

ITEM NO. 2**FILE NO: PSC2014-03597****PLANNING PROPOSAL – 2885 PACIFIC HIGHWAY, HEATHERBRAE (MOTTO FARM)**

REPORT OF: TIM CROSDALE – STRATEGY AND ENVIRONMENT SECTION MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Adopt the Planning Proposal at **(ATTACHMENT 1)** for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 to permit (with consent) a 'service station', 'restaurant or café and 'take-away food and drink premises' on land at 2885 Pacific Highway Heatherbrae (Lots 1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP 807522); and
- 2) Forward the Planning Proposal at **(ATTACHMENT 1)** the NSW Department of Planning and Environment for a Gateway Determination.

**ORDINARY COUNCIL MEETING – 10 FEBRUARY 2015
COMMITTEE OF THE WHOLE RECOMMENDATION**

	Councillor Paul Le Mottee Councillor Sally Dover
	That the recommendation be adopted.

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

MOTION

006	Councillor Ken Jordan Councillor John Morello
	It was resolved that Council: 1) Adopt the Planning Proposal at (ATTACHMENT 1) for the purposes of Section 55 of the Environmental Planning and Assessment Act 1979 to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 to permit (with consent) a 'service station', 'restaurant or café and 'take-away food and drink premises' on land at 2885 Pacific Highway Heatherbrae (Lots

MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

	1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP 807522); and
2)	Forward the Planning Proposal at (ATTACHMENT 1) the NSW Department of Planning and Environment for a Gateway Determination.]

In accordance with Section 375 (A) of the Local Government Act 1993, a division is required for this item.

Those for the Motion: Mayor Bruce MacKenzie, Crs Paul Le Mottee, Ken Jordan, Chris Doohan, Steve Tucker, Geoff Dingle, John Nell, John Morello and Sally Dover.

Those against the Motion: Nil.

BACKGROUND

The purpose of this report is to advise Council of a request to amend Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 regarding land at 2885 Pacific Highway, Heatherbrae (known as Motto Farm Motel) to permit (with consent) development for the purposes of a 'service station', 'restaurant and café' and 'take-away food and drink premises'.

Date Lodged:	October 2014
Proponent:	TFA Project Group (on behalf of Newcastle Airport Hotel Motor Inn & Convention Centre Pty Ltd.)
Subject land:	2885 Pacific Highway, Heatherbrae - Lot 1, 2 and 3 DP 264023; Lot 1 DP 350551; and Lot 101 DP807522 (refer to Location plan at (ATTACHMENT 2))
Zoning:	RU2 Rural Landscape (to be retained)
Site Area:	4.9 ha
Proposed Additional Land Uses:	Service station; Restaurant or café; Take-away food and drink premises (note: 'pub' and 'small bar' are not proposed to be permitted).

The site is currently operating as 'Motto Farm Motel' which is made up of a number of buildings over the site including motel accommodation and dining and restaurant facilities. The Planning Proposal seeks to expand the site's existing motel use to accommodate a service station, ancillary take-away food and drink premises and restaurant dining facilities. A car wash and alterations to the reception area of the motel reception building is also proposed.

It is noted that a previous DA for change of use – Restaurant to Hotel and associated alterations and additions – was refused by Council in 2011, and a subsequent Land and Environment Court appeal was dismissed. The development permissible with consent under this proposal is of smaller scale and different type of use to that previously sought under this development application. In addition, the specific land uses to be allowed for by the Planning Proposal have been specifically defined to limit adverse amenity, social and traffic impacts on the locality.

MINUTES ORDINARY COUNCIL – 10 FEBRUARY 2015

The principal issues in considering the Planning Proposal are the suitability of the subject land for the proposed additional uses and amendment to Schedule 1 of the Port Stephens Local Environmental Plan 2013 to permit certain additional uses on the subject land.

Suitability of the Subject Land

The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will play a supporting role to the employment lands in the Heatherbrae Enterprise Corridor identified in the Port Stephens Planning Strategy (PSPS) without impacting on the viability of bulky goods in the B5 Business Development Zone located on the opposite side of the Pacific Highway.

The site currently has direct vehicle entry via the Pacific Highway and a site exit via Kingston Parade. An initial traffic assessment by the proponent recommended an additional vehicle egress point onto the Pacific Highway to cater to the increased traffic leaving the site. The Traffic Report submitted with the proposal recommends that the existing deceleration lane on the Pacific Highway be shortened to ensure the proposed egress from the subject site does not enter the Kingston Parade left turn deceleration lane (**ATTACHMENT 3**). Further consultation with RMS would be undertaken as part of the exhibition consultation.

Amendment to Schedule 1 of the Port Stephens Local Environmental Plan 2013

The Amendment to Schedule 1 will specifically enable and limit the additional land uses allowed on site to a 'service station', 'restaurant and café' and 'take-away food and drink premises' without changing the existing RU2 zone. These uses are no threat to the retail hierarchy in the area, they provide facilities to service the local residents, and utilise patronage provided by Pacific Highway traffic. The Planning Proposal enables the limited expansion of existing development on the site. |

FINANCIAL/RESOURCE IMPLICATIONS

|There are no foreseen financial or resource implications for Council as a consequence of the recommendation of this report. |

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes	10,500	Stage 1 Rezoning Fees – 15 August 2014.
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

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

Port Stephens Local Environmental Plan 2013

The existing RU2 Rural Landscape zone that applies to the subject land under the Port Stephens Local Environmental Plan 2013 will be retained under the Planning Proposal.

The Planning Proposal will permit (with consent) additional land uses which complement the existing motel use on site and are compatible with the character of the area. By permitting specific additional land uses and retaining the existing RU2 Rural Landscape zoning, potential development is limited to those land uses.

Limiting the land use negates potential negative social impacts associated with allowing other uses through a rezoning. A rezoning may permit development of a pub or small bar, the negative social impacts of which was the concern in the case of the refused Development Application 16-2010-478-1 for a Change of Use – Restaurant to Hotel and Associated Alterations and Additions.

The proposed additional uses on site as defined by Port Stephens LEP 2013 are:

"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;*

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises."

Past Development Application for Hotel

Council refused Development Application (16-2010-478-1) for a Change of Use – restaurant to Hotel and Associated Alterations and Additions on 8 February 2011. The

summary reasons for refusal include loss of amenity; traffic; and social concerns principally related to the impacts of alcohol consumption. A subsequent appeal on the refusal by the Proponent to the NSW Land and Environment Court was refused.

The Planning Proposal subject of this Report seeks to address previous concerns related to Development Application 16-2010-478-1 by excluding 'pubs' and 'small bars' as permissible land uses on the subject land. The Proposal limits additional land uses to a 'service station' 'restaurant and café' and 'take-away food and drink premises'. Any liquor served as part of a restaurant or café is not anticipated to have the negative social impact of the former developments or the previously refused hotel. Additionally, any alcohol serving components of a new restaurant/café on the site will be assessed and managed at development application stage and liquor licencing requirements.

Further, the Traffic Report provided with the Planning Proposal indicates any traffic generated by the additional permitted uses could be managed with an additional egress to the Pacific Highway. This will be subject to further consultation with RMS post Gateway.

Environmental Planning and Assessment Act 1979

Under Part 3 of the Environmental Planning & Assessment Act 1979 only the Minister or Council as a delegate can initiate a Local Environmental Plan. The Proponent has followed Council's procedures to request a planning proposal to amend the Port Stephens Local Environmental Plan 2013.

If Council resolves to proceed with the recommendation of this Report and prepare a Planning Proposal it will be forwarded to the NSW Department of Planning and Environment for a Gateway Determination.

Lower Hunter Regional Strategy

The Planning Proposal is of local planning significance and consistent with the hierarchy of centres identified in the Lower Hunter Regional Strategy. The subject site is identified as 'existing urban area', while the opposing side of the Pacific Highway is mapped as 'employment land'. The subject land is also in close proximity to the Major Regional Centre of Raymond Terrace. The service station and ancillary retail component is not of a scale to have detrimental effect on the 'employment land'. The additional uses may provide support for the light industry and business existing in the area.

The Planning Proposal will assist in achieving 1600 jobs to be accommodated by Raymond Terrace and Heatherbrae under the Lower Hunter Regional Strategy.

Port Stephens Planning Strategy

The Port Stephens Planning Strategy identifies the subject site within the 'Heatherbrae Enterprise Corridor'. Heatherbrae is identified as a Specialised Centre that provides local services (e.g. mechanics), caters for highway commuters (via service stations

along the Pacific Highway) and industry (e.g. Weathertex Timber Weatherboards, Wall Panels & Cladding). The proposed permissible uses - 'service station', 'restaurant or café' and 'take-away food and drink premises' will support nearby employment lands and passing trade, without impacting on the viability of bulky goods retailing in the B5 Business Development Zone located on the opposite side of the Pacific Highway. The Proposal is consistent with the strategic direction of the Port Stephens Planning Strategy.

Risk	Risk Ranking	Proposed Treatments	Within Existing Resources?
There is a risk that the expansion of the commercial enterprise could negatively impact on other identified centres.	Low	Limited additional permitted land uses to a 'service station', 'restaurant' and 'take-away food and drink premises' and do not apply the B5 Business Development Zone.	Yes
There is a risk that adding the group term 'food and drink premises' as a permissible use to the subject land could result in an application for a 'pub' or 'small bar'	Low	The relevant additional permitted uses are specifically limited to a 'restaurant or café' and 'take-away food and drink premises'. This will ensure development of the site is limited and that 'pubs' and 'small bars' will remain prohibited land uses.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are limited or no environmental implications. Some mature trees are located on site however any impacts can be managed at development application stage. Any additional noise generated by the development will be addressed at development application stage.

The Planning Proposal has positive economic implications. It is estimated to directly create 13 jobs and bring an approximate output of \$685,000 to the area (REMPLAN/Compelling Economics: 2013).

There is a limited potential negative social impact. The proposed additional uses do not include a 'pub' or 'small bar' as permissible land uses. This is achieved through the specification of land use as part of this planning proposal that adequately addresses the previous concerns associated with the past refusal of the DA on the site. This aims to strengthen Council's controls to manage this land use, and potential impact, through a subsequent development application for the site.

CONSULTATION

Subject to a Gateway Determination the Proposal will be placed on public exhibition for comment from state agencies and the community for a minimum period of 28 days.

Preliminary consultation with the RMS has been undertaken. Further consultation will be undertaken during the formal planning process.

OPTIONS

- 1) Adopt the recommendations;
- 2) Amend the recommendations;
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Council's Planning Proposal;
- 2) Location Plan;
- 3) Proponent's Concept Plan.

COUNCILLORS ROOM

Proponent's Planning Proposal (including Traffic Assessment).

TABLED DOCUMENTS

Nil.

ATTACHMENT 1
Council's Planning Proposal



PLANNING PROPOSAL

Proposed amendment to Port Stephens Local Environmental Plan 2013
2885 Pacific Highway, Heatherbrae (Motto Farm Motel)

Further Information

Strategic Planning
Port Stephens Council
(02) 4980 0326

council@portstephens.nsw.gov.au
council@portstephens.nsw.gov.au

SUMMARY

Subject land:	2885 Pacific Highway, Heatherbrae (Motto Farm Motel) Lot 1, DP 264023; Lot 2, DP 264023; Lot 3, DP 264023; Lot 1, DP 350551; Lot 101, DP807522
Proponent:	TFA Project Group (on behalf of Newcastle Airport Hotel Pty Ltd)
Landowner:	Mr. Michael Doherty
Total Area:	4.9 Hectares
Existing Zoning:	RU2 Rural Landscape (to be retained)
Proposed Amendment:	

Development for the purpose of a service station, restaurant or café and take-away food and drink premises is to be permitted with development consent.

Note: The existing RU2 Rural Landscape zoning will remain unchanged.

BACKGROUND

In June 2014 Council received a request to amend the Port Stephens Local Environmental Plan 2013 for land at 2885 Pacific Highway, Heatherbrae (known as 'Motto Farm Motel' - the site). The request is to allow additional permitted uses on the site including a 'service station', 'restaurant or café' and 'take-away food and drink premises'. The existing RU2 Rural Landscape zoning will be retained.

The proposal aims to facilitate redevelopment of part of the existing motel to accommodate a service station and ancillary take-away and restaurant dining facilities. A car wash and alterations to the reception area of the motel reception building are envisaged by the current owner.

A Planning Proposal was lodged with Council on 13 October 2014, accompanied by a Traffic Assessment. The Traffic Assessment concludes that traffic impacts from the additional uses can be managed. It has been identified that the existing deceleration lane into Kingston Parade is longer than the standard requirement, and that the surplus may be utilised for a safe additional egress from the site to the Pacific Highway. Further consultation with NSW Roads and Maritime Services (RMS) as part of any future development application should be undertaken.

The request for additional permitted uses is of minor local planning significance, particularly given that the *Lower Hunter Regional Strategy 2006-31* (the LHRS) identifies the area on the opposite side of the highway as 'employment lands'. The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' is considered to be an expansion of the existing motel land use and may additionally provide support for the light industry and businesses existing in the area.

The site is well positioned to take advantage of passing trade along the Pacific Highway. The proposal is also considered consistent with the Port Stephens Planning Strategy which identifies the land as within the Heatherbrae Enterprise Corridor.

SITE

The Site totals 4.9 ha and is located on the west side of the Pacific Highway, at Heatherbrae in the Port Stephens Local Government Area. The lots are legally described as Lot 1, 2 & 3 DP 264023, Lot 1 DP350551, and Lot 101 DP 807552.

A development application for a motel was approved at 2 Kingston Parade in 1987 and the site is currently operating as "Motto Farm Motel". There are a number of buildings occupying the site, including those used for accommodation, dining and restaurant facilities, cooking and cleaning, car parking, conference and reception facilities. These existing services cater for the local Heatherbrae community and traffic passing along the Pacific Highway.

Figure 1 – Aerial Map (p. 4) and Figure 2 – Street Map (p. 5) provide contextual illustrations for the site.

FIGURE 1 – Aerial Map

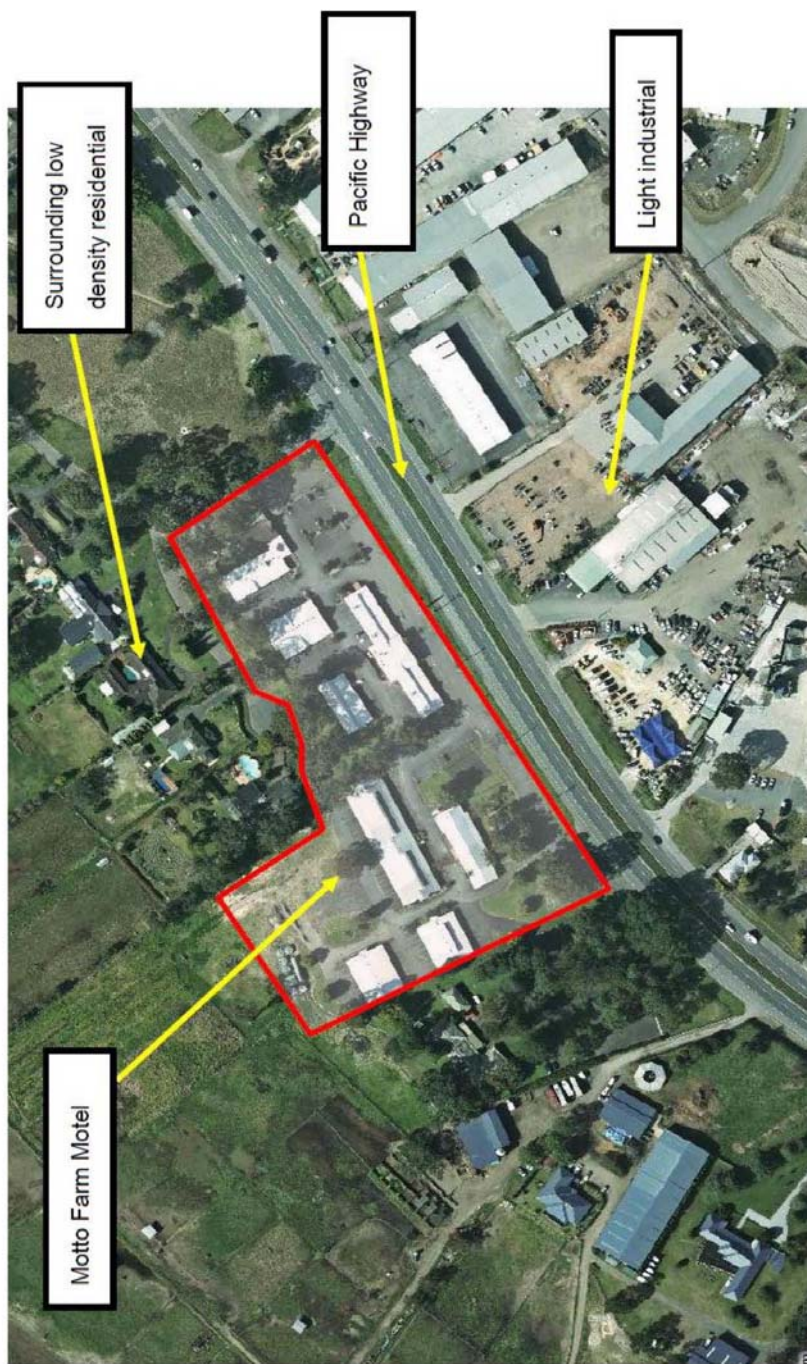


Figure 2: Aerial View (source SixMaps)

FIGURE 2 – Site Location Plan

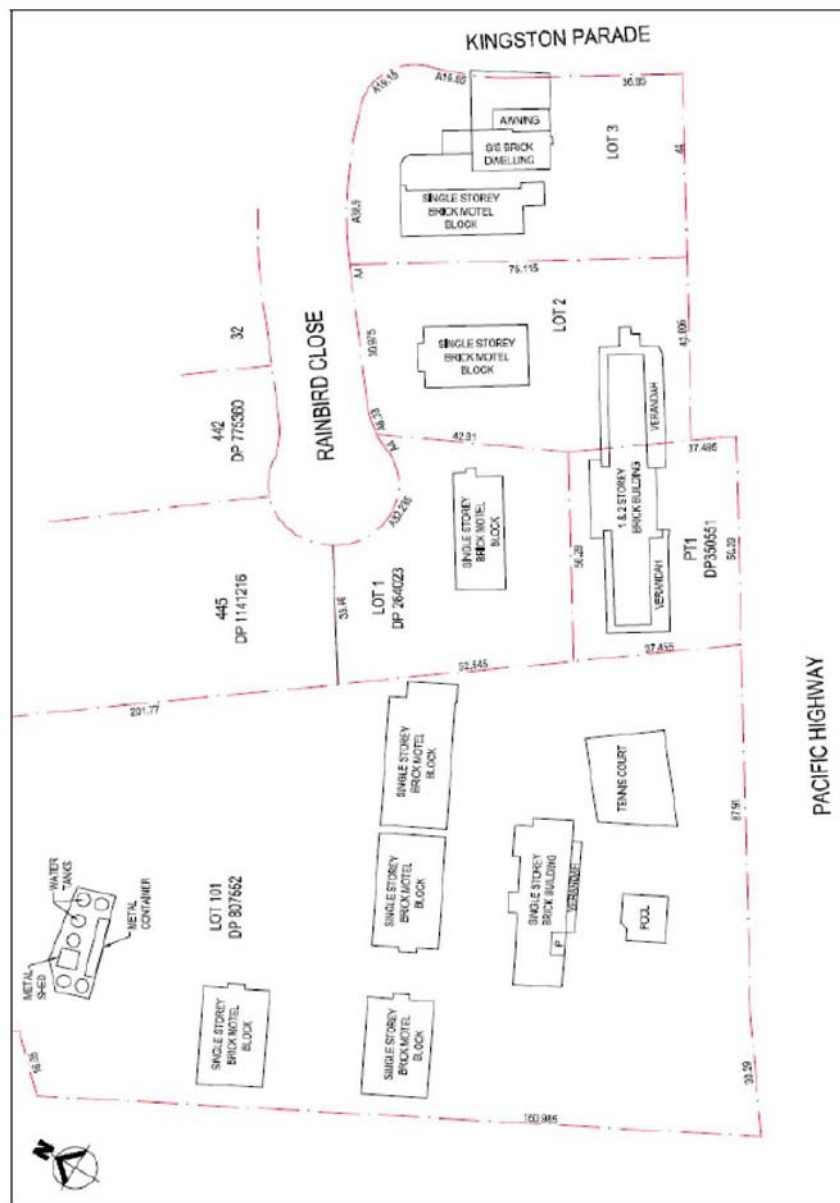


Figure 1: Site Location Plan (source: TFA)

PART 1 – Objective of the proposed Local Environmental Plan

The objective of this proposal is to enable the redevelopment of part of the existing motel to accommodate a service station development. The motel will expand to include ancillary dining and take away facilities.

PART 2 – Explanation of the provisions to be included in proposed LEP

The objective of this proposal will be achieved by amending Schedule 1 'Additional permitted uses' of the Port Stephens Local Environmental Plan 2013 as follows:

Schedule 1 Additional permitted uses

7 Use of certain land at 2885 Pacific Highway, Heatherbrae

(1) This clause applies to land at 2885 Pacific Highway, Heatherbrae, being Lots 1, 2, and 3, DP 264023; Lot 1, DP 350551; and Lot 101, DP 807522.

(2) Development for the purpose of a service station, restaurant or café and take-away food and drink premises is permitted with development consent.

The proposed additional uses on site, as defined by Port Stephens LEP 2013 are:

"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;

restaurant or cafe means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

take away food and drink premises means premises that are predominantly used for the preparation and retail sale of food or drink (or both) for immediate consumption away from the premises.

Note. Both restaurant or cafe and take away food and drink premises are types of **food and drink premises** in this Dictionary;

PART 3 – Justification for the Planning Proposal

SECTION A – Need for the Planning Proposal

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

This proposal is not the result of a strategic study or report. The applicant has had ongoing discussions with the patrons who utilise the motel's services who have identified that refuelling and dining services on the site would be beneficial.

The site is located within the Heatherbrae Enterprise Corridor. Under Port Stephens Planning Strategy (PSPS) the Heatherbrae area is identified for bulky goods retail. The proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will play a supporting role to the expanding employment lands, without impacting on the viability of bulky goods in this enterprise corridor.

This proposal is also expected to contribute to additional jobs identified by the LHRS for Raymond Terrace.

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

A planning proposal is the only means to allow the uses sought by the applicant under the Port Stephens LEP 2013. The proposal seeks an amendment to Schedule 1 'Additional permitted uses' of Port Stephens Local Environmental Plan 2013. The applicant is not seeking the broad spectrum flexibility which is achieved applying a business zone to the site. Amending Schedule 1 of the LEP (only) will allow three specific additional uses of the site and is the best course of action as the applicant has a clear idea of the size, type and scope of the proposal.

A DA for a change of use – from a Restaurant to a Hotel and associated alterations and additions – was lodged and refused by Council in 2010 (DA 2010-487). A court appeal was subsequently dismissed. The group term 'food and drink premises' is not being applied by the Planning Proposal. This has been achieved through the proposed amendment to Schedule 1 of the LEP and excludes a "pub" and "small bar" from those land uses which may be permissible with consent.

SECTION B – Relationship to Strategic Planning Framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy

The proposal is consistent with the hierarchy employed by the Lower Hunter Regional Strategy. The subject site is identified as 'existing urban area', while the opposing side of the Pacific Highway is mapped for 'employment land', within the Major Regional Centre of Port Stephens.

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The service station and ancillary retail component is not of a scale to have detrimental effect on the 'employment land'. Furthermore, this proposal will assist with achieving the 1600 jobs to be accommodated by Raymond Terrace and Heatherbrae under the Lower Hunter Regional Strategy.

4. Is the planning proposal consistent with the local Council's Community Strategic Plan, or other local strategic plan?

Port Stephens Planning Strategy 2011

The subject site is located within the Heatherbrae Enterprise Corridor. Heatherbrae is identified as a 'specialised centre' that provides local services (e.g. mechanics), caters for highway commuters (via service stations along the Pacific Highway), and industry (e.g. Weathertex Timber Weatherboards, Wall Panels & Cladding). The Planning Proposal will support the development of Heatherbrae as an Enterprise Corridor.

The Port Stephens Commercial and Industrial Lands Study 2010

This Strategy provides support for the current proposal, as it is focused on plans for Heatherbrae based bulky goods retail and the economic viability and desirability of this development in the short to medium term. The proposed additional uses are drawn from the perceived need within the current site for economic viability and the surrounding area context which services the Pacific Highway and the neighbouring industrial area.

5. Is the planning proposal consistent with applicable state environmental planning policies?

There are no existing or draft State Environmental Planning Policies that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant State Environmental Planning Policies against the planning proposal is provided as follows:

Table A: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 33 (Hazardous & Offensive Development)	This SEPP provides considerations for consent for hazardous & offensive development.	The proposed service station is a "potentially hazardous industry" under SEPP 33, which defines this as "development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or

		<i>likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to... to the biophysical environment."</i> Because of the risk involved, measures must be taken to ensure protection of human health, future development in the area as well and the biophysical environment. The proposed service station will utilise a hazard management manual and install underground petroleum and diesel tanks that must be designed and installed in accordance with AS1940-2004: <i>The storage and handling of flammable and combustible liquid</i>. Hazard assessment will also be undertaken at development application stage
SEPP 44 (Koala Habitat Protection)	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	The site is identified as "Mainly Cleared" Koala Habitat by the Koala Habitat Planning Map 2000. There are some isolated mature trees on site and it is unlikely the site is being utilised by koalas due to the sparse vegetation and proximity to the Pacific Highway. This issue will be addressed further at the Development Application stage and by applying the Port Stephens Koala Plan of Management. The proposed additional uses ('service station', 'restaurant or café' and 'take-away food and drink premises'), intensify the existing land use within the existing development footprint.

SEPP 55 (Remediation of Land)	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination.	The subject site is not known as contaminated land and is considered appropriate for the additional proposed uses of 'service station', 'restaurant or café' and 'take-away food and drink premises'. By introducing a service station to the site, the land will in future be considered contaminated and remediation of the land will need to be undertaken before an application for a different use may be considered. Any future development application changing the land use may require the land be remediated before the land is used for that purpose.
SEPP 64 (Advertising & Signage)	This SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.	All advertising and signage will need to be applied for and assessed as part of any development application lodged for the proposal. The applicant should consult with the RMS regarding the proposed signage, as the site is within 250 metres of a classified road (the Pacific Highway). Council will be required to refer applications which fall under this category to the RMS or where the signage proposed is 20 square metres and greater or higher than 8 metres above the ground. As it is likely that signage meeting these specifications will be considered desirable to advertise the additional proposed uses, consultation with the RTA is recommended.

SEPP (Infrastructure) 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	The proposal involves development on land that has a frontage to a classified road and is considered "traffic-generating development". As such under the Infrastructure SEPP Council is required to give written notice of the application to the RMS. There has already been consultation between the applicant and the RMS; these recommendations are discussed in the Traffic Report submitted with the proposal. Any subsequent development application is required to address how the intensification of the site's use will not impact the safety, efficiency and ongoing operation of the classified road. An initial assessment of the proposal by the RMS has recommended an additional vehicle egress point onto the Pacific Highway to cater to the increased traffic leaving the site. The Traffic Report submitted with the proposal recommends the existing deceleration lane on the Pacific Highway be shortened to ensure the proposed egress from the subject site does not enter the Kingston Parade left turn deceleration lane. The remaining road infrastructure is considered appropriate to cater for the additional proposed uses. The proposal has not addressed services for utility vehicles; this will be addressed at development application stage. Overall, the proposal is expected to accommodate the efficient movement of people and freight to and from the site. The proposal does
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		not suggest any negative potential traffic safety, road congestion or parking implications, and the surrounding road network will not be adversely affected by the proposal. More consultation with the RMS should be undertaken.
SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	The site is zoned RU2 Rural Landscape. Despite the rural zoning, the site has operated as a motel for numerous years in accordance with an existing development consent. The proposed additional uses are an expansion of the existing motel development, and are also consistent with the Rural Planning Principles of the Rural Lands SEPP. The additional proposed uses support the economic viability of the locality by providing services which are consistent with the existing land uses within the locality. The uses do not compromise any State significant agricultural land, and intensify the existing motel use without taking up additional land area.

Section 117 Ministerial Directions

6. Is the planning proposal consistent with applicable Ministerial Directions?

The following s117 Ministerial Directions are applicable to the planning proposal:

- 1.1 Business and Industrial Zones – Consistent
- 1.2 Rural Zones – Consistent
- 1.5 Rural Lands – Consistent
- 2.3 Heritage Protection – Consistent

- 3.4 Integrating Land Use and Transport – Consistent
- 3.5 Development near Licensed Aerodromes – Consistent
- 4.1 Acid Sulphate Soils – Consistent
- 4.3 Flood Prone Land –Consistent
- 4.4 Planning for Bushfire Protection – Inconsistent
- 5.1 Implementation of Regional Strategies – Consistent
- 5.4 Commercial and Retail Development along the Pacific Highway, North Coast - Consistent
- 6.1 Approval and Referral Requirements – Consistent
- 6.2 Reserving Land for Public Purposes – Consistent
- 6.3 Site Specific Provisions – Consistent

The inconsistencies listed above are considered to be of minor significance. Council seeks the Director General's concurrence for these listed inconsistencies.

Table B: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implications
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Consistent. The proposal is consistent with this direction as it proposes new employment lands within a centre that is identified by the Port Stephens Planning Strategy, which is guided by the centres approach outlined in the Lower Hunter Regional Strategy. This proposal will not undermine the role of the existing centres hierarchy, and will contribute to the jobs identified for Raymond Terrace and Heatherbrae under the LHRS.

1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	Consistent. The site is zoned RU2 Rural Landscape. The Proposal seeks to utilise land in a rural zone for the intensification of an existing business. The site has limited agricultural value and is a logical extension of the existing motel. The proposal meets the demand for businesses servicing the surrounding area. The proposed service station is an example of development under the Rural Lands SEPP which supports "productive and sustainable economic activities in rural areas". Although the site is not directly utilised for rural primary production purposes, it balances the social, economic and environmental interests of the community in the area.
1.5 Rural Lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.	Consistent. The Proposal utilises land within a rural zone for the expansion of the existing motel business. The addition of a 'service station', 'restaurant or café' and 'take-away food and drink premises' will provide services which are consistent with land use in this area. Although the site is identified as having Prime Agricultural Land (Class 1-3) the site has limited agricultural value due to the existing motel and is not currently used for agricultural purposes.
2. ENVIRONMENT AND HERITAGE		
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	Consistent. The Morten Bay Figs existing on the site are nominated as Heritage Item number 10 by Port Stephens Local Environmental Plan 2013. These will be unaffected by the proposed development.

3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	The proposal is consistent with this objective as it will provide services and jobs within a walkable catchment, reduce dependence on cars, and travel demand in general. The additional uses allow increased convenience for short vehicle refuelling and essential commercial trips for residents in the immediate area. The proposal will create some employment opportunities within walking distance of surrounding residential areas. The proposal is also considered consistent with this directive as it provides for the efficient movement of freight by enabling the refuelling of heavy vehicles.
3.5 Development Near Licensed Aerodromes	The objectives of this direction is to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Consistent. The proposal has been assessed against clause <u>7.4 Airspace Operations</u> of Port Stephens Local Environmental Plan 2013. The site is not affected by aircraft noise. The site is identified on the Port Stephens Height Trigger Map as requiring referral from RAAF Base Williamtown and Salt Ash Air Weapons Range for all structures higher than 45m. The development is not proposing any structures which trigger referral.
4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts	Consistent. The subject site is located in an area identified as having Class 4 Acid Sulfate Soils. The preparation of an acid sulfate soils management plan is triggered

	from the use of land that has a probability of containing acid sulphate soils.	when works occur more than 2 metres below the natural ground surface or where the watertable is likely to be lowered more than 2 metres below the natural ground surface. The proposed service station will require the installation of underground fuel tanks. Under clause <u>7.1 Acid Sulfate Soils</u> PSLEP 2013, an acid sulfate soils management plan is required to be prepared for the proposed works in accordance with the Acid Sulfate Soils Manual with any development application. An Acid Sulfate Soil Management Plan will need to be designed and implemented prior to the commencement of any onsite excavation. This must be addressed in any development application.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i>, and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	Consistent. Although the northern portion of this site is identified as being within the Flood Planning Area, the new uses proposed are located at the far south of the site, adjacent to the Pacific Highway. The identification of this site as flood affected is believed to be of minor significance because: ▪ The proposed new land uses will be located away from the portion of the site identified in the Flood Planning Area ▪ The Site is not located in a floodway area ▪ Council Flooding Engineers may identify how development may impact on drainage patterns; this can be provided at development application stage. This would include similar information to a

		stormwater drainage plan, such as: ○ Location and type of detention system; ○ Demonstrated volume for maximum AEP; ○ Pipes, pits, overland flow and discharge access points; ○ Orifice type, location and screening facility; ○ Slope/gradient of the land; and, ○ Post-development flows equal to pre-development flows. The concurrence of the Director General is not required as it is in accordance with the Floodplain Risk Management Plan and is of minor significance.
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	Inconsistent. Part of the site has been identified as bushfire prone. Although any development on this portion of land must be designed in accordance with the provisions of Planning for Bushfire Protection, the proposed additional uses are located adjacent to the Pacific Highway and will not involve land which is mapped as bushfire affected. The applicant must engage in consultation with the Rural Fire Service, and comment from the Rural Fire Service will be sought during public exhibition.
5. REGIONAL PLANNING		
5.1	The objective of this	Consistent. The proposal is consistent with

Implementation of Regional Strategies	direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	the LHRS as discussed under Section B 'Relationship to Strategic Planning Framework' of this Planning Proposal, Part 3 (p. 6). The works are not of a scale which will impact strategic business development in the region and they support Raymond Terrace as a Major Regional Centre.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	The objective of this direction is to manage commercial and retail development along the Pacific Highway.	Consistent. The proposal is consistent with this direction as it proposes to cater to the food, vehicle service and rest needs of travellers on the highway. The addition of a 'service station', 'restaurant or café' and 'take-away food and drink premises' is not of sufficient scale to have a negative impact on the viability of surrounding businesses and retail centres. Further formal consultation with the RMS will be undertaken as part of any development application process.
6. LOCAL PLAN MAKING		
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. The proposal is not considered to compromise the intent of this objective.

SECTION C – Environmental, Social and Economic Impact

7. 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?

No. The site is identified as "Mainly Cleared" Koala Habitat by the Koala Habitat Planning Map 2000. There are some isolated mature trees on site and it is unlikely the site is being utilised by koalas due to the sparse vegetation and proximity to the Pacific Highway.

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

The subject site is located in proximity to - but not within - the Tomago Sandbeds drinking water catchment (refer to Drinking Water Catchment Map of LEP2013). The subsequent development is not expected to have environmental impacts as the site drains to the north and west, and the intensification of use is proposed at the south eastern portion of the site. It is recommended that the proposal be referred to the Hunter Water Corporation for comment. These potential concerns must also be addressed with the submission of any development application.

The design and installation of all fuel storage systems must be shown to be in accordance with AS 1940. All stormwater must be diverted and treated for contaminants on site. An acid sulphate soil management plan must be employed during the construction and installation phase, and a tree management plan is suggested to ensure that no damage to the heritage item fig trees on site is sustained. These issues would be investigated further at development application stage.

Increased traffic volumes may generate increased noise experienced by the adjoining residential properties. Potential acoustic impacts to be further investigated at development application stage.

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

The proponent submits that the expansion of the existing motel land use will have no adverse social impact. The applicant states that the proposed 'service station', 'restaurant or café' and 'take-away food and drink premises' will be equipped with adequate lighting and CCTV surveillance technology. The proposal states that there is also significant passive surveillance of the buildings on site which will discourage anti-social behaviour. Additionally, any alcohol serving components of a new restaurant/café on the site will be assessed and managed at development application stage and liquor licencing requirements.

The scale of the proposal and the type of the land uses involved suggest that supporting this development will have a positive effect on the economy of the area. The proposal is not of a scale to compromise the viability of future "employment growth" areas on the opposite side of the Pacific Highway.

Based on an estimated investment of \$500,000 in the proposal, REMPLAN indicates that the demand for intermediate goods and services would rise by \$138,000. The secondary consumption effect under this scenario is estimated at \$47,000, making the total increase in output approximately \$685,000.

The employment of ten (10) people in the retail sector (an estimate required to service the new service station, restaurant/café and take away food and drink premises) will have a direct increase in output of \$1.092 million (REMPPLAN / Compelling Economics: 2013). Flow-on industrial effects in terms of local purchases of goods and services are anticipated from direct jobs created. These indirect impacts would result in the gain of a further 1 job.

The increase in direct and indirect output and the corresponding creation of jobs in the economy are expected to result in an increase in the wages and salaries paid to employees. A proportion of these wages and salaries are typically spent on consumption and a proportion of this expenditure is captured in the local economy. The consumption effects under this scenario are estimated to further boost employment by 2 jobs. Total employment, including all direct, industrial and consumption effects is therefore estimated to increase by up to 13 jobs. The proposal is thus expected to bring an approximate output of \$685,000 to the area and create 13 jobs (REMPAN / Compelling Economics: 2013).

SECTION D – State and Commonwealth interests

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

The site has adequate available public infrastructure. It is located within proximity to existing infrastructure, such as major roadways and has access to utilities. Whether these utilities will require an upgrade will be assessed with any development application submitted. The development proposes the addition of another egress point to the Pacific Highway, however all other road infrastructure will be able to service the increased demand for access to the site. The addition of an egress point is supported by the Traffic Assessment submitted with the proposal (Appendix 1). Further consultation with RMS would occur following Gateway Determination.

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

The RMS has been initially consulted prior to the lodgement of the proposal with Council. They advise that no further access points to the site from the Pacific Highway should be proposed and recommend an additional egress point for safety reasons. This has been observed by the applicant and an additional egress lane is proposed to facilitate vehicle movements.

Further consultation with the RMS will be undertaken during the public exhibition of the planning proposal.

Part 4 - Mapping

Attachment 1 – Site Identification Map and Site Survey

Attachment 2 – Schedule 1 Additional Uses Map

Attachment 3 – Existing and Proposed Site Layout Drawings

Part 5 - Details of Community Consultation

The Proposal is considered to be low impact and is recommended to be placed on public exhibition for a minimum period of 28 days. Community consultation will take place in accordance with the Gateway Determination. Council suggests the following agencies are consulted during the public exhibition period:

1. Roads and Maritime Services (RMS)
2. The Rural Fire Service (RFS)
3. Hunter Water Corporation

Part 6 – Project timeline

The following timetable is proposed:

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT
Council Report									
Gateway Determination									
Consultation with State agencies									
Public Exhibition									
Council Report									
Parliamentary Counsel									

Attachments

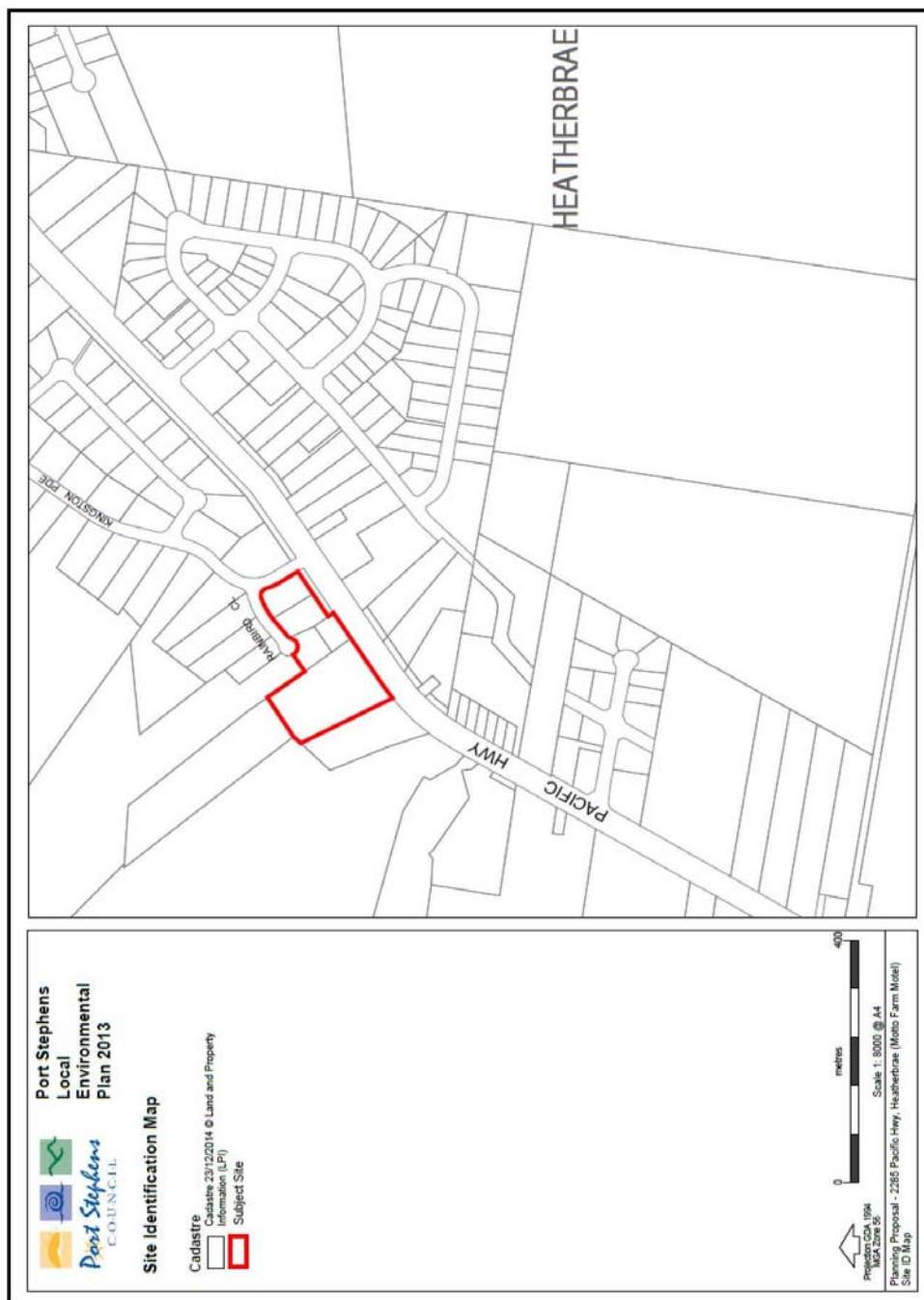
The following attachments are supplementary to this planning proposal:

Attachment 1 – Site Identification Map

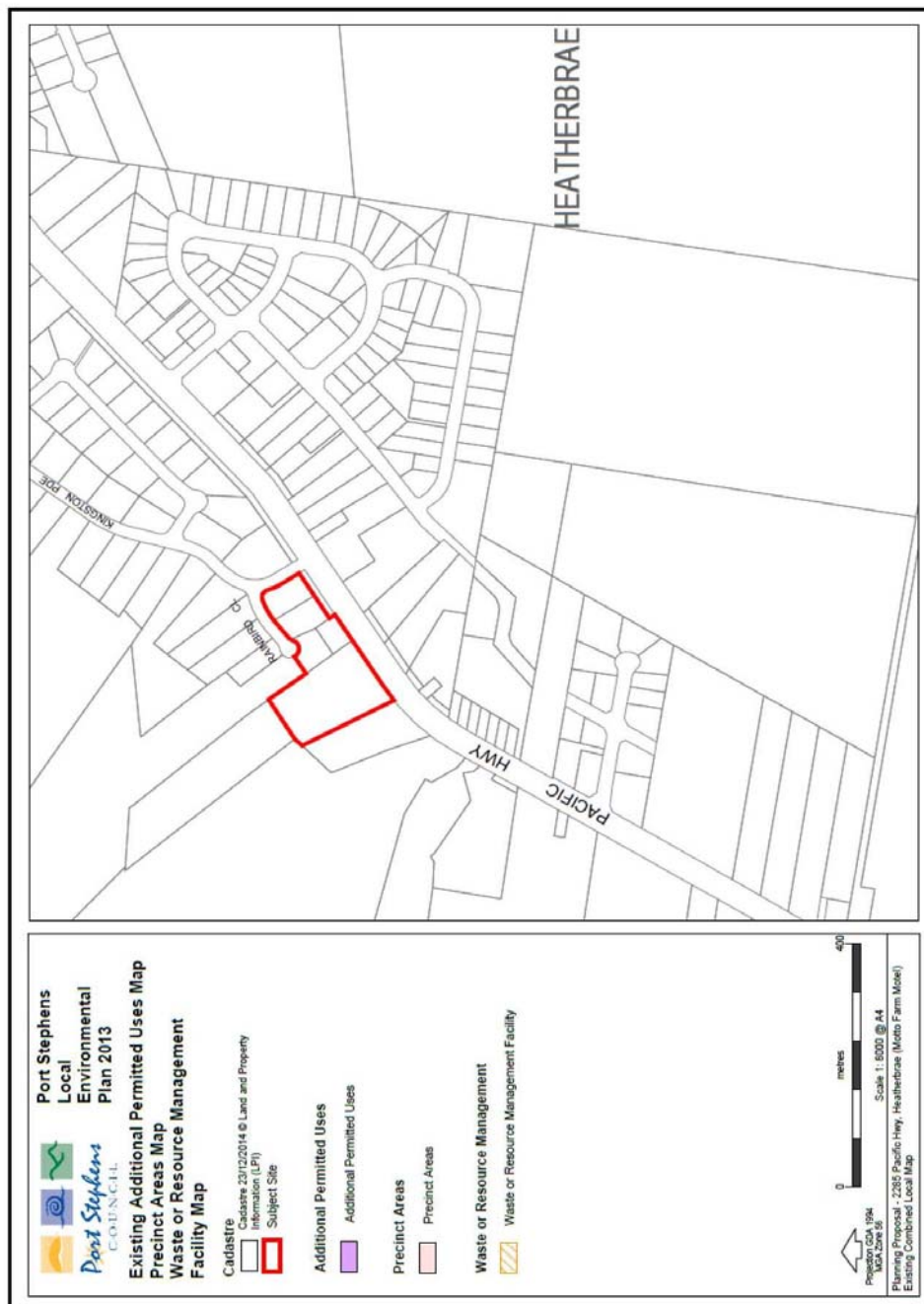
Attachment 2 – Existing Additional Permitted Uses Map

Attachment 3 – Proposed Additional Permitted Uses Map

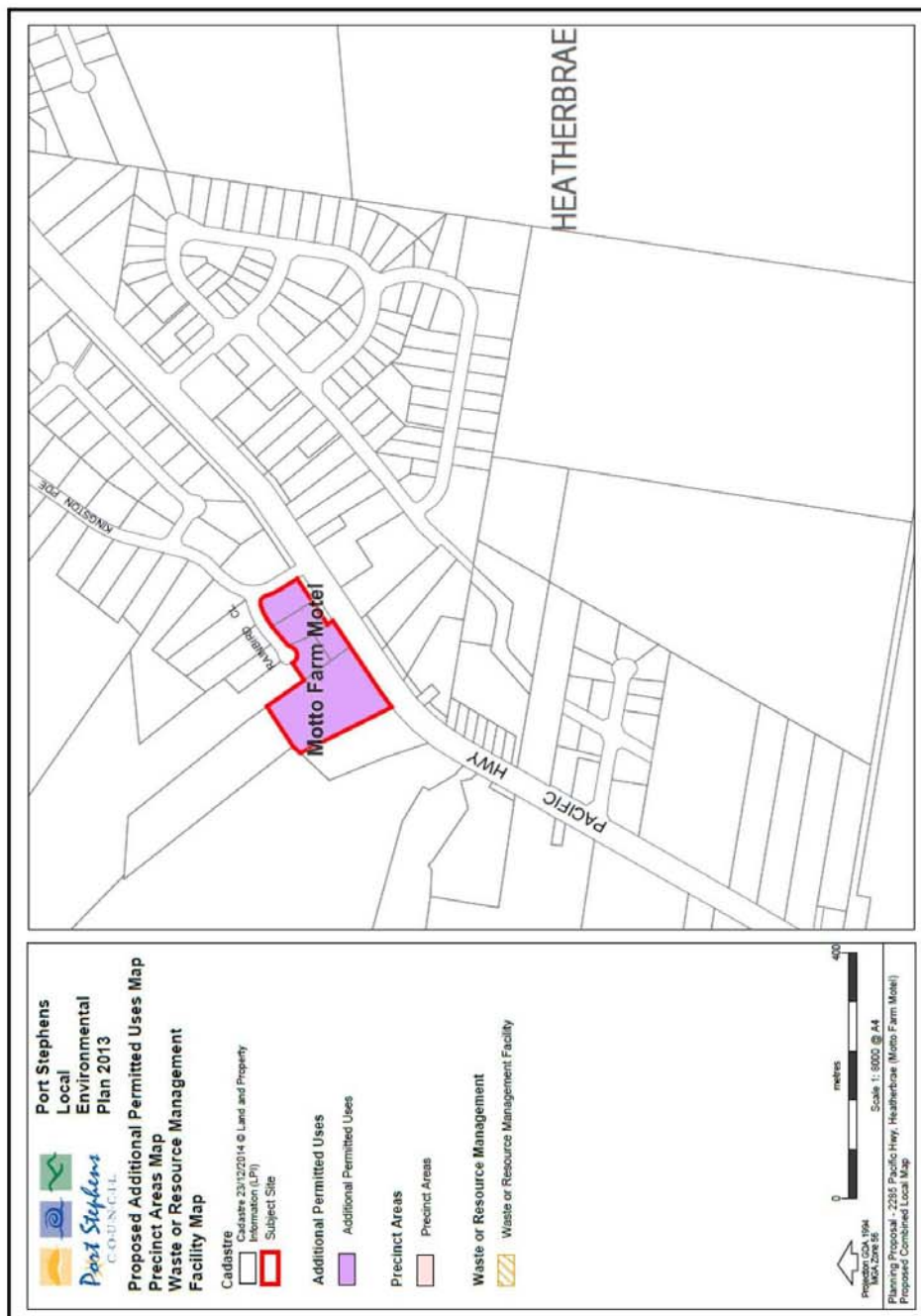
Attachment 1 – Site Identification Map



Attachment 2 – Existing Additional Permitted Uses Map



Attachment 3 – Proposed Additional Permitted Uses Map



ATTACHMENT 2
Location Plan

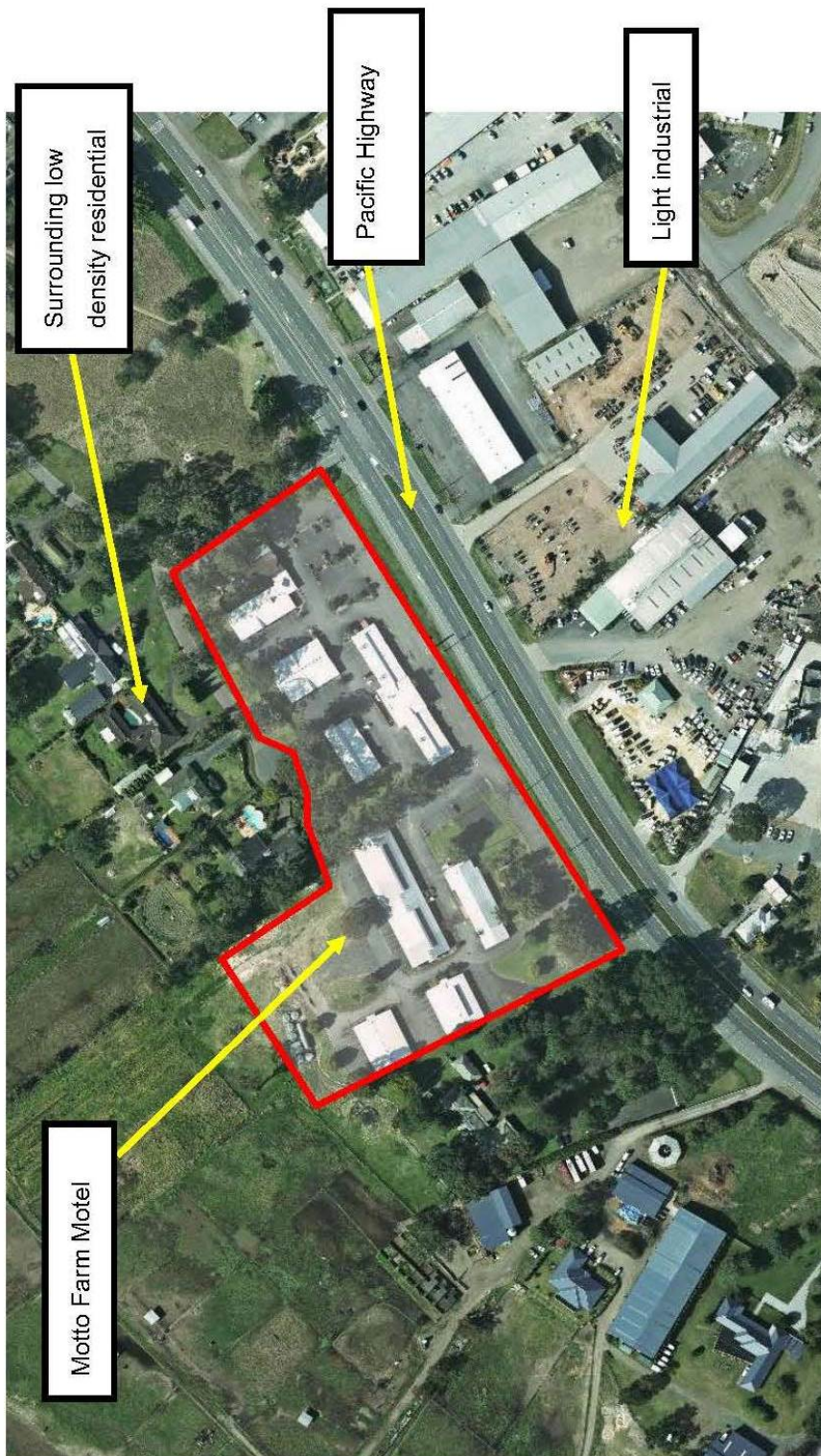


Figure 2: Aerial View (source SixMaps)

