



Planning Proposal 19/003

» 246 – 250 Lismore Road, Wollongbar

November 2019 (V2. Exhibition) 19/84127

ballina
shire council



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1. Introduction

1.1 Summary of Planning Proposal

This planning proposal applies to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar (the land).

The land is zoned R2 Low Density Residential under the provisions of Ballina LEP 2012.

The land has an area of 3,427m².

This planning proposal seeks to permit with development consent a service station and 1 retail premises with a gross floor area (GFA) not exceeding 100m² upon the land.

1.2 Background

Erected on the land since 1980 has been a service station which is still operating. Two other buildings are also erected on the land which at one time were also used for commercial purposes. The service station still enjoys existing use rights whereas the other buildings do not. Existing use rights are discussed in further detail below.

The subject land was previously zoned 2(b) Residential (Village Area) under the provisions of the Ballina LEP 1987. Figure 1 below provides a zoning map extract showing the subject land outlined in red.

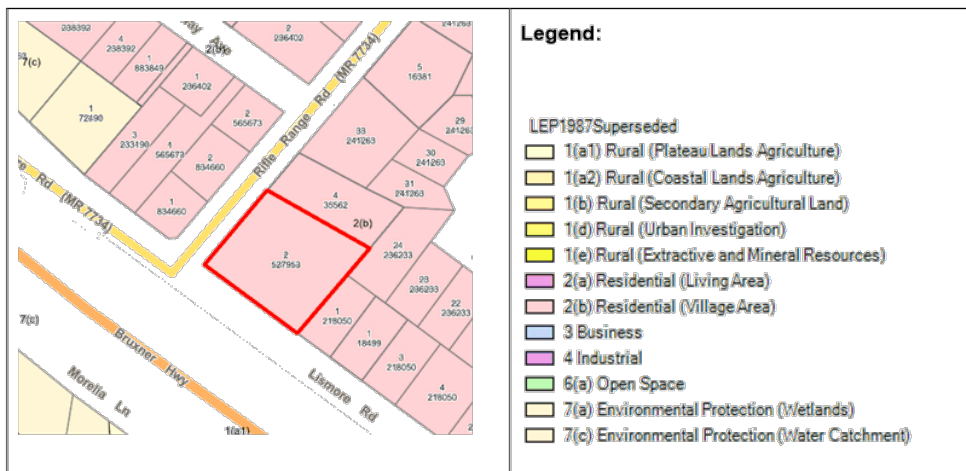


Figure 1: Ballina LEP 1987 Zoning Map Extract (subject land outlined in red)

Development for the purposes of a service station was permissible with consent in the 2(b) Residential (Village Area) zone under the provisions of the Ballina LEP 1987.

The land was subsequently transitioned to the R2 Low Density Residential zone in 2013 under the provisions of Ballina LEP 2012 at which time the service station use became a prohibited use.

In 2017 a development application (DA) was submitted which proposed the demolition of the existing buildings on the land and the erection of a new service station and a 66 place child care centre. Assessment of the development application found that the service station was proposed to be located partly over land that did not enjoy existing use rights.

The development consent that is relied upon for existing use rights is DA 1979/589 which approved the expansion of the existing service station to a garage and showroom. The 1979 DA and the associated building application BA 1980/710 described the subject land as "Lot 3 (subdivision Lot 2, DP 527953)" as shown in the site plan extracts in Figures 2 and 3 below.

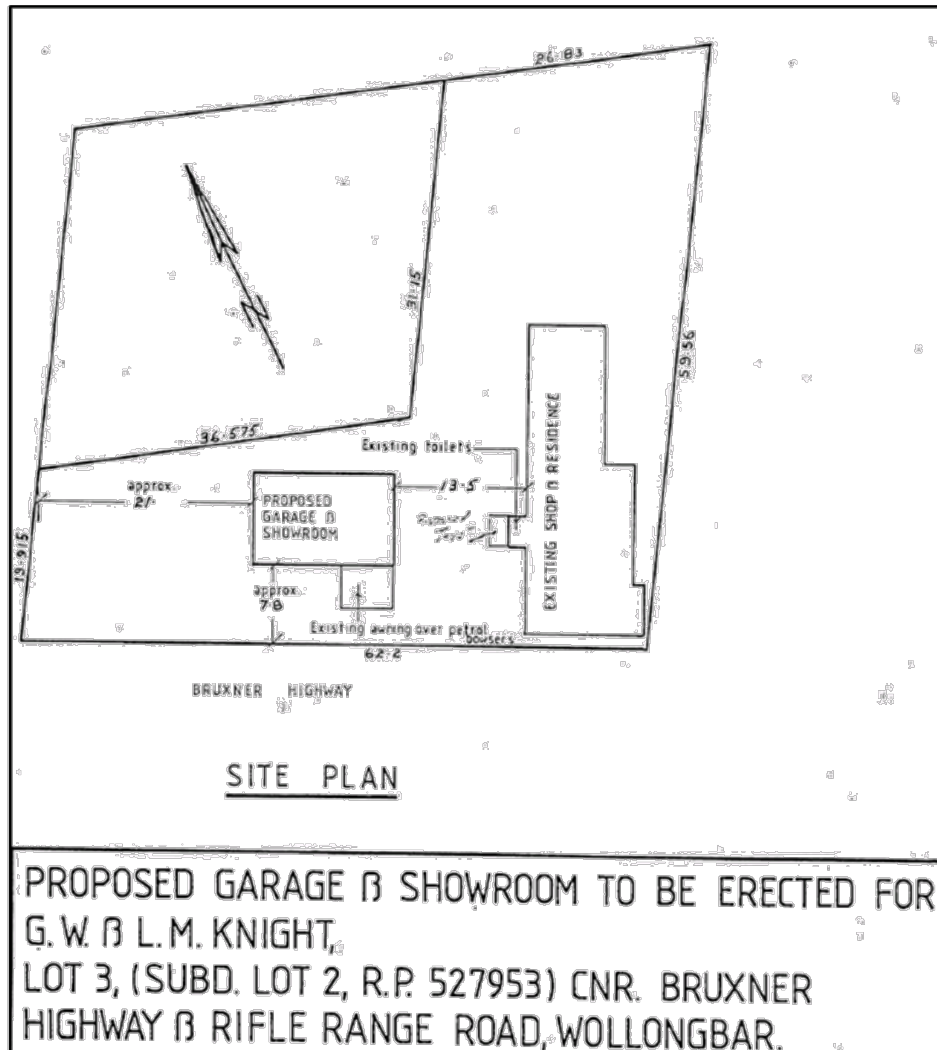


Figure 2: Site plan extract – DA 1979/589

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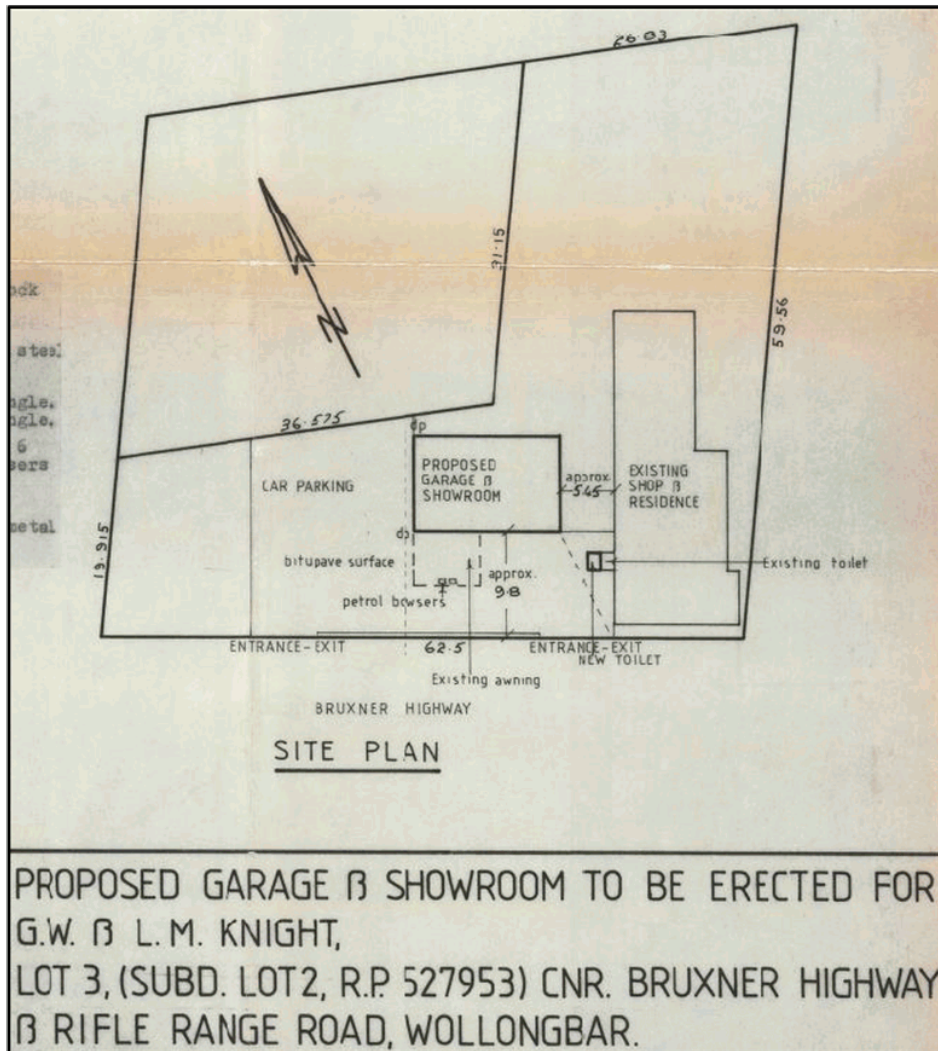


Figure 3: Site plan extract – BA 1980/710

The reference to “Lot 3” comes from a previous development application DA 1975/31 which approved the subdivision of the land into 3 allotments, as depicted in Figure 4 below. Although the subdivision never occurred, legal advice obtained during the assessment of the 2017 DA concluded that the existing use rights for the service station did not extend beyond the area of land currently in use as a service station.

The approval history and development consent register for the site demonstrates there has been intent over an extended period of time to utilise the northern area of the site for uses separate to a service station. One of the approved uses, being a motor showroom business, operated from the northern area of the site separate to the service station until mid to late 2009. This use is now prohibited under the provisions of the Ballina LEP 2012.

The northern driveway from Rifle Range Road is excluded from the existing use rights as it was not shown or referenced / approved in DA 1979/589 or subsequent applications relating to the service station building / curtilage. It appears the northern access had been created and relied upon for vehicular access for a number of separate uses within the northern area of the site which do not enjoy existing use rights.

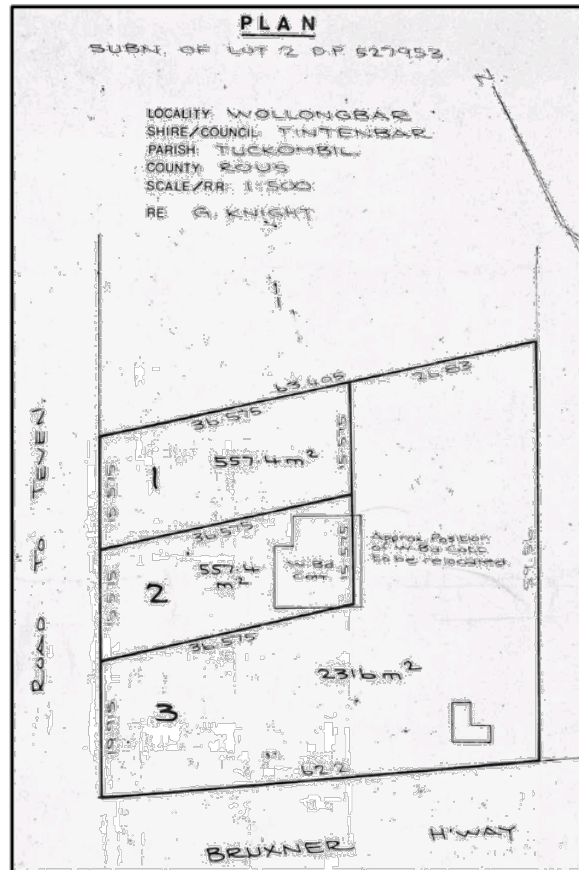


Figure 4: Extract of plan of subdivision approved via DA 1975/31

The 2017 development application was subsequently withdrawn and an application for an LEP amendment was submitted in 2018.

The previously proposed child care centre, whilst permitted within the R2 zone applicable to the land, is no longer proposed.

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1.3 Council Resolutions

A copy of the report to the Council is contained in Appendix 3.

Council considered the matter at its Ordinary meeting held on 25 July 2019. The Council resolved as follows:

1. *That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include a service station and one retail premises with a gross floor area not exceeding 100m² as land uses permitted with development consent in relation to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar.*
2. *That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.*
3. *That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.*
4. *That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.*
5. *That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.*

1.4 Gateway Determination

A Gateway determination, which allows the planning proposal to proceed subject to conditions, was issued on 2 October 2019. The Gateway determination together with the accompanying letter from the Department of planning and environment is contained within Appendix 4.

2. Objectives & Intended Outcomes

To amend Ballina LEP 2012 to enable a service station, and 1 retail premises having a maximum gross floor area of 100m², to be permitted on the land with development consent.

3. Explanation of the Proposal

3.1 Land to Which the Planning Proposal Applies

This planning proposal applies to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar, as shown outlined in red within Figure 5 below.



Figure 5: The subject land, outlined in red

3.2 The Proposal – Explanation of Provisions

This planning proposal seeks to permit with development consent a service station, and 1 retail premises with a gross floor area (GFA) not exceeding 100m², upon the land.

The proposed outcome may be achieved by:

- Retaining the R2 Low Density Residential zoning applicable to the land, and
- Incorporating the proposed service station and retail premises as additional uses permitted subject to the provisions of clause 2.5 and Schedule 1 of Ballina LEP 2012.
- Amending the Ballina LEP 2012 Additional Permitted Use Map to show the location of the land.

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4. Justification

4.1 Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes, the planning proposal resulted as a consequence of Council considering a submission to the Wollongbar Strategic Plan 2019 – 2039 (WSP).

Action 8 of the adopted WSP relates to the consideration of a planning proposal for 246 – 250 Lismore Road, Wollongbar, to permit a service station as an additional permitted use.

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. A planning proposal is the appropriate mechanism through which to permit the proposed changes into the Ballina LEP 2012.

4.2 Section B – Relationship to Strategic Planning Framework

Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

North Coast Regional Plan 2016

Ballina Shire is subject to the North Coast Regional Plan 2036 (NCRP) and is identified as being located within the Far North Coast subregion of the plan.

The NCRP locates the subject land within an identified urban growth area. The planning proposal is considered to be consistent with the lands location within an urban growth area.

Q4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Ballina Shire Council Community Strategic Plan 2017-2027

The proposal is considered to be consistent with the Prosperous Economy theme contained within Council's Community Strategic Plan 2017 – 2027. Specifically it is consistent with Prosperous Economy outcomes:

PE1 – We attract new businesses and visitors, and

PE2 – My business can grow and diversify.

Wollongbar Strategic Plan 2019 – 2039 (WSP)

Council adopted the WSP at its Ordinary Meeting on 27 June 2019. This planning proposal resulted from a submission to the exhibited WSP during 2018.

Action 8 of the WSP provides as follows:

Consider LEP amendment applications for 5 Smith Lane, Wollongbar (R2 to R3 zone) and 246 – 250 Lismore Road, Wollongbar (service station additional permitted use).

Ballina Shire Growth Management Strategy 2012 (BSGMS)

The BSGMS is due for review during 2019 / 2020.

It is considered that the planning proposal is consistent with the following Wollongbar locality objective:

Maintaining the low scale residential character of the village.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is considered to be generally consistent with applicable State Environmental Planning Policies (SEPPs).

SEPP 55 – Remediation of Land

Council has considered the contaminated land status of the land. Council is satisfied that the land is suitable for the proposed use and may additionally be remediated as part of the proposed redevelopment of the land.

The following comments were contained in the report to Council's Ordinary meeting on 25 July 2019:

The LEP amendment application was supported by an Environmental Site Assessment (ESA) prepared by GHD. This site investigation was previously submitted with the 2017 development application which proposed the redevelopment of the service station site with a new service station and child care centre.

The ESA incorporated results from a number of boreholes and monitoring wells located near the existing service station development.

The ESA found that soil and groundwater samples tested were contaminated with chemicals associated with the service station use. The conclusion reached in the ESA was that the contaminant concentrations did not pose an unacceptable risk to human health for the current use of the site (commercial/industrial) or for those residential properties located nearby. Based on the data gained during this assessment, the ESA found that the site is suitable for ongoing use as a service station site.

Ballina Shire Council

Although not forming a part of the LEP amendment application, the 2017 DA was also supported by a detailed site investigation (DSI) and remedial action plan (RAP) prepared by ENV Solutions and dated January 2018.

The DSI and RAP were found by Council's Environmental Health staff to have been generally prepared in accordance with the requirements of the guidelines prepared or approved by the NSW EPA to satisfy SEPP 55.

The DSI demonstrates that some remediation of soil would be required to make the site suitable for the proposed use.

Site remediation requirements will be addressed as part of any subsequent development application process. At this stage of the process sufficient information has been submitted by the proponent to indicate that, whilst the site is contaminated, it is suitable for the proposed use (service station and shop).

A copy of the 2017 ESA prepared by GHD is incorporated within this planning proposal at Appendix 5 (under separate cover).

Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. A number of section 9.1 directions are relevant to the planning proposal. A section 9.1 checklist is provided at Appendix 2.

4.3 Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. The site contains no vegetation of significance.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Yes.

The site is contaminated land and is listed within council's Contaminated Land Register. The contamination resulted from the sites current service station use. Redevelopment of the site as proposed for a new service station and 1 retail premises will trigger requirements to decontaminate the site in accordance with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* as outlined in the memo from Council's Environmental Health Officer contained within Appendix 6 of this planning proposal.

Q9 Has the planning proposal adequately addressed any social and economic effects?

The current zoning of the site is for residential purposes. The service station use is only permitted on part of the land pursuant to the existing use rights provisions contained within the Environmental Planning and Assessment Act, as noted previously within the planning proposal. Retail premises are not permitted.

Permitting a service station and a size limited retail premises (100m²) is designed to maintain the longer term viability of the existing Wollongbar village shopping centre in Simpson Avenue, Wollongbar.

The planning proposal is considered to provide benefits to the community via increased economic activity and employment through a redeveloped service station use and 1 retail premises.

As such, social and economic outcomes resulting from the proposed rezoning are considered to be generally positive.

4.4 Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

All required public infrastructure is available to the locality and therefore the proposed redevelopment of the land as a service station and 1 retail premises can be adequately serviced.

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

At this stage no consultation with public authorities is proposed.

5. Mapping

The following map has been prepared to support this planning proposal:

- Map 1 – Additional Permitted Uses Map – APU_001B

Refer Appendix 1.

6. Community Consultation

This planning proposal is proposed to be publically exhibited for a minimum period of 28 days, in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

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7. Timeline

The proposed timeline for completion of the planning proposal is as follows:

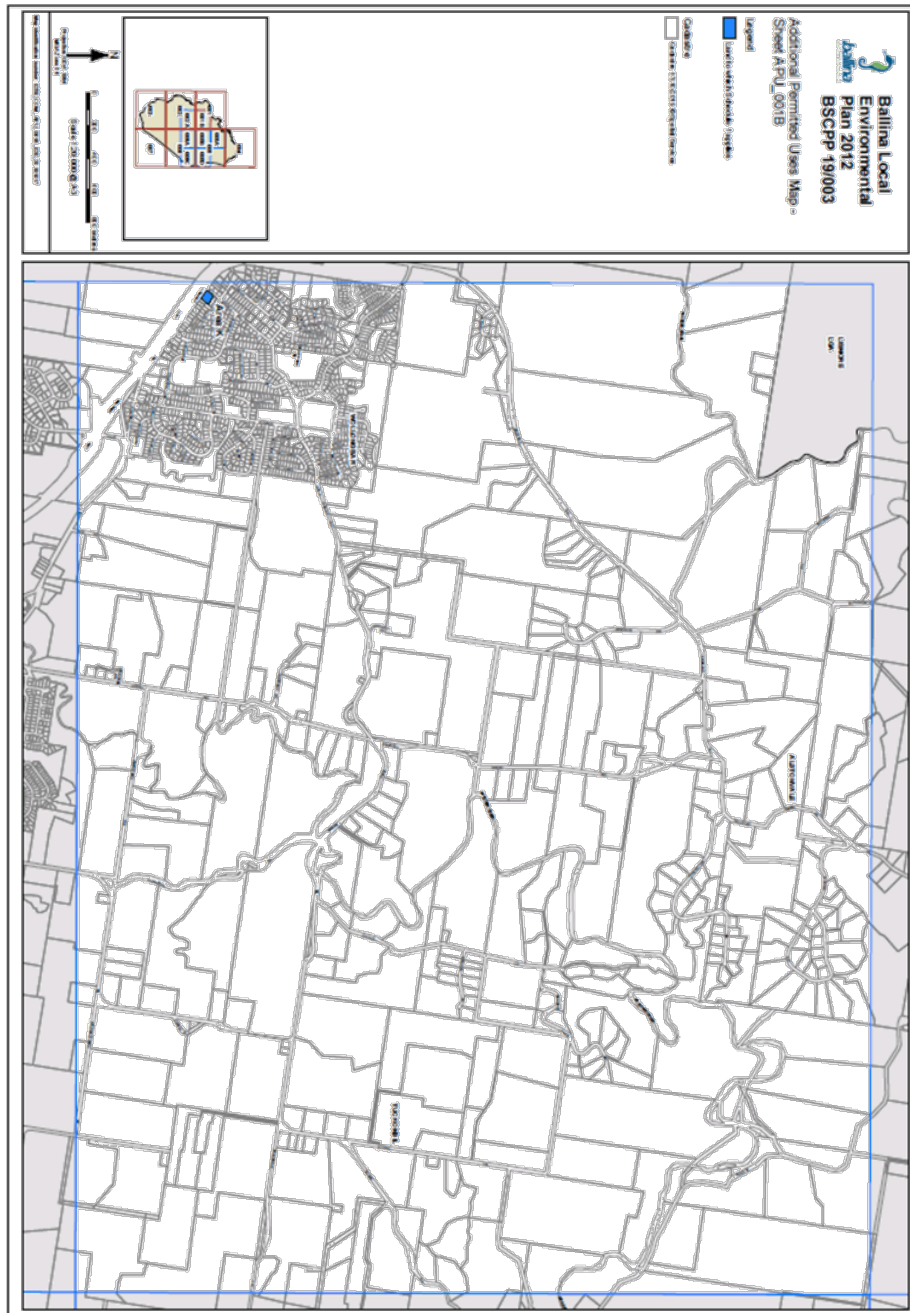
Plan Making Step	Estimated Completion (Before)
Gateway Determination	October 2019
Completion of Technical Information	Completed
Government Agency Consultation if required.	Not Required
Public Exhibition Period	13/11/2019 to 13/12/2019
Public Hearing	N/A
Submissions Assessment	January 2020
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	February 2020
LPMA Decision to Make the LEP Amendment (if delegated)	March 2020
Submission of Endorsed LEP to DPI&E for Finalisation	March 2020

Council is proposing to exercise plan finalisation functions under delegation as the Local Plan Making Authority.

8. Appendices

Ballina Shire Council

Appendix 1 – Maps



Appendix 2 – Section 9.1 Direction Checklist

Section 9.1 Direction Checklist	
Planning Proposal – 246 – 250 Lismore Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	Consistent.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	Does not apply to planning proposal.
2. Environment and Heritage	
2.1 Environmental Protection Zones	Consistent. The planning proposal does not involve the development of land identified as being of environmental significance.
2.2 Coastal Protection	Does not apply to planning proposal. The land is not within the coastal zone.
2.3 Heritage Conservation	Consistent. The planning proposal does not involve the development of land on which a heritage item is located, within a heritage conservation area or within the vicinity of a heritage item or conservation area.
2.4 Recreation Vehicle Areas	Consistent. The planning proposal does not involve the development of land for the purpose of a recreation vehicle area.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Justifiably inconsistent. The planning proposal does not seek to reduce the range of uses permitted within the applicable residential zone.
3.2 Caravan Parks and Manufactured Home Estates	Consistent.
3.3 Home Occupations	Consistent.
3.4 Integrated Land Use and Transport	Consistent.
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal. The land is not near a regulated airfield.
3.6 Shooting Ranges	Does not apply to planning proposal.
3.7 Reduction in non-hosted short term rental accommodation period	Does not apply to planning proposal.
4. Hazard and Risk	
4.1 Acid Sulfate Soils	Does not apply to planning proposal. The land is not mapped as containing acid sulfate soils.

Ballina Shire Council

Section 9.1 Direction Checklist	
Planning Proposal – 246 – 250 Lismore Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal. The land is not identified as being flood prone land.
4.4 Planning for Bushfire Protection	Does not apply to planning proposal. The land is not identified as being bushfire prone land.
5. Regional Planning	
5.1 Implementation of Regional Strategies	Does not apply to Ballina Shire.
5.2 Sydney Drinking Water Catchments	Does not apply to Ballina Shire.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	Does not apply to planning proposal.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Revoked.
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Revoked.
5.8 Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire.
5.9 North West Rail Link Corridor Strategy	Does not apply to Ballina Shire.
5.10 Implementation of Regional Plans	Consistent. No inconsistencies with the North Coast Regional Plan 2036 have been identified.
5.11 Development of Aboriginal Land Council land	Does not apply to this planning proposal.
6. Local Plan Making	
6.1 Approval and Referral Requirements	Consistent. The planning proposal does not introduce any new concurrence or consultation provisions or any additional designated development types.
6.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not create, alter or reduce existing zonings or reservations of land reserved for public purposes.

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Section 9.1 Direction Checklist	
Planning Proposal – 246 – 250 Lismore Road, Wollongbar	
Direction No.	Compliance of Planning Proposal
6.3 Site Specific Provisions	<p>Justifiably inconsistent.</p> <p>The planning proposal seeks to permit a service station, and 1 retail premises having a gross floor area (GFA) not exceeding 100m², on the land with development consent. The 100m² limit is proposed to align the scale of the development with that permitted for a neighbourhood shop whilst broadening the ranges of uses permitted beyond that of a neighbourhood shop.</p> <p>The 100m² GFA is considered justifiable based on the impact a larger retail development may have on the nearby Wollongbar neighbourhood shopping centre and having regard to the area of the site (3,427m²).</p>
7. Metropolitan Planning	
7.1 to 7.10	These Directions do not apply to Ballina Shire.

Ballina Shire Council

Appendix 3 – Council Reports

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

Delivery Program	Strategic Planning
Objective	To seek Council's direction on an LEP amendment request relating to the Wollongbar Service Station site corner Lismore and Rifle Range Roads.

Background

Council has received a request to prepare a planning proposal to amend the Ballina Local Environmental Plan 2012. Newton Denny Chapelle (NDC) have submitted the request on behalf of the owners of Lot 2 DP 527953, 246 - 250 Lismore Road, Wollongbar (the site).

The LEP amendment request seeks Council's support to amend the LEP to enable a service station and one retail premises, not exceeding a gross floor area (GFA) of 100m², to be permissible on the site with development consent by way of amendment to Schedule 1 (Additional Permitted Uses). The purpose of the proposed change is to enable redevelopment of the site.

Attachment 1 contains a copy of the planning proposal request.

Erected on part of the site is the existing Wollongbar service station building. A shed and former commercial building are located elsewhere on the site.

The site is identified by red outline in the site location diagram below.

Site Location Diagram



8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

The site is zoned R2 Low Density Residential (R2) under the provisions of *Ballina Local Environmental Plan 2012 (LEP)*. Service stations are prohibited within the R2 zone.

The LEP contains the following definition of service station:

~~service station~~ means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) ~~the~~ ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) ~~the~~ cleaning of motor vehicles,
- (c) ~~installation~~ of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration),
- (e) ~~the~~ ancillary retail selling or hiring of general merchandise or services or both.

General merchandise, is not defined in the LEP, but is referenced in the definition of neighbourhood shop as including *foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area.*

A service station was originally approved on part of the site in 1965 but appears not to have been built. In 1979 a further development consent was granted for a garage and showroom which was then the subject of a building application in 1980. Other approvals of relevance on the site included a shop and residence (1975), car sales (1980), conversion of part of the general store (1980), building exhibition centre and erection of a barn (1987), shop for the sale of landscaping/gardening merchandise (1994) and a motor showroom (2009).

The service station relies on existing use rights under the provisions of the Environmental Planning and Assessment Act 1979. The service station related existing use rights have previously been determined, based on legal advice, to only apply to part of the site.

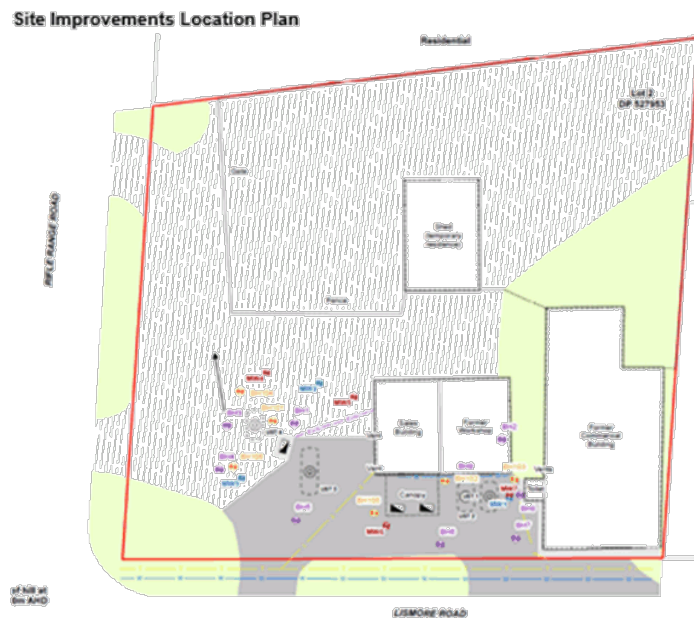
In July 2017 a development application (DA 2017/370) was lodged for the redevelopment of Lot 2 for the purpose of a new service station and a 66 place child care centre. That application was subsequently withdrawn in July 2018 following the applicant accepting legal advice (obtained by Council) that the service station component of the development extended outside of the area subject to existing use rights.

The proponent advised in July 2019 that:

"~~the~~ originally proposed childcare centre is not planned for the site. In this respect, the landowner has removed any reference to a childcare centre on the site and will not be seeking any approval for such land use in the future."

The site plan below, extracted from the GHD Environmental Site Assessment (June 2017) submitted with the previous 2017 DA and planning proposal submission, shows the location of current site improvements.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar



In 2018 the proponent made a submission in response to the exhibited Wollongbar strategic planning documents. The submission sought an LEP amendment, which would permit neighbourhood commercial purposes on the site. Specifically the outcome sought was for the LEP to be amended to permit neighbourhood commercial activity in association with a future re-development of the existing service station.

Council at its Ordinary meeting held on 27 June 2019, when adopting the Wollongbar Strategic Plan 2019 – 2039, also resolved as follows:

That a report be prepared for Council's further consideration relating to the LEP amendment request lodged in respect to Lot 2 DP 527953, No. 246 - 250 Lismore Road Wollongbar, to permit a service station on this site.

The above recommendation is also reflected in Action 8 of the adopted Wollongbar strategic plan.

The purpose of this report is to consider the key issues relating to the request and seek the Council's direction regarding options for progressing the matter.

Key Issues

- Existing Use Rights
- Service Station Development
- Appropriate Location for Service Station and Retail Development

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar**Information**

The site is considered to be a 'Gateway site' at the entrance to the Wollongbar urban area from Lismore Road. As such it may warrant special consideration so as to ensure that its redevelopment results in a modern well designed development that makes a positive contribution to the Wollongbar village environment.

In the above context it may be appropriate that the planning proposal incorporate provision for both a service station and limited commercial development. The provision of one *retail premises* not exceeding a GFA of 100m² may be a reasonable outcome.

The LEP defines retail premises as:

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) ~~(Repealed)~~
 - (b) ~~cellar door premises,~~
 - (c) ~~food and drink premises,~~
 - (d) ~~garden centres,~~
 - (e) ~~hardware and building supplies,~~
 - (f) ~~kiosks,~~
 - (g) ~~landscaping material supplies,~~
 - (h) ~~markets,~~
 - (i) ~~plant nurseries,~~
 - (j) ~~roadside stalls,~~
 - (k) ~~rural supplies,~~
 - (l) ~~shops,~~
 - (la) ~~specialised retail premises,~~
 - (m) ~~tyre yards,~~
 - (n) ~~vehicle sales or hire premises,~~
- but does not include highway service centres, service stations, industrial retail outlets or restricted premises.*

The property owner is proposing a development similar to the Lennox Head "The Station – Grocer" located in Byron Street.

The branding of service stations as "The Station – Grocer" has also occurred at Shell service stations located at Suffolk Park, Goonellabah, Wollongbar, West Ballina, and the BP service station at Hastings Point.

A photo of the interior of one of these service stations appears below.

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8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

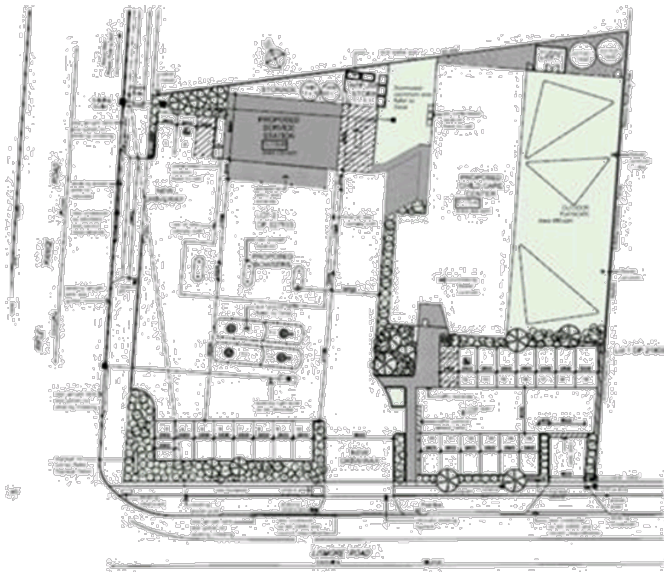
Photo extracted from The Station Grocer website July 2019



In the case of the Lennox Head development, this was originally approved in 1988 (DA1988/239) as a service station and two retail premises. The approved floor area of each of the retail premises being 123.6m² and 84.5m² respectively.

The area of the Wollongbar site (3,427m²) is larger than required for the service station proposal as submitted in the 2017 DA. This then resulted in the land owner also proposing a 66 place child care centre on the residue part of the site. The diagram below is an extract from the 2017 DA. It shows the manner in which the site was proposed to be developed at that time. The child care centre is now no longer proposed as previously referenced in this report.

Site Plan Extract DA 2017/370



8.2 LEP Amendment – 246 to 250 Lismore Road, Wollongbar

The planning merit associated with combining a service station and child care centre is considered questionable especially if other options are available. There are however, other examples of such uses being able to co-exist without apparent conflict (East Ballina neighbourhood centre).

Permitting limited retail floor space on the site is considered to result in a development more compatible with the service station use than the previously proposed child care centre.

Limiting the retail floor space to 100m² GFA may also assist in reducing likely adverse impact from the proposed development on the existing Wollongbar commercial centre in Simpson Road. The retail premises component may also be able to be justified based on the development history of the site which at times has included various commercial type uses.

There are at least two methods through which a service station and retail premises may be permitted on the site. The first involves incorporating these uses as 'additional permitted uses' for the site within Schedule 1 of the LEP. This method retains the sites R2 zoning.

The second method involves rezoning the site as B1 Neighbourhood Business.

Given that a B1 zone would enable more commercial floor space on the site than proposed, and may then result in adverse economic impacts on the existing Wollongbar commercial centre, this option is not supported.

In the longer term, once the existing Wollongbar commercial centre has been substantially developed, a B1 zone for the site could be further considered.

Council could also determine that it will not support the preparation of a planning proposal for this site. This could be done on the basis that it seeks to consolidate commercial and retail development only within the existing Wollongbar commercial centre.

It is unlikely that the above action will result in the closure of the existing service station and the site being developed for residential purposes. One reason for this relates to the contaminated land status of the site. The other reason relates to the existing use rights available over part of the site and the range of permitted uses (non-residential) within the R2 zone.

Land contamination issues affecting the site

The LEP amendment application was supported by an Environmental Site Assessment (ESA) prepared by GHD. This site investigation was previously submitted with the 2017 development application which proposed the redevelopment of the service station site with a new service station and child care centre.

The ESA incorporated results from a number of boreholes and monitoring wells located near the existing service station development.

The ESA found that soil and groundwater samples tested were contaminated with chemicals associated with the service station use. The conclusion reached in the ESA was that the contaminant concentrations did not pose an

Ballina Shire Council

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

unacceptable risk to human health for the current use of the site (commercial/industrial) or for those residential properties located nearby. Based on the data gained during this assessment, the ESA found that the site is suitable for ongoing use as a service station site.

Although not forming a part of the LEP amendment application, the 2017 DA was also supported by a detailed site investigation (DSI) and remedial action plan (RAP) prepared by ENV Solutions and dated January 2018.

The DSI and RAP were found by Council's Environmental Health staff to have been generally prepared in accordance with the requirements of the guidelines prepared or approved by the NSW EPA to satisfy SEPP 55.

The DSI demonstrates that some remediation of soil would be required to make the site suitable for the proposed use.

Site remediation requirements will be addressed as part of any subsequent development application process. At this stage of the process sufficient information has been submitted by the proponent to indicate that, whilst the site is contaminated, it is suitable for the proposed use (service station and shop).

Conclusion

Having regard to the contents of this report, and the referencing of the site within the Wollongbar Strategic Plan 2019 – 2039, it is considered appropriate that a planning proposal be prepared. The planning proposal would seek to permit a service station and one retail premises with a floor area not exceeding 100m² GFA upon the site as an additional permitted use.

Once the planning proposal has been prepared it is proposed to seek a Gateway determination from the Department of Planning and Environment (DPE) to allow the proposal to proceed to public exhibition. Council would then be invited to reconsider the merits of the planning proposal and its finalisation once exhibited.

Sustainability Considerations

- **Environment**
The preparation of a planning proposal to enable additional uses on the site is not anticipated to have any significant adverse environmental implications. The redevelopment of the site also provides an opportunity to undertake site remediation work to rectify previous contamination caused by the existing service station use.
- **Social**
The preparation of a planning proposal to enable additional uses on the site is not anticipated to have any significant implications for the community's wellbeing, beyond providing services and facilities beneficial to the community.
- **Economic**
The preparation of a planning proposal to enable additional uses on the site may have beneficial economic implications for the Wollongbar community associated with job creation.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

Legal / Resource / Financial Implications

The preparation of a planning proposal to provide for additional uses on the site can be accommodated within existing resources. Costs associated with the preparation and processing of the planning proposal will be met by the proponent in line with Council's adopted fees and charges.

It is also considered appropriate that delegation of plan making powers be sought from the Department of Planning and Environment (DPE) with respect to this matter.

The legal effect of the LEP amendment would be to enable the lodgment of a development application for the specified land uses enabled.

Consultation

No community or agency consultation has occurred to date with respect to this matter.

This matter will be subject to the usual community and agency consultation requirements associated with planning proposals and would be subject to the terms of any Gateway determination issued by the Department of Planning, Environment and Industry DPEI. A minimum public consultation period of 28 days is proposed.

Options

The following options are presented for Council's consideration:

Option 1 – Council could resolve to prepare a planning proposal to permit a service station and one retail premises with a GFA not exceeding 100m² on the site.

This option would involve the preparation of a planning proposal for referral to the Department of Planning, Industry and Environment for Gateway determination.

This option is recommended on the basis that these uses are broadly complementary and are not considered to result in significant adverse impacts on the existing Wollongbar commercial centre.

Council also needs to determine whether to exercise its delegated plan making functions for this LEP amendment. In this instance it is recommended that Council seeks agreement from the DPIE to exercise the plan making delegation.

Option 2 – Council could resolve to prepare a planning proposal to permit only a service station on the site without any reference to the retail premises.

This approach is not recommended for the reasons outlined in this report.

Option 3 - Council could resolve to decline the planning proposal request.

At this stage this option is not recommended.

Ballina Shire Council

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

Adoption of this option would not prevent a new service station being built on part of the site having regard to the existing use rights enjoyed by the existing service station.

However, it could also result in a different development being proposed that does not adequately service the Wollongbar community and that does not fully realise the potential offered by this 'gateway site'.

Option 4 – Defer the planning proposal application for additional information.

Should Council require additional information, or should it wish to explore other alternatives, then the application could be deferred for a further report or a briefing.

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RECOMMENDATIONS

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include a service station and one retail premises with a gross floor area not exceeding 100m² as land uses permitted with development consent in relation to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar.
2. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
3. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

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Attachment(s)

1. Attachment 1 - Planning Proposal Request - 246-250 Lismore Road Wollongbar

8.2 **LEP Amendment - 246 to 250 Lismore Road, Wollongbar**

250719/7 RESOLVED

(Cr Eoin Johnston/Cr Jeff Johnson)

1. That Council proceed to prepare a planning proposal to amend the Ballina LEP 2012 to include a service station and one retail premises with a gross floor area not exceeding 100m² as land uses permitted with development consent in relation to Lot 2 DP 527953, 246 – 250 Lismore Road, Wollongbar.
2. That the planning proposal be forwarded to the Department of Planning, Industry and Environment for a Gateway determination.
3. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
4. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
5. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

Ballina Shire Council

Appendix 4 – Gateway Determination



PP_2019_BALLI_002_00/IRF19/5263

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Mr Hickey

Planning proposal PP_2019_BALLI_002_00 to amend Ballina Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) and additional information received on 9 September 2019 in respect of the planning proposal to amend Schedule 1 – Additional Permitted Uses of Ballina LEP 2012 to facilitate with consent a service station and one retail premises at Lot 2 DP 527953, 246-250 Lismore Road, Wollongbar.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistencies with section 9.1 Directions 3.1 Residential Zones and 6.3 Site Specific Provisions are justified in accordance with the terms of the Directions. No further approval is required in relation to these Directions.

It is noted that Council has requested to be authorised as the local plan-making authority. I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending local environmental plan (LEP) is to be finalised within nine months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department of Planning, Industry and Environment.

Northern Region | 49 Victoria Street Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460 | planning.nsw.gov.au

Planning Proposal 19/003 246 – 250 Lismore Road, Wollongbar

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Jenny Johnson to assist you. Ms Johnson can be contacted on 6643 6414.

Yours sincerely



2-10-2019

Jeremy Gray
Director, Northern Region
Planning and Assessment

Encl: Gateway determination
Authorised plan-making reporting template

Northern Region | 49 Victoria Street Grafton NSW 2460 | Locked Bag 9022 Grafton NSW 2460 | planning.nsw.gov.au

Ballina Shire Council



Gateway Determination

Planning proposal (Department Ref: PP 2019 BALLI 002 00): to amend Schedule 1 – Additional Permitted Uses of Ballina LEP 2012 to facilitate with consent a service station and one retail premises at Lot 2 DP 527953, 246-250 Lismore Road, Wollongbar.

I, the Director, Northern Region at the Department of Planning, Industry and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Ballina Local Environmental Plan (LEP) 2012 to amend Schedule 1 – Additional Permitted Uses to facilitate with consent a service station and one retail premises at Lot 2 DP 527953, 246-250 Lismore Road, Wollongbar should proceed subject to the following conditions:

1. The planning proposal is to be amended prior to community consultation to:
 - (a) include the proposed Additional Permitted Uses Map; and
 - (b) update the project timeline.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of *A guide to preparing local environmental plans* (Department of Planning, Industry and Environment 2016).
3. No consultation is required with public authorities/organisation under section 3.34(2)(d) of the Act.
4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
 - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
 - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
 - (c) there are no outstanding written objections from public authorities.

Planning Proposal 19/003 246 – 250 Lismore Road, Wollongbar

6. The time frame for completing the LEP is to be nine months following the date of the Gateway determination.

Dated 2 day of October 2019.



Jeremy Gray
Director, Northern Region
Planning and Assessment
Department of Planning, Industry and
Environment

Delegate of the Minister for Planning
and Public Spaces

PP_2019_BALLI_002_00(IRF19/5263)

Ballina Shire Council

Appendix 5 – Environmental Site Assessment (GHD 2017)

(This document has been reproduced under separate cover due to its size)

Appendix 6 –Council’s Environmental Health Officer Comments

BALLINA SHIRE COUNCIL – MEMO/FILE NOTE

MEMO TO: Klaus Kerzinger
COPY: Officer's name
MEMO FROM: Stewart Lloyd
DATE: July 10, 2019
FILE 34/2019
REFERENCE:
PROPERTY: Lot 2 DP: 527953, 246-250 Lismore Road WOLLONGBAR
SUBJECT: LEP Amendment Proposal 246-250 Lismore Road

Council has received a planning proposal request seeking Council support to undertake an amendment to the Ballina Shire Council Local Environmental Plan to enable the redevelopment of an existing service station which is situated on the corner of Lismore Road and Rifle Range Road, Wollongbar.

In accordance with Council's management of contaminated land policy, Council will not include land in a zone that would permit a change of use of the land from the existing use unless:

- Council has considered whether the land is contaminated
- If the land is contaminated, Council is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for all purposes for which land in the zone concerned is permitted to be used; and
- If the land requires remediation to be made suitable for any purpose for which the land in that zone is permitted to be used, Council is satisfied that the land will be so remediated before the land is used for that purpose.

The site is currently utilised as a service station which consists of three fuel bowers, five pumps, a service station retail shop front, storage shed to the rear and disused takeaway shop fronting Lismore Road. The land surface is generally flat though gently sloping towards the north-east of the allotment. Gravel surfaces cover most of the allotment and small the area fronting the service station shop is bitumen and concrete hardstand.



Ballina Shire Council

Several contamination site assessments have been conducted over time commencing in 2008 with an initial investigation by Golder. The investigation conducted by Golder comprised of a site history assessment, the drilling of 9 boreholes to a depth of 4 meters adjacent to the service station operational area and the collection and analysis of 23 soil samples. Ground water assessment was not included as part of this assessment.

The site history provided by the 2008 Golder investigation revealed that the site was leased as a service station in 1983. In regard to contamination, the Golder investigation found that:

1. Hydrocarbon odours were noted in two boreholes located at the south west of the parcel to the front of the service station building
2. Chromium levels were less than the National Environmental Protection Measure 1999 Health Investigation Levels F (commercial/industrial land use)
3. Total recoverable hydrocarbon concentrations in the soil were less than relevant concentrations referenced within the NSW EPA Guidelines for Assessing Service Station Sites.

The 2008 investigation concluded that the site was fit for the ongoing use for commercial and private use.

Since this time, several further contaminated land investigations have been undertaken:

- Alliance 2011 - Soil samples and monitoring wells
- GHD 2015 - Installation of 4 monitoring wells to a depth of 12.9 meters.
- GHD 2014 -2016- 6 monthly Groundwater monitoring
- GHD 2017 – Environmental Assessment
- ENV Solutions 2017- Detailed Site Investigation tank removal validation report
- ENV Solutions 2018 – Underground Storage Tank Removal Validation report

Perhaps the best indication of the current contamination levels at the site is provided within the GHD 2017 report. The 2017 assessment compared historical soil results with the various assessments over time. While the data is limited such that statistical trends are not definable, chemicals of primary concern (CoPC) concentrations do not appear to have significantly changed since the lease entry investigation (Golder 2008) with the possible exception of increases in hydrocarbon concentrations in the vicinity of new locations BH103 and BH105. The boreholes mentioned are in close proximity to the service station bowser and underground petroleum storage system. The trend can be observed in Table 5-1 below.

Table 5-1 Potential soil contamination trends

Data Source	Potentially comparable locations	Analyte concentration comments	Concentration trends
Golder 2008	BH4	No data available	Stable, TRH and BTEX <LOR
Alliance 2011	MW3	TRH and BTEX <LOR at 0.2 m but total PAH = 25.4 mg/kg. TRH, BTEX and PAH <LOR at 1.0 and 2.0 m.	
GHD 2017	BH106	TRH and BTEX <LOR at 0.2 and 4.0 m.	Stable, TRH and BTEX <LOR
Golder 2008	BH3	TRH, BTEX and PAH <LOR at 3.0 m	
GHD 2014	MW4	TRH and BTEX <LOR at 0.2 and 9.0 m.	Insufficient data available for trend but TRH and BTEX <LOR
GHD 2017	BH104	TRH and BTEX <LOR at 0.2 and 2.0 m.	
Golder 2008	BH1	No data available	Possibly increasing TRH and BTEX concentrations but BH105 is also approximately 2 m north, closer to the bowser.
GHD 2017	BH101	TRH and BTEX <LOR at 0.5 and 4.0 m.	
GHD 2014	MW6	TRH and BTEX <LOR at 3.0 m. TRH and BTEX >LOR at 6.0 and 9.0 m. Max C6-C10=361 mg/kg. Max C10-C40=520 mg/kg. Max BTEX=76.7 mg/kg.	Possibly increasing TRH and BTEX concentrations within the limitations of different sampling locations.
GHD 2017	BH105	TRH and BTEX >LOR at 1.0, 5.0 and 8.0 m. Max C6-C10=3320 mg/kg. Max C10-C40=780 mg/kg. Max BTEX=1120 mg/kg	
Golder 2008	BH8	No data available	Possibly increasing TRH and BTEX concentrations within the limitations of different sampling locations.
Alliance 2011	MW1	TRH and BTEX <LOR at 1.0, 1.2 and 8.0 m.	
GHD 2014	MW7	TRH and BTEX <LOR at 0.5 and 4.0 m.	
GHD 2017	BH103	TRH and BTEX >LOR at 1.0 m (C6-C10=53 mg/kg, C10-C40=210 mg/kg, BTEX=5.1 mg/kg). TRH and BTEX <LOR at 3.0 and 5.0 m.	

The apparent downward trend in soil contamination is also reflected in groundwater monitoring results as can be seen in Table 5-2 below. Based on the results of the 2017 investigation, groundwater impacts reflect a downward trend in MW4, MW5 and MW6.

Table 5-2 Potential groundwater contamination trends

Sample ID	Date Sample Obtained	Total Recoverable Hydrocarbons (TRH)						Benzene, Toluene, Ethylbenzene & Xylenes (BTEX)					Naphthalene	Status		
		C1-C6	F1 (C7-C8 - BTEX)	C9-C10	F2 (C11-C15 - N)	C16-C18	C19-C20	Total TRH C1-C20	Benzene	Toluene	Ethylbenzene	m & p Xylenes			o Xylenes	Total BTEX
MW4	10-Dec-14	14700	7194	400	400	<100	<100	460	825	3540	364	1820	847	7536	<50	o
MW4	20-Jan-15	2610	2220	200	200	<100	<100	260	290	740	315	527	185	2011	<5	↓
MW4	02-Sep-15	2520	1830	210	210	<100	<100	210	140	52	54	318	74	684	<5	↓
MW4	04-Oct-16	580	440	<100	nd	230	<100	230	35	12	18	64	38	240	<5	↓
MW4	08-May-17	130	100	<100	<100	<100	<100	<100	12	3	2	7	6	35	<5	↓
MW5	10-Dec-14	41000	22235	400	490	<100	<100	490	3200	10000	805	4140	1020	19765	<50	o
MW5	20-Jan-15	21300	17289	280	280	<100	<100	280	1130	6360	488	2809	978	10747	<50	↓
MW5	02-Sep-15	18000	11260	290	215	<100	<100	240	787	2040	519	2500	894	6740	25	↓
MW5	04-Oct-16	7670	4635	760	760	<100	<100	760	420	612	243	1330	620	3094	<5	↓
MW5	08-May-17	1980	1170	<100	<100	<100	<100	<100	104	130	80	383	131	738	<5	↓
MW6	10-Dec-14	10400	9430	300	355	<100	<100	360	2050	3670	488	2300	1260	6668	35	o
MW6	20-Jan-15	40100	22730	1450	1368	<100	<100	1400	3050	8000	1100	6070	2000	22970	62	↑
MW6	02-Sep-15	9500	6231	300	330	<100	<100	360	1510	988	387	1040	434	4350	30	↓
MW6	04-Oct-16	8080	3535	400	375	<100	<100	400	1150	1000	363	703	360	4645	25	↓
MW6	08-May-17	4580	2000	130	180	<100	<100	180	680	140	284	460	208	2510	15	↓
MW7	10-Dec-14	41000	18850	300	629	<100	<100	600	4420	10540	1000	5080	2550	22050	71	o
MW7	20-Jan-15	28900	20520	500	430	<100	<100	490	3920	10000	1800	7882	2000	32080	80	↑
MW7	02-Sep-15	9550	6336	250	215	<100	<100	260	1320	241	519	1370	315	3755	44	↓
MW7	04-Oct-16	17400	6020	180	08	<100	<100	180	2000	3240	1080	2100	1360	10880	82	↑
MW7	08-May-17	19500	1850	800	640	<100	<100	650	1270	4750	1100	2780	1330	11200	80	↑

Similar to the Golder 2008 assessment, the various contamination assessments over time have identified that the site is suitable for ongoing use as a service station site.

In regard to any future upgrade of the service station, such works will be required to be undertaken in accordance with the provisions of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* (UPSS Regulation) as a significant modification. A 'significant' modification under the UPSS Regulation is the replacement of 50% or more of the tanks in a system or where development consent is required under the Environmental Planning and Assessment Act 1979.

Any significant modification requires the whole system to comply with the provisions of the Regulation relating to a new Underground Petroleum Storage System.

A new UPSS must:

- be appropriately designed, installed and commissioned by duly qualified persons in accordance with the UPSS Regulation
- have minimum mandatory pollution protection equipment installed, consistent with the Regulation, comprising non-corrodible secondary containment tanks and associated pipework and overflow protection devices
- have groundwater monitoring wells installed and tested in accordance with the Regulation
- have a certificate showing that an equipment integrity test (EIT) has been carried out in line with the written directions of duly qualified persons.

A new UPSS can only be commissioned once all these requirements have been met.

Ballina Shire Council

In addition to the above requirements, the regulation also requires the contamination assessment, treatment and validation prior to the commissioning of the storage system. The validation report must demonstrate to the regulatory authority that the site is fit for continued use.

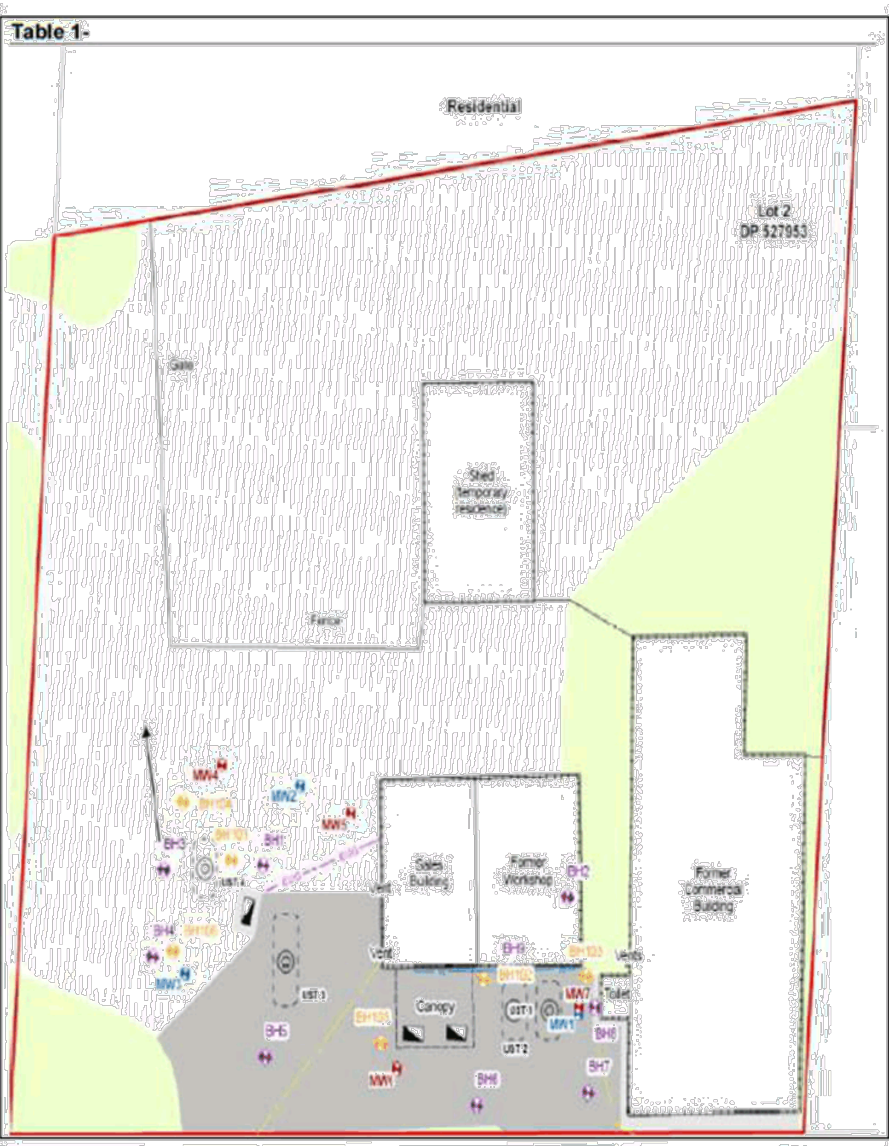
In consideration of the above information, Council has appropriately considered whether the land is contaminated and that Council may be satisfied that the land is suitable in its present condition for use as a service station.

Furthermore, based upon the contamination assessments which have been undertaken over time, the land may be made suitable for any purpose for which the land in that zone is permitted to be used.

Council may also be confident that the land will be so remediated before the land is used for that purpose.

Stewart Lloyd
Environmental Health Officer

Appendix 1



Attachment – Copy of Submissions

1. Gavin Brown

Having read the document, is it easy to read and understand?

Yes

Do you support the overall objectives and content of the document?

No

Please provide further comments if you wish.

I am not supportive, but nor am I completely objecting to the proposal. However, I do have real concern around fracturing an already weak commercial/retail precinct in Wollongbar. There are a number of vacant tenancies already in the Palms Shopping Centre, plus 2 long term vacant blocks of land either side of the Tavern that are desperate for development. Commercial & retail development should be consolidated within the existing designated commercial/retail precinct before creating a new completely detached retail outlet. The objective for a vibrant, attractive & viable village will not be achieved by fracturing an already struggling commercial precinct.

2. Wayne Judd

Having read the document, is it easy to read and understand?

Yes

Please provide any suggestions for improvement.

I am a director of the company (K E Judd Pty Ltd) which owns the freehold Wollongbar Tavern which is situated within/adjacent the Wollongbar village shopping centre situated at Simpson Ave Wollongbar.

I agree with the submission of my hotel tenant Mr Gavin Brown & express identical feelings to those expressed in his submission dated 20th November '19 on this proposed development.

I am concerned about the prospect of this proposal creating fracturing of the retail Wollongbar village shopping centre precinct - a precinct that is fragile & yet to really move into the development phase that is now needed. I believe that this has the potential to further set back this overdue development.

As Mr Gavin Brown expressed in his submission, I also do not vehemently object to this proposal which I expect would enhance the proponents property & service station business.

However, I do believe that the fracturing issue should be given great consideration &, at least, that the proponent be restricted to only the proposed 100 square metres of retail premises proposed in this plan & that this does not provide a stepping stone to more dense retail/commercial development on his site or other minor sites outside the Wollongbar village shopping precinct in the future.

Wayne Judd

Do you support the overall objectives and content of the document?

No

Please provide further comments if you wish.

See above.

3. Liz Connors

I wish to submit my objection to the above planning proposal in relation to Lot 2 DP 527953. Currently Council has not adequately dealt with continuing ongoing noise issues in relation to out of business hours fuel deliveries to the existing petrol station or water run off during wet weather. I have contacted Stewart and Scott proving them with a log of these deliveries as per there request. I have asked for the next steps in taking action and have not been provided with a response on at two occasions and I am forwarding this information to the Ombudsman. With the addition of new retail space and fuel station I believe this will increase noise and deliveries outside of hours impacting on quiet enjoyment of residents. In addition an increase in traffic on a residential street. Currently there is a bus stop on both sides of the street out the front of the service station including school buses. This will place the safety of children and road users at risk. I have lived in my unit for nearly 10 years and witnessed at least weekly near miss car accidents on the corner of Rifle Range Rd and Lismore Rd. Recently a car doing a burn out lost control and crossed to wrong side of the road, narrowly missing a power pole and only stopping less than 2 metres from our unit block when the driver hit the mains water piper and a large rock. Young people use the vacant lot to meet up before undertaking unsafe driving behaviours.

There is little need for additional retail space as we are close to Alstonville and Goonellabah and a shopping centre near the Wollongbar Tavern. The owner has a retail space already on site a former take away that has sat empty for nearly 8 years. As he also owns the service station on the Bruxner Highway near Converys lane perhaps this would r a better retail site.

4. Judi Greaves

I support the proposal for a service station, subject to an additional permit condition:
That the service station must also provide standard and fast-charging facilities for electric vehicles

This strongly-felt suggestion is made in light of the rapidly increasing awareness of climate change and the need to move more rapidly towards greater use of renewable energy, including in electric vehicles.

However, I don't support the proposal for a retail premises with GFA up to 100m² (see point 4 Justification, Q9).

This does not seem to be consistent with the Prosperous Economy theme contained within Council's Community Strategic Plan 2017 – 2027 (Prosperous Economy outcomes). No evidence has been quoted to support council's claim to the contrary.

It is my observation after moving to Wollongbar 6 months ago that the level of activity of the existing Simpson St shopping centre is relatively low (apart from the tavern) and that any extra competition for "general merchandise" that is already available in the shopping centre would be to the detriment of the economic viability of the centre.

Given that retail use is not permitted under the current zoning, I don't believe there is any significant reason for council to consent to allowing such a use.