

Port Stephens LEP 2000 - Amendment - Medowie Road (South Street Neighbourhood)

Proposal Title : Port Stephens LEP 2000 - Amendment - Medowie Road (South Street Neighbourhood)

Proposal Summary : To rezone land at Medowie Road, Medowie from rural small holdings zones to residential, open space and commercial purposes in accordance with the South Street Neighbourhood Structure Plan identified in the Medowie Strategy.

PP Number : PP_2011_PORTS_004_00 Dop File No : 11/05766

Proposal Details

Date Planning Proposal Received : 23-Mar-2011 LGA covered : Port Stephens

Region : Hunter RPA : Port Stephens Council

State Electorate : PORT STEPHENS Section of the Act : 55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : 507 Medowie Road

Suburb : City : Medowie Postcode : 2318

Land Parcel : 412 DP 1063902

Street : 2 Kingfisher Close

Suburb : City : Medowie Postcode : 2318

Land Parcel : 413 DP 1063902

DoP Planning Officer Contact Details

Contact Name : Dylan Meade

Contact Number : 0249042718

Contact Email : dylan.meade@planning.nsw.gov.au

RPA Contact Details

Contact Name : Matthew Borsato

Contact Number : 0249800247

Contact Email : matthew.borsato@portstephens.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Gary Oakey

Contact Number : 0249042714

Contact Email : gary.oakey@planning.nsw.gov.au

Land Release Data

Growth Centre :	N/A	Release Area Name :	Other
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	10.00	Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	100	No. of Dwellings (where relevant) :	130
Gross Floor Area :	5,000.00	No of Jobs Created :	0

The NSW Government
Lobbyists Code of
Conduct has been
complied with :
Yes
If No, comment :

Have there been
meetings or
communications with
registered lobbyists? :
No
If Yes, comment :

Supporting notes

Internal Supporting
Notes : The Medowie Strategy was adopted by Port Stephens Council in 2009. The Medowie Strategy has not been endorsed by the Department of Planning, however it is supported in principle by the Hunter Office. Port Stephens Council are likely to request the DG endorse the Port Stephens Community Settlement Strategy (PSCSS) once complete. The Medowie Strategy will form a component of the PSCSS once finalised.

The site is identified in the Lower Hunter Special Contributions Area as Site No. 64 - Medowie Urban Release Area.

LOBBYIST STATEMENT

At this time, to the best of the Regional Team's knowledge, there has been no meetings or communications with lobbyists regarding this planning proposal.

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donation disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement of objectives provided states that the planning proposal aims to rezone land at 2 Kingfisher Close and 507 Medowie Road, Medowie for residential, commercial and open space in accordance with the Medowie Strategy.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment : The explanation of provisions provided states that the planning proposal will be implemented by an amendment to Port Stephens LEP 2000 zoning map to rezone the subject site to part 2(a) Residential "A" Zone, part 3(a) Business General "A", part 6(a) General Recreation "A" Zone, and part 1(c5) Rural Small Holdings "C5" Zone.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

* May need the Director General's agreement

Is the Director General's agreement required? Yes

c) Consistent with Standard Instrument (LEPs) Order 2006 : No

d) Which SEPPs have the RPA identified?

- SEPP No 14—Coastal Wetlands
- SEPP No 44—Koala Habitat Protection
- SEPP No 55—Remediation of Land

e) List any other matters that need to be considered :

None

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

S117 Direction 1.1 Business and Industrial Zones - The PP is considered inconsistent with the direction as a new commercial neighbourhood centre is proposed which is not in accordance with a strategy approved by the Director-General of the Department of Planning. The proposed centre is in accordance with the Medowie Strategy; however this is yet to be approved by the Director-General of the Department of Planning. It is considered that the inconsistency is of minor significance, and justified by the Medowie Strategy which gives consideration to the objective of this direction.

S117 Direction 1.2 Rural Zones – The PP is inconsistent with this Direction as it rezones land from rural to residential and business zones. The inconsistency is justified by a study (Medowie Strategy) prepared in support of the planning proposal which gives consideration to the objectives of this Direction.

S117 Direction 1.5 - Rural Lands – under this Direction, the Rural Planning Principles apply as the PP alters the existing rural zone. Arguably the inconsistency is technical

only - this Direction seeks to protect the agricultural production value of rural land, and facilitate the orderly and economic development of rural lands for rural and related purposes. As the majority of the site is zoned for 'large lot residential' development it could be argued the Direction does not apply. The PP is consistent with these Principles in that the subject site is not productive agricultural land as it is currently used as a go-kart track.

S117 Direction 2.1 Environmental Protection Zones - The PP is considered consistent with this direction. The subject site is currently zoned rural (small lots). Areas identified as containing environmentally sensitive land in supporting studies are not proposed to be rezoned as part of the PP.

S117 Direction 3.1 - Residential Zones – The PP is consistent with the objectives of this Direction. The PP will need to contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it). Council proposes to consult with public infrastructure providers.

S117 Direction 3.4 - Integrating Land use and Transport – The PP is consistent with the objectives of 'Improving Transport Choice – Guidelines for planning and development' (DUAP 2001), and 'The Right Place for Business and Services – Planning Policy' (DUAP 2001).

S117 Direction 3.5 - Development Near Licenced Aerodromes – The PP is consistent with this Direction as no urban development zones are proposed within the ANEF contours. Consultation with the Department of Defence is considered appropriate as the land is within proximity of the Williamtown RAAF Base.

S117 Direction 4.1 - Acid Sulfate Soils – The PP is consistent with the objectives of this Direction. The zone layout proposes urban development on low risk class 4 and class 5 acid sulphate soils only. There is existing provision in the Port Stephens LEP 2000 to direct development on land where acid sulfate soils are present.

S117 Direction 4.3 - Flood Prone Land – The PP is inconsistent with the objectives of this Direction as it rezones land mapped as flood prone areas from rural to residential and business zones. Only small areas proposed to be rezoned to residential and business are mapped as flood prone and the impact of any filling is expected to be minimal. The inconsistency is considered a minor significance.

S117 Direction 4.4 Planning for Bushfire Protection – consultation is required with Rural Fire Service to determine the scope of protection required for the PP. It is recommended that the Gateway Determination require consultation with RFS. The proponent's bushfire hazard assessment has given regard to 'Planning for Bushfire Protection 2006' and identifies appropriate asset protection zones.

S117 Direction 5.1 Implementation of Regional Strategies

The Planning Proposal is inconsistent with the Lower Hunter Regional Strategy Map as the subject site is shown as being within the 'Watagan & Stockton Green Corridors'. The Corridor contains areas of high conservation values, which should be managed for conservation purposes.

The inconsistency with the Lower Hunter Regional Strategy is considered a minor significance. The proposal rezones approximately 10 Ha of land currently zoned rural small holdings to permit urban development. The subject site is predominately cleared of native vegetation and is currently used as a go-kart track. The Ecological Constraints Study prepared by the proponent identifies pasture as the dominant vegetation type, with small areas of pine trees and swamp sclerophyll forest located on the fringes of the site. It is considered that the subject site does not include areas of high conservation values or linkages to other areas of high conservation values to warrant its inclusion

within the Corridor. It is recommended that the Council undertake consultation with the Office of Environment & Heritage, and the planning proposal only proceed if the agency is satisfied that urban development will not affect the conservation integrity of the Watagan & Stockton Corridor.

The planning proposal achieves the overall intent of the Lower Hunter Regional Strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions. Land surrounding Medowie is identified in the Lower Hunter Regional Strategy as a proposed urban area, the boundaries of which are to be defined through local planning. Port Stephens Council has prepared the Medowie Strategy which implements the strategic directions of the LHRS in relation to land release areas. In defining the boundaries of the proposed urban area in the Medowie Strategy, Port Stephens Council has identified the subject site is as suitable for urban development.

SEPP 14 Coastal Wetlands - Council advises that SEPP 14 Wetlands are located on the south west part of Lot 412 DP 1063902. The proposed urban footprint avoids land mapped as containing at SEPP 14 wetlands and provides an appropriate buffer.

SEPP 44 Koala Habitat Protection – SEPP 44 applies to the PP under the Port Stephens Comprehensive Koala Plan of Management (CKPOM). Part of the site is identified as 'Koala Habitat Link' which prohibits development. The proposed urban footprint avoids areas identified as a Koala Habitat Link.

SEPP 55 Remediation of Land - A Preliminary Contamination Assessment was undertaken by the applicant. The land is considered suitable for rezoning to residential purposes. However, further studies are required to support a DA if lodged in the future.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : Council proposes to place the draft LEP on exhibition for 14 days because it is considered a low impact proposal as it is consistent with the Medowie Strategy adopted by Council.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : June 2011

Comments in relation to Principal LEP : Port Stephens Council is not identified as a priority council required to complete the Standard Instrument by June 2011. However, Council has received Planning Reform Funding to carry out the necessary background studies to underpin Port Stephens SI LEP and these studies are in the main complete. The Department has recently offered the

Council LAF acceleration funding to complete its SI LEP.

Assessment Criteria

Need for planning
proposal :

The site is located to the south of Medowie, which is in proximity to areas identified in the LHRS as an 'proposed urban area'. The Medowie Strategy, which provides detailed structure planning for the proposed urban area, identifies the subject site for future urban development and as part of the 'South Road Precinct'. Rezoning of this precinct is consistent with the staging criteria set out in the Medowie Strategy. Council states infrastructure as being available to service the site, however further consultation with relevant infrastructure providers as part of the community consultation process is appropriate.

A PP is considered the best means to achieve the intended outcomes of rezoning the land for residential, commercial and open space purposes. The PP will assist in meeting housing targets identified in the LHRS for housing in greenfield areas. The PP will also result in a new commercial area close to existing urban areas, reducing the need for residents to travel for services.

Consistency with strategic planning framework :

The Medowie Strategy

Medowie is currently a dispersed settlement of predominantly low density rural residential subdivision. Only land within and immediately to the north east of the existing commercial area is zoned and developed for residential purposes. The Council has prepared the Medowie Strategy which proposes an additional 3,100 dwellings largely within the existing 'urban' footprint to increase the population of Medowie from approx. 8500 to 15,000 people over the next 20 years.

The Medowie Strategy adopted by Port Stephens Council on 24 March 2009 identifies how to manage urban growth and build communities in Medowie, and deliver the desired outcomes of the LHRS in relation to the development of the the proposed urban area. The PP is consistent with the land use envisaged in the 'South Street Precinct' structure plan included in the Medowie Strategy.

The Strategy has not been endorsed by the Department. The Council's intention is to include it within its 'whole of LGA' Planning Strategy and seek endorsement for it within the LGA-wide document. The Regional Office expects to receive the Council's final draft Port Stephens Planning Strategy within the next few weeks.

The subject proposal, is identified as the South St Precinct in the Council's Medowie Strategy. It provides for residential development and a small area of commercial zoning to facilitate some local convenience shopping. It is land located adjacent to the Pacific Palms Golf Course estate which is zoned Recreation Special and enables residential lots of 90 sq m and 600 sq m within nominated precincts. The golf course estate adjoins existing 'large lot' residential estates zoned Rural 1(c5) with lots sizes of 2000 sq m.

The western part of the South Street Precinct excluded from the submitted PP is subject to very significant flora and fauna and flooding and drainage constraints. There was no flooding and drainage report submitted with the rezoning, and the flora and fauna issues associated with rezoning and developing that land could be very complicated. The eastern part of the Precinct, included in the PP, is comparatively constraint free, and could proceed in a relatively straight forward and timely manner. The remaining area of the South Street Precinct could form part of a future rezoning request, when information becomes available about how it can be rezoned and developed.

The Lower Hunter Regional Strategy

The LHRS maps a 'Proposed Urban Area' at Medowie, however the area mapped at Medowie has a significantly different planning objective to other areas mapped on the Strategy map. Unlike other areas mapped in the LHRS, the mapped area at Medowie is not a new 'release area'. Rather the LHRS maps an area 'within' the central area of existing low density rural residential settlement to be 'targetted' for urban intensification.

In late 2006 as the LHRS was being finalised, Medowie was recognised as an urban 'problem' needing to be resolved. The historical pattern of rural residential subdivision has created a low density 'town' in which the central area around the existing 'town centre' remained predominantly in larger rural lots while new subdivision into smaller lot sizes had occurred on the fringes of Medowie creating a 'donut' effect – ie a town with an empty core area.

The Department in late 2006 provided PRF funding to the Council to commence an environmental and other studies into Medowie to develop a strategy to facilitate more intense urban settlement within the central area. The 'Proposed Urban Area' mapped in the LHRS reflects the initially agreed 'priority investigation area' for intensification taken from the Council's draft Local Area Plan 2004 for Medowie at that time.

The mapped 'priority investigation area' within the LHRS was not intended to represent to ultimate extent of 'intensification' within Medowie. The subsequent environmental studies identified further desirable opportunities for intensification outside the initially mapped 'priority area'. Those areas are reflected with the Council's final strategy. The LHRS

mapped area and the Council's wider environmental study area, as investigated, are both shown on Map A.

The mapping process has created the problem that some areas now considered appropriate for intensification, consistent with the intent of the LHRS, are now found to be mapped within the LHRS Green Corridor. The Planning Proposal, as modified by the Council to remove an area of environmental value at its western edge, does not impact land of environmental significance and arguably the Green Corridor designation of the site is not appropriate to that part of the site proposed to be developed.

Summary of Strategic Context

The PP is inconsistent with the Lower Hunter Regional Strategy (LHRS) Map because of the intrusion of the site into the mapped Green Corridor. The LHRS maps 'Proposed Urban Areas' but notes on the Strategy Map that actual boundaries of sites are to be defined through local planning. The detailed local planning completed for Medowie now enables that to be done. The PP is consistent with the overall intent of the LHRS and urban development of the subject site is supported by the Medowie Strategy.

However, the issue of the intrusion into the existing Green Corridor mapped area is a matter to be resolved.

The Department has not to date supported 'flexible' interpretation of the Green Corridor mapping. However, it is considered that the conflict of this Proposal with the existing Green Corridor mapping is evidence of a clear mapping anomaly which resulted from the use of the draft 2004 LAP 'investigation area' map. It is evident that had resolution of the Medowie study area been further advanced at the time, then the Green Corridor would not have been mapped as has been at this location.

It is known that the former DECCW (now OEH) has previously opposed 'flexible' interpretation of the Green Corridor mapping. It is recommended that the proposal be supported in principle in terms of consistency with the LHRS and its intentions but that specific consultation be undertaken with the former DECCW (now OEH) regarding the mapping issue to confirm environmental values of the site and seek 'concurrence' of OEH regarding progression of the Proposal as proposed.

Environmental social
economic impacts :

ENVIRONMENTAL

*Flora & Fauna

An Ecological Constraints Study was undertaken by the applicants in support of a planning proposal (prepared by HDB) lodged with Port Stephens Council. The study considered the impacts of a more extensive urban footprint, and identified the endangered ecological community 'swamp sclerophyll forest' as present on the site. The study also noted the presence of Wallum Froglet, which was observed calling from the wetland to the west of the site.

Prime Koala Habitat is identified under the Port Stephens Comprehensive Plan of Management and provides a Koala Habitat link through the site. The Ecological Constraints Study confirms that the area of Koala Habitat as being located within the 'swamp sclerophyll forest' community mentioned above.

The proposed urban footprint has been revised in the submitted planning proposal (prepared by Port Stephens Council) to reduce impact on the above endangered ecological community (swamp sclerophyll forest), and avoid areas of the site considered as potential habitat for the Wallum Froglet and Koala. The area proposed to be rezoned to allow urban development is predominately cleared and is highly modified.

*SEPP 14 Wetlands

SEPP 14 Wetlands are located on the south west corner of the subject site. The proposed urban footprint avoids the area identified as SEPP 14 wetlands and provides a suitable buffer from the proposed development.

***Bushfire**

A Bushfire Threat Assessment was been prepared to assess the proposed rezoning against Planning for Bushfire 2006 and the Section 117 Direction 4.4, as the land is identified as Bushfire Prone Land by Port Stephens Council. The Bushfire Threat Assessment recommends a variety of measures be implemented, including Asset Protection Zones, road access and vegetation maintenance. However as the urban footprint has been revised in the submitted planning proposal compared with the area assessed in the Bushfire Threat Assessment, further consultation with NSW Rural Fire Service is recommended. Consultation will also be in accordance with the s.117 Direction 4.4.

***Flooding**

Part of the site contains flood prone land identified by Port Stephens Flood Maps. The revised PP prepared by Port Stephens Council generally avoids areas affected by flooding. No flood study has been prepared in support of the PP, however it is also understood that Port Stephens Council is preparing a Floodplain Management Strategy for the catchment. As only a small section of the subject site is affected by flood prone land, it is considered appropriate that flood issues can be adequately addressed as part of any future DA, to be informed by the Floodplain Management Strategy once finalised.

SOCIAL

Aboriginal Due Diligence Assessment has been undertaken for the subject site. The assessment concluded that it is extremely unlikely any aboriginal archaeological evidence will be uncovered during the proposed development of the site. It is proposed to have a representative of the Aboriginal Land Council on-site during any excavations.

A Net Community Benefit Test prepared by the applicant concluded that the planning proposal will result in a net community benefit.

The PP is considered to have positive social impacts as it will increase the supply available housing consistent with the LHRS.

ECONOMIC

The proposal is considered to benefit the current and future residents of Medowie by providing convenience shopping in close proximity to residential areas, reducing travel distances and creating a neighbourhood centre for South Street, Medowie.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	12 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage Energy Australia Hunter Water Corporation NSW Rural Fire Service Roads and Traffic Authority Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	Consultation is also required with the Department of Defence.		

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flooding

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Attachment 1 - Planning Proposal.pdf	Proposal	Yes
Planning Proposal - Supporting Studies Part 001.pdf	Study	Yes
Planning Proposal - Supporting Studies Part 002.pdf	Study	Yes
Covering Letter - Port Stephens	Proposal Covering Letter	Yes
Council_23-03-2011_Planning Proposal Medowie Road		
Morris Land_.pdf		
Medowie_Strategy_Report.pdf	Study	Yes
supporting_maps.pdf	Map	Yes
Map A LHRS mapped area and Medowie study	Map	No
area.jpg		
Map B - redevelopment precincts.pdf	Map	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 3.1 Residential Zones
 - 3.4 Integrating Land Use and Transport
 - 3.5 Development Near Licensed Aerodromes
 - 4.1 Acid Sulfate Soils
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies

Additional Information : The Planning Proposal should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning & 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 (Department of Planning 2009) and must be made publicly available for 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009)

(c) supporting maps identifying current zones under the Port Stephens LEP 2000, vegetation and koala habitat, flood prone land, aerial photos and site location must be

exhibited with the planning proposal.

2. Consultation with the Office of Environment and Heritage is to be undertaken to specifically determine if urban development of the subject site as proposed will not affect the conservation integrity of the Watagan & Stockton Corridor.

3. Residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it).

4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

Commonwealth Department of Defence
NSW Office of Environment & Heritage
NSW Roads and Traffic Authority
NSW Rural Fire Service
Energy Australia
Hunter Water Corporation

5. No public hearing is required under the Local Government Act.

6. The time frame for completing the LEP is 12 months from the week following the date of the Gateway Determination.

7. The DG (or delegate) agrees to the inconsistency with S117 Direction 1.1 Business and Industrial Zones, Direction 1.2 Direction Rural Zones, 4.3 Flood Prone Land and 5.1 Implementation of Regional Strategies as the inconsistencies are justified by a study (Medowie Strategy) prepared in support of the planning proposal which gives consideration to the objectives of this direction, and are considered minor.

Supporting Reasons :

The proposal is consistent with the strategic framework and will enable urban development of the subject site for residential, open space and commercial purposes in accordance with the South Street Neighbourhood Structure Plan in the Medowie Strategy. Areas of the South Street Neighbourhood to the west of the subject site not included in the PP can be considered as a separate proposal when supporting flood and ecological studies are available to adequately inform a rezoning.

The inconsistency of the PP with the LHRS Map is considered justified on merit in the context of the discussion of the mapped area as intended -- ie to guide investigation into opportunities for urban intensification within Medowie and not intended to define the limits of 'growth potential' within the existing footprint.

The site is cleared of native vegetation, adjoining a proposed urban area identified in the LHRS, and is identified as suitable for urban development in the Medowie Strategy. The LHRS Map gives strategic direction to land use at a regional scale but now needs to be interpreted and updated in the upcoming review of the LHRS to better reflect its original planning purpose at this location, and the detailed local planning that has been undertaken since release of the LHRS to clearly define strategic outcomes and land use directions in Medowie.

Signature:



Printed Name:

GARY OAKLEY

Date:

16/5/11