



**Item No:** 3.1  
**Title:** DA 1395/2015 - Proposed Service Station at Toukley  
**Department:** Environment and Planning

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26 October 2016 Ordinary Council Meeting

D12430141

A development application has been received for a service station and convenience store at 356-358 Main Road, Toukley. The application has been examined having regard to the matters for consideration detailed in section 79C of the Environmental Planning and Assessment Act and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

This report recommends that Council grant consent to the development application.

<b>Applicant</b>	Stevens Group
<b>Owner</b>	Mrs M Gattelari and Mr R Gattelari
<b>Application No</b>	DA/1395/2015
<b>Description of Land</b>	Lot 22-23 DP 20636, Lot 202 DP 543061 356-358 Main Road, Toukley
<b>Proposed Development</b>	Service Station and Convenience Store
<b>Site Area</b>	1726.23m <sup>2</sup>
<b>Zoning</b>	B2 Local Centre & SP2 Infrastructure
<b>Existing Use</b>	Single storey shops
<b>Employment Generation</b>	10 employees
<b>Estimated Value</b>	\$1,276,050

#### Recommendation

- 1** *That Council grant consent subject to the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act and other relevant issues.*
- 2** *That Council advise those who made written submissions of its decision.*

**Precis**

<b>Proposed Development</b>	Demolition of existing structures and construction of service station and convenience store.
<b>Permissibility and Zoning</b>	The site is zoned B2 Local Centre and SP2 Infrastructure under the provisions of Wyong Local Environmental Plan 2013. The service station is proposed over the portion of the site zoned B2 Local Centre and is a permissible use in the zone with consent.
<b>Relevant Legislation</b>	<ul style="list-style-type: none"> <li>- State Environmental Planning Policy No. 71 – Coastal Protection</li> <li>- State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>- State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>- Wyong Local Environmental Plan 2013</li> </ul>
<b>Current Use</b>	Shop buildings containing four tenancies
<b>Integrated Development</b>	No
<b>Submissions</b>	242 individual submissions and 4 petitions containing a total of 988 signatures.

**Variations To Policies**

There are no variations to Council policies.

**The Site**

The site comprises three parcels of land, having a total area of 1726.3m<sup>2</sup> and is located on the northern side of Main Road, Toukley. Existing structures on the site include two single storey shop buildings (containing a total of four separate tenancies) and a shed building to the rear.

It is noted that the rear six metres of the site is zoned SP2 Infrastructure and is required to be set aside for the extension of Bucks Lane. Bucks Lane currently terminates on No. 362 Main Road, Toukley, one property to the east of the subject site. The re-development of No. 360 Main Road, Toukley will facilitate the extension of Bucks Lane to the eastern boundary of the subject site.



Figure 1 – Locality Plan

### Surrounding Development

The site is bounded by large residential zoned allotments to the north containing a mix of single and two storey dwellings. It is also bounded by a single storey dwelling to the east, although a development application (DA/771/2016) was recently approved for this site which permits the construction of a two storey shop top housing development on this site. The property to the west of the site contains a single storey shop building and to the south, on the opposite side of Main Road there a single and two storey shop/commercial buildings.

The locality is best described as having a mixed character, which is in transition with a range of higher density retail and residential landuses being introduced.

Should the approved shop top housing development at No. 360 Main Road be enacted, this would facilitate the extension of Bucks Lane to the eastern boundary of the subject site.



Figure 2 - Street view of Site

### The Proposed Development

The development application is for the demolition of existing structures and the construction of a convenience store and fuel dispensing area. The convenience store is proposed to be constructed adjacent to the eastern boundary of the site. It is proposed to have an area of 206m<sup>2</sup> (with a gross floor area of 167m<sup>2</sup>) and will be constructed of precast concrete panels, extensive glazing and zincalume roofing.

The fuel dispensing area comprises three double sided bowsers and is proposed to be covered by a 5.35 metre high canopy. The area is proposed to be bunded to ensure that any spills are contained within the fuel dispensing area for discharge to trade waste. Fuel refill points are proposed to be located on the western side of the canopy.

Car parking is proposed for eight vehicles adjacent to the western elevation of the proposed convenience store, including one accessible space.

The proposal includes the erection of a pylon sign 6.95m x 2.33m in size on the Main Road frontage of the site to display the branding and petrol prices.

The service station is proposed to operate from 6:00am to 11:00pm, 7 days per week.



Figure 3 – Site Plan (a condition of consent is recommended requiring the acoustic fencing to be located within the B2 land and returning along part of the eastern and western boundaries).

### History

DA/2474/2005 – Development consent was granted on 30 July 2007 for the construction of a mixed use development on the subject site comprising six retail tenancies, 14 apartments and basement car parking. This consent lapsed in 2012.

### **Submissions from Public Authorities**

The application was referred to NSW Roads and Maritime Services (RMS) and final comments were received on 4 August 2016. No objection was raised subject to conditions

### **Internal Consultation**

The application was internally referred to the following officers:

Development Engineer – Council’s Development Engineer has assessed the proposal in terms of access, traffic, carparking and stormwater and raised no objection subject to the imposition of conditions of consent. The conditions require the following:

- Roadworks in accordance with the requirements of the RMS (including the construction of central concrete medians on Main Road to restrict right turn movements into and out of the service station).
- Liaison with the relevant bus company in relation to the relocation of the existing bus stop.
- Undertake stormwater works to prevent stormwater flows to adjoining properties.
- Construct bunding within the refueling area.
- Construct car parking spaces/areas in accordance with the relevant Australian Standards.
- Undertake demolition works in accordance with Australian Standards.
- Consolidation of allotments forming the development site.
- Creation of a Right of Carriageway of six metres width at the rear of the site to accommodate the future laneway.
- Relocation of the tanker filling point and underground fuel tanks to the area between the front boundary and canopy.
- Creation of a ‘Right of Carriageway’, six metres in width at the rear of the site.

Transportation Engineer – Council’s Transportation Engineer has assessed the proposal in terms of road safety and raises no objection.

The applicant has submitted plans detailing two central concrete medians which will physically restrict right turn movements into and out of the site in response to concerns raised by the NSW Roads and Maritime Service (RMS). These medians will not impede movements between Main Road and Ray Street.

Environmental Health Officer – Council’s Environmental Health Officer has assessed the proposal in terms of potential environmental impacts on air, water, noise and construction impacts and raises no objection subject to conditions of consent. The acoustic report submitted during the assessment process outlines a number of measures required to limit the noise impact of the operation.

The key recommendation was the construction of a 2.4m high acoustic fence on the rear boundary of the site, with returns on part of the eastern and western sides of the site. A condition of consent has been recommended requiring that the acoustic fencing be located within the B2 zoned portion of the lot. The applicant has been advised of the recommended condition and raised no objection.

#### **Any submissions from the public**

The application was notified in accordance with DCP 2013 – Chapter 1.2 Notification of Development Proposals commencing on 15 January 2016 and finishing on 1 February 2016 (a one week extension was granted, which concluded on 8 February 2016) with 242 individual submissions and 4 petitions containing a total of 988 signatures being received.

The general issues raised in relation to the proposal are included below.

- The emissions from the petrol station (including benzene emissions) will impact on the health of surrounding residents.

Comment:

Each of the pumps is required to be fitted with vapour recovery systems under the Protection of the Environment Operations (Clean Air) Regulation 2010. The NSW Environmental Protection Authority (EPA) undertakes a vapour recovery compliance program that includes a combination of consultation, education and inspections to ensure occupiers of petrol service stations meet their responsibilities under the Regulations with appropriate management of the site, it is unlikely emissions from the service station will impact the health of surrounding residents.

- The tanker movements will result in noise and headlight glare impacts on adjoining properties to the rear.

Comment:

In response to concerns raised by objectors, the applicant has reduced the proposed hours of operation of the proposed service station to 6:00am to 11:00pm 7 days per week. In addition, a condition of consent is recommended requiring that tanker movements be restricted to the hours of 7:00am to 6:00pm 7 days per week. Further, the tanker refuelling points are required to be relocated to an area adjacent to the Main Road frontage, which will minimise the impact on neighbours to the rear. A 2.4 metre high acoustic fence is to be provided, protecting properties to the rear from headlight glare and noise.

- The proposed service station is located too close to a primary school

Comment:

The site is approximately 100m from the Toukley Public School. The application has been assessed by Council's Environmental Health Officer who advised that the generation of emissions and odours into the atmosphere from the proposal is considered to be minimal due to the requirements and obligations outlined under the "Protection of the Environment Operations (Underground Petroleum Storage Systems (UPSS)) Regulation 2008.

- Concern is raised in relation to pedestrian safety.

The NSW Roads and Maritime Service (RMS) have considered the impacts on pedestrians and raised no objection to the proposal. A pedestrian survey was submitted during the assessment process to aid their assessment. In addition, Council's Transportation Engineer has assessed the proposal and raised no objection subject to compliance with the RMS requirements.

- Reduced parking along Main Road, will impact on local businesses.

Comment:

The proposal will result in the net loss of six on-street car parking spaces. It is noted that there will still be sufficient on-street car parking on the northern side of Main Road and in the Council owned car park off Evans Road (which is located approximately 140 metres from the site). It has been observed that this car park generally has a high vacancy rate.

- The Toukley Neighbourhood Centre food care and an opportunity shop will have to close.

Comment:

It is acknowledged that some existing tenants may be displaced from the site by the proposal in the event that it is approved and constructed. However, the contractual arrangements of landlords and tenants is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

- Traffic impacts and road safety.

Comment:

The applicant has submitted swept turning paths for a petrol tanker to demonstrate that a tanker could manoeuvre into and out of the site without crossing the centreline on Main Road.



The application has been assessed by the NSW RMS and Council's Transportation Engineer and no objection is raised subject to conditions of consent, which include the requirement for two central medians to be installed to prevent right hand turns into and out of the subject site.

- There is an approved Development Application for a 7/11 service station (which is currently under construction) 200 metres from the subject site and there is no need for another service station in such close proximity.

Comment:

The proximity of the proposed service station to another service station is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979. This is a commercial consideration for the applicant.

- A service station in the middle of the village centre is not suitable.

Comment:

The proposal is permissible within the B2 Local Centre zoning and has demonstrated that it meets the objectives of this zone. In addition, the proposal will facilitate the extension of Bucks Lane (assuming that No. 360 Main Road is redeveloped as proposed), which is outlined in the WLEP 2013 zoning plan and Toukley Planning Strategy (2010).

- The proposed operation of the service station being 24 hours per day, seven days per week, will add to acoustic impact, litter and anti-social behaviour.

Comment:

In response to concerns raised by objectors, the applicant has agreed to reduce the proposed hours of operation to 6:00am to 11:00pm 7 days per week. Conditions of consent are recommended to limit acoustic impact and other likely impacts.

- A service station adds very few employment opportunities compared to the existing land uses on the site.

Comment:

The applicant states that the service station would create 10 jobs. It is unknown how many people are currently employed by the existing shops. The number of existing jobs versus likely future jobs is not a consideration under Section 79C of the Environmental Planning and Assessment Act 1979, however, both existing and proposed retail employment opportunities are likely to be comparable.

- The proposed development is not in keeping with the Toukley Planning Strategy which outlines shop top housing for the subject locality.

Comment:

One objective of the Toukley Planning Strategy is to "encourage" shop top housing within the commercial area of East Toukley. It is not the only objective and is one of many objectives. It is noted that development for the purpose of a service station is permissible within the B2 Local Centre zone and an objective of the B2 zone is to encourage a range of retail and service uses.

- Council should enforce provisions within the Toukley Planning Strategy and Wyong DCP to extend Bucks Lane and restrict access to Main Road.

Comment:

The proposal will facilitate the extension of Bucks Lane (assuming that No. 360 Main Road is developed in the approved fashion) which will provide an alternative ingress and egress point for the site. It is not considered practical or reasonable to restrict access to Main Road beyond the right turn restrictions that will be imposed and a restriction on access to Main Road is not required under any Council policy. A condition of consent is recommended to require the creation of a 'Right of Carriageway' on the rear six metres of the site.

- The existing bus stop located directly in front of the proposed development will cause havoc for exiting traffic and danger for bus users.

Comment:

A condition of consent is recommended requiring that arrangements be made for the relocation of the existing bus stop given its conflict with the proposed footpath crossing locations. There is a suitable location to the east of the site to which the bus stop could be relocated.

- The previous development consent for shop top housing is what Toukley needs to help with its continued revitalisation.

Comment:

The previous development consent for shop top housing (DA/2474/2005) lapsed in 2012. A Service Station is a permissible landuse on this site.

- Tanker drivers entering the site, 24 hours, 7 days per week could easily see over the boundary fence and will result in lightspill impacts on the residential properties to the rear of the site.

Comment:

It is noted that the proposed conditions limit the hours of operation to 6:00am to 11:00pm. A condition of consent is recommended requiring the erection of a 2.4 metre high acoustic fence on the zone boundary within the site and lightspill will be contained within the site. The following condition is recommended in relation to lighting:

*Prior to the issue of an Occupation Certificate, suitable lighting to the refuelling area shall be provided in accordance with the requirements of AS/NZS 1158 and AS/NZS 2890.1. Impacts on the adjoining properties in relation to lightspill should be minimised by ensuring that the lighting is directed to within the site boundaries.*

- The proposal will result in soil contamination which will cause the ground water in the area to be contaminated with the fuel.

Comment:

As the activities associated with the proposal have the potential to pollute the environment, specific management and pollution control measures are required to be implemented, so to prevent the likelihood of an impact occurring. These requirements are reflected in the recommended conditions of consent and require regular monitoring to ensure compliance.

- Impact of subsidence on adjoining properties

Comment:

A condition of consent is recommended requiring the submission of a pre-construction dilapidation report. A further condition is recommended prior to the issue of an Occupation Certificate, stating that any damage not shown in the Dilapidation Report submitted to and approved by the Principal Certifying Authority prior to site works commencing, will be assumed to have been caused as a result of the site works undertaken with respect to the development and must be rectified at the applicant's expense.

- The proposal will result in reduced property values surrounding the site.

Comment:

No evidence has been submitted to substantiate this claim. In addition, this is not a matter for consideration under Section 79C of the Environmental Planning and Assessment Act 1979.

- The tanker refilling point is located adjacent to the western boundary and will impact the adjoining property.

Comment:

A condition of consent is recommended requiring that the tanker refilling point be relocated to between the canopy and front boundary of the site as it is required to be located in the bunded area.

### **Ecologically Sustainable Principles**

The proposal has been assessed having regard to ecologically sustainable development principles and is considered to be consistent with the principles.

The proposed development is considered to incorporate satisfactory stormwater, drainage and erosion control and the retention of vegetation where possible and is unlikely to have any significant adverse impacts on the environment and will not decrease environmental quality for future generations. The proposal does not result in the disturbance of any endangered flora or fauna habitats and is unlikely to significantly affect fluvial environments.

### **Climate Change**

The potential impacts of climate change on the proposed development have been considered by Council as part of its assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

### **Assessment**

Having regard for the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act 1979 and other statutory requirements, Council's policies and Section 149 Certificate details, the assessment has identified the following key issues, which are elaborated upon for Council's information. Any tables relating to plans or policies are provided as an attachment.

## Provisions Of Relevant Instruments/Plans/Policies

### Wyong Local Environmental Plan 2013

#### Zoning & Permissibility

The subject site is zoned B2 Local Centre and SP2 Infrastructure under the provisions of Wyong Local Environmental Plan (WLEP) 2013. The proposal is most appropriately defined as a service station as follows:

**Service station** means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more the following:

- a) *The ancillary sale by retail of spare parts and accessories for motor vehicles,*
- b) *The cleaning of motor vehicles,*
- c) *Installation of accessories,*
- d) *Inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting or chassis restoration),*
- e) *The ancillary retail selling or hiring of general merchandise or services or both.*

The primary function of the proposal is for the selling of fuels and lubricants for motor vehicles, thereby satisfying the above definition. Development for the purpose of a service station is permissible within the B2 Local Centre zone.

It is noted that the portion of the site zoned SP2 Infrastructure is to be set aside for the future extension of Bucks Lane and will be left vacant to permit future dedication to Council. The service station does not extend over the SP2 Infrastructure zoned portion of the site. A condition of consent is recommended, requiring that the 2.4m high acoustic fencing be located on the B2 zoned land so that all the service station related structures are clear of the SP2 Infrastructure zone.

The objectives of the B2 Local Centre zone are as follows:

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- *To encourage employment opportunities in accessible locations.*
- *To maximise public transport patronage and encourage walking and cycling.*

- *To permit residential accommodation while maintaining active retail, business and other non-residential uses at street level.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

The proposal assists in contributing to the range of uses to serve the needs of the people who live, work and visit the local area. The development will serve local residents and people travelling through the suburb and will provide for the employment of 10 staff members. Whilst the development will not maximise public transport patronage and encourage walking and cycling, it will not impede or compromise these forms of transport.

The development does not contribute to the supply of residential accommodation, however, there is significant land to the east, west and north of the site that has the potential to be redeveloped for residential accommodation of a higher density. The proposal contains sufficient measures to minimise the conflict between land uses within the zone and within adjoining zones. The portion of the site zoned SP2 Infrastructure will act as a buffer between the service station and the adjoining residential properties to the north and will reduce conflict between zones. Accordingly, the proposal is considered satisfactory with regard to the objectives of the B2 Local Centre zone.

#### Building Height & Floor Space Ratio

<b>LEP Requirement</b>	<b>Proposed Development</b>
The maximum permitted building height is 13 metres.	The convenience store and fuel canopy are proposed to be 4.45 metres and 5.35 metres in height respectively. Complies.
The maximum permitted floor space ratio is 1.25:1.	The proposed FSR is 0.11:1. Complies.

#### Coastal Zone

Clause 5.5(2) applies to development within the coastal zone and requires consideration of specified matters prior to consent being granted. The specified matters relate to:

- maintaining existing and identifying new pedestrian access to and along the foreshore,
- the suitability of the development and its impact on scenic quality,
- the impact of the proposal on the amenity of the coastal foreshore (including shadowing or view loss),
- protection of the visual amenity and scenic qualities of the coast,
- conservation of coastal biodiversity and ecosystems, and
- the cumulative impacts of the development on the coastal catchment.

The proposal is considered satisfactory in relation to the protection of the coastal zone.

### **State Environmental Planning Policies (SEPP)**

#### *State Environmental Planning Policy No. 33- Hazardous and Offensive Development*

SEPP 33 provides a mechanism for defining hazardous and potentially hazardous industries as well as offensive and potentially offensive industries. In addition, it provides a series of requirements that must be followed when determining applications for industries that fall within any of the above definitions. In this instance, the proposed use "service station" falls within the ambit of SEPP 33 because, although not defined as an "industry", the use would fall within the policy definition of a "hazardous storage establishment" which could then fall within the definition of a potentially hazardous industry.

As a result of the above a multi-level risk assessment has been prepared for the proposal. The assessment concluded that the societal risk is negligible and the proposal meets and exceeds the relevant Australian Standards.

#### *State Environmental Planning Policy No. 55- Remediation of Land*

SEPP No. 55 aims to provide a statewide planning approach to the remediation of contaminated land. In particular the policy aims to promote the remediation of contaminated land in order to reduce the risk of harm to human health or any other aspect of the environment.

It is considered unlikely due to the nature of the existing commercial uses on the site and the age of the buildings that the site would be impacted by contamination.

Should asbestos be encountered during demolition it is proposed to be disposed of to a licensed waste facility under the supervision of a hygienist. A condition of consent is recommended in this regard.

#### *State Environmental Planning Policy No. 64 – Advertising and Signage*

The proposed signage on the site includes a number of different signs commensurate with typical service station signage. Assessment against Schedule 1 of the SEPP has been undertaken by the applicant and the signage referred to the Roads and Maritime Service for comment as required under the SEPP. An assessment against Schedule 1 is included as Attachment No. 7.

### State Environmental Planning Policy No. 71 – Coastal Protection

State Environmental Planning Policy (SEPP) No. 71 – Coastal Protection applies to the development as the subject site is located within a coastal zone, but not within 100m of a coastal lake or sensitive coastal location. Clause 8 'Matters for Consideration' is to be taken into consideration by the consent authority when it determines a development application to carry out development on land to which SEPP No. 71 applies. The proposed development has satisfactorily addressed the matters of consideration outlined in Clause 8 (see Attachment No. 8).

## **Wyong Development Control Plan 2013**

### Chapter 2.11 – Parking and Access

Wyong Development Control Plan (DCP) Chapter 2.11 – Parking and Access requires that car parking be provided at the following rate for service stations with a convenience store:

- *1 space per 20m<sup>2</sup> gross floor area for the convenience store*
- *Driveways to petrol pumps must provide sufficient space for a minimum of 2 cars to queue for each pump*
- *Space is to be provided for refueling tankers without impeding other traffic*

The proposed convenience store has a gross floor area of 167m<sup>2</sup>, resulting in the requirement for 8.35 (rounded up to 9) car parking spaces being required. A total of 9 car parking spaces are proposed (including a disabled car parking space). There is sufficient space to the rear of the pumps to facilitate the queueing of two vehicles for each pump. In addition, the applicant has submitted turning paths demonstrating adequate space for refueling tankers to access the site without impeding other traffic. Therefore, the proposal is considered satisfactory with regard to Wyong DCP Chapter 2.11 – Parking and Access.

### Chapter 5.1 – Retail Centres

The design of the proposal is considered satisfactory in terms of streetscape character and crime prevention, therefore being consistent with the objectives of Wyong DCP Chapter 5.1 Retail Centres.



### Chapter 2.6 – Signage

The proposal has been assessed against the requirements of Wyong DCP Chapter 2.6 – Signage. The proposed signage will not affect traffic safety or movement and will not obscure or interfere with road traffic signs. The signage is commensurate with typical service station signage and achieves compliance with SEPP No. 64 – Advertising and Signage . Accordingly, the proposal is considered satisfactory with regard to Wyong DCP Chapter 2.6- Signage.

### **Likely Impacts Of The Development**

#### **a) Context and Setting**

It is noted that the subject site is located at the zone interface between the B2 Local Centre zone and R3 Medium Density zone (to the north). The impacts of the proposal on the adjoining residential properties to the north has been considered in the assessment of the application. An acoustic assessment was submitted by the applicant which recommended the erection of 2.4 metre high acoustic fencing on the northern boundary and part of the east and west boundaries. A condition of consent is recommended, requiring that the fence be located on the land zoned B2 Local Centre.

In addition, the acoustic report recommends the restriction of fuel tanker deliveries to between the hours of 7:00am to 6:00pm, general deliveries to 7:00am to 10:00pm and waste collection to 7:00am to 6:00pm on weekdays. Conditions of consent are recommended, reflecting the recommendations of the acoustic report. In addition, conditions of consent are recommended in relation to lightspill and to ensure that vapour recovery systems are installed for all pumps.

#### **b) Built Environment**

The subject site adjoins land zoned R2 Low Density Residential to the north. The properties to the north contain one and two storey dwellings on large allotments.

The rear five metres of the subject site is zoned SP2 Infrastructure and it is intended to be constructed as a laneway from Evans Road (known as Bucks Lane). The lane currently extends from Evans Road to No. 362 Main Road. A development application is currently under assessment for a shop top housing development at No. 360 Main Road (adjoining property to the east) which encompasses the extension of the laneway. The subject development application includes the construction of the laneway and assuming that No. 360 Main Road is developed in its proposed manner, laneway access to Evans Road will be achieved from the subject site. The laneway will also act as a buffer between the service station and the adjoining residential properties to the north.

The acoustic report submitted with the application recommends the construction of a 2.4m high acoustic fence to be erected on the rear boundary to protect the adjoining residential properties to the north. Acoustic fencing is typically constructed of lapped and capped timber, Hebel Powerpanel, or similar.

**c) Access and Transport**

It is noted that the proposal will involve the construction of two vehicle crossings over the existing footpath. The impact of the proposal on pedestrian access has been considered by the NSW Roads and Maritime Services (RMS) and a traffic and pedestrian survey was submitted by the applicant for consideration. A condition of consent is recommended requiring the construction of two central concrete medians on Main Road, which will restrict right turn movements into and out of the site, whilst also allowing the Main Road/Ray Street intersection to operate in its current manner. The provision of the concrete medians will reduce vehicle/pedestrian conflicts and conflicts on the traffic flow on Main Road. (See Figure 5).

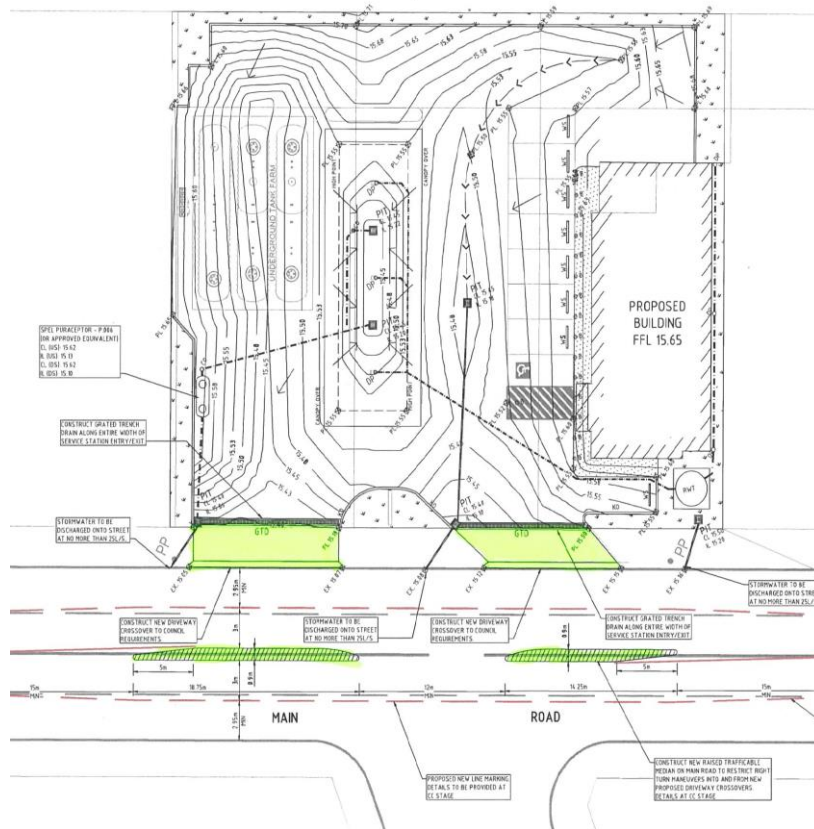


Figure 4 – Plan depicting required central medians to be installed on Main Road

It is also noted that there is an existing bus stop located on the frontage of the site, which will conflict with the vehicle access driveways. A condition of consent is recommended requiring that arrangements be made by the applicant for the relocation of this bus stop.

A thorough assessment of the impacts has been undertaken and it is considered that the proposal will not result in any significant impacts in terms of traffic safety or efficiency.

### **Natural Environment**

The natural environment will be maintained and protected by the implementation of specific management and pollution control measures. These will be referenced in the conditions of consent including:

- Petrol bowsers are required to be fitted with vapour recovery systems,
- Petrol bowsers are to be fitted with sumps,
- Sumps are to be fitted with an automatic detection sensor to detect spills within the supply lines,
- A pollution spill response plan is to be submitted,
- The requirement for pollution control devices eg. Bunding, diversion drains, spill kits
- The requirement for a grease and oil arrestor, and
- Protection measures to be installed around the bowsers so to prevent a collision and subsequent pollution incident from occurring.

Under the provisions of the "Protection of the Environment Operations (Underground Petroleum Storage Systems (UPSS)) Regulation 2008 the Department of Environment and Climate Change (DECC) require that the design, installation and testing for new and modified UPSS comply with all relevant Australian standards, manufacturer's instructions and undergo an "Equipment Integrity Test" prior to commissioning.

The regulations also specify that the UPSS are required to have "Groundwater Monitoring Wells" (GMW) designed and installed by a suitably qualified person, "Environmental Protection Plan (EPP) to provide direction in the monitoring and management of the UPSS and "Mandatory Pollution Protection Equipment" (MPPE) to ensure the containment of any petroleum in the event of a spill or leak. All relevant issues regarding the likely impacts on the natural environment have been considered and determined to be reasonable for the proposed development.

### **Suitability Of The Site For The Development**

The site is zoned B2 Local Centre which permits service stations. The site is located on a key collector road and is not impacted by constraints such as flooding, flora and fauna or bush fire hazard . As such the site is considered suitable for this type of development.

**The Public Interest: (s79c(1)(e)):**

The approval of the application is considered to be in the public interest. The service station will provide a convenience store in the East Toukley precinct that will service nearby residents and passing motorists. The proposed land use will ensure suitable activation of the northern side of Main Road. In addition, the service station will involve the employment of 10 staff members.

**Other Matters For Consideration****Planning Strategies***Toukley Planning Strategy – Section 5.10 – East Toukley Precinct*

The Toukley Planning Strategy was adopted by Council in 2010. The proposal is consistent with the objectives of the TPS in the following way:

- The proposed service station is capable of suitably integrating with future shop top housing developments immediately adjoining the site to the east and west and would provide a break in a potential straight run of two to three storey buildings, adding architectural interest and variation.
- The proposal does not conflict with the intent of the Strategy to retain a low scale and represents an active retail use servicing the local community and visitors.

*Section 94A Contributions*

The property falls under Council's Section 94A Levy Development Contributions Plan. In accordance with the following table (and the estimated cost submitted with the development application form), a contribution of \$12,760.50 is applicable:

Type-of-Development	Levy (%)	
	\$100,001--\$200,000	\$200,001+
Commercial	0.5%	1%
Tourist	0.5%	1%
Government Agencies	0.5%	1%
Industrial	0.5%	1%
Rural	0.5%	1%
Residential (Dwellings and Additions)	0.5%	1%

A condition of consent is recommended requiring the payment of the Section 94 fees prior to the issue of a Construction Certificate.

*Water and Sewer Contributions*

No water and sewer contributions are applicable as there are existing credits from the existing businesses.

**Conclusion**

The proposed development has been considered in accordance with matters for consideration under Section 79C of the EP&A Act 1979 and was found to be acceptable. The proposal is consistent with the objectives of the B2 Local Centre zone and the objectives of the applicable Development Control Plan, relevant Policy and the principles of ecological sustainable development. Therefore, subject to conditions of consent, the proposed development is recommended for approval.

**Attachments**

<b>1</b>	Draft Conditions of Consent	D12499755
<b>2</b>	Zoning Map	D12439107
<b>3</b>	Site Map	D12499711
<b>4</b>	Elevations	D12439109
<b>5</b>	Signage Elevations	D12439111
<b>6</b>	Landscaping Plan	D12439112
<b>7</b>	Assessment Against SEPP No 64	D12439113
<b>8</b>	Letter from NSW RMS	D12439115
<b>9</b>	SEPP 71 Coastal Protection Compliance Table	D12488020