

**STATEMENT OF
ENVIRONMENTAL EFFECTS**

**PROPOSED
HIGHWAY SERVICE CENTRE (HSC)
37-41 BENGAL STREET
COOLONGOOK**

DECEMBER 2019

statement of environmental effects

MIDCOAST COUNCIL

PROPOSED HIGHWAY SERVICE CENTRE (HSC)

37-41 BENGAL STREET

COOLONGOOK

Prepared on behalf of

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This statement has been prepared in consideration of the Expert Witness Code of Conduct in the Uniform Civil Procedure Rules and the provisions relating to expert evidence. The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts and circumstances as have been cited in the document.



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1.0 INTRODUCTION

This document has been prepared in order to provide information and an environmental planning assessment in respect of the development, the subject of a development application (the 'development application'), which seeks consent for a Highway Service Centre (HSC) comprising of a fuel service station, truck stop and a sales building offering various convenience items, take away food and drink premises and amenities.

Consideration has been given to the environmental merits of the proposal as well as, among other instruments and documents, the following legislation, regulations, environmental planning instruments and other instruments:

- *Environmental Planning and Assessment Act 1979 (EPAA);*
- *Environmental Planning and Assessment Regulation 2000 (EPAR);*
- *SEPP No 64—Advertising and Signage;*
- *SEPP No 44—Koala Habitat Protection;*
- *SEPP No 55—Remediation of Land;*
- *SEPP No 33 – Hazardous and Offensive Development;*
- *SEPP (Infrastructure) 2007;*
- *SEPP (Exempt and Complying Development Codes) 2008;*
- *SEPP (Miscellaneous Consent Provisions) 2007;*
- *SEPP (Rural Lands) 2008;*
- *SEPP (Vegetation in Non-Rural Areas) 2017;*
- *SEPP (Building Sustainability Index: BASIX) 2004 (BASIX);*
- *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 (UPSS Regulation);*

- *Great Lakes Local Environment Plan 2014 (GLLEP)*; and
- *Great Lakes Development Control Plan (GLDCP)*.

Additionally, in preparing this statement of environmental effects, regard has been had to the respective contents of a number of other documents including but not limited to the following:

- Great Lakes Council Development Assessment Panel meeting notes dated 24 November 2015;
- MidCoast Council Development Assessment Panel meeting notes dated 3 April 2018;
- MidCoast Council Development Assessment Panel meeting notes dated 3 September 2019;
- the document titled 'Highway Service Centres Along the Pacific Highway Policy Review: Summary Feedback Report' (RMS, dated June 2015);
- the document *Applying SEPP 33 Hazardous and Offensive Development Application Guidelines [Consultation Draft]* (NSW Department of Planning, 2008);
- *Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008* (NSW Department of Environment and Climate Change, May 2009);
- *Transport Corridor Outdoor Advertising and Signage Guidelines* (NSW Department of Planning, 2007);
- *Guide to Traffic Generating Developments* (RTA, October 2002);
- List of Directions issued by the Minister for Planning to Relevant Planning Authorities under Section 117(2) of the *Environmental Planning and Assessment Act 1979*; and
- D Scotts, *Conserving Koala Populations of the NSW Upper Mid-North Coast: Preliminary Mapping of*

Populations as a Basis for Further Survey, Research and Planning (2013).

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location

The subject property (collectively, 'the site') is located at Nos 37, 39 and 41 Bengal Street, Coolongolook.

The site is located on the western side of Bengal Street, Coolongolook, a semi-rural roadside community 210km north-east of Sydney, 18 km west of Forster-Tuncurry and 45.4 km south of Taree via the Pacific Highway.

The village of Coolongolook, being one of the last remaining communities not bypassed by the Pacific Highway, has access to the Great Lakes via a designated boat ramp and is adjacent to the highly sought-after area of Wootton.

In the locality can be found some of the district's best wineries and cattle grazing properties.

The land uses surrounding the site are mixed, some being rural and others commercial in nature. The latter are generally not of a large scale.

A locality map is contained in **Annexure 1**.

An aerial photograph of the site is contained in **Annexure 2**.

A cadastral map is contained in **Annexure 3**.

2.2 The Site

Collectively, the site is known as Nos 37, 39 and 41 Bengal Street, Coolongolook and is legally described as being respectively Lots 7, 8 and 9 in Deposited Plan 758278.

Running along the full length of the western boundary of the site is Lombard Lane. Nelson Street, an unformed road, runs along the northern border of the site.

Collectively, the site has an irregular but largely rectangular shape.



The site has a total area of approximately 6165 sqm, calculated as follows:

Property	Approximate Area
No 37 Bengal Street	2057 sqm
No 39 Bengal Street	2094 sqm
No 41 Bengal Street	2014 sqm
Total	6165 sqm

Photographs of the site are contained in **Annexure 4**.

3.0 THE DEVELOPMENT PROPOSAL

The development application proposes the erection on the site of a 24-hour highway service centre (HSC) comprising a service station for both light and heavy vehicles and a sales building with amenities.

Although there are already other service station establishments in the village of Coolongolook, the proposed highway service centre will provide a state-of-the-art, contemporary facility and some much-needed employment and competition in the community, providing, among other things, additional opportunities for heavy and other vehicles to stop, drivers to rest and vehicles to refuel.

The service station component of the proposed development will involve, among other things, a car fuelling canopy and the installation, in accordance with the latest standards and the submitted plans, of an underground diesel and petroleum storage system ('UPSS') comprising double walled petrol and diesel tanks, double walled fuel lines and environmental pollution stormwater control measures involving the construction of bunded areas with drainage to the car and truck refuelling bays.

The UPSS, which refers to the entire system of underground tanks, pipes, valves and other equipment designed to store and handle petroleum products, will comply with the requirements of the *Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008*.

The service station component of the proposed development will predominantly target the transport industry by allowing trucks entering the town via the Pacific Highway to stop and

refuel, rest momentarily, use the amenities (namely, toilets and, to cater especially to the needs of truckers, showers and a seating area), and purchase diesel or other fuel, refreshments or a light meal before leaving town.

The proposed development is designed in a way, firstly, to be suitable for truck drivers as well as light vehicles to share the site in a safe and efficient manner and, secondly, to be easily accessible from Bengal Street with safe ingress and egress (ingress via a dedicated slip road).

As mentioned above, Coolongolook is one of the last remaining communities not bypassed by the Pacific Highway, hence its significance as one of the few places where motorists and truck drivers can stop, refuel and purchase basic convenience items and light meals whilst remaining near to the through roadway.

The retail outlet component of the proposed development will take place in a sales building with a gross floor area of around 320sqm GFA and involve the sale, from one sales area, of basic convenience items as well as light meals, with the latter designed to be consumed both on-site and off-site. The range and type of stock to be carried in the retail outlet component of the development will be typical for an establishment of that typology.

Facilities to be provided within the sales building include a food counter (with console and kitchen), small seating area, sales area, cool room and freezer, office, store area and amenities (including two ensuites dedicated to truck drivers). At the rear of the sales building there will be a bin storage and equipment area backing on to a delivery bay.

No residential accommodation or caretaker's premises for the manager or staff is proposed.

Ingress and egress driveways, the proposed deceleration lane and the forecourt area will be constructed of heavy-duty concrete to allow for larger vehicles to use the site.

A full set of architectural drawings prepared by R J Sinclair Pty Limited, Building Design, as well as other documents detailing the proposed development, forms part of the development application.

In addition to the documents and plans required by the general lodgement requirements and other detailed

requirements, the development application is accompanied by various reports and drawings that inform the proposal and deal with relevant issues of potential concern, with regard to the proposed development. A Table of Consultants is provided at **Annexure 5**.

Architectural Drawings have been prepared by RJ Sinclair Pty Limited, Project 18-48, dated August 2018 (17 sheets @ A3). These drawings form part of the DA package.

The issues raised by Council are dealt with throughout this SEE and copies of the DAP meeting notes have been provided at **Annexure 12**.

4.0 COMMUNITY CONSULTATION

A meeting regarding the proposed development with local community members, was held on 9th August 2018 at the Coolongolook Community Centre.

The community was made aware of the additional employment that would be brought to the area by virtue of construction and operation of the new facility. The main concerns raised by local residents were in regard to amenity impacts to nearby residential property, particularly acoustic impacts as well as impacts caused by overland water flow.

The contents of this SEE and the accompanying sub consultant reports seek to address the relevant concerns of community members.

5.0 STATUTORY PLANNING FRAMEWORK

5.1 Great Lakes Local Environmental Plan 2014

5.1.1 General

GLLEP aims to make local environmental planning provisions for land in so much of the MidCoast local government area as formerly comprised the Great Lakes local government area in accordance with the relevant *standard environmental planning instrument* under section 33A of the EPAA: see clause 1.2(1).

5.1.2 Aims

The particular aims of GLLEP are as follows (refer clause 1.2(2)):

- (a) to facilitate the orderly and sustainable economic development of land,
- (b) to promote the health and well-being of the population,
- (c) to protect and enhance environmental, scenic and landscape assets,
- (d) to facilitate cultural activities that will benefit the community,
- (e) to promote the equitable provision of services and facilities for the community,
- (f) to ensure that development does not create unreasonable or uneconomic demands for the provision or extension of public amenities or services,
- (g) to promote public transport patronage and encourage walking and cycling,
- (h) to ensure that development has regard to the capability of the land so that the risk of degradation is minimised,
- (i) to minimise land use conflict,
- (j) to ensure that development meets any local water quality objectives adopted by Council in relation to groundwater, rivers, estuaries, wetlands and other waterbodies,
- (k) to protect, enhance and provide for the long-term management of native biodiversity, including habitat linkages, threatened species populations and endangered ecological communities, and to identify and protect biodiversity links or corridors throughout the landscape.

In our opinion, the proposed development proposal is consistent with the above aims and will be 'environmentally friendly' in its operations.

Stormwater management and landscaping will contribute to the protection of the local

environment. Protection measures will be put in place to ensure there is no impact on the amenity of the adjoining neighbours.

The proposed development is a small-to-medium-scale business, both in terms of building size and the number of personnel employed and is not expected to adversely impact the amenity of the local precinct.

The proposed development will better serve the needs of the people who live and work in the surrounding neighbourhood and the needs of professional drivers and tourists as they pass through the village on Bengal Street.

5.1.3 Zoning

The property is zoned RU5 Village under GLLEP.

A map extract from GLLEP depicting the zoning of the land is contained in **Annexure 6**.

5.1.4 Zone Objectives

By virtue of clause 2.3(2) of GLLEP, the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The RU5 Village zone objectives are as follows:

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To provide for a range of land uses, services and facilities that are associated with a coastal village.
- To enable non-residential development that does not prejudice the established land use pattern within the village.

In our opinion, the proposed development is consistent with those objectives. The proposed development will reinforce the character and will be consistent with the rural village of Coolongolook. It will not prejudice the established land use pattern within the village.



5.1.5 Categorisation and Permissibility

Whether a particular use should be categorised one way rather than another is now acknowledged—despite an earlier series of cases to the contrary—to be a question of jurisdictional fact under the EPAA: see *Warehouse Group (Australia) Pty Ltd v Woolworths Ltd* [2005] NSWCA 269, (2005) 141 LGERA 376; *Woolworths Ltd v Pallas Newco Pty Ltd* [2004] NSWCA 422; 61 NSWLR 707; *Chambers v Maclean SC* (2003) 126 LGERA 7; cf *Londish v Knox Grammar School* (1997) 97 LGERA 1.

The carrying out of development, including but not limited to the use of land, is always for a 'purpose' or more than one such purpose. One must always distinguish between 'use' (that is, the use of land in planning terms) and 'purpose', the latter being a reference to the purpose or purposes for which the land is, or is intended to be, used. The case of *Shire of Perth v O'Keefe* [1964] HCA 37; (1964) 110 CLR 529 held that a *use* must have a *purpose*. The use of land consists of the physical acts by which the land is made to serve some purpose: see *Newcastle City Council v Royal Newcastle Hospital* [1957] HCA 15; (1957) 96 CLR 493 at 508. The two words 'use' and 'purpose' are *not* interchangeable: see *Codling v Manly Council* [2011] NSWLEC 57 (6 April 2011).

In categorising the purpose of a particular use or development proposal, one ordinarily looks to the underlying *sole* or *dominant* object or purpose of the particular use or proposal, with the result that where part of premises is used for a purpose subservient to the purpose inspiring the use of another part it is legitimate to disregard the former and treat the dominant purpose as that for which the whole is being used: see e.g. *Foodbarn Pty Ltd v Solicitor-General* (1975) 32 LGRA 157 at 160 per Glass JA (Samuels and Hutley JJA agreeing).



The need to identify the purpose of the proposed use at an appropriate level of generality was identified in the NSW Court of Appeal decision of *Royal Agricultural Society of New South Wales v Sydney City Council* (1987) 61 LGRA 305 at 310 per McHugh J (Hope and Samuels JJA agreeing). See also *Shire of Perth v O'Keefe* [1964] HCA 37; (1964) 110 CLR 529 at 535 per Kitto J (Owen J agreeing).

In our opinion, the proposed development is properly categorised as being for the purpose of a 'highway service centre' (HSC), which is relevantly defined in the Dictionary to GLLEP as follows:

highway service centre means a building or place used to provide refreshments and vehicle services to highway users. It may include **any one or more** [emphasis added] of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) service stations and facilities for emergency vehicle towing and repairs,
- (d) parking for vehicles,
- (e) rest areas and public amenities.

Development for the following purposes is *permissible without consent* on land zoned RU5 Village (refer item 2, land use table, RU5 zone):

Extensive agriculture; Home occupations[.]

Development for the following purposes is *permissible with consent* on land zoned RU5 Village (refer item 3, land use table, RU5 zone):

Centre-based child care facilities; Community facilities; Dwelling houses; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Schools; Any other development not specified in item 2 or 4[.]



Development for the following purposes is *prohibited* on land zoned RU5 Village (refer item 4, land use table, RU5 zone):

Agriculture; Air transport facilities; Correctional centres; Electricity generating works; Exhibition villages; Extractive industries; Forestry; Freight transport facilities; Heavy industrial storage establishments; Heavy industries; Open cut mining; Waste or resource transfer stations[.]

In our opinion, the proposed development, being development for the purposes of a 'highway service centre', is innominately permissible, not being prohibited ('Any other development not specified in item 2 or 4') with development consent.

In a meeting held with officers of the former Great Lakes Council on 25 November 2015, Council officers raised a number of planning and legal issues with respect to the proposed development, or a very similar development, the two biggest issues being that the proposed development *may* be:

- 'integrated development' within the meaning of the EPAA, in the event that the development is within 40m of a watercourse; and
- 'designated development' within the meaning of the EPAA, in the event that the development comprises chemical storage facilities (thus activating the need for an EIS as opposed to just a SEE).

The proposed development is within 40m of a watercourse as a watercourse runs through the site. Accordingly, the development is integrated development within the meaning of the EPAA, with a referral to NSW Office of Water required.

However, the development is not designated development within the meaning of the EPAA. In coming to that conclusion, we have regard to, among other things, Schedule 3(1) to the EPAR



which declares the following development to be designated development:

Chemical storage facilities:

(a) that store or package chemical substances in containers, bulk storage facilities, stockpiles or dumps with a total storage capacity in excess of:

- (i) 20 tonnes of pressurised gas, or
- (ii) 200 tonnes of liquefied gases, or
- (iii) 2,000 tonnes of any chemical substances, or

(b) that are located:

- (i) **within 40 metres of a natural waterbody or wetland**, or
- (ii) in an area of high water table or highly permeable soil, or
- (iii) in a drinking water catchment, or
- (iv) on a floodplain. [*Our emphasis*]

The proper categorisation of a particular development is a matter of jurisdictional fact. In other words, if one or more of the fact-situations described or otherwise referred to in the 'chemical storage facilities' exist or are satisfied, then the proposed development as a matter of law and jurisdiction will come within the four corners of the above definition as well as the definition of designated development. Thus, in the event that the development is designated development, an environmental impact statement (EIS) is required. If, however, the development is not designated development, an EIS is not required.

In *Gunning Sustainable Development Association Inc v Upper Lachlan Council* [2005] NSWLEC 23, a decision of Talbot J of the NSW Land and Environment Court, a development application had been lodged with the council seeking consent for a proposed highway service centre comprising fuel and retail facilities, a restaurant, take away food outlet, toilets and shower facilities with parking for cars, buses and trucks and emergency repair services. The



appellant alleged that the proposal constituted 'petroleum works' within the meaning of Schedule 3(27) to the EPAR which, if that were the case, the second respondent's failure to provide an EIS in support of the development application, meant that the consent granted by the council was invalid and of no effect.

Talbot J in the *Gunning* case held that although the expression 'petroleum works' was not defined the expression was to be given its ordinary meaning. The fuel was to be delivered to the site in a condition that has already rendered it fit for direct sale to retail customers without further process or refinement. The proposal was for a highway service centre for the convenience of motorists including a facility for the sale of fuel for immediate consumption. This was simply a matter of proper characterisation of the subject development, and that involves ascertaining the character of the particular development. His Honour was therefore not convinced that the activities involved in a retail operation could be applied to justify the characterisation of the proposal as 'petroleum works' in the way he believed that term is understood in ordinary parlance. In that regard, Talbot J stated at [51]:

Despite argument between the parties ..., my conclusion that the highway service centre is not characterised as petroleum works means the applicant's argument that the consent simultaneously authorises development that is not designated development and development that is designated development cannot be sustained. ***The proposal will not be designated development irrespective of the storage capacity ultimately installed*** [Our emphasis].

We submit to Council that, as a matter of proper characterisation, the decision of Talbot J in the *Gunning* case is directly applicable here. Even though that decision related to a different provision ('petroleum works') of Schedule 3 to the EPAR than the one mentioned by the Council officer as being potentially applicable here



(namely, 'chemical storage facilities'), the reasoning of his Honour is directly applicable.

The underlying character, and thus purpose, of a 'highway service station' is entirely different from development for the purpose of 'chemical storage facilities'. The 'quantities' referred to in the Schedule item did not matter; rather, it was simply a test of characterisation. A 'highway service centre' does not have the character of a 'chemical storage facility'. Therefore, the Schedule item was not triggered, that is, did not apply.

It is well-settled law that, in characterising the underlying purpose of a proposed development, one must not fall into the error of purporting to characterise the various component parts of the development without asking whether those parts serve a single purpose: see *Terra Ag Services Pty Limited v Griffith City Council* [2017] NSWLEC 167 per Preston CJ at [18]. In that case Preston CJ, the Chief Judge of the NSW Land and Environment Court, pointed out that one must consider the development as a whole in undertaking the task of characterising the underlying purpose of the development, and not separate it into the various individual activities carried out and then purport to characterise the purpose of each part of the development.

See also *People for the Plains Inc v Santos NSW (Eastern) Pty Ltd* (2017) 220 LGERA 181; [2017] NSWCA 46 where the same error of approach was made of not characterising the proposed development as a whole but instead separating the development into separate parts and characterising the purpose of each part without regard to the role and function that the part serves for the whole development.

The bottom line is that the purpose of the proposed development is 'highway service centre' (HSC) and, although integrated development, the proposal does not



comprise designated development within the meaning of the EPAA.

5.1.6 Suitability of the Site

The site is strategically located on the Pacific Highway and thus well suited for the proposed development. However, the site is otherwise located at the northern extremity of the township.

As already mentioned, the land uses surrounding the site are mixed, hence the buildings have no consistent visual form.

The proposed development will improve the visual amenity of the area in the following ways:

- The proposed highway service centre, with its several components (namely, service station, truck stop, convenience store and amenities) will trade 24 hours per day, thereby catering especially to heavy vehicles, thus assisting in revitalising the area in which the site is located. The service station component of the development with the associated sales building will have a contemporary design and character and involve the use of contemporary materials and a suitable colour selection so as to enhance the appearance of the building and the streetscape.
- The sales building is designed to be in keeping with the current expectations of the general public for service stations and truck stops while at the same time enhancing the visual amenity of the site and ensuring safety and security on the site. An acoustic report has been prepared.
- The proposed landscaping on the site with native ground covers will also improve the aesthetics of the site. A formal landscape plan has been prepared for consideration by Council.

The colours shown on the elevation plans are for reference purposes only. No formal arrangements have been made with any oil company and the colours shown will change to suit the requirements of the oil company which brands the site. Details of the colour scheme will be provided to Council prior to occupation.

5.1.7 Excavation Fill and Construction

The development does not involve any significant excavation or filling. However, some excavation is required in order to construct the underground fuel tanks but that is the extent of the matter and the degree and extent of excavation will be consistent with that which is reasonably required as respects developments of this kind. All excavated material will be taken off site.

Excavation will take place in accordance with the recommendations of the geotechnical engineer and care will be taken to ensure no debris or excavated material enters the watercourse traversing part of the topmost section of the site.

5.1.8 Contamination

A contamination assessment of the site for the purpose of its use as an HSC has been prepared by Douglas Partners dated December 2019. This document speaks for itself.

See also section 5.5 (SEPP No 55 – Remediation of Land) of this document.

5.1.9 Heritage

The site is not heritage listed under GLLEP nor is it in a heritage conservation zone nor is it considered to have any heritage value. In addition, there are no heritage listed sites in the vicinity. As such, heritage considerations are not relevant to the site or the proposed development.

5.1.10 Flora Fauna and Habitat for Native Species

Existing vegetation on the site, especially on No 37 Bengal Street, but also to a lesser extent on Nos 39 and 41 Bengal Street, is negligible with the result that any clearing of the land during construction is not expected to have any untoward implications. This notwithstanding as a matter of abundant precaution an Arborists report and a Biodiversity Impact Assessment accompany the DA.

Insofar as koalas are concerned, SEPP No 44—Koala Habitat Protection aims to protect koala habitat. The koala is listed as a vulnerable species under the *Threatened Species Conservation Act 1995* (NSW). This is due to the severe decline in koalas across NSW, having disappeared from between 50–75% of their former range.

Timber harvesting is not permitted within any area identified as ‘core koala habitat’ within the meaning of SEPP 44. In addition, the retention and protection of Koala food trees is required where there is a record of a koala within an area to be harvested or within 500m of this area, or a koala faecal pellet (scat) is found beneath the canopy of any primary or secondary koala food tree.

Koala habitat can be identified by the presence of koala food trees, historical or recent koala records, the presence under trees of koala faecal pellets (scats), and the presence of Koala scratches on trees. The Wang Wauk National Park, which covers 12,982 ha of land in the current Wang Wauk and Bulahdelah State Forests and is located immediately to the north of Bulahdelah and west of Coolongolook, is in an area of recognised koala habitat (refer D Scotts, *Conserving Koala Populations of the NSW Upper Mid-North Coast: Preliminary Mapping of Populations as a Basis for Further Survey, Research and Planning* (2013)), with numerous koala records and recognised high use areas

extending over both the State Forests and adjoining private lands between the Myall and Coolongolook Rivers.

In the context of the present development application, the site has been assessed for activity by koalas using the following methods. Firstly, a search of the BioNet Atlas of NSW Wildlife (NSW OEH 2015) was undertaken to identify records of Koalas in the area. Secondly, the site was surveyed on foot with any species of koala food trees being inspected for signs of koala presence and usage.

It is unlikely that there any threatened species, populations or ecological communities on the site nor are we aware of their being any habitats of threatened species, populations or ecological communities either on the site or nearby.

Section 78A(8) of the EPAA requires the consent authority to consider the need for a species impact statement (SIS). The matters listed in section 5A of the EPAA must be considered to determine whether there is such a need. As there is no flora and fauna of significance on the site, the development is most unlikely to affect any endangered ecological community. We are therefore of the opinion that there is no need for an SIS. See however Biodiversity Impact Assessment by Danny O’Brien of Environmental Assessments Pty Limited.

An arborists report from Urban Forestry Australia dated October 2019, forms part of the DA package.

5.1.11 Stormwater Erosion and Sediment Control

In a meeting held with officers of the former Great Lakes Council on 24 November 2015 Council officers stated that a forecourt and stormwater management plan would be required, addressing, among other things, collection wells.



The proposed highway service centre will have the refuelling area bunded and drained to protect from spills with all potential contaminants directed to a sealed 1000L pit before being put through a separation unit designed to separate contaminants from clean water prior to entering the Council's system.

All rainwater will be harvested for re-use in the building and all stormwater, included stormwater collected from concrete surfaces and building roof areas, will be harvested for re-use in the garden areas prior to release into the creek system.

See also section 4.6.14 ('Stormwater and Drainage') of this document as well as the stormwater plans prepared by Stellen Consulting accompanying the development application.

5.1.12 Safety and Hazard Issues

SEPP No 33 – Hazardous and Offensive Development presents a systematic approach to planning and assessing proposals for potentially hazardous and offensive development for the purpose of industry or storage.

Under SEPP 33, the permissibility of a proposal to which the Policy applies is linked to its safety and pollution control performance. While SEPP 33 is an enabling instrument (that is, it allows for the development of industry) it also aims to ensure that the merits of proposals are properly assessed in relation to off-site risk and offence before being determined.

The merit-based approach ensures that locational and design considerations are an integral part of the assessment process. SEPP 33 ensures that only those proposals which are suitably located, and able to demonstrate that they can be built and operated with an adequate level of safety and pollution control, can proceed.

The stated aims and objectives of SEPP 33 are as follows (refer clause 2):

- (a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and
- (b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and
- (c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and
- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and
- (f) to require the advertising of applications to carry out any such development.

Definitions of ‘potentially hazardous industry’ and ‘potentially offensive industry’ are included in the SEPP: see clause 3.

Relevantly, as detailed in SEPP 33 a ‘hazardous industry’ is one which poses a significant risk when all locational, technical, operational and organizational safeguards are included. A ‘potentially hazardous industry’ is one which, when all safeguards are operating, imposes a risk level which is significantly lower.

SEPP 33 applies to any proposal which falls under the policy’s definition of ‘potentially hazardous industry’ or ‘potentially offensive industry’. Once a development proposal is identified as an industry or storage



establishment, a consent authority needs to consider the following matters:

- Does the proposal require development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'EPA Act')?
- Is the proposal a 'potentially hazardous industry' within the meaning of SEPP 33?
- Is the proposal a 'potentially offensive industry' within the meaning of SEPP 33?

The purpose of the initial SEPP 33 risk screening is to exclude from more detailed studies those developments which do not pose significant risk. Where SEPP 33 identifies a development as hazardous or potentially hazardous and/or offensive or potentially offensive developments in accordance with clause 12 of SEPP 33 a Preliminary Hazard Analysis ('PHA') is required to be undertaken in order to determine the level of risk to people, property and the environment at the proposed location and in the presence of controls.

No further assessment under SEPP 33 is required for projects not considered potentially hazardous following a SEPP 33 Risk Assessment.

In accordance with the risk screening method provided by the then Department of Planning (DoP) document 'Applying SEPP 33 Hazardous and Offensive Development Application Guidelines (Consultation Draft 2008),' a 'SEPP 33 Risk Screening and Preliminary Hazard Analysis' has been carried out by Hazkem Pty Ltd dated October 2019 and a copy of its report is enclosed. The report amplifies the contents of the Hazkem report and specifically addresses the matters required to be addressed by SEPP 33.

A SEPP 33 Risk Screening Document and Preliminary Hazard Analysis (PHA) has been

prepared by Hazkem Pty Limited in accordance with the SEPP.

Clause 13 of SEPP 33 requires the consent authority to consider:

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and
- (e) any likely future use of the land surrounding the development.

The SEPP 33 Risk Screening determination has concluded that the whilst the transport screening thresholds are complied with, the proposed design does not achieve all setback distances required under SEPP 33. Therefore, the development proposal would be classified as potentially hazardous and a PHA is required.

The purpose of a PHA is to gain a better understanding of the risks and hazards associated with the site and to provide a reasonable basis for an informed judgment to be made on the acceptability of the site for the proposed development. The PHA outlines in detail possible risks and hazards associated with the site, in order to assist Council in reaching an informed decision for the proposal.

The PHA has identified several high-risk scenarios with possible environmental impact



resulting from fire and explosion. The risk of these scenarios to off-site receptors were assessed in accordance with AS 2187.1 – 1998 and found to be negligible.

The hazard controls and follow up actions proposed by Hazkem are deemed acceptable and the design is considered to be acceptable for the site.

On the basis of the contents and conclusions of that analysis there is nothing to suggest that the proposed development is inappropriate for the site in terms of, relevantly, safety and hazard.

5.1.13 Air Pollution

The development is most unlikely to result in any air pollution in the forms of, relevantly, smoke, vapour, dust or odour, provided at all times development adheres to the various standards, controls and requirements specified and otherwise referred to in the SEPP 33 Risk Screening Document and Preliminary Hazard Analysis.

5.1.14 Groundwater Vulnerability

The object of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 (the 'UPSS Regulation') is to regulate the storage of petroleum in underground storage systems so as to minimise the risk of the discharge of substances that cause significant damage to the environment.

The UPSS Regulation:

- (a) applies to persons 'responsible' for an UPSS, that is, the person who has the management and control of the UPSS or had the management and control of the UPSS immediately before it was decommissioned (that is, abandoned or rendered unusable permanently). This



- might include the current or previous owner, lessee or operator of an UPSS; and
- (b) does not apply to LPG storage systems or where the premises operates under an environment protection licence, which would set out operating standards in the licence conditions.

The UPSS Regulation contains the following provisions:

- (a) provisions with respect to the commissioning and decommissioning of underground storage systems (Part 2), and
- (b) provisions with respect to the installation of groundwater monitoring wells (Part 3), and
- (c) provisions with respect to the use of underground storage systems (Part 4), and
- (d) provisions with respect to record-keeping (Part 5), and
- (e) other provisions of a minor, consequential or ancillary nature (Parts 1 and 6 and Schedule 1).

A UPSS can only be used in accordance with an Environment Protection Plan. The UPSS Regulation sets out a range of issues that an Environment Protection Plan must address, information it must include, monitoring procedure design requirements, and documentations that it must contain. There are also requirements to check, test and maintain loss monitoring instruments and to record data gathered.

If a discrepancy is detected by a loss monitoring instrument, the UPSS Regulation requires action to be taken to investigate, to confirm existence of a leak, to fix the leak and to record details of any action taken. There are additional requirements that relate to the monitoring of groundwater monitoring wells for contamination.



The Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 adopts the document entitled Minimum Construction Requirements for Water Bores in Australia: Edition 2, published by the Land and Water Biodiversity Committee and sections 2.4 and 3.1 of the documents entitled Guidelines for Consultants Reporting on Contaminated Sites, EPA 97/104, published by the EPA. There are also some guidelines entitled Guidelines for Implementing the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2008 (NSW Department of Environment and Climate Change, May 2009).

The underground petroleum storage system ('UPSS') forming part of the proposed development has certain inbuilt safeguards which comply with the abovementioned Regulation and Guidelines. The safeguards built into UPSS will ensure that there is a very minimal risk of groundwater contamination or interference. In that regard, the UPSS Regulation requires owners and operators to regularly check for leaks in the fuel tanks and pipes used to store and handle petroleum products. Owners and operators also now need to meet minimum standards in their day-to-day environmental management of these storage systems.

Insofar the UPSS is concerned, the tanks are corrosion-resistant. The access pit and its lid have been designed to maintain their structure from the surrounding earth loads and normal traffic loads inflicted upon them. The UPSS has also been designed to minimise the ingress of rain water, and all piping is suitable for the expected working pressures, temperatures and structural stresses. Joints in piping are suitable for the operating temperatures, pressures materials and conditions of use. Joints are either welded or screwed.

The underground petroleum tanks are installed underground, are set on and surrounded with at least 150 mm of non-corrosive inert material, have at least 600 mm cover or 300 mm cover with 150mm concrete, are securely anchored with concrete anchors and are not within buildings. The tanks are also installed in accordance with the manufacturer's instructions.

For more information please refer to the Hazardous Chemicals Storage Compliance and Certification Assessment report.

5.1.15 Bushfire Risk

Bush fire prone land is an area of land that can support a bush fire or is likely to be subject to bush fire attack.

So much of the site as comprises Nos 39 and 41 Bengal Street are not identified as being bushfire prone land.

However, the south-western tip of the land comprising No 37 Bengal Street is located within a bushfire buffer zone. In this case, the buffer zone has a virtual point of contact (that is, contiguity) with the south-western corner of No 37. Now, if the buffer zone touches and concerns one property then, as a matter of law, the whole site is affected.

A bushfire report prepared by Australian Bushfire Consulting Services in November of 2018 and revised in November 2019, accompanies the development application.

A bushfire prone land map extract from GLLEP, depicting the site, is provided at **Annexure 7**.

5.1.16 Building Controls and Disability Access

In order to address the requirements of the *Disability Discrimination Act 1992* (Cth) ('the DDA') pertaining to accessibility for and the provision of appropriate services and facilities



for people with a disability a report (in respect of the proposed development has been prepared by Code Performance (Nick Cribb – November 2019), in the context of a subsequent application for a construction certificate and in terms of the development's compliance with Part D3 of the Building Codes Australia/National Construction Code (BCA/NCC-2016), the Disability (Access to Premises-Buildings) Standard 2010 (DATPS) and related Australian Standards.

5.1.17 Food Premises

The kitchen area of the food premises component of the proposed development will include a fit out in accordance with *Food Act 2003* (NSW) and the Australia New Zealand Food Standards Code.

Further details and methods of compliance will be provided as part of a construction certificate application. Alternatively, or additionally, any consent granted can be appropriately conditioned (as one would otherwise expect) to require and ensure compliance with the requirements of the *Food Act 2003* and the regulations and codes made under and for the purposes of that Act.

5.1.18 Building Height

The site is subject to a maximum building height development standard of 8.5m.

The development, being single story, will comfortably comply with that development standard.

A height of buildings map extract from GLLEP, depicting the site, is provided at **Annexure 8**.

5.1.19 Floor Space Ratio

The site is subject to a maximum floor space ratio development standard of 0.4:1. Despite that, clause 4.4(2C) of GLLEP permits the floor

space ratio for development for a purpose other than residential accommodation on land in Zone RU5 Village to exceed the FSR shown for the land on the Floor Space Ratio Map.

Be that as it may, the development complies with that development standard, the floor space ratio is a mere **0.0524:1** (more details refer to the architecture plans).

A maximum floor space ratio map extract from GLLEP, depicting the site, is provided at **Annexure 9**.

5.1.20 Flood Planning

A flood planning map extract from GLLEP, depicting the site, is provided at **Annexure 10**.

Part of the site, being a section of the topmost portion of the land comprising No 41 Bengal Street, is flood prone, by reason of the presence of a waterway which is connected by flow path to the Coolongolook River.

The latter rises on the northern slopes below Mount Chapman within the Koolonock Range near Wootton and flows generally north and north-northeast, joined by the Wallamba and Wallingat rivers, before reaching its confluence with Wallis Lake, descending 176m over its 47km course.

The extent of flood prone land of the topmost portion of No 41 Bengal Street is perhaps best described in pre-DA meeting notes dated 24 November 2015 from the former Great Lakes Council. Those notes, signed by Council officer Mr Wayne Burgess, refer to 'minor [sic] flooding to the north'.

Subsequent pre DA meetings on 3 April 2018 and 3 September 2019, raise no issue per se with piping of the watercourse indeed the former notes suggest that piping would be required.

For a copy of the meeting Notes as referred to above see **Annexure 12**.

Clause 7.3 ('Flood planning') of GLLEP applies to land identified as 'Flood Planning Area' on the Flood Planning Map as well as other land at or below the flood planning level (refer cl.7.3(2)).

The stated objectives of clause 7.3 are as follows (refer cl.7.3(1)):

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,
- (c) to avoid significant adverse impacts on flood behaviour and the environment.

By virtue of clause 7.3(3) of GLLEP development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

In determining a development application for development on land to which this clause applies, the consent authority must have regard to the following matters (refer cl.7.3(4)):



- (a) the intended design life and scale of the development,
- (b) the sensitivity of the development in relation to future effective self-evacuation of the land, and if that is not possible, the low risk occupation in time of flood,
- (c) the potential to modify, relocate or remove the development.

A flood report accompanies the development application. On the basis of the various findings, conclusions and recommendations contained in the report we are of the opinion that Council, as consent authority, can be reasonably satisfied as to the matters set out in clause 7.3(3) of GLLEP.

5.1.21 Aboriginal Heritage

The site is not identified as containing an Aboriginal object or place of Aboriginal significance nor will the development affect the conservation of any known Aboriginal place or object. Accordingly, the development is most unlikely to disturb any Aboriginal artefacts.

5.1.22 Design

The RTA [now RMS] *Guide to Traffic Generating Developments* (October 2002) contains provisions with respect to internal roads and parking area design (refer section 5.7.2). In that regard, the Guide states that:

- (a) petrol pumps must not be closer than 4 metres to the property alignment of any public street; and
- (b) inlets to bulk storage tanks must be situated so that when tankers are discharging fuel, they will stand completely on the site and not obstruct the safe and convenient entry to the site by other vehicles.

The development satisfies those Guidelines.

Moreover, following consultation with the RMS, a deceleration lane and separated areas of ingress and egress to the site have been

provided to satisfy concerns expressed by the RMS.

5.1.23 Social and Economic Impacts

The development will make a positive contribution to the local economy by providing employment opportunities during the construction stage as well as when the development is fully operational.

The development will benefit the village of Coolongolook by providing much needed competition as respects the retail fuel market which currently has limited competition.

The development will provide a facility for the transport industry, in particular, heavy vehicles travelling through Coolongolook and driving either north or south.

Truck drivers will be able to stop and refuel at a modern and dedicated facility, rest momentarily, use the amenities, and purchase diesel or other fuel, refreshments or a light takeaway meal before leaving town. At present, many such vehicles simply drive through the town as there is not yet a facility that is capable of meeting their various needs.

People living and working in the immediate area will also benefit from having a new, modern facility retailing fuel as well as general merchandise and convenience items.

Noise barriers have been provided in the design to protect amenity for close neighbours.

5.2 SEPP No 64—Advertising and Signage

The stated aims and objectives of SEPP 64 are as follows (refer clause 3(1)):

- (a) to ensure that signage (including advertising):
 - (i) is compatible with the desired amenity and visual character of an area, and



- (ii) provides effective communication in suitable locations, and
- (iii) is of high quality design and finish, and
- (b) to regulate signage (but not content) under Part 4 of the Act, and
- (c) to provide time-limited consents for the display of certain advertisements, and
- (d) to regulate the display of advertisements in transport corridors, and
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

SEPP 64 does not regulate the content of signage and does not require consent for a change in the content of signage: clause 3(2).

Except as provided by the Policy, SEPP 64 applies to all signage that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and is otherwise visible from any public place or public reserve: clause 6(1). However, SEPP 64 does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under the policy: clause 6(2). Among other things, SEPP 64:

- sets specific provisions relating to outdoor advertising in different formats including wall advertisements, large format, building wraps and advertisements on bridges (clauses 15 to 26);
- outlines where advertising is not permitted, such as on environmentally sensitive land, in national parks and in heritage areas (clause 10);
- contains provisions about what consent need to be obtained for a promotional advertisement, including consent periods (clause 25);
- sets out provisions for obtaining permission from the RMS for some types of advertising (clauses 15 to 18);



- establishes the Minister for Planning as the consent authority for applications in road and some rail corridors, and the local council as the consent authority in other situations (clause 12);
- contains provisions with respect to the duration of consents for advertising (clause 14);
- establishes that advertising on transport corridor land by or on behalf of RMS or RailCorp is exempt development to which the policy does not apply (clauses 6, 9 and 33);
- sets the parameters for a public benefit test and other matters for consideration for applications which require permission from the RMS (clause 13); and
- sets out assessment criteria for the purposes of clauses 8, 13 and 17 (refer Schedule 1).

As respects the assessment criteria in Schedule 1, clause 8 of SEPP 64 provides that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied that:

- (a) the signage is consistent with the objectives of the Policy as set out in clause 3 (1)(a), and
- (b) the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.

The Transport Corridor Outdoor Advertising and Signage Guidelines were published in 2007 and contains the following:

- details of the general assessment criteria for advertisement proposals under SEPP 64 and design criteria for advertising structures within transport corridors (section 2);
- information about the road safety requirements of the RMS and the role of the RMS in approving certain types of advertising structures (sections 3 and 5); and
- details of the public benefit test requirements for advertisements within transport corridors (section 4).



A draft update to the Transport Corridor Guidelines was released by the NSW Department of Planning and Environment (DoPE) in late 2015 to address development and operational controls for digital signage. A final document, entitled Transport Corridor Outdoor Advertising and Signage Guidelines, was released by DoPE in November 2017.

Further details of the proposed signage and its installation, being signage typical to a development of this type are provided in the architectural drawings.

The proposed signage is consistent with the above objectives and the matters outlined in Schedule 1, as the signage is typical of service station signage found throughout Australia. The signage will effectively communicate the services provided on the site, comply with ACCC regulations, and will be of a high-quality design.

5.3 SEPP (Infrastructure) 2007

The development is on land that is 'development with frontage to classified road' (refer clause 101 'Development with frontage to classified road' of the Policy). Thus, the matters for consideration set out in clause 101(1) and (2) of the Infrastructure SEPP are required to be taken into consideration.

The objectives of clause 101 are as follows (refer clause 101(1) of the Infrastructure SEPP):

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

By virtue of clause 101(2) of the Infrastructure SEPP, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and



- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

We note that the former Great Lakes Council specifically raised the requirement contained in clause 101(2)(b) of the Infrastructure SEPP as a matter to be addressed. On the basis of the findings, the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of the vehicular access to the land, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land.

In our opinion, the development proposal does not conflict with those provisions of the Infrastructure SEPP and this is supported by the RMS. In a letter dated 3 September 2015, a copy of which is provided at **Annexure 11**, the RMS states that '[n]o objection is raised in principle to the proposed development of a diesel fuelling station' but went on to state that a traffic report would need to be prepared by a suitably qualified consultant and submitted as part of the development application. The RMS stated that the traffic report was required to be prepared in accordance with the *Guide to Traffic Generating Developments* and that reference was to be made to section 2 of that document. In its letter the RMS made six specific comments (refer page 2 of the letter and the six dot pointed matters set out on that page) referring to matters that, in the opinion of the RMS, 'should be taken into consideration as minimum requirements for the subject development'.



The traffic report by TTM and dated 5 November 2019, has taken those matters into consideration, among other relevant matters.

Further to this, modifications to the design of the proposed development, notably the incorporation of a deceleration lane and separated ingress and egress points, have, upon further consultation with the RMS, been deemed satisfactory in addressing these requirements.

Clause 102 ('Impact of road noise or vibration on non-road development') of the Infrastructure SEPP is not applicable as a highway service station is not a development type listed in clause 102(1).

As respects the operation of clause 104 ('Traffic-generating development') of the Infrastructure SEPP, the nature of the development proposal as a Service Station with heavy vehicle refuelling and maintenance triggers 'Traffic Generating Development' as defined at Schedule 3 of the Policy. As such and as evidenced above, the development application was referred to the RMS for comment under this clause.

In our opinion, the development proposal is consistent with the Policy and the considerations of clause 104 given the response of the RMS.

Clause 101 of the Infrastructure SEPP relates to the carrying out of development with a frontage to classified road, which is relevantly the case here as respects the proposed development.

Also of relevance here is Planning Direction 5.4 ('Commercial and Retail Development along the Pacific Highway, North Coast') in which it is stated, among other things, that a planning proposal (but not specifically a DA) that applies to land located on 'within town' segments of the Pacific Highway must provide that development with frontage to the Pacific Highway must consider the impact that the development has on the 'safety and efficiency of the highway'. The objectives of that Planning Direction pertain to managing commercial and retail development along the Pacific Highway and are otherwise as follows:



- (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route;
- (b) to prevent inappropriate development fronting the highway;
- (c) to protect public expenditure invested in the Pacific Highway;
- (d) to protect and improve highway safety and highway efficiency;
- (e) to provide for the food, vehicle service and rest needs of travellers on the highway; and
- (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.

We respectfully submit that the proposed development, notable the proposed deceleration lane, ingress point and egress point, will assist in the promotion of the abovementioned objectives notwithstanding that the proposal does not constitute a 'Planning Proposal'.

5.4 SEPP No 44—Koala Habitat Protection

See section 5.1.10 ('Flora and Fauna') of this document.

5.5 SEPP No 55—Remediation of Land

SEPP 55, which aims to provide for a Statewide planning approach to the remediation of land (refer clause 2(1)), applies in respect of the site.

A contamination assessment of site for the purpose of its use as an HSC has been prepared. See above at Section 5.1.8.

Accordingly preliminary contamination risk-based considerations have been made. Refer to P34 of the Douglas Partners report.

5.6 SEPP No 33 —Hazardous and Offensive Development

As aforementioned, in compliance with clause 12 of SEPP 33, a SEPP 33 Risk Screening and Preliminary Hazard Analysis has been carried out by Hazkem Pty

Ltd dated October 2019 and a copy of its report is enclosed.

The regulations and objectives of SEPP 33 have been considered throughout the preparation of the development proposal and are addressed, in detail, in various parts of Section 5.1 of this document.

5.7 SEPP (Vegetation in Non-Rural Areas) 2017

The SEPP applies, given its RU5 Village zone (refer clause 5).

Any development on affected land needs to consider the Biodiversity Assessment Methodology referred to in the *Biodiversity Conservation Act 2016*.

A Biodiversity Impact Assessment report prepared by Environmental Assessments Pty Limited in August of 2018, accompanies the development application.

A Native Vegetation Protection Map extract is provided at **Annexure 13**. This shows the LLS Act doesn't apply to the subject site.

5.8 Great Lakes Development Control Plan (GLDCP)

5.8.1 GLDCP Objectives

Great Lakes Development Control Plan applies to all land to which GLLEP applies and was prepared in accordance with section 74C of the EPAA and the EPAR.

GLDCP was originally adopted by Council on 12 November 2013 and was made effective on the date of publication of GLLEP on the New South Wales Legislation website on 4 April 2014.

The overriding aim of GLDCP is to create and maintain a high level of development and environmental quality throughout the Great Lakes (refer clause 2.3).

The objectives and controls within GLDCP therefore aim to achieve the following end-results (refer, again, clause 2.3):



- ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood.
- ensure new development creates a unified landscape and contributes to the streetscape.
- ensure development reinforces the importance of pedestrian areas and creates an attractive design outcome.
- inspire design innovation for residential, commercial and industrial development.
- provide a high level of access to and within development.
- protect environmentally sensitive areas from over-development or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.
- achieve environmentally, economically and socially sustainable development for the community of the Great Lakes.

5.8.2 Development Not 'Industrial Development'

Before proceeding to discuss these controls we wish to make a comment on one particular matter. In that regard, we note that a record produced by Council staff setting out the issues raised by the former Great Lakes Council in a meeting held with Council officers on 24 November 2015 listed, under the subheading 'Great Lakes DCP', 'Industrial Development'. Presumably, that is a reference to the controls contained in Section 7 ('Industrial Development') of GLDCP. We note this matter was not discussed in subsequent meetings.

If it be the case that Council takes the view that the proposed development is, or is in the nature of, 'industrial development' such that the controls in Section 7 of GLDCP are relevantly applicable, then, with respect, we disagree. We view it to be important to have paramount regard to definitions such as the following:

general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

heavy industry means a building or place used to carry out an industrial activity that requires



separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes: (a) hazardous industry, or (b) offensive industry. It may also involve the use of a hazardous storage establishment or offensive storage establishment.

Note. Heavy industries are a type of industry—see the definition of that term in this Dictionary.

industrial activity means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity.

industry means any of the following:

- (a) general industry,
- (b) heavy industry,
- (c) light industry,

but does not include:

- (d) rural industry, or
- (e) extractive industry, or
- (f) mining.

light industry means a building or place used to carry out an industrial activity that does not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise, and includes any of the following: (a) high technology industry, (b) home industry.

Note. Light industries are a type of industry—see the definition of that term in this Dictionary.

[Emphasis added]

The above definitions of different types of industries – note: they are not exhaustive in that regard – are all defined by reference to the definition of an ‘industrial activity’. In that regard, see *Site Plus Pty Ltd v Wollongong City Council* [2014] NSWLEC 125 per Craig J.



Now, it is true that the definition of industrial activity 'covers a wide range of industrial activity' (*Bouchahine v Hornsby Shire Council* [2003] NSWLEC 24 at [13] per Bignold J), namely, 'manufacturing', 'production', 'assembling', 'altering', 'formulating', 'repairing', 'renovating', 'ornamenting', 'finishing', 'cleaning', 'washing', 'dismantling', 'transforming', 'processing', 'recycling', 'adapting', 'servicing', 'research and development' as well as associated 'storage or transportation', it is very important to keep in mind that 'it is the industrial activity itself (and not ancillary or subservient aspects of it) that is the true focus and subject of the spatial limitation stipulated in the [relevant] definition' (*Upton v Yarrawlumla Shire Council* [1999] NSWLEC 43 at [31] per Bignold J).

As mentioned above, a particular use can be for more than one purpose. However, one must not fall into 'the fundamental error ... in characterising the purpose of the proposed development ... [of] characteris[ing] the component parts of the development without asking whether those parts served a single purpose' (*Terra Ag Services Pty Limited v Griffith City Council* [2017] NSWLEC 167 per Preston CJ at [18]).

Thus, as was pointed out by the Chief Judge in that case, one must consider the development as a whole in undertaking the task of characterising its purpose, not separate it into the individual activities carried out and then characterise the purpose of each part of the development.

We respectfully submit that, properly construed as a whole and so categorised, the subject development is to be categorised as a 'highway service centre' as defined in the Dictionary to GLLEP.

The bottom line, as we see it, is that it would be wrong in law to categorise the subject



development as 'industrial development', whether for the purposes of Section 7 of GLDCP or otherwise.

The relevantly applicable controls in GLDCP pertaining to this proposal, to the extent to which they are relevant to the proposal, are discussed below.

5.8.3 Building Setbacks

Building setback dimensions are shown on the development application plans. The service station component of the proposed development with associated heavy vehicle canopy, light vehicle canopy and sales building provide compliant setbacks from all property boundaries.

5.8.4 Car Parking and Traffic

Section 10.3 of GLDCP discusses car parking requirements, while subsection 10.3.1.3 sets out various controls with respect to car parking in respect of all development excluding residential.

With regards to off street parking requirements, there are no references to highway service centre nor to a convenient store in Subsection 10.3.1.3 of GLDCP, though subsection 10.3.1.3 states that 'if the development type is not listed in the above table, reference may be made to the Roads and Maritime Services Publication *Guide to Traffic Generating Developments* (2002) for the appropriate rate'.

Section 5.7.2 of the RTA [now RMS] *Guide to Traffic Generating Developments* (October 2002) relates to service stations and convenience stores.

In terms of parking, the Guide states that adequate off-street parking must be provided for employees and for vehicles being serviced. All parking must be clearly designated and located so as to not obstruct the normal sale of petrol

and must minimise the potential for vehicular/pedestrian conflicts. It is also required that a minimum of 16 carparking spaces be provided for the proposed development.

In compliance with these requirements, the proposed development provides 16 parking spaces for the service station and associated facilities. In that regard, the 16 parking spaces are designated as follows;

- 13 spaces are designed for cars and other light vehicles, including one accessible space;
- 2 spaces of 26m length are for truck parking; and
- 1 space is for caravans and cars.

Please refer to the architectural plans accompanying the development application, specifically, drawing No. A-02, for further detail.

5.8.5 Vehicle Access and Driveways

Section 10.3.3.2 of GLDCP sets out various controls with respect to vehicle access and driveways in relation to certain types of developments including, relevantly, business premises. The controls are as follows:

1. Vehicular entry points shall not comprise more than 25% of any street frontage.
2. Vehicle access should be provided from rear lane or secondary street frontages where these are available.
3. Only one vehicular access point is provided to a development except for special circumstances or where the site has frontage to two streets and a secondary access point is considered to be acceptable.
4. Vehicular access ramps parallel to the street frontage will not be permitted.
5. Vehicular entry points are to be integrated into the building design.
6. Doors to vehicular access points are to be roller shutters or tilting doors positioned behind the street alignment with a 6.0m setback provided.
7. Vehicular entries are to have high quality finishes to walls and ceilings as well as a high



- standard of detailing. No service ducts or pipes are to be visible from the street.
8. Paving colour, texture and material should be sympathetic with the character of the precinct and reflect a pleasant visual appearance.
 9. Driveways should be located to take into account any services within the road reserve, such as power poles, drainage inlet pits and existing street trees. Sight distances are required as prescribed by AS 2890.1.
 10. Long straight driveways should be avoided because these adversely dominate the streetscape and landscape. Curved driveways are more desirable. Landscaping between the buildings and the driveways is encouraged to soften the appearance of the hard surface.
 11. All driveways must be located a minimum of 6m from the perpendicular to the kerb lines of any intersection of any two roads.
 12. The design of driveway and crossovers must be in accordance with council's standard vehicle entrance designs and widths must be in accordance with Australian Standard 2890.1.
 13. All vehicles within a multi-dwelling development must provide vehicular manoeuvring areas to all parking spaces so vehicles do not need to make more than a three point turn to enter and exit the site in a forward direction. Direct reversing onto the street will only be considered where the garage fronts a secondary road, carrying reduced traffic volume and all other requirements of the policy are met.
 14. Driveway grades, vehicular ramp width/grades and passing bays must be in accordance with Australian Standard 2890.1. Crossover and driveway widths must comply with the following:
 - a) Developments which generate truck movements need to be designed to facilitate the movement, loading and unloading of those vehicles. Loading docks should be located to provide easy access and should not be located within the building line. Applicants must be able to demonstrate that trucks can be satisfactorily manoeuvred within the site.
 - b) Ramps to be designed for the 99% vehicle splays/truncated corners used at corners. Convex mirrors are to be used to improve visibility where required.



- c) Isle widths are to be a minimum of 6.6m (Note: 5.8m isle width will be allowable under special circumstances).
- d) The minimum head height clearance for ramps and isles is 2.2m (2.3m where access is required to a disabled parking space).

In addition, the RTA [now RMS] *Guide to Traffic Generating Developments* (October 2002) states that separate driveways are recommended, with widths as follows:

- entry driveway width – 8-10 metres;
- exit driveway width – 8-10 metres;
- minimum spacing between a pair of driveways – 10 metres.

There is only one driveway on the street frontage. (Refer Table 6.1 and Table 6.2 in the RMS *Guide to Traffic Generating Developments* for information relating to driveways.)

There will be a heavy duty concrete ingress and egress driveway as well as a concrete forecourt area in order for heavy vehicles to use the site. All hard surfaces (with the exception of the refuelling area) will drain as proposed in the stormwater concept plan prepared by Stellen Consulting.

In recognition of the need to cater for heavy vehicles, the refuelling area will be split into two distinctive zones. Light vehicles will refuel from a central area fronting the convenience store area, while heavy vehicles will refuel under the proposed canopy closer to Bengal Street and to the east of the sales building.

An internal kerb and gutter system is proposed to be constructed to separate heavy and light vehicle areas. A one way internal road running behind the sales building and down the rear boundary of the site will also allow heavy vehicles to be maneuvered around the site separately from light vehicles, for safety.

A copy of the proposal and truck swept paths for 36m B-doubles was submitted to the RMS to demonstrate that access to and from the site in every direction can be safely and properly achieved. The RMS reviewed the plans and made some recommendations (copying Council into the correspondence). As a result of which, a deceleration lane is included in the proposal which, in combination with separated ingress and egress points, satisfies the concerns raised by the RMS and allows vehicles to enter and exit the site in a safe manner.

The existing road frontage at Bengal Street will be reconstructed in accordance with the plans prepared by our client's engineer Mr Ralph Williams and instructions received from Council at the various pre-lodgement meetings (see **Annexure 12**).

5.8.6 Landscaping

A landscape plan by Land Dynamics Australia has been developed for the site and accompanies the development application. Planting has been chosen so as to be sympathetic to the surrounding environment.

Section 13 ('Landscaping and Open Space') of GLDCP sets out the following controls with respect to landscaping and open space.

Section 13.2 of GLDCP sets out various controls with respect to vehicle access and driveways in relation to certain types of developments including, relevantly, business premises. By virtue of Section 13.2.2 ('Landscape Design'), the following controls are promulgated:

1. Developments must provide for high quality landscape design by:
 - a) providing appropriate shade from trees or structures
 - b) screening parking areas, driveways, communal drying areas, and private open space associated with ground floor dwellings.



2. Contribute to streetscape character and public domain amenity by:
 - a) matching landscape design to street proportions and character
 - b) incorporating planting and landscape elements appropriate to the scale of the development
 - c) selecting indigenous species in accordance with Council's preferred species list.
3. Improve the energy efficiency of dwellings and the microclimate of private open space by:
 - a) incorporating trees for shading during summer
 - b) varying heights and species of trees or shrubs to maximise solar access during winter
 - c) locating plants appropriately in relation to their size at maturity.
4. Site landscaping shall comprise no less than:
 - a) 20% of the site area in Business Zones;
 - b) 30% of the site area in the High Density Residential Zone;
 - c) 40% of the site area in the Medium Density Residential Zone
 - d) 40% of the site area in the Mixed Use Zone.
5. Any landscaped area on the site which has dimensions less than 1.5 metres is not included in the landscaped area calculations.
6. Landscaping is to be designed in conjunction with the stormwater drainage system proposed as part of the development.
7. Landscaped areas are to be irrigated with water collected on the site.
8. Street tree planting is to be incorporated into the landscape plan and provided as part of any development proposal.
9. Where a riparian buffer zone is required, a Riparian Corridor Revegetation Plan must be prepared in accordance with the requirements of the relevant state agency. This plan must be prepared by an appropriately qualified consultant in conjunction with the Landscape Plan and must detail the width of the proposed riparian corridor and the intentions for rehabilitation, revegetation and management.
10. The riparian buffer zone may serve as the dense planting area, which is required in a deep soil zone associated with development of the land, providing the buffer is contained within the development site. The proposed planting must allow for Council's ongoing maintenance of public creek/drainage areas.

In our opinion the landscaping controls specified

in Section 13.2.2 of GLDCP are satisfied as respects the development.

In addition, regard has been had to the Landscaping Schedule contained in Section 13.3 of GLDCP.

An arborists report from Urban forestry Australia dated October 2019, forms part of the DA package.

5.8.7 Waste Management

Section 14 of GLDCP contains controls with respect to waste management. Section 14.2.2 relates to development other than single dwellings and dual occupancies.

As required by Section 14.2.2, a completed a site waste minimisation and management plan has been prepared and accompanies the development application. In addition, the architectural plans submitted with the development application comply with the relevantly applicable requirements.

5.8.8 Advertising and Signage

Section 15 of GLDCP contains controls with respect to advertising and signage.

Some signage (relevantly, a 7.0m high main identification sign is to be located on the approach side of the development is proposed.

Canopy and shop fascia signage is also proposed.

A lighting plan accompanies the development application. That plan shows details of the identification sign as well as particulars of lighting.

See also section 4.2 (SEPP No 64—Advertising and Signage) of this document and the architectural drawings by RJ Sinclair Pty Limited.

5.8.9 Outdoor Lighting

External lighting will be restricted to the fuel canopies, the eave under the overhang to the shop, external signage and garden LED bollards (low height) as shown on the plans.

The lighting will comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.

5.8.10 Noise

In meetings held with officers of the Council reference was made to the need for a noise report to address the potential impact of the proposed development on nearby properties (refer **Annexure 12**).

As required by Council, an acoustic report prepared by TTM Sydney (dated 11 November 2019) accompanies the development application. That report canvasses, among other things, the relationship of the proposed development to neighbouring land (and, in particular, neighbouring residential land).

Traffic noise associated with the service station activity is expected to be the more-or-less the same as the current noise levels resulting from the movement of cars and trucks along Bengal Street and the Pacific Highway for the purpose of servicing the various industrial buildings in the immediate locality.

No untoward noise impacts are anticipated as a result of the construction and operations of the service station and associated facilities, having regard to ameliorative measures proposed in the noise report. Acoustic barriers on the southern and western boundaries have been recommended by TTM.

Construction will take place during the standard construction hours as authorised by the NSW Environment Protection Authority (EPA).



5.8.11 Crime Prevention Through ED (CPTED)

Crime Prevention Through Environmental Designed (CPTED) reduces crime opportunities by increasing the risk to offenders, increasing the effort required to commit crime, reducing opportunities for excuse making (e.g. spatial ambiguity is commonly used by burglars to justify trespassing) and reducing the likely rewards of criminal behaviour.

There are four broad principles of CPTED being surveillance, access control, territorial reinforcement, and space management. In terms of the proposed development the above four principles can be achieved as follows:

Surveillance: There will be sixteen (16) closed circuit surveillance cameras installed around the site as well as natural surveillance available from the sales building through glazed areas. Back to base alarm monitoring with panic button are also proposed to be installed.

Access control: The HSC will have a locked door policy at night whereby customers need to access via a door bell system.

Territorial reinforcement: The 24-hour opening time of an HSC makes the site a safe and approachable place. All staff members will be trained to be secure and alert on site at all times.

Space management: The site will be maintained and kept clean at all times, rapid repair of vandalism and graffiti will occur, and the refurbishment of decayed physical elements will occur.

The proposed development is not expected to have any impact in terms of crime and will be a positive addition to the local community.

5.8.12 Geotechnical

A geotechnical report has been prepared by Douglas Partners (dated December 2019) and accompanies the development application.

The report makes recommendations regarding, among other things, footing, slab and pavement



design, that will be used for the construction certificate plan set.

5.8.13 Effluent Stormwater and Water Supply

A report by Stellen Consulting dealing with this matter, as well as stormwater, onsite sewerage management and potable water storage, accompanies the development application.

6.0 CONCLUSION

The proposed development, a highway service centre (HSC), is **innominately permissible with consent**, satisfies the objectives of the GLLEP, is consistent with the objectives of the RU5 Village zone in which the site is located, is consistent with relevantly applicable development controls, and is appropriate within the locality.

The development complies with all relevant development standards to be found in the GLLEP.

The Scheme is consistent with the provisions in the GLDCP.

The development will have minimal, if any, negative environmental impacts that cannot be appropriately ameliorated.

In our opinion there will be some positive impacts, as regards local economic development.

The proposed development is a small/medium scale business, both in terms of building size, site area and the number of personnel employed, which will better serve the needs of the people who live and work in the surrounding neighbourhood as well as the needs of professional drivers and tourists using this arterial route.

In our opinion, the development is entirely appropriate. It will support the local and regional economy in an ordered and planned manner without resulting in adverse environmental effects. In that regard, the proposed development will make a positive contribution to the local economy by providing employment opportunities during the construction stage as well as when the development is fully operational.

The development will provide a facility for the transport industry in that trucks travelling north will be able to stop and



refuel, rest momentarily, use the amenities, and purchase diesel or other fuel, refreshments or a light takeaway meal before leaving town. In addition, people living and working in the locality will benefit from having a new facility retailing fuel as well as general merchandise convenience items and services that are not currently catered for.

We respectfully submit that the proposal merits support by the consent authority and the grant of conditional development consent.



ANNEXURE 1

LOCALITY MAP



LOCALITY MAP
EXTRACT FROM SIX MAPS



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	DRAWN: TG	37-41 Bengal Street Coolongolook



ANNEXURE 2

AERIAL PHOTOGRAPH



AERIAL PHOTOGRAPH
EXTRACT FROM SIX MAPS

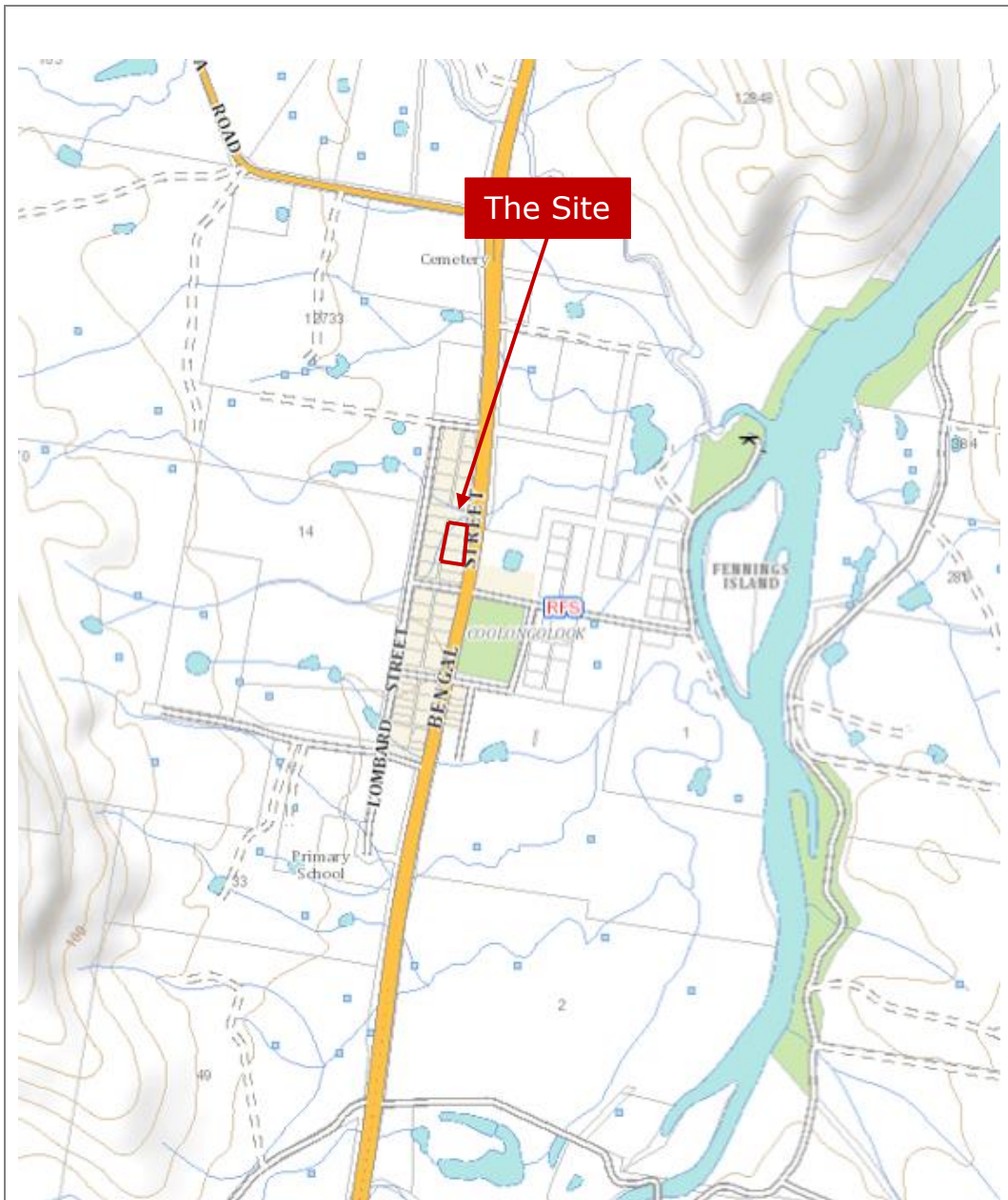


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ANNEXURE 3

CADASTRAL MAP



CADASTRAL MAP
EXTRACT FROM SIX MAPS



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ANNEXURE 4

PHOTOGRAPHIC PALETTE



PHOTOGRAPH 1 – View from site looking south on Bengal Street



PHOTOGRAPH 2 – View from site looking east to the junction of Bengal and Midge Streets



PHOTOGRAPH 3 – View from site looking north on Bengal Street



PHOTOGRAPH 4 – View from site looking north on Bengal Street



PHOTOGRAPH 5 – View of site taken from Bengal Street



PHOTOGRAPH 6 – View of site taken from Bengal Street



PHOTOGRAPH 7 – View of adjoining property immediately to the south of the site



PHOTOGRAPH 8 – View from site looking east



ANNEXURE 5

TABLE OF CONSULTANTS

TABLE OF CONSULTANTS

PROPOSED HIGHWAY SERVICE CENTRE (HSC)
37-41 BENGAL STREET COOLONGOLOOK

	Indicia	Consultant
1	Design	RJ Sinclair Pty Limited NorWest Business Park 20 Lexington Drive Bella Vista 2153 T: 88830999 E: designs@rjsinclair.com.au
2	Landscape	Claire Mathieson Landscape Dynamics Australia PO Box 2459 Port Macquarie 77 Lord Street, Port Macquarie NSW 2444 T: 02 6583 2677 E: reception@ldynamics.com.au
3	Geotechnical	Michael Gawn Douglas Partners 15 Callistemon Close Warabrook NSW 2304 T: 4960 9600 E: michael.gawn@douglaspartners.com.au
4	Soil Contamination	Michael Gawn Douglas Partners 15 Callistemon Close Warabrook NSW 2304 T: 4960 9600 E: michael.gawn@douglaspartners.com.au
5	Ecology	Danny O'Brien (Director) Environmental Assessments Pty Ltd PO Box 314 Gosford NSW 2250 M: 0405 585 557 E: environmental@ozemail.com.au
6	Stormwater Plans/Effluent Disposal/Onsite Sewerage Management and Potable Water Storage	Stuart Steinle-Davies Stellen Consulting Civil and Structural Engineering L1/27 Belgrave Street Manly NSW PO Box 151 Freshwater NSW T:0410 992 700 E: stuart.steinledavies@stellenconsulting.com.au
7	Risk Screening and Preliminary Hazard Analysis	Phil Kemm Hazkem Pty Ltd Unit 8/328 Reserve Road Cheltenham VIC 3129

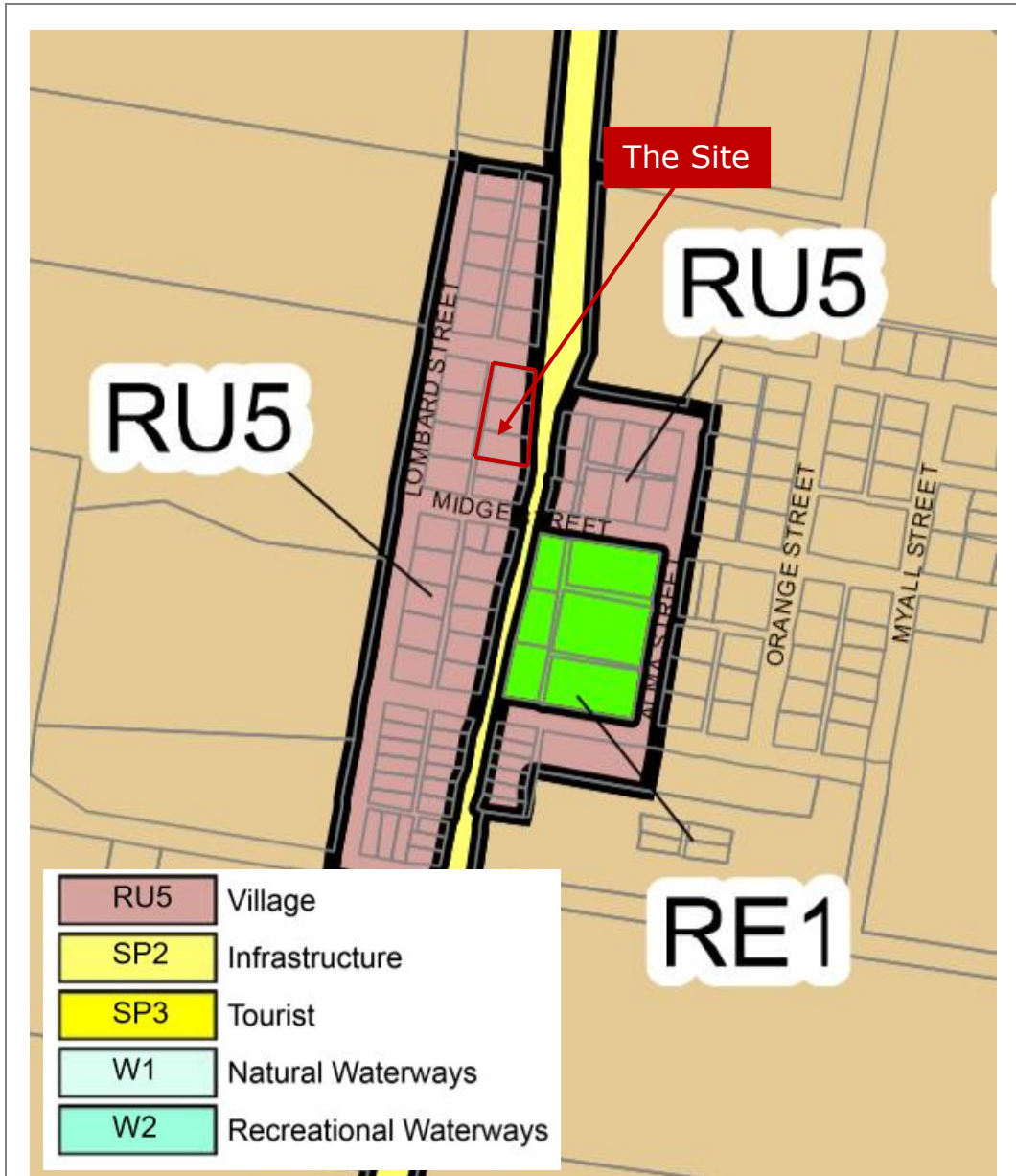


		T: 61 3 9842 7300 E: phil@hazkem.com.au
8	Bush Fire	Wayne Tucker PO Box 212 Berowra Heights NSW 2082 M: 0438 668 203 E: wayne@australianbushfire.com.au
9	Access	Nick Cribb Code Performance Suite 10, 185 Military Road Neutral Bay NSW 2089 M: 0457 767 775 E: nick@codeperformance.com.au
10	Parking and Traffic	Paul Cai TTM Sydney Office Suite 501, 174 Pacific Highway Greenwich, NSW 2065 T: 02 9418 3033; 02 9418 3112 E: ttmnsw@ttmgroup.com.au
11	Acoustic	Keshav Dhayam TTM Sydney Suite 501, 174 Pacific Highway Greenwich NSW 2065 T: 02 9418 3033; 02 9418 3112 E: ttmnsw@ttmgroup.com.au
12	Arborist	Catriona Mackenzie Urban Forestry Australia PO Box 533 Wyong NSW 2259 T:02 4351 8640 E: cat@urbanforestryaustralia.com.au



ANNEXURE 6

ZONING MAP (EXTRACT FROM GLLEP)



ZONING MAP
EXTRACT FROM GLLEP 2014

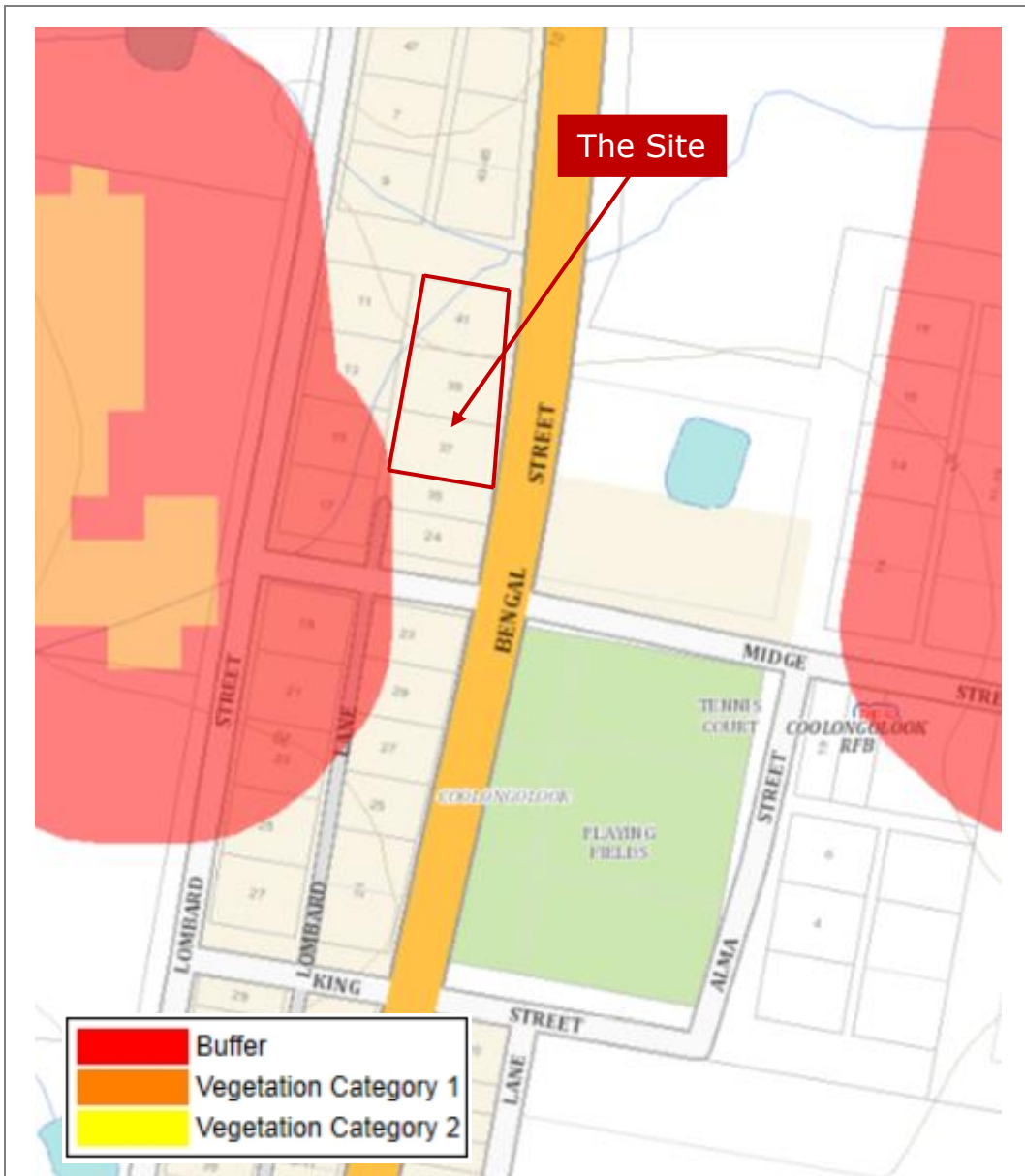


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ANNEXURE 7

BUSHFIRE PRONE LAND MAP (EXTRACT FROM GLLEP)



BUSHFIRE PRONE LAND MAP
EXTRACT FROM GLLEP

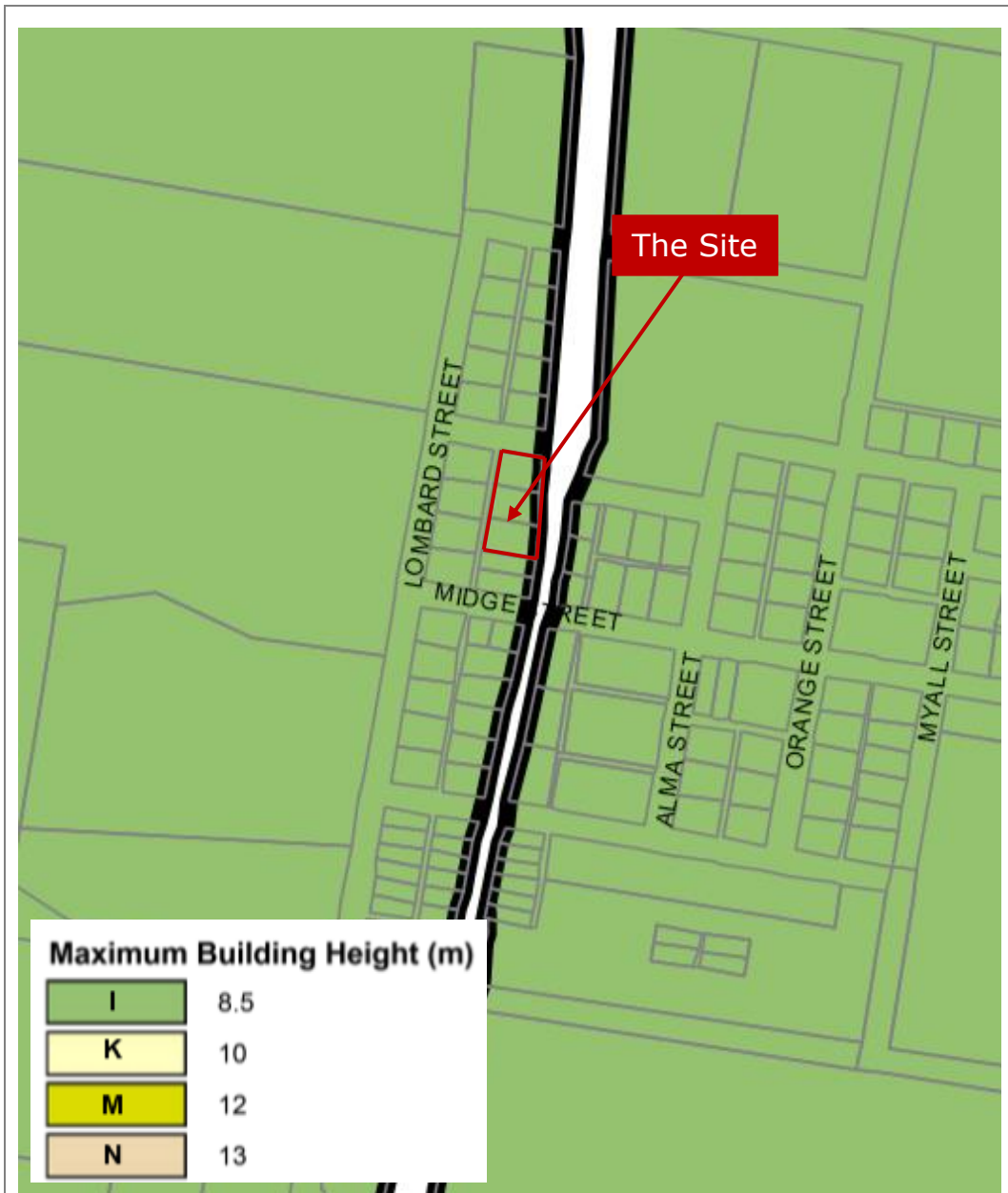


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ANNEXURE 8

HEIGHT OF BUILDINGS MAP (EXTRACT FROM GLLEP)



HEIGHT OF BUILDINGS MAP

EXTRACT FROM GLLEP 2014

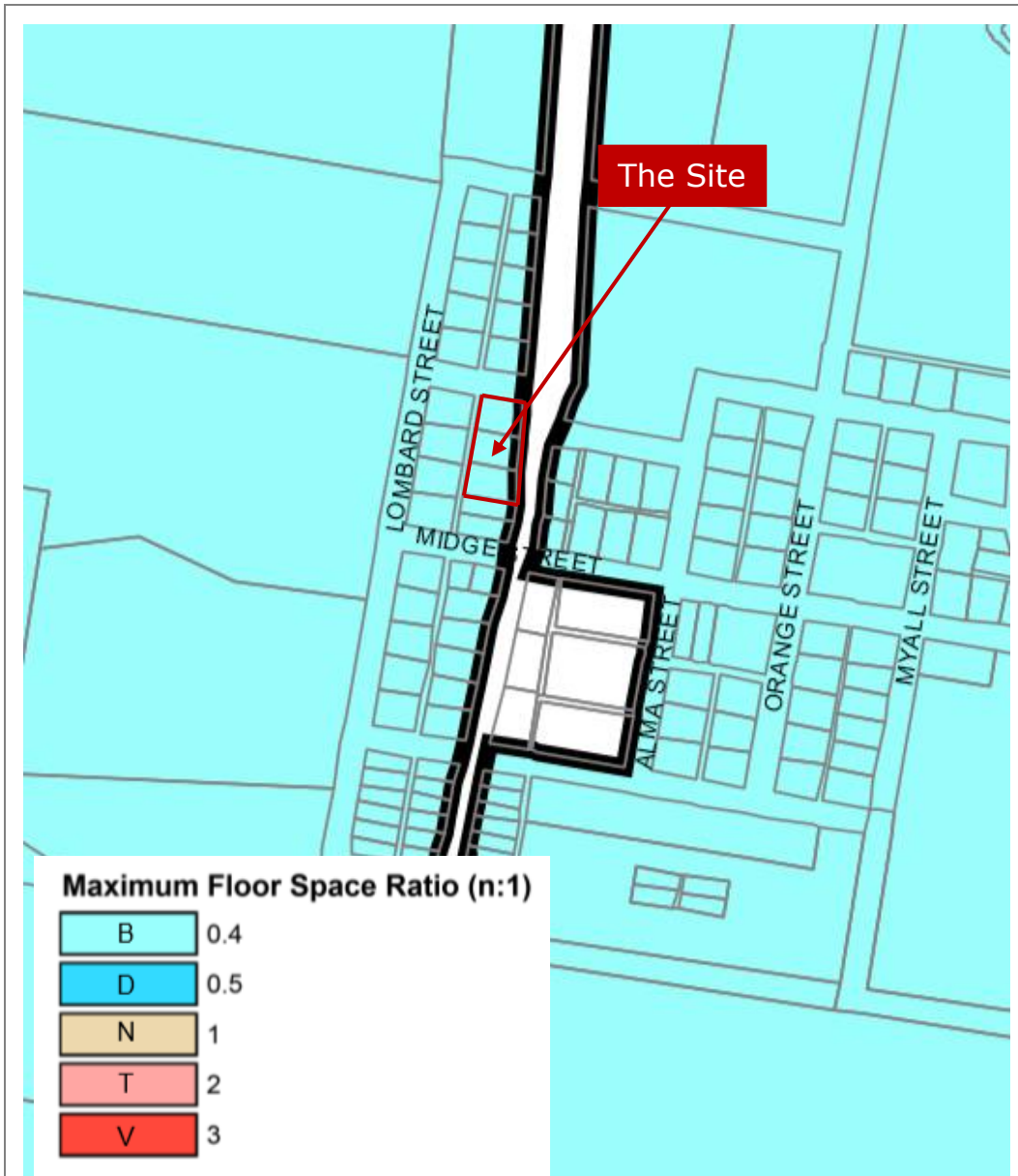


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ANNEXURE 9

MAXIMUM FLOOR SPACE RATIO MAP (EXTRACT FROM GLLEP)



MAXIMUM FLOOR SPACE RATIO MAP

EXTRACT FROM GLLEP 2014

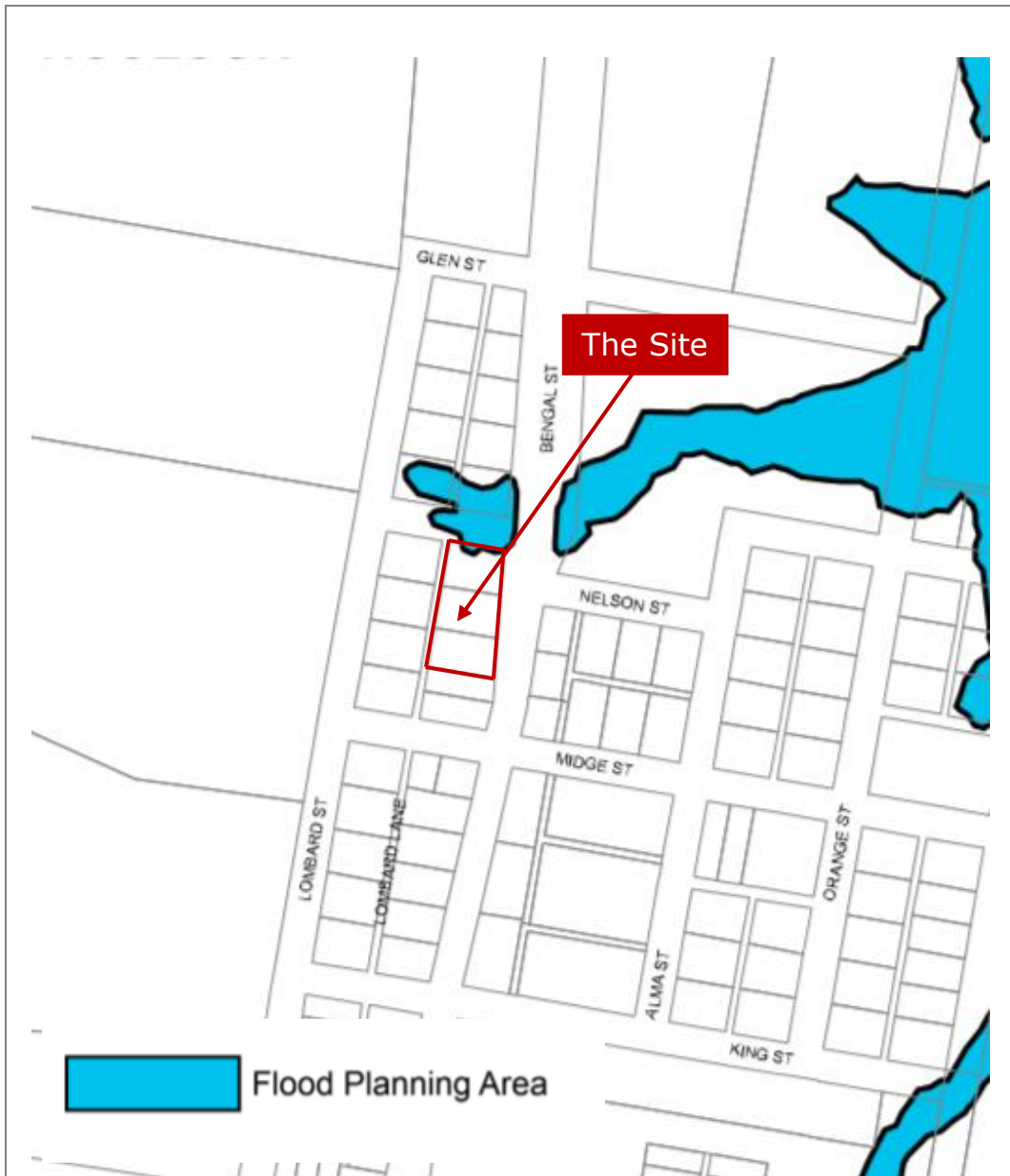


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ANNEXURE 10

FLOOD PLANNING AREA MAP (EXTRACT FROM GLLEP)



 Flood Planning Area

FLOOD PLANNING AREA MAP

EXTRACT FROM GLLEP 2014



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	DRAWN: TG	37-41 Bengal Street Coolonglook



ANNEXURE 11

LETTER FROM RMS



3 September 2015

SF2012/000495
CR2015/003863
KAP

COAST PLAN GROUP
Suite 4, 11 Manning Street
TUNCURRY NSW 2428

Attention: Gavin Maberly-Smith

PACIFIC HIGHWAY (A1): PRE-DA ADVICE FOR DIESEL FUEL STATION – LOTS 7, 8 AND 9 SECTION 10, DP 758278, 37, 39 AND 41 BENGAL STREET, COOLONGOOK

Dear Mr Maberly-Smith,

I refer to your email dated 18 August 2015 seeking pre-DA lodgement advice from NSW Roads and Maritime Services about the prospective development of a diesel fuelling station servicing heavy vehicles at 37, 39 and 41 Bengal Street, Coolongook.

Roads and Maritime has reviewed the pre-lodgement plans provided. No objection is raised in principle to the proposed development of a diesel fuelling station however a Traffic Report, prepared by a suitably qualified consultant, should be submitted with any future development application.

The Traffic Report shall be prepared in accordance with the RTA's *Guide to Traffic Generating Developments*. In preparing the traffic impact study reference shall be made to Section 2 of the RTA's *Guide to Traffic Generating Developments*, which identifies all the key issues that should be addressed as part of the traffic impact assessment of the proposed development. These include, but are not limited to, the following:

- Identify all relevant vehicular traffic routes for access to/ from the subject site.
- Current traffic counts for all of the above traffic routes and intersections.
- The anticipated vehicular traffic generated by the proposed fuelling station.
- The driveways / access points should have adequate sight distances for vehicles entering / exiting the site.
- Traffic analysis including:
 - Current traffic counts and 10 year traffic growth projections
 - 95th percentile back of queue lengths
 - Delays and level of service on all legs for the relevant intersections
 - Use of SIDRA, or similar traffic model

Roads and Maritime Services

59 Darby Street, Newcastle NSW 2300 | Locked Bag 2030 Newcastle NSW 2300 DX7813 Newcastle
T 02 4924 0688 | E Development.Hunter@rms.nsw.gov.au

www.rms.nsw.gov.au | 13 22 13

Notwithstanding the above, the following comments should be taken into consideration as minimum requirements for the subject development:

- Changes to the existing shoulder may be required to enable use as a deceleration lane (subject to adequate length / width being available and subject to appropriate changes to line marking). The provision of a deceleration lane would enable vehicles to slow down to enter the site clear of the through lanes on the Pacific Highway (80kph speed zone). The width of the shoulder / deceleration lane should be indicated on a site plan.
- The driveway / access would need to be designed and constructed to accommodate the largest design vehicle, with adequate splays to Council's requirements. Consideration must be given to any existing roadside infrastructure / hazard such as existing power poles when determining the design and location of the driveway / access. As the Pacific Highway is identified as a B-double route, turning circles for B-double vehicles entering and exiting the site in addition to on-site manoeuvring.
- No stopping of vehicles shall be permitted at the front of the site. Rather, parking should be made available on site for heavy vehicles stopping on site for purposes other than to fuel up.
- All vehicles must be able to enter and exit the site in a forward direction, including construction, service and delivery vehicles. The turning paths are to be shown on a site plan to ensure safe access and egress is available without interrupting the efficiency or safety of the classified road network.
- All vehicular access to new lots shall be left-in / left out only. Works to alter the existing classified (State) road design to provide right-in / right-out movements will not be permitted.
- The driveway access will need to be sealed between the existing edge of bitumen and the property boundary.

Please be aware that this is preliminary advice only, any development application shall be submitted to Council for referral to the Roads and Maritime. Upon receipt of the development application the Roads and Maritime will consider the merits of the application in accordance with relevant legislation and guidelines.

Should you require further advice please contact me on (02) 4924 0688.

Yours sincerely



Kellee McGilvray
Manager Land Use Assessment
Hunter Region



ANNEXURE 12

DEVELOPMENT ASSESSMENT PANEL MEETING NOTES



Development Assessment Panel (DAP)

Breeze Parade Forster
 PO Box 450 Forster NSW 2428
 phone 02 6591 7222
 fax 02 6591 7200
 email council@greatlakes.nsw.gov.au
 website www.greatlakes.nsw.gov.au

Meeting Details	
Meeting Date:	24 November 2015
Applicant/s Present:	Gavin Mabury Smith
Council Staff Present:	<input checked="" type="checkbox"/> Wayne Burgess <input checked="" type="checkbox"/> Gary Mead <input checked="" type="checkbox"/> Matt Bell / Gerard Tuckerman <input checked="" type="checkbox"/> Ryan Fenning <input type="checkbox"/> Dean Hartman <input type="checkbox"/> Greg Pevitt <input checked="" type="checkbox"/> Geoff Dowling <input checked="" type="checkbox"/> Wade Holmes Others: _____

Subject Land & Development	
Unit:	House No.: 37-41 Street: BENGAL STREET
Suburb:	COOLONGLOOK NSW Postcode: 2423
Lot:	7/8/9 DP or SP: 758278 Section: 10 <i>Report by Kellys</i> MAR 30 12 31 12-152
Zoning:	RU5 - VILLAGE
Proposed Development:	SERVICE STATION / Truck stop

COPY OF PLANNING RULES THAT APPLY PROVIDED TO APPLICANT

ISSUES RAISED AT MEETING:

- Subject sites zoned RUS Village under the provisions of Great Lakes LEP 2014 - Service Station permitted with consent.
- FSR - 0.4:1, Max. bldg height 8.5m
- S.E.P.P. (Infrastructure) 2007 - Traffic Report required.
- Refers cl. 101(2)(b) is practicable access
- LEP definition of 'highway service centre' definition in the LEP.
- S.E.P.P. 3's - Hazardous and Offensive Development:
- Noise report required - impact on neighbours.
- Forecourt and stormwater management plan i.e. collection wells etc.
- Great Lakes DCP
 - Effluent disposal method i.e. volumes/tanks etc.
 - Industrial development
 - Signage.

This preliminary assessment with DAP is based on a review of the issues relating to the proposed development and the details provided by the applicant/consultant. It should not be taken to be a detailed assessment of Council's requirements for any subsequent development application or an indication in any way of the likely outcome of any subsequent application. The points raised during the meeting are intended to assist applicants in determining issues that should be addressed in a development application. Council and its officers do not accept any liability whatsoever for the actions by others taken as a result of any preliminary information offered, or the points raised, or any issues not raised or discussed.

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ISSUES RAISED AT MEETING CONTINUED:

- Landscaping
- Car parking - RMS guidelines
- Water Sensitive Design - Mosi Model - stormwater design
- Flood Planning Area - minor flooding to the north
- Designated development definition re chemical storage facilities
- Compliance with the BCA
- SEPP NP64 - Advertising and Signage - Ass't Criteria. Schedule 1
- Section contributions re Great Lakes Wide
- P.O.E. underground storage system regulation.
- Truckers amenities
- Private water supply re tanks.
- Integrated development re within 40m of watercourse

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Wayne Burgess
W BURGESS

24 November 2015.
DATE



Development Assessment Panel (DAP)

Breese Parade Forster
PO Box 450 Forster NSW 2428
phone 02 6591 7222
fax 02 6591 7200
email council@midcoast.nsw.gov.au
website www.midcoast.nsw.gov.au

Meeting Details

Meeting Date:	3 April 2018
Applicant/s Present:	Pierre Le Bas
Council present:	staff Bruce Moore

Subject Land & Development

Unit:		House No.:	37 - 41	Street:	Bengal St
Suburb:	Cooloolonglook	Postcode:	2324		
Lot:	7 - 9	DP or SP:	758278	Section:	10
		Property Key:	14930		
Zoning:	RU5 Village				
Proposed Development:	Highway Service Centre				

ISSUES RAISED AT MEETING:

Great Lakes Local Environmental Plan 2014

Zoning

The land is zoned RU5 Village under the Great Lakes Local Environmental Plan 2014. Highway Service Centres are permitted with consent.

Height of Buildings

The land has a 8.5m maximum height of building development standard.

Floor Space Ratio

The land has a 0.4:1 floor space ratio development standard.

Great Lakes Development Control Plan 2014

Any development application will need to address the aims / objectives and relevant controls contained within the DCP. Any variation to the DCP controls will need to be justified.



Engineering

Three access points are considered acceptable, given there are three existing allotment. Separation of light vehicles and trucks is supported.

Access should be square to the main road. The access should not encroach in front of the adjoining property and should be 1m from the property boundary. The northern exit should be 9m from the property boundary (truck parking is within this setback). The four wide truck egress is not encouraged and it is desirable for truck leaving the site to exit from the same position.

It needs to be demonstrated that vehicles can adequately manoeuvre on site (including parking areas). Caravan parking appears not to be readily accessible and access to vehicle spaces 1 -26 may create conflict with cars / trucks accessing the site.

The nature of the development and likely use needs to be further explored to ensure that suitable access and parking arrangements are provided for trucks (are more than 3 parks required?) and cars with caravans / boats etc.

Turning templates will be required for articulated vehicles (B-double) and cars with caravans / boats.

A full traffic study will be required to be submitted with any development application.

Consultation with the RMS will be carried out as part of any development application process and a works authorisation deed may be required.

Noise

Neighbouring residential development may be adversely impacted from noise attributable to the development. A noise report prepared by a qualified acoustical engineer will need to be submitted with any application.

The impact of any mitigation measures (i.e walls) also needs to be considered.

Water / Sewer

There are currently no water or sewer services provided to the land.

A pump out system will be considered where a wastewater management report has been prepared, which confirms installation of an on-site sewage management system is not feasible. The report will also need to design and capacity of any pump-out system. The layout of the site will also need to make provision for access for a pump-out truck.

Potable water will need to be supplied to the development by collection of roofwater, tanks etc. The water supply will need to meet NSW Health requirements. Any development application will need to demonstrate that a sufficient water supply is able to be provided.

Stormwater

Stormwater management shall achieve neutral or beneficial water quality targets. A stormwater management plan will be required to be submitted with any development application and shall include MUSIC modelling. Proprietary devices are not considered suitable and water quality shall be achieved through use of raingardens or the like.

Stormwater from the forecourt areas shall be directed to an oil water separator. Both the collected water and oil shall be removed from the site by licensed contractor for disposal at a lawful waste facility. Disposal of the separated water to the stormwater system will not be accepted.

Bushfire

The land is identified as bushfire prone land. A report addressing the hazards of bushfire will need to accompany any development application.



Integrated Development

The proposal is within 40m of a watercourse and deemed to be integrated development. Relocation or piping of the watercourse is required to facilitate the development as proposed.

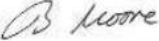
It is suggested that Water NSW be consulted during design of the development so that the departments requirements can be incorporated into the proposal.

General

Careful consideration needs to be given to the relationship of the development with that of neighbouring residential development. In particular the impact on streetscape and amenity of the area needs to be explored. Setbacks to buildings should be in keeping with village development. Landscaping should be provided to the perimeter of the development to provide a visual buffer and separation from neighbouring development.

Should an acoustic wall be required that is of a height greater than typical boundary fencing, screening of the wall will also be required.

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Bruce Moore

3 April 2018

DATE



MidCoast
Council

Development
Assessment Panel
(DAP)

Breeze Parade Forster
PO Box 450 Forster NSW 2428
phone 02 6591 7222
fax 02 6591 7200
email council@midcoast.nsw.gov.au
website www.midcoast.nsw.gov.au

Meeting Details	
Meeting Date:	3/9/19
Applicant/s Present:	Oierre La Bas
Council Staff Present:	<input checked="" type="checkbox"/> Bruce Moore <input type="checkbox"/> Becky Hunter <input type="checkbox"/> <input type="checkbox"/> Greg Blair <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Prue Tucker <input type="checkbox"/> <input type="checkbox"/> Others: _____

Subject Land & Development	
Unit:	House No.: 37-41 Street: Bengal St
Suburb:	Coolongolook Postcode: 2423
Lot:	7-9 DP or SP: 758278 Section: 10 Property Key: 14930
Zoning:	R05 - village Great Lakes LEP 2014
Proposed Development:	Highway Service Centre

COPY OF PLANNING RULES THAT APPLY PROVIDED TO APPLICANT

ISSUES RAISED AT MEETING:

- Revised proposal. Original proposal was considered at DAP April 16.
- parking has been reduced. need to provide parking for caravans/boats. 5x parking spaces near access should be accessed after the fuel canopy.
 - revised layout may increase noise impacts. a noise report will be required
 - Egress is not acceptable (as proposed) if Nelson St is ever to be open. Council to provide further advice.
 - consideration may be given to allowing runoff from forecourt to be treated via a proprietary system and disposed of on site. in this regard further discussions with Councils Water Quality and Estuary Management Coordinator

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ISSUES RAISED AT MEETING CONTINUED:

- Effluent - area needs to be provided on site for the septic tank and collection wells. Of particular note is that 100% of the top of tanks need to be above ground levels.

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3/9/19
DATE



ANNEXURE 13

NATIVE VEGETATION REGULATORY MAP (EXTRACT FROM SEPP VEGETATION IN NON-RURAL AREAS)

