

## MINUTES ORDINARY COUNCIL - 25 SEPTEMBER 2018

Councillor Jaimie Abbott left the meeting at 7:42pm in Committee of the Whole.  
Councillor Paul Le Mottee left the meeting at 7:42pm in Committee of the Whole.

ITEM NO. 3

FILE NO: 18/174894  
EDRMS NO: 58-2017-2-1

### PLANNING PROPOSAL FOR 2A AND 2B LAVIS LANE WILLIAMTOWN

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION  
MANAGER  
GROUP: DEVELOPMENT SERVICES

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#### RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal to amend Schedule 1 Additional permitted uses of the *Port Stephens Local Environmental Plan 2013* to permit development for the purpose of a 'service station' at 2A and 2B Lavis Lane, Williamtown (Lot 1 and Lot 2 DP 1237147) (**TABLED DOCUMENT**).
- 2) Forward the Planning Proposal to the NSW Department of Planning and Environment for a gateway determination including a request for delegated authority to make the plan.

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### ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018 COMMITTEE OF THE WHOLE RECOMMENDATION

	<b>Councillor Steve Tucker</b> <b>Councillor Glen Dunkley</b>  That the recommendation be adopted.
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

Councillor Jaimie Abbott left the meeting at 8:41pm in Open Council.  
Councillor Paul Le Mottee left the meeting at 8:41pm in Open Council.

ORDINARY COUNCIL MEETING - 25 SEPTEMBER 2018  
MOTION

097	<p><b>Mayor Ryan Palmer</b> <b>Councillor Ken Jordan</b></p> <p>It was resolved that Council:</p> <ol style="list-style-type: none"><li>1) Adopt the Planning Proposal to amend Schedule 1 Additional permitted uses of the <i>Port Stephens Local Environmental Plan 2013</i> to permit development for the purpose of a 'service station' at 2A and 2B Lavis Lane, Williamtown (Lot 1 and Lot 2 DP 1237147) (<b>TABLED DOCUMENT</b>).</li><li>2) Forward the Planning Proposal to the NSW Department of Planning and Environment for a gateway determination including a request for delegated authority to make the plan.</li></ol>
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Giacomo Arnott, Chris Doohan, Glen Dunkley, Ken Jordan, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Nil.

**BACKGROUND**

The purpose of this report is to recommend that Council adopt a Planning Proposal to amend Schedule 1 'Additional permitted uses' to the *Port Stephens Local Environmental Plan 2013* (LEP 2013) to permit with consent development for the purposes of a 'service station' at 2A and 2B Lavis Lane, Williamtown (Lot 1 and Lot 2 DP 1237147). A locality plan is provided at (**ATTACHMENT 1**).

A summary of the Planning Proposal (**TABLED DOCUMENT**) and property details are included below:

Date lodged:	27 February 2017
Proponent:	KDC Pty Ltd
Subject properties:	2A Lavis Lane Williamtown (Lot 1 DP 1237147) 2B Lavis Lane Williamtown (Lot 2 DP 1237147)
Current zoning:	RU2 Rural Landscape ( <b>ATTACHMENT 2</b> )
Site area:	0.28 hectares
Proposed amendment:	Amend Schedule 1 'Additional permitted uses' of LEP 2013

to permit with consent development for the purpose of a 'service station' on the subject properties.

Existing and current use

There are a number of uses approved under multiple development consents over the site, including a restaurant, a tavern, 3 food outlets, earthworks, tourist accommodation and a car wash (Development Application 16-2012-777-1) and a restaurant (Development Application 16-2016-45-1).

Initial construction activities (filling) for the purposes of these uses has commenced on the site.

Purpose of the amendment

A rezoning is not proposed in this instance. The Planning Proposal is to retain the current RU2 rural landscape zoning and amend Schedule 1 of the LEP 2013 to enable the additional use of a 'service station' with consent. The purpose of the amendment is to provide additional services and consumer choice to travellers moving to and from Newcastle Airport, the Williamstown aviation and defence hub, and along Nelson Bay Road.

Suitability of the subject land

The subject land is in close proximity to Newcastle Airport and the Williamstown aviation and defence hub. It is situated near the roundabout intersection of Lavis Lane and Nelson Bay Road and adjoins an existing fast food restaurant. Other surrounding land uses include a service station, rural land, and land owned by the Commonwealth Department of Defence.

The proposed additional use of a 'service station' is compatible with the existing consents for the subject land, and the other surrounding existing and planned future land uses. Any further site suitability issues for a 'service station' are able to be addressed during the assessment of a development application.

The subject land is located in the RAAF Base Williamstown per- and poly-fluoroalkyl substances (PFAS) Contamination 'Secondary Management Zone' identified on the maps published by the NSW Environment Protection Authority (EPA). The Secondary Management Zone is described as having 'some detected levels of PFAS' on the EPA's website and the EPA has published advice to residents in the Secondary Management Zone. Given the Planning Proposal would not permit a residential use of the land, and it is unlikely to increase exposure to PFAS chemicals originating from the RAAF Base Williamstown, the proposal is not inconsistent with the Environment Protection Authority's (EPA's) published advice.

In accordance with existing protocol the Planning Proposal for this site will be referred to the EPA.

## COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

## FINANCIAL/RESOURCE IMPLICATIONS

There are no financial or resource implications for Council in adopting the recommendations of this report.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	10,750	Stage 1 Planning Proposal Fees.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

## LEGAL, POLICY AND RISK IMPLICATIONS

There are no foreseen legal, policy or risk implications for Council as a consequence of this report.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that future development and occupants are at risk during flood events.	Medium	Consider the Planning Proposal in the context of the existing development consents for the site.	Yes
There is a risk that the proposal will facilitate development that is incompatible or inappropriate with the location in the RAAF Base Williamtown PFAS Contamination 'Secondary Management Zone'.	Medium	Consider the Planning Proposal in the context of the existing development consents for the site and refer the Planning Proposal to the NSW Environment Protection Authority for advice.	Yes

### Port Stephens Local Environmental Plan 2013

The current zoning of the site is RU2 Rural Landscape. Service stations are a prohibited use within the zone.

The Planning Proposal seeks to amend Schedule 1 of LEP 2013 by including a 'service station' as an additional permitted use on the site (with development consent).

The proposed additional use is defined by the LEP 2013 as:

"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.

Under the Planning Proposal, the current zoning of RU2 Rural Landscape will be retained. This will limit the scope for further general commercial uses on the site and reduces or removes the risk of undermining other centres zoned for business and commercial purposes. It may also, however, encourage other similar Planning Proposals in the area for additional permitted uses, which would be subject to specific assessment.

### Environmental Planning and Assessment Act 1979

Under Part 3 of the *Environmental Planning and Assessment Act 1979* (NSW) only the Minister or Council can initiate a Local Environmental Plan. If Council resolves to proceed with the recommendation and adopt the Planning Proposal, it will be forwarded to the NSW Department of Planning and Environment for a gateway determination. This will include a request for the delegation of plan-making functions.

### Hunter Regional Plan 2036

The Planning Proposal generally aligns with the directions and goals of the Hunter Regional Plan 2036 to grow the economy of Port Stephens and develop enhanced manufacturing, defence and aerospace hubs. The subject land is located close to the Williamstown aviation and defence hub and Newcastle Airport. The proposed use will support this economic centre, as well as the service visitors and residents travelling on Nelson Bay Road. Importantly, it also located on land that is already subject to a development consent for a tourist facility and the proposed use will support this approved use.

#### Draft Greater Newcastle Metropolitan Plan

The Planning Proposal aligns with the actions in the draft Greater Newcastle Metropolitan Plan to grow the airport and aerospace and defence precinct at the Williamstown aviation and defence hub. It also supports the action to align local plans to facilitate the growth and change in that area over time. As above, the proposed additional use of the land as a service station will support the emerging economic hub at Williamstown and will also provide facilities for tourists and other travellers on Nelson Bay Road.

#### Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy 2011 does not directly identify the site for any particular potential land use, however it does locate the site within the broader 'Eastern Growth Corridor'. The Planning Proposal is of minor significance in relation to the Strategy and will have no impact on the intended strategic land use planning outcomes outlined in the Strategy.

### **SUSTAINABILITY IMPLICATIONS**

Includes Social, Economic and Environmental Implications

The sustainability implications of proceeding with the Planning Proposal are limited given the site is cleared of vegetation and is subject to existing development consents.

The site is however located in the RAAF Base Williamstown PFAS Contamination 'Secondary Management Zone' and the site is categorised as a High Hazard Floodway under the Williamstown Salt Ash Floodplain Risk Management Study and Plan. These matters have been considered in the context of the existing development consents that already permit similar and compatible developments on the site.

The Planning Proposal will be referred to the NSW Environmental Protection Agency following a gateway determination for advice. This will assist in identifying further potential risks or information that may be required to inform consideration of the Planning Proposal (for example requirements under *State Environmental Planning Policy No. 55 Remediation of Land*). This consultation could be included as a requirement of a gateway determination.

In respect of flooding, areas surrounding the site are also categorised as either High Hazard Floodway or High Hazard Storage. Given the relatively small development footprint of a typical service station, the proposed additional use is unlikely to significantly add to the flood impacts on neighbouring properties given the nature and scale of the development that has already been approved on the site. The Planning Proposal is considered to have minor significance from a floodplain risk management perspective.

Any issues relating to stormwater quality, drainage, flood refuge, and issues relating to potentially hazardous and/ or polluting materials from the proposed additional permitted use can also be addressed at the development application stage.

## **CONSULTATION**

### Internal

Consultation with internal stakeholders has been undertaken by the Strategy and Environment Section to inform the recommendations of this report. The consideration of flooding in relation to the Planning Proposal should not be seen as endorsement of the filling of a flood storage area or a floodway without a comprehensive technical investigation of how the proposal would change the flood behaviour in the area. However, it has been considered satisfactory to deal with this and other impacts following a gateway determination or during the assessment of a future development application.

### External

Community consultation and consultation with public authorities will be undertaken in accordance with the gateway determination.

## **OPTIONS**

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

## **ATTACHMENTS**

- 1) Locality Plan.
- 2) Current Zoning.

## **COUNCILLORS ROOM**

Nil.

## **TABLED DOCUMENTS**

- 1) Planning Proposal - 2A and 2B Lavis Lane, Williamtown.



[illegible]

## DISCLAIMER

Port Stephens Council accepts no responsibility for any errors, omissions or inaccuracies whatsoever contained within or arising from this map. Verification of the information shown should be obtained from an appropriately qualified person(s).

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