

Date: 24th September 2018
Our Ref: 16/163

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Mr Klaus Kerzinger

Dear Sir,

**Re: Planning Proposal Request
246-250 Lismore Road, Wollongbar**

1. Introduction & Background

Newton Denny Chapelle (NDC) has been engaged by Dojoo Pty Ltd, the owners of 246-250 Lismore Road, Wollongbar to prepare a Planning Proposal request to Ballina Shire Council.

This request is made in accordance with Ballina Shire Council's "Planning Proposals and Local Environmental Plan Amendments" process guidelines. The request is seeking Council's support to commence an amendment to the Ballina Local Environmental Plan 2012 [BLEP], through the inclusion of a *service station* and an additional *retail premises* (maximum 100m² GFA) within Schedule 1 of the BLEP to enable the re-development of Lot 2 DP 527953.

2. Description of Site and Surrounds

2.1 Cadastral Description

The subject site is described in cadastral terms as Lot 2 DP 527953, Parish of Tuckombil, County of Rous. The site enjoys a total area of 3,427m².

The site is detailed in a local context within **Plan 2.1** of this report. **Plan 2.2** of this report illustrates the Deposited Plan for the site and illustrates the following cadastral property dimensions.

| Boundary | Dimension |
|----------|-----------|
| North | 63.405m |
| Eastern | 59.557m |
| Southern | 62.198m |
| Western | 51.067m |

2.2 Location

The site is located at the intersection of Lismore Road and Rifle Range Road, Wollongbar. The aforementioned roads form the sites southern and western boundaries respectively.

The site is currently being used as for a service station, consisting of three bowzers with five pumps. The site has also been utilised for a series of land uses consisting of a takeaway food store in the south-eastern portion of the property, whilst the northern portion has historically been utilised for a garden shed and pot plant sales (DA1994/167) and in more recent times a motor showroom (DA2009/34).

Land uses that surround the site are exclusively residential with the built form dominated by single dwellings with a small number of two storey medium density residential units.

Kerb and gutter exists for the full extent of the Lismore Road and Rifle Range Road frontages. Vehicular access to the site exists by way of an existing access crossover from both street frontages.



Plate 1: Aerial photo of the subject land and surrounds (Source Intramaps 2018)

2.3 Topography & Existing Site Features

Natural surface levels are illustrated in Plan 2.3 and indicate the site slopes from its centre where the service station structure exists to the north-eastern and north-western corners with a general change in grade of some 670mm – 1000mm. The natural ground level is established at RL 173.66 metres AHD around the service station building. The site falls to RL 172.95 metres AHD and RL 172.49 metres AHD on the north-western and north-eastern boundaries respectively.

The subject land is gently sloping (approximately 1.5%) north east towards the adjacent properties. The area surrounding the site can be summarised as:

- Northern Boundary – This is formed by an existing medium density development. The development site slopes towards this boundary.
- Eastern Boundary – This is formed with two existing residential allotments. The development site slopes towards this boundary.
- Southern Boundary – This is formed with Lismore Road. Two existing site entries are located along this boundary.
- Western Boundary – This is formed with Rifle Range Road. Two existing site entries are located along this boundary.

The site is not identified as containing Acid Sulfate Soils, pursuant to mapping held by Ballina Shire Council.

2.4 Visual Context

The landscape and visual value of the site and the surrounding locality is characterised by a mixture of commercial buildings concentrated on the intersection of Lismore Road and Rifle Range Road together with a mix of single dwelling and medium density residential buildings, which front both Rifle Range Road and the Lismore Road.

The subject site has a high visual exposure provided by the view path from Rifle Range Road and Lismore Road which form the primary vehicular transport routes through Wollongbar. Despite the sites high exposure, the site has a low visual value resulting from the existing urbanised/commercial use

The property also has a low landscape value when viewed from the public domain with no ornamental landscaping provided as part of the urban use of the land.

3. Site History

A review of the development consent register held by Ballina Shire Council has identified the following approval history for 246-250 Lismore Road, Wollongbar as outlined below.

1. Building Application 63/55 for Service Station & Garage
2. DA 1975/ 31 - Approval to Subdivide the land
3. DA79/589 - Development Consent to Extend a Service Station & Retail Store to a garage showroom
4. DA1980/420 - Development Consent to Extend Motor Spirit Outlet and Retail Store
5. DA1984/265 – Subdivision.
6. DA1987/35 - Development Consent for a Building Exhibition Centre & Barn
7. DA1994/167 - Development Consent for Landscaping/Gardening Merchandise.
8. BA1999/13 - Building Approval Permit for a Metal Shed.
9. DA2009/34 - Development Consent for a Motor Showroom.

The Development Consent upon which our client Dojoo Pty Ltd relies upon for existing use rights is referenced as DA79/589. When Ballina Shire Council Local Environmental Plan was gazetted on 8 March 2013, the zoning for the property became R2 - Low Density Residential for which a service station use is nominated as a prohibited use.

Ballina Shire Council in the assessment of Development Application 2017/370, comprising the redevelopment of the site for a service station and childcare facility, formed the view existing use rights for the service station did not apply to the entirety of the subject site. This position was formed as the land described in the 1979 Development Application for the service station stated, "Lot 3 (subdivision Lot 2) DP527953". Accordingly, the existing use of the service station did not in fact apply to the entire property and only the land area labelled as Lot 2 although the subdivision never occurred. **Plate 2** illustrates the subdivision plan for the site as approved under Development Application 1975/31 and outline the area of Lot 3 which is referenced within the service station Development Application.

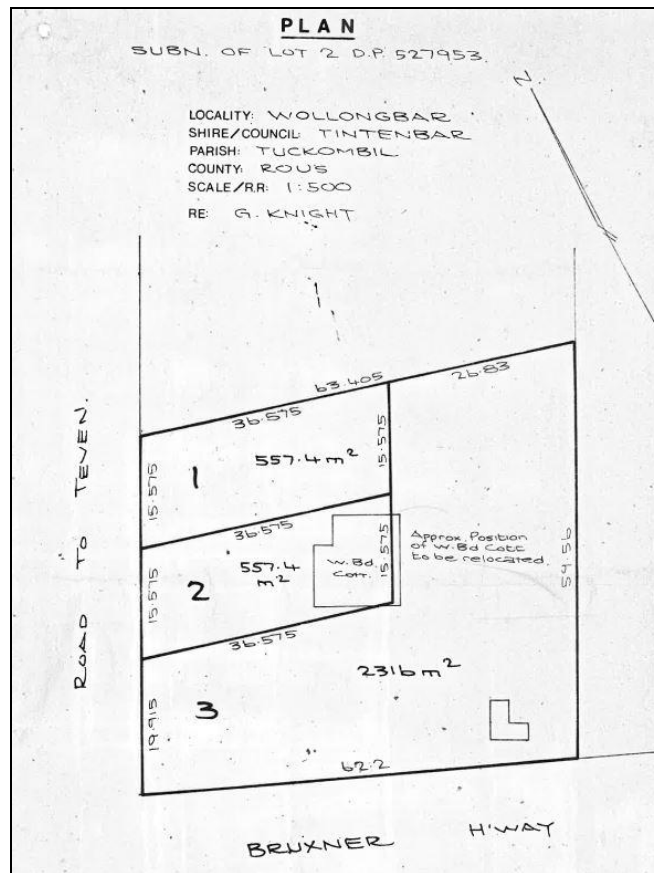


Plate 2: Approved Plan of Subdivision (DA1975/31)

4. Environmental and Planning Matters for Consideration

The site is subject to a number of environmental and physical matters for consideration which will need to be the subject of further consideration as part of the formal Planning Proposal process. These include the following:

Contaminated Land – GHD have completed an Environmental Site Assessment (ESA), which is contained at **Attachment 1** of this report. The ESA consisted of six soil bores to a maximum depth of between 4.0 and 8.0 m bgl and groundwater sampling of four existing monitoring wells.

Key findings from the ESA were;

Soil

- Based on the use of the site as a service station and historical reports for the site, the CoPC were considered to be TRH, BTEXN, PAH and lead.
- Hydrocarbon concentrations exceeding the adopted assessment criteria were identified during the investigation at the following locations:
 - BH103 (located beside a UST and former workshop) between

approximately 1 m bgl and 3 m bgl, which marginally exceeded the adopted ESL assessment criteria for TRH F2. The soil impact in this case was vertically delineated but horizontal delineation was limited to the west.

- BH105 (located beside a fuel dispenser) from approximately 1 m bgl to greater than 8 m bgl which exceeded the HSL, ESL or management limits for TRH , benzene or xylene at various depths. TRH concentrations were still increasing at the maximum depth of investigation. Horizontal soil impact delineation was limited to 15 to 20 m and 10 m east.
- A comparison of soil data from historic and current investigations (based on similar sampling locations) indicates CoPC concentrations at the site have not significantly changed since the lease entry investigation (Golder 2008) with the possible exception of increases in hydrocarbon concentrations in the vicinity of BH103 and BH105. Additional data is required to confirm the long-term trends of contaminant concentrations at the site.

Groundwater

- Standing water levels during sampling were measured at approximately 9 m bgl.
- No PSH was observed in any of the wells.
- The groundwater samples analysed from MW4, MW5, MW6 and MW7 reported concentrations of CoPC above the LOR for a number of analytes with:
 - All samples analysed exceeded the GIL drinking water criteria for benzene.
 - Concentrations from MW6 exceeded the GIL for drinking water for toluene and total xylene.
 - Concentrations from MW7 exceeded the GILs for fresh water or drinking water criteria for BTEXN
- Based on the results of this investigation, groundwater impact predominantly occurs within wells MW6 and MW7. These wells are located in the vicinity of BH103 and BH105 where soil impact was also noted. These concentrations do not pose an unacceptable risk to human health for the current use of the site (commercial/industrial) or for those residential properties located nearby.
- The lateral extent of dissolved phase hydrocarbon impact has not been determined as part of this assessment.
- A comparison of groundwater data from historic and current investigations indicates CoPC concentrations are generally decreasing with the exception of MW7, where increasing hydrocarbon concentrations were noted.

Based on the data gained during this assessment, GHD has concluded the site is suitable for ongoing use as a service station site.

Noise – It is recognised the development is located within an urban context. Accordingly, any future site design will need to have due regard to the location of the sensitive receivers on the northern and eastern boundaries. To assist with informing the proposed amendment to the BLEP, a noise impact assessment completed by CRG for DA2017/370 is provided within **Attachment 2**.

With the exception of planned children activity under DA2017/370, the proposed development was not introducing any new noise sources. Further, the majority of carpark spaces for service station have been located along the Lismore Road frontage, where existing road traffic noise would be the highest.

The nearest noise sensitive receivers to the development include single storey dwellings to the east and southeast, two storey townhouse dwellings to the northeast and single storey dwellings to the northwest across Rifle Range Road. For the two-storey townhouses to the immediate northeast CRG have assumed that bedrooms would be located at aboveground floor levels, with living, dining and kitchens areas at ground level.

Based upon the recommended acoustic treatments, as outlined within the CRG report noise impacts at the nearest receivers are within 1 dB of the criterion; with combined noise impacts predicted within 3 dB of the noise criterion. As the average person cannot typically detect a 3 dB variation in sound pressure level such impacts are unlikely to be detectable.

With regards to delivery and waste collection activities, given they would generally be of short duration and infrequent occurrence, such activities are unlikely to cause annoyance. Further to minimise noise annoyance we have recommended that such activities be limited to the daytime period between 7am and 6pm. As noted previously, the site is currently used as a service station; therefore, the proposed delivery and waste collection activities would be similar to those currently occurring.

Access, Traffic, Car Parking & Servicing – The site has dual street frontage to Lismore Road and Rifle Range Road. Lismore Road is a regional road under the jurisdiction of Ballina Shire Council which connects to the Bruxner Highway at Wollongbar and Bugden Avenue at Alstonville. Lismore Road provides an alternative travel route between Alstonville and Wollongbar and provides access to local streets and residential properties. The road consists of a single lane of traffic in either direction. The posted speed limit varies from 60km/h to 70km/h.

Rifle Range Road is a regional road under the jurisdiction of Ballina Shire Council which connects to Lismore Road at Wollongbar and Tuckombil Road at Tuckombil. Rifle Range

Road provides a travel route between Wollongbar and Tuckombil and provides access to local streets and residential properties. The road consists of a single lane of traffic in either direction. The posted speed limit is 60km/h.

A Traffic Report has been prepared by Bitzios Consulting for DA2017/370 and is provided within **Attachment 3**.

The key findings of the traffic impact assessment for the proposed mixed-use development which are deemed of relevance to the proposed amendment to the BLEP are as follows:

- *the proposed internal layout complies with relevant Council requirements and Australian Standards AS2890, with compliant parking bay dimensions, aisle widths and access arrangements;*
- *the car parking modules shall not exceed the maximum grades stipulated in AS2890.1;*
- *internal roadway grades shall not exceed the maximum grades stipulated in AS2890.2 for a 19m AV;*
- *Articulated Vehicles (AVs) and Heavy Rigid Vehicles (HRVs) servicing can occur within the constraints of the internal roadway and within the designated loading bay respectively;*
- *all service vehicles can ingress and egress the site in a forward gear;*
- *refuse collection shall occur from bulk bins located within the designated loading bay for the service station and childcare centre land uses;*
- *the development is expected to generate 37 new trips during the AM peak hour and 41 new trips during the peak hour; and*
- *SIDRA modelling of the Lismore Road / Rifle Range Road intersection shows that irrespective of the development, the priority-controlled intersection operates within acceptable limits during the design year 2028.*

Stormwater Management – Stormwater generated by the development proposed under DA2017/370 was capable of being collected and treated prior to discharge from the site. The proposed stormwater system has been designed in accordance with the Ballina Shire Council – Stormwater Management Standards for Development.

Stormwater attenuation has been provided to ensure that there is no increase in post development flows leaving the site for a range of events up to the 100 year ARI. This is in accordance with the requirements outlined in the Brownfield Development requirements outlined in the Ballina Shire Council – Stormwater Management Standards for

Development.

Stormwater quality targets the targets outlined in the Ballina Shire Council – Stormwater Management Standards for Development (refer **Figure 4.1**) have been adopted for the development.

Figure 4.1 - Stormwater Management Standards

- 80% reduction in total suspended solids (TSS)
- 60% reduction in total phosphorus (TP)
- 45% reduction in total nitrogen (TN)
- 90% reduction in gross pollutants (GP).

5. Current Planning Status

A review of the relevant environmental planning instruments and Ballina Shire strategic planning documents has been completed in order to ascertain the opportunity to seek an amendment to the BLEP to permit the redevelopment of the site for a service station and retail premises.

Ballina Local Environmental Plan 2012 – Pursuant to Land Zoning Map 001B, the lands are zoned R2 – Low Density Residential under the Ballina Local Environmental Plan 2012 (**BLEP**) as illustrated in **Plate 3**.

The land is not identified within Council's mapping for the strategic urban growth areas.



Plate 3: BLEP land zoning Map extract [source: Intramaps 2017]

The proposed development seeks to provide for the adaptive use of the existing service station with a more contemporary design response to that which currently exists. To this end, the proposal provides for the continuation of the use which commenced on the subject site from 1963 with a further approval issued for the garage and showroom in 1980.

The location of the development and the recognised historic commercial use of the land provides unique opportunities for the proposed use and as such the service station will not detract from the character or amenity of the surrounding residential area.

In respect to the development's permissibility under Clause 2.3 of the BLEP, the land use definition for the proposed service station is provided below.

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.*

The proposed development clearly sits consistently with the above referenced land use definition. The service station use is not identified as being permissible within the R2 zoning under the BLEP 2012.

As previously outlined, the redevelopment of the service station has been reliant on the existing use rights provisions under Section 107 of the EP&A Act. However, issues relating to the land area which the existing use rights apply has generated the need to seek an amendment to the BLEP to list a service station as being permissible upon the land through an additional permitted land use within Schedule 1 of the BLEP.

Reference is also made to the fact the development of the service station pursuant to the land use definition contained within the Ballina LEP 2014, provides scope for the sale of general merchandise. In this particular regard, reference is made to the definition of *neighbourhood shop* under the Ballina LEP for guidance on what constitutes general merchandise and, in this respect, we note *foodstuffs, personal care products, newspapers and the like* are referenced. Accordingly, merchandise may be sold within the primary service station building separate to the additional retail premises (maximum GFA of 100m²).

Wollongbar 2038 Strategic Planning Project – The planning framework for Wollongbar has reviewed employment opportunities for undeveloped land in Wollongbar (Section 7.8). We submit, the inclusion of 246-250 Lismore Road, Wollongbar should be reviewed under the Strategy given the commercial use of the land is in existence and to this end existing use rights applied.

With respect to creating employment opportunities, the Strategic Plan identifies local economic activity is likely to be stimulated through increases in population to 2038. It is recognised existing businesses and industries will benefit from this and additional employment opportunities are likely to be created as a consequence of greater demand for goods and services. In this respect, we submit the opportunity to provide neighbourhood scale service station and ancillary commercial/retail services will provide further employment opportunities without adversely impacting upon the retail hierarchy planned for Wollongbar. This position is reflected through the historic use of the land for commercial uses without any identified impact upon the Wollongbar commercial precinct.

The Strategic plan does also identify through the community consultation the desire for more shops in Wollongbar. This point was a priority issue for some residents together with local access to professional services including more health care related services.

The ability to value add to the subject land through siting ancillary commercial uses of a neighbourhood scale would be consistent with the views expressed within the resident feedback.

With respect to accessibility, the location of the property provides a gateway into Wollongbar. The land is conveniently located to both the existing and planned residential release areas within Wollongbar. To this extent, the ability to provide a well designed service station and commercial premises will offer ease of access for daily requirements of residents within the immediate Wollongbar area.

The vision for the site is akin to the service station located in Lennox Head. The “Station” service station provides a modern facility with residents able to access their daily fuel and neighbourhood retail needs. The coexisting commercial premises also serves to meet the daily need through the hardware and pool businesses. The scale of the built form and associated land use would be viable example of upon the subject land given the land area available.

Ballina Shire Growth Management Strategy 2012 – The property is not mapped as a Strategic Urban Growth Area pursuant to the Growth Management Strategy. Reference is however made to the fact the GMS plan for Wollongbar highlights the entire land area for the service station (**Plate 4**).

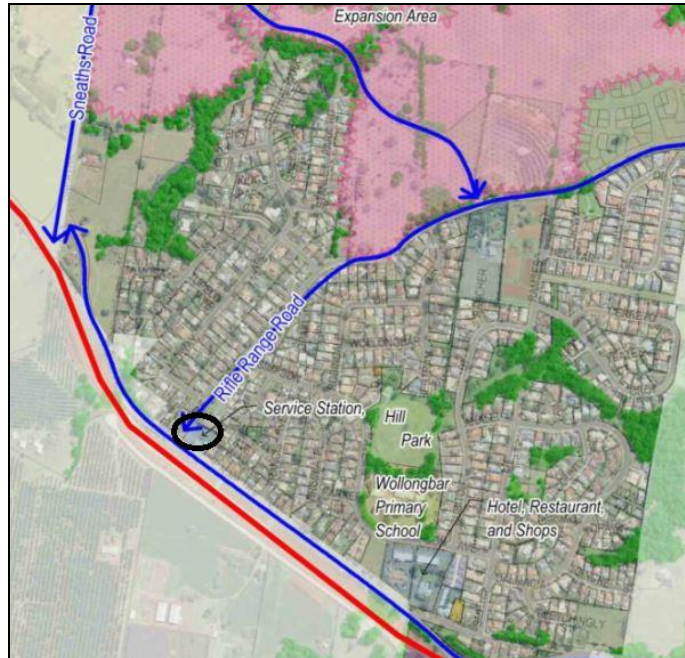


Plate 4: Ballina Shire Growth Management Strategy 2012.

North Coast Regional Plan 2036 – The subject land is identified as being located within the existing urban footprint for Wollongbar. Accordingly, the application of a residential zone to the land is consistent with this strategy.

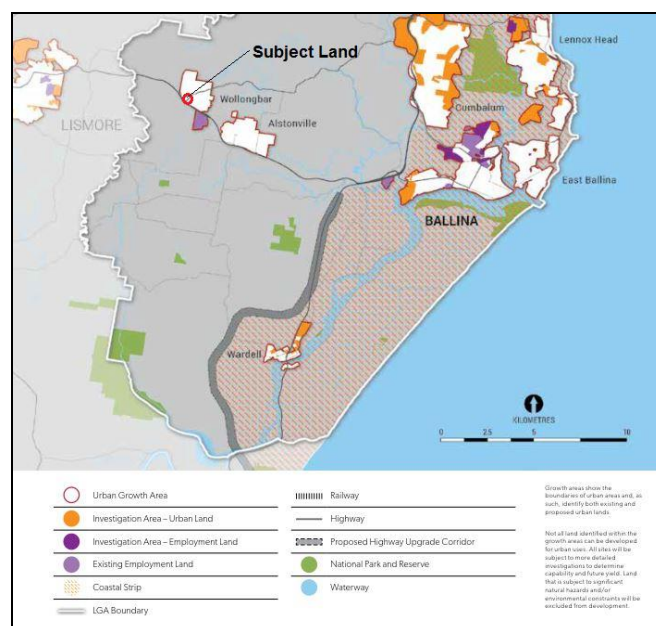


Plate 5: North Coast Regional Plan Urban Growth Area Map from Ballina LGA]

6. Conclusion

Our clients are seeking Ballina Shire Council's support to commence the amendment process to the Ballina Local Environmental Plan 2012 to permit the redevelopment of the service station and an additional retail premises (maximum 100m² GFA) on the entire land parcel.

This request is made in accordance with "Step 1" of Ballina Shire Council's Process Guidelines for the preparation of Planning Proposals and Local Environmental Plan Amendments.

It is acknowledged that more detailed planning, environmental and engineering assessments will be required in order to progress the project through the Planning Proposal processes. However, it is submitted that sufficient information is available at this time to enable Council to progress to "Step 2" of the process – that is the preparation of a formal request for Council to prepare a Planning Proposal.

We trust that the above is satisfactory to your requirements and look forward to Council's favourable consideration of this request. Should Council have any queries regarding the above, please do not hesitate to contact Mr Damian Chapelle of this office on (02) 6622 1011 or email dchapelle@newtondennychapelle.com.au.

A handwritten signature in black ink that reads "Damian Chapelle". The signature is written in a cursive, flowing style.

DAMIAN CHAPELLE

Town Planner. BTP. CPP.