

8.1 **DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground.DOC**



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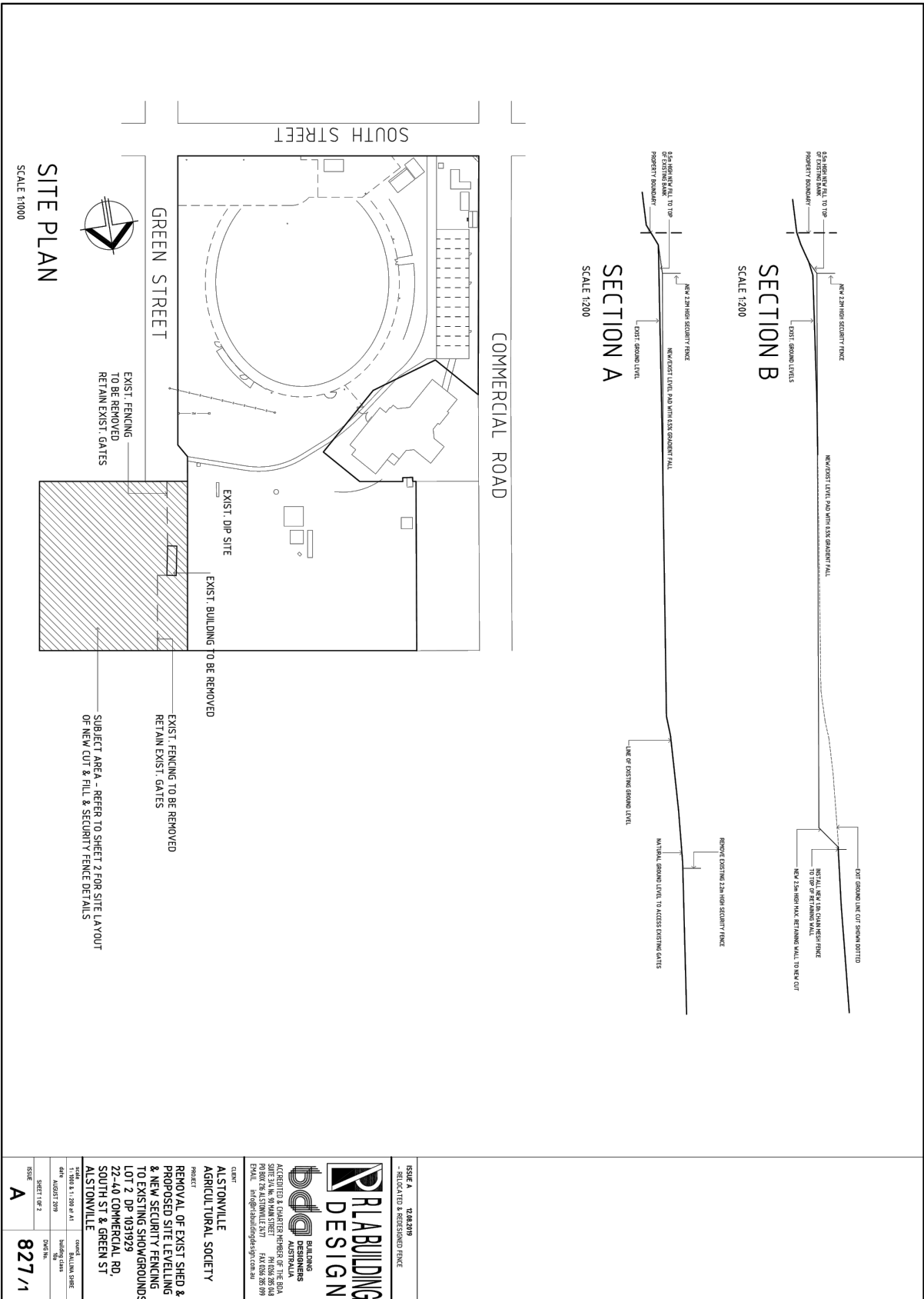


**ballina shire council**  
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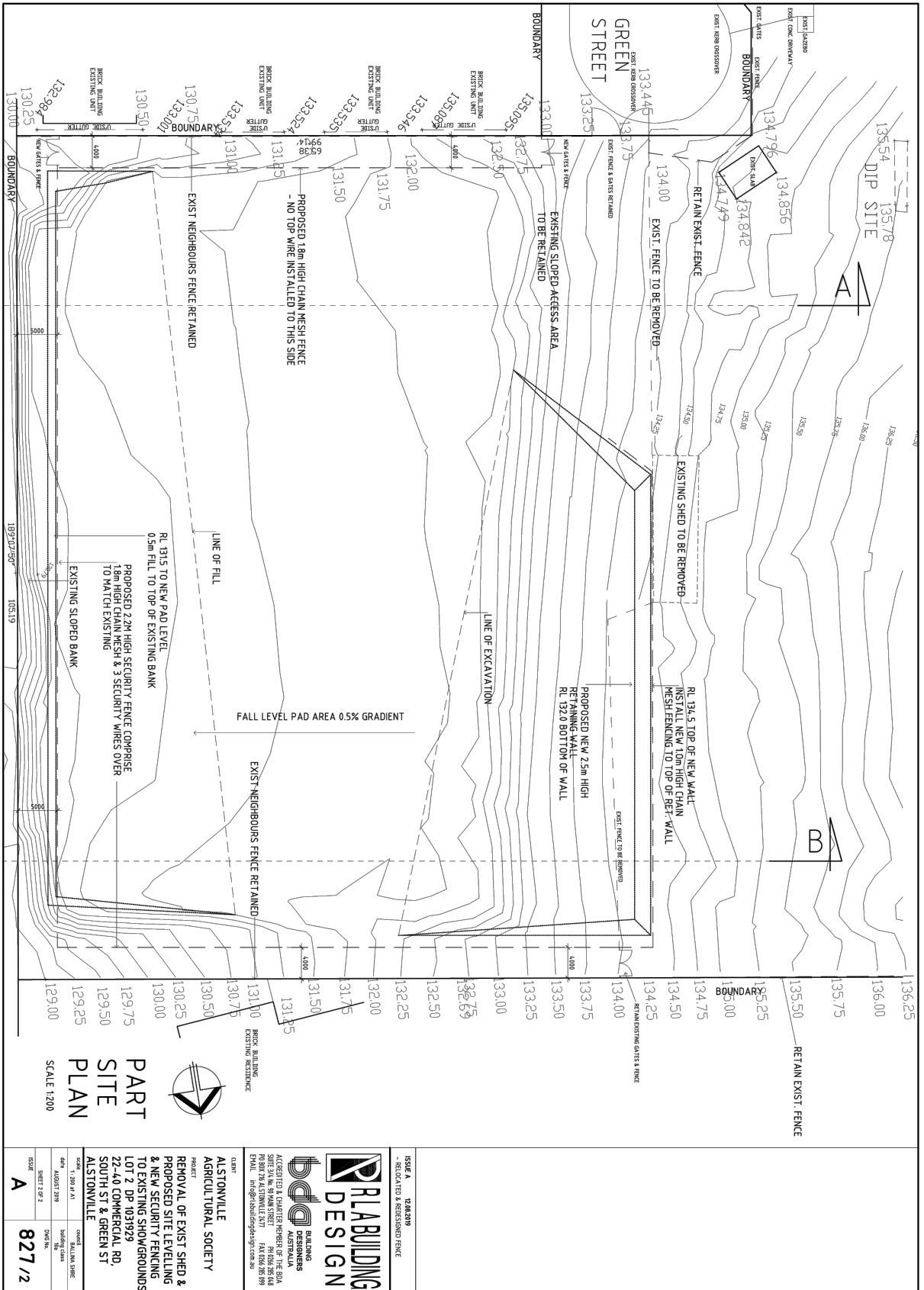
Projection: GDA94 / MGA zone 56  
 Date: 1/10/2019

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8.1 **DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground.DOC**



Theo Vermeulen  
Unit 9, 39-45 Green Street  
Alstonville 2477

10 September 2019

Mr Paul Hickey  
The General Manager  
Ballina Shire Council  
40 Cherry Street  
BALLINA NSW 2480

Dear Mr Hickey

I am writing to formally object to the **Amended Development Application 301/2019** lodged by the Alstonville Showground Society.

While I am pleased to see that some of my concerns and the concerns of the body corporate have been addressed, a number of significant concerns have not yet been addressed in the amended development application. As such, my objections are based on a number of grounds which I have detailed in the attached submission.

**My objections in summary are:**

1. The proposed two-metre-high barbed wire fence would make the recreation and residential areas, in my view, look like a prison or industrial park.
2. The proposed chain-link and barbed wire fencing is not in line with Alstonville's unique heritage and village character.
3. The proposed chain-link and barbed wire fence is too high, unnecessary and there are feasible more aesthetically pleasing alternatives that would address the applicant's security concerns.
4. It is unclear from the development application if the proposed fence meets the applicant's bio-security concerns at the Showground.
5. The proposed barbed wire fence may have a negative impact on property values.
6. The proposed barbed wire fencing may represent a significant safety risk to children, birdlife and wildlife in Alstonville and, as such, may breach the Council's duty of care in this regard.
7. The proposed two metre chain-link and barbed wire fence appears to be a disproportionate response to crime related security concerns raised by the applicant as the rate of crime in Alstonville is very low according to the NSW Bureau of Crime Statistics and Research.

**I would be grateful if the Council could carefully consider my submission and defer approving the Development Application in its current form to enable appropriate changes to be made that address not only my concerns but wider community concerns, to ensure the proposed development is in line with the Alstonville Strategic Plan 20170-2037.**

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I am more than happy and available to discuss my concerns with the applicant to see if we can come to an amiable solution but the applicant has instructed me to address any further correspondence on the matter to the Council.

I am currently working on an aid development project in Papua New Guinea but I will endeavour to return to Australia to attend the relevant Council meeting if the development application is referred to the Council members for assessment. I will be grateful if you could inform me by email ([theo.vermeulen@zoho.com](mailto:theo.vermeulen@zoho.com)) if this will occur with at least four weeks notice so I can make travel arrangements.

Thank you for your consideration.

Yours faithfully

A handwritten signature in black ink, appearing to read 'T. Vermeulen', enclosed within a large, loopy oval flourish.

**Theo Vermeulen**

**Objections to Development Application 301/2019**

**1. The proposed two-metre-high barbed wire fence would potentially make the recreation and residential areas look like a prison or industrial park**

1. While I am pleased to see that on the south side of the showground field, the proposed chain-link fence will not be topped by barbed wire, barbed wire will still top the fence along the adjoining recreational park to the east and the northern side of the field.
2. **In this regard, as a general rule you only see the type of fence, chain-link fence topped by barbed wire, proposed by the amended development application in industrial parks and prisons. Indeed, is not even common in the closest parallel to the showground, namely a farm.**
3. **I currently work in Port Moresby, which has a very high crime rate, yet even there the council has banned barbed wire from being used within the city boundaries due to its appearance,**
4. Using that type of fence in places zoned either private recreation zoning or residential, as proposed by the development application, would make those zones in this part of Alstonville places look like a prison or industrial park and is completely out of character with the residential and private recreation zones of the two adjoining areas as the photos below illustrate:



**Fence proposed by application**



**Similar style of fence seen in prisons and industrial parks proposed by the development application**



**Example of a fence similar to the one that the DA proposes surrounding an industrial building. How can this be acceptable between an adjoining recreation zone and residential zone?**

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5. Currently the showground field constitutes a beautiful open green recreational space in the middle of a residential zone. Having a two-metre high chain-link fence topped by barbed wire fully surrounding it, as proposed by the development application, will irrevocably change the recreational and residential ambiance, character, environment and appearance of the neighbour for the worse.
6. In this regard, currently the Alstonville Showground is zoned “**RE2 - Private Recreation**” under the **Ballina Local Development 2012**. One of the key objectives for this zoning is to “**To enable development that is compatible with the recreational nature and environmental character of the land**” (BLDP 2012 RE2 Land Use Table).
7. **The proposed two-metre high chain-link fence topped by barbed wire is completely at odds with this objective. It is neither compatible with its parklike environmental character, including the public park that adjoins the showground to the east, or its recreational use.**
8. **Indeed, no other private or public recreation zone in Alstonville, or even the Ballina Shire as a whole, is surrounded by a two-metre-high chain-link fences topped by barbed wire, particularly not when that recreation zone is located fully within a residential zone. In this regard the development application, if approved, would set a very undesirable precedent.**
9. As the photos below show, there are numerous attractive alternatives that would: (1) provide the security the show ground requires; (2) be aesthetically pleasing; and (3) fit into the unique village character of Alstonville, rather than the proposed chain-link and barbed wire fence.
10. For example, more closed fencing could be used along sides where there are residences while more open fencing could be used on the east side that adjoins the public park. **This also fits into Council’s policy that fences should vary in appearance.**



**Alternative fence designs that would meet the applicant’s security concerns**

**RECOMMENDATION 1: That Ballina Council request the applicant to consider and propose alternative fence designs given the unacceptability of chain-link fencing topped by barbed wire in recreation zones, especially where there adjoin residential zones**

**2. The proposed chain-link and barbed wire fencing is not in line with Alstonville's unique heritage and village character**

1. The proposed development, in my view, compromises the unique heritage and village environment in Alstonville and appears not to be in line with the Council's development strategy in Alstonville to retain its unique heritage and village character and ambience.
2. Indeed, in this regard, the 2017 **Alstonville Planning and Environmental Study** conducted by Ballina Shire Council identified Alstonville as a unique part of the Ballina Shire due to its unique heritage and village character that should be preserved.
3. The Study specifically noted that the BSDCP 2012, in relation to Alstonville, places emphasis on: "ensuring compatibility of new development with the character of the village centre in terms of land use, design and external appearance; particularly having regard for identified buildings of cultural and historic significance". While this is specifically about commercial development, arguably the principles should apply to all development in Alstonville to ensure it retains its unique heritage character.
4. The subsequently adopted **Alstonville Strategic Plan 2017-2037** reinforced the Council's commitment to retaining and enhancing Alstonville's unique heritage and village character.
5. In this regard, specifically in relation to the Showground, the **Ballina Local Environment Plan 2012** lists the Showground Main Gates as a heritage item. In addition, the applicant states the machinery shed will be used to house and display heritage farming items.
6. **As such, the proposed fencing should also reflect this heritage background and be congruent with it, rather than just a stark, ugly chain-link fence topped by barbed wire.**
7. As noted above, there are numerous aesthetically appealing, secure and environmentally sound fencing options that would address the applicant's alleged security concerns that would be congruent with Alstonville's unique heritage and village character. Instead, the DA offers only the most aesthetically displeasing option: A two-metre-high chain-link fence topped by barbed wire that will make the showground look like a prison or industrial park.
8. **RECOMMENDATION 2: In line with the Alstonville Strategic Plan's emphasis on village beautification, Ballina Council should, as a matter of policy, reject any use of barbed-wire and chain-link fences in Alstonville in zones classified as residential, private recreation or public recreation, as it is not compatible with Alstonville's unique village character.**

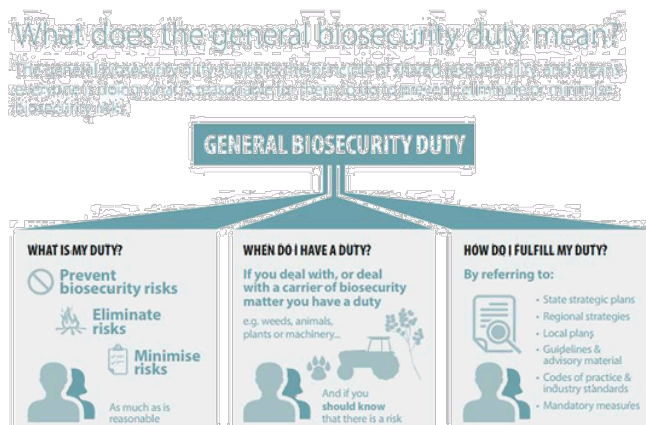
**3. The chain-link and barbed wire fence is too high & unnecessary**

1. The **Ballina Shire Development Control Plan 2012 (Chapter 4 – Residential and Tourist Development)** (Zones summarised in the table below) sets height limits, among other requirements, for fencing in residential and tourist developments, being 120 cm for a front fence and 180 cm for a rear fence.
2. In this regard, while the Showground is zoned "private recreation" it is also effectively a tourist development as it attract tourists visiting its shows and it provides overnight accommodation, for a fee, to visiting tourist to the Ballina Shire. As such, arguably the same fence height restrictions should apply to the Showground, particularly as the fence they have proposed literally adjoins a residential area.
3. In this regard, while the proposed fence backs on to my back-fence, **their proposed fence is actually the front fence of the showground as that side faces Green Street** and that is where the front entrance to the field is. As such, that fence should be no higher than 120 cm. This is easily high enough to contain any animals and address bio-security concerns.
4. **RECOMMENDATION 3: That Ballina Council amend the development application to only allow fencing up to 120 cm, if the fencing is approved.**



**4. It is unclear from the development application if the proposed fence meets the applicant's bio-security concerns at the Showground**

1. Under the NSW **Bio-security Act 2015** people who own, manage or control animals are required to exercise a duty of care in relation to biosecurity, as illustrated in the diagram below.
2. I am confident that the Alstonville Showground is doing this in relation to their animal events and I commend their determination to address this issue to ensure the safety of the public.



Duty of care under the NSW Biosecurity Act 2015 (source: NSW DPI)

3. In this regard, the applicant has informed me that the fence, in its proposed form and location, is required for bio-security purposes to protect the public.
4. I commend the applicant for raising this concern as it highlights a serious public safety issue that needs to be addressed. I am also pleased to see that the applicant has now proposed creating a 4-5 metres separation zone from the neighbouring residential fences.
5. However, the Department of Primary Industries states that "the Biosecurity Act 2015 also establishes a general biosecurity duty. This means if you deal with biosecurity matter or a carrier you need to identify the risks it may pose and act to manage or mitigate the risk".<sup>1</sup>
5. As such, while I am convinced that the applicant is fully addressing their duty of care in relation to bio-security at Alstonville Showground, I am somewhat concerned that the amended development application, given that the applicant states that the proposed chain-link and barbed wire fence is required to address bio-security concerns, still does not:
  - 1) specify the exact nature of the bio-security risks that the proposed fence is intended to address to ensure public safety;
  - 2) what steps have been taken to reduce these bio-security risks up to now; and
  - 3) how specifically the proposed chain-link and barbed wire fence would address and mitigate the identified bio-security risks, **to ensure the safety of visitors and residents to and near the showground.**
6. For instance, while nominally addressing bio-security concerns, the development application makes no reference to any State or regional bio-security strategies,<sup>2</sup> bio-security codes of

<sup>1</sup> NSW DPI website: <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity>. Additional information can be found here: <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity/the-general-biosecurity-duty>

<sup>2</sup> For example, the **NSW Biosecurity Strategy 2021** developed by the NSW Department of Primary Industries, <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity/nsw-biosecurity-strategy-2021>

practice, bio-security industry standards or even mandatory bio-security measures, that would suggest that the fence, in the proposed form and location, is in fact the most suitable means of addressing bio-security concerns at Alstonville Showground.

7. If the proposed fence is to address specific bio-security concerns, clear reference to these legislative and policy bio-security requirements should be made to ensure that: the proposed (1) design; (2) material; and (3) location of the fence do, in fact, address any particular bio-security concerns that may arise at the Showground, to ensure the safety of residents and visitors.
8. In addition, the development application does not that refer to **any study or assessment of potential bio-security concerns** at Alstonville Showground and how these may be addressed.
9. In this regard, bio-security is a comprehensive set of measures for protecting a population from infectious diseases at the national, regional and farm level, **of which fencing to isolate stock is only one component**. However, the applicant has not provided, along with the development application, an **Alstonville Showground Bio-Security Action Plan** to address any identified bio-security concerns should these arise at the showground.
10. **Under these circumstances it is extremely difficult for the Council to be in a position to reasonably assess if the proposed fence is: (1) the right design; (2) the right material; and (3) in the proper location, to address any potential bio-security concerns at the showground, as the required information to make such an assessment has simply not been placed before Council at this stage.**
11. **This is compounded by the fact that the Council does not currently have a Bio-security Policy that might provide a set of criteria to guide such a bio-security assessment, to ensure the safety of residents and visitors within Ballina shire.**
12. **RECOMMENDATION 4: That Ballina Council defer approving the development application, given its bio-security implications, until the Council has developed a Bio-Security Policy and an independent Bio-security Study has been conducted to:**
  - 1) **assess any potential bio-security concerns at Alstonville Showground;**
  - 2) **the possible risks these pose to visitors and residents; and**
  - 3) **how these may be most effectively addressed.**

#### **5. The proposed chain-link and barbed wire may have a negative impact on property values around the Showground**

1. The industrial appearance of the proposed chain-link and barbed wire fence may seriously and negatively impact on property values as potential property buyers will be less likely to buy a home that has barbed wire running just outside their windows or has backyard that looks like an industrial park or prison.
2. **This applies to all the homes surrounding the show ground, not just my own. Indeed, while the Showground is zoned "RE2 - private recreation" it sits in the middle of a residential zone.**
3. While the showground has some existing fencing similar to what is being proposed, the difference is that the existing fence is far away from any surrounding homes, is limited in length, and does not adjoin any residential fences.
4. I am also concerned that for quite some time now a large number of large trucks and heavy machinery are operating from the showground and creating a lot of traffic and noise in Green Street. In addition, various forms of piping and other industrial goods are being stored in public sight against the outer boundary fence, within the Showground.

5. Additional chain-link fencing, topped by barbed wire, around the showground would make the showground look even more like an industrial park or prison, while the surrounding residential zone will look like an industrial zone. Indeed, arguably the current chain-link and barbed wire fencing should never have been approved in the first place.
6. **RECOMMENDATION 5: That Ballina Council should defer approving the development application until a study has been conducted by the applicant as to how property values may be impacted by the proposed development.**



**Large industrial trucks, equipment and goods stored at the Showground with industrial park style fencing**

6. **The proposed chain-link and barbed wire fencing may potentially pose a significant safety risk to children, birdlife and wildlife in Alstonville and, as such, may breach the Council's duty of care in this regard.**
  1. When there are events on at the Showground there are many children present and there are also young children living in streets surrounding the showground. As we all know, children love to climb fences.
  2. As such, having a **chain-link fence topped by barbed wire** could significantly increase the risk of serious injury to these children as the chain-link wire would easily enable them to climb the fence and then the barbed wire on the top could seriously injury them, including cutting their eyes. **Can you imagine the horrific nature of such an injury?**
  3. As such, in my view barbed wire fencing should not be used in recreation grounds, regardless of their zoning, where children regularly visit and play. This is particularly the case as the Applicant states they will have school groups coming to visit the showground to see the farm heritage equipment they propose to display in the proposed machinery shed (DA 302/2019).
  4. **In this regard, the Council or the Showground may be held legally liable, should the development be approved, and subsequently someone, particularly a child, suffers a serious injury due to the barbed wire. Naturally I am concerned that a commendable community organisation like the Alstonville Showground Society or the Ballina Shire Council may be exposed to such a liability risk.**

5. **Consequently, the most appropriate course of action would be to mitigate this risk by deferring the approval of the development application until this risk has been addressed by changing the design, materials and location of the proposed fencing.**
6. In addition, a number of bird and bat colonies live in or visit the showground, with birds visiting every day the field where the proposed chain-link and barbed wire fence will be. They will be at risk of serious injury if there is a two-metre fence topped by barbed wire fence surrounding that field.
7. **Indeed, Ballina Shire Council itself replaced all barbed wire around the sewerage treatment plants with plain wire to avoid injury to wildlife and birdlife in 2005.**
8. Sunshine Coast Council also recommends that barbed wire not be used as “Tens of thousands of native animals die every year on barbed-wire fences. Sadly, they often take days to die and are left in fear and agony if they are not found and rescued”.<sup>3</sup>
9. The Northern Territory Government has also stated that “Many native animals become victims of barbed wire entanglement. Entanglements usually happen when nocturnal animals don’t see fencing or can’t clear the height of the fencing. Over 75 native wildlife species have been recorded as becoming entangled on barbed wire fencing”.<sup>4</sup>
10. In this regard, I refer the Council to the study done by Ballina Shire Council entitled “**Alstonville Planning and Environmental Study**”. That study noted that there are a number of threatened wildlife species within the Alstonville locality. In particular, it noted that the Grey-Headed Flying fox, Rose-Crowned Fruit Dove, Spotted Harrier, the Little Eagle, and koalas were under particular threat as indicated in the table below reproduced from the study.<sup>5</sup>

*Table 5: Top 5 Recorded Animal Threatened Species in Alstonville - Wollongbar Locality*

SPECIES	STATUS (NSW TSC ACT 1995)	NUMBER OF RECORDS
<i>Phascolarctos cinereus</i> (Koala)	Vulnerable	99
<i>Pteropus poliocephalus</i> (Grey-headed Flying-fox)	Vulnerable	20
<i>Ptilinopus regina</i> (Rose-crowned Fruit-Dove)	Vulnerable	15
<i>Circus assimilis</i> (Spotted Harrier)	Vulnerable	10
<i>Hieraaetus morphnoides</i> (Little Eagle)	Vulnerable	6

<sup>3</sup> Sunshine Coast Council <https://www.sunshinecoast.qld.gov.au/Environment/Education-Resources-and-Events/Environment-Resources-and-Publications/Natural-Resource-Management-and-Conservation-Techniques/Barbed-wire-fences>

<sup>4</sup> Northern Territory Government (2019) <https://nt.gov.au/environment/animals/wildlife-caught-on-fencing>

<sup>5</sup> Ballina Shire Council (2017) **Alstonville Planning and Environmental Study**, 06/2017, page 16.

11. The Study also noted that “Alstonville is also the northern boundary of a nationally significant koala population (Ballina Koala Habitat Study 2015)” and, indeed, the Study indicates that there have been sightings of koalas within the Alstonville township (page 16). In addition, Alstonville is part of the Koala Planning Area under the **Ballina Shire Koala Management Strategy 2016**.
12. **Koalas continually migrate from one local area to another so need to cross open lands.** When faced with a chain-link topped by barbed wire, as proposed in the development application, besides impeding their migratory patterns, they may get seriously injured or trapped by the strands of barbed wire on top of the fence if they climb the fence to continue their migration.
13. I note also in this regard that the Showground has gumtrees which are, of course, the type of leaves that koalas consume so koalas would be attracted to the showground.
14. The **Environmental Planning and Assessment Act 1979**, of course, imposes obligations on developers and consent authorities to assess and consider the impacts of proposed development on threatened species during the development assessment process, including on koalas under the **State Environmental Planning Policy No. 44 – Koala Habitat Protection**. The **Biodiversity Conservation Act 2016** (NSW) is also applicable here.
15. While I am confident that the Council will do so, I note that the development application does not refer to any **Birdlife & Wildlife Impact Study** nor does it identify the potential impact of the fence on birdlife and wildlife species that may inhabit or visit the Showground.
16. **As the photos below illustrate, birdlife and wildlife species are at great risk when confronted by barbed wire fences and there have been numerous instances documented injury to wildlife and birdlife caused by barbed wire in the Northern Rives.** For example, the **Northern Star** reported that flying foxes, particularly females that are pregnant or heavily laden with a pup, repeatedly get entangled by barbed wire when they misjudge the height of the fence.<sup>6</sup>
17. **RECOMMENDATION 6: That Ballina Council should defer approving the development application until a Wildlife and Birdlife Impact Study has been done in relation to the application. Such study should, in particular, identify and assess the impact of the proposed chain-link and barbed wire fencing on birdlife and wildlife in and around the Alstonville Showground.**

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<sup>6</sup> <https://www.northernstar.com.au/news/barbed-wire-injures-vulnerable-flying-foxes/3252688/> (31 October 2017).

**Photos of birdlife & wildlife entangled, injured and trapped by barbed wire**



**Photo 1: Birds caught in barbed wire fence**

**Photo 2: Bird caught in barbed wire**



*Photo: Jack Shield Kookaburra*

*Photo: Ashleigh Johnson Ibis*

**Photo 3 & 4: Kookaburra and Ibis birds caught in barbed wire fence**



**Photo 5: Koala trapped in chain-link & barbed wire fence**



**Photos 6 & 7: Koalas trapped in chain-link & barbed fence <sup>7</sup>**

<sup>7</sup> The story about photo 6 can be read here: <https://www.beaudeserttimes.com.au/story/5367975/koala-rescued-at-aratula/>



**Photo 8: Bat trapped in a barbed wire fence**



*Photo: Ashleigh Johnson. The twisting that can occur. Note barbs have been removed before trying to remove bat from fence.*



*Photo: Ashleigh Johnson. The dieback that occurs some days after rescue. The resulting slit will make it impossible for this bat to fly.*

**Photos 9 & 10: Injuries to bat caught in barbed wire fence**



**7. The proposed two metre chain-link and barbed wire fence appears to be a disproportionate response to crime related security concerns**

1. The applicant has also informed me that they also have crime related security concerns but while these should certainly be addressed, they also need to be kept in perspective. The findings of the **NSW Bureau of Crime Statistics and Research**, referenced on the Ballina Council website, clearly indicate that Alstonville has one the lowest crime rates in NSW, with crime statistics consistently below the NSW average.
2. This can be illustrated in three areas that may be of concern to the Showground: (1) Trespass; (2) Theft; and (3) Malicious damage to property. In this regard, the Bureau publishes crime statistic maps that show the incidences of crimes within each local government area in NSW.
3. **They use a colour coding system to indicate the relative level of crime incidents, with yellow signifying the lowest level. In each case, the level of incidents is consistently shown as yellow in the Alstonville locality as shown in the maps below:**

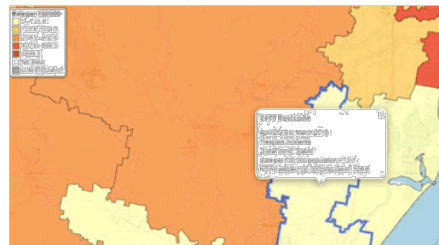


Figure 2: Level of trespass incidents in the Alstonville area

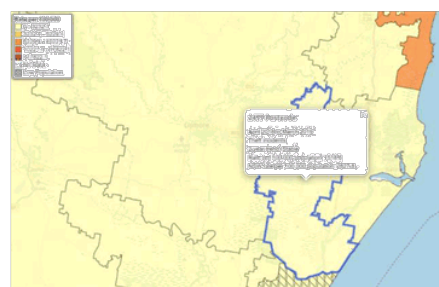


Figure 3: Level of theft incidents in the Alstonville area

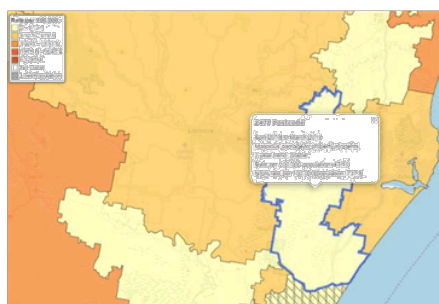


Figure 3: Level of malicious damage to property incidents in the Alstonville area



Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

3 July 2019

Dear Mr Hickey,

I have received correspondence from Mr Theo Vermeulen of Alstonville who is concerned about the proposed development applications 2019/301 and 2019/303 relating to the Alstonville Showgrounds.

Mr Vermeulen is concerned about the environmental impacts the proposed development will have. He outlines specific concerns relating to the installation of a large barbed wire fence, the impact of the proposal to remove gum trees and the movement of potentially contaminated soil towards neighbouring properties or ingestion by local fauna.

Mr Vermeulen has submitted an objection directly to Ballina Shire Council but has asked me to contact you to reinforce the need for careful consideration of his submission.

I would be grateful for any assistance or guidance you can provide in this matter.

I look forward to receiving your response at your earliest convenience.

Thank you for your time.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Tamara Smith".

**Tamara Smith MP**  
**Member for Ballina**

**Encl: Correspondence from Theo Vermeulen**

8.1 **DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground.DOC**

**From:** Theo Vermeulen <theo.vermeulen@zoho.com>  
**Sent:** Tuesday, 25 June 2019 9:22 AM  
**To:** ElectorateOffice Ballina <ElectorateOffice.Ballina@parliament.nsw.gov.au>  
**Subject:** Devastating impact of proposed showground developments on trees, birdlife and wild life in Green St, Alstonville

Dear Ms Smith

I live at the end of Green St in Alstonville and would like to bring to your attention proposed developments in the show ground that may have a devastating impact of proposed showground developments on trees, birdlife and wild life in Green St, Alstonville.

I understand of course that as a general rule, development applications are a local council matter but this involves state level matters under the NSW Biosecurity Act 2015, the NSW Conservation of Biodiversity Act 2015 and the State Environmental Planning Policy No. 44 – Koala Habitat Protection under the Environmental Planning and Assessment Act 1979.

Despite there being a requirement under the Environmental Planning and Assessment Act 1979 that developers assess and consider the impacts of proposed development on threatened species during the development assessment process, the development application does not refer to any Birdlife & Wildlife Impact Study nor does it identify the potential impact of the fence on birdlife and wildlife species that may inhabit or visit the Showground. As the photos in my attached illustration, birdlife and wildlife species are at great risk when confronted by barbed wire fences and there have been numerous instances documented injury to wildlife and birdlife caused by barbed wire in the Northern Rives. Indeed, Ballina Shire Council itself replaced all barbed wire around the sewerage treatment plants with plain wire to avoid injury to wildlife and birdlife in 2005, but the proposed development proposes to install 100s of metres of a two metre high chainlink fence topped by barbed wire around the back field of the Showground.

In addition, the showground proposes removing some of the beautiful gum trees at the end of Green Street in the showground. Those trees have been there for decades and have become a much loved and treasured part of the local landscape in that part of Alstonville. Indeed, gum trees are an environmental icon of Australia and should be preserved at all costs. In addition, it may well be that those gum trees are homes to multiple wildlife and birdlife communities. These communities will also be destroyed if the gum trees are destroyed. The situation is compounded by the fact that Alstonville has already lost the large trees that lined the Showground in Green Street some years ago. That was a tragic loss to the local community and the proposed development would remove even more trees.

In addition, the development raising serious biosecurity issues which I have detailed in my submission, but the Ballina Shire Council that it does not currently have a Biosecurity Policy to address these concerns. This is, in my view, a serious gap in the Council's risk management framework that needs to be addressed under the NSW Biosecurity Act 2015.

With some strategic modifications the showground's objectives and the concerns of residents can be both addressed. I detail these concerns and possible solutions in my submission.

I understand of course that you are very busy but your urgent attention to this matter would be greatly appreciated.

Thank you for your consideration.

Kind regards

Theo Vermeulen

Legal Adviser

Unit 9/39-45 Green Street

Alstonville 2477

PS I am currently working overseas but can be contacted through email on +675-7005-0382.

**From:** Theo Vermeulen <theo.vermeulen@zoho.com>

**Sent:** Monday, 1 July 2019 2:03 PM

**To:** ElectorateOffice Ballina <ElectorateOffice.Ballina@parliament.nsw.gov.au>

**Subject:** Re: RE: Devastating impact of proposed showground developments on trees, birdlife and wild life in Green St, Alstonville

Thank you very much for that.

Since I wrote to you, the applicant has responded to me (attached) and, as such, I have updated my Submission to Council regarding the Showground's Development Applications 2019/301 (this relates to the barbed wire fencing) and 2019/302 (this relates to the removal of gum trees at the showground). I have attached it. My substantive objections remain valid as the ONLY concession the applicant has made is not to have barbed wire directly outside my mother's unit and her immediate neighbors on the left and right but the rest of the showground would still be fenced with 100s of metres of chain-link and barbed wire fencing.

Another reason I wrote to your office is that Western Australia has, at the State level, banned the use of barbed wire on any lot adjoining a residential lot. As this is a state level initiative I was wondering if Ms Smith would consider introducing a bill proposing similar state-wide ban in NSW in relation to recreational and residential zones, although ideally it would cover all land use zones. A number of local councils have introduced similar bans but, given it's state wide impact, it would be good to have this issue dealt with by state legislation. **As I am lawyer I would be happy to assist your office in the development of any legislation in this regard on a pro bono basis.**

I am more than happy for Ms Smith to use my name, email and submission in this regard. I have attached both the PDF version for distribution and the WORD version of my submission to make it easier to copy and paste any required text or photos if you need to. You have my full permission to do that if required.

Another environmental concern of mine is the attached request from the Council to the Showground. Apparently they have in the past had cattle dips there and the soil may be contaminated. Given that they propose major earth moving operations, this may lead to the neighboring properties becoming contaminated and birds who regularly feed in the field where the work will occur being poisoned. As the showground slopes towards the

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public park and creek to the east, water run off may also carry this possibly poison (if present) into the public park and creek.

Thank you very much for your assistance and please let me know if I can help in any way.

I am currently overseas on an aid development project in PNG but I will return to Australia on 18 July for two weeks. It would be good to discuss these concerns with Ms Smith is she is available during that time frame.

Kind regards

Theo

Theo Vermeulen  
Unit 9, 39-45 Green Street  
Alstonville 2477

20 June 2019

Mr Paul Hickey  
The General Manager  
Ballina Shire Council  
40 Cherry Street  
BALLINA NSW 2480

Dear Mr Hickey

**RE: Objection Submission regarding Development Applications 301/2019 & 302/2019**

I am writing to formally object to Development Applications 301/2019 and 302/2019 lodged by the Alstonville Showground Society. My objections are based on a number of grounds which I have detailed in the attached submission.

My objections in summary are:

**Objections to Development Application 301/2019**

1. The chain-link and barbed wire fence potentially poses an unacceptable risk to my elderly mother's safety if it blocks her emergency exit gate as proposed by the development application.
2. The proposed two-metre-high barbed wire fence would make the recreation and residential areas, in my view, look like a prison or industrial park, and reduce the quality of life of my mother.
3. The proposed chain-link and barbed wire fencing is not in line with Alstonville's unique heritage and village character.
4. The proposed chain-link and barbed wire fence completely blocks access to repair or replace the 20-year-old fence on my property and the strata complex on the north side.
5. The proposed chain-link and barbed wire fence is too high, unnecessary and there are feasible more aesthetically pleasing alternatives that would address the applicant's security concerns.
6. The proposed chain-link and barbed wire fence may unintentionally create a bio-security risk for the local residents due to its proposed design and location.
7. The proposed barbed wire fence may have a negative impact on property values.
8. The proposed barbed wire fencing may represent a significant safety risk to children, birdlife and wildlife in Alstonville and, as such, may breach the Council's duty of care in this regard.
9. The proposed two metre chain-link and barbed wire fence appears to be a disproportionate response to crime related security concerns raised by the applicant as the rate of crime in Alstonville is very low according to the NSW Bureau of Crime Statistics and Research.

**Objections to Development Application 302/2019**

10. While I fully support the concept proposed by the Showground, the machinery shed design and location, as currently proposed, does not appear to fit into Alstonville's unique heritage & village character. With a few minor strategic changes in design and location, it could accommodate both the applicant's wishes and address local residents' concerns about its design and location.
11. The proposed development would remove valuable and unique gum trees that have been a treasured and much-loved part of Alstonville's landscape for decades, while vacant land is available within the showground that would not require the removal of any trees

**As such, I would be grateful if the Council could carefully consider my submission and defer approving the Development Applications in their current form to enable appropriate changes to be made that address not only my concerns but wider community concerns about these applications.**

In this regard, I have been in contact with the applicant both by phone and email to address these concerns but the applications have not been amended to an extent that address my objections.

I am more than happy and available to discuss my concerns with the applicant to see if we can come to an amiable solution but the applicant has instructed me to address any further correspondence on the matter to the Council.

Perhaps given the community concerns in Alstonville regarding these development applications, a **Community Consultative Committee** could be established by the Council to consider the development applications in more detail with the applicant to appropriately amend them to both address the community and the applicant's concerns, and to ensure the proposed developments are in line with the **Alstonville Strategic Plan 20170-2037**.

I am currently working on an aid development project in Papua New Guinea but I will be return to Australia to attend the relevant Council meeting if the development applications are referred to the Council members for assessment. I will be grateful if you could inform me by email if this will occur.

Thank you for your consideration.

Yours faithfully

A handwritten signature in black ink, reading 'T. Vermeulen', enclosed within a large, loopy, oval-shaped flourish.

**Theo Vermeulen**  
**Legal Adviser**

**A. Objections to Development Application 301/2019**

**1. The proposed chain-link fence potentially poses a serious risk to my elderly mother's safety if it blocks the emergency exit in the courtyard.**

1. I bought the adjoining property as a home for my elderly 84-year-old mum, Antje Vermeulen, so she had an aesthetically pleasing environment to spend her remaining days in.



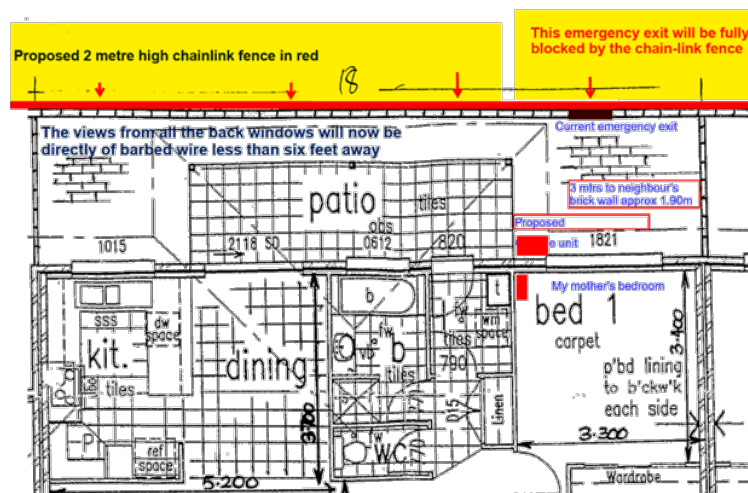
**My mum, Antje, at home in Green Street, Alstonville.**

2. The courtyard of her unit directly adjoins the showground and is bounded by two high brick walls on both sides (approx. 220 cm & 190 cm) and a 180 cm wooden paling fence at the back with a small emergency exit gate, the only exit from the courtyard in case of emergency.



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3. As can be seen in the diagram of my mother's unit below, **the proposed chain-link fence would completely block an emergency exit from my mother's courtyard**, possibly leading to serious injury or even death if my mother could not exit the courtyard in an emergency and she was unable to exit by the front door (e.g. in case of a fire or intruder). **Understandably, I am deeply concerned for my mother's safety if the proposed fence is approved in its current form.**
4. I have raised these concerns with the applicant and they came to inspect the unit to assess the situation. However, the development application has **not been amended** to provide for a corresponding emergency exit gate in the proposed fence adjoining her courtyard fence.



**Figure 1: Plan of my mother's unit showing the position of the proposed fence**

5. Instead, the applicant has informed me verbally that they did not agree to having an emergency exit gate in the unit's back fence, and, in writing, for me to enter the showground without their permission. As I informed the applicant this relates specifically to my mother, not me personally, **presumably my elderly 84-year-old mother has also been denied permission to enter their land without permission.** Effectively I am acting as her agent in this matter.
6. Firstly, the emergency exit gate was already installed as an emergency exit gate from the day the property was built and so presumably approved by the Council when the units were first constructed. The only land it enters is an empty field so the security risk to the applicant is virtually non-existent.
7. Secondly, contrary to the applicant's assertion to have an absolute determinative right over who enters their land, the law has long recognized the principle that public and private necessity creates a defence to trespass. Necessity, at law, is the situation in which it is vital to enter or cross private land to escape some imminent danger.
8. **In other words, if a person has to enter into or cross over private land to escape imminent danger than it is not legally considered trespass to land.**
9. Consequently, the applicant's objection to having a person entering their land without permission is not sustainable, at law, in the situation where the person's life is in imminent danger. In this regard, I refer both the Council and the applicant to the binding High Court of Australia decision which, once again, confirmed this legal doctrine, ***Kuru v State of New South Wales*** 236 CLR 1, [2008] HCA 26, [40] (Gleeson CJ, Gummow, Kirby And Hayne JJ).
10. **In that case the High Court held: "The common law has long recognised that any person may justify what would otherwise constitute a trespass to land in cases of necessity to preserve life or property".**

**2. The proposed two-metre-high barbed wire fence would potentially make the recreation and residential areas look like a prison or industrial park**

1. In my view, as a general rule you only see the type of fence, chain-link fence topped by barbed wire, proposed by the development application in industrial parks and prisons. Indeed, is not even common in the closest parallel to the showground, namely a farm or animal yard.
2. I currently work in Port Moresby, which has a very high crime rate, yet even there the council has banned barbed wire from being used within the city boundaries due to its appearance,
3. Using that type of fence in places zoned either private recreation zoning or residential, as proposed by the development application, would make those zones in this part of Alstonville places look like a prison or industrial park and is completely out of character with the residential and private recreation zones of the two adjoining areas as the photos below illustrate:



**Fence proposed by application**



**Similar style of fence seen in prisons and industrial parks proposed by the development application**



**Example of a fence similar to the one that the DA proposes surrounding an industrial building. How can this be acceptable between an adjoining recreation zone and residential zone?**

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4. This is compounded by the fact that the proposed fence is only just over two metres from my mother's windows in her dining room, kitchen and bedroom. She will be looking at a chain-link fence through the panes of her fence. **This is both aesthetically and psychologically unacceptable to my mother and would, in my view, significantly reduce the quality of her life.**
5. The problem is made worse by the fact that her courtyard is stepped down from the showground so while the fence is 180 cm on the showground side, in the courtyard it will in effect be 200 cm high, towering over her.
6. Currently the showground field constitutes a beautiful open green recreational space in the middle of a residential zone. Having a two-metre high chain-link fence topped by barbed wire fully surrounding it, as proposed by the development application, will irrevocably change the recreational and residential ambiance, character, environment and appearance of the neighbourhood for the worse. Residents on the other side would be looking directly at barbed wire from outside their windows, while half of my strata complex will be fenced in by barbed wire.
7. In this regard, currently the Alstonville Showground is zoned "RE2 - Private Recreation" under the **Ballina Local Development 2012**. One of the key objectives for this zoning is to "To enable development that is compatible with the recreational nature and environmental character of the land" (BLDP 2012 RE2 Land Use Table).
8. **The proposed two-metre high chain-link fence topped by barbed wire is completely at odds with this objective. It is neither compatible with its parklike environmental character, including the public park that adjoins the showground to the east, or its recreational use.**
9. **Indeed, no other private or public recreation zone in Alstonville, or even the Ballina Shire as a whole, is surrounded by a two-metre-high chain-link fences topped by barbed wire, particularly not when that recreation zone is located fully within a residential zone. In this regard the development application, if approved, would set a very undesirable precedent.**
10. As the photos below show, there are numerous attractive alternatives that would: (1) provide the security the show ground requires; (2) be aesthetically pleasing; and (3) fit into the unique village character of Alstonville, rather than the proposed chain-link and barbed wire fence. For example, more closed fencing could be used along the units or houses, depending on the residents' preferences, while more open fencing could be used on the east side that adjoins the public park. **This also fits into Council's policy that fences should vary in appearance.**



**Alternative fence design that could be used along the residential homes that adjoin the showground that would meet the applicant's security concerns**



**Alternative type of fence that could be used along the open side of the showground that adjoins the public park that would meet the applicant's security concerns**

**3. The proposed chain-link and barbed wire fencing is not in line with Alstonville's unique heritage and village character**

1. The proposed development, in my view, compromises the unique heritage and village environment in Alstonville and appears not to be in line with the Council's development strategy in Alstonville to retain its unique heritage and village character and ambience.
2. Indeed, in this regard, the 2017 **Alstonville Planning and Environmental Study** conducted by Ballina Shire Council identified Alstonville as a unique part of the Ballina Shire due to its unique heritage and village character that should be preserved.
3. The Study specifically noted that the BSDCP 2012, in relation to Alstonville, places emphasis on: "ensuring compatibility of new development with the character of the village centre in terms of land use, design and external appearance; particularly having regard for identified buildings of cultural and historic significance". While this is specifically about commercial development, arguably the principles should apply to all development in Alstonville to ensure it retains its unique heritage character.
4. The subsequently adopted **Alstonville Strategic Plan 2017-2037** reinforced the Council's commitment to retaining and enhancing Alstonville's unique heritage and village character.
5. In this regard, specifically in relation to the Showground, the **Ballina Local Environment Plan 2012** lists the Showground Main Gates as a heritage item. In addition, the applicant states the machinery shed will be used to house and display heritage farming items.
6. **As such, the proposed fencing should also reflect this heritage background and be congruent with it, rather than just a stark, ugly chain-link fence topped by barbed wire.**
7. As noted above, there are numerous aesthetically appealing, secure and environmentally sound fencing options that would address the applicant's alleged security concerns that would be congruent with Alstonville's unique heritage and village character. Instead, the DA offers only the most aesthetically displeasing option: A two-metre-high chain-link fence topped by barbed wire that will make the showground look like a prison or industrial park.
8. **Consequently, in line with the Alstonville Strategic Plan's emphasis on village beautification, Ballina Council should, as a matter of policy, reject any use of barbed-wire and chain-link fences in Alstonville in zones classified as residential, private recreation or public recreation, as it is not compatible with Alstonville's unique village character.**

**4. The proposed chain-link and barbed wire fence blocks access to repair or replace the fence on my property and the unit complex on the north side**

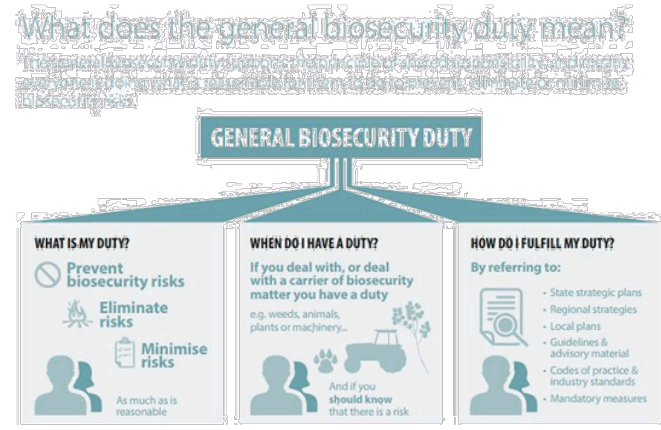
1. Under Section 20 of the **Dividing Fencing Act 1991**, I have a legal right to enter the adjoining property for the purpose of repairing or replacing a dividing fence. Specifically the section states: **20. Right to enter adjoining land: An adjoining owner who carries out fencing work under this Act (including the owner's employees or agents) may, at any reasonable time, enter on the land adjoining the dividing fence for the purpose of carrying out the work.**
2. However, the development application proposes to build a chain-link fence **literally right up against my fence with no space in between the two fences**. Consequently, if I wish to replace my fence, I will be unable to do so as the mounting posts are on the outside edge of the fence and access to them would be fully blocked by the applicant's proposed chain-link wire fence.
3. **In addition, due to the courtyard being enclosed on all sides the only reasonable access to my fence for the purpose of replacing it is accessing from the adjoining property.** My fence is now approximately 20 years old and will need to be replaced shortly but this will now not be possible as the chain-link fence will completely block access to the existing fence. That could also potentially create a dangerous situation as it would collapse into the courtyard as it ages.
4. Moreover, under the **Dividing Fences Act 1991**, the applicant, as an adjoining property holder, is also required to sit down with me and attempt to agree on the style of fencing with me. I have informed the applicant the proposed ugly style of fencing is unacceptable to me but they have simply proceeded with it in a slightly amended form. The new design is still unacceptable.
5. In addition, the Body Corporate of the strata complex at 39-45 Green St, Alstonville, where my unit is located, has made no official decision agreeing to the fence being placed there.
6. **Moreover, while the Council does not directly administer the Dividing Fencing Act, it is bound to take into consideration any applicable legislation that may be relevant to the proposed development, regardless of whether the Council administers that legislation or not.**
7. **Consequently, the Council should defer approving the development application until these concerns have been addressed by the applicant, and the situation has been resolved under the provisions of the Dividing Fencing Act 1991.**

**5. The chain-link and barbed wire fence is too high & unnecessary**

1. The **Ballina Shire Development Control Plan 2012 (Chapter 4 – Residential and Tourist Development)** (Zones summarised in the table below) sets height limits, among other requirements, for fencing in residential and tourist developments, being 120 cm for a front fence and 180 cm for a rear fence.
2. In this regard, while the Showground is zoned "private recreation" it is also effectively a tourist development as it attract tourists visiting its shows and it provides overnight accommodation, for a fee, to visiting tourist to the Ballina Shire.
3. As such, arguably the same fence height restrictions should apply to the Showground, particularly as the fence they have proposed literally adjoins a residential area.
4. In this regard, while the proposed fence backs on to my back-fence, **their proposed fence is actually the front fence of the showground as that side faces Green Street** and that is where the front entrance to the field is. As such, that fence should be no higher than 120 cm.
5. **Moreover, specifically where my unit is located, the fence is completely unnecessary as there is an existing a secure 180 cm wooden paling fence that addresses the applicant's security concerns, so the Council should defer approve the proposed fence until these concerns have been addressed.**

**6. The proposed fence in its proposed form and location may unintentionally create a bio-security risk**

- Under the NSW **Bio-security Act 2015** people who own, manage or control animals are required to exercise a duty of care in relation to biosecurity, as illustrated in the diagram below. **I am confident that the Alstonville Showground is doing this in relation to their animal events and I commend their determination to address this issue to ensure the safety of the public.**



**Duty of care under the NSW Biosecurity Act 2015 (source: NSW DPI)**

- In this regard, the applicant has informed me that the fence, in its proposed form and location, is required for bio-security purposes to protect the public. **I commend the applicant for raising this concern as it highlights a serious public safety issue that needs to be addressed.**
- However, if the purpose of the proposed fence is to address bio-security concerns, why does it **directly adjoin homes** next to the showground, some which are only a few metres away?
- While I am not a bio-security expert, common sense would seem to indicate that if there are potential bio-security issues in the showground then the proposed fence should be of a more closed design and be erected **at least five to ten metres from the boundary line of any residential properties that adjoin the showground to create a secure and safe BIO-SECURITY BUFFER ZONE that would isolate the showground from the homes around the showground.**
- In this regard, the NSW Department of Primary Industries found that “Approximately 60-70% of emerging human infectious diseases are zoonoses [diseases that can be transmitted from animals to humans) and originate in domestic or wild animals”, and that the most effective protection was isolating animals and avoiding contact with animals.<sup>1</sup>
- Isolating sick animals from people is one of the basic requirements when addressing bio-security concerns. This **buffer zone** would also allow bio-security experts, if required, to walk around the enclosed animals to observe their condition without coming into direct contact with them. Indeed, the NSW Department of Primary Industries states that in relation to horses suspected of having **Hendra virus disease:**

All people who handle or come within five metres of the horse must wear appropriate PPE. The horse must be kept in isolation until the testing results are known. The horse should be regularly observed from a distance of at least 5 metres to monitor its welfare and assess the possible need for euthanasia.<sup>2</sup>

<sup>1</sup> NSW DPI <https://www.dpi.nsw.gov.au/biosecurity/animal/humans/general-information/zoonoses-transmission>. Additional information in DPI Fact Sheet 814 “Zoonoses – animal diseases that may infect humans”

<sup>2</sup> NSW DPI (2011) Fact Sheet 1128 “Guidelines for the management of suspect Hendra cases at horse events”

5. **As such, erecting an open chain-link fence back to back to the residential fences adjoining the showground may unintentionally INCREASE the bio-security risk, rather than reducing it.**
6. This is particularly the case in the field that the applicant proposes to fence, as horses are kept there on a regular basis.
7. As such, by not effectively isolating animals from the surrounding residents when required, the proposed design and location of the proposed fence could inadvertently facilitate the transmission of disease due to its close proximity to residential homes. In my mother's case the proposed chain-link fence would be approximately 2.5 metres from her bedroom window.
8. The Department of Primary Industries states that "the Biosecurity Act 2015 also establishes a general biosecurity duty. This means if you deal with biosecurity matter or a carrier you need to identify the risks it may pose and act to manage or mitigate the risk".<sup>3</sup>
9. As such, while I am convinced that the applicant is fully addressing their duty of care in relation to bio-security at Alstonville Showground, I am somewhat concerned that the development application, given that the applicant states that the proposed chain-link and barbed wire fence is required to address bio-security concerns, does not:
- 1) specify the exact nature of the bio-security risks that the proposed fence is intended to address to ensure public safety;
  - 2) what steps have been taken to reduce these bio-security risks up to now; and
  - 3) how specifically the proposed chain-link and barbed wire fence would address and mitigate the identified bio-security risks, **to ensure the safety of visitors and residents to and near the showground.**
10. For instance, while nominally addressing bio-security concerns, the development application makes no reference to any State or regional bio-security strategies,<sup>4</sup> bio-security codes of practice, bio-security industry standards or even mandatory bio-security measures, that would suggest that the fence, in the proposed form and location, is in fact the most suitable means of addressing bio-security concerns at Alstonville Showground.
11. If the proposed fence is to address specific bio-security concerns, clear reference to these legislative and policy bio-security requirements should be made to ensure that: the proposed (1) design; (2) material; and (3) location of the fence do, in fact, address any particular bio-security concerns that may arise at the Showground, to ensure the safety of residents and visitors.
12. In addition, the development application does not that refer to **any study or assessment of potential bio-security concerns** at Alstonville Showground and how these may be addressed.
13. In this regard, bio-security is a comprehensive set of measures for protecting a population from infectious diseases at the national, regional and farm level, of which fencing to isolate stock is only one component. However, the applicant has not provided, along with the development application, an **Alstonville Showground Bio-Security Action Plan** to address any identified bio-security concerns should these arise at the showground.
14. **Under these circumstances it is extremely difficult for the Council to be in a position to reasonably assess if the proposed fence is: (1) the right design; (2) the right material; and (3) in the proper location, to address any potential bio-security concerns at the showground, as the required information to make such an assessment has simply not been placed before Council at this stage.**

<sup>3</sup> NSW DPI website: <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity>. Additional information can be found here: <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity/the-general-biosecurity-duty>

<sup>4</sup> For example, the **NSW Biosecurity Strategy 2021** developed by the NSW Department of Primary Industries, <https://www.dpi.nsw.gov.au/biosecurity/managing-biosecurity/nsw-biosecurity-strategy-2021>

15. This is compounded by the fact that the Council does not currently have a **Bio-security Policy** that might provide a set of criteria to guide such a bio-security assessment, to ensure the safety of residents and visitors within Ballina shire.

16. **Consequently, the most appropriate course of action would be to defer approving the development application, given its bio-security implications, until the Council has developed a Bio-Security Policy and an independent Bio-security Study has been conducted to:**

- 1) **assess any potential bio-security concerns at Alstonville Showground;**
- 2) **the possible risks these pose to visitors and residents; and**
- 3) **how these may be most effectively addressed.**

### **7. The proposed chain-link and barbed wire may have a negative impact on property values around the Showground**

1. The industrial appearance of the proposed chain-link and barbed wire fence may seriously and negatively impact on property values as potential property buyers will be less likely to buy a home that has barbed wire running just outside their windows or has backyard that looks like an industrial park or prison.
2. **This applies to all the homes surrounding the show ground, not just my own. Indeed, while the Showground is zoned "RE2 - private recreation" it sits in the middle of a residential zone.**
3. While the showground has some existing fencing similar to what is being proposed, the difference is that the existing fence is far away from any surrounding homes, is limited in length, and does not adjoin any residential fences.
4. I am also concerned that for quite some time now a large number of large trucks and heavy machinery are operating from the showground and creating a lot of traffic and noise in Green Street. In addition, various forms of piping and other industrial goods are being stored in public sight against the outer boundary fence, within the Showground.
5. Additional chain-link fencing, topped by barbed wire, around the showground would make the showground look even more like an industrial park or prison, while the surrounding residential zone will look like an industrial zone. Indeed, arguably the current chain-link and barbed wire fencing should never have been approved in the first place.
6. **Consequently, the Council should defer approving the development application until these concerns have been addressed.**



Large industrial trucks, equipment and goods stored at the Showground with industrial park style fencing



**8. The proposed chain-link and barbed wire fencing may potentially pose a significant safety risk to children, birdlife and wildlife in Alstonville and, as such, may breach the Council's duty of care in this regard.**

1. When there are events on at the Showground there are many children present and there are also young children living in streets surrounding the showground. As we all know, children love to climb fences.
2. As such, having a **chain-link fence topped by barbed wire** could significantly increase the risk of serious injury to these children as the chain-link wire would easily enable them to climb the fence and then the barbed wire on the top could seriously injure them, including cutting their eyes. **Can you imagine the horrific nature of such an injury?**
3. As such, in my view barbed wire fencing should not be used in recreation grounds, regardless of their zoning, where children regularly visit and play. This is particularly the case as the Applicant states they will have school groups coming to visit the showground to see the farm heritage equipment they propose to display in the proposed machinery shed (DA 302/2019).
4. **In this regard, the Council or the Showground may be held legally liable, should the development be approved, and subsequently someone, particularly a child, suffers a serious injury due to the barbed wire. Naturally I am concerned that a commendable community organisation like the Alstonville Showground Society or the Ballina Shire Council may be exposed to such a liability risk.**
5. **Consequently, the most appropriate course of action would be to mitigate this risk by deferring the approval of the development application until this risk has been addressed by changing the design, materials and location of the proposed fencing.**
6. In addition, a number of bird and bat colonies live in or visit the showground, with birds visiting every day the field where the proposed chain-link and barbed wire fence will be. They will be at risk of serious injury if there is a two-metre fence topped by barbed wire fence surrounding that field.
7. **Indeed, Ballina Shire Council itself replaced all barbed wire around the sewerage treatment plants with plain wire to avoid injury to wildlife and birdlife in 2005.**
8. Sunshine Coast Council also recommends that barbed wire not be used as "Tens of thousands of native animals die every year on barbed-wire fences. Sadly, they often take days to die and are left in fear and agony if they are not found and rescued".<sup>5</sup>
9. The Northern Territory Government has also stated that "Many native animals become victims of barbed wire entanglement. Entanglements usually happen when nocturnal animals don't see fencing or can't clear the height of the fencing. Over 75 native wildlife species have been recorded as becoming entangled on barbed wire fencing".<sup>6</sup>
10. In this regard, I refer the Council to the study done by Ballina Shire Council entitled "**Alstonville Planning and Environmental Study**". That study noted that there are a number of threatened wildlife species within the Alstonville locality. In particular, it noted that the Grey-Headed Flying fox, Rose-Crowned Fruit Dove, Spotted Harrier, the Little Eagle, and koalas were under particular threat as indicated in the table below reproduced from the study.<sup>7</sup>

<sup>5</sup> Sunshine Coast Council <https://www.sunshinecoast.qld.gov.au/Environment/Education-Resources-and-Events/Environment-Resources-and-Publications/Natural-Resource-Management-and-Conservation-Techniques/Barbed-wire-fences>

<sup>6</sup> Northern Territory Government (2019) <https://nt.gov.au/environment/animals/wildlife-caught-on-fencing>

<sup>7</sup> Ballina Shire Council (2017) **Alstonville Planning and Environmental Study**, 06/2017, page 16.

Table 5: Top 5 Recorded Animal Threatened Species in Alstonville - Wollongbar Locality

SPECIES	STATUS (NSW TSC ACT 1995)	NUMBER OF RECORDS
<i>Phascolarctos cinereus</i> (Koala)	Vulnerable	99
<i>Pteropus poliocephalus</i> (Grey-headed Flying-fox)	Vulnerable	20
<i>Ptilinopus regina</i> (Rose-crowned Fruit-Dove)	Vulnerable	15
<i>Circus assimilis</i> (Spotted Harrier)	Vulnerable	10
<i>Hieraaetus morphnoides</i> (Little Eagle)	Vulnerable	6

11. The Study also noted that “Alstonville is also the northern boundary of a nationally significant koala population (Ballina Koala Habitat Study 2015)” and, indeed, the Study indicates that there have been sightings of koalas within the Alstonville township (page 16). In addition, Alstonville is part of the Koala Planning Area under the **Ballina Shire Koala Management Strategy 2016**.
12. **Koalas continually migrate from one local area to another so need to cross open lands.** When faced with a chain-link topped by barbed wire, as proposed in the development application, besides impeding their migratory patterns, they may get seriously injured or trapped by the strands of barbed wire on top of the fence if they climb the fence to continue their migration.
13. I note also in this regard that the Showground has gumtrees which are, of course, the type of leaves that koalas consume so koalas would be attracted to the showground.
14. The **Environmental Planning and Assessment Act 1979**, of course, imposes obligations on developers and consent authorities to assess and consider the impacts of proposed development on threatened species during the development assessment process, including on koalas under the **State Environmental Planning Policy No. 44 – Koala Habitat Protection**. The **Biodiversity Conservation Act 2016** (NSW) is also applicable here.
15. While I am confident that the Council will do so, I note that the development application does not refer to any **Birdlife & Wildlife Impact Study** nor does it identify the potential impact of the fence on birdlife and wildlife species that may inhabit or visit the Showground.
16. **As the photos below illustrate, birdlife and wildlife species are at great risk when confronted by barbed wire fences and there have been numerous instances documented injury to wildlife and birdlife caused by barbed wire in the Northern Rives.** For example, the **Northern Star** reported that flying foxes, particularly females that are pregnant or heavily laden with a pup, repeatedly get entangled by barbed wire when they misjudge the height of the fence.<sup>8</sup>
17. **Consequently, the Council should defer approving the development application until a Wildlife and Birdlife Impact Study has been done in relation to the application. Such study should, in particular, identify and assess the impact of the proposed chain-link and barbed wire fencing on birdlife and wildlife in and around the Alstonville Showground.**

<sup>8</sup> <https://www.northernstar.com.au/news/barbed-wire-injures-vulnerable-flying-foxes/3252688/> (31 October 2017).

Photos of birdlife & wildlife entangled, injured and trapped by barbed wire



Photo 1: Birds caught in barbed wire fence

Photo 2: Bird caught in barbed wire



*Photo: Jack Shield Kookaburra*

*Photo: Ashleigh Johnson Ibis*

Photo 3 & 4: Kookaburra and Ibis birds caught in barbed wire fence



**Photo 5: Koala trapped in chain-link & barbed wire fence**



**Photos 6 & 7: Koalas trapped in chain-link & barbed fence <sup>9</sup>**

<sup>9</sup> The story about photo 6 can be read here: <https://www.beaudeserttimes.com.au/story/5367975/koala-rescued-at-aratula/>



**Photo 8: Bat trapped in a barbed wire fence**



*Photo: Ashleigh Johnson. The twisting that can occur. Note barbs have been removed before trying to remove bat from fence.*



*Photo: Ashleigh Johnson. The dieback that occurs some days after rescue. The resulting slit will make it impossible for this bat to fly.*

**Photos 9 & 10: Injuries to bat caught in barbed wire fence**

**9. The proposed two metre chain-link and barbed wire fence appears to be a disproportionate response to crime related security concerns**

1. The applicant has also informed me that they also have crime related security concerns but while these should certainly be addressed, they also need to be kept in perspective. The findings of the **NSW Bureau of Crime Statistics and Research**, referenced on the Ballina Council website, clearly indicate that Alstonville has one the lowest crime rates in NSW, with crime statistics consistently below the NSW average.
2. This can be illustrated in three areas that may be of concern to the Showground: (1) Trespass; (2) Theft; and (3) Malicious damage to property. In this regard, the Bureau publishes crime statistic maps that show the incidences of crimes within each local government area in NSW.
3. **They use a colour coding system to indicate the relative level of crime incidents, with yellow signifying the lowest level. In each case, the level of incidents is consistently shown as yellow in the Alstonville locality as shown in the maps below:**

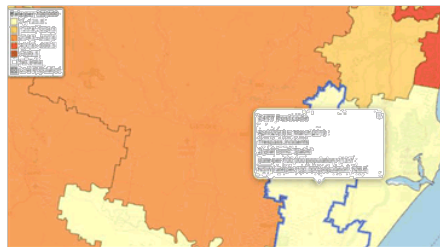


Figure 2: Level of trespass incidents in the Alstonville area

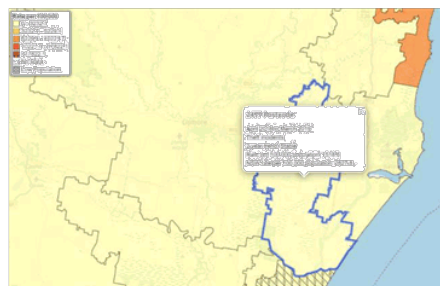


Figure 3: Level of theft incidents in the Alstonville area

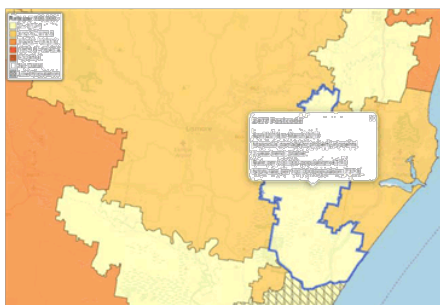


Figure 3: Level of malicious damage to property incidents in the Alstonville area

## Objections to Development Application 302/2019

### 10. The machinery shed, in its proposed form, does not appear fit into Alstonville's unique heritage & village character.

1. As noted above, the **Alstonville Planning and Environmental Study** conducted by Ballina Shire Council in 2016 identified Alstonville as a special part of the Ballina Shire, **with its unique heritage and village character**.
2. The subsequently adopted **Alstonville Strategic Plan 20170-2037** reinforced the Council's commitment to retaining and enhancing this unique heritage and village character.
3. The proposed machinery shed at nearly 320 square metres in area and nearly four metres high is completely out of character with the surrounding buildings and Alstonville's unique heritage and village character.
4. Indeed, a nearly four-metre-high building, as proposed in the development application, is the typical height of a two-story home, not a machinery shed. That is substantially out of line with the surrounding buildings with the exception of the Alstonville Leisure and Entertainment Centre, which has to be built high to accommodate sports events.
5. Although in a recreation zone, the proposed appearance also does not fit in with the unique heritage and village character of buildings in Alstonville. Instead, it looks like the type of industrial storage shed you would see in an industrial park or commercial development.
6. **However, I stress that I am fully supportive of the Showground's initiative to store and display heritage farming equipment.** Indeed, this aspect of the development application fits in with Alstonville's unique heritage and village character. **With a few minor strategic changes in design and location, it could accommodate both the proposed shed and local residents' concerns about its height, appearance and location. For instance:**
  - a) As the proposed use is for the storage and display of heritage farming equipment, ideally the appearance of the building should reflect that, with low roof line and the use of heritage-themed building materials and colours. It could, for example, resemble a typical wooden farming shed used in the early days. Indeed, the **Alstonville Planning and Environmental Study by the Ballina Shire Council** proposed that all new buildings in Alstonville have a low height and blend in with the existing heritage themed buildings in Alstonville to preserve its unique character and preserve existing views.
  - b) The proposed location of the proposed building in nearly the centre of the showground makes the building very obvious rather than blending in with the surrounding neighbourhood. It could be built much closer to the **Alstonville Leisure & Entertainment Centre** so that it blends into the built environment.
  - c) **This would also provide an opportunity for a unique collaborative venture between the Showground and Ballina Shire Council.** With a dedicated footpath providing access from the Leisure Centre, school children visiting the Leisure Centre could, at the same time, visit the proposed machinery shed and so learn about Alstonville's farming heritage. Indeed, over time the shed could evolve into an **Alstonville Farming Heritage Centre** as a significant tourist drawcard in the shire and fund raiser for the showground.
  - d) Locating the shed closer to the **Alstonville Leisure & Entertainment Centre** would also **address local residents' concerns over increased traffic and parking in Green Street.** Indeed, the back entrance to the showground in Green Street is only supposed to be a back-up entrance when full events are held at the showground, not a regular entrance.
  - e) Local residents are naturally concerned at the increased level of traffic that the machinery shed may generate as the applicant has indicated that they will most likely use the Green Street entrance for visiting groups to the machinery shed. This may greatly increase the traffic in a quiet dead-end residential street such as Green Street.

f) Relocating the shed closer to the **Alstonville Leisure & Entertainment Centre** would resolve this issue as it will enable the main showground entrance to be used by visitors. In addition, there are already dedicated extra car parking spaces in Commercial Road along that side of the showground that could be used by visitors to the shed. It also provides an opportunity to showcase the showground's original heritage-listed entrance gate as focal point related to the farming theme of the machinery shed.

**7. Consequently, the Council should defer approving the development application until it is amended to address residents' concerns about its proposed design and location.**

#### **11. The development would remove valuable gum trees in Alstonville**

1. The applicant proposes that some gum trees be removed to accommodate the machinery shed while it is the Council's policy to conserve trees in the Shire as much as possible. This would remove beautiful, tall gum trees that have been there for decades and have become a much loved and treasured part of the local landscape in that part of Alstonville. Indeed, gum trees are an environmental icon of Australia and should be preserved at all costs.
2. In addition, it may well be that those gum trees are homes to multiple wildlife and birdlife communities. These communities will also be destroyed if the gum trees are destroyed.
3. The situation is compounded by the fact that Alstonville has already lost the large trees that lined the Showground in Green Street some years ago. That was a tragic loss to the local community and the proposed development would remove even more trees.
4. **Moreover, it appears that a large expanse of vacant land without trees is available within the Showground boundaries, particularly closer to the Alstonville Leisure & Entertainment Centre, so these could be used to accommodate the proposed building, without having to remove these unique and irreplaceable gum trees.**
5. In any case, under **BSDCP 2012, Chapter 2A, Part 3.1**, any proposal to remove trees require a separate **Vegetation Management Works Application** to be lodged as there is not current approved development application in place. As such, until that is done, Council is not in a position to approve the removal of any trees as proposed by the development application
6. **Consequently, the Council should defer approving the application until the above concerns are addressed and the proposed building is moved to a part of the showground that does not require removing any trees.**



Beautiful gum trees in the Showground that are a much-loved part of the local landscape and viewable from most houses surrounding the showground on three sides, particularly Green Street.



8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground.DOC

**From:** [Ballina Shire Council](#)  
**To:** [Planning and Environmental Health Support Staff](#)  
**Subject:** FW: From residents on Elliott Ave - Alstonville  
**Date:** Thursday, 4 July 2019 7:16:11 AM  
**Attachments:** [BallinaShireCouncil\\_0dfeff4c-c316-4ab6-8aee-fd47019c18551111111111111111.gif](#)  
[Facebook\\_1069ab37-fa6c-4210-92cf-9e3d62afad6f1111111111111111.png](#)  
[CommunityconnectJuly2019staffemailfooter\\_14c5eb5d-eb30-415f-8c34-803efb050f77.jpg](#)

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**From:** Katerina Erokhina [mailto:[ekat.russia@gmail.com](mailto:ekat.russia@gmail.com)]

**Sent:** Thursday, 4 July 2019 6:52 AM

**To:** [rsmorrow@bigpond.com](mailto:rsmorrow@bigpond.com)

**Subject:** From residents on Elliott Ave - Alstonville

Good morning,

I live on Elliott st in Alstonville and my back yard faces the Showgrounds.

I read on a Facebook community page information that there is an approval for a barbed wire fencing for the Showground. Could you please confirm that it is correct? As a resident of a house which backyard is directly opposite the grounds I am really concerned and will appreciate if someone gets back to me regarding this information.

Thank you.

Kind regards,

Katerina

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**From:** Theo Vermeulen <[theo.vermeulen@zoho.com](mailto:theo.vermeulen@zoho.com)>

**Sent:** Tuesday, June 25, 2019 12:55 AM

**To:** Councillor Sharon Parry

**Subject:** Development Applications 301/2019 and 302/2019 and the Council's Duty of Care

Dear Councillor Parry

I am writing to you about **Development Applications 301/2019 and 302/2019** lodged by the Alstonville Showground. I have already submitted the attached submission to the Council in the normal manner during the consultation process so there is no need to refer it on.

Instead, I am writing to you in relation to two things:

**1. Firstly**, as a resident of the shire, I would be grateful if you could support my submission if it is referred to the Councillors for determination. In a nutshell, the Alstonville Showground proposes to build a, predominantly, 2 metre high chain-link and barbed wire fence immediately adjoining the residential homes surrounding the showground and to build a large-scale machinery shed.

However, while I support these proposals in principle, I have some concerns in relation to the design, material and location of these two developments. With some strategic modifications the showground's objectives and the concerns of residents can be both addressed. I detail these concerns and possible solutions in my submission.

**2. Secondly**, what on the face of it appears to be a relatively minor development application raises significant public health and policy issues for Ballina Shire Council that need to be urgently addressed. These issues are:

(a) Should Council fencing rules stipulate what fencing materials can (or not) be used in each zone? Currently BSDCP 2012 only addresses fence height and design (in very general terms) but this raises the issue if, for example, barbed wire should be permitted in recreational and residential zones.

Besides being very unattractive, it can cause serious injury to people, particularly children, and can have a devastating impact on local bird and wildlife. Indeed, Ballina Shire Council itself replaced all barbed wire around the sewerage treatment plants with plain wire to avoid injury to wildlife and birdlife in 2005. I detail these concerns in my submission.

(b) The showground have indicated that they have some biosecurity concerns in relation to the showground, hence the need for a fence. However, their proposal to erect an open chain-link fence directly against residential fences adjoining the showground may unintentionally INCREASE the bio-security risk, rather than reducing it.

More broadly, this raises significant public health and policy issues within the shire, namely what potential biosecurity risks do residents living near the showground face given that the showground, unlike most showgrounds, is surrounded by residential zones on all four sides? Bio-security is, of course, a comprehensive set of measures for protecting a population from infectious diseases, of which fencing to isolate stock is only one component.

**I understand that the showground is not Council property but as this issue potentially affects all local residents and visitors, not just the showground, the Council has a duty of care in this regard.**

However, I was informed by the Council that it does not currently have a **Biosecurity Policy**. This is, in my view, a serious gap in the Council's risk management framework.

In this regard, while the Council is subject to the general provisions in the **NSW Biosecurity Act 2015**, given the residential location of the showground in Alstonville and the fact that Ballina Shire is a rural shire there is an urgent need to develop both a Council **Bio-security Policy** and a **Bio-security Action Plan** to ensure the safety of residents and visitors within the shire, as required by the Council's duty of care.

I am more than happy to discuss these issues in more detail with you and the Council and I thank you for your consideration.

Kind regards

Theo Vermeulen

**8.1 DA 2019/301 - Site Levelling, Fencing and Demolition Works - Alstonville Showground.DOC**

Legal Adviser

Unit 9/39-45 Green Street  
Alstonville 2477

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**From:** [Ballina Shire Council](#)  
**To:** [Planning and Environmental Health Support Staff](#)  
**Subject:** Sent to Lucy proposed chain link & barbed wire fence around Alstonville showground  
**Date:** Thursday, 4 July 2019 12:40:06 PM  
**Attachments:** [BallinaShireCouncil\\_0dfeff4c-c316-4ab6-8aee-fd47019c18551111111111111111111111.gif](#)  
[Facebook\\_1069ab37-fa6c-4210-92cf-9e3d62afad6f1111111111111111111111.png](#)  
[CommunityconnectJuly2019staffemailfooter\\_14c5eb5d-eb30-415f-8c34-803efb050f77.jpg](#)

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**From:** Tracey Abikhair [mailto:traceyabikhair@gmail.com]  
**Sent:** Thursday, 4 July 2019 11:42 AM  
**To:** Ballina Shire Council  
**Subject:** proposed chain link & barbed wire fence around Alstonville showground

Dear Council,

Please be aware that many members of the public (including me) are very much opposed to the idea of a chain link and barbed wire fence around Alstonville showground for the following reasons:

1. This fence would propose a risk to our already threatened wildlife.
2. It would be extremely ugly and not in line with the beauty and welcoming vibe of the Alstonville village

I will also be writing to our local members and the Alstonville showground representative to express my concerns over this matter.

Regards,  
Tracey Abikhair

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