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PLANNING PROPOSAL

Kindlebark Drive Medowie

Prepared for Medowie Pastoral;

Lot 10, DP 1154803; 142 Kindlebark Drive, Medowie

Lot 61, DP 1106425; 1A Heritage Avenue, Medowie

Lot 1, DP 270731; Middleby Grove, Medowie

Lot 2, DP 270731; 140A Kindlebark Drive, Medowie

Lot 3, DP 270731; 140 Kindlebark Drive, Medowie

Lot 4, DP 270731; 1/1 Heritage Avenue, Medowie

Lot 5, DP 270731; 2/1 Heritage Avenue, Medowie

Lot 6, DP 270731; 140B Kindlebark Drive, Medowie

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ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.**Introduction**

This Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for, a proposed amendment to the Port Stephens Local Environmental Plan 2013 to rezone the following allotments from R5 Large Lot Residential to R2 Low Density Residential;

- Lot 10, DP 1154803 (142 Kindlebark Drive, Medowie)
- Lot 61, DP 1106425; (1A Heritage Avenue, Medowie)
- Lot 1, DP 270731; (Middleby Grove, Medowie)
- Lot 2, DP 270731; (140A Kindlebark Drive, Medowie)
- Lot 3, DP 270731; (140 Kindlebark Drive, Medowie)
- Lot 4, DP 270731; (1/1 Heritage Avenue, Medowie)
- Lot 5, DP 270731; (2/1 Heritage Avenue, Medowie)
- Lot 6, DP 270731; (140B Kindlebark Drive, Medowie)

In addition to the proposed rezoning, it is sought to introduce a Schedule 1 – Additional Permitted Uses Clause to the Port Stephens Local Environmental Plan 2013 for Lot 10 DP 1154803 to introduce additional uses to those permissible in the R2 Zone to facilitate controlled development and expansion of the existing approved use of the site.

Rezoning to B1 – Neighbourhood Centre was investigated, however is not being sought as it is considered that rezoning to a commercial zone has the potential to detract from Medowie's existing commercial precinct. The introduction of the full B1 zoning would allow uses on the site that are considered to be inappropriate for the locality and not in keeping with the land owners plans for the site.

A Schedule 1 Clause will allow controlled specific uses to enhance the existing development without allowing all development permissible in the B1 Zone to occur on site.

Specifically it is sought to allow;

- (a) hotel or motel accommodation,
- (b) function centre,
- (c) restaurant or café,
- (d) small bar,
- (e) cellar door,
- (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.

An explanation of the rationale is provided in Part 2 of this report.

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**Part 1 – Objective of the proposed Local Environmental Plan
Amendment**

The objective of the Planning Proposal has two parts;

- To rezone the subject land (Lot 61 DP 1106425, Lots 1, 2, 3, 4, 5, 6 DP 270731 and Lot 10 DP 1154803) from R5 Large Lot Residential to R2 Low Density Residential to enable its subdivision for residential use. This will also necessitate the amendment of the Lot Size and Building Height maps.

and,

- Introduce a Schedule 1 – Additional Permitted Uses Clause on Lot 10 DP 1154803 to allow the continued use and expansion of the existing uses on the site. This clause will also contain all relevant Development Standards.

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The proposed objective will be implemented by:

- Amending the Port Stephens Local Environmental Plan 2013 Land Zoning Map - Sheet LZN_004B in accordance with the proposed Land Use Zone Map as shown in Figures 1;
- Introducing a Schedule 1 – Additional Permissible Uses Clause over the land shown in Figure 2.
- Amending the Port Stephens Local Environmental Plan 2013 Lot Size Map - Sheet LSZ_004B to reflect the minimum lot size for the R2 Zone.
- Amending the Port Stephens Local Environmental Plan 2013 Building Height Map sheet HOB_004B to reflect the R2 zone Building Heights.

It is proposed that land to be rezoned to Residential R2 will have the following development standards, which will be reflected in the Lot Size and Building Height Maps;

- Minimum Lot Size - 500m².
- Building Height - 9m

For land to be subject to the Schedule 1 – Additional Permissible Uses Clause, the following development standards will apply which will also be reflected in the clause;

- Minimum Lot Size – Controlled by the R2 land zoning maps.
- Maximum Commercial Floor Space – 15% of the total site area.

Proposed Schedule 1 Clause.

7. Use of certain land at 142 Kindlebark Drive, Medowie

(1) This clause applies to land at 142 Kindlebark Drive, Medowie being Lot 10, DP 1154803.

(2) Development for the following purposes is permitted with development consent:

- (a) hotel or motel accommodation,*
- (b) function centre,*
- (c) restaurant or café,*
- (d) small bar,*
- (e) cellar door,*
- (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.*

(3) Development consent for commercial premises under subclause (2f) must only be granted to development that has:

- (a) tenancies which have a retail floor area that does not exceed 100 square metres, and,*
- (b) the combined commercial premises not exceeding 15% of the land to which this clause applies.*

Rather than apply for a wholesale rezoning of the site to a Commercial Zoning it is considered that the introduction of the above Schedule 1 – Additional Permitted Uses will give more certainty to the further development and expansion of the existing approved uses on site, without allowing many undesirable uses for this site under a Commercial Zone.

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Rather than using overarching Group Terms, it has been sought to use specific definitions where possible. These specific uses to be extracted from the group terms "*Commercial Premises*" and "*Tourist and Visitor Accommodation*" will enable and facilitate controlled growth of the existing uses on the site.

From the group term "*Tourist and Visitor Accommodation*", the additional permitted use sought is that of "**hotel and motel accommodation**". This will specifically exclude the remaining forms of tourist and visitor accommodation from the site.

Of more importance are the specific uses that are contained within the Commercial Premises group term. Had the term group term "Commercial Premises" had been sought as a permissible use, the Schedule 1 clause would have read as a quasi Commercial Zone given the uses that would have been permissible. By defining the specific uses from within this term, it will enable controlled growth and development on the site, without allowing for future development on the site that is not only inappropriate but also in conflict with the Medowie Strategy and existing commercial centre.

With this goal in mind, the specific uses sought for the site include;

"Restaurant" or café, this is further specifically defined from the second tier group term food or drink premises. This term is specifically requested as the site currently has an approved restaurant in operation and is required to continue to validate this use in the future without any reliance on existing use rights.

"Cellar Door", as with "*Restaurant or café*", this definition is sought to validate the existing approved use of the site. This use would otherwise be prohibited in the zone.

"Small Bar", has further been sought from this to enable the functioning of a small bar to operate in conjunction with the Function Centre, Restaurant, Tourist Accommodation and Cellar Door.

"Function Centre", this will allow for the introduction of a Function Centre (wedding reception facility) to be introduced that draws on and is incorporated with the existing restaurant and cellar door establishments.

Sub clause 2f allows the with a hairdresser being envisaged as a form of business premises), "shops" as a form of "Retail Premises" and "Take Away Food and Drink Premises". These uses will be further subject to the development standards contained within sub clause 3, which restricts development to;

- Individual Tenancies having a maximum floor area of 100m²
- Combined floor space of any commercial premises under clause 2f not exceeding 15% of the total land area.

The purpose of this development standard is to ensure that any "*commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'*", are restricted in size such that they not only retain a boutique nature on the site, but can not be built at such a scale that they have the potential to detract from the existing Medowie Town Centre and the Medowie Strategy.

This in turn would serve to discourage large scale commercial development on the site.

Development of this scale will result in small scale commercial premises that are supportive of the dominant use of the site being a restaurant, cellar door and planned function center with accommodation.

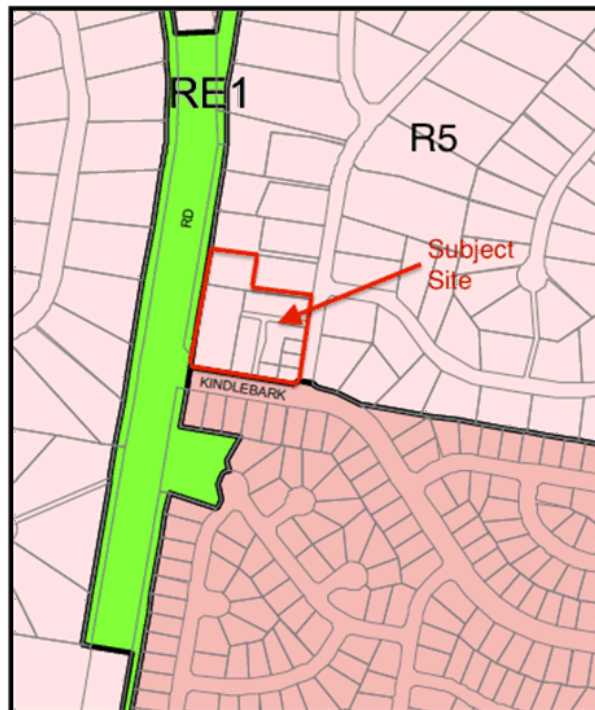


Figure 1 - Land to be rezoned from R5 Large Lot Residential to R2 Low Density Residential

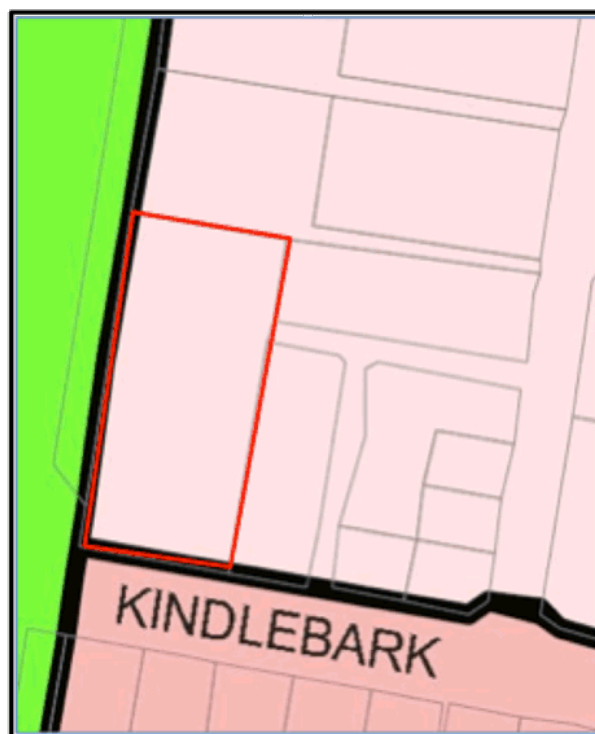


Figure 2 - Land to be subject to the Schedule 1 – Additional Permissible Uses

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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 is a result of the identification of Medowie as a proposed urban area in the Lower Hunter Regional Strategy 2006, Port Stephens Planning Strategy.

The site, while within the broader confines of the Medowie Strategy at a large scale, has been specifically excluded from the strategy. Existing Rural Residential Land was not considered in the Strategy and rural residential areas were excluded from the Medowie Strategy because (refer section A1.7.3 of Medowie Strategy);

- *These areas have been designed and developed without consideration for future development;*
- *Home owners have purchased land and built homes in these areas for lifestyle reasons;*
- *The homes are relatively new and would be uneconomic to demolish for redevelopment;*
- *It is difficult to co-ordinate redevelopment due to multiple land owners; and*
- *Retention of these areas as they are, maintains housing choice for the future growth of the town.*

Given that the subject sites are under one owner, on the fringe of the Rural Residential precinct adjacent to R2 – Low Density Residential land and largely undeveloped, it is considered that the reasons for the Rural Residential lands being excluded from the strategy can largely be overcome on the site.

The proposed zonings are consistent with the existing adjacent land zoning that is supported within the Medowie Strategy. The Planning Proposal will not detract from either the Medowie Strategy or the existing Rural Residential allotments and visually will be consistent with the existing streetscape and subdivision layout in the immediate vicinity of the subject site.

The proposed Schedule 1 – Additional Permissible Uses clause is sought as it is considered to be a more sustainable planning outcome than rezoning the site to a B1 Zone as previously considered.

Rezoning of the site to a commercial zone would potentially open the site up to uses that while not planned for the site by the applicant, would have the potential to detract from and draw business away from the Medowie Town Centre resulting in a conflict with the Medowie Strategy. It is noted that the Medowie Strategy does not support an intensification of commercial outside the existing Medowie town centre. The introduction of a Schedule 1 clause however would allow the existing operation on site to be expanded to encompass specific uses contained within the clause. Through this approach the future growth of the business can be controlled in a strategic sense so as to compliment the area and not detract from existing commercially zoned land. Further, the specific uses and development standards contained within the clause would effectively prevent the site becoming a commercial hub. The specifics of the Schedule 1 clause is discussed in Part 2 of this report.

Contained within Appendix 2 is an indicative layout for the future development of the Winery Precinct to include Tourism, Commercial Premises (ancillary to the development), Function Centre, Food and Drink Premises and Hotel and Motel Accommodation. It is proposed to limit the potential use of the site to these specific land uses through the Schedule 1 clause rather than wholesale rezoning of the site.

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

The objective of the Planning Proposal can only be achieved by an amendment to the Port Stephens Local Environmental Plan 2013 and inclusion of a Schedule 1 clause containing additional permitted uses.

The subject land requires rezoning to permit an increased density of residential use on cleared land. The Planning Proposal will introduce a standard minimum vacant lot size of 500m² to the Port Stephens Local Environmental Plan 2013.

While not included in the Medowie Strategy, this will facilitate the land being zoned the same as that adjoining land which is part of the strategy. It is seen that this will assist with the ongoing implementation of the Medowie Strategy and facilitate a wider range of residential opportunities within the locality.

Within an immediate local context the site will not detract visually from the immediate area by being zoned to a higher density. Land immediately opposite the site, across Kindiebark Drive to the south, is currently zoned R2 which results in both sides of Kindiebark drive ultimately having a complimentary streetscape.

To the east of the site, across Heritage Drive, while zoned the lower density R5, gives the appearance of being a standard residential allotment due to the subdivision pattern and sitting of the dwellings.

The subject site is located on the corner of Medowie Road and Kindiebark Drive and as such any increase in density in this location will not necessitate an increase in vehicle movements through any of the surrounding R2 or R5 land.

The site has a current development approval as an Aged Care Facility, a Boutique Winery/Restaurant and Urban Housing-Seniors Living Development. The Winery/Restaurant has an existing approval (DA 5322/91), the Urban Housing was approved under DA 16-2009-568-1 (16 March 2010).

The Urban Housing approval relates to seventeen (17) Seniors Living Dwellings and associated community title subdivision. These allotments range in size from approximately 260m² to 350m². With some of the dwellings having been constructed, increasing the density of the zoning from R5 to R2 will not increase the potential for adjoining allotments to be subject to increased impacts due to density increase. The rezoning will allow for a greater and more flexible use of the site in providing for affordable housing to the greater community.

Rezoning of the existing winery to B1 Neighbourhood was considered, however it is considered that the introduction of a Schedule 1 – Additional Permissible Uses clause will provide a better planning outcome. Rezoning to a B1 zone would ultimately allow more uses on the site than those being sought by the applicant and would have the potential to detract from the Medowie Town Centre. The rationale and specific definitions sought for the site are discussed in Part 2 of this report.

The use of a Schedule 1 Clause will serve to allow the continued development and expansion of the existing Winery and Restaurant to its future planned state including Boutique Accommodation, Wedding Centre and Boutique Commercial space consistent with the Winery theme of the site. Through the use of the Schedule 1 clause, only the specifically listed uses will be permissible on the site.

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3. 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 in the Lower Hunter Regional Strategy as a proposed urban area. The Planning Proposal is consistent with the objectives and actions of the Lower Hunter Regional Strategy with particular reference to the delivery of additional housing in suitable locations.

Medowie is identified in the hierarchy of centres within the region as a "Town". The Strategy identifies the key functions of a town as a "shopping business centre for the district, including health and professional services mixed with medium and higher density residential" (Lower Hunter Regional Strategy Main Map).

The anticipated regional population increase within the Hunter during the period 2006-2031 is approximately 160,000, providing a total of population of 675,000 by 2031. In order to accommodate this population growth an additional 115,000 new dwellings will be required in the Hunter, with 60% in new release areas and 40% in established urban areas.

This proposal represents an increase in housing potential within an established urban area.

Housing

Key actions within the Lower Hunter Regional Strategy that are relevant to Medowie are:

- Concentration of activities along a transport route; and
- Contributing to dwelling projections for lower order centres consistent with local strategies that address urban consolidation and intensification in urban areas.

The Lower Hunter Regional Strategy identifies the need for more compact settlements in meeting housing targets. In achieving more compact urban settlements, the Lower Hunter Regional Strategy seeks to facilitate greater housing opportunities within and adjoining the Region's centres, specifically:

- New dwellings in renewal corridors;
- General urban infill on existing zoned but undeveloped land; and
- On land within proximity to centres.

The Medowie urban area is surrounded by a number of constraints to new release areas, as identified in the Medowie Strategy. This has resulted in an emphasis on new development occurring within the existing urban footprint where possible and practicable. The subject site satisfies this intent by intensifying the use on under-utilised land. While the land is zoned for Rural Residential use, it is adjacent to existing Low Density Residential land and as such is ideal for intensification without affecting the character or amenity of the locality.

The Planning Proposal is consistent with the proposed growth under the Lower Hunter Regional Strategy. The site is located with direct access to the major transport route through the Medowie and is in close proximity to the town centre commercial area.

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The desired transport outcome of the Lower Hunter Regional Strategy is to integrate land use and transport planning to connect homes, employment and services, minimising the need to travel and encouraging energy and resource efficiency.

The key action relevant to this Planning Proposal is to concentrate employment and residential development in proximity to public transport to maximise transport access. By locating increased housing adjacent to the major transport corridor (Medowie Road), in close proximity to an existing bus services and close to major employment lands such as Williamstown RAAF Base, Raymond Terrace and the Medowie commercial area, the Planning Proposal is consistent with the desired transport outcomes of the Lower Hunter Regional Strategy.

Further the Medowie Strategy identifies a future shared pedestrian/cycle path to be constructed adjacent to the subject site providing linkages to the main commercial centre of Medowie as well as adjoining residential areas.

Environment and Natural Resources

The potential for biodiversity impact is reduced by increasing the proportion of dwellings built in existing urban areas, whilst new development will be directed away from areas known for their biodiversity significance.

The Planning Proposal will assist in achieving these outcomes by concentrating housing within the established urban footprint of Medowie and through the minimisation of clearing of ecologically sensitive land.

4. Is the planning proposal consistent with a Councils local strategy or other local strategic plan?

Port Stephens Planning Strategy 2011-2036

The Port Stephens Planning Strategy identifies Medowie as a Priority 1 Infill and New Release Area. The proposed rezoning will represent infill zoning through the increased development potential of the land proposed for R2 zoning.

The strategy considers that Medowie is the fastest growing Planning District (48% between 1996 and 2006). High growth is projected to continue as the Medowie Strategy is implemented. Limited infill will occur through the further subdivision and additional dwellings on rural residential lots. The rezoning of the Residential Land will facilitate this infill development.

The Port Stephens Planning Strategy states;

Commercial/retail floor space demand is forecast to increase by around 2,000 m² to reach almost 9,500 square metres by 2031. Under the more supply constrained scenario in the gap analysis, there will be insufficient capacity under current controls to accommodate this demand by 2031. The Medowie Strategy proposes 12ha of commercial land.

A rezoning of the portion of the site containing the existing Winery and Restaurant was considered to B1 - Neighbourhood Centre. This was not seen to be an optimal planning outcome given that the wide range of potential uses that would be permissible in this zone could be seen to conflict with the Medowie Strategy and ultimately detract from the viability of the remaining commercial land in the Medowie area.

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Potential permissible uses within the zone B1 zone include, but are not limited to;

Attached dwellings; Business premises; Child care centres; Commercial premises; Community facilities; Health consulting rooms; Information and education facilities; Medical centres; Neighbourhood shops; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Registered clubs; Service stations; Shop top housing; Signage; Veterinary hospitals;

Further consideration of what was trying to be achieved for the site led to the need of a Schedule 1 – Additional Permissible Uses clause rather than a wholesale rezoning of the subject site to facilitate commercial uses.

In this way specific uses such as;

- (a) hotel or motel accommodation,
- (b) function centre,
- (c) restaurant or café,
- (d) small bar,
- (e) cellar door,
- (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.

can be undertaken while excluding the range of uses that would otherwise be permissible in the B1 zone.

It can be seen that these uses are supportive of the locality bringing tourists to Medowie and its commercial precinct, and will not present any significant negative impacts to the local community or the local Town Centre.

The Planning Proposal is considered to be consistent with the Port Stephens Planning Strategy 2011- 2036

Medowie Strategy 2009

Council adopted the Medowie Strategy in 2009 to manage urban growth. The proposal is located outside the Strategy as it is located on Rural Residential Land that was excluded from the strategy. Section A1.7.3 of the strategy states;

Rural Residential areas have been excluded from the Medowie Strategy because:

- *These areas have been designed and developed without consideration for future redevelopment;*
- *Home owners have purchased land and built homes in these areas for lifestyle reasons;*
- *The homes are relatively new and would be uneconomic to demolish for redevelopment;*
- *It is difficult to co-ordinate redevelopment due to multiple land owners; and*
- *Retention of these areas as they are, maintains housing choice in the future growth of the town.*

The site subject to the planning proposal, while zoned Rural Residential will not impact on existing dwelling owners due to its location and being bound on three sides by the street network. Land immediately to the south is currently zoned R2 Low Density Residential.

No dwellings will be required to be demolished by this proposal. Intensification of the density

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permissible on this site will have negligible impacts on Rural Residential lands to the north and will make the site consistent with the Low Density residential land to the south.

The Medowie Strategy identifies in Figure A2.24 that a shared Cycle/Pedestrian path will pass by the sites western boundary providing non vehicular access to the Medowie town centre.

The Medowie Strategy notes a Tourist Zone applying to the Macadamia Farm. It is seen the existing Boutique Winery and Restaurant on site are similar in nature to the Macadamia Farm operation. As with the Macadamia Farm, in the future the Winery site can create a neighbourhood focus by providing a Tourist Focused locality on the front portion of the site (subject to the Schedule 1 Clause) enabling a restaurant/café, winery, function centre and accommodation.

The remainder of the site, being the land currently approved for seniors living, would then be available for residential or seniors living housing as approved.

To facilitate the further growth and development of the existing Winery and Restaurant to include a Function Centre, Hotel and Motel Accommodation, Food and Drink Premises and Ancillary Boutique Commercial Retail a Schedule 1 – Additional Permissible Uses Clause is sought.

Rezoning of this site to B1 – Neighbourhood Centre was considered for the site to facilitate these uses. When looking strategically however it was not considered that this was the best method of achieving the desired outcome while supporting the Medowie Strategy.

Implementing a Schedule 1 clause will serve to allow the continued and expanded use of the existing commercial operation on site without allowing further uses in the future that may detract from the commercial land in the Medowie Town Centre by restricting permissible uses to specific definitions.

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

An assessment of the Planning Proposal against the relevant SEPPs is provided in the following table:

SEPP Relevance	
<p>SEPP 44 – Koala Habitat Protection</p> <p>This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline by:</p> <p>a) requiring the preparation of plans of management before development consent can be granted in relation to areas of core Kola habitat;</p> <p>b) encouraging the identification of areas of core koala habitat; and</p> <p>c) encouraging the inclusion of core koala habitat in environment protection zones.</p>	<p>The Port Stephens Comprehensive Koala Plan of Management (CKPoM) is applied in Port Stephens LGA for the purposes of implementing SEPP 44.</p> <p>The site is cleared and has been the subject of past development approvals allowing development of the site.</p> <p>The Council GIS Koala Habitat Planning Map indicates the site is mapped as a 50m buffer to Preferred Koala Habitat.</p> <p>Given the cleared nature of the site and that no vegetation is proposed for removal it is considered that the Planning Proposal is consistent with this SEPP.</p>
<p>SEPP 55 – Remediation of Land</p> <p>This SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p>	<p>The site has a history of use as farmland and is considered to present a low risk in terms of contamination.</p> <p>Contamination issues would have been previously considered in the assessment of the Seniors Living proposal for the site. A Site Contamination Study can however be prepared if required following Gateway Determination to demonstrate residential suitability.</p> <p>The consistency of the Planning Proposal with this SEPP is to be further investigated and established if required.</p>

Table 1: Relevant State Environmental Planning Policies

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Section 117 Ministerial Directions*6. Is the planning proposal consistent with applicable Ministerial Directions?*

An assessment of relevant s.117 Directions against the Planning Proposal is provided in the following table:

Ministerial Direction	
1.1 Business and Industrial Zones The objectives of this direction are to: <ul style="list-style-type: none"> a) encourage employment growth in suitable locations. b) Protect employment land in business and industrial zones. c) Support the viability of identified strategic centres. 	<p>While the development does not propose the site to be rezoned in any capacity to a Business or Industrial Zone, some of the proposed land uses in the Schedule 1 – Additional Permissible Uses clause are also permissible within a Business Zone.</p> <p>As such, while this direction does not strictly apply to the Planning Proposal, it has been considered as it may have the potential to affect land within an existing or proposed business zone.</p> <p>The Planning Proposal will have a positive impact on the existing town of Medowie and nearby major regional centre of Raymond Terrace by providing additional residential land for housing in a suitable location. The land is closely linked to the existing commercial land through both public transport and pedestrian linkages.</p> <p>The Schedule 1 clause has been sought so as to limit the potential commercial use of the site as the existing Winery and Restaurant are expanded. In this sense it is a superior outcome to rezoning the site to a zoning that would allow further expansion including uses that have the potential to detract from the Medowie Town Centre.</p> <p>Conversely, the Schedule 1 clause allowing;</p> <ul style="list-style-type: none"> (a) hotel or motel accommodation, (b) function centre, (c) restaurant or café, (d) small bar, (e) cellar door, (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises <p>can be seen to compliment and support the existing Medowie Commercial premises.</p> <p>Future and existing residents will support businesses in the area.</p> <p>The Planning Proposal is consistent with this direction.</p>

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<p>2.1 Environment Protection Zones</p> <p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p>	<p>This direction states that a Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>An environmental zone does not currently apply to the site, which is zoned R5 Large Lot Residential under the Port Stephens Local Environmental Plan 2013.</p> <p>The site is cleared large lot residential land with a boutique winery occupying the sites south-western corner.</p> <p>The proposed rezoning will not necessitate clearing of land, particularly Environmentally Sensitive land to land zoned for environmental Protection.</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>2.3 Heritage Conservation</p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance</p>	<p>This direction applies when a relevant planning authority prepares a planning proposal.</p> <p>Given the historical use of the site and its cleared nature it is not anticipated that there are any European or Aboriginal artefacts or Heritage that will be adversely impacted upon by the proposal.</p> <p>The Planning Proposal is consistent with this direction.</p>

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<p>3.1 Residential Zones</p> <p>The objectives of this direction seek to encourage a range and variety of housing types, make efficient use of existing infrastructure to improve access to services etc, and minimise the impact of residential development on the environment.</p>	<p>The Planning Proposal is consistent with this direction because it will;</p> <ul style="list-style-type: none"> - broaden the choice of building types and locations in the local housing market. It is noted that the site contains a current consent for Seniors Living. Rezoning of the site to allow residential development consistent with land immediately to the south will serve to increase the housing stock in the locality with no net impacts on infrastructure. - Given the site has approval for Seniors Living, it has already demonstrated that the site is suitably serviced for an intensification of use. - Allowing an increase in density on these sites, immediately adjacent to other R2 Zoned land will reduce the consumption of land for housing on the urban fringe. The site is cleared, fully serviced and located within a residential context. In this sense, rezoning of the site will allow for additional housing opportunities without consuming rural or undeveloped land on the rural fringe. - Will not result in any detrimental impacts on the amenity of any adjacent land through the rezoning as no change to the current streetscape will occur. <p>The subject land is bound on the south by land subject to the Medowie Strategy and currently zoned R2 Residential. It is considered that while outside the boundaries of the strategy, the Planning Proposal is consistent with and supportive of the Medowie Strategy by providing further lots of a minimum vacant size of 500m².</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>3.4 Integrating Land Use and Transport</p> <p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve planning objectives related to improving access to jobs and services by alternative modes of transport, transport choice, reduce travel demand and supporting public transport.</p>	<p>The proposed land use is consistent with adopted planning strategies for the area including the Medowie Strategy, Port Stephens Planning Strategy and Lower Hunter Regional Strategy.</p> <p>The Planning Proposal, including both the Rezoning to R2 and Schedule 1 Clause, will not create potential for a significant number of allotments and as such is not seen to create a significant impact on the existing traffic network.</p> <p>The Planning Proposal is consistent with the objectives of this direction.</p>

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<p>3.5 Development Near Licensed Aerodromes</p> <p>The relevant objectives of this direction are to ensure the efficient and safe operation of aerodromes, and to ensure their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity.</p>	<p>The subject land is located within close proximity to the Williamtown RAAF Base and the Salt Ash Weapons Range. The site however is not affected by the Australian Noise Exposure Forecast 2012 or 2025 maps.</p> <p>It is possible however that Land outside of ANEF contours can still be affected by aircraft noise and related activity, particularly in proximity to RAAF operations.</p> <p>The Planning Proposal satisfies this direction if required at Gateway consultation can occur with the Department of Defence to clarify any impact.</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>4.1 Acid Sulfate Soils</p> <p>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.</p>	<p>The Planning Proposal is unlikely to create significant environmental impacts as a result of acid sulphate soils.</p> <p>The Port Stephens Acid Sulfate Soils Planning Map, Sheet ASS_004, identifies the site as containing class 5 soils (requiring consent for works within 500m of adjacent soil classes). This represents a low risk from Acid Sulfate Soils.</p> <p>Any further assessment of Acid Sulfate Soils should occur during the assessment of any future development application lodged over the site.</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>4.3 Flood Prone Land</p> <p>The objectives of this direction are to;</p> <p>(a) Ensure new development is consistent with the NSW Governments Flood Prone Land Policy and the Principles of the Floodplain Development Manual 2005, and</p> <p>(b) Ensure 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.</p>	<p>The site is not mapped as flood prone on Councils Flood Planning Map Sheet FLD_004.</p> <p>The Planning Proposal is consistent with this direction.</p>

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<p>4.4 Planning for Bushfire Protection</p> <p>The objectives of this direction are:</p> <p>(a) To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bushfire prone areas.</p> <p>(b) To encourage sound management of bushfire prone areas.</p>	<p>The southern portions of the site are mapped as bushfire prone land.</p> <p>The land mapped as presenting the Bushfire Hazard, south of Kindlebark Drive, has been largely developed into residential allotments resulting in a significant decrease in vegetation and fuel loads.</p> <p>A site specific Bushfire Threat Assessment has been undertaken for the site (Firebird ecoSultants, January 2014) shown the Bushfire Attack Level for the site as BAL-LOW - No Requirement.</p> <p>While the reports was written specifically for extensions to the Cellar Door, it relates to the site and demonstrates that Bushfire is not an impediment to development of the site.</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>5.1 Implementation of Regional Strategies</p> <p>The objective of this direction is to give legal effect to the vision, land use policies, outcomes and actions contained in regional strategies.</p>	<p>Medowie is identified as a new urban release area in the Lower Hunter Regional Strategy.</p> <p>The Planning Proposal is consistent with this direction.</p>
<p>6.3 Site Specific Uses</p> <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.</p>	<p>This direction applies as the planning proposal seeks to amend the existing LEP to allow a particular form of development.</p> <p>This direction is specific to the Schedule 1 component of this proposal.</p> <p>Part (4) of this direction states;</p> <p><i>A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal must either:</i></p> <ul style="list-style-type: none"> <i>(a) allow that land use to be carried out in the zone it is situated on, or</i> <i>(b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or</i> <i>(c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.</i> <p>This proposal is consistent with (a) in that the schedule 1 clause will allow a specific land use to be carried out on the land zone it is situated.</p>

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	<p>As discussed in this report, the introduction of a Schedule 1 is considered to have more merit than than the wholesale rezoning of the site to a commercial zone.</p> <p>A commercial zone would have the potential to introduce undesirable land uses that would detract from the locality and the existing Medowie town centre.</p> <p>The Schedule 1 clause, as described in Part 2 of this report, gives a level of certainty to the redevelopment and expansion of the existing uses on site without compromising the Medowie Strategy.</p>
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Table 2: Relevant s.117 Ministerial Directions

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PLANNING**Section C – Environmental, Social and Economic Impact**

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The subject land is predominantly clear of native vegetation and has been used for agricultural purposes for many years. Most recently the site has been approved for a Seniors Living development and construction has begun. It is considered that the site contains no significant vegetation, habitat or ecological communities.

No ecological studies have been undertaken at this stage, however, upon Gateway Determination approval a report shall be prepared if necessary.

Given past uses of the site and the current site condition it is not anticipated that preparation of a specific ecological report will be required. Further, it is not considered that the rezoning and future development will result in any adverse environmental impacts.

Section A1.8 – Ecological Considerations of the Medowie Strategy notes the Ecological considerations for Medowie. *Figure A1.11 – Ecological attributes of the study area* does not indicate that the site is constrained by any significant ecological constraints. It is concluded from this section of the Medowie Strategy that there are no ecological impediments to the rezoning of the site.

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

Stormwater

Flooding and drainage is a significant issue in Medowie. The site has previously gained consent for the purposes of a Seniors Living development. During this process all issues relating to storm water and drainage were resolved.

It is not considered that the rezoning of the site would allow for a significant increase in stormwater flow from the site such that specific reports would be required during the rezoning process.

Through appropriate development controls the site will have no adverse impact on the Medowie catchment and downstream properties.

Bushfire

The southern portions of the site are mapped as bushfire prone land.

The land mapped as presenting the Bushfire Hazard, south of Kindiebark Drive, has been largely developed into residential allotments resulting in a significant decrease in vegetation and fuel loads.

A site specific Bushfire Threat Assessment (Firebird Eco Sultans, January 2014) has been undertaken for the site shown the Bushfire Attack Level for the site as BAL-LOW - No Requirement.

The Bushfire Threat Assessment is provided in Attachment 1.

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.**Indigenous Heritage**

While it is not considered that the site retains any Indigenous Heritage, an archaeological report can be undertaken following a Gateway Determination to ensure due diligence if required.

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

The Planning Proposal will have a positive social and economic effect through the provision of 7542m² (potential lot yield of 15 residential allotments) of land for housing on lots with a minimum area of 500m² consistent with strategic planning for the area.

The Planning Proposal is likely to have positive social and economic impacts resulting from the delivery of increased land for housing and supportive neighbourhood commercial space providing local services.

Depending upon occupancy rates the new housing may generate an additional population of between 30 (occupancy rate 2.1 persons per dwelling) and 45 (rate of 2.5 persons).

The additional population, while minor in nature, will support local businesses in Medowie and surrounding service centres such as Raymond Terrace as well as the existing Medowie Town Centre. The potential new allotments would provide for an increase in Housing Stock and available opportunities for housing.

Socially the development will provide for an increased stock of residentially zoned land in close proximity to services, public transport and pedestrian linkages.

The inclusion of a Schedule 1 – Additional Permissible Uses clause for a portion of the site will ensure the ongoing viability, and allow for the expansion of, the existing winery and restaurant. These facilities not only service the local community with dining options, but also attract out of area visitors. Permitting further development of the uses on site will further attract outside visitors to the locality with the flow on to supporting local commercial services and businesses. Attachment 2 shows an indicative site layout following further expansion of the site. It can be seen that given the sites proximity to the major access to Medowie and siting that there would be minimal impacts compared to the ongoing activities by allowing additional uses on site.

It is not envisaged that the planning proposal with has any adverse social or economic impacts on the surrounding locality.

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PLANNING**Section D – State and Commonwealth interests***10. Is there adequate public infrastructure for the planning proposal?*

The existing surrounding locality and subject sites contains all necessary services, utilities and infrastructure to service future development. In the event of any future servicing requirements these will be met by the Proponent in consultation with the relevant service delivery authorities.

Water Delivery

The site is within the Port Stephens Water Supply System and is currently serviced by reticulated water.

Capacity of the reticulated system will not be impacted on by this Planning Proposal. The site has a current consent allowing of the development of the site for Seniors Living at a similar density to that provided by the rezoning.

It is not envisaged that any augmentation of the water supply system would be required as a result of this proposal.

Wastewater Transportation

The site is within the Medowie Waste Water Pump Station catchment area, which is within the Raymond Terrace Waste Water Treatment Works catchment. This area has not been identified in the most recent Wastewater Transportation Servicing Strategies, either developer funded or Hunter Water Corporation funded.

All wastewater catchments in Medowie eventually discharge to Medowie 10 Waste Water Pump Station, which transfers flows to Raymond Terrace Waste Water Treatment Works. There is currently limited capacity within the Medowie 10 Waste Water Pumping Station. However, a limited pump capacity upgrade is currently forecast to occur between 2014 and 2018. These constraints may limit longer term growth in the Medowie area and would require significant upgrades to rectify.

The development site is however currently serviced by reticulated sewer and it is not envisaged that the intensification of the site zoning will result in any requirements for augmentation of the sewer system. As previously noted, the site has a current approval for a Seniors Living development which would have a similar density to that provided by the proposed rezoning and no concerns were raised for this development.

Traffic

The proposal is not of a scale that is considered to contribute sufficient additional vehicular traffic so as to adversely impact the surrounding roads in terms of vehicular trips and congestion.

The site is identified in the Medowie Strategy as being adjacent a planned shared cycle/pedestrian path that will provide linkages to residential and commercial areas of Medowie.

It is noted that the site is located on the primary structural axis connecting the town to the Pacific Highway, Williamstown and the rest of Port Stephens. This makes the tourist component of the site ideally placed for future growth.

Council have advised that a Traffic Report may be required through the rezoning process. While a Traffic Report could be prepared if deemed necessary by Council, it is not considered necessary at this point. Any future subdivision, or redevelopment of the Cellar Door, as a result of the Schedule

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1 – Additional Permissible Uses clause could demonstrate access via both Kindlebark Drive and Medowie Road.

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

No formal consultation with public authorities has been undertaken by the Relevant Planning Authority at this time.

Following a Gateway Determination the following agencies, authorities and bodies will be consulted with:

- NSW Roads and Maritime Services
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- Ausgrid
- Hunter Water Corporation
- Commonwealth Department of Defence

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Part 4 – Mapping

Proposed Zoning

The following figures in this Planning Proposal show the proposed zoning for the site.

Figure 1 - Land to be rezoned from R5 Large Lot Residential to R2 Low Density Residential

Figure 2 - Land Subject to Schedule 1 – Additional Permissible Use

Current Zoning

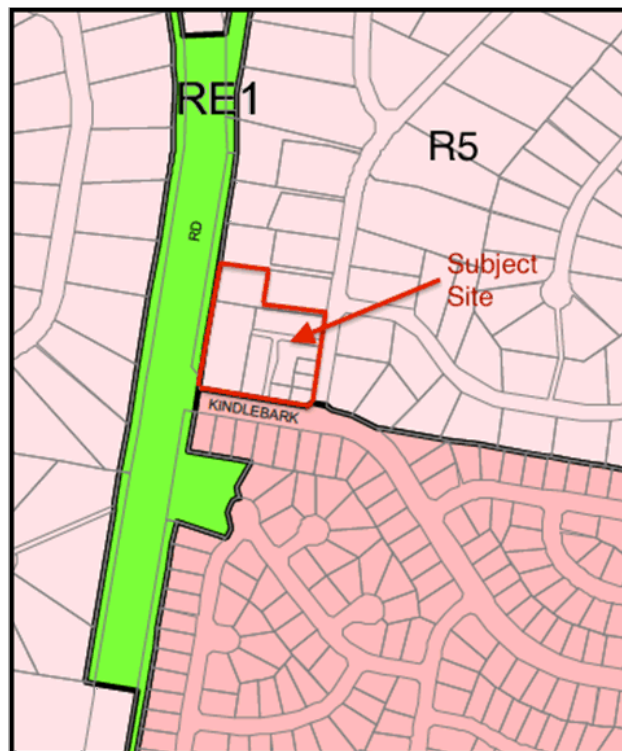


Figure 3 - Current Site Zoning

Aerial Photo/Site Location



Figure 4 - Aerial Photography



Figure 5 - Planning Proposal Site



Figure 6 - Historical Photo showing extent of Vineyard

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Part 5 - Details of Community Consultation

It is expected that Council will notify the Planning Proposal for a minimum of 14 days, and adjoining landowners will be notified in writing.

Any further consultation shall be indicated within the Gateway Determination.



Attachment 2 - Bushfire threat Assessment

ITEM 3 - ATTACHMENT 1

PLANNING PROPOSAL - KINDLEBARK DRIVE,
MEDOWIE.



BUSHFIRE THREAT ASSESSMENT

FOR
A PROPOSED EXTENSION TO A
BOUTIQUE WINERY

AT
142 KINDLEBARK DRIVE,
MEDOWIE NSW

Prepared by:

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Site Details:	142 Kindlebark Drive, Medowie, NSW
Prepared by:	<p>Sarah Jones B.Env.Sc.,G.Dip.DBPA (Design in Bushfire Prone Areas)</p> <p>FPA BPAD-A Certified Practitioner (BPD-PA-26512)</p> <p>Firebird ecoSultants Pty Ltd</p> <p>ABN – 16 105 985 993</p> <p>PO Box 354, Newcastle NSW 2300</p> <p>M: 0414 465 990 Email: sarah@firebirdeco.com.au</p> <p>T: 02 4910 3939 Fax: 02 4929 2727</p>
Prepared for:	Sorensen Design Pty Ltd
Reference No.	Medowie – Sorensen Design
Document Status & Date:	Draft for Client Review – 7/01/2014

Disclaimer

Notwithstanding the precautions adopted within this report, it should always be remembered that bushfires burn under a wide range of conditions. An element of risk, no matter how small always remains, and although the standard is designed to improve the performance of such buildings, there can be no guarantee, because of the variable nature of bushfires, that any one building will withstand bushfire attack on every occasion.

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Executive Summary

A Bushfire Threat Assessment Report (BTA) has been prepared by Firebird ecoSultants Pty Ltd at the request of Sorensen Design Pty Ltd for proposed extensions to an existing boutique winery at 142 Kindlebark Drive, Medowie, NSW.

The report forms part of the supporting documentation for a Development Application (DA) to be submitted to Port Stephens Council (PSC). The proposed development is classified as Integrated Development under the provisions of Planning for Bushfire Protection (RFS, 2006), and is therefore required under the legislation to be referred to the commissioner of the NSW Rural Fire Service for the issue of a Bushfire Safety Authority.

The report demonstrates compliance with Planning for Bushfire Protection 2006 (NSW RFS, 2006) PBP (RFS, 2006), the addendum to Appendix 3 of PBP 2006 and AS3959-2009 Construction of Buildings in Bush Fire Prone Areas.

This assessment aims to consider and assess the bushfire hazard and associated potential threats relevant to the proposal. Recommendations are provided with regard to fuel management, access, provision of emergency services, building protection and construction standards to facilitate an acceptable level of bushfire protection. In summary, the following is recommended:

- Setbacks (APZs) of greater than 100m are already established and maintained by existing development and infrastructure. It is recommended that the site be managed as an IPA.
- Assessment in accordance with AS3959-2009 (section 5 of this report) has shown that the proposed extension has been assessed as BAL-LOW.
- The site is connected to reticulated water. The development will be linked to the water pressure mains and the proposed internal fire hydrant spacing, sizing and pressures are to comply with AS 2419.1-2005 Fire Hydrant Installations – System design, installation and commissioning (2005).
- It is recommended that an Emergency Response and Evacuation Plan be prepared for the site. This plan is to be consistent with the RFS document "A guide to Developing Bushfire Evacuation Plan" (2004).

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MEDOWIE.



- Provided the recommendations stated above are implemented in full Firebird ecoSultants Pty Ltd is of the opinion that the proposed will meet the aims and objectives of PBP (RFS, 2006).

Sarah Jones

Ecologist / Bushfire Planner

FPA-BPAD-A Certified Practitioner (BPD-PA-26512)

B.Env.Sc., G.Dip.DBPA (Design for Bushfire Prone Areas)

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Terms & Abbreviations

Abbreviation	Meaning
APZ	Asset Protection Zone
AS2419-2005	Australian Standard – Fire Hydrant Installations
AS3959-2009	Australian Standard – Construction of Buildings in Bush Fire Prone Areas
BCA	Building Code of Australia
BPA	Bush Fire Prone Area (Also Bushfire Prone Land)
BFPL Map	Bush Fire Prone Land Map
BPMs	Bush Fire Protection Measures
BFSA	Bush Fire Safety Authority
EPA Act	NSW Environmental Planning and Assessment Act 1979
FDI	Fire Danger Index
FMP	Fuel Management Plan
ha	Hectare
IPA	Inner Protection Area
LGA	Local Government Area
NCC	Newcastle City Council
OPA	Outer Protection Area
PBP	Planning for Bushfire Protection 2006
RF Act	Rural Fires Act 1997
RF Regulation	Rural Fires Regulation

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PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.



I INTRODUCTION

Firebird ecoSultants Pty Ltd has been engaged by Sorensen Design Pty Ltd to undertake a Bushfire Threat Assessment (BTA) at 142 Kindiebark Drive, Medowie, NSW hereafter referred to as the "site" (refer to Figure 1-1 for site locality). The proposal is for an extension to the exiting boutique winery. Refer to Appendix A for proposed Site Plans.

This BTA is suitable for submission with a Development Application (DA) and provides information on measures that will enable the development to comply with 'Planning for Bushfire Protection' (NSW RFS, 2006), hereafter referred to as PBP (RFS, 2006).

This assessment aims to consider and assess the bushfire hazard and associated potential threats relevant to such a proposal, and to outline the minimum mitigative measures which would be required in accordance with the provisions of the Environmental Planning and Assessment Amendment (Planning for Bushfire Protection) Regulation 2007 and the Rural Fires Amendment Regulation 2007 (RF Amendment Regulation 2007).

I.1 Site Particulars

Locality:	142 Kindiebark Drive, Medowie, NSW
Lot and DP:	Lot 10, DP: 1154803
LGA:	Port Stephens Council (PSC)
Forest Danger Index:	100 FDI
Boundaries:	Neighbouring properties include residential dwellings on land zoned 1c5, 1c4 & 2a.
Current Land Use:	A Boutique Winery and Restaurant defined as a Tourist Facility by the Port Stephens Council Local Environmental Plan 2000 currently exists on the site.
History:	The site lies within a geographical area with a Fire Danger Index (FDI) rating of 100. Extreme bushfire weather is therefore associated with long periods of drought, high temperatures, low humidity and gusty often north-westerly winds.

FIGURE 1-1: SITE LOCALITY MAP

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**1.2 Description of the Proposal**

The proposal is for the construction of an extension to the existing winery building. Development approval for an extension was granted by Port Stephens Council in 1996. The proposed extension is similar in scale to the approved design and seeks to improve the extension to be more usable in accordance with current winery/restaurant trends.

The proposed changes include:-

- Additional lower ground floor area for wine cellar/ function room.
- Amended ground floor area to include disabled access ramp and bathroom facilities and a deck area.
- Relocation of first floor restaurant/function area to lower & ground floor.
- Reconfigure first floor for boutique guest accommodation.
- Addition of lift for disabled access to all floors.

The amendments will provide a superior wedding/function centre for the area, with accommodation provided for the patrons. Refer to Appendix A – Site Plans

1.3 Legislative Requirements

Part of the site has been identified as bush fire prone land on the Port Stephens Shire Council (PSC) Bush Fire Prone Land Map (BFPLM) and the proposed development provides for accommodation this type of development is classified as 'Special Fire Protection Purpose' (SFPP) developments under PBP (RFS, 2006). SFPP developments within BFPL require a Bush Fire Safety Authority (BFSA) from the NSW Rural Fire Service (RFS) under Section 100B of the Rural Fires Act (RFS) 1997. Such developments are also 'integrated developments' under Section 91 of the EP&A Act 1979.

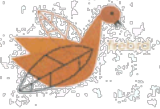
This BTA has been prepared using current legislative requirements and associated guidelines for assessment of bushfire protection, these being

- Section 100b of the RFS Act 1997;
- PBP (RRS, 2006) and
- AS3959-2009 Construction of Buildings in Bushfire Prone Areas.

1.4 Objectives of Assessment

This report has been prepared to address the requirements of clause 44 of the Rural Fires Regulation for an application for a BFSA. This BTA also addresses the six key Bush Fire Protection Measures (BFRMs) in a development assessment context being:

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- The provision of clear separation of buildings and bush fire hazards, in the form of fuel-reduced APZ (and their components being Inner Protection Areas (IPA's) and Outer Protection Areas (OPA's);
- Sitting and design of the proposal;
- Construction standards;
- Appropriate access standards for residents, fire-fighters, emergency workers and those involved in evacuation;
- Adequate water supply and pressure, and utility services; and
- Suitable landscaping to limit fire spreading to a building.



2 BUSHFIRE THREAT ASSESSMENT

2.1 Methodology

2.1.1 Vegetation Assessment

Vegetation surveys and vegetation mapping carried out on the site has been undertaken as follows:

- Aerial Photograph Interpretation to map vegetation cover and extent.
- Confirmation of the vegetation assemblage typology present.

2.1.2 Slope Assessment

Slope assessment has been undertaken as follows:

- Aerial Photograph Interpretation in conjunction with analysis of electronic contour maps with a contour interval of 10m.

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3 SITE ASSESSMENT

The following assessment has been undertaken in accordance with the requirements of PBP (RFS, 2006). Alex Picton undertook a site inspection on the 10 January 2013.

3.1 Vegetation and Slope Assessment

In accordance with PBP (RFS, 2006), an assessment of the vegetation that may be considered a bushfire hazard over a distance of 140m in all directions from the building was undertaken. This assessment is depicted in Table 3-1 and Figure 3-1.

In accordance with PBP (RFS, 2006), an assessment of the slope affecting the bushfire behaviour was undertaken for a distance of 100m from the edge of the bushfire hazard. The slopes leading away from the site have been evaluated to identify both the average slope and by identifying the maximum slope present. These values help determine the level of gradient which will most significantly influence the fire behaviour of the site and the results are presented in Table 3-1 and Figure 3-1 below.

Table 3-1: Vegetation & Slope Classification for Site

Direction from Boutique winery building and proposed extension	Vegetation Type within 140m of the site	Slope	Distance Vegetation is from boutique winery and proposed extension
North	N/A residential development or managed land	N/A	N/A – managed land within 100m of the site
North	N/A residential development or managed land	N/A	N/A – managed land within 100m of the site
North	N/A residential development or managed land	N/A	N/A – managed land within 100m of the site
North	N/A residential development or managed land	N/A	N/A – managed land within 100m of the site



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4 BUSHFIRE PROTECTION ASSESSMENT

4.1 Asset Protection Zones (APZ)

The PBP (RFS, 2006) guidelines has been used to determine the widths of the APZs required for the proposed extension within the site using the vegetation and slope data identified in Section 3-1 of this report.

The site lies within PSC Local Government Area and therefore is assessed under a FDI rating of 100. Using the results from the Site Assessment (section 3-1 of this report) the deemed to satisfy APZ requirements for the proposed extension within the site was determined using Table A2.6 APZs for SFPP in PBP (RFS, 2006).

4.1.1 Required APZs for the Proposed Extension

The Bushfire hazard that may impact upon the proposed Extension is the Open Forest to the north and west of the proposed development. Refer to Table 4-1 and Figure 4-1 for required APZs for the proposed SFPP Villas and Apartments.

Table 4-1: Recommended APZs for the Proposed Extension

Direction from Building Envelope	Vegetation Classification within 140m	Effective Slope (within 100m)	Setback (APZ) Provided	Comment
North	Managed Land	Flat to downslope 1-2 degrees	Cleared and developed land occurs within 100m of the winery building.	The entire site is to be managed as an IPA outside of the development area.
East	Managed Land	Flat	Cleared and developed land occurs within 100m of the winery building.	The entire site is to be managed as an IPA outside of the development area.
South	Managed Land	Flat to downslope 1-2 degrees	Cleared and developed land occurs within 100m of the winery building.	The entire site is to be managed as an IPA outside of the development area.
West	Managed Land	Flat	Cleared and developed land occurs within 100m of the winery building.	The entire site is to be managed as an IPA outside of the development area.

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5 BUSHFIRE ATTACK ASSESSMENT

5.1 Dwelling Design & Construction

On 6 March 2009, Council of Standards approved the revised Australian Standard AS3959-2009 *Construction of buildings in bushfire prone areas* (AS3959-2009). This standard was published by Standards of Australia on 10 March 2009 and replaces the 1999 version of the document.

AS3959-2009 was formally adopted by the BCA as the national standard on 1 May 2010. The BCA 2010 references AS3959-2009 as the deemed-to-satisfy (DTS) solution for construction requirements in bush fire prone areas for NSW. In order to clarify the NSW development approval process, the RFS has prepared an addendum to Appendix 3 of *Planning for Bush Fire Protection 2006* (PBP) (RFS, 2006) which replaces the existing Appendix 3. The addendum aligns PBP (RFS, 2006) Appendix 3 with the BCA DTS separation distance requirements for the Bushfire Attack Levels (BAL) of AS3959-2009. It also maintains ember protection consistent with current requirements.

Building design and the materials used for construction of the proposed extension should be chosen based on the information contained within AS3959-2009, and accordingly the designer / architect should be made aware of this recommendation. It may be necessary to have building plans checked by the architect involved to ensure that the proposed building meet the relevant Bushfire Attack Level (BAL) as detailed in AS3959-2009.

The determinations of the appropriate BAL are based upon parameters such as weather modelling, fire-line intensity, flame length calculations, as well as vegetation and fuel load analysis. The determination of the construction level is derived by assessing the:

- Relevant FDI = 100
- Flame temperature
- Slope
- Vegetation classification; and
- Building location

The following BAL, based on heat flux exposure thresholds, are used in the standard:

(a) **BAL – LOW** The risk is considered to be **VERY LOW**

There is insufficient risk to warrant any specific construction requirements but there are still some risks.

(b) **BAL – 12.5** The risk is considered to be **LOW**

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There is a risk of ember attack.

The construction elements are expected to be exposed to a heat flux not greater than 12.5 kW/m².

(c) BAL-19 The risk is considered to be MODERATE

There is a risk of ember attack and burning debris ignited by wind borne embers and a likelihood of exposure to radiant heat.

The construction elements are expected to be exposed to a heat flux not greater than 19 kW/m².

(d) BAL-29 The risk is considered to be HIGH

There is an increased risk of ember attack and burning debris ignited by windborne embers and a likelihood of exposure to an increased level of radiant heat.

The construction elements are expected to be exposed to a heat flux no greater than 29 kW/m².

(e) BAL-40 The risk is considered to be VERY HIGH

There is much increased risk of ember attack and burning debris ignited by windborne embers, a likelihood of exposure to a high level of radiant heat and some likelihood of direct exposure to flames from the fire front.

The construction elements are expected to be exposed to a heat flux no greater than 40 kW/m².

(f) BAL-FZ The risk is considered to be EXTREME

There is an extremely high risk of ember attack and burning debris ignited by windborne embers, a likelihood of exposure to an extreme level of radiant heat and direct exposure to flames from the fire front.

The construction elements are expected to be exposed to a heat flux greater than 40 kW/m².

5.2 Determination of Bushfire Attack Levels

Using a FDI of 100, the information relating to vegetation, slope and according to Table 2.4.2 of AS3959-2009 and Addendum: Appendix 3 of PBP (RFS, 2006), Table 5-1 illustrates the required BALs for the proposed extensions.

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Table 5-1: Determination of BALs for the Proposed Extension

Vegetation Type & Direction	Average Slope of Land (degrees)	Separation Distance	Bushfire Attack Level (BAL)	Construction Section
Managed Land	Flat and downslope 1-2 degrees	>100m	BAL-LOW	Minimal attack from radiant heat and flame due to the distance of the site from the vegetation, although some attack by burning debris is possible. There is insufficient threat to warrant specific construction requirements.

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6 PROPERTY ACCESS / EGRESS & PUBLIC ROADS

6.1 Capacity of Public Roads

In the event of a bush fire emergency the public road servicing the subject land has the capacity to handle the increased volume of traffic associated with the development.

All vehicle access to the site is provided via an access off Kindiebark Drive that allows for connection with the greater road network.

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7 SERVICES

7.1 Water Supply & Pressure

The subject land is serviced by reticulated water and will extend into the development area. The proposed internal fire hydrant spacing, sizing and pressures are to comply with AS 2419.1-2005 Fire Hydrant Installations – System design, installation and commissioning (2005).

7.2 Gas & Electricity Supply

Any gas services are to be installed and maintained in accordance with AS 1586. The relief valves of any gas cylinder located near the building will be directed away from the buildings and away from combustible materials.

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8. EMERGENCY & EVACUATION MANAGEMENT PLAN

The assessment does not provide an Emergency Response or an Evacuation Plan. These will be submitted for approval prior to the occupation of buildings and will be prepared consistent with the RFS document *A Guide to Developing a Bushfire Evacuation Plan* (2004).

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9 AIMS & OBJECTIVES OF PLANNING FOR BUSHFIRE PROTECTION

The aim of PBP (RFS, 2006) is to use the NSW development assessment system to provide for the protection of human life and to minimize impacts on property from the threat of bushfire, while having due regard to development potential, on site amenity and protection of the environment.

More specifically the objectives are to:

- Afford occupants of any building adequate protection from exposure to bush fire;
- Provide for a defendable space to be located around buildings;
- Provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;
- Ensure that safe operational access and egress for emergency personnel and residents is available;
- Provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the APZ; and
- Ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush fire-fighting).

The following comments are provided in relation to satisfying the objectives of PBP (RFS, 2006).

9.1 Objective 1

- (i) *Afford occupants of any building adequate protection from exposure to bush fire*

Managed land occurs around the site for a distance of 100m. It is recommended that the site is managed as an IPA.

9.2 Objective 2

- (ii) *Provide for a defendable space to be located around buildings*

The site is to be managed as an IPA.

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**9.3 Objective 3**

- (iii) Provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition

Managed land occurs to a distance of 100m from the site and management of the site as an IPA outside of the development area and water supply will prevent flame contact and material ignition.

9.4 Objective 4

- (iv) Ensure that safe operational access and egress for emergency personnel and residents is available

It is considered that the proposed access will provide safe operational ingress for emergency services and also provide safe egress for residents during an emergency.

9.5 Objective 5

- (v) Provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the APZ

No vegetation needs to be removed to create the APZs. It is recommended that the entire site is managed to the specifications of an IPA.

9.6 Objective 6

- (vi) Ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush fire-fighting)

It is expected that water mains will be extended into the site. To facilitate quick and efficient action by the Fire Brigade / Rural Fire Service upon arrival, it is recommended that all necessary connections / pumps etc be clearly marked and visible, and in good working order.

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10 SUMMARY OF BUSHFIRE PROTECTION MEASURES

The following table summaries the BFPM proposed and compliance with PBP (RFS, 2006) and AS3959-2009.

Table 10-1: Bush Fire Protection Measures & Compliance with PBP (RFS, 2006) & AS3959-2009

Bushfire Protection Measures	Proposed	Compliance with PBP (RFS, 2006)
Asset Protection Zones	Managed land occurs to a distance of 100m from the site.	Complies – setbacks of greater than 60m occur between the proposed extension and any bushfire hazard.
Bushfire Attack Levels (BALs)	The proposed extension will be located greater than 100m away from any bushfire hazard, therefore are assessed as BAL-LOW.	Complies.
Access	An internal road will service the extension and link directly to Kindiebark Drive.	Complies – Meets the performance criteria of PBP (RFS, 2006).
Water Supply	Reticulated water exists that is to be extended into the development area of the site.	Complies - The subject land is serviced by reticulated water and proposed internal fire hydrant spacing, sizing and pressures are to comply with AS 2419.1-2005 Fire Hydrant Installations – System design, installation and commissioning (2005).

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11 CONCLUSION & RECOMMENDATIONS

In summary, the following is recommended to enable the proposal to meet the relevant legislative requirements:

- Managed land to a distance of 100m occurs around the site. It is recommended the entire site be managed as an IPA.
- Assessment in accordance with AS3959-2009 (section 5 of this report) has shown that the proposed extension has been assessed as BAL-LOW.
- The site is connected to reticulated water. The development will be linked to the water pressure mains and the proposed internal fire hydrant spacing, sizing and pressures are to comply with AS 2419.1-2005 Fire Hydrant Installations – System design, installation and commissioning (2005).
- It is recommended that an Emergency Response and Evacuation Plan is to be prepared for the site. This plan is to be consistent with the RFS document "A guide to Developing Bushfire Evacuation Plan" (2004).

Provided the recommendations stated above are implemented in full Firebird ecoSultants Pty Ltd is of the opinion that the proposed will meet the aims and objectives of PBP (RFS, 2006).

Sarah Jones

B.Env.Sc., G.Dip.DBPA (Design for Bushfire Prone Areas)

FPA BPAD-A Certified Practitioner (Certification Number BPD-PA-26512)

Ecologist / Bushfire Planner

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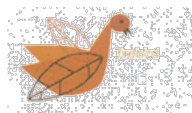


APPENDIX A SITE PLAN



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APPENDIX B ASSET PROTECTION ZONES

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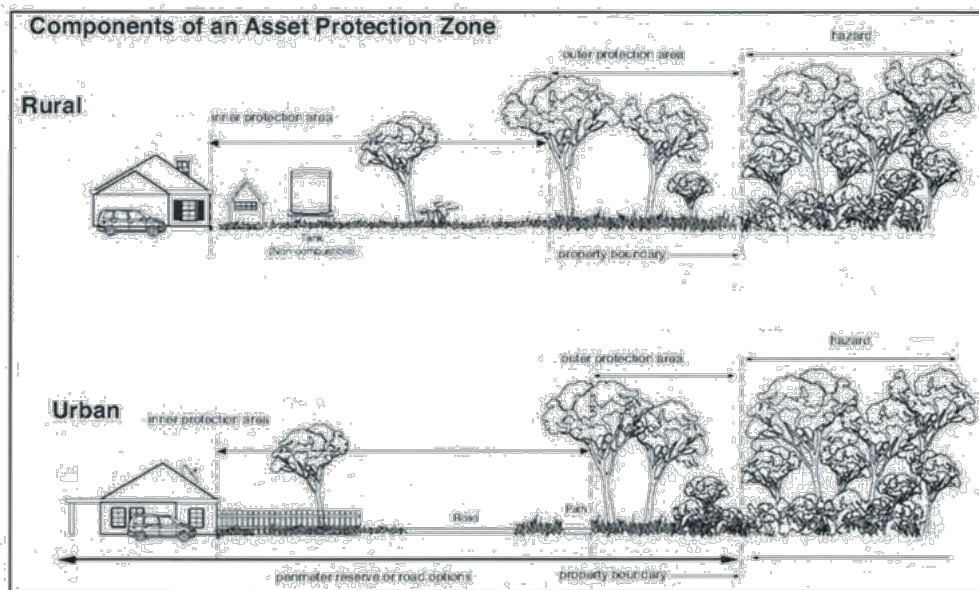


ASSET PROTECTION ZONES

An Asset Protection Zone (APZ) is an area surrounding a development that is managed to reduce the bushfire hazard to an acceptable level to mitigate the risk to life and property (refer to Figure B-1 below). The required width of the APZ varies with slope and the type of hazard. An APZ can consist of both an Inner Protection Area (IPA) and an Outer Protection Area (OPA). The respective IPA and OPA widths for the required APZs are as detailed in Table 5-1. An APZ can include the following:

- Lawns;
- Discontinuous gardens;
- Swimming pools;
- Driveways;
- Unattached non-combustible garages with suitable separation from the dwelling;
- Open space / parkland;
- Golf courses; and
- Car parking.

Figure B-1: Components of an APZ (PBO 2006)



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INNER PROTECTION AREA

The Inner Protection Area (IPA) extends from the edge of the OPA to the development. The IPA aims to ensure that the presence of fuels which could contribute to a fire event / intensity are minimised close to the development. The performance of the IPA must be such that:

- There is minimal fine fuel at ground level which could be set alight by a bushfire; and
- Any vegetation in the IPA does not provide a path for the transfer of fire to the development – that is, the fuels are discontinuous.

The presence of a few shrubs or trees in the IPA is acceptable provided that they:

- Do not touch or overhang any buildings;
- Are well spread out and do not form a continuous canopy;
- Are not species that retain dead material or deposit excessive quantities of ground fuel in a short period or in a danger period; and
- Are located far enough away from any dwelling so that they will not ignite the dwelling by direct flame contact or radiant heat emission.

Woodpiles, wooden sheds, combustible material storage areas, large areas / quantities of garden mulch, stacked flammable building materials etc are not permitted in the IPA.

OUTER PROTECTION AREA

The Outer Protection Area (OPA) is located adjacent to the hazard. Within the OPA any trees and shrubs should be maintained in a manner such that the vegetation is not continuous. Fine fuel loadings should be kept to a level where the fire intensity expected will not impact on adjacent developments.

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Attachment 9: Post-Gateway – Addendum (Untapped Planning, 2016)

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PLANNING PROPOSAL

Kindlebark Drive Medowie

Prepared for Medowie Pastoral;

Lot 10, DP 1154803; 142 Kindlebark Drive, Medowie

Lot 61, DP 1106425; 1A Heritage Avenue, Medowie

Lot 1, DP 270731; Middleby Grove, Medowie

Lot 2, DP 270731; 140A Kindlebark Drive, Medowie

Lot 3, DP 270731; 140 Kindlebark Drive, Medowie

Lot 4, DP 270731; 1/1 Heritage Avenue, Medowie

Lot 5, DP 270731; 2/1 Heritage Avenue, Medowie

Lot 6, DP 270731; 140B Kindlebark Drive, Medowie

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.**Introduction**

This addendum report for a Planning Proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. The report is prepared as an addendum to the Planning Proposal previously submitted to Port Stephens Council in response to requests for additional detail from the Department of Planning dated 15th September 2015.

It explains the intended effect of, and justification for, a proposed amendment to the Port Stephens Local Environmental Plan 2013 to rezone the following allotments from R5 Large Lot Residential to R2 Low Density Residential;

- Lot 10, DP 1154803 (142 Kindlebark Drive, Medowie)
- Lot 61, DP 1106425; (1A Heritage Avenue, Medowie)
- Lot 1, DP 270731; (Middleby Grove, Medowie)
- Lot 2, DP 270731; (140A Kindlebark Drive, Medowie)
- Lot 3, DP 270731; (140 Kindlebark Drive, Medowie)
- Lot 4, DP 270731; (1/1 Heritage Avenue, Medowie)
- Lot 5, DP 270731; (2/1 Heritage Avenue, Medowie)
- Lot 6, DP 270731; (140B Kindlebark Drive, Medowie)

In addition to the proposed rezoning, it is sought to introduce a Schedule 1 – Additional Permitted Uses Clause to the Port Stephens Local Environmental Plan 2013 for Lot 10 DP 1154803 to introduce additional uses to those permissible in the R2 Zone to facilitate controlled development and expansion of the existing approved use of the site.

A Schedule 1 Clause will allow controlled specific uses to enhance the existing development without allowing all development permissible in the B1 Zone to occur on site.

Specifically it is sought to allow;

- (a) hotel or motel accommodation,
- (b) function centre,
- (c) restaurant or café,
- (d) small bar,
- (e) cellar door,
- (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.

The objective of the Planning Proposal has two parts;

- To rezone the subject land (Lot 61 DP 1106425, Lots 1, 2, 3, 4, 5, 6 DP 270731 and Lot 10 DP 1154803) from R5 Large Lot Residential to R2 Low Density Residential to enable its subdivision for residential use. This will also necessitate the amendment of the Lot Size and Building Height maps.

and,

- Introduce a Schedule 1 – Additional Permitted Uses Clause on Lot 10 DP 1154803 to allow the continued use and expansion of the existing uses on the site. This clause will also contain all relevant Development Standards.

The Department of Planning, in their Gateway Determination, has specifically requested the following be addressed to allow Council to making the plan;

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- Further consideration of S117 Directions;
 - 3.4 Integrated Living and Transport
 - 5.1 Implementation of Regional Strategies
 - 6.3 Site Specific Provisions
- Economic Assessment
- Consideration of net community benefit as required by the Departments guide 'Right Place for Business and Services'.

The following reports have been prepared in order to address the outstanding issues and should be read in conjunction with this report;

- Economic Assessment prepared by Jenny Rand and Associates dated January 2016.
- Traffic Impact Statement prepared by Better Transport Futures January 2016
- Preliminary Contaminated Site Investigation prepared by Forum Consulting November 2015

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.**Section 117 Directions****3.4 Integrated 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 planning objectives related to improving access to jobs and services by alternative modes of transport, transport choice, reduce travel demand and supporting public transport.

The proposed land use is consistent with adopted planning strategies for the area including the Medowie Strategy, Port Stephens Planning Strategy and Lower Hunter Regional Strategy.

The Planning Proposal, including both the Rezoning to R2 and Schedule 1 Clause, will not create potential for a significant number of allotments and as such is not seen to create a significant impact on the existing traffic network.

A Traffic Impact Assessment (prepared by Better Transport Futures, Ref:BTF2011501) has been prepared for this Planning Proposal and is discussed below.

The objectives of this direction state;

- (a) Improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) Increasing the choice of available transport and reducing dependence on cars, and
- (c) Reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) Support the efficient and viable operation of public transport services, and
- (e) Providing for the efficient movement of freight.

The Planning Proposal has been supported by both a Traffic Impact Statement that demonstrates the suitability of the site, the impact on surrounding development in terms of Traffic.

The report has considered the local road hierarchy and included a count of traffic to ascertain local traffic conditions and the likely impact of the proposal. The report also considered existing Pedestrian, Cyclist and Public Transport Facilities.

Existing Traffic flows in the vicinity of the subject site are considered to be low, being in the order of 500 vehicles per hour, south of Kindiebark Drive. This figure is considered to be well within acceptable capacity limits for the type of two lane road that Medowie Road is.

It is noted that Councils own Medowie Traffic and Transport Study forecast flows of approximately 600 vehicles per hour. Even with the development of the subject site, the road will remain well within this limit.

Access from both Kindiebark Drive and Medowie Road has been considered in the assessment. It is noted that both of these access points currently exist and are proposed to be retained by any future development. Taking into account 10 year growth in traffic rates, the report has concluded that the current intersection treatments are sufficient to deal with the proposed development of the subject site without any augmentation.

It is considered that post development the existing intersection of Kindiebark Drive and Medowie Road will continue to effectively operate under priority control.

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In terms of pedestrian and cycle linkages, there are limited facilities in the immediate area. Medowie Road currently contains footpaths on both sides with a bus stop located 100m to the south of the Subject site.

Consideration of pedestrian and cycle facilities in the Medowie area has been included in formulating Councils draft Medowie Local Area Contributions Plan – Traffic and Transport. This Plan is based on the Medowie Traffic and Transport Study (URaP –TTW 20012) and has not been formally adopted by Council.

Public transport is available to the site with two CBC Medowie Bus Routes travelling within walking distance of the site. These routes being the 136 (Raymond Terrace to Stockton via Williamtown Airport) and 137 (Raymond Terrace to Lemon Tree Passage) bus routes.

These bus routes provide effective transport to key nodes including the Williamtown Airport, Medowie Town Centre and Raymond Terrace.

The Traffic Impact Assessment ultimately concluded;

Based on the traffic impact assessment conducted into the rezoning application of the subject site, and subject to the recommendations contained herein, it is concluded that the proposed development at Kindlebark Drive, Medowie is able to be accommodated on the existing road network based on traffic planning and engineering considerations.

The proposed rezoning will not have a major impact upon the local road network, existing or planned, and with the planned upgrade to the Medowie Road / Kindlebark Drive intersection will be easily catered for at good levels of service into the future.

It is therefore recommended the rezoning application be supported on traffic planning and engineering grounds.

5.1 Implementation of Regional Strategies

The objective of this direction is to give legal effect to the vision, land use policies, outcomes and actions contained in regional strategies.

The Regional Strategy applicable to the proposed rezoning is the Lower Hunter Regional Strategy. This strategy contains sustainability criteria that is addressed below.

Criteria	Comment
1. Infrastructure Provision Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way <ul style="list-style-type: none"> Development is consistent with any regional strategy, subregional strategy, State Infrastructure Strategy, or section 117 direction. The provision of infrastructure (utilities, transport, open space and communications) is costed and economically feasible based on Government methodology for 	<p>The planning proposal will allow the land holder to lodge an application for a 'change of use' for seniors living portion of the site. It will also facilitate a controlled expansion of the existing winery and restaurant to include accommodation, function centre and supportive boutique retail premises.</p> <p>There is adequate infrastructure in place and the proposal will not generate additional infrastructure requirements.</p>

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<p>determining infrastructure development contributions.</p> <ul style="list-style-type: none"> • Preparedness to enter into development agreement. 	
<p>2. Access</p> <p>Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided</p> <ul style="list-style-type: none"> • Accessibility of the area by public transport and/or appropriate road access in terms of: <ul style="list-style-type: none"> ○ Location/land use — to existing networks and related activity centres. ○ Network — the area's potential to be serviced by economically efficient transport services. ○ Catchment — the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/ transport patterns to make a positive contribution to achievement of travel and vehicle use goals. • No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network. 	<p>There is existing and adequate access to the site. The planning proposal and subsequent change of use will have a negligible impact on the existing road network.</p> <p>A Traffic Impact Assessment has been prepared by Better Transport Futures that demonstrates this.</p>
<p>3. Housing Diversity</p> <p>Provide a range of housing choices to ensure a broad population can be housed</p> <ul style="list-style-type: none"> • Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing. 	<p>The planning proposal will provide additional housing supply in the LGA. However, this contribution is insignificant.</p>
<p>4. Employment Lands</p> <p>Provide regional/local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies</p> <ul style="list-style-type: none"> • Maintain or improve the existing level of subregional employment self- 	<p>The planning proposal will not add to, or subtract from existing employment lands.</p> <p>The existing business on the site is proposed to be retained and expanded in a way that is complimentary to and supportive of the existing commercial centre of Medowie.</p>

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<p>containment.</p> <ul style="list-style-type: none"> Meets subregional employment projections. <p>> Employment-related land is provided in appropriately zoned areas.</p>	<p>The planning proposal will allow an expanded, yet controlled, use of the land.</p>
<p>5. Avoidance of Risk</p> <p>Land use conflicts, and risk to human health and life, avoided</p> <ul style="list-style-type: none"> No residential development within 1:100 floodplain. Avoidance of physically constrained land, e.g. <ul style="list-style-type: none"> high slope highly erodible. Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. Where relevant available safe evacuation route (flood and bushfire). 	<p>The subject site is Bushfire Prone, a bushfire report has previously been submitted demonstrating the sites suitability.</p> <p>The site is bound by Medowie Road and Kindlebark Drive which form Asset Protection Zones separating the site from any bushland.</p> <p>The proposal will not create land use conflict with adjoining development, which is predominately rural / rural- residential development.</p>
<p>6. Natural Resources</p> <p>Natural resource limits not exceeded/environmental footprint minimised</p> <ul style="list-style-type: none"> Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows. Demonstrates most efficient/suitable use of land: <ul style="list-style-type: none"> avoids identified significant agricultural land Avoids productive resource lands — extractive industries, coal, gas and other mining, and quarrying. Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy — requires demonstration of efficient and sustainable supply solution. 	<p>The planning proposal will not impact upon any natural resources.</p> <p>The site is currently app[roved for seniors living and contains an approved winery and restaurant.</p> <p>Given the sites disturbed natural and the existing approvals it is considered that the will be no impacts upon Natural Resources.</p>
<p>7. Environmental Protection</p> <p>Protect and enhance biodiversity, air quality, heritage and waterway health</p> <ul style="list-style-type: none"> Consistent with Government-approved 	<p>The planning proposal will have minimal environmental impact as the site is mostly cleared and contains little vegetation.</p>

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<p>Regional Conservation Plan (if available).</p> <ul style="list-style-type: none"> • Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats. • Maintain or improve existing environmental condition for air quality. • Maintain or improve existing environmental condition for water quality: <ul style="list-style-type: none"> ○ consistent with community water quality objectives for recreational water use and river health (DEC and CMA) ○ consistent with catchment and stormwater management planning (CMA and council). • Protects areas of Aboriginal cultural heritage value (as agreed by DEC). 	<p>Where new buildings are possible, the site is already disturbed and environmental impact is considered to be negligible.</p>
<p>8. Quality and Equity in Services</p> <p>Quality health, education, legal, recreational, cultural and community development and other Government services are accessible</p> <ul style="list-style-type: none"> ○ Available and accessible services: ○ Do adequate services exist? ○ Are they at capacity or is some capacity available? ○ Has Government planned and budgeted for further service provision? ○ Developer funding for required service upgrade/access is available. 	<p>The rezoning of the site from R5 to R2 will not result in an increased density to that currently approved. As such it is considered that the proposal will not result in any increased demand on community services.</p> <p>The site is however located within close proximity to both Medowie and Raymond Terrace to access services.</p> <p>Given the scale of the proposal it is considered that the planning proposal will have negligible impacts upon existing services.</p>

ITEM 3 - ATTACHMENT 1 PLANNING PROPOSAL - KINDLEBARK DRIVE, MEDOWIE.**6.3 Site Specific Provisions**

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

This direction applies as the planning proposal seeks to amend the existing LEP to allow a particular form of development.

This direction is specific to the Schedule 1 component of this proposal.

Part (4) of this direction states;

A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal must either:

- (a) allow that land use to be carried out in the zone it is situated on, or*
- (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principle environmental planning instrument being amended.*

This proposal is consistent with (a) in that the schedule 1 clause will allow a specific land use to be carried out on the land zone it is situated.

As discussed in this report, the introduction of a Schedule 1 is considered to have more merit than the wholesale rezoning of the site to a commercial zone.

The Site Specific Provisions proposed are;

7. Use of certain land at 142 Kindiebark Drive, Medowie

(1) This clause applies to land at 142 Kindiebark Drive, Medowie being Lot 10, DP 1154803.

(2) Development for the following purposes is permitted with development consent:

- (a) hotel or motel accommodation,*
- (b) function centre,*
- (c) restaurant or café,*
- (d) small bar,*
- (e) cellar door,*
- (f) commercial premises being 'business premises', 'shops' and 'takeaway food and drink premises'.*

(3) Development consent for commercial premises under subclause (2f) must only be granted to development that has:

- (a) tenancies which have a retail floor area that does not exceed 100 square metres, and,*
- (b) the combined commercial premises not exceeding 15% of the land to which this clause applies.*

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A commercial zone would have the potential to introduce undesirable land uses that would detract from the locality and the existing Medowie town centre.

The Schedule 1 clause, as described above, gives a level of certainty to the redevelopment and expansion of the existing uses on site without compromising the Medowie Strategy or existing Town Centre.

Subclause 3(b) will restrict the total retail development to approximately 500m² with no tenancy able to exceed a floor space of 100m². These limits serve to prevent the development of 'large box' retailing such as supermarket, discount department store, category leader (eg Rebel Sports, Bunnings, Masters Hardware) and bulky goods retail. These types of retail activities are not consistent with the development proposals and could be seen to detract from the Medowie Town Centre.

Implementing the maximum floor space of 100m² for each retail tenancy will further serve to support the development of specialty boutique shops, which will be consistent with the uses to be permitted on site.

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**Net Community Benefit**

Planning proposals also have to be consistent with 'The Right Place for Businesses and Services – Planning Policy'. Consistency of the proposed development with this Planning Policy is below. The submitted Economic Impact Assessment for the proposal has found that overall the proposed development is of minor economic significance.

An Economic Impact Assessment has been prepared by Jenny Rand and Associates, January 2016, to demonstrate the Economic Impact and benefits of the proposal,

Objective

(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- (a) improving access to housing, jobs and services by walking, cycling and public transport, and
- (b) increasing the choice of available transport and reducing dependence on cars, and
- (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and
- (d) supporting the efficient and viable operation of public transport services, and
- (e) providing for the efficient movement of freight.

To demonstrate the appropriateness of the site in terms of Land Use, Transport and Traffic Impacts a Traffic Impact Assessment has been undertaken by Better Transport Futures.

Right Place for Business and Services – Planning Policy

This policy plans for a better arrangement of land uses in support of centres and the transport systems which serve them.

The policy aims;

To encourage a network of vibrant, accessible mixed use centres which are closely aligned with and accessible by public transport, walking and cycling.

Responsive planning, consistent decision making and good design and management are needed to ensure that:

- *There are development opportunities in centres for businesses and services.*
- *Community investment in infrastructure is protected.*
- *Investor confidence in centres is maintained.*

The policy has the following objectives;

The planning objectives of this policy are to:

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- *Locate trip-generating development which provides important services in places that:*
 - *Help reduce reliance on cars and moderate the demand for car travel.*
 - *Encourage multi-purpose trips.*
 - *Encourage people to travel on public transport, walk or cycle.*
 - *Provide people with equitable and efficient access.*
- *Minimise dispersed trip generating development that can only be accessed by cars.*
- *Ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery.*
- *Protect and maximise community investment in centres and in transport infrastructure and facilities.*
- *Encourage continuing private and public investment in centres and ensure that they are well designed, managed and maintained.*
- *Foster growth, competition, innovation and investment confidence in centres especially in the retail and entertainment sectors, through consistent and responsive decision-making.*

The planning proposal is considered to be consistent with the planning objectives and is discussed further in the Net Community Benefit Criteria.

The Right Location

The policy objectives can be most effectively achieved by locating trip-generating development in and adjoining accessible mixed use centres. Mixing land uses will help to maximise multi-purpose trips, while accessibility can be optimised in the following circumstances for:

- retail, cinemas, services and the like – accessibility is optimised when their service catchment or customer trade area matches the capacity and radial extent of the centre's public transport network
- major office development – accessibility for employees is maximised when offices are concentrated in major urban centres to maximise mode share to public transport
- other office development – accessibility is maximised when it is located on mass transit routes, especially rail. (This is not applicable to office development ancillary to industrial or other land uses.)

In the case of the proposed development and supporting rezoning, the land uses proposed are all supportive of each other and will result in multi-purpose trips where by visitors to the site access a wide cross section of services on the site.

In terms of locating the development, the policy provides for the following guidelines for existing isolated commercial development.

Poorly located trip-generating developments exist throughout the metropolitan area, many of which would not be approved today. Often circumstances surrounding these are unique so a single policy response to their future is not possible. However, given that most commercial operations need to change over time, decision makers are faced with the following planning options:

- *allow for change and growth conditional on improvements to manage travel demand and improve access by public transport*
- *plan for the commercial operation's evolution into an appropriate mixed use centre with suitable social and transport infrastructure*
- *limit any expansion, and plan for an orderly and fair phasing out of the land use.*

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The net community benefit should guide the most appropriate response, while the considerations described for different types of development in this section should be applied when making a development decision.

The Economic Assessment submitted with this report considered the location of the development and concluded;

The proposed Pioneer Ridge Boutique Winery development reflects Option 2 in that it is an evolution of the existing commercial operation into a small mixed use centre. The centre itself will become part of the social fabric of Medowie.

Pioneer Ridge Boutique Winery was established in 1979 in what was then a rural area, with the development being relatively 'isolated'. This is no longer the case. Since 1979, the land surrounding the Winery has been progressively subdivided and developed for residential and rural residential development. The property is now located within the Medowie urban area. Medowie Road has become a sub-arterial road and is now the main traffic route through Medowie. As such the proposed development is highly accessible to passing traffic with no deviation required off this route.

The Winery site is approximately 100 metres from the boundary of the Medowie Town Centre precinct as defined in the draft Medowie Planning Strategy and the draft Medowie Town Centre Masterplan. It is within easy walking distance of the existing Medowie shopping centre, and the proposed medium density residential areas within the Town Centre Precinct. Visitors staying within the proposed hotel accommodation will be able to easily walk into the Town Centre to access the hotel, eateries and other services that are available. The site is also highly accessible from the adjoining Kindlebark residential estate and from the rural residential areas along the northern edge of Medowie, with the proposed shops likely to become 'local' shops for residents of these estates.

The Winery site is connected to the Town Centre by a shared pedestrian – cycleway. This pathway is being extended through to the existing and proposed (The Bower) rural residential estates to the north of the Winery. The cycleway is part of the regional cycleway network that links Medowie and Lakeside via the Grahamstown Reservoir foreshore, with links through to Raymond Terrace. The draft Medowie Planning Strategy proposes that the cycleway will also be extended south along Medowie Road to link with Pacific Dunes and the proposed South Street residential precinct.

The Winery site is also located on a regional bus route, with the bus stop being within 80 metres of the property. It is also located within easy walking distance of the main bus stop proposed for the Town Centre. The shops located within the proposed development will provide a 'local shopping' option for people using the bus stop close to the site. The bus service provides a link between the proposed hotel and Raymond Terrace, Newcastle Airport, Williamstown RAAF base and the employment areas in Newcastle City. The service also links with other services to the Tomaree and Tilligerry peninsulas.

The proposed development also integrates a number of activities – accommodation, function and meeting facilities, restaurant and specialty retailing. This 'mixed' use will reduce the number of car trips, with function guests and meeting delegates able to stay on site, and accommodation guests able to dine and/or shop on site if they wish.

Given the long term historical use of the site as a Winery and Restaurant, and the close nature of the site to the Medowie Town Centre, this rezoning proposal will allow the operation's evolution into an appropriate mixed use centre with suitable social and transport infrastructure.

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The easy walking and cycling links to the Medowie Town Centre and the range of uses proposed will ensure that the proposal does not detract from or compete with the Medowie Town Centre and that it will in fact be complimentary to and supportive of by bringing additional Tourists to the area who will require the services provided by the Medowie Town Centre.

Relocation of the development away from the current site would require relocating an existing, successful business being the winery and restaurant. As discussed it is considered that through the use of a Schedule 1 clause, the expansion and evolution of the existing operation can be permitted while controlling development to types that will be complimentary and supportive of the existing Medowie Town Centre.

Economically the development is seen to play the following role in the future development of Medowie;

- Continuation of the provision of a quality restaurant servicing all of Medowie, Kings Hill and the RAAF Base.
- Boutique Function Centre and associated Accommodation to service weddings and other events. This will have flow on economic benefits to local businesses such as the florist, hair and beauty service providers, food suppliers, DJ, photographers, accommodation etc.
- High Profile Tourist Attraction with an Italian Piazza themed specialty shopping within the existing vineyard setting. This will fit in and compliment existing centres such as Medowie Macadamias attracting more visitors to the local area with flow on support to local business.
- The potential to become a social hub and meeting place for the Medowie Community.
- Provision of accommodation that will not only service the site, but also visitors to the Golf Club, visitors to the wider Port Stephens LGA and Business Travellers given its proximity to the airport.
- Provision of additional employment opportunities through the construction phase and ultimately the approximate 30 staff required when fully operational.

It is considered that the proposal will have a positive Economic Impact on the local community and wider LGA.

Net Community Benefit Assessment Criteria

The policy sets out assessment criteria that must be considered in determining the net community benefit or cost.

The degree to which the policy and its objectives can be satisfied.

The policy objectives are;

- *Locate trip-generating development which provides important services in places that:*
 - *Help reduce reliance on cars and moderate the demand for car travel.*
 - *Encourage multi-purpose trips.*
 - *Encourage people to travel on public transport, walk or cycle.*
 - *Provide people with equitable and efficient access.*
- *Minimise dispersed trip generating development that can only be accessed by cars.*
- *Ensure that a network of viable, mixed use centres closely aligned with the public transport system accommodates and creates opportunities for business growth and service delivery.*

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- *Protect and maximise community investment in centres and in transport infrastructure and facilities.*
- *Encourage continuing private and public investment in centres and ensure that they are well designed, managed and maintained.*
- *Foster growth, competition, innovation and investment confidence in centres especially in the retail and entertainment sectors, through consistent and responsive decision-making.*

The development as proposed is considered to be consistent with these Policy Objectives in that it;

- Is located on the main access road in Medowie and close to Medowie Town Centre precinct with easy pedestrian and cycle links to the Medowie Town centre.
- The site is accessible by public transport and is located on the pedestrian and cycleway network.
- The design concept and proposed uses encourages visitors staying on the property to make fewer trips.
- Creating opportunities for business growth.
- Delivering services to the surrounding community.
- It will protect and improve the private investment in the existing Winery business.
- Diversifying and enhancing the range of facilities and services available within Medowie, including providing specialty shops which are 'missing' from the existing shopping centre.
- Being an innovation development that will increase the appeal and 'livability' of Medowie which in turn will help to foster growth and investment.

The proposed level of accessibility to the catchment of the development by public transport, walking and cycling.

The Pioneer Ridge Site is highly accessible, located on the main route to and through Medowie, as well as being on the regional bus route and the regional cycleway. It is approximately 100m from the edge of the Town Centre precinct and within easy walking and cycling distance of the existing shopping centre.

While it is envisaged that the majority of visitors to the accommodation and function centre will drive to the development, it is considered that those same visitors are within walking distance of the existing Medowie Town Centre.

Further the developments location is within easy walking distance of existing residential development resulting in the likely scenario of local residents walking to the site to access the restaurant.

The likely effect on trip patterns, travel demand and car use.

The integration of accommodation, function and meeting facilities, a restaurant and bar and specialty retail in one location will reduce the number of trips made by visitors staying at the site. Proximity to the town centre also provides the opportunity for guests staying in the proposed hotel to walk or cycle to the shops. The proposed development is also within easy driving, walking and cycling distance for all residents of Medowie.

The likely impact on the economic performance and viability of existing centres including the confidence of future investment in centres and the likely effects of any oversupply in commercial or office space on centres.

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The proposed development is likely to generate positive benefits for the Medowie Town Centre and other businesses and strengthen the economic performance and viability of the existing shopping centre and tourist attractions and facilities within the town.

Given that the commercial component of the development will be limited to a maximum of 500m² with individual tenancies limited to 100m², it is considered that visitors to the site, particularly those utilizing the accommodation, will require the services provided by the Medowie Town Centre. In this way, through the attraction of Tourists to Medowie, the development will support existing local business.

The amount of use of public infrastructure and facilities in centres and the direct and indirect cost of the proposal to the public sector.

The proposed rezoning and any subsequent development will not utilize any public infrastructure or facilities and there will be no direct or indirect cost to the public sector.

The practicality of alternative locations which may better achieve the outcomes the Policy is seeking.

Given the existing use of the site as a boutique vineyard and winery, it is considered that this location is ideal for the proposal. The vision for the site is merely an expansion of the existing site use. To seek an alternate location would require the relocation of a successful business.

The ability of the proposal to adapt its format or design to more likely secure a site within or adjoining a centre or in another location.

The proposed rezoning seeks to facilitate a Function Centre, Accommodation, and Boutique shops to complement the existing Winery and Restaurant.

It is considered that it would be inappropriate to secure a site within the Medowie town centre to relocate to, and it is not seen that the Medowie Town Centre would be a compatible site for accommodation, function centre and winery.

The proposed development being an evolution of the existing land use (boutique vineyard and winery) and commercial activities. It is ideally located to service the local community and to attract visitors, including passing traffic, and to provide facilities and services for visitors to the Medowie area.

Its location is also suitably located to allow visitors to the site to access and support the Medowie Town Centre.

Any proposal to rezone land for trip-generating businesses or services should conform to a local strategy which incorporates the policy objectives.

The Pioneer Ridge Boutique Winery is recognised in the draft Medowie Planning Strategy as a stand-alone, site specific commercial development. The draft Medowie Planning Strategy takes into consideration 'The Right Place for Businesses and Services Planning Policy'.

Further, this development has been supported by a Traffic Impact Assessment that has demonstrated that the proposal will have minimal impacts in terms of Trip Generation and Traffic. This Traffic Impact Assessment is discussed elsewhere in this report.

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State Environmental Planning Policy 55 – Remediation of Land

Consideration has been given to State Environmental Planning Policy 55 – Remediation of Land, and a Phase 1 Potential Contamination Report has been prepared by Forum Consulting Engineers dated 26 November 2015, Ref: 51558.

The purpose of this report was to assess any potential contamination on the subject site having particular regards to the requirements of State Environmental Planning Policy No. 55. In undertaking this investigation the reporting included;

- Review of the Site Description and history
- Review of the site geology and hydrogeology
- Review of environmental licenses and notices published in the NSW EPA public database
- Review of historical aerial photography.

Visual inspection of the site found two fill stockpiles. Further inspection of these stockpiles showed that each appears to have consisted of fill material won from previous on-site investigations.

A further rubble/waste pile was located on site in the vacant land to the east/southeast and the north western areas of the site. No asbestos was identified within these piles.

No visual evidence of any contamination was found on site.

Reviews of Aerial photography, geological conditions and historical environmental licenses all revealed no issues that would lead to any indication of previous contaminating uses.

It has been concluded by Forum that *the site contains minimal risk to human health or the environment due to contamination and as such the Investigation Area is suitable for the purpose of a R2 – Low Density Residential land use.*

Port Stephens Comprehensive Plan of Koala Management

Performance Criteria for rezoning applications.

Appendix 2 of the Port Stephens Comprehensive Plan of Koala Management sets out Performance Criteria that apply where a request is made to Council to rezone land. Any activity that is currently allowed under an existing land use zone is not affected by the performance criteria for Rezoning Requests.

Consideration is to be given to the following matters when assessing rezoning requests including any amendment to the Port Stephens LEP. Prior to approving any such rezoning proposal, Council is to take into consideration the likely impacts of the development made possible by the rezoning including environmental impacts on both the natural and built environment, and social and economic impacts on the locality. In particular, Council should be satisfied that the rezoning would:

- a) **not result in development within areas of Preferred Koala Habitat or defined Habitat Buffers.**

Comment:

As can be seen in Figure 1 below, the development is mapped within the Port Stephens Comprehensive Plan of Koala Management as being within an area of Preferred Habitat. The site is however isolated from the bulk of the land mapped as Preferred Koala Habitat by Medowie Road and Kindlebark Drive.

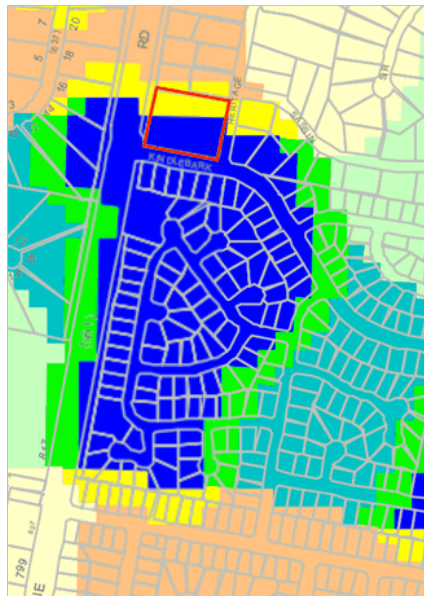


Figure 1 – Koala Habitat Mapping

An inspection of the site, has shown minimal vegetation on the site. Historically, much of the site has been cleared to facilitate the approved and partially constructed Seniors Living development and prior to this, the operation of the winery and ancillary uses.

The following figure, figure 2, shows the extent of site clearing in its current form on both the site and surrounding areas indicated as being Preferred Koala Habitat.