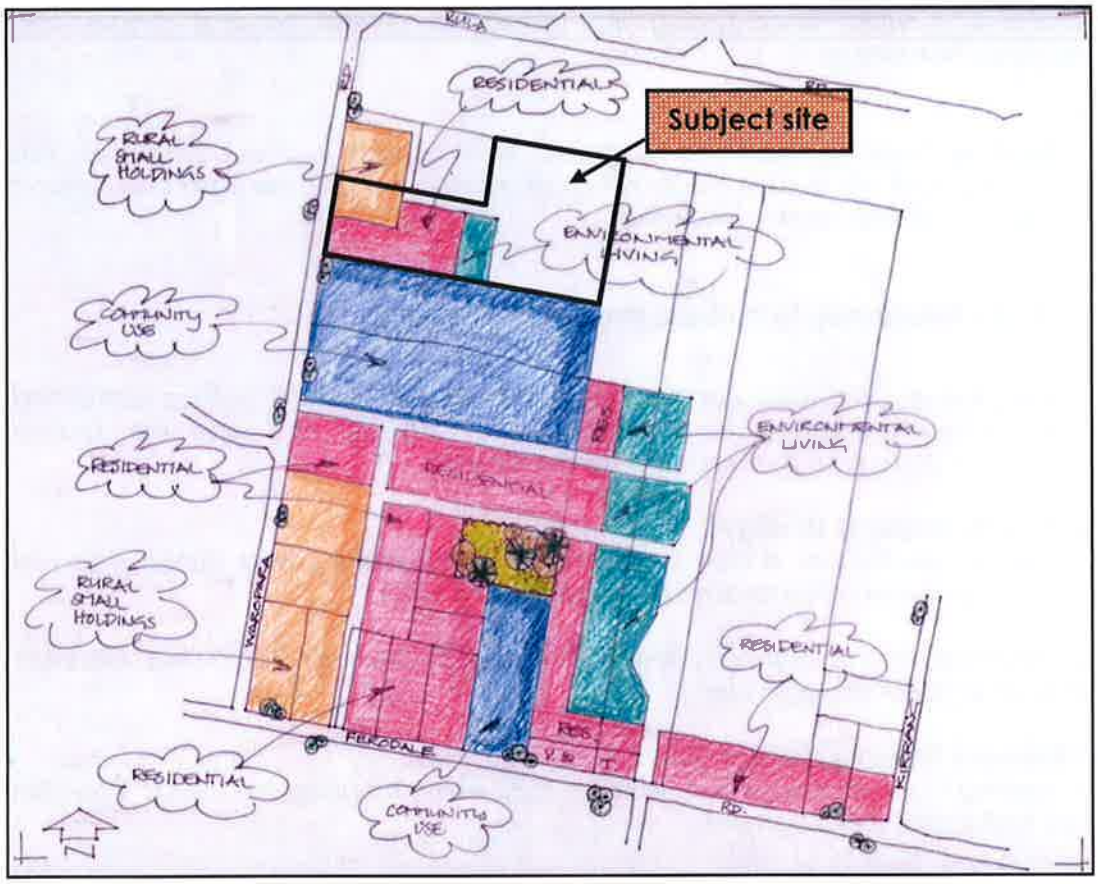


Figure 1: *Waropara Neighbourhood – Medowie Strategy*

Medowie Drainage and Flood Study 2012

Medowie falls within the Campvale and Moffats Swamp catchments. Some areas in these catchments are subject to inundation by flooding in relatively small flood events (1Y to 5Y ARI). A further complication is that the Campvale catchment is a drinking water supply catchment and so drainage solutions need to consider water quality impacts.

As part of the floodplain management process for the Campvale and Moffat's Swamp catchment areas, which are managed by Council, the Medowie Flood Study has been prepared in order to determine the extent and nature of the current flood problem. The Medowie Drainage and Flood Study 2012 represents the first stage of the floodplain management process for these catchments.

The stages in the floodplain management process are outlined below:

1. *Flood Study* – determines the nature and extent of the flood problem.

2. *Floodplain Risk Management* – Evaluates management options for the floodplain in respect of both existing and proposed development.

3. *Floodplain Risk Management Plan* – Involves formal adoption by Council of a plan of management for the floodplain.

4. *Implementation of the Plan* – Construction of flood mitigation works to protect existing development, use of Local Environmental Plans to ensure new development is compatible with the flood hazard.

The subject Lot is located in the Campvale inundation area, which is very sensitive. Residents are affected by prolonged storm events and run off from upstream developments. The catchment is landlocked with restricted outlet capacity.

Until such time that a catchment-wide solution is determined, a site specific solution with a drainage and flooding strategy for the proposal (such as an on-site retention pond that would retain the additional stormwater run-off from the development for long periods to allow a slow release that will not increase flood inundation times downstream of site) is required. Given the nature of the catchment area, a 72 hour event needs to be considered.

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

State Environmental Planning Policies

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in the table below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 6 – Number of Storeys in a Building	Clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 14 – Coastal Wetlands	The SEPP places restrictions on development on land to which the plan applies and seeks to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.	Not applicable.
SEPP 15— Rural Landsharing Communities	Encourages and facilitates the development of rural landsharing communities committed to environmentally sensitive and sustainable land use practices by allowing the multiple erection of dwellings and the sharing of facilities.	Not applicable.
SEPP 21 – Caravan Parks	The SEPP provides for development for caravan parks.	Not applicable.
SEPP 22 – Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Not applicable.
SEPP 26—Littoral Rainforests	Provides a mechanism for the consideration of applications for development that is likely to damage or destroy littoral	Not applicable.

	rainforest areas with a view to the preservation of those areas in their natural state.	
SEPP 30 – Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Not applicable.
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the redevelopment of urban land suitable for multi-unit housing and related development.	Not applicable.
SEPP 33 – Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Not applicable.
SEPP 36 – Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	The planning proposal does not allow for the development of manufactured homes estates.
SEPP 44 – Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	A Koala Habitat Assessment was undertaken in accordance with Port Stephens Koala Comprehensive Plan of Management. However, it does not address the performance criteria for rezonings and will need to be amended subject to the gateway determination.
SEPP 50—Canal Estate Development	Prohibits canal estate development as described in this Policy in order to ensure that the environment is not adversely affected by the creation of new developments of this kind.	Not applicable.
SEPP 55 – Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	The results of an initial geotechnical study undertaken on the site indicate that the site is suitable for urban development, with more detailed assessment being required at the development stage.
SEPP 62 –	The SEPP relates to	Not applicable.

Sustainable Aquaculture	development for aquaculture and to development arising from rezoning of land and is of relevance for the site specific rezoning proposals.	
SEPP 64 _ Advertising and Signage	Aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish	Not applicable.
SEPP 70 – Affordable Housing (Revised Schemes)	Identifies that there is a need for affordable housing in the local government areas within which that land is situated, describes the kinds of households for which affordable housing may be provided, and makes a requirement with respect to the imposition of conditions relating to the provision of affordable housing.	No applicable
SEPP 71 – Coastal Protection	Aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast	Not applicable.
SEPP Affordable Rental Housing 2009	Provides a consistent planning regime for the provision of affordable rental housing, facilitates the delivery and retention of affordable rental housing and mitigates the loss of existing affordable rental housing	The proposal facilitates residential development on land to which the SEPP applies, and accordingly has the potential to increase the supply of affordable housing. It is consistent with the SEPP.
SEPP Housing for Seniors or people with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	The proposal facilitates development on land upon which housing for seniors and people with a disability may be developed. It is consistent with the SEPP
SEPP Infrastructure 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The Planning Proposal is not identified as an Urban Release Area on the Draft LEP 2013. The proposal is consistent with this SEPP.

SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Not applicable.
SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The Planning Proposal does not seek the development of rural lands for rural purposes.
State Environmental Planning Policy (State and Regional Development) 2011	Identifies development that is State significant development, development that is State significant infrastructure and critical State significant infrastructure, and confers functions on joint regional planning panels to determine development applications.	Not applicable – The planning proposal is not State significant development.

Section 117 Ministerial Directions

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

An assessment of relevant s.117 Directions against the planning proposal is provided in the table below.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Employment Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Consistent – the planning proposal is consistent with the Port Stephens Planning Strategy and will support the existing Medowie commercial area
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The planning proposal will increase the permissible density of land within a rural zone and is therefore inconsistent with this direction. However, the site is identified in the Medowie Strategy, the PSPS and the township of Medowie is identified as a new urban release area in the LHRS. Note: the current zone is a

		rural zone (1c3), however under the draft LEP 2013 it is a residential zone (R5 Large Lot Residential)
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	In order to determine if the planning proposal will restrict potential development of resources, a referral to the DPI should be undertaken. Notwithstanding, the site is relatively small and surrounded by existing development which already restricts the potential development of resources.
1.4 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The planning proposal will increase the permissible density of land within a rural zone and is therefore inconsistent with this direction. However, the site is identified in the Medowie Strategy, the PSPS and the township of Medowie is identified as a new urban release area in the LHRS. Note: the current zone is a rural zone, however under the draft LEP 2013 it is a residential zone.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	The portion of the site containing significant vegetation and koala habitat is to retain its current lot size provisions.
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.	An Aboriginal Archaeological and cultural heritage Impact assessment has not been undertaken on the site. It is anticipated that the Worimi Local Aboriginal Land Council will be consulted on this matter. There are no items of European heritage situated on the land.
2.3 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be	Not applicable.

	developed for the purpose of a recreation vehicle area (within the meaning of the *Recreation Vehicles Act 1983*).	
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.	The Planning Proposal is consistent with this direction.
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	Not applicable.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low impact small businesses in dwelling houses.	The Planning Proposal does not affect the carrying out of low-impact small businesses in dwelling houses.
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.	The Planning Proposal will potentially allow a subdivision of 20 lots. This is unlikely to have a significant impact on the existing transport network. It is considered that the Planning Proposal is consistent with this direction.
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Not applicable.
3.6 Shooting Ranges	The objectives of this direction are to maintain appropriate levels of public safety and amenity, to reduce land use conflict and to identify issues that must be addressed when	Not applicable.

	rezoning land adjacent to an existing shooting range.	
4. HAZARD AND RISK		
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 sulphate soils	The site is shown as category 5 – Works within 500m of an adjacent class on the Acid Sulphate Soils Map. The Draft Local Environmental Plan 2013 contains provisions requiring appropriate measures to be taken at the development stage to avoid adverse impacts from the presence of acid sulphate soils. **Attachment 1** shows the Acid Sulphate Soil Categories in the Medowie area.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Not applicable.
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 that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Part of the site is flood prone land which will be excluded from the amendment to the minimum lot size. A map showing the extent of the flood prone land is shown at **Attachment 2.** Further investigation and consultation is required to determine the most appropriate zoning and lot size for this part of the site.
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, to encourage sound management of bush fire prone areas.	The site is bushfire prone. It is anticipated that a consultation with the Rural Fire Service is undertaken following the gateway determination.

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.	Medowie is identified as a new urban release area in the LHRS. This Planning Proposal is consistent with this direction.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway (c) to protect public expenditure invested in the Pacific Highway, (d) to protect and improve highway safety and highway efficiency, (e) to provide for the food, vehicle service and rest needs of travellers on the highway, and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	Not applicable.
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Not applicable.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Not applicable.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The planning proposal does not seek to create site specific controls.

SECTION C – Environmental, Social and Economic Impact

8. 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?

While ecological studies have been undertaken on the site, additional studies, including addressing the performance criteria for rezonings found in Council's Comprehensive Koala Plan of Management and updated ecological studies will need to be undertaken should the planning proposal proceed at Gateway.

At the time that the original studies were undertaken (2005), 3 threatened fauna species, including the koala, were identified on the site. No threatened flora species were identified.

It is anticipated that consultation with the Office of Environment and Heritage will occur following the gateway determination. Vegetation offsets may be required for the loss of vegetation.

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

Part of the site subject to the planning proposal contains koala habitat. This area coincides with flood prone land. In order to manage these constraints, the planning proposal does not seek to amend the lot size on the land constrained by koala habitat and flooding.

Figure 2 shows the area of the lot that contains constrained land and the area of the lot which is subject to the lot size amendment.

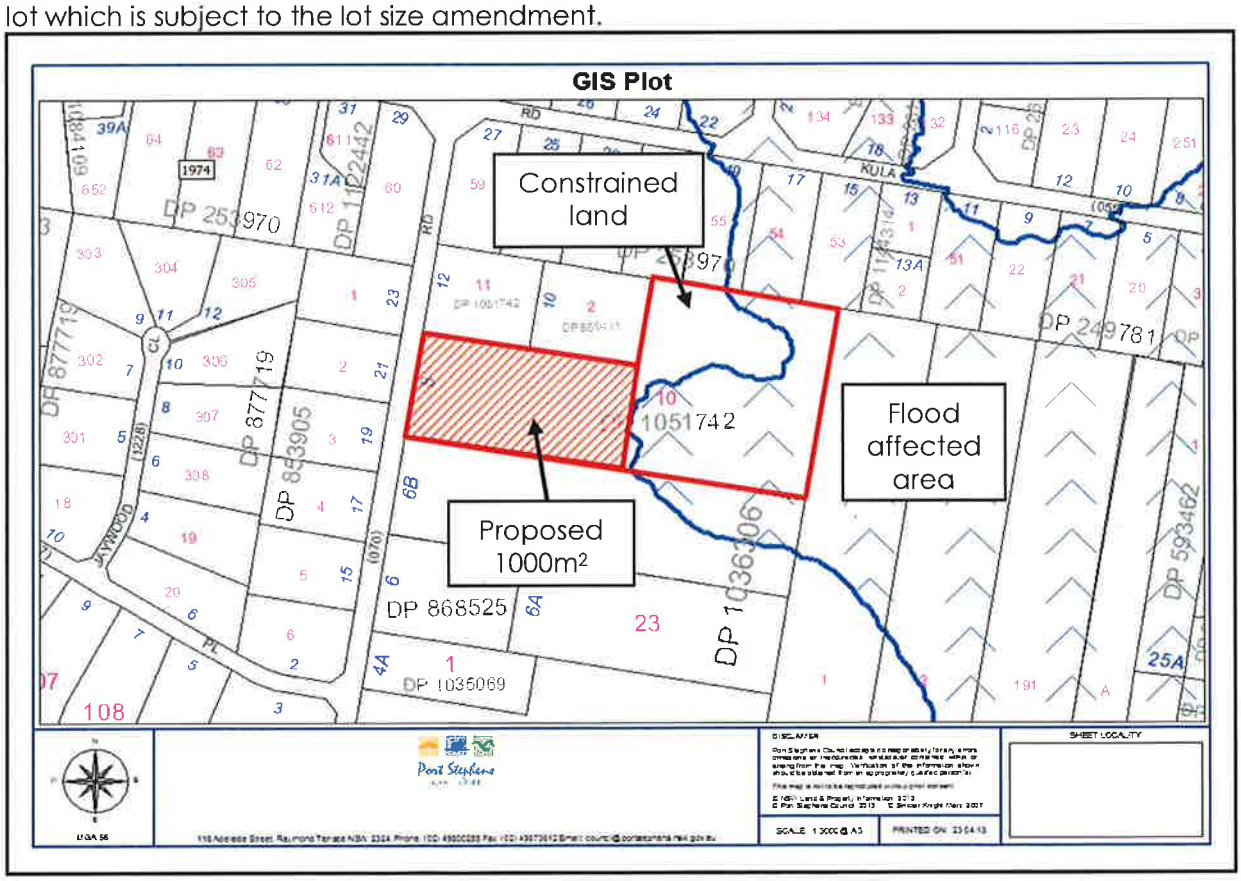


Figure 2: constrained land and area of Lot subject to lot size amendment

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

Development of the site is likely to support the existing services in Medowie through an increase in population, provide additional residential land on a site identified as part of an urban release area and will support local schools, churches and social groups such as sporting and recreational clubs.

SECTION D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal?
S94 contributions will be collected for infrastructure requirements.

Water, sewer, electricity and telecommunication services can be provided to Kings Hill.

Drainage

A site specific solution with a drainage and flooding strategy for the proposal such as an on-site retention pond that would retain the additional stormwater run-off from the development for long periods to allow a slow release that will not increase flood inundation times downstream of site is required. Given the nature of the catchment area, a 72 hour event needs to be considered.

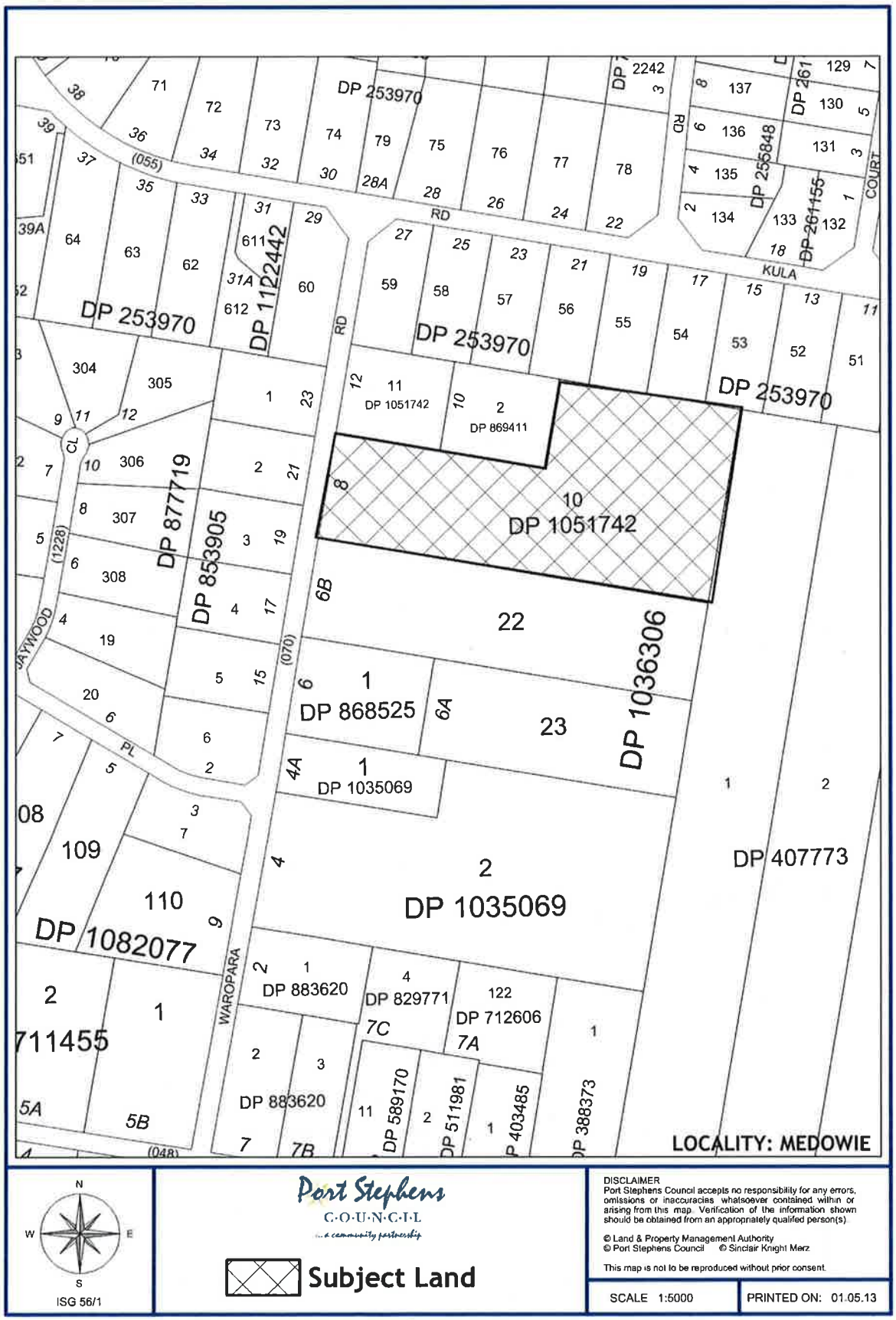
The proponent will be required to satisfy Council that their site specific drainage solution addresses the 72 hour event prior to the Planning Proposal being further progressed.

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

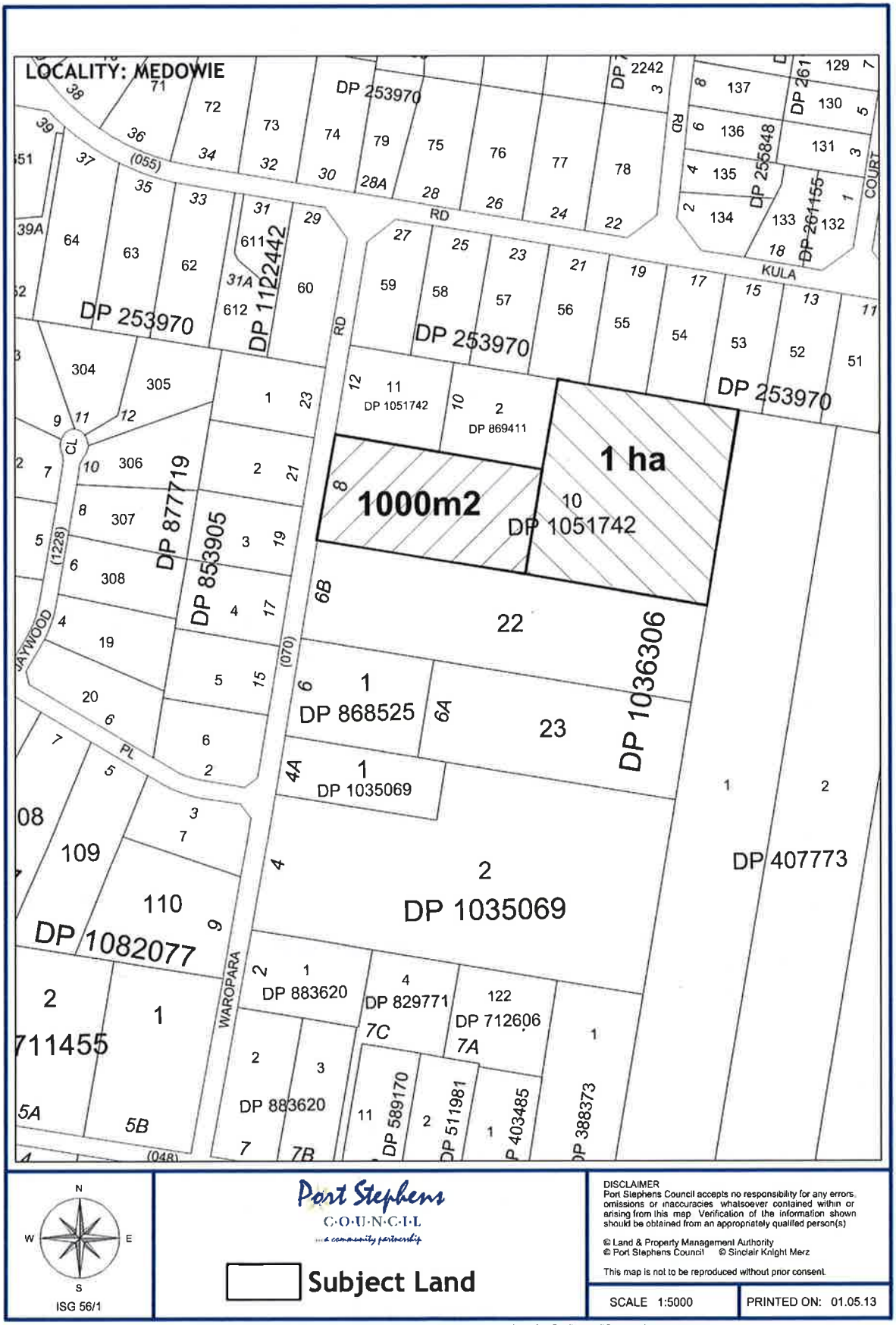
The Gateway determination will specify the government agencies to be consulted with in the preparation of the Planning Proposal. It is anticipated that the Office of Environment and Heritage, Worimi Local Aboriginal Land Council and the Rural Fire Service will be consulted.

Part 4 – Mapping

Locality Plan



Minimum Lot Size Map



Part 5 – Details of Community Consultation

Notice of the proposal will be placed in the local newspapers. The exhibition material will be on display at Councils administration building located at 116 Adelaide Street, Raymond Terrace between the hours of 8.30am to 5.30pm Monday to Friday. The exhibition material will also be made available on Council's website and at Council libraries. Adjoining landowners will be notified in writing.

It is anticipated that the Planning Proposal will be exhibited for 28 days.

Any further consultation shall be indicated within the Gateway Determination.

Part 6 – Timeframes

The planning proposal will require consultation with the NSW Office of Environment and Heritage and the preparation of a preliminary land contamination report. Accordingly, a 6 month period has been allocated for these tasks. Council anticipates that the draft LEP will be finalised by June 2014.

	Task Description	**Estimated Timeline**
1.	Gateway Determination	July 2013
2.	Completion of required technical information	September 2013
3.	Government agency consultation	November 2013
4.	Public exhibition period	January 2014
5.	Consideration of submissions and finalise the draft plan	March 2014
7.	Submission to Department with request to make the plan.	June 2014

Attachment One: Council report dated

ORDINARY COUNCIL – 28 MAY 2013

ITEM NO. 3 **FILE NO: PSC2006-1515**

PLANNING PROPOSAL – WAROPARA ROAD, MEDOWIE

REPORT OF: BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 (whichever plan is in force at the time the Planning Proposal is made) to change the minimum lot size at Lot 10 DP 1051742, No 8 Waropara Road, Medowie from 1ha to 1000m^2 as outlined in **(ATTACHMENT 1)**;
2) Submit the Planning Proposal to the Minister under section 56 of the Environmental Planning and Assessment Act 1979 for a Gateway determination; and
3) Request Written Authorisation to Exercise Council's Delegation in the making of the draft Local Environmental Plan under section 59 of the Environmental Planning and Assessment Act 1979.

BACKGROUND

The purpose of this report is to seek Council's endorsement of the Planning Proposal (ATTACHMENT 1) which seeks to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 (whichever is in force at the time of the making of this plan). The Plan aims to amend the minimum lot size applying to part of the land to allow future subdivision in accordance with the Medowie Strategy.

Proposal details

Planning Proposal:	To amend the minimum lot size affecting part of the land
Subject land:	Lot 10 DP 1051742, No. 8 Waropara Road, Medowie
Existing Zone (LEP 2000):	1(c3) – Rural Smallholdings (1 hectare)
Proposed Zone (LEP 2013):	R5 Large Lot Residential
Current lot size:	1 hectare
Proposed lot size:	1000m^2
Proponent:	Carman Surveyors
Owner:	Cherlim Pty Ltd and Paxria Pty Ltd

Council has been requested to prepare a planning proposal over Lot 10 DP 1051742, No. 8 Waropara Road, Medowie to amend the minimum lot size applying to part of the site, from 1ha to 1000m². The proposal will potentially facilitate the creation of approximately 20 new lots **(ATTACHMENT 1).**

The Planning Proposal will be implemented by amending the draft Port Stephens Local Environmental Plan 2013 Minimum Lot Size map. The current 1(c3) Zone (LEP 2000) and R5 Zone (draft LEP 2013) will be retained.

Should the Port Stephens LEP 2000 still be in force at the time that this Planning Proposal is made, provisions relating to the specific land will be introduced to the Port Stephens Local Environmental Plan 2000 to permit a minimum allotment size of 1000m² as follows:

"This clause applies to Part of Lot 10 DP 1051742 and zoned 1(c5) Rural Small Holdings.

For the purposes of Clause 13(1) of this Plan, the consent authority may grant consent to the subdivision of the land to a minimum allotment size of 1000 square metres."

The Planning Proposal is generally consistent with the Medowie Strategy and excludes development on part of the subject site that is flood prone and comprises koala habitat.

The zone and minimum lot size applying to the remaining area of the site will be investigated during the progression of the Planning Proposal. Additional information, particularly regarding flooding and koala habitat, is required to determine the most appropriate treatment for that part of the site. It is anticipated that this part of the site will have a dwelling entitlement with limited subdivision potential.

The proponent originally sought to amend the minimum lot size of the entire site from 1ha to 2000m². However, the Planning Proposal was amended in consultation with the proponent, having regard to the flooding and vegetation constraints, and to comply with the Medowie Strategy. The minimum lot size of 1000m² is an appropriate outcome for the site and is consistent with surrounding rural residential development. Discussions have been held with the proponent, who is satisfied with this outcome.

FINANCIAL/RESOURCE IMPLICATIONS

The Planning Proposal will be progressed using rezoning fees.

Source of Funds	Yes/No	Funding ($)	Comment
Existing budget	No		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	Yes	$12,150	Stage 1 and 2 rezoning fees

LEGAL, POLICY AND RISK IMPLICATIONS

Environmental Planning and Assessment Act 1979 (EP&A Act)

The Planning Proposal is to be progressed in a manner consistent with statutory requirements set out in the Environmental Planning and Assessment Act and the NSW Department of Planning and Infrastructure policy requirements.

In accordance with the EP&A Act, the Planning Proposal will be submitted to the Department of Planning and Infrastructure for a Gateway determination should Council resolve to endorse the planning proposal. The Gateway determination may specify additional information that the proponent must submit to Council and prior to exhibition of the planning proposal, including the site specific drainage solution, and a revised Koala Impact Assessment. The gateway determination will also specify any government agency consultation and public exhibition requirements.

State Environmental Planning Policies

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in **(ATTACHMENT 1).** Further investigation is required to satisfy the following SEPP:

SEPP 44 – Koala Habitat Protection

A Koala Habitat Assessment was undertaken in accordance with Port Stephens Koala Comprehensive Plan of Management. However, it does not address the performance criteria for rezonings and will need to be amended subject to the gateway determination.

S117 Ministerial Directions

An assessment of relevant s.117 Directions against the planning proposal is provided in **(ATTACHMENT 1).** There are no s.117 Directions applying to the land that prohibit or restrict the proposed development. Further investigation is required to satisfy the following s.117 direction:
2.2 Heritage Assessment

An Aboriginal Archaeological and cultural heritage Impact assessment has not been undertaken on the site. It is anticipated that the Worimi Local Aboriginal Land Council will be consulted on this matter.

There are no items of European heritage situated on the land.

4.3 Flood Prone Land

The area of the site that is flood prone land will retain its current lot size. The Planning Proposal is therefore consistent with this Direction.

Lower Hunter Regional Strategy

Medowie is identified as a new urban release area in the Lower Hunter Regional Strategy. The Planning Proposal is consistent with the LHRS.

Port Stephens Planning Strategy 2011

The Planning Proposal is consistent with the PSPS which identifies the site for 'Potential Future Residential" development.

Medowie Strategy

The Planning Proposal is consistent with the Medowie Strategy, which identifies the site for residential development. The site is located within the "Waropara Neighbourhood", with future development aimed at complimenting the two schools in the neighbourhood.

Land surrounding the subject site is generally large lot residential development, with lot sizes of approximately 8,000m^2. The Medowie Christian School adjoins the site to the south. The Medowie Strategy identifies the subject site with a range of lot sizes, from 'standard residential (500m^2 – 600m^2) to 'Environmental Living' and 'Rural Smallholdings (1000m^2 – 1500m^2). The Planning Proposal seeks to average the lot sizes of those identified in the Strategy to 1000m^2, given the surrounding large lot development and the constraints of the site.

The zone and minimum lot size applying to the remaining area of the lot will be investigated in the progression of the Planning Proposal. Additional information, particularly regarding the koala habitat, is required to determine the most appropriate treatment for that part of the site. It is anticipated that this part of the site will have a dwelling entitlement with limited subdivision potential.

Medowie Drainage and Flood Study 2012

Medowie falls within the Campvale and Moffats Swamp catchments. Some areas in these catchments are subject to inundation by flooding in relatively small flood events (1Y to 5Y ARI). A further complication is that the Campvale catchment is a

drinking water supply catchment and so drainage solutions need to consider water quality impacts.

As part of the floodplain management process for the Campvale and Moffat's Swamp catchment areas, which are managed by Council, the Medowie Flood Study has been prepared in order to determine the extent and nature of the current flood problem. The Medowie Drainage and Flood Study 2012 represents the first stage of the floodplain management process for these catchments.

The subject Lot is located in the Campvale inundation area, which is very sensitive. Residents are affected by prolonged storm events and run off from upstream developments. The catchment is landlocked with restricted outlet capacity.

Until such time that a catchment-wide solution is determined (the next stage of the Medowie Drainage and Flood Study 2012), a site specific solution with a drainage and flooding strategy for the proposal is required. Given the nature of the catchment area and having regard for the Medowie Drainage and Flood Study, consideration of a 72 hour event is required to avoid downstream effects.

The Planning Proposal's relationship to existing planning policies is contained in **(ATTACHMENT 1)**.

Risk	Risk Ranking	**Proposed Treatments**	**Within Existing Resources?**
There is a risk that flooding impacts on downstream properties	Low	A site specific drainage solution, that considers the 72hr event, is required to be undertaken by the proponent to ensure that there is no adverse flooding impacts on downstream properties	Yes
There is a risk of flooding	Low	The planning proposal does not seek to amend the planning controls relating to the portion of the lot that comprises of flood prone land.	Yes
There is a risk of flora and fauna impacts	Low	The planning proposal does not seek to amend the minimum lot size on land comprising of koala habitat and significant vegetation. It is likely that the proponent will need to amend the Koala Impact Assessment undertaken for the site to address Council's Comprehensive Koala Plan of Management.	Yes
There is a risk that neighbouring residents may	Low	In accordance with the legislated process and the gateway	Yes

have concerns with the proposed 1000m² minimum lot size applying to the subject land.		determination, community consultation on the planning proposal will be undertaken. Any views expressed in submissions will be considered in the progression of the planning proposal.	

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Planning Proposal has been prepared with respect to the Port Stephens Planning Strategy and the Medowie Strategy. The Planning Proposal will assist in the provision of housing stock in the area and support Medowie's retail and community services.

Further studies are required in order to determine the environmental implications of the Planning Proposal. These additional studies will be requested should the Planning Proposal be supported at the Gateway.

CONSULTATION

Internal Consultation has been undertaken as detailed below:

Natural Resources

The ecological assessment undertaken for the site is sufficient to progress the planning proposal to the Gateway. However additional ecological assessment, including addressing the performance criteria for rezoning proposals of Council's Comprehensive Koala Plan of Management, is needed to progress the planning proposal should it be supported at the Gateway.

Further, only the western part of the lot is supported as the eastern side is flood prone and contains Preferred Koala Habitat.

Planning Comment

The request by the applicant (which sought to amend the minimum lot size over the entire lot) has been reviewed to reflect this advice so that the area subject to the amended minimum lot size avoids Preferred Koala Habitat, is outside of the flood prone area and is consistent with the Medowie Strategy.

The proponent has been advised and is satisfied with this outcome.

Engineering

The site is located in the Campvale inundation area, which is very sensitive. Residents are affected by prolonged storm events and run off from upstream developments. The catchment is landlocked with restricted outlet capacity.

A site specific solution with a drainage and flooding strategy for the proposal (such as an on-site retention pond that would retain the additional stormwater run-off from the development for long periods to allow a slow release that will not increase flood

inundation times downstream of site) is required. Given the nature of the catchment area, a 72 hour event needs to be considered.

Planning Comment
It is anticipated that the Gateway determination will require additional flooding and drainage studies to ensure that a site specific solution is developed by the proponent.

The proponent will be required to satisfy Council that their site specific drainage solution addresses the 72 hour event prior to the Planning Proposal being further progressed.

State Agency consultation
Consultation with State Agencies will be undertaken in accordance with the Gateway Determination. It is anticipated that the Office of Environment and Heritage, Rural Fire Service, Worimi Local Aboriginal Land Council and the Hunter Water Corporation will be consulted with in the progression of the Planning Proposal.

Community consultation
In accordance with Part 4.5 of Department of Planning and Infrastructure's '*A guide to preparing local environmental* plans', an exhibition period of 28 days is considered appropriate.

Exhibition material will be on display at Council's administration building located at 116 Adelaide Street, Raymond Terrace between the hours of 8:30am to 5:30pm Monday to Friday. The exhibition material will also be made available on Council's website and at Council libraries.

Any further consultation shall be indicated within the Gateway Determination.

OPTIONS

1) Adopt the recommendations of this Report to submit the Planning Proposal to the Department of Planning and Infrastructure requesting a Gateway determination to enable further investigation and consultations to occur;
2) Amend one or more of the provisions of the Planning Proposal prior to submitting the Planning Proposal to the Department of Planning and Infrastructure for a Gateway determination; or
3) Reject the recommendations of this Report and not proceed with the rezoning process. This may impede Council's ability to deliver housing in accordance with the Lower Hunter Regional Strategy and the Medowie Strategy.

ATTACHMENTS – All listed below are provided under separate cover.

1) Planning Proposal.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

Attachment Two: Council Minutes

ITEM NO. 3 **FILE NO: PSC2006-1515**

PLANNING PROPOSAL – WAROPARA ROAD, MEDOWIE

REPORT OF: **BRUCE PETERSEN – COMMUNITY PLANNING AND ENVIRONMENTAL SERVICES SECTION MANAGER**
GROUP: **DEVELOPMENT SERVICES**

RECOMMENDATION IS THAT COUNCIL:

1) Endorse the Planning Proposal to amend the Port Stephens Local Environmental Plan 2000 or the draft Port Stephens Local Environmental Plan 2013 (whichever plan is in force at the time the Planning Proposal is made) to change the minimum lot size at Lot 10 DP 1051742, No 8 Waropara Road, Medowie from 1ha to 1000m^2 as outlined in **(ATTACHMENT 1)**;
2) Submit the Planning Proposal to the Minister under section 56 of the Environmental Planning and Assessment Act 1979 for a Gateway determination; and
3) Request Written Authorisation to Exercise Council's Delegation in the making of the draft Local Environmental Plan under section 59 of the Environmental Planning and Assessment Act 1979.

ORDINARY COUNCIL MEETING – 28 MAY 2013
COMMITTEE OF THE WHOLE RECOMMENDATION

	Councillor Geoff Dingle **Councillor Peter Kafer**
	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: Mayor Bruce MacKenzie, Crs Peter Kafer, Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

MOTION

138	**Councillor Ken Jordan** **Councillor Chris Doohan**
	It was resolved that the Committee of the Whole recommendation be adopted.

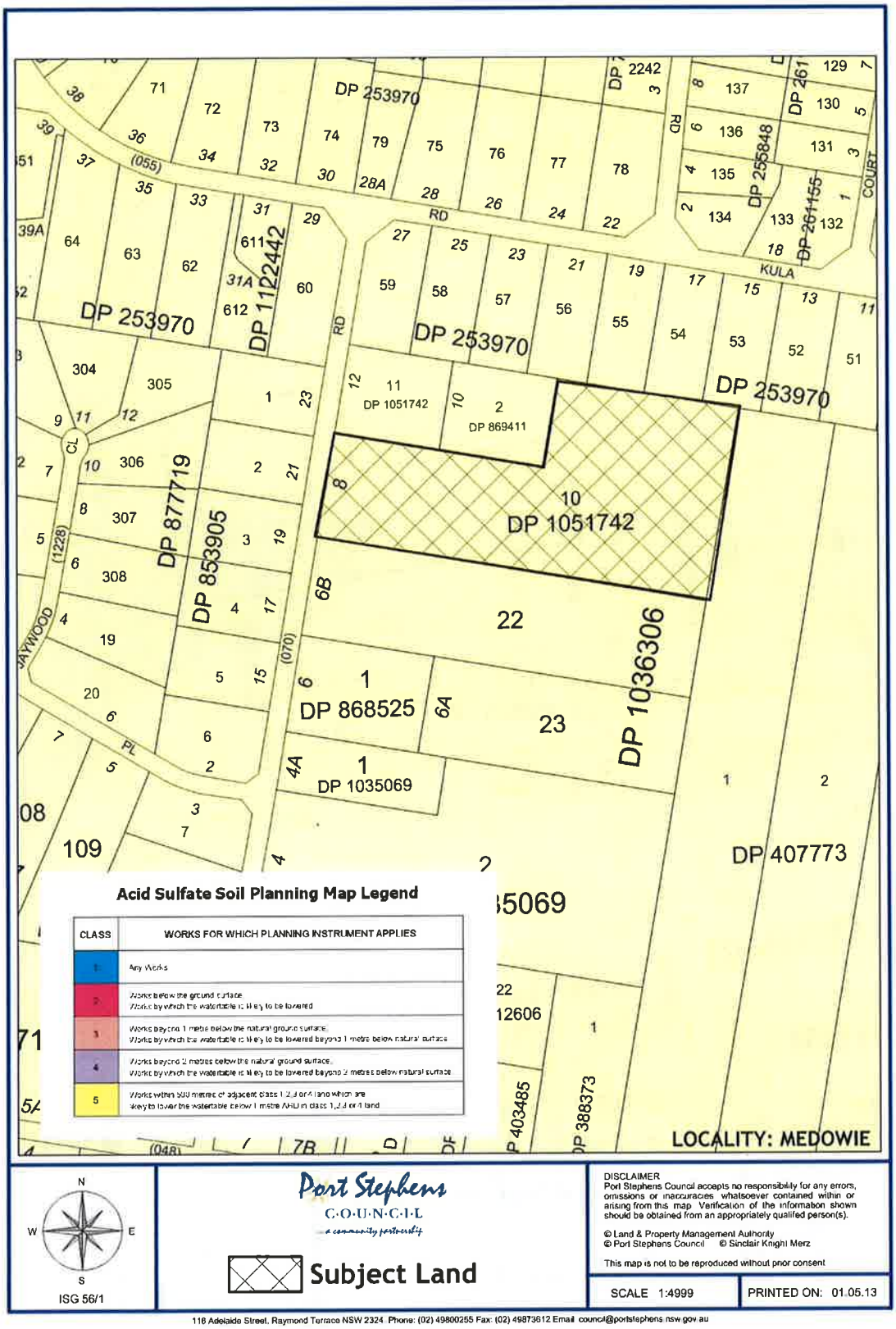
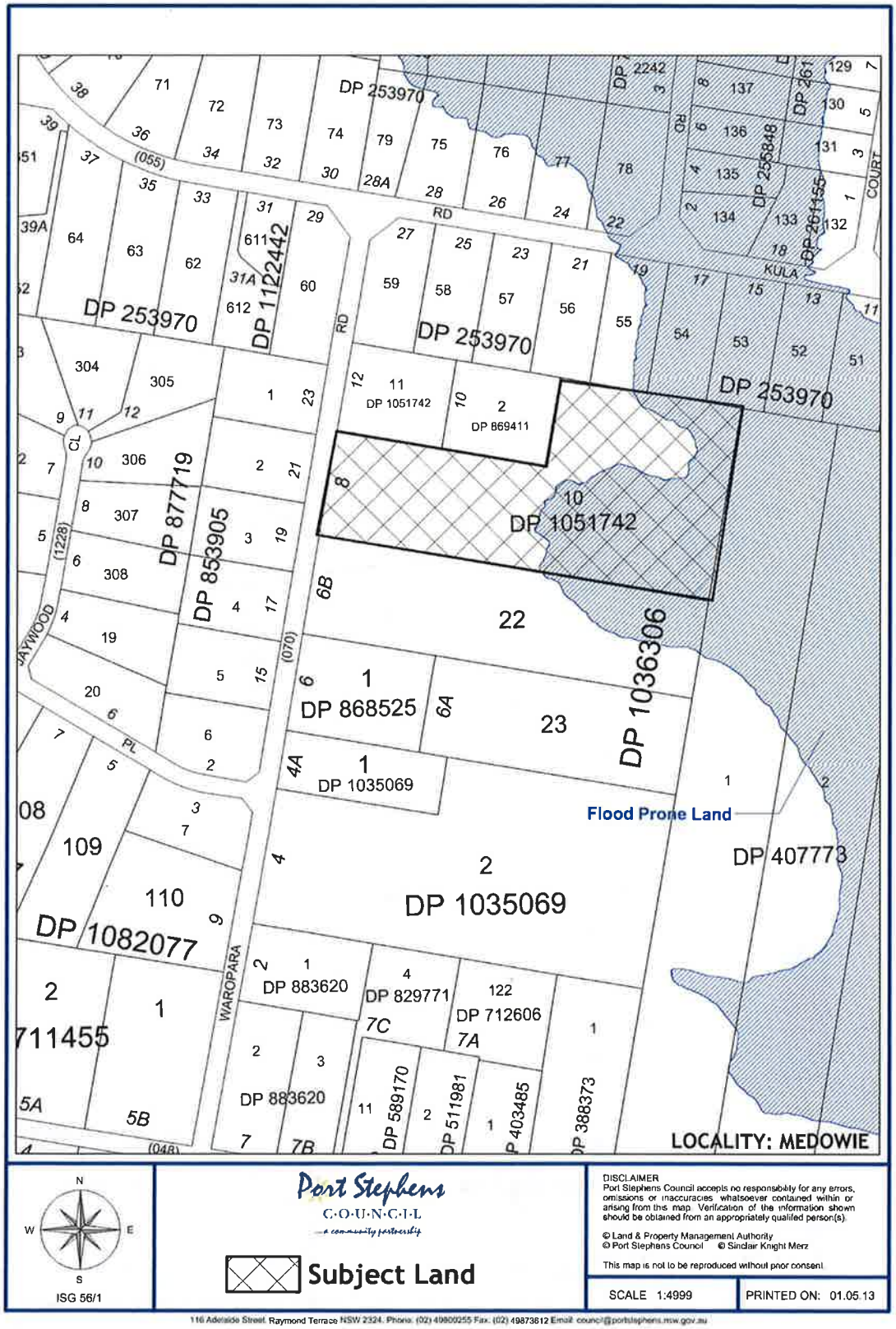
MINUTES ORDINARY COUNCIL – 28 MAY 2013

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

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

Those against the Motion: Nil.

Attachment Three: Acid Sulphate Soils Map



Attachment Four: Flood Prone Land Map