

TABLED DOCUMENT

ITEM NO. 3 PLANNING PROPOSAL 2A AND 2B LAVIS LANE WILLIAMTOWN

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

ORDINARY COUNCIL MEETING 25 SEPTEMBER 2018



PORT STEPHENS
C O U N C I L

Planning Proposal

Amend Port Stephens LEP 2013
2 Lavis Lane
WILLIAMTOWN NSW 2318

Prepared by KDC Pty Ltd | February 2017

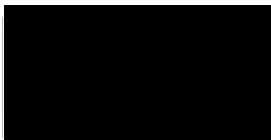
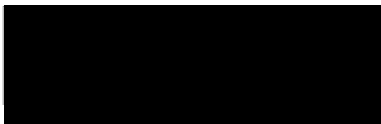


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Planning Proposal

Final Version

Report Job No. 16279 Prepared by KDC Pty Ltd for Knightsbridge Estate Group Pty Ltd | 17th February 2016

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This Report has been prepared in accordance with the brief provided by Knightsbridge Estate Group Pty Ltd and has relied upon the information collected at or under the times and conditions specified in the Report. All findings, conclusions or recommendations contained within the Report are based only on the aforementioned circumstances. Furthermore, the Report is for the use of the Client only and no responsibility will be taken for its use by other parties.



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Introduction

This Planning Proposal Report explains the intended effect of, and justification for, the Planning Proposal to amend Port Stephens Local Environmental Plan 2013. It has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979 and the relevant Department of Planning and Environment guides, including the updated '*A Guide to Preparing Planning Proposals*' and '*A Guide to Preparing Local Environmental Plans*'. The report comprises of the following sections:

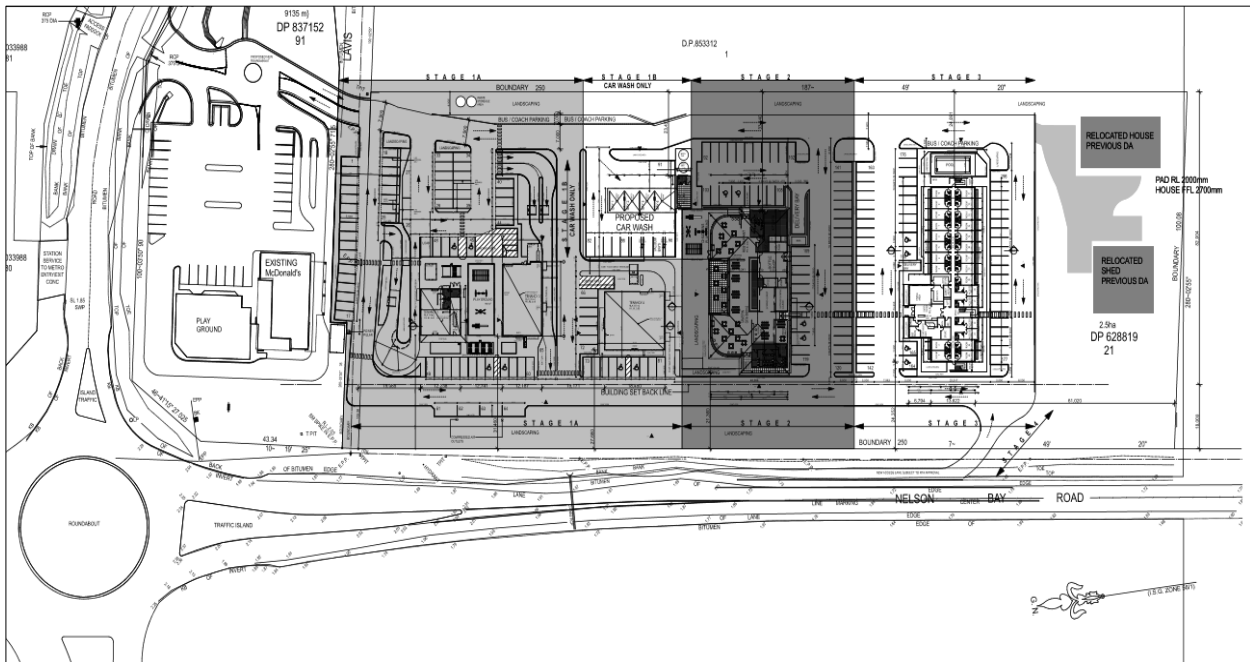
- Introduction
- Background and summary details of the proposal.
- Part 1 - A Statement of Objectives or Intended Outcomes of the proposal.
- Part 2 - Explanation of the Provisions that are to be included in the proposal.
- Part 3 - Justification of the Objectives, Outcomes and Provisions, and the process for their implementation.
- Part 4 - Mapping.
- Part 5 - Details of the Community Consultation that is to be undertaken in relation to the planning proposal.
- Part 6 - Project Timeline.
- Conclusion.

Background

KDC Pty Ltd (KDC) acts on behalf of its client Knightsbridge Estate Group Pty Ltd in preparing this Planning Proposal for submission to Port Stephens Council (Council) in relation to land at 2 Lavis Lane, Williamtown (the Site); legally described as Lot 21 DP 628819 and Lot 1 DP 1173212 (closed road portion of Lavis Lane).

The site is located on Nelson Bay Road, adjoining the new McDonald's development situated on the roundabout intersection of Lavis Lane, Cabbage Tree Road and Nelson Bay Road. It will form part of the tourist facility located on the corner of Lavis Lane and Nelson Bay Road along with the existing McDonalds, approved hotel and motel, and the approved KFC. Figure 1 below is an extract of the approved site plan which currently exists on the site. Should this planning proposal be supported opportunity exists for a service station to be developed at the northern end of the site, subject to consent being granted by Council. A Right of Carriageway through the McDonald's site, to benefit the subject site, has been created which will provide access from Lavis Lane (shown in Photograph 1 below).

Figure 1 – Extract of Approved Site Plan



It must be noted that there is currently a service station operating at 1 Lavis Lane on the northern corner of the Lavis Lane and Nelson Bay Road intersection. Along with the other developments within the integrated tourist facility the subsequent service station will be consistent with the local area.

Currently the site has approval for a tourist facility with 4 lot subdivision (DA 16-2012-777-1) along with a McDonald's operation (DA16-2010-638-1) and a KFC operation (DA16-2016-45-1). The tourist facility approval (DA 16-2012-777-1) references a restaurant, a tavern, 3 food outlets, earthworks, tourist accommodation and a car wash.

Numerous formal pre-lodgement meetings have been held with Port Stephens Council's Strategic Planning staff to discuss the intention to lodge this Planning Proposal for the Site and to obtain the Council's advice in relation to the most appropriate means of achieving the desired outcome. Further contact has been made since that meeting between KDC and Council's Planning staff in relation to the requirements for lodgement of the Planning Proposal.

Figure 2 – Locality Plan

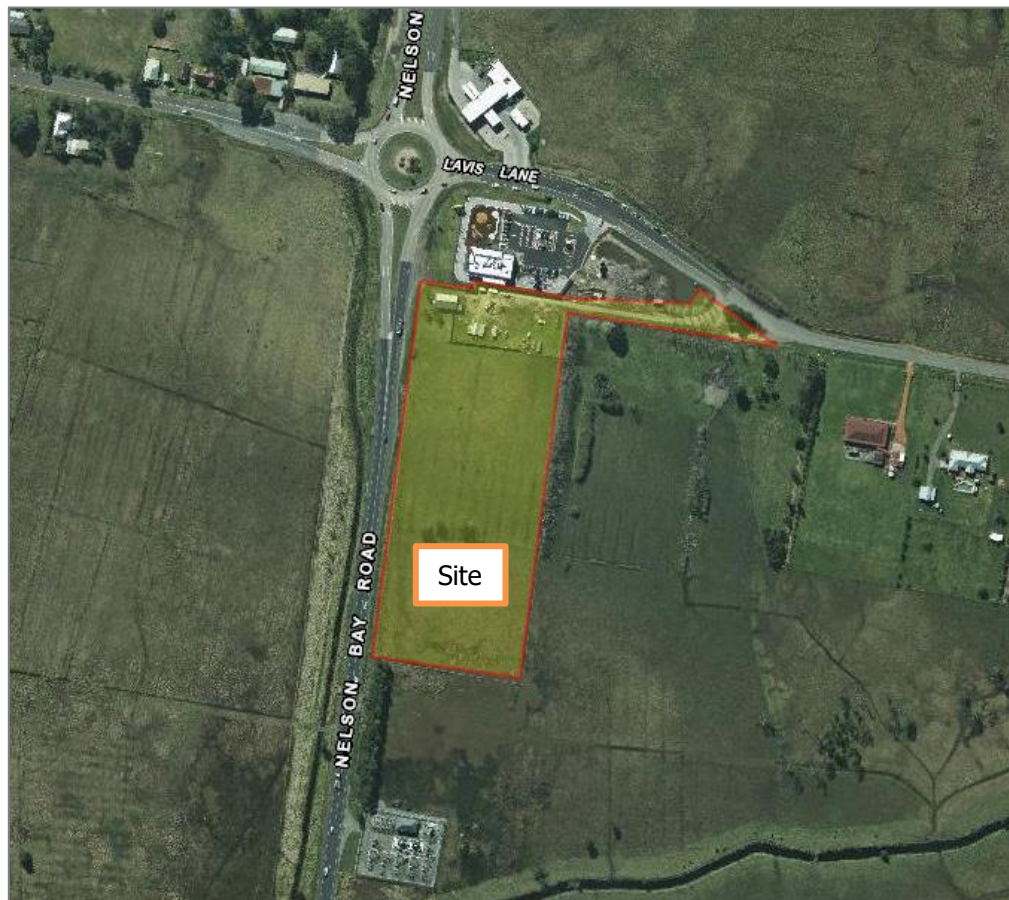
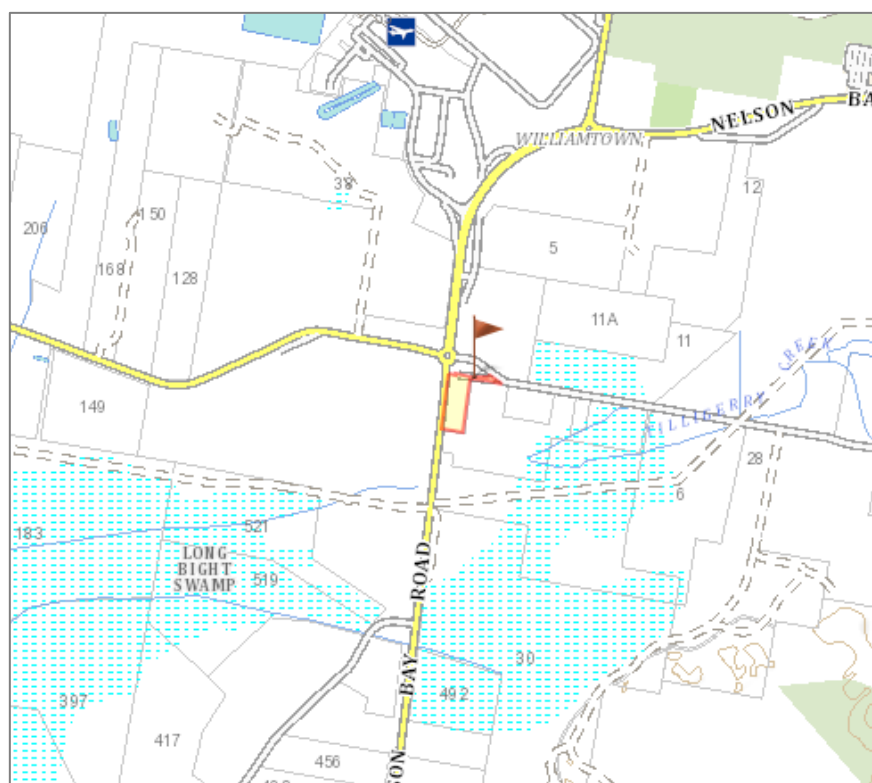


Figure 3 – Cadastral Plan



The following photographs depict the Site and its environs.

Photograph 1 – View through to site via Right of Carriageway through the existing McDonald's Operation from Lavis Lane



Photograph 2 – North-western corner of the site viewed from Nelson Bay Road



Photograph 3 –View from Nelson Bay Road across the northern end of the site



Photograph 4 – View from Southern end of the site looking North



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Part 1 - Objectives or Intended Outcomes

The objective of this Planning Proposal is to amend Port Stephens Local Environmental Plan (LEP) 2013 to permit a service station on the subject Site.

Under Port Stephens LEP 2013 a service station is defined as follows:

***"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.*

Service stations are currently prohibited land uses on the Site, given its RU2 *Rural Landscape* zoning. An amendment to the Port Stephens LEP 2013 is therefore required in order to permit the use of the Site for the purposes of a "service station".

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Part 2 - Explanation of the Provisions

The proposed outcome will be achieved by an amendment to Schedule 1 – *Additional Permitted Uses* of Port Stephens LEP 2013, specifically listing “service station” as permitted with consent on the Site.

The “Additional Permitted Uses” Map (CL1_004) of Port Stephens LEP 2013 shall also be amended to illustrate the Site. This is illustrated in Part 4 of this report and demonstrated in Figure 5,

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Part 3 - Justification

Section A - Need for the Planning Proposal

Q1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not the result of any strategic study or report.

However, the Site is part of the Defence and Airport Related Employment Zone (DAREZ) study area as defined by the *Defence and Airport Related Employment Zone – Williamtown, Stage 1 - Site Selection Report* from January 2008.

Although the findings limited the resulting DAREZ zone to its current bounds close to the Newcastle-Williamtown Airport, the subject site and its surrounds along Lavis Lane and Nelson Bay Road would be considered for an expansion of the existing DAREZ zone. Due to the location of the Site, the proposed additional permitted use will contribute to the area providing relevant services for people employed within the existing DAREZ zone, those travelling to and from the nearby Williamtown Airport along Nelson Bay Rd, and Port Stephens residents travelling to and from major urban centres.

The intended outcome of this Planning Proposal will establish an operation that will provide services, consumer choice, and will contribute to the revitalisation of the locality. The development of the Site for the purposes of a service station will also support the anticipated growth of employment generating land uses in the DAREZ and is well placed to take advantage of the future infrastructure expansion that will occur in the area, whilst being compatible with adjoining and uses.

Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The traffic volumes, access, parking availability, exposure, size and dimensions of the Site and existing natural environment were all considered when analysing the development potential of the Site. It was determined that the Site demonstrates good characteristics of a suitable commercial development site. It is considered that rural/residential development under the current zoning would represent an under-utilisation of the Site and fail to achieve the benefits of a transport orientated property, as well as having to overcome potential impacts of the high volume traffic location of the Site and the affectation of aircraft noise and flooding.

KDC has undertaken consultation with the strategic planning team from Port Stephens Council and it was considered by Council that an amendment to Port Stephens LEP 2013 in respect of the Site would be most appropriately addressed by amendment to Schedule 1 – *Additional Permitted Uses*.

An amendment to the Schedule of Additional Permitted Uses is seen to be the most effective means of achieving the intended outcome. This will also require an amendment to the Port Stephens LEP 2013 Additional Permitted Uses Map to include the Site.

Section B - Relationship to Strategic Planning Framework

Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional or district plan or strategy (including any exhibited draft plans or strategies)?

NSW: Making It Happen

NSW: Making it Happen was released by the Premier for NSW on 14 September 2015 and replaces the State's previous 10-year plan NSW 2021. *NSW: Making it Happen* outlines 30 key reforms for the State, including 12 personal priorities for the Premier.

The Premier's priorities include:

• Creating jobs Building infrastructure
• Reducing domestic violence Improving service levels in hospitals
• Tackling childhood obesity Improving education results
• Protecting our kids Reducing youth homelessness
• Driving public sector diversity Keeping our environment clean
• Faster housing approvals Improving government services

The State Priorities include:

• Making it easier to start a business Encouraging business investment
• Boosting apprenticeships Accelerating major project assessment
• Increasing housing supply Protecting our credit rating
• Delivering strong budgets Improving Aboriginal education outcomes
• Transitioning to the National Disability
• Insurance Scheme
• Better government digital services
• Cutting waiting times on planned surgeries Increasing cultural participation
• Ensure on-time running for public transport Creating sustainable social housing

It is considered that the Planning Proposal in this instance is consistent with *NSW: Making it Happen* as it will provide additional employment opportunities, as the Site is currently unused. The intended outcome will also encourage business investment by enabling the construction and subsequent operation of a service station operation that will provide services to complement the approved Tourist Facility and to also provide services that are lacking in the area.

Hunter Regional Plan 2016

The Hunter Regional Plan was adopted in 2016 as a 20 year growth plan for the Hunter region. The Plan encompasses four goals aimed to achieve the vision for the region as a leading regional economy in Australia, with a vibrant metropolitan city at the heart. The Planning Proposal is consistent with these goals and directions as described below:

Table 1 – Hunter Regional Plan Goals and Directions Compliance Table

Goal	Direction	Actions	Response
Goal 1 – The leading regional economy in Australia	Grow Greater Newcastle as Australia's Next Metropolitan City.	1.1 Prepare a Greater Newcastle Metropolitan Plan, underpinned by the following principles: Conduct wide-ranging engagement with stakeholders and the community. Retain the identity of communities, towns and cities across Cessnock, Lake Macquarie, Maitland and Newcastle. Establish a governance framework that can attract long-term investment and undertake coordinated planning. Integrate transport and land use planning to enhance public transport connectivity and improve employment accessibility. Focus investment to unlock potential in growth industries and increase economic diversification. Increase inter-regional and international connectivity. Focus development to create compact communities that allow 95 per cent of people to live within 30 minutes of a strategic centre. Protect the environment and respond to climate change.	The Planning Proposal is generally consistent with these actions, proposing an employment-generating land use in an appropriate location for the region.
	Enhance connections to the Asia Pacific through global gateways.	2.1 Promote diversification of operations at the Port of Newcastle and the Newcastle Airport and enhanced connectivity to the Asia-Pacific. 2.2. Develop and review strategies and precinct plans for the global gateways and surrounding lands to support their growth, diversification and sustainability. 2.3. Prepare local plans that adequately respond to air, noise and other issues relevant to the gateways to protect their	The Planning Proposal will permit a suitable non-residential land use within an area affected by constraints including flooding and aircraft noise.

		ongoing operations and expansion.	
	Revitalise Newcastle City Centre	3.1 Promote the growth and renewal of Newcastle City Centre through local strategies and controls. 3.2 Leverage the increased presence of the University of Newcastle in the city centre. 3.3 Develop local housing strategies for student and visitor accommodation and social and affordable housing. 3.4 Focus investment in developing infrastructure to: alleviate pinch points, delivering large-scale renewal projects including site amalgamation and remediation; enhance the public domain and relevant services to make it easier to get around the city centre, recognising Wickham as the public transport gateway into the centre; and lead by example and partner with other organisations to deliver landmark infrastructure projects.	The proposal is not on land within Newcastle City Centre; and will not impede the achievement of this goal.
	Enhance inter-regional linkages to support economic growth.	4.1 Enhance inter-regional transport connections to support economic growth. 4.2 Work with stakeholders to upgrade transport network capacity in line with changing demands. 4.3 Strengthen and leverage opportunities from the interconnections with other regions, particularly the Pacific Highway, the Golden Highway and the New England Highway. 4.4 Promote freight facilities that leverage the Port of Newcastle and its associated freight transport network. 4.5 Plan for multimodal freight facilities that support economic development of the region and respond to the location of the proposed Freight Rail Bypass. 4.6 Investigate opportunities for logistics and freight growth and other complementary land uses around airports, leveraging investments at Taree and Newcastle airports. 4.7 Enhance the efficiency of existing nationally significant transport corridors and	The Planning Proposal seeks to permit a service station adjacent to a main road to support motorists in this locality. Public notification and consultation during the Planning Proposal process will enable the community voice to be heard and any concerns responded to. The intended outcome of a service station on the land will support the transport network in this region and have a positive impact for motorists. The intended outcome of a service station on the land will support the transport network in this region and have a positive impact for motorists. In addition, the service station will support the Newcastle airport by

		protect their intended use from inappropriate surrounding land uses. 4.8 Enable development that relies on access to the Hunter Expressway interchanges, provided it encourages efficiencies to the inter-regional transport network. 4.9 Balance competing interests and deliver conservation, transport and land use planning objectives in the national pinch point area by: identifying preferred habitat corridors and priorities for investment in conservation to sustain habitat connectivity; and developing an integrated management plan for the area. 4.10 Prepare a strategy for land along the Hunter Expressway that considers its region-shaping potential. 4.11 Update the Hunter Regional Transport Plan to ensure there are improved connections to jobs, study and centres for Hunter residents.	providing services to airport employees and users.
	Transform the productivity of the Upper Hunter	5.1 Prepare for the diversification and innovation of the economy in response to long term industry restructuring in coal and power generation and the growth in new high-technology primary industry and associated specialist knowledge-based industries and rural tourism. 5.2 Leverage the regional advantages of the Upper Hunter to create a diverse, thriving and prosperous economy built upon industry growth and investment. 5.3 Identify the land and infrastructure requirements to develop the Hunter's coal and alternative energy resources. 5.4 Protect the availability and quality of resources to sustain agricultural industries in the region. 5.5 Improve land use certainty and enable innovation by reviewing and amending planning frameworks. 5.6 Plan for water security to shape regional infrastructure investment and economic development.	The Proposal is not inconsistent with these actions.

		5.7 Develop the Upper Hunter Economic Diversification Project report. 5.8 Review the Upper Hunter Strategic Regional Land Use Plan.	
	Grow the economy of Midcoast and Port Stephens.	6.1 Enhance tourism infrastructure and connectivity, recognising the importance of: regional and inter-regional connections via the Pacific Highway and the Newcastle and Taree airports and cruise ship gateways; and local routes such as the Lakes Way and Nelson Bay Road. 6.2 Enhance links to regional services in Greater Newcastle. 6.3 Enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economies. 6.4 Promote growth of industries that can leverage accessibility provided by the Pacific Highway. 6.5 Plan for and provide infrastructure and facilities that support the ageing population.	The primary purpose of the service station development on the subject site is to provide services for travellers utilizing the Newcastle airport and as such the subsequent development will enhance the connectivity between the Newcastle Airport and other transport and tourist hubs. This is supported by the currently approved tourist facility at the site which the subsequent service station will form part.
	Develop enhanced manufacturing, defence and aerospace hubs.	7.1 Facilitate development opportunities on land surrounding Newcastle Airport at Williamstown to cluster emerging high-technology industry, defence and aerospace activities. 7.2 Grow and diversify the manufacturing sector through local planning and appropriate planning controls. 7.3 Promote manufacturing business export opportunities and become part of global supply chains. 7.4 Facilitate research partnerships between tertiary education providers and businesses. 7.5 Protect strategic defence establishments with appropriate planning controls and compatible adjoining land uses.	The intended outcome of this planning proposal will provide employees of the defence and aerospace hub located adjoining the Newcastle airport with convenient services.
	Promote innovative small business and growth in the service sectors.	8.1 Implement initiatives to promote small business growth and innovation, particularly in Newcastle City Centre and other strategic centres. 8.2 Facilitate opportunities for incubator spaces for technology and non-technology	The Proposal is not inconsistent with these actions.

		early stage businesses, and ensure opportunities for new and emerging enterprises are encouraged. 8.3 Improve connectivity to the region's major health and education precincts and strategic centres. 8.4 Foster education precincts in Greater Newcastle to encourage a centre of excellence in tertiary and vocational education. 8.5 Establish a health precinct around Metford and other hospitals in the region, including Manning Base Hospital at Taree. 8.6 Determine potential to grow allied health services on land around hospitals and health services at Kurri Kurri, Belmont, Cessnock, Gloucester, Muswellbrook, Singleton, Nelson Bay and Dungog.	
	Grow tourism in the region.	9.1 Enable investment in infrastructure to expand the tourism industry, including connections to tourism gateways and attractions. 9.2 Encourage tourism development in natural areas that support conservation outcomes. 9.3 Undertake a land use assessment across the Viticulture Critical Industry Cluster to balance scenic amenity and ongoing growth in tourism. 9.4 Enable the growth of tourism in the Upper Hunter through integration with the Equine Critical Industry Cluster. 9.5 Develop capacity for growth in food-based tourism.	The Proposal is not inconsistent with these actions.
	Protect and enhance agricultural productivity.	10.1 Protect locations that can accommodate agricultural enterprises from incompatible development, and facilitate the supply chain, including infrastructure, distribution areas, processing facilities and research and development in local plans. 10.2 Address sector-specific considerations for agricultural industries through local plans. 10.3 Protect the region's wellbeing and prosperity through increased biosecurity measures.	The Proposal is not inconsistent with these actions.

		10.4 Encourage niche commercial, tourist and recreation activities that complement and promote a stronger agricultural sector, and build the sector's capacity to adapt to changing circumstances. 10.5 Develop an agribusiness industry strategy in areas experiencing high population growth to retain jobs and agribusiness growth for the Hunter. 10.6 Manage Biophysical Strategic Agricultural Land and other important agricultural land as locations for agricultural activities and complementary uses.	
	Manage the ongoing use of natural resources.	11.1 Manage the ongoing use of mineral resources and provide access to up-to-date information about these resources through the Department of Industry's Common Ground website and its Geoscientific Data Warehouse. 11.2 Work with relevant stakeholders, including councils, communities and industry, to prepare land use plans that respond to the lifecycle of resource activity for active and emerging mining areas. 11.3 Implement the cumulative impact assessment methodology when planning for important agricultural land and water resources. 11.4 Review the Synoptic Plan: Integrated landscapes for coal mine rehabilitation in the Hunter Valley (1999) in conjunction with the development of the Upper Hunter Strategic Biodiversity Assessment to ensure best-practice rehabilitation and visual impact management for closed mines.	The Proposal is not inconsistent with these actions.
	Diversify and grow the energy sector.	12.1 Diversify and grow the energy sector by working with stakeholders, including councils, communities and industry, to identify and support opportunities for smaller-scale renewable energy initiatives such as those using bioenergy or waste coalmine methane. 12.2 Enable opportunities for renewable energy industries by reviewing local planning controls. 12.3 Promote new opportunities arising from the closure of coal-fired power stations that enable long term sustainable economic and employment growth in the region.	The Proposal is not inconsistent with these actions.

	Plan for greater land use compatibility.	13.1 Identify and protect important agricultural land, including intensive agricultural clusters, in local plans to avoid land use conflicts, particularly associated with residential expansion. 13.2 Limit urban and rural housing encroachment into identified agricultural and extractive resource areas, industrial areas and transport infrastructure when preparing local strategies. 13.3 Amend planning controls to deliver greater certainty of land use. 13.4 Provide non-statutory guidance on the types of land uses that would be considered most appropriate, suitable or sympathetic to existing land uses in the Upper Hunter and other areas where land use conflicts occur.	The Planning Proposal will not impact important agricultural land. The proposal seeks to permit a compatible land use on the site having specific regard for the approved developments which will form tourist facility along with the subsequent service station. The site is not suited to residential use given aircraft noise and flooding. The intended outcome is suited to the main road location. The Proposal seeks certainty of suitable land use for the site. The intended outcome is to permit a suitable land use on the land. The Proposal is therefore consistent with these actions.
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Lower Hunter Regional strategy 2006-2036

The Lower Hunter Regional Strategy represents the NSW governments' position on the future of the Lower Hunter which will guide the development of the area. The primary focus of the document is to ensure adequate land is available and appropriately located to accommodate future housing and employment requirements. As part of Section 5 – Employment and the Economy the document projects the requirement of an additional 66,000 jobs by 2031.

The regional strategy defines the Airport Precinct as a specialized centre which represents a regionally significant economic and employment activity. Vacant land surrounding such centres is seen as having localized supply-and-demand issues. The improvement of services around the airport specialised centre will support employees who travel to and from this area which will assist in alleviating this issue.

Section 7 – *Transport* identifies the Newcastle Airport as having an important role to play with the movement of freight throughout NSW and Australia. The need for improved transport links connecting the Newcastle Airport to the national highway network was listed as one of the actions to be advised by the regional strategy. By providing services and consumer choice to the roadway links between the airport and other urban centres and highways the development will assist in achieving the goals of the strategy.

Q4. Is the planning proposal consistent with a Council's local strategy or other local strategic plan?

The Site falls within the Port Stephens Local Government Area (LGA), for which there are various strategies and plans, explored below.

Port Stephens Planning Strategy 2011

The Port Stephens Planning Strategy 2011 provides a high level strategic planning strategy which will guide the LGA's future growth and sustainability.

It outlines how council will deal with the issues it faces and outlines how it will enhance opportunities within its LGA identified below:

- An ageing of the population profile
- A declining supply of land with urban potential
- A dispersed settlement pattern
- A high dependence on motor vehicles and low public transport availability and use
- Significant impacts due to climate change and sea level rise
- Significant environmental assets (eg. the coast, the waterways, landscape and natural areas) and constraints (eg. flooding, acid sulphate soils)
- The impact of military aircraft noise
- Areas of economic growth, such as Tomago and Williamtown (DAREZ Business Park)
- The regional airport with ready access to other centres

The intended outcome of this Planning Proposal addresses multiple issues and opportunities identified.

- A declining supply of land with urban potential

The subject site is identified as having little potential for residential land uses due to environmental considerations and nearby airport operations. However, the proposed additional use and subsequent establishment of a service station on the Site will support the DAREZ zone located within Williamtown expanding the potential land uses for the area and furthering the establishment of Williamtown as a key business district in the Port Stephens and greater Hunter region.

- Significant environmental assets (eg. the coast, the waterways, landscape and natural areas) and constraints (eg. flooding, acid sulphate soils)

The subject site consists of cleared open land with no significant environmental assets. As part of the *Defence and Airport Related Employment Zone – Williamtown, Stage 1 - Site Selection Report* the site was found to not have any significant threatened species records.

It must be noted that the site is subject to flooding as identified by the Port Stephens Local Environmental Plan 2013 (Map reference FLD_004) and potentially impacted by Class 3 Acid Sulfate Soils (Map Reference ASS_004). The site has approval for filling to occur to raise the level of the site. Approximately 50% of the site has already been filled for the existing McDonald's and the approved KFC development. The subsequent development type is considered an appropriate use of the land and long-term solutions to the identified constraints are able to be implemented into the design allowing for a use of such land to be established.

- The impact of military aircraft noise

Due to the impact of military aircraft noise the type of development which can be established in the Williamtown area is limited. The additional permitted use of a service station constitutes an appropriate development type for this area as the impact of such noise on the operation is largely inconsequential and able to be minimized.

- Areas of economic growth, such as Tomago and Williamtown (DAREZ Business Park)

While not directly inside the Williamstown DAREZ Business Park, the site is situated in a location which will directly provide services to the developments in that area. This has been reinforced by council by approving the integrated tourist facility. It will provide economic opportunities in the Williamstown area while also supporting tourist activities of the Port Stephens region by providing consumer choice and services to travelers.

- The regional airport with ready access to other centres

By supporting the Newcastle airports operation by providing services and consumer choice to travellers moving to and from the airport the subsequent development will help enhance the connectivity between the airport and other tourist or urban centres within the Port Stephens LGA and wider Hunter region.

Defence and Airport Related Employment Zone (DAREZ) Land Use Development Strategy 2008

While the site currently does not exist within the DAREZ zone as outlined by the DAREZ Land Use Development Strategy it was considered as part of the study area.

The goals of the strategy were to identify the area for the development of the Airport and to provide areas for supporting industries for the Williamstown RAAF base and Newcastle Airport. While the site was not included in the resulting DAREZ zone the proposed development will still achieve factors from this paper.

The proposed development aims to supply essential services to the area while also giving improved consumer options to the employees and businesses located within this significant employment zone. It will also provide for the efficient operation of the road network by providing convenient services to roadway users.

The development is considered to supply an essential supporting auxiliary service consistent with the goals of the Strategy.

Port Stephens Rural Strategy 2011

The preparation of the Port Stephens Rural Strategy 2011 provides Council with an overarching document that considers all aspects which impact upon rural lands and guidance on the future of such areas. The Williamstown area is considered a Rural Village under Map 4.1 of the strategies Settlement Hierarchy and the subject site is zoned RU2 Rural Landscape under the Port Stephens LEP 2013.

As the site constitutes rural land the relevant principles of the strategy must be considered.

Growth Management

- Embody the concepts of Ecologically Sustainable Development;

The subject site is currently cleared and unused. The *Defence and Airport Related Employment Zone – Williamstown, Stage 1 - Site Selection Report* did not find any threatened species recorded on the site. As such there is very little ecological value on the site. The subsequent development of the site will provide the employment opportunities within the Williamstown area and give potential customers choice for service. The planning proposal and subsequent development of a service station embodies the concepts of Ecologically Sustainable Development.

- Limit expansion to those settlements that have the capacity for growth;

The Williamstown rural village contains the DAREZ zone which encourages development for the Newcastle Airport and as such growth for the Williamstown village cannot be limited as other rural villages can. It is also considered that there is sufficient land in the Williamstown village for expansion to occur.

- Avoid development in areas of conservation significance;

The subject site has little conservation significance as established by the *Defence and Airport Related Employment Zone – Williamtown, Stage 1 - Site Selection Report*.

Land Use Planning

- Develop a land use framework that provides certainty for the residents;

Considering the surrounding land uses and the development of the Newcastle Airport and DAREZ area the type of development this planning proposal will allow is not unexpected for this specific site.

- Allow for there to be flexibility in the implementation of land use policies;

This Planning Proposal aims to enhance the flexibility in land use options for the subject site.

- Ensure that current and future agriculture is not compromised by fragmentation of rural land

Considering the sites location along Nelson Bay Road, the surrounding development to the site and the proximity to the Newcastle airport DAREZ area this proposal will not compromise agriculture land uses nor will it lead to fragmentation of rural lands.

- Ensure that there are sufficient land stocks to meet the residential needs of the community;

Due to the sites location in proximity to the Newcastle airport and the environmental impacts from flooding and acid sulfate soils as identified in the Port Stephens LEP 2013 the site is considered to be unsuitable and undesirable to be used for residential purposes and as such the proposal provides an appropriate option.

Community Services and Quality of Life

- Ensure that people living in rural areas and settlements have access to an appropriate level of community services and facilities

The subsequent establishment of a service station will provide the local community with greater consumer choice, convenient services, and employment opportunities which is appropriate considering the surrounding development; whilst also limiting the impact on rural land.

Economic Growth

- Provide for a diversity of employment opportunities which capitalise on the economic strengths of Port Stephens;

The sites location close to the DAREZ and Newcastle airport, the surrounding development types, and location along Nelson Bay Road will provide long term employment opportunities to Port Stephens residents while capitalizing on trade generated by the airport and movement to tourist and urban centres.

- Develop strategies to retain the existing businesses;

No existing business is established on the site.

- Ensure that the current diversity of economic activity continues;

This planning proposal will allow for an increase in diversity for economic activities and its location clustered with other commercial premises will enhance the economic activities in the Williamtown area.

- Build on the industry sectors that have been identified as the drivers of the future economy;

As the subsequent development is oriented to service the development within the DAREZ zone it will build upon the industry established in Williamstown area.

- Encourage a wide range of agricultural and other complementary rural uses such as tourism having regard to environmental impact;

This planning proposal will provide a complimentary rural land use providing services to operations in rural lands and to the tourism sector in the Port Stephens area.

- Target job opportunities and education that allows for the retention of young people in the community;

The establishment of a service station will provide job opportunities within the Williamstown area appropriate for young people. Alongside the DAREZ business park the ability to retain young people in the community will be enhanced.

Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The proposal is consistent with all applicable SEPPs, as outlined in the Table 2.

Table 2 – Consistency with State Environmental Planning Policies

No.	Title	Consistency with the Planning Proposal
1	Development Standards	Not applicable.
14	Coastal Wetlands	Not applicable.
19	Bushland in Urban Areas	As the proposal will not affect native vegetation the proposal is consistent with this SEPP.
21	Caravan Parks	Not applicable.
26	Littoral Rainforests	Not applicable.
30	Intensive Aquaculture	Not applicable.
33	Hazardous and Offensive Development	A hazard analysis shall be undertaken in respect of a future service station on the Site, to demonstrate suitable site design, setbacks and operational procedures consistent with this SEPP.
36	Manufactured Home Estates	Not applicable.
44	Koala Habitat Protection	The site is covered by the Port Stephens Koala Plan of Management, prepared in accordance with the SEPP. It is classified as mainly cleared by the Koala Plan of Management; and the proposal is consistent with the SEPP.
47	Moore Park Showground	Not applicable.
50	Canal Estate Development	Not applicable.
52	Farm Dams and other works in Land and Water Management Plan Areas	Not applicable.
55	Remediation of Land	The previous uses of the Site over time are not likely to hinder the intended outcome of this

		Planning Proposal. Preliminary contamination investigations can be undertaken with future development application to identify any necessary remediation.
62	Sustainable Aquaculture	Not applicable.
64	Advertising and Signage	Any future signage on the Site shall be compatible with the desired amenity and visual character of an area and shall comply with the assessment criteria outlined in schedule 1 of the SEPP.
65	Design Quality of Residential Flat Development	Not applicable.
70	Affordable Housing (Revised Schemes)	Not applicable.
71	Coastal Protection	The subject site is located within the Coastal Use Area defined by the SEPP and will need to be considered. The Planning Proposal is consistent with the aims and Part 2 Section 8 of the SEPP.
	Affordable Rental Housing 2009	The land is not owned by a Land and Housing Corporation; and no affordable rental housing will be lost as a result of the proposal. The proposal is therefore consistent with the aims of this SEPP.
	Building Sustainability Index (BASIX) 2004	Not applicable.
	Exempt and Complying Development Codes 2008	In accordance with this SEPP certain minor development may be undertaken as exempt or complying development. However, the intended outcome for the site will require lodgement of a Development Application in future. The proposal is consistent with this SEPP.
	Housing for Seniors or People with a Disability 2004	Not applicable.
	Infrastructure 2007	The Planning Proposal will enable a suitable land use adjacent to classified road and is consistent with this SEPP. A future Development Application will be referred to the RMS for concurrence as a service station development on a classified road triggers 'traffic generating development.'
	Kosciuszko National Park - Alpine Resorts 2007	Not applicable.
	Kurnell Peninsula 1989	Not applicable.
	State Significant Precincts 2005	Not applicable.
	Mining Petroleum Production and Extractive Industries 2007	Not applicable.
	Miscellaneous Consent Provisions 2007	Not applicable.
	Penrith Lakes Scheme 1989	Not applicable.

	Rural Lands 2008	The subject site is located on rural land however the proposal is consistent with the planning principles outline in part 2 section 7 of the SEPP.
	State and Regional Development 2011	Not applicable.
	Sydney Drinking Water Catchment 2011	Not applicable.
	Sydney Region Growth Centres 2006	Not applicable.
	Three Ports 2013	Not applicable.
	Urban Renewal 2010	Not applicable.
	Western Sydney Employment Area	Not applicable.
	Western Sydney Parklands 2009	Not applicable.

Table 3 – Consistency with Deemed State Environmental Planning Policies

No.	Title	Consistency with the Planning Proposal
8	Central Coast Plateau Areas	Not applicable.
9	Extractive Industry 1995	Not applicable.
16	Walsh Bay	Not applicable.
20	Hawkesbury-Nepean River 1997	Not applicable.
24	Homebush Bay Area	Not applicable.
26	City West	Not applicable.
30	St Mary's	Not applicable.
33	Cooks Cove	Not applicable.
	Sydney Harbour Catchment 2005	Not applicable.

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Table 4 reviews the consistency with the applicable Ministerial Directions for LEPs under section 117 of the Environmental Planning and Assessment Act 1979.

Table 4 – Consistency with Section 117 Directions

Section 117 Directions	Assessment
1. Employment and Resources	
1.2 Rural Zones This direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).	As Port Stephens LGA is not listed under clause 2(b), Clause 4(a) applies. As the planning proposal proposes an additional permitted use rather than rezoning the rural zone it is consistent with this direction.
1.5 Rural Lands The objectives of this direction are to:	As Port Stephens LGA is not listed under clause 2(a), this direction applies. Clause 3(a) applies to

(a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes	this application and as such clause 4 also applies. The proposal is consistent with the SEPP principles of Rural Lands 2008 as outlines earlier in this proposal.
2. Environment and Heritage	
2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	The subject site is located within the Coastal Use Area defined by the SEPP and will need to be considered. The planning proposal is consistent with the aims and Part 2 Section 8 of the SEPP.
3. Housing, Infrastructure and Urban Development	
3.4 Integrating Land use and Transport This direction applies to Planning Proposals that create, alter or remove a zone relating to land zoned for residential, business, industrial, village or tourist.	N/A
3.5 Development Near Licensed Aerodromes This direction applies to Planning Proposals that will create, alter or remove a zone or provision relating to land in the vicinity of a licensed aerodrome.	The additional permitted use proposal is consistent with the direction as the service station land use is consistent.
4. Hazard and Risk	
4.1 Acid Sulfate Soils This direction applies when a Planning Proposal relates to land that is mapped as having a probability of containing ASS.	The Site is identified in Port Stephens LEP 2013 maps as having class 3 probability of ASS. The intended outcome of this Planning Proposal can be suitably addressed with a future development application for the use and is manageable risk; therefore the probability of ASS is considered of minor significance.
4.2 Mine Subsidence and Unstable Land This direction applies to Planning Proposals on land that is within a mine subsidence district or identified in a study as being unstable land.	N/A
4.3 Flood Prone Land This direction applies to Planning Proposals on land affected by flooding.	The Site is situated in a flood zone as per the Port Stephens LEP 2013 Flood Planning maps. The intended outcome of this Planning Proposal can be suitably addressed with a future development application for the use and is a manageable risk.
4.4 Planning for Bushfire Protection This direction applies when a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land.	The property is identified as being partially affected by bush fire prone land (buffer), however; this risk is not significant enough to preclude future commercial development. Consultation with NSW Rural Fire Service will be undertaken.
5. Regional Planning	
5.1 Implementation of Regional Strategies This direction applies as the site is within the area of the Lower Hunter Regional Strategy.	The proposal is consistent with the Lower Hunter Regional Plan and as such consistent with the direction.
5.2 Implementation of Regional Plans Applies to land for which the Minister has released a Regional Plan.	The proposal is consistent with the Regional Plan and therefore consistent with this direction.
6. Local Plan Making	
6.1 Approval and Referral Requirements Applies to all Planning Proposals	This planning proposal appears to be consistent with the objectives of the direction; to be confirmed dependent on the outcome of Council's Flood Study.

6.2 Reserving Land for Public Purposes Applies to all Planning Proposals	N/A
6.3 Site Specific Provisions This direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out. A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either: (a) allow that land use to be carried out in the zone the land is situated on, or (b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or (c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.	As the planning proposal relates to an additional permitted use of a service station it is consistent with the aims and objectives of the direction.

Section C - Environmental, Social and Economic Impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Site is not identified on Port Stephens LEP 2013 Maps as containing environmentally sensitive land or significant environmental attributes. In addition, the *Defence and Airport Related Employment Zone – Williamtown, Stage 1 - Site Selection Report* the site was found to not have any significant threatened species records.

The Planning Proposal does not seek to alter the zoning of the Site, as the intended outcome is to permit a specific additional use (service station). As the Site is predominantly cleared land, the intended outcome is achievable on the Site with minimal, if any, disturbance to the natural environment including vegetation.

Any potential environmental impact must be addressed at development application stage for any proposal.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Traffic Implications

The site is located along the RMS classified road Nelson Bay Road which connects the major urban centre of Newcastle with the Newcastle Airport at Williamtown and further along to the tourist centre of Nelson Bay. In addition, this road is the major road which connects residents with either of the abovementioned urban centres.

The site can be accessed via an internal roadway shared as part of the tourist facility. There is approval from the RMS and council for construction of an access from the RMS Classified road Nelson Bay Road. The access from Nelson Bay Road will give pass through traffic a convenient access which will reduce impact on the surrounding road network. The Lavis Lane access will directly support the tourist facility and the internal premises reducing impact on Nelson Bay Road. The internal roadway will provide an integrated pathway for patrons to access multiple services without the need to re-access public roads reducing impacts on the surrounding network.

It is expected that the majority of trade would consist of pass through trade with no expected increase of traffic load due to the development. Details of site access will be supplied with the future development application.

In addition, due to the noise generated by the current high volumes of passing traffic at the site this additional permitted use is considered to be a more compatible land use.

Natural Environment

The site is best described as cleared land with only grass vegetation. It is not located with an area of environmental significance. The site is located in a class 3 acid sulfate probability zone, mitigation measures will be supplied as part of a subsequent development application for the service station.

Scenic and Landscape Value

The majority of the land in the area is cleared agricultural land consistent with the land zoning. On the corner of Nelson Bay Road and Lavis Lane is a service station and a Take Away Food and Drinks premises. As per Port Stephens Development Application tracker another Take Away Food and Drinks premises is approved to be constructed. The future development of a service station will adjoin the existing Take Away Food and Drink premises and will therefore be consistent with this cluster of commercial premises.

Flooding

The site is mapped inside a Flood Planning zone as per the Port Stephens LEP 2013 Flood Planning maps (Map reference FLD_004), see appendix A for flood planning map extract.

Appropriate mitigation measures will be incorporated into the future design of the service station and details and plans supplies as part of a future Development Application.

The Council's *Draft Port Stephens Floodplain Risk Management Policy* and Flood Hazard Maps are nearing completion and will have implications for this Planning Proposal. It is anticipated that the outcome of that flood study will be favourable for the Site in terms of flooding impact.

Development immediately north of the Site has recently been permitted by Council on similarly flood liable land. The adjacent road, Nelson Bay Road, will also require long-term flood free status and management of flood waters in order to remain a viable major road connecting Newcastle, Nelson Bay and the Newcastle Airport.

Amenity

The term 'amenity' relates to the qualities, characteristics and attributes people value about a place which contributes to their experience of a high quality of life. Urban or residential amenity encompasses a wide range of attributes and values which change over time and with cultural and socioeconomic status. The spatial scale at which amenity can be defined also varies from across a city, a suburb, a neighbourhood, a street or even a specific site, with each level contributing to the identity of an area and providing a 'sense of place'.

The amenity attributes which people seek and appreciate often vary according to individuals' own values. Nevertheless, there are a number of general elements that contribute to the amenity of urban or residential areas. These include the physical landscape or streetscape; areas of vegetation and public and private open space for recreation, such as parks, reserves and gardens; urban design, including the scale and dominance of buildings; historic and cultural heritage; public views and outlooks; privacy; physical safety; and the accessibility of places. Another component of amenity is the ability of people to lead their lives free of nuisances including those arising from noise, odour, vibration, dust, wastewater or waste products.

Noise pollution can be defined as unwanted offensive noise that unreasonably intrudes on daily activities. In urban areas, noise pollution has many sources, most associated with urban development: road, rail and air

transport; industrial noise; and neighbourhood and recreational noise. A number of factors contribute to problems of high noise levels including:

- increasing population, particularly where it involves greater urbanisation and urban consolidation; and
- increasing volumes of road, rail, and air traffic.

Therefore, the amenity on the site will be affected by the general traffic noise. The level of annoyance or discomfort depends on a number of factors, including the type, timing, duration and frequency of noise or if the disturbance is out of the ordinary, that is, differs from the 'background' noise. With regard to the substantial increase in traffic flows as identified by both the state and federal government studies, vehicles will generate a high duration and frequency of noise.

The location of the Site, situated along a classified road and also within the vicinity of the RAAF Base and commercial Airport, may result in offensive noise that would reduce residential amenity. As such, it is again considered in this context a more suitable and compatible use of the site would be for non-residential development. This is consistent with the adjoining commercial land uses operating under recent development consents.

Q9. Has the planning proposal adequately addressed any social and economic effects?

Development of a service station on the site is anticipated to have an ongoing positive social and economic impact on the local area and the broader Williamstown community. The identified positive impacts are summarised below:

- Future development will generate improved employment opportunities with flow on employment multipliers benefitting the local community;
- Development would be compliant with relevant disability standards, and will meet the needs of people with physical disabilities, sensory disabilities and intellectual disabilities;
- The operation would provide improved services to the area meeting the daily needs of surrounding residents, workers, tourists and travellers;
- Future development would result in economic benefits associated with the short-term construction works; and
- Improved safety and security measures will be incorporated into the operational procedures of the development to ensure a safe and secure environment for patrons and staff.

The service station will form part of the approved tourist facility and will provide patrons and Newcastle Airport users a convenient service.

Section D - State and Commonwealth Interests

Q10. Is there adequate public infrastructure for the planning proposal?

Yes. The Site is currently serviced; and surrounding road upgrade works are planned by the RMS. The tourist facility currently has approval for an access from the RMS classified road Nelson Bay Road.

Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the gateway determination?

The NSW RMS has given approval to construct a main road access to Nelson Bay Road. There has been no other consultation with State and Commonwealth public authorities at this stage. Any relevant agencies will be consulted in accordance with statutory requirements at Consultation stage of the Planning Proposal process.

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Part 4 - Mapping

Figure 4 - Existing Additional Permitted Uses Map Extract (CL1_004)

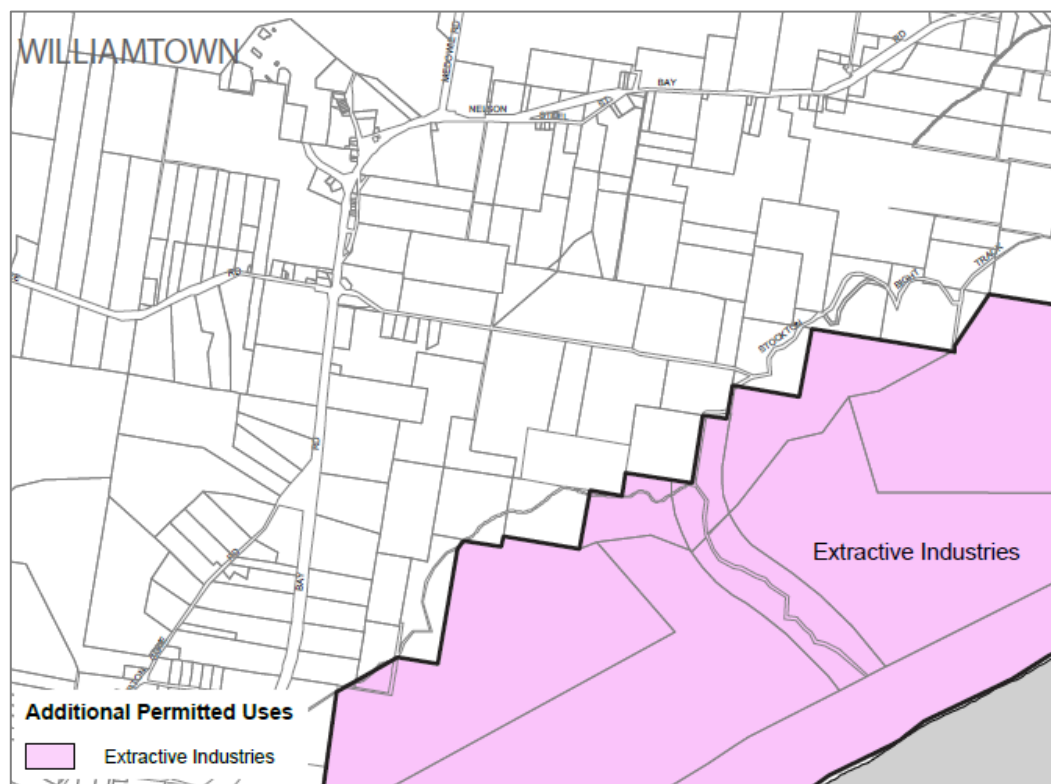
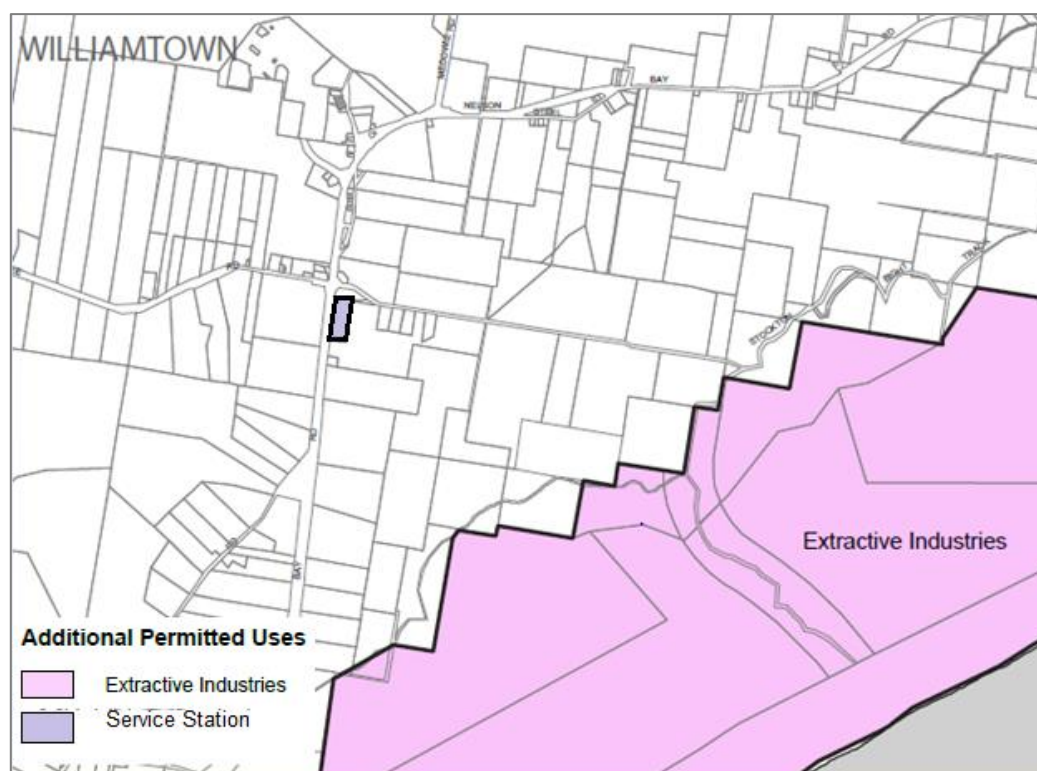


Figure 5 - Proposed Amendment to Additional Permitted Uses Map (CL1_004)



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Part 5 - Community Consultation

As it is considered that this Planning Proposal is of low impact (in accordance with 'A guide to preparing local environmental plans' published by the Department of Planning) it is proposed that the amendment to the Port Stephens LEP 2013 be publicly exhibited for a 14 day period. The public exhibition would be notified through a local newspaper advertisement at the beginning of the 14 day period, Port Stephens Council's website as well as in writing to affected and adjoining landowners.

Consultation will also be held with relevant public authorities and agencies including the NSW RMS.

Any future development would be subject to assessment of a Development Application which would also be notified in accordance with Council's Notification Policy.

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Part 6 - Project Timeline

The following table outlines the projected timeframes for the Planning Proposal.

Table 5 – Project Timeline

Part 6 - Project Timeline	
February 2017	Lodge Planning Proposal with Port Stephens Council
April 2017	Gateway determination
April-May 2017	Anticipated timeframe for the completion of required technical information.
	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)
May 2017	Commencement and completion dates for public exhibition period.
	Dates for public hearing if required.
June 2017	Timeframe for consideration of submissions
July 2017	Timeframe for consideration of a PP following exhibition
August 2017	Consideration of PP by Council (Council meeting)
December 2017	Date of submission to the Department to finalise the LEP
January 2018	Anticipated date RPA will make the plan (if delegated); or Anticipated date will RPA will forward to the Department for notification.
February 2018	Anticipated publication date

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Conclusion

The proposal to amend the Port Stephens LEP 2013 to permit “service station” at Lot 21 DP 628819 and Lot 1 DP 1173212 generally referred to as 2 Lavis Lane, Williamtown NSW 2318, will enable employment generating, commercial activity to occur on a site that is accessible, well suited to non-residential land use and will provide a much needed service to the area in future.

The proposal is consistent with adopted local and regional planning strategies and will not compromise the DAREZ or any future expansion of DAREZ. The intended outcome of this Planning Proposal is compatible with surrounding land uses, the built environment and infrastructure, and is capable of achieving the desired site outcomes including maintenance of scenic amenity and complying with all applicable planning policies at development application stage.

Amending the Port Stephens LEP 2013 as proposed will enable appropriate use of the Site for the benefit of the local community, and will generate short term (construction) and long term employment opportunities, without any significant or ongoing adverse effects. Assessments shall be undertaken in relation to the likely impacts of the Planning Proposal. It is reasonable that these assessments be undertaken post-Gateway Determination.

It is therefore requested that Council resolve to support this Planning Proposal seeking an amendment as detailed in Part 2 of this Planning Proposal and forward it to the Department of Planning and Environment for Gateway Determination.

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Attachment A – Supporting Figures

Figure 6 – Port Stephens LEP 2013 Map Extract: Land Zoning (LZN_004)

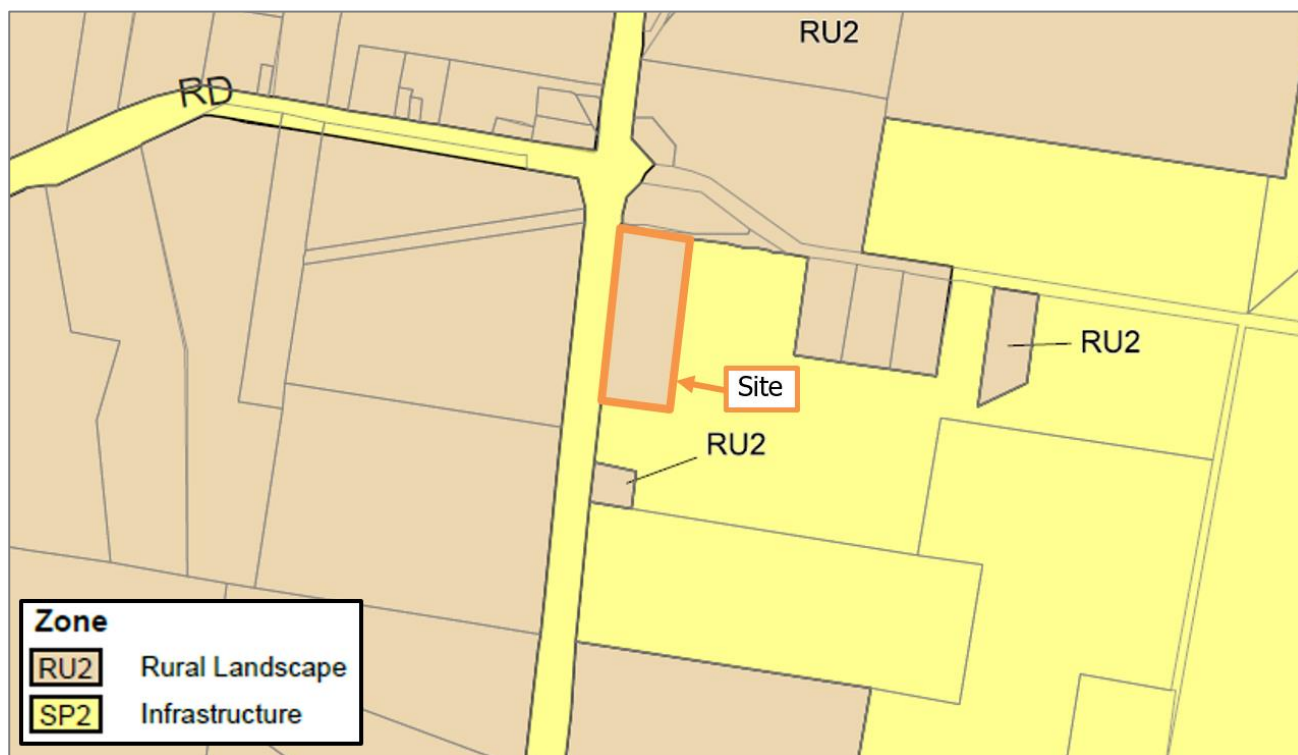


Figure 7 – Port Stephens LEP Map Extract: Flood Planning Map (FLD_004)



21 March 2018

The General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324



PLANNING DEVELOPMENT PROPERTY

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Dear Sir/Madam,

RE: Further consideration of s9.1 (s117) Direction 4.3 Flood Prone Land – 2 Lavis Lane, Williamtown NSW 2318

This letter has been prepared by KDC Pty Ltd (KDC) on behalf of Knightsbridge Estate Group Pty Ltd for Port Stephens Council (Council). It is prepared in response to Council's request for further consideration of s9.1 (previously s117) Direction 4.3 Flood Prone Land as part of the Planning Proposal lodged in 2016 for the rezoning of 2 Lavis Lane, Williamtown NSW.

1 Site Description

The site is located at 2 Lavis Lane, Williamtown and is legally known as Lot 21 DP 628819 and Lot 1 DP 1173212 (hereafter referred to as "the site".) The site is located on Nelson Bay Road, adjoining a new McDonald's establishment, on the roundabout at Lavis Lane/Cabbage Tree Road and Nelson Bay Road. The site is mapped inside a Flood Planning zone as per the Port Stephens Local Environmental Plan 2013 (LEP) Flood Planning Maps (refer to Figure 1).

Figure 1 – Port Stephens LEP Map Extract: Flood Planning Map (FLD_004)

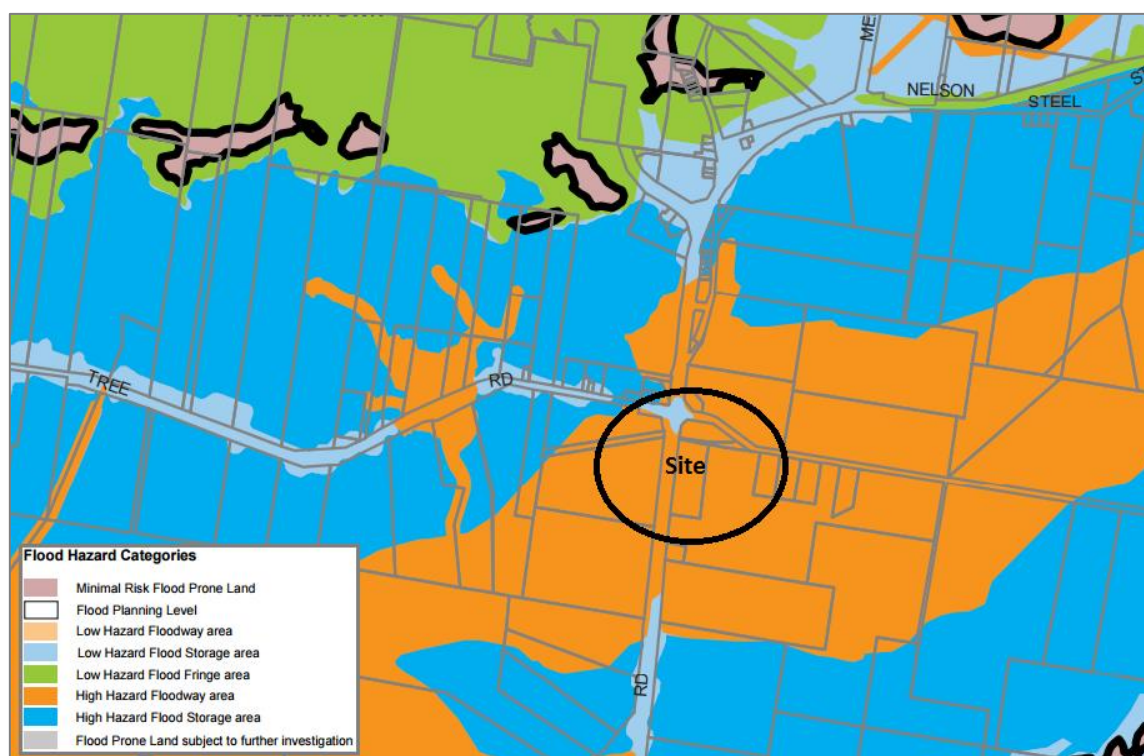


2 Background

In January 2016, on behalf of Knightsbridge Estate Group Pty Ltd, KDC lodged a formal submission in relation to the Draft Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps, particularly the Flood Hazard Maps Part 1 – 5. The submission raised concern over the integration of the policy into environmental planning legislation, the mapping categories used, the impact of the policy on development assessment in the area and more specifically and the impact the policy would have on the future development of the site. A copy of the submission is attached at Enclosure A.

Under the Draft Port Stephens Flood Hazard Maps, the site was categorized as High Hazard Floodway Area (refer to Figure 2).

Figure 2 - Port Stephens Flood Hazard Map



It was considered that this categorisation was unwarranted due to site specifics such as the raised nature of the site and existing active approvals onsite.

The site has been provided with a Development Consent that permits 3 fast food restaurants, a carwash, a booking office, a tavern and 50 room motel. In addition to the approved developments listed above, a further development lot to the south of the land that the approved developments are on has approval for filling to be above the current flood planning level. It was considered that if the land was provided a High Hazard Floodway categorisation, the development potential of this site will be greatly affected.

It was also noted that the land that currently contains the new McDonald's building (north of the site) has been raised due to potential flooding impacts. A section of road adjoining the McDonald's building to the North West was given a Low Hazard Flood Storage categorisation. The McDonald's site and land to the south will be raised to a similar height as the Low Hazard Flood Storage land, and as such it was suggested that the subject site should be provided a similar Low Hazard Flood Storage categorisation.

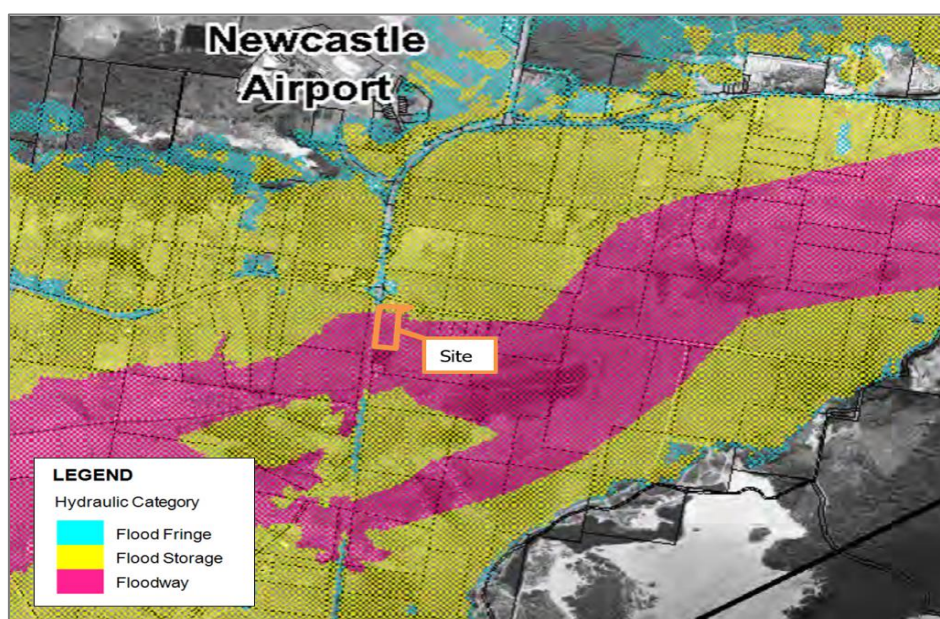
Given the approved developments on the subject site were underway and there was a raised McDonald's site already in existence in the area, it was suggested that the flood hazard mapping had not taken into account site specifics, current development and recently completed development.

The submission concluded that even if the category of the site was not changed, the proposed Policy and associated mapping should continue to facilitate development in high risk zones, particularly given the flood mitigation strategies that are available through appropriate site planning and development alternatives.

3 Williamtown Salt Ash Floodplain Risk Management Study and Plan

The Williamtown Salt Ash Floodplain Risk Management Study and Plan (the Plan) was adopted by Port Stephens Council on 12 December 2017 (refer to Figure 3). Under the Plan, the site is categorized as Floodway (pink) and Flood Storage (yellow).

Figure 3 – 1% AEP Design Event – Hydraulic Categories (Figure A – 7)



Once again, it is considered that site specifics were not taken into account in the production of the Flood Hazard Maps under the Plan. High level modelling has been utilized and has therefore incorrectly categorized the site as primarily Floodway. Notwithstanding, it is still considered that the ministerial directions are able to be adequately satisfied, as outlined below.

4 Ministerial Directions

The Environmental Planning and Assessment Act 1979 (EP&A Act) section 9.2(2) (previously section 117) contains a list of Directions issued by the Minister for Planning to relevant planning authorities. *Section 4.3* pertains to Flood Prone Land.

4.1 Section 4.3 Flood Prone Land

Where this direction applies

(2) This direction applies to all relevant planning authorities that are responsible for flood prone land within their LGA.

When this direction applies

(3) This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land.

As stated above, the site is classified as flood prone land under the Port Stephens LEP and Williamtown Salt Ash Floodplain Risk Management Study and Plan. A Planning Proposal has been lodged to amend the Port

Stephens LEP to permit the use of a “service station” at the site. This will enable employment generating commercial activity to occur on a site that is accessible, well suited to non-residential land use and will provide a much needed service to the area in the future. As such, the provisions of Section 4.3 are applicable to the site and will be assessed below.

Objectives

(1) *The objectives of this direction are:*

(a) to ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and

(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.

What a relevant planning authority must do if this direction applies

Provision	Comment	Compliant
A planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas).	It is proposed that a site specific flood study (“Local Flood Study”) be undertaken post Gateway determination. This Study will specifically assess the existing and approved raised levels of surrounding ground levels in determining the Flood Hazard of the site. The scope of the Study will be to demonstrate that the planning proposal is consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.	Y
A planning proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.	The planning proposal seeks to allow the use of a service station in RU2 Rural Landscape and is therefore compliant with this provision.	Y
A planning proposal must not contain provisions that apply to the flood planning areas which: (a) permit development in floodway areas,	It is noted that existing and currently approved future ground levels are significantly higher than the levels that have been modelled. As such a Local Flood Study will be undertaken to provide further detail on the flood categorisation of the site. The Local Flood Study will provide detail on the impacts of the	Y

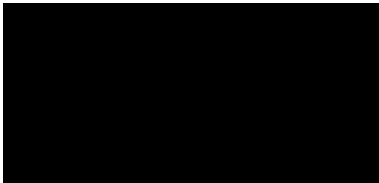
(b) permit development that will result in significant flood impacts to other properties, (c) permit a significant increase in the development of that land, (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services, (e) permit development to be carried out without development consent except for the purposes of agriculture (not including dams, drainage canals, levees, buildings or structures in floodways or high hazard areas), roads or exempt development.	Planning Proposal on the surrounding area. The planning proposal does not propose a significant, unreasonable increase in the development of the site. The proposed use of the site as a service station will be privately funded and not require substantial government spending. The Local Flood Study will also be able to provide evidence of this through identifying any offsite impacts. Development of the service station will not be carried out without development consent.	
A planning proposal must not impose flood related development controls above the residential flood planning level for residential development on land, unless a relevant planning authority provides adequate justification for those controls to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	The planning proposal is not in regard to residential land.	N/A
For the purposes of a planning proposal, a relevant planning authority must not determine a flood planning level that is inconsistent with the Floodplain Development Manual 2005 (including the Guideline on Development Controls on Low Flood Risk Areas) unless a relevant planning authority provides adequate justification for the proposed departure from that Manual to the satisfaction of the Director-General (or an officer of the Department nominated by the Director-General).	The Local Flood Study to be undertaken post Gateway determination will demonstrate that the planning proposal is consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005.	N/A

As stated above, it is proposed to undertake a Local Flood Study for the site once Gateway determination has been obtained. Due to the ground levels of the site, it is anticipated that the Study will recategorize the site. The flood category of the site will comply with the s177 directions outlined above and will demonstrate that the proposal is suitable for the site.

5 Conclusion

In conclusion, it is considered that the Williamstown Salt Ash Floodplain Risk Management Study and Plan has incorrectly categorised the site as within a Floodway due to utilizing outdated and high-level flood modelling. Notwithstanding this, it is considered that section 117 of the EP & A Act 1979 (Ministerial Directions) can be adequately satisfied through the undertaking of an updated site specific Local Flood Study post Gateway determination. It is anticipated that the Study will appropriately recategorise the site. It is therefore requested that Council resolve to support this Planning Proposal and forward it to the Department of Planning and Environment for Gateway Determination.

Yours Sincerely



Patrick Quinlan
Senior Planner
KDC Pty Ltd

Enclosures:

Enclosure A - Submission to Draft Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps

Enclosure A – Submission to Draft Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps

KDC Pty Ltd

29th January 2016

The General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Dear Sir/Madam,



RE: Submission to Draft Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps

We wish to make a formal submission to Council on behalf of our client Knightsbridge Estate Group Pty Ltd, in relation to the Draft Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps. The submission below is reliant on the information provided with public notification which is identified as:

- Flood Hazard Maps Part 1-5; and
- Floodplain Risk Management Policy.

Floodplain risk planning approach across each statutory planning layer

Prior to finalising a legislative structure and ultimately the policy detail, there needs to be a clear understanding of the floodplain risk management planning outcomes expected from each layer of statutory plans.

The approach should reflect the aims of the Floodplain Development Manual and best practice floodplain risk management. This requires an assessment of risks to property and persons across a range of potential flood events within the whole floodplain as defined by the Manual. This would ideally be the outcome of a floodplain risk management study and plan (that deal with management strategies beyond planning) as required by the Manual. However, where not available and the severity of the planning issues permits, there may need to be less extensive studies to underpin each statutory planning layer. These matters need to be clearly resolved to avoid significant issues.

Integration of the Port Stephens Floodplain Risk Management Policy into Environmental Planning Legislation

The intended Policy should provide clear direction to Port Stephens Council as what is required to be achieved within subordinate statutory plans, when floodplain risk management plans are required, the level of detail expected when preparing such plans, and what to do when flood risk information is not available. This should be achieved by outlining basic policies within the proposed NSW Planning Policy supported with technical guidelines. The technical guidelines need to be clear when providing direction for development assessment issues and the preparation of supporting documents.

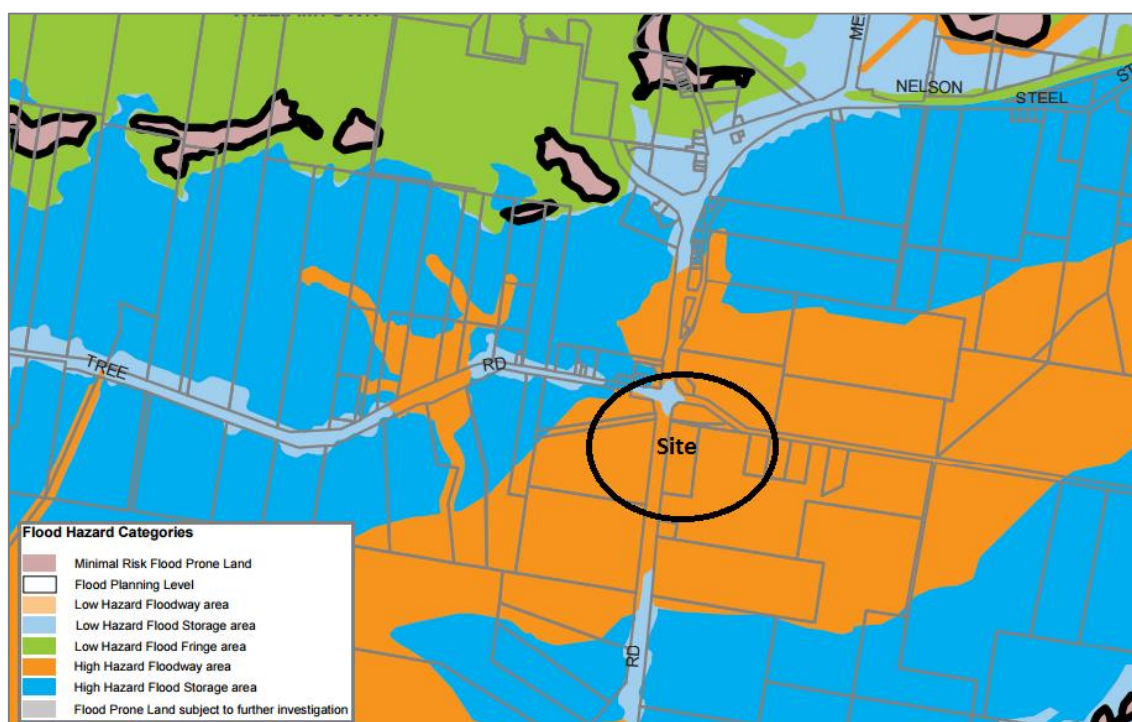
Mapping of Flood Areas

The range of flood maps could be simplified to one that shows the three flood risk zones for main riverine flooding, with an application of the above approach. To avoid delays to the planning process other lands that are shown by way of preliminary assessment as potentially flood liable could be shown as flood investigation areas. Flood mapping could also include lands subject to known overland flow flooding, being included within the definition of flooding within the Floodplain Development Manual.

Future Development Potential – 2 Lavis Lane, Williamtown

We represent our client Knightsbridge Estate Group Pty Ltd who owns Lot 21 DP 628819 and Lot 1 DP 1173212 (closed road portion of Lavis Lane), No. 2 Lavis Lane, Williamtown, hereafter referred to as “the site”. We wish to raise concerns regarding the proposed flood categorisation of the site and land in the vicinity of the site, as proposed in Port Stephens Draft Floodplain Risk Management Policy, which is currently on public exhibition (refer to the figure below).

Figure 1 – Subject Area



The site is located on Nelson Bay Road, adjoining a new McDonald’s establishment, on the roundabout at Lavis Lane/Cabbage Tree Road and Nelson Bay Road. The site is identified within a High Hazard Floodway area in the proposed flood hazard maps. Given the categorisation of the land and surrounding properties during the initial flood study, greater consideration should be given to low risk developments in high hazard flood zones, particularly for commercial and industrial developments, as opposed to simplified maps indicating flood risk zones. This would facilitate appropriate development, while also ensuring public safety.

The site is located near the intersection of Nelson Bay Road and Lavis Lane, in close proximity to Newcastle Airport. This is a strategic location at the junction of key links from the F3 Freeway and from Newcastle. Newcastle Airport is the 12th busiest airport in Australia accommodating over 1.2 million passengers a year.

Most people travelling to and from Newcastle Airport do so by private vehicle, taxi/hire car service, or bus service. The majority of people utilising the airport will travel through the precinct identified on the attached plan. The opportunity to provide service and tourist related facilities within this precinct will bring with it significant economic benefits to the LGA. Future development should reflect its identity as a gateway to Newcastle, Port Stephens, and the Hunter Valley.

Land in the vicinity of the RAAF Base Williamtown and Newcastle Airport has been identified as having the potential for regionally significant employment generating development to meet the demands of the expected population growth forecast by the Lower Hunter Regional Strategy. The Defence and Airport Related Employment Zone (DAREZ) at Williamtown was subsequently identified through a Land Use and Development Strategy (2007) which provides for the staged development of the DAREZ Business Park over the next 10-25 years.

The DAREZ Business Park will provide opportunities for development in the commercial, industrial and technological fields in close proximity to, and having strong supportive synergies with, the existing RAAF Base and Airport facilities (DAREZ Strategy, GHD 2007).

The large majority of employees and visitors to the area for either business related trips or recreation will pass through this precinct to access Newcastle or the Hunter Valley. It is also envisaged that transient workers will be required within the DAREZ Business Park from time to time, in addition to those workers who already provide unique services to the RAAF Base. This land provides the opportunity for accommodation and facilities to service their needs in close proximity to the RAAF Base and Newcastle Airport. Development upon this land is not intended to compete with the facilities to be provided within the DAREZ Business Park, rather it would provide complementary support services.

The site is located to the south east of the DAREZ study area and is strategically located close to key road links to Newcastle and the F3 Freeway. This strip along Nelson Bay Road, south of Newcastle Airport and RAAF Base Williamstown, provides a unique opportunity for development to provide support services and facilities for visitors to the Region and workers associated with the DAREZ Business Park. Food outlets, taverns, accommodation facilities and other service and hospitality related activities are compatible with the environmental limitations of the land and the adjoining employment generating development lands. The proposed Floodplain Policy will restrict development opportunities due to a high risk flood categorisation imposed on the area. The proposed Flood Policy and associated maps should be changed to reflect a more supportive approach to development within this area, rather than by sterilising this precinct.

It is noted that the land that currently contains the new McDonald's building has been raised due to potential flooding impacts. It is further noted that the development consent issued for the subject site permits for ground levels to be raised and compacted, which is currently underway. A section of road adjoining the McDonald's building to the North West has been given a Low Hazard Flood Storage categorisation. It is suggested that the McDonald's site and land to the south that will be raised to a similar height as the Low Hazard Flood Storage land, and as such the subject site should be provided a similar Low Hazard Flood Storage categorisation.

The site has been provided with a Development Consent that permits 3 fast food restaurants, a carwash, a booking office, a tavern and 50 room motel. The Development Consent provides for a flood level that the proposed flood policy will not have an impact upon and as such will impact on the relevance of the flood hazard mapping. Further to the approved developments listed above a further development lot to the south of the land that the approved developments are on has approval for filling to be above the current flood planning level. If the land is provided a High Hazard Floodway categorisation the development potential of this site will be greatly affected. Given the approved developments on the subject site are underway and there is a raised McDonald's site already in existence in the area, it would suggest that the flood hazard mapping has not taken into account current development and recently completed development within the Floodplain Risk Management Policy.

We propose the above mentioned development considerations for the site and surrounding area be taken into account as part of the Draft Port Stephens Floodplain Risk Management Policy.

Impact on Development Assessment

While we understand that this Policy is necessary and well overdue, considering the flood risk to residents of the Port Stephens LGA, the Policy should not have adverse impacts on the process and length of development assessment. A policy structure that allows for the application of different flood planning levels for different elements of a development to achieve positive planning outcomes should be implemented. Accordingly, the Policy should still facilitate development, particularly surrounding commercial land uses.

The study maps highlight which properties are expected to be affected by flooding. Even if a small portion of the property is affected, the whole property area will be classified as affected. Development controls are applied to a whole property and cannot be split, regardless of flood extent, however application of the control depends on where on the property the proposed development is located, and what type it is.

We note, Councils have a responsibility for identifying and then managing the risk to life and property from flooding, and have a duty of care to disclose this information to the community. Additionally, Council's catchment wide flood study represents significant advances on previous site based investigations, which all members of the community are able to access is significantly important. However, in the context of promoting good planning outcomes, it is important Council Development Assessment Officers consider reasonable forms of development on flood prone affected lands. Considering there are a range of risk management approaches to development, designed to ensure appropriate levels of risk to private property and public infrastructure, and risk to life issues, are managed as part of the planning process and the delivery of infrastructure. This should be noted particularly for land in the vicinity of the RAAF Base Williamstown and Newcastle Airport, as it has been identified as having the potential for regionally significant employment generating development to meet the demands of the expected population growth forecast by the Lower Hunter Regional Strategy.

Flood Mitigation

There are a number of development options which can be adopted to reduce flood constraints on development potential. On a small scale, these may include:

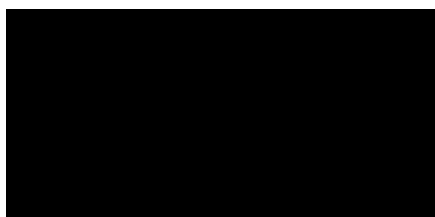
- Flood protection bunds around fields or communities;
- Road/rail culverts to convey minor streams and drains;
- Local land drainage and river diversion works, especially for water supply and abstraction purposes;
- Constructing buildings on raised ground;
- Constructing buildings on stilts (with storage underneath);
- Using flood resistant materials;
- On-site flood secure locations;
- Constructing buildings away from areas that are subject to erosion, for example river banks.
- Local flood storage areas, to store floodwater from local runoff;
- Build-up local embankments to a height above the last flood water level;
- Plant vegetation on the embankments to help stability and reduce erosion.

Conclusion

As previously stated, we understand the importance of this strategy in terms of public safety. Despite this, the categorisation applied to the subject site is firstly not considered to be warranted given the raised nature of the site and existing active approvals, and as such should be provided a Low Hazard Flood Storage category. Although in our opinion the risk category for the site should be altered, if the category being provided to the site is not changed, the proposed Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps, should continue to facilitate development in high risk zones, particularly given the flood mitigation strategies are available through appropriate site planning and development alternatives. We ask these matters be taken into consideration when finalizing the proposed Flood Policy.

We also ask that the process for implementing the Port Stephens Floodplain Risk Management Policy and Flood Hazard Maps be undertaken in an efficient and timely manner, to achieve good planning outcomes in addition to managing the risk to life and property from flooding.

Yours Sincerely



Benjamin Young
Managing Director
KDC Pty Ltd