

ITEM	13.095/15	PLANNING PROPOSAL – PROPOSED SERVICE STATION, YAMBA ROAD, YAMBA (REZ2015/0001)
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Meeting	Environment, Planning & Community Committee	14 July 2015
Directorate	Environment, Planning & Community	
Reviewed by	Manager - Strategic & Economic Planning (David Morrison)	
Attachment	Yes	

SUMMARY

<i>Proponent</i>	Newton Denny Chappelle (for Westlawn Property Trust)
<i>Date Received</i>	7 April 2015 – registered as REZ2015/0001
<i>Owner</i>	J Devey
<i>Subject land</i>	Lot 3, DP 576021, 189 Yamba Road, Yamba (Area = approximately 674m ²)
<i>Current Zoning CVLEP 2011</i>	R2 – Low Density Residential (R2)
<i>Proposal</i>	To rezone the land from R2 to B2 Local Centre (B2) to permit a service station to be developed at the site

This report considers a planning proposal which supports a case to rezone Lot 3, DP576021, 189 Yamba Road, Yamba from R2 to B2 to facilitate the development of the land for the purposes of a service station.

It recommends that Council provide its initial support to the planning gateway.

OFFICER RECOMMENDATION

That Council:

1. As the relevant planning authority, initiate the Local Environmental Plan “Gateway” process pursuant to Section 55 of the Environmental Planning and Assessment Act 1979 by endorsing the attached planning proposal over Lot 3, DP576021, 189 Yamba Road, Yamba to amend Clarence Valley Local Environmental Plan 2011 to rezone the land from R2 Low Density Residential to B2 Local Centre.
2. Forward the Planning Proposal to the Department of Planning and Environment (the Department) requesting a “Gateway” Determination, pursuant to Section 56 (1) of the Environmental Planning and Assessment Act.
3. Advise the Department that it will accept any plan making delegations that may be offered to Council.
4. Advise the proponent that Council will require the following to be submitted with any development application for a service station should the land be rezoned :
 - more detailed revised and updated traffic assessment to place on exhibition with the proposal; such assessment to take into account the comments of the Council’s Development Engineers set out in this report; and,
 - revised planning proposal reflecting the outcomes and recommendations of the detailed revised and updated traffic assessment.

COMMITTEE RECOMMENDATION

Hughes/Williamson

That the Officer Recommendation be adopted.

Voting recorded as follows:

For: Baker, Howe, Hughes, McKenna, Williamson

Against: Nil

COUNCIL RESOLUTION - 13.095/15

(Crs Kingsley/Hughes)

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- 3. Advise the Department that it will accept any plan making delegations that may be offered to Council.**
- 4. Advise the proponent that Council will require the following to be submitted with any development application for a service station should the land be rezoned :**
 - **more detailed revised and updated traffic assessment to place on exhibition with the proposal; such assessment to take into account the comments of the Council’s Development Engineers set out in this report; and,**
 - **revised planning proposal reflecting the outcomes and recommendations of the detailed revised and updated traffic assessment.**

Voting recorded as follows

For: Councillors Williamson, Baker, Howe, Hughes, Simmons, Toms, Lysaught, McKenna, Kingsley

Against: Nil

LINKAGE TO OUR COMMUNITY PLAN

Theme 5 Our Leadership

Objective 5.1 We will have a strong, accountable and representative Government

Strategy 5.1.4 Provide open, accountable and transparent decision making for the community

BACKGROUND

Council has received a planning proposal, entitled “Gateway Planning proposal to rezone land from R2 to B2 Yamba Road, Yamba” that supports a case to rezone Lot 3, DP576021, 189 Yamba Road, Yamba from R2 to B2 to facilitate the development of the land for the purposes of a service station. The adjoining Lot 2, DP576021 on the Treelands Drive corner, currently zoned B2, is also part of the proposed service station development. The location of the site the subject of the planning proposal is shown in map 1 below. A copy of the planning proposal (Version B, 12 May 2015) is at Attachment 1.



Map 1 – Land Subject to Planning Proposal

A development concept lodged with the planning proposal indicates that once the land is rezoned it is proposed to develop Lot 3 and the adjoining Lot 2, DP576021 for a service station comprising nine (9) fill points, shop and associated structures upon the subject land. The planning proposal describes the proposed development concept for the whole site as follows:

- The northern portion of the site (adjacent to the existing commercial precinct on Treelands Drive) will contain a single storey shop and office area, with associated customer car parking;
- The central portion of the site will contain the canopy which covers the fuel dispensing area;
- Vehicular access would be achieved from Yamba Road only with a single exit point to Treelands Drive;
- Landscape works will be completed to the street frontages; and
- The erection of associated signage.

KEY ISSUES

The principal merit issues are potential hazard, road and traffic impact and acid sulfate soils. These and other issues are addressed below.

1. Compliance with the Planning Proposal Guidelines

The planning proposal in this case is contained within a document entitled "*Gateway Planning Proposal to rezone land from R2 to B2, Yamba Road, Yamba*", prepared by Newton Denny Chapelle, May 2015. A copy of the planning proposal is at Attachment 1.

A review of the planning proposal indicates that it generally complies with section 55(2) of the Act and the Department of Planning and Environment's "*A guide to preparing planning proposals*" (October 2012). The main planning proposal document otherwise outlines the future intended development and most of the relevant merit issues in a sufficiently detailed manner at the rezoning stage.

2. Potential hazard

Given the potentially hazardous and offensive nature of a proposed service station adjacent to an existing dwelling Council advised the applicant to provide some further assessment that development as proposed can meet the requirements of SEPP No 33 - Hazardous and Offensive Development including an indication of whether the preliminary concept can for instance meet any exclusion zones (to existing residential) that may be necessary in relation to proposed fill points and unloading position for fuel and LPG (if LPG is proposed).

A preliminary hazard analysis (14 May 2015) was undertaken by JM Environments and was provided by the proponent as Attachment 3 of the revised planning proposal document. It concluded and recommended as follows:

"It has been assessed that SEPP33 applies to the development of the site as a service station. This PHA satisfies the provisions within SEPP33 up to the submission of the development application. It should be noted that if the site layout is altered the findings of this PHA may also change.

A multi-level risk assessment is required to be undertaken for the final development should Council approve the development application".

Council's Building & Environmental Services section advises that:

1. It appears that the proposed service station should be able to meet minimum requirements as required by relevant Australian Standards, EPA Regulations etc.; and that a DA for a Service Station could be adequately "conditioned" to ensure this is the case.
2. Fuel tank refilling is likely to be an odour nuisance to the occupants of the dwelling on adjoining Lot 4 DP24724 due to its proximity (1 metre) from the common boundary and therefore the applicant should consider the immediate neighbours and investigate options such as relocating the vents and fill points to a more suitable location that will minimise potential negative impacts.

The full advice of Council's Building & Environmental Services section is provided in **Consultation** below.

3. Road and traffic impact

In response to Council's request to assess road and traffic impact further, the proponent has undertaken a Traffic Impact assessment dated May 2015 which is provided as Attachment 4 to the revised planning proposal document. Its conclusions were:

- (i) *Traffic impacts from the facility result in only minor increase in traffic generation in the order of an additional 11vph (being in the order of 1% of existing intersection traffic flows) and will not be detrimental to the road capacity;*

- (ii) *The proposed service station driveway entry and exit complies with AS2890.1 Off Street Car Parking Facilities requirements;*
- (iii) *Parking demands are able to meet that of Clarence Valley Council rate of 1 space per 30m².*
- (iv) *By dedicating an additional road reserve area to suit a 5m x 5m truncation, the development site has demonstrated that it has made provision for accommodating a LATM roundabout footprint to cater for future road improvements by others. This truncation shall ensure a uniform configuration of the intersection commensurate with that of the Yamba Fair Shopping Centre on the opposite (western) side of Treelands Drive.*

Council's Development Engineers have provided comments (refer to Consultation for comments in full) and consider that documentation provided so far neither adequately considers the impact of the proposed development on the operation of the current road network at this location or any future roundabout for the Yamba Road – Treelands Drive intersection; and that the traffic impact assessment (TIA) is based on assumptions that are not considered realistic – refer to detailed comments in Consultation below.

It has been suggested that the proponent provide a more detailed revised and updated traffic assessment based on the development at this location and that it be foreshadowed that:

1. In such assessment Council will accept:
 - (a) an applied modification factor of 20% for new trips applied to the total trips generated by the site/development; and,
 - (b) a further 10% modification factor for traffic associated with service stations.
2. The assessment should also:
 - (a) Take account of Yamba Road not being an approved B Double route.
 - (b) Provide a basis of a likely design of a future roundabout at the Yamba Road – Treelands Drive intersection.
 - (c) Be open to considering alternative access arrangements to that currently proposed.

The submitted traffic assessment indicates that the proposal will have only a relatively minor impact on the existing traffic load through the adjoining intersection (in the order of a 1% increase). As pointed out by Council's engineering assessment, a more detailed traffic assessment is necessary to determine the precise impact. Notwithstanding, it is considered that the impact on the intersection will be manageable at development application stage sufficient to have confidence that should the rezoning be successful, a future development application can be reasonably assessed and conditioned, albeit with some additional technical assessment.

4. Acid sulfate soils

The land is mapped as class 2 acid sulfate soils (ASS) with Minister's section 117(2) Direction 4.1 Acid sulfate soils being relevant.

Direction 4.1 (4) requires that a Council must consider the Acid Sulfate Soils Planning guideline where a planning proposal applies to land that is mapped as having a probability of ASS being present. Further where a planning proposal proposes an intensification of land uses is such instance Direction 4.1 (6)

requires that Council must consider an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of ASS.

In response to Council's request to further assess ASS, the proponent undertook and submitted an Acid Sulfate Soil Management Plan dated May 2015 and is provided as Attachment 5 to the revised planning proposal document. The revised planning proposal (version B) in considering this Direction and issue states (Attachment 2) that:

"No issues have been identified within the acid sulfate soil management plan which would prejudice the development of the land. In this regard, the extent of earthworks associated with the development is limited to the fuel tanks and associated building footings.

Having regard to development projects occurring in recent times in the immediate locality which have involved excavation works, no environmental issues have resulted associated with acid sulfate soil management.

Pursuant with Clause 7.1 of the Clarence Valley Local Environmental Plan, the future development of the land which occurs below the natural ground surface will require consent and associated technical assessment pursuant to the attached management plan".

The proponent is considered to have satisfactorily addressed the ASS issue and section 117(2) Direction 4.1 Acid sulfate soils and accordingly the planning proposal is consistent with Direction 4.1.

5. Conclusion

It is considered that at present there is sufficient merit for Council to support the planning proposal to the planning gateway. The proposal is generally consistent with Council's adopted Yamba Commercial and Retail Strategy which supports contiguous incremental additions to the zoned commercial land.

However it should advise the proponent that the following be submitted with any development application:

- more detailed revised and updated traffic assessment to place on exhibition with the proposal; such assessment to take into account the comments of the Council's Development Engineers set out in this report; and,
- revised planning proposal reflecting the outcomes and recommendations of the detailed revised and updated traffic assessment.

COUNCIL IMPLICATIONS

Budget/Financial

Assessment and management of the planning proposal is being undertaken within existing budgets.

Asset Management

N/A

Policy or Regulation

- Environmental Planning and Assessment Act 1979 – including relevant State environmental planning policies (SEPPs) and Minister's Section 117 Directions made under the Act.
- Clarence Valley LEP 2011

Consultation

<i>Internal Section or Staff Member</i>	<i>Comment</i>
Ian Dodd, Development Engineer	The subject properties are serviced by existing Council

infrastructure (road, drainage, water & sewer). Connection to these systems can be assessed and conditioned with a development application.

Yamba Road is a Regional road (classified) under the ownership of Council. Council has care and control of the road and an obligation under the Roads Act to consult with RMS. The application should be referred to the RMS for comment.

1. Proposed future roundabout for the Yamba Road – Treelands Drive intersection

Section 9 (page 14) of the revised planning proposal states that ‘the Yamba Road – Treelands Drive intersection has received community requests for upgrade to a roundabout from time to time and that this development should have regard for such future works’.

However there has been no consideration of the following in relation to the proposed future roundabout for the Yamba Road – Treelands Drive intersection and the impact of the proposed development on the operation of the current road network at this location:

- a) The need for a roundabout in this location has been identified in the ‘Yamba Traffic Study (September 1996) – ERM Mitchell McCotter’ and subsequent traffic studies for Council.
- b) A conceptual layout plan of the roundabout was prepared by the former Maclean Shire Council but this is subject to detail design review and current RMS/‘Austroads’ standards.
- c) The inclusion of this intersection by the West Yamba Urban Release Area developers group in its traffic update study for West Yamba.
- d) The submitted plans do not allow for a future roundabout that complies with current engineering design standards, to the satisfaction of Council.
- e) The plans and traffic report do not account for the current operation as a two lane intersection (not line-marked) from Treelands Drive into Yamba Road (right and left turn movements) nor the impact on existing traffic flow of the generated development traffic flow.
- f) The plans and traffic report do not show the tapered merge lane (linemarked) for the left turn from Treelands Drive into Yamba Road nor the impact on existing traffic flow of the generated development traffic flow.
- g) The swept path diagram provided for the 19 m semi-trailer does not demonstrate successful vehicle movements through the roundabout and does not comply with the NSW Road Rules.
- h) Yamba Road is not an approved B-Double route.

2. Traffic Impact Assessment

The following comments are offered in relation to the TIA and

	the impact of the development upon the Yamba Road/Treelands Drive intersection: - The applied traffic generation reduction of 0.5 x the total RMS (former RTA) traffic generation potential (107) is not considered to be appropriate given the location and geometric design of the proposed site. It is acknowledged that the reduced traffic generation is sourced from the previous traffic report prepared for a service station at South Grafton. Although the two sites pose similar attributes (8 bowlers plus shop) the location of the South Grafton site allows for such reduction given its proximity to competing service stations and detailed assessment of the existing Caltex service station. The TIA trip modification has been calculated by discounting the calculated peak hour trips (RMS) by 50% plus a further 20% which is not considered acceptable. The applied modification factor of 20% for new trips is considered appropriate however such should applied to the total trips generated by the site (i.e. 107 peak hour trips). - Given the geometric layout of the site, majority of traffic exiting the site will likely impact the existing operation of Yamba Rd/Treelands Drive intersection. It should be noted that Yamba Road/Treelands Drive intersection currently operates with major delays on the minor approach. Although majority of traffic associated will be linked (drop in) the site layout suggests that additional traffic will likely contribute to the already congested intersection. - It is recommended that a detailed impact assessment be undertaken at the Yamba Road/Treelands Drive intersection to determine satisfactory post development operation of the intersection. Alternatively, a left in/left out access arrangement should be investigated with all traffic entering and exiting the site from Yamba Road. This will reduce the development impact upon Treelands Drive and have minimal contribution upon the overall intersection considering the high proportion of linked trips to the site. - Should the alternative access option in 2(c) above be investigated it should be ensured that service vehicles can satisfactorily enter and exit that site and adequate queuing is provided so that vehicles do not overflow onto Yamba Road during peak demand periods. Additionally the left in access crossover should be designed in such way to encourage left in entry only not allowing westbound traffic to turn right into the site as such could result in nose to tail collisions at the right turn approach into Treelands Drive. - In addition to the applied modification factor of 20% for new trips referred to in (a) above it is considered that a further 10% modification factor for traffic associated with service stations could be accepted (based on the 2014 Tweed Road Contribution Plan referenced at p.7 of the TIA at Attachment 4 of the revised planning proposal.
Building & Environmental Services	The Preliminary Hazard Analysis states that SEPP 33 applies and

section	that the PHA satisfies the provisions within SEPP 33 up to the submission of the development application. The Hazardous and Offensive Development Application Guidelines states that: <i>“If the PHA has been done on a qualitative basis, the consent authority must judge whether the level of risk is being managed appropriately, with reference to the proposed safeguards. For proposals involving risk to the biophysical environment, qualitative judgements must be made taking into account such matters as:</i> <i>• the particular qualities of the environment;</i> <i>• the nature of the hazards;</i> <i>• the reversibility of any impact.”</i> New and existing service stations are required to comply with the <i>Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014</i> which focuses on a preventative approach to minimising the risk of contamination of soil, ground and surface waters. If compliance is achieved with the UPSS regulation one can assume that risk is being managed appropriately. It also appears that the proposed service station should be able to meet minimum requirements as required by relevant Australian Standards, EPA Regulations etc. The DA for the Service Station could be adequately “conditioned” to ensure this is the case. Acid Sulphate soils can be managed also through the DA process. Because the proposed development should be able to meet the minimum standards/requirements referred above it does not necessarily mean that there is no or little negative impact on the neighbouring properties, mainly Lot 4 DP24724 which contains a dwelling approximately a metre from the boundary. There are currently two sites operating that comply with minimum separation distances but each time the fuel tanks are refilled an odour nuisance occurs to neighbouring properties. This has resulted in Council negotiating with both sites to minimise these impacts and the outcome was they would endeavour to receive deliveries at times that are more suitable. Also one site has fitted vapour recovery technology which has alleviated the problem but is apparently costly to install. The applicant needs to consider their immediate neighbours and investigate options such as relocating the vents and fill points to a more suitable location that will minimise potential negative impacts.
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External referrals

No external referrals have been undertaken as yet. However at the community consultation/public exhibition stage it is considered that the proposal should be referred to the Roads and Maritime Services for comment.

Legal and Risk Management

The Act does not provide for any inbuilt legal appeal rights for third parties who may oppose a planning proposal.

Prepared by	Terry Dwyer, Senior Strategic Planner (Policy)
Attachment	Attachment 1 - <i>"Gateway Planning Proposal to rezone land from R2 to B2 Yamba Road, Yamba"</i> (Version B), prepared by Newton Denny Chapelle
