



Planning Proposal 19/003

» 246 – 250 Lismore Road, Wollongbar

July 2019 (V1. Gateway) 19/54841

ballina
shire council



40 cherry street • po box 450 • ballina nsw 2478
t 02 6686 4444 • f 02 6686 7035 • e council@ballina.nsw.gov.au

ballina.nsw.gov.au

DISCLAIMER © Land & Property Information 2019. Although all care is taken in the preparation of plans within this document, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

Contents

1.	Introduction.....	2
1.1	Summary of Planning Proposal	2
1.2	Background	2
1.3	Council Resolutions.....	2
1.4	Gateway Determination	3
2.	Objectives & Intended Outcomes.....	3
3.	Explanation of the Proposal	3
3.1	Land to Which the Planning Proposal Applies	3
3.2	The Proposal – Explanation of Provisions	4
4.	Justification	4
4.1	Section A – Need for the Planning Proposal.....	4
4.2	Section B – Relationship to Strategic Planning Framework	4
4.3	Section C – Environmental, Social and Economic Impact.....	6
4.4	Section D – State and Commonwealth Interests.....	7
5.	Mapping.....	7
6.	Community Consultation	7
7.	Timeline.....	8
8.	Appendices	9
	Appendix 1 – Maps	10
	Appendix 2 – Section 9.1 Direction Checklist	11
	Appendix 3 – Council Reports.....	14
	Appendix 4 – Gateway Determination	24
	Appendix 5 – Environmental Site Assessment	25

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 is 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.

In 2017 a development application 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 which did not enjoy existing use rights.

The development application was subsequently withdrawn and an application for an LEP amendment was submitted.

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

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

(To be completed after Gateway determination)

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 1 below.



Figure 1: 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.

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

The lands contaminated land status has been considered by Council. 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.

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 ESA 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 recommendations contained within a Remediation Action Plan.

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. Retail premises are not permitted.

Permitting a service station and a size limited retail premises 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 a 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 is proposed to be prepared to support this planning proposal:

- Map 1 – Additional Permitted Uses Map.

6. Community Consultation

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

7. Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	August 2019
Completion of Technical Information	Completed
Government Agency Consultation if required.	September 2019
Public Exhibition Period	September 2019
Public Hearing	N/A
Submissions Assessment	October 2019
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	November 2019
LPMA Decision to Make the LEP Amendment (if delegated)	December 2019
Submission of Endorsed LEP to DPI&E for Finalisation	December 2019

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

8. Appendices

Appendix 1 – Maps

(No maps have been prepared at this stage of the process)

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	Consistent. 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.

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.

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.

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

Site Improvements Location Plan



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) ~~timber 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.

8.2 LEP Amendment - 246 to 250 Lismore Road, Wollongbar

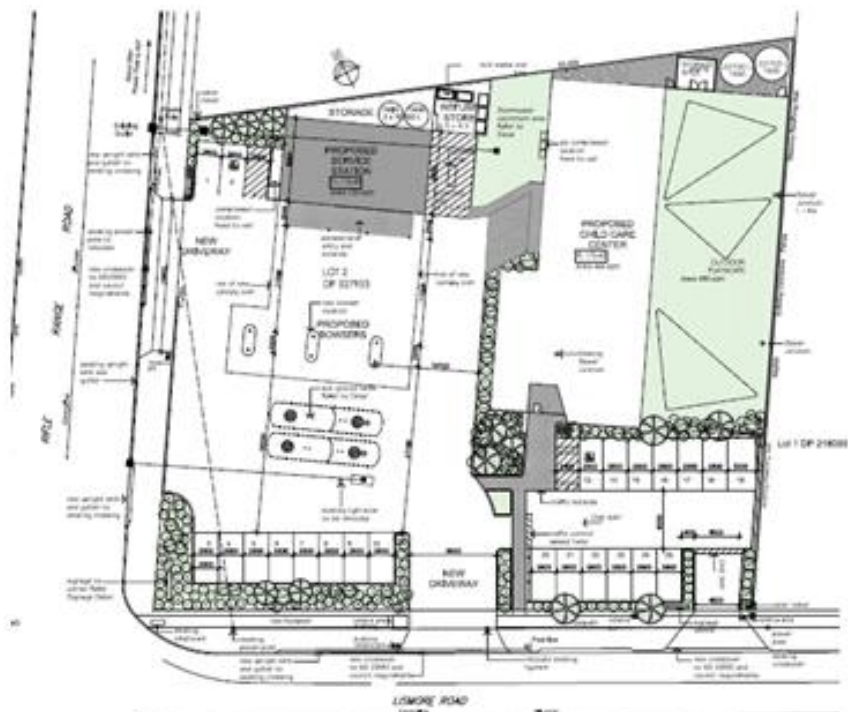
Photo extracted from The Station Grocer website July 2019



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

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.

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.

Do not delete this line

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.

Do not delete this line

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.

Appendix 4 – Gateway Determination

Appendix 5 – Environmental Site Assessment

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