

**MINUTES OF THE DEVELOPMENT & ENVIRONMENTAL SERVICES COMMITTEE OF UPPER HUNTER SHIRE COUNCIL HELD ON TUESDAY 14 JULY 2020 IN THE COUNCIL CHAMBERS COMMENCING AT 10.00am**

**PRESENT:**

Cr Kiwa Fisher (Chair), Cr Sue Abbott and Cr Ron Campbell.

**APOLOGIES:**

Cr Lee Watts and Mr Mathew Pringle

Moved: Cr Campbell

Seconded: Cr Fisher

CARRIED

**IN ATTENDANCE:**

Mr Steve McDonald (General Manager), Mrs Christine Robinson (Manager Building, Planning & Regulatory Services), Mr Paul Smith (Environmental Planning Officer), Mr Jeff Bush (Manager Strategic Assets), Mr Peter Breckenridge (Applicant) & Miss Laura Conway (Minutes).

**ADOPTION OF MINUTES:**

The Committee adopted the minutes of the Development & Environmental Services Committee meeting held on 9 June 2020.

Moved: Cr Campbell

Seconded: Cr Fisher

CARRIED

**DISCLOSURES OF INTEREST:**

Nil.

**PUBLIC PARTICIPATION:**

Peter Breckenridge.

**SITE INSPECTIONS:**

Nil.

**BUSINESS ITEMS:**

DESC.07.1      Development Application 19/2020 – Service Station – 18 Kelly Street, Scone

The Senior Environmental Planner, Mr Paul Smith, gave a brief overview of the proposed development. The development application is being referred to the committee as three submissions were received following public exhibition. Mr Smith highlighted the main concern being the proposed access arrangements for the fuel delivery tanker.

Mr Peter Breckenridge spoke on behalf of the applicant and confirmed that they are seeking deferral of the application to allow for an extended assessment period. The applicant submitted an amended plan which aims to address some of the access issues that have been highlighted throughout the planning assessment report.

Cr Abbott raised her concern with the proposed food premises, Pie Face, being affiliated with the existing McDonalds. Mr Breckenridge confirmed this to be incorrect and described the proposed food premises as a quality stopping point for customers and does not serve fast food.

The Committee resolved to support a recommendation that Council defer its determination of the development application pending a detailed assessment of the additional information submitted by the applicant.

## **COUNCILLOR QUESTIONS**

Cr Abbott:

- Does the Development & Environmental Services Committee make recommendations towards development applications and rezoning applications?

Mr Smith confirmed that the Development & Environmental Services Committee considers both development applications and rezoning applications. However, each type of application is considered under a separate process. UHSC currently has two applications for proposed rezoning.

Meeting closed at 10.27am.





## **Environmental & Community Services**

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The development site comprises a 2,094m<sup>2</sup> lot with a 36m frontage to Kelly Street. The development application is proposing:

- The construction of a service station and convenience store, with overhead canopy and underground fuel tanks and infrastructure, loading bay, waste area and plant area.
- Landscaping
- Parking areas
- Signage including an 8m high illuminated pylon sign
- Minor works

Plans of the proposed development are provided in Attachment 2.

General customer vehicle access to the site from Kelly Street for south bound traffic is via the existing northern access driveway to the McDonalds car park which is a right of carriageway over Lot 2 DP 1145990 (McDonalds). Access for north bound vehicles would be via the existing southern access driveway and through the McDonalds car park which is a right of carriageway over Lot 2 and Lot 3 DP 1145990.

Although the subject land is zoned B2 Local Centre the site adjoins R1 General Residential zoned areas. There are established residential premises to the east, west, north and south of the site.

The main concern with this development application is the proposed access arrangement for the fuel delivery tanker. The application as amended proposes that the fuel tanker (20m long semi-trailer) access would be via the right of way over Lot 2 and Lot 3. This would require such vehicles to enter the site via the southern entry and then circulate through the McDonalds car park. While the vehicle can initially make the turn and stay in the left lane, it must then veer over into the right lane to negotiate the first bend. It must then effectively stay in the right lane until it reaches the service station site. For the exit movement the fuel tanker must loop around the forecourt area and move back on the right of way. It must then either entirely or partly remain in the right hand lane for the journey on the right of way the exit point (to the south of McDonalds) where it makes a left turn out. The loop movement interferes with vehicles using both the northern and southern bowsters. It should be noted that the Traffic and Parking Assessment does not give consideration to this proposed fuel tanker access arrangement. It should also be noted the TfNSW recommend that a pedestrian island is placed at the southern boundary between the site and Lot 2 (McDonalds). Such a structure if included would prevent or restrict the loop movement of the fuel tanker.

The fuel tanker movement within the McDonalds car park and on the site has the potential to cause traffic/pedestrian conflict. A Delivery Management Plan (DMP) has been prepared by the applicant as a mitigation measure. The DMP states that fuel deliveries will predominantly occur once a week and be limited to "off-peak" hours from either 6am-7.00pm or 8.00pm to 11.00pm. However, the *Traffic and Parking Assessment* does not give consideration to the peak demand times within the McDonald car park area. The applicant has advised "that peak morning period for McDonald's typically occurs between 8 am and 10 am with 75% lower volume than the evening peak". This is not supported by any formal assessment and it is not clear whether or not the traffic volumes during the proposed delivery times are sufficiently low such as to address traffic and pedestrian safety concerns. In addition, circumstances may arise such that the fuel tanker arrives late and then must overlap into what is considered to be the peak times for the McDonalds restaurant.

The DMP advises that to manage potential interactions between the tanker and light vehicles designated staff will temporarily control traffic within the right of way. This solution requires both traffic and pedestrian safety to rely on service station staff to undertake traffic control. This system is not considered to be sustainable in the long term.

## **OPTIONS**



## **Environmental & Community Services**

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1. That Council refuse Development Application No. 19/2020 for a service station at 18 Kelly Street Scone (Lot 1 DP 1145990) for the reasons given in Attachment 1.
2. That Council approve Development Application No. 19/2020 for a service station at 18 Kelly Street Scone (Lot 1 DP 1145990) subject to conditions of consent.
3. The Council defer its determination of the application pending the submission of further information.

### **CONSULTATION**

Surrounding properties were notified of the development proposal between 19 February 2020 and 4 March 2020. An advertisement was placed in the Hunter Valley News on 19 February 2020. Three (3) submissions were received raising concerns about the proposed 24-hour operation, noise, light pollution, increased traffic movement and late night congregation of people (the submissions are provided in Attachment 4).

The development application was referred to Council's Assets Manager who raised concerns about the inadequacy of the access arrangements for the 20m long semi-trailer fuel tanker. He advises there is too much potential for conflict between the fuel tanker delivery vehicle and other vehicles which will impact on the safe operation of the McDonalds car park. The reliance on the Delivery Management Plan to facilitate fuel tanker access through the McDonalds car park is not considered to satisfactorily address the issues.

The development application was referred to Transport for NSW (TfNSW) and the NSW Police Force. The responses for each agency are provided in Attachment 3. Of particular note they require: *the northern driveway access to 18 Kelly Street is restricted to vehicle lengths of under 8m. Signage is to be installed to restrict vehicular access to 18 Kelly Street for vehicles over 8m.* In addition based on the marked up plans provided by TfNSW it would appear that the turning templates used for the truck access details do not conform to Austroads minimum standards.

### **STRATEGIC LINKS**

#### **a. Community Strategic Plan 2027**

This report links to the Community Strategic Plan 2027 as follows:

- Goal 3 Protect the natural environment
- Goal 5 A sustainable and prosperous economy

We are working to achieve the following Community Priorities:

## Environmental & Community Services

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A stronger economic base to attract and retain residents, particularly our young people.



Increase focus on local business, shop occupation and revitalisation of the Town Centres.



Protect the natural environment.

### b. Delivery Program

Provide efficient and effective advisory, assessment and regulatory services focused on being Customer 'friendly', responsive and environmentally responsible.

### c. Other Plans

Nil

## IMPLICATIONS

### a. Policy and Procedural Implications

Nil

### b. Financial Implications

Development Application fees of \$2,756.44 have been paid.

### c. Legislative Implications

An assessment of the development application has been undertaken pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (see Attachment 4).

### d. Risk Implications

Council determinations of development applications and modifications in relation to local development can be appealed by the applicant in the Land and Environment Court where they are not satisfied with the outcome of a determination. There is a medium to high risk that the applicant may appeal the determination.

Council determinations of development applications and modifications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act



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1979 have been made. There is a low risk of any third party legal appeal in relation to this application.

### e. Sustainability Implications

Service station developments involve the storage and dispensing of fuel which have the potential to pollute the environment and be a danger to public health and safety. The development will be regulated under the Protection of the Environment Operations (Underground Petroleum Storage System) Regulation 2019. This regulation has been specifically developed to cover the commissioning, installation, on-going monitoring and decommissioning of underground petroleum storage systems (UPSS). Note: as of September 2019 Council's in NSW became the regulatory authority for UPSSs.

The proposed delivery management plan (DMP) requires an ongoing process to be maintained by the service station own/operator. There are concerns that this approach is not sustainable in the long-term.

### f. Other Implications

Nil

## CONCLUSION

The application has been assessed as unsatisfactory against Section 4.15 of the Environmental Planning and Assessment Act 1979, Upper Hunter Local Environmental Plan 2013 and the Upper Hunter Shire Development Control Plan 2015. The development application as proposed has the potential to create an unsafe situation for road users and pedestrians within the McDonalds car park. The Traffic and Parking Assessment does not give consideration to the fuel tanker delivery in relation to the existing dynamics of the McDonalds car park. In addition, the development application does not give adequate consideration to traffic movement, fuel tanker movement and pedestrian movement within the site and between the site and the McDonalds car park.

## RECOMMENDATION

That Council defer its determination of the application pending assessment of the alternative plan that was submitted on 14 July 2020.

Moved: R Campbell

Seconded: K Fisher

CARRIED

The **DIVISION** was taken and the names of the Councillors voting FOR and AGAINST were as follows:

FOR	AGAINST
Councillor Campbell	Councillor Abbott
Councillor Fisher	
<b>Total (2)</b>	<b>Total (1)</b>