

Planning and Assessment

IRF19/5263

Gateway determination report

LGA	Ballina
PPA	Ballina Shire Council
NAME	Additional Permitted Uses - Wollongbar Service Station
NUMBER	PP_2019_BALLI_002_00
LEP TO BE AMENDED	Ballina Local Environmental Plan (LEP) 2012
ADDRESS	246-250 Lismore Road, Wollongbar
DESCRIPTION	Lot 2 DP 527953
RECEIVED	26/07/2019
FILE NO.	IRF19/5263 EF19/23380
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Ballina Local Environmental Plan (LEP) 2012 by permitting a service station and one retail premises with a gross floor area not exceeding 100m² as additional permitted uses in Schedule 1.

1.2 Site description

The site is located on the corner of Rifle Range Road and Lismore Road, Wollongbar (Figure 1). Lot 2 contains an existing service station that has been operating on the site since 1980. The site also contains a building previously used for commercial purposes and a shed. The site has had various uses including a shop and a residence, car sales, motor show rooms and an exhibition centre. The shed erected in 1987 was used for the sale of landscape and gardening supplies.

The site was zoned 2(b) Village Area under the Ballina LEP 1987. Service stations and retail premises were permissible with consent in the 2(b) zone.

In 2013 the Ballina LEP 2012 transitioned the zoning from 2(b) Village Area to R2 Low Density Residential and as a result service stations and retail premises became prohibited uses.

The continuing use of the site as a service station is enabled through the existing use rights provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The existing use rights only apply to the part of the site that contains the service station infrastructure. The remaining parts of the site are not afforded the same provisions.



Figure 1: Subject Site

1.3 Existing planning controls

The site is zoned R2 Low Density Residential by the Ballina LEP 2012 (Figure 2). The site is also subject to a maximum building height of 8.5 metres and a minimum lot size of 600m².

1.4 Surrounding area

The land to the north, east and west is zoned R2 Low Density Residential and is developed for residential purposes. Land to the south is zoned RU1 Primary Production but is separated from the site by the Bruxner Highway.

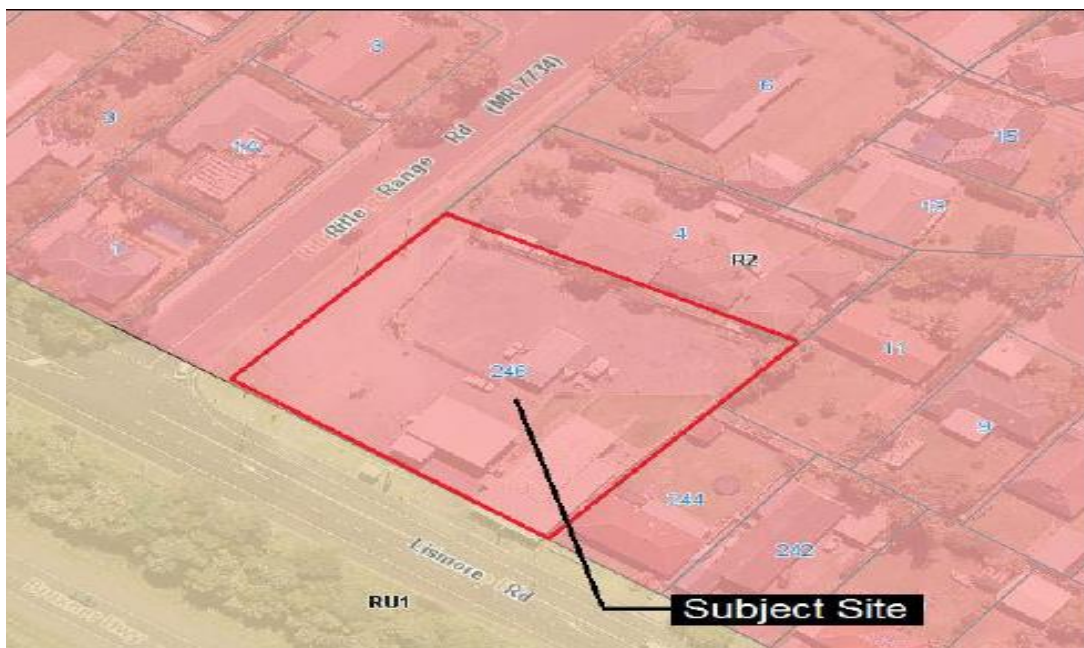


Figure 2: Current zoning map

1.5 Summary of recommendation

The planning proposal should proceed subject to conditions. The planning proposal is supported as it facilitates:

- the existing commercial use of the land which has been in operation since 1980; and
- a retail premises compatibility in size and scope with the service station use.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal includes a clear statement confirming that it seeks to permit with consent on the land a service station and one retail premises through Schedule 1 - Additional Permitted Uses of Ballina LEP 2012.

2.2 Explanation of provisions

The objective of the proposal will be achieved by:

- amending Schedule 1 of the LEP to permit a service station and one retail premises with a maximum gross floor area of 100m²; and
- amending the Additional Permitted Uses (APU) Map in Ballina LEP 2012 to identify the site.

The site will retain its current R2 Low Density Residential zoning. No changes are proposed to the other development controls in Ballina LEP 2012 which apply to the site.

2.3 Mapping

Council has included a site and zoning map which are suitable for exhibition purposes.

Council has indicated it will prepare an APU map. It is recommended that the proposed APU map be included in the proposal prior to exhibition.

Amendments to the APU map are to be prepared in accordance with the *Standard Technical Requirements for Spatial Datasets and Maps* prior to finalisation of the LEP.

3. NEED FOR THE PLANNING PROPOSAL

The proposal is a direct result of a submission made during the preparation of Council's *Wollongbar Strategic Plan (WSP) 2019-2036*. The WSP adopted an action to permit a service station on the site as an additional permitted use. The existing service station is enabled through the 'existing use rights' provisions of the *EP&A Act 1979*.

Prior to the adoption of the WSP, in 2017 a development application to Council requested demolition of the existing buildings on site and the erection of a new service station and a 66 place child care centre. It was withdrawn on Council advice that the proposed service station was located partly over land which does not enjoy existing use rights. The child care centre, whilst permissible in the R2 zone, is no longer proposed.

A submission was subsequently made during the consultation period for the WSP that requested the LEP be amended to permit neighbourhood commercial activity in association with a future redevelopment of the existing service station.

An additional permitted use is supported and is considered appropriate in this instance as:

- zoning the entire site for business uses would not be consistent with the existing commercial hierarchy and could have adverse economic impacts on the Wollongbar commercial area; and
- permitting service stations as a land use with consent in the R2 Low Density zone under Ballina LEP 2012 would not be consistent with the nature or objectives of the zone.

4. STRATEGIC ASSESSMENT

4.2 Regional

The proposal is consistent with the *North Coast Regional Plan 2036*. The site is located within the urban growth area boundary for Wollongbar and is therefore appropriately sited to be considered for the proposed development.

4.3 Local

The proposal is consistent with the *Ballina Shire Community Strategic Plan 2017-2027* and the *Wollongbar Strategic Plan 2019-2039*. A specific action in the WSP is to consider an amendment to the Ballina LEP for 246-250 Lismore Road, Wollongbar to facilitate a service station as an additional permitted use.

4.4 Section 9.1 Ministerial Directions

The proposal is considered to be consistent with all relevant 9.1 Directions except the following:

3.1 Residential Zones

The proposal is inconsistent with the direction as it will not encourage housing in a residential zone. This inconsistency is considered to be of minor significance as the site has long been developed for urban and commercial uses that benefit the surrounding residential community and as the site's current contamination status makes the land more suitable for commercial use.

6.3 Site Specific Provisions

The proposal is inconsistent with the direction as it will impose a development standard (100m²) on the proposed retail premises. The inconsistency is considered to be of minor significance as it is appropriate that the size of the retail premises remain limited due to the location of the site in a residential area and to protect the primacy of the developing Wollongbar commercial centre to the south-east.

4.5 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable SEPP's.

Although the proposal does not involve a rezoning of the site, it is noted that the proposal has addressed SEPP 55. The proposal confirms that the land is suitable subject to some remediation for its ongoing commercial use.

Preliminary contamination investigations were undertaken to support the 2017 development application. The report was prepared in accordance with the

requirements of the guidelines to satisfy SEPP 55. The findings of the report identified that although the site was contaminated it is suitable for the proposed uses. Site remediation requirements will be addressed with any development application.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The proposal is not expected to have any significant adverse social impacts. The proposal will permit the additional permitted uses with development consent. The inclusion of the service station and retail space into Schedule 1 means that the service station can re-develop and will no longer have to rely on existing use rights. The incorporation of a retail space will also benefit the local residents of Wollongbar by providing an option for minor daily grocery needs.

5.2 Environmental

The proposal will not have an adverse impact on critical habitat or threatened species, populations or ecological communities or their habitat. The site has been developed for urban / commercial purposes for approximately 40 years and contains no significant vegetation. The site has been confirmed as contaminated due to the existing use of the service station. Despite the contamination, the planning proposal confirms that the site is suitable subject to some remediation for its ongoing use commercial use.

5.3 Economic

The proposal is not expected to have a significant economic impact. Incorporating a minor retail space will also assist the ongoing economic viability of the service station.

5.4 Infrastructure

The proposal is not expected to require any significant new infrastructure. The site is already predominately developed and serviced with the necessary infrastructure.

6. CONSULTATION

6.1 Community

The planning proposal indicates a 28 day exhibition period. This proposal is not classified as low impact as described in *A guide to preparing local environmental plans* (Department of Planning and Environment 2016). This exhibition period is considered appropriate.

6.2 Agencies

Council has not indicated any specific agency consultation that will be undertaken. The proposal is not affected by flooding or bushfire and has been utilised for urban purposes, therefore the proposed development is deemed suitable and no agency consultation is proposed.

7. TIME FRAME

The planning proposal includes a project time line which suggests a completion time within six months. It is recommended that a nine month period be granted to allow adequate time to consult with the community and finalise the proposal. It is noted that nothing would prevent Council from moving forward and completing the proposal more quickly should it wish.

8. LOCAL PLAN-MAKING AUTHORITY

Council has advised that it wishes to act as the local plan-making authority for this matter. As the proposal involves only a local matter and raises no issues of State or regional significance, it considered appropriate that Council act as the local plan-making authority.

9. CONCLUSION

It is considered appropriate that the proposal proceed as it facilitates:

- the existing commercial use of the land which has been in operation since 1980; and
- a retail premises compatibility in size and scope with the service station use.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 3.1 Residential Zones and 6.3 Site Specific Provisions are of minor significance.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
3. Given the nature of the planning proposal, Council should be the local plan-making authority.
4. 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.



30/9/19

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2-10-2019

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