

Attachment 1 – Submission from T Prendergast dated 24 September 2019

24/9/19

**General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478**

Dear Paul,

I strongly oppose the proposal for the Ballina Council Attached Dual Occupancy Alstonville CM2078. The proposal will create an additional 13 neighbours adjoining our land (which is a rural property) that has provided the northern boundary of Alstonville township since 1935.

I believe the planning to be inappropriate for a number of reasons which include:

- The long term sustainability of a workable growth plan for Alstonville is questionable and lacks a cohesive strategy that may dramatically alter the township (The proposal relies on LEP changes, while at the same time significant sections of the LEP remain contested and in need of finalisation).
- Loss of amenity for both families and the wider community.
- Inability of the proposed properties (or council) to provide sufficient buffering or graduation of the urban environment to a rural setting that is affected by this proposal.
- Exacerbation of long-standing, existing and unresolved conflict of land-use and unlawful trespass on our property.
- Greater degree of immediate noise generation due to the higher population density created.
- Inadequate parking regulations and other traffic allowances.
- Unknown depreciation of land prices in the immediate and neighbouring locations - in fact the value proposition of this proposal has not been clearly articulated.
- Unknown and unassessed impacts on flora and fauna.
- Environmental impact unknown and not addressed.

I believe that the planning currently proposed stems back to 1983 when then Commissioner Simpson was satisfied with a buffer to the township be situated on the western side of Alstonville only. Alternatively the Ballina Council at that time chose to apply the buffer to not only the west of Alstonville but also to the eastern and northern sides. This Council policy subsequently halted any developments towards these directions that in many cases would have been normal and logical and in line with the growth of the town. As an example the planned minor rounding-off of the town which would have addressed numerous problems (that currently still exist) did not occur. In contrast the proposed Ballina Council proposed Attached Dual Occupancy Alstonville policy will in addition to previous unresolved problems create new and additional ones.

The Issues

If this policy is approved, my wife and I will have up to 13 new neighbours. It is our opinion that there is nothing within the proposed Council policy that addresses numerous problems that currently exist, all of which relate to the rural urban interface of the Alstonville township and our property. These include:

- No consideration of our “right to farm”. The existing housing density that exists along much of our southern boundary makes it virtually impossible for us to farm our land. This will only be exacerbated with approval of this policy.
 - We are unable to have cattle, horses or other livestock on our property due to constant complaints from our urban neighbours.
 - We have a 150 metre exclusion zone for spraying chemicals. This effectively stops all possible horticultural pursuits.

No consideration of the urban run-off which discharges from neighbouring urban areas onto our farm.

No consideration of the fact that these properties will be connected to sewerage and that this sewerage infrastructure will require access across our land. Currently there is no sewerage easement in place for either these existing or proposed homes.

No consideration for the already excessive trespass that occurs onto our property. Adding another 13 neighbours will only increase this issue.

No consideration for the environment nor the enjoyment of a number of naturally occurring assets such as Tosha Falls, Lumley Park and McGuires Scrub.

Council, with proper and good-practice planning, have the opportunity to address the above issues once and for all rather than dismissing them as insignificant. It is possible to have a better environment, better community atmosphere and also better housing solutions at the same time.

The Solutions

I believe that a sound solution to addressing the issues above is to allow us to develop our southern boundary, particularly in the vicinity of Rosedale Place and Hillburn Place. The benefits of allowing this:

- Provide sufficient buffering and graduation of the urban environment to neighbouring rural properties which is consistent with best-practice planning and the intent of the minor rounding-off commitment provided by Commissioner Simpson.
- Provide high community-value housing, either as affordable accommodations, bespoke or seniors living opportunities.
- Provide solutions for our “right to farm.” Currently we are unable to utilize this land for any agricultural purpose due to land use conflict issues. Allowing the land to be developed allows for constructive use of the land rather than no use at all.
- Provide solutions for the sewer line that connects the treatment works with the Alstonville town. The sewer line could be officially incorporated into the design process.
- Provide solutions for the provision of appropriate stormwater swimming pool runoff solutions at both Rosedale Place and Hillburn to be implemented. This will provide proper stormwater solutions for the existing 13 neighbours whom currently have their storm-water discharging directly onto our property. This directly impacts our access roads, causes erosion, allows untreated flows to the environment etc.
- Provide solutions for the excessive trespass that occurs on our property. A solution could be to incorporate into the design process a designated walkway through the development

and or along Maguires Creek to Tosha Falls thus allowing all of Alstonville (and tourists) to enjoy this local asset.

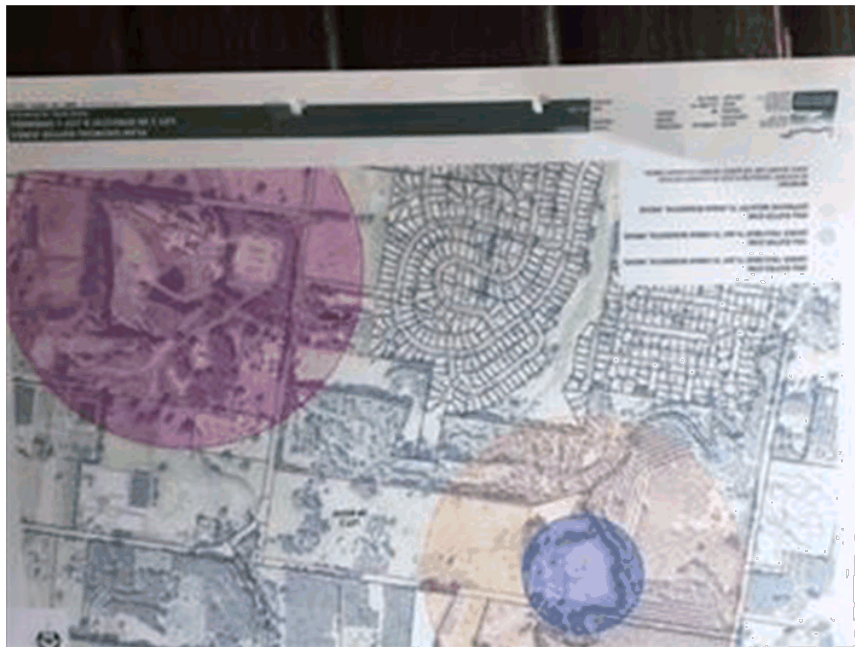
- Provide solutions for the increasing demand of affordable housing in the district.

Yours faithfully,

Terry and Susan Prendergast
1336 Teven Road
Alstonville

On Tue, Sep 24, 2019 at 6:20 AM Terry Prendergast <prender48@gmail.com> wrote:

Attached buffer zones overlays for both WWTW and Quarry



Attachment 2 – Staff Comments relevant to submission made by Mr T Prendergast dated 24 September 2019

Issue 1 - The long term sustainability of a workable growth plan for Alstonville is questionable and lacks a cohesive strategy that may dramatically alter the township (The proposal relies on LEP changes, while at the same time significant sections of the LEP remain contested and in need of finalisation).

Staff Comment

The Alstonville Strategic Plan 2017 – 2037 provides a measured infill development strategy for Alstonville village. It was designed to provide increased housing choice within established residential areas without unduly impacting on the character or heritage values associated with the village. The more significant increases in density are proposed for those areas located in close proximity to the village centre (commercial area).

An alternative strategy advocated by some rural property owners related to making provision for greenfield land releases within the buffer zoned areas. The 2017 Alstonville Planning and Environmental Study (APES) also examined this issue and concluded that the area best suited for future urban expansion evaluation was that area to the north- east of the existing village along Teven Road and in close proximity to the Gap Road quarry. This area has the potential to yield approximately 500 housing lots once the quarry has been decommissioned. The APES suggests that it may be appropriate to revisit this issue in ten years time (2027).

The Prendergast property was not identified as being part of the urban expansion evaluation area as detailed within the APES.

Issue 2 - Loss of amenity for both families and the wider community.

Staff Comment

The attached nature of the dual occupancy planning proposal and the recommended additional DCP controls are designed to minimize negative amenity impacts. Attached dual occupancy development is seen as a positive as it will facilitated a limited amount of housing renewal, and associated with other strategic planning initiatives increase housing choice.

Issue 3 - • Inability of the proposed properties (or council) to provide sufficient buffering or graduation of the urban environment to a rural setting that is affected by this proposal. The proposal will create an additional 13 neighbours adjoining our land.

Staff Comment

The diagram contained within the planning proposal identifies 6 residential properties adjoining the Prendergast properties as being potentially suitable for attached dual occupancy purposes. Development of these 6 properties could result in an additional 6 dwellings being built in the long term.

Council's existing DCP controls place the onus of maintaining buffers (if required) on the residential land use not the rural – agricultural land use. Ultimately merit based assessments will be required to determine whether any development proposed on residential land, adjoining land used for agricultural purposes, is a suitable form of development. This assessment will have regard to the specific agricultural use conducted on the adjoin property.

Issue 4 - Exacerbation of long-standing, existing and unresolved conflict of land-use and unlawful trespass on our property.

Comment:

Land use conflict issues will always be a relevant consideration when residential land adjoins land used for rural or agricultural purposes as discussed in relation to Issue 3.

Trespass issues are not considered to be of relevance to the subject planning proposal.

Issue 5 - Greater degree of immediate noise generation due to the higher population density created.

Comment:

Given the limited number of additional potential attached dwellings, the rural nature of the Prendergast property, and also having regard to the location of the main dwelling house at the Teven Road end of the property adverse noise impacts are unlikely to arise.

Issue 6 - Inadequate parking regulations and other traffic allowances.

Comment:

There is likely to be an increase in local traffic associated with this planning proposal and an increase in on street car parking. These impacts are not considered to be such that the overall amenity of Alstonville village will be significantly adversely affected.

Current DCP parking requirements for dual occupancy of 2 spaces per dwelling is set at the same rate as that for dwelling houses. No evidence has been submitted that the dual occupancy parking standard is inadequate.

An issue raised in some submissions relates to car parking concerns in cul-de-sac streets. This issue has been addressed in recommended draft changes to the DCP which will require a minimum 12 metre width at the building line for a site to be considered suitable for attached dual occupancy development. The 12 metre width will enable 1 vehicle to park in front of such properties.

Issue 7 - Unknown depreciation of land prices in the immediate and neighbouring locations - in fact the value proposition of this proposal has not been clearly articulated.

Comment:

No evidence is available or has been submitted to support this claim.

Issue 8 - Unknown and unassessed impacts on flora and fauna and environmental impacts.

Comment:

In most cases the development site is an already developed urban lot where there will be minimal flora and fauna impacts and significant adverse environmental impacts. In any case these issues, if relevant, will be considered at the future DA stage.

Issue 9 – Commissioner Simpson was satisfied that the buffer be situated on the western side of Alstonville. Council chose to also apply the buffer to the east and north.

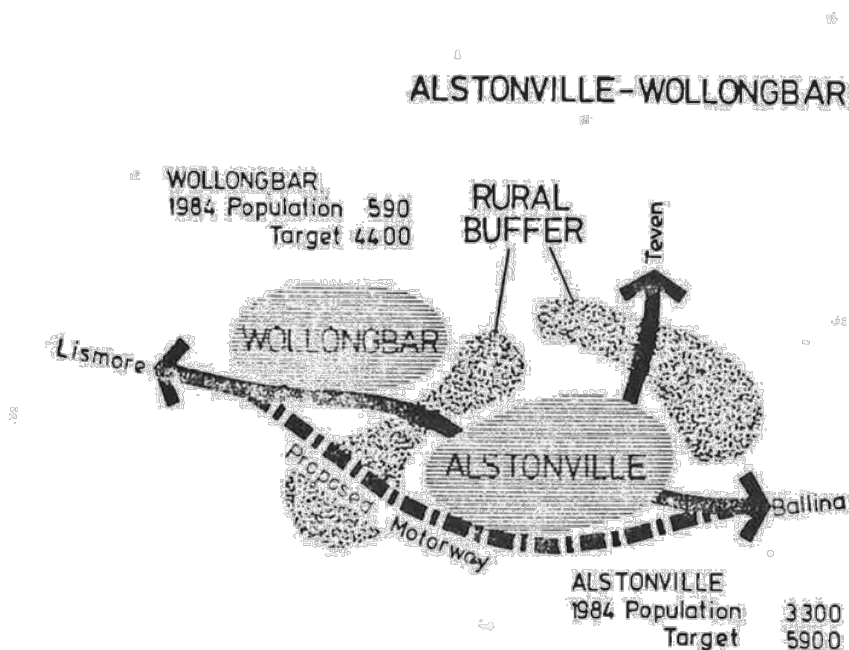
Comment:

This statement appears to be incorrect. The 1983 Commission of Enquiry Report into the then Draft Ballina LEP (DLEP) contained statements from Commissioner Simpson that in his opinion the Council should review and increase the number of Environmental Zones proposed in the DLEP (p53). The report also references the 1983 development strategy for Alstonville and Wollongbar as contained in 1983 Local Environmental Study.

The 1983 development strategy proposed amongst other matters the creation of a rural buffer between the settlements of Alstonville, Wollongbar and the new village to maintain the individuality and integrity of each living area (p22). The plan which illustrates the strategy is contained within Appendices 2 and 3 to the Commissioner's Report and is reproduced below. The rural buffer to the north – east was included within the principles diagram as it was proposed to act as a buffer to a potential third village location.

Commissioner Simpson did not endorse the zoning of land for a third village at that time but recommended that such option be kept under review in light of future development of the Shire and the availability of land for residential purposes in Alstonville and Wollongbar. There does not appear to be any reference within the Commissioner's report which supports the contention that the buffer should only apply to the west of Alstonville.

Appendix 3 from 1983 Commission of Enquiry Report into the then Draft Ballina LEP showing principles diagram post local environmental study exhibition



Issue 10 - the planned minor rounding-off of the town which would have addressed numerous problems (that currently still exist) did not occur. In contrast the proposed Ballina Council proposed Attached Dual Occupancy Alstonville policy will in addition to previous unresolved problems create new and additional ones.

Comment:

Commissioner Simpson references the issue of minor rounding of Alstonville village in his report. This reference related to a Council development strategy adopted pursuant to the then Draft Local Environmental Plan (DLEP). The relevant section of the Commissioners Report is reproduced below (p 22):

The development strategy adopted pursuant to the D.L.E.P. may be stated as follows :

Maintenance of the village scale and amenity presently enjoyed in the rural settlements by:

Allowing minor rounding off of the Alstonville village area to achieve a population of approximately 5,900 persons by the year 2001.

Promoting the development of Wollongbar to accommodate a target population of approximately 4,400 persons by the year 2001.

Investigating the establishment of a new rural village in preference to further expansion of Alstonville subject to future demand and detailed assessment of alternative sites.

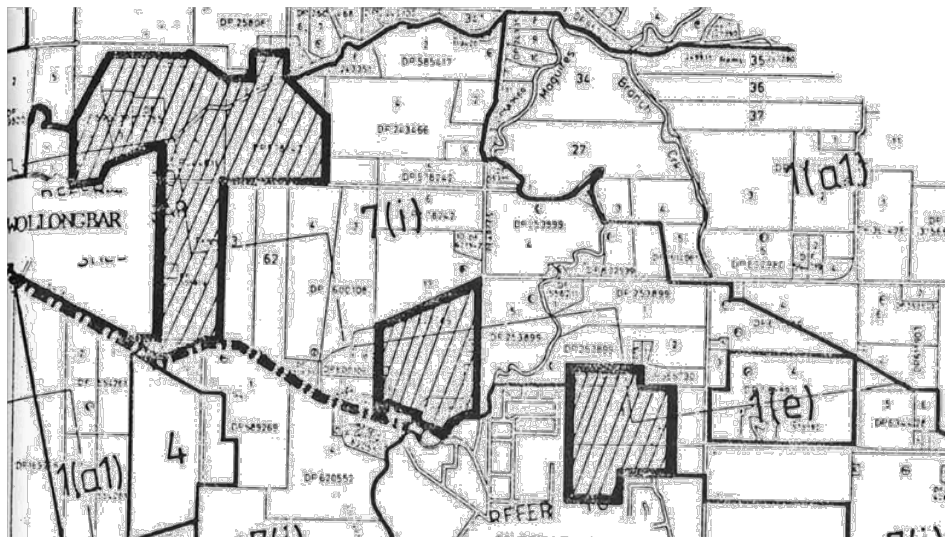
Encourage suitable uses on rural land immediately surrounding Alstonville and Wollongbar, to maintain the individuality and integrity of each living area.

These objectives are illustrated in Appendix 3 and the land which is proposed by Council to be investigated for urban expansion to achieve such population targets is detailed in Appendix 4.

The area designated for "minor rounding" of Alstonville is shown by cross hatching within Appendix 4 of the Commissioner's Report which is reproduced below. Appendix 4 shows areas proposed by Council as Urban Investigation Areas. The Commissioner went on to recommend that:

"Other than as described above in this report no further land be zoned for Rural 1(d) (Urban Investigation) purposes adjacent to the Village of Alstonville."

Extract from Appendix 4 from 1983 Commission of Enquiry Report into the then Draft Ballina LEP showing areas recommended by the Commissioner as Urban Investigation Areas



The area to the east of Maguires Creek forms part of the area subdivided in the early 1990's and centred on Tanamera Drive. The Prendergast property did not form a part of this Urban Investigation Area. It instead formed a part of the subsequently Urban Buffer zoned area.

The area to the west of Maguires Creek was largely not rezoned except for the Seventh Day Adventist village site.

Issue 11 – Rural urban interface problems and no consideration of the “right to farm”. Unable to have cattle, horses, or other livestock due to constant complaints from our neighbours, 150 metre exclusion zone for chemical spraying.

Comments:

It is acknowledged that urban interface issues do arise whenever residential land adjoins land where agricultural or other uses are undertaken. It is however, not correct to state that there is no consideration to the “right to farm”.

The 7(i) Environmental Protection (Urban Buffer) zone applicable to most of the Prendergast properties permits agriculture (not including the erection of buildings) without development consent. (Note: Commissioner Simpson recommended that agriculture require consent in all E zones p49).

In terms of the resolution of land use conflicts and buffer requirements Council's DCP is clear that lawful agricultural and associated rural industry uses take

precedence over other land uses in rural zones. Whilst the Prendergast properties are not located within a rural zone this principle is equally applicable to lawful agricultural land uses proposed to be undertaken within the buffer zoned area.

The impact of the above is that any proposed dual occupancy development, which adjoins the rural interface area, will need to consider the land use risk posed by the adjoining agricultural activities. This is normally done through the preparation of a Land Use Conflict Risk Assessment.

Issue 12 – No consideration of urban run-off which discharges from neighbouring urban areas onto our farm.

Comments:

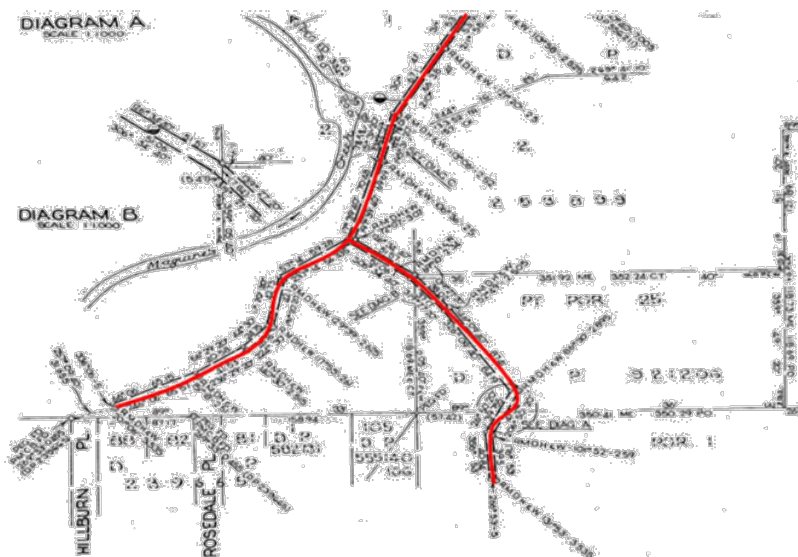
This issue is a long standing concern raised by Mr T Prendergast with Council on many occasions. Urban drainage does discharge onto the subject properties in accordance with approved historic drainage schemes associated with previous residential subdivisions. Drainage concerns were most recently investigated by Council's engineering staff in 2018 and a detailed written response provided to Mr T Prendergast in February 2018.

Issue 13 – No sewerage easement in place for either existing or proposed homes.

Comments:

This statement is incorrect. A 5 metre wide Easement for Gravitational Trunk Main purposes was proposed with the registration of DP 600549 on 2 February 1979 and subsequently created as per dealing R516905. The location of the easement is shown in red on the extract from the DP below.

Extract from DP 600549

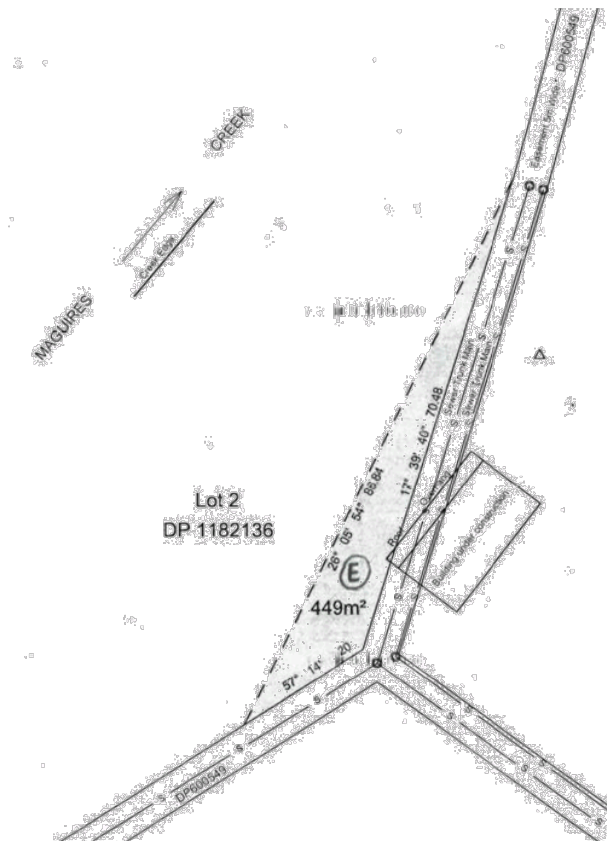


Following the building of a "farm shed" by the property owner, which was located partly over the sewer easement, council staff propose in 2014 to create an additional easement in the vicinity of the farm shed. This was proposed to facilitate the relocation of the sewer main, if required at some future time, as access to the section of main upon which a substantial building had been built was no longer available.

The "farm shed" was not approved by Council as the owner contended that it was exempt development. No comment is made as to whether the shed is compliant with the exempt development criteria as this would require more significant investigation which is beyond the scope of this report.

The additional easement issue has to date not yet been resolved. The plan below shows the location of the farm shed, the existing easement and sewer main location, as well as the shaded area marked "E" which was the area proposed for the additional easement.

Plan showing proposed easement extension / relocation area Lot 2 DP 1182136




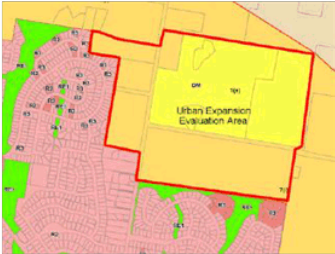
Issue 14 – No consideration to excessive trespass that occurs or consideration of the environment nor the enjoyment of naturally occurring assets such as Tosha Falls, Lumley park and McGuires Scrub.

Comment:

The issues of trespass and environment have been previously discussed. The issue of enjoyment of natural assets is not relevant to the dual occupancy planning proposal.

Attachment 3 - Submission summary and staff comments related to Lot 2 DP 1182136, 1336 Teven Road, and Lot 1 DP 1182136, 5 Banjo Place, Alstonville, contained within reports to Council in July and October 2017; and Quarry / Sewerage Buffers

Submission No.6	Terra Spatial on behalf of Tosha Pty Ltd (T J and S G Prendergast) Lot 2 DP 1182136, 1336 Teven Road, and Lot 1 DP 1182136, 5 Banjo Place, Alstonville
Submission Comments:	Response:
<p>The location of the subject land is shown on the map extract below.</p> <p>Location Plan (red outline orange and brown colour)</p>  <p>Submit that the best potential use of the land is for medium or low density housing.</p> <p>Suggest that land is not located between Alstonville and Wollongbar and therefore development will not impact the buffer between the two villages.</p> <p>Suggest that the rural character of the village will be better maintained by strip development not being located along a highly visible main road (Teven Road).</p> <p>State that the land is a key access point to Tosha Falls and currently there are a high number of trespassers traversing the area identified (by property owner) for potential residential development.</p> <p>Claim that the land is also suitable for affordable, accessible seniors living and / or manor house developments due to topography, non – agricultural use and its proximity to the township.</p> <p>Claim that due to the area of Lot 1 (1.271ha) it would be common sense to rezone the whole of the lot (front portion zoned R2) as its small size makes it unviable as rural land.</p> <p>The submission concludes that as the land is not visible from any major rural roads, part of the property appear conducive to more intense development. Request a change to the planning status of the properties to rural or future residential.</p> <p>Advise that the owners are committed to offer a range of community benefits</p>	<p>A brief history of the subdivision and development history of this land is as follows:</p> <p>March 1977 – subdivision registered which created Lot 2 DP 253899. This lot had an area of 18.26ha and is the lot originally purchased by T and S Prendergast. Lot 2 is burdened by an easement for pedestrian access which runs parallel to Maguires Creek and has a width of 20 metres.</p> <p>The easement for access was required to be created under a 1975 Tintenbar Shire Council policy which required rural properties, adjoining major creeks, when subdivided, to incorporate pedestrian access for a width of 20 metres from the creek bank.</p> <p>February 2013, Lots 1 and 2 DP 1182136 created. These lots resulted from a boundary adjustment between Lot 2 DP 253899, 1336 Teven Road, and Lot 218 DP 835001, 5 Banjo Place. Both lots owned by T and S Prendergast. This boundary adjustment was originally approved in 1996 and then again in 2011. It resulted in a residential zoned lot (Lot 218 area of 774.7m²) being joined with land zoned 7(i) – Environmental Protection (Urban Buffer) to create Lot 1 with an area of 1.271 hectares and Lot 2 with an area of 17.07 hectares.</p> <p>Lot 1 is vacant land and Lot 2 contains a wholesale plant nursery (Alstonville Tree Farm). The applicant’s stated intention with respect to this boundary adjustment was to consolidate fragmented land on the southern side of a small watercourse with a lot having frontage to Banjo Place.</p> <p>Lot 2 DP 1182136 contains a dwelling house closest to Teven Road approved in 1978 and a rural workers dwelling approved in 1984 in the north western section. Lot 2 also contains a farm shed, and associated amenities building.</p> <p>The draft APES considered these lots and others (Refer s6.3.3.1) and concluded that the expansion of the Alstonville urban area north of Albert Street and Clare Street to Johnsons Road and west to Maguires Creek should not be supported due to its perceived higher environmental and agricultural value and the location of Council’s wastewater treatment plant within this area.</p> <p>The urban buffer zoned section of Lot 1 and the whole of Lot 2 1182136 are designated as State Significant Farmland.</p> <p>The location plan also shows the Alstonville Wastewater Treatment Plant (WTP) site. A</p>

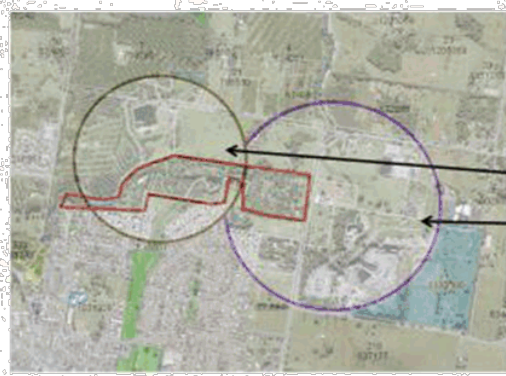
<p>(such as formalised community access to the waterfall) in return for some additional development potential for unconstrained parts of the property.</p>	<p>minimum buffer of 400 metres is nominated in the 2007 NSW DPI publication <i>Living and Working in Rural Areas – A Handbook for Managing Land Use</i> conflicts on the NSW North Coast to sewage treatment plants.</p> <p>The submission is not considered to have provided a compelling case which would support the designation of lots 1 and 2 within an Urban Expansion Evaluation Area as an initial step towards potentially achieving a residential zone over part or all of lots 1 and 2.</p> <p>The proposal, whether confined to the 7(i) zoned parts of lot 1 or lots 1 and 2, is also considered to be contrary to the Urban Growth Area Variation Principles contained within the NSW Government's North Coast Regional Plan in respect to potential land use conflict concerns relating to proximity to a sewage treatment works, and agricultural activities. A significant portion of lot 2 is also mapped as bush fire prone land.</p> <p>The Alstonville Strategic Plan 2017 – 2037 proposes a number of actions that support additional housing opportunities being created within the existing urban footprint of Alstonville township. In so doing, it has responded to the expressed desire of the Alstonville community for greater housing choice within the township as opposed to the rezoning and release of rural land for urban purposes.</p> <p>The draft Alstonville Planning and Environmental Study also considered potential opportunities for urban expansion beyond the boundaries of the Alstonville urban area. The area considered least constrained was that area located within the buffer to the existing Tuckombil Quarry fronting Teven Road. This area, whilst considered generally acceptable, did not include the Prendergast property, but ultimately was not further investigated as it is rendered unsuitable whilst ever the quarry is in operation.</p>  <p>The Prendergast property (lot 2) was not nominated within the potential urban expansion evaluation area as it did not align with the boundaries of existing residential zoned properties west of Teven Road, as well as being significantly affected by the buffer to Tuckombil Quarry.</p> <p>A site inspection was undertaken of lots 1 and 2 to better understand opportunities available for the land and impacting land constraint issues.</p> <p>The site inspection has confirmed that, whilst residential subdivision development is problematic,</p>
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	<p>due to site constraint and precedent concerns, it is conceivable that opportunities for low-key rural tourism initiatives could be considered upon lot 2.</p> <p>Some types of tourist facilities are permitted with consent within the 7(i) Environmental Protection (Urban Buffer) zone. Tourist facilities such as refreshment rooms (definition includes cafes, and restaurants) would not be permitted, unless ancillary to accommodation, and would require an LEP amendment.</p> <p>[Note: Draft Strategic Action 18 relates to a review of farm-based tourism initiatives to ensure that they are permitted, and development controls such as parking setbacks and other design standards are supported by the local community.]</p> <p>Recommendation:</p> <p>1. No change to the strategic plan.</p>
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Extract from Councillor Briefing on 19 September 2019



Quarry & Sewerage Buffers - 1336 Teven Road



400m buffer to sewage treatment plant property boundary

500m buffer to Quarry boundary

