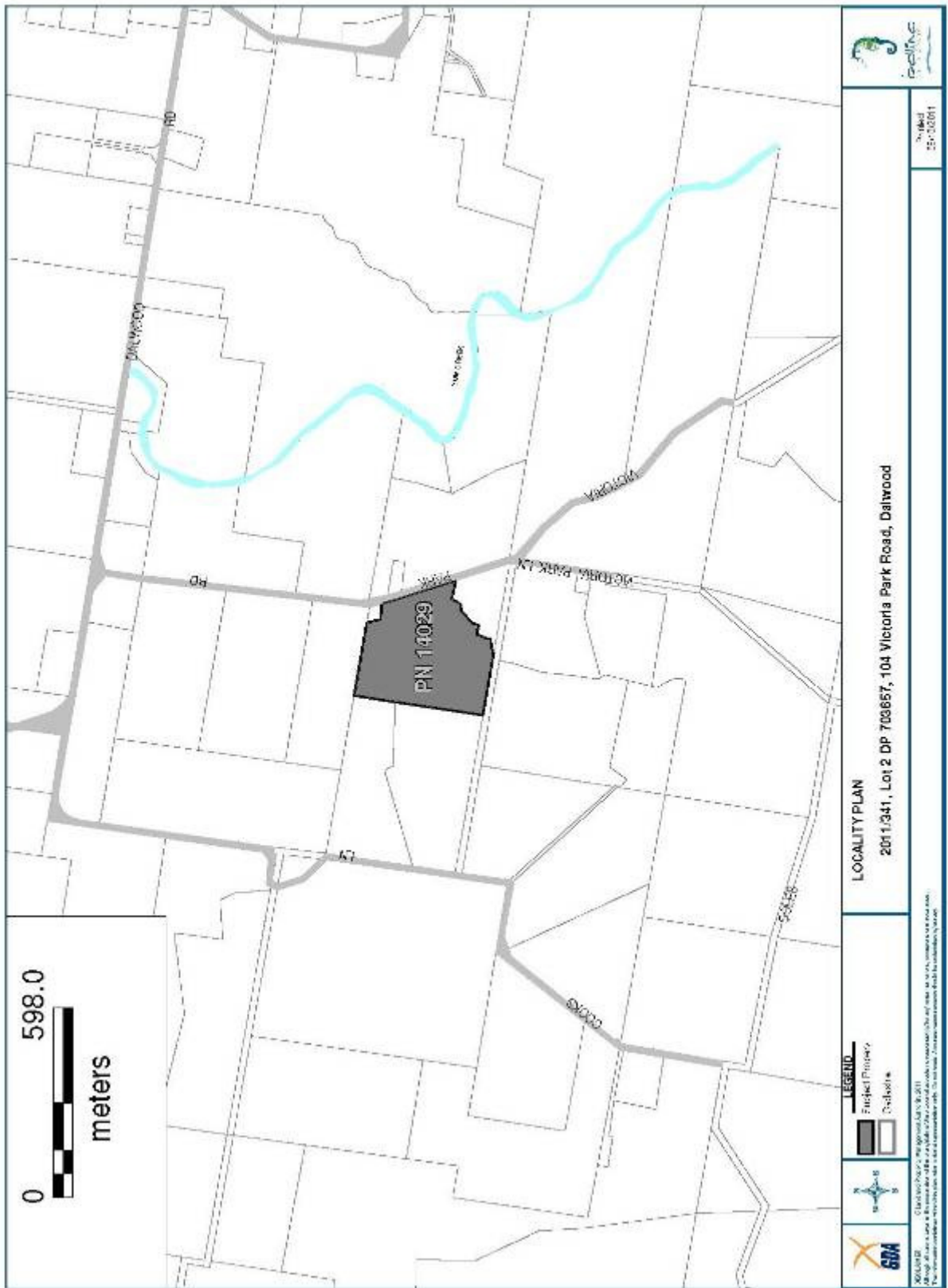
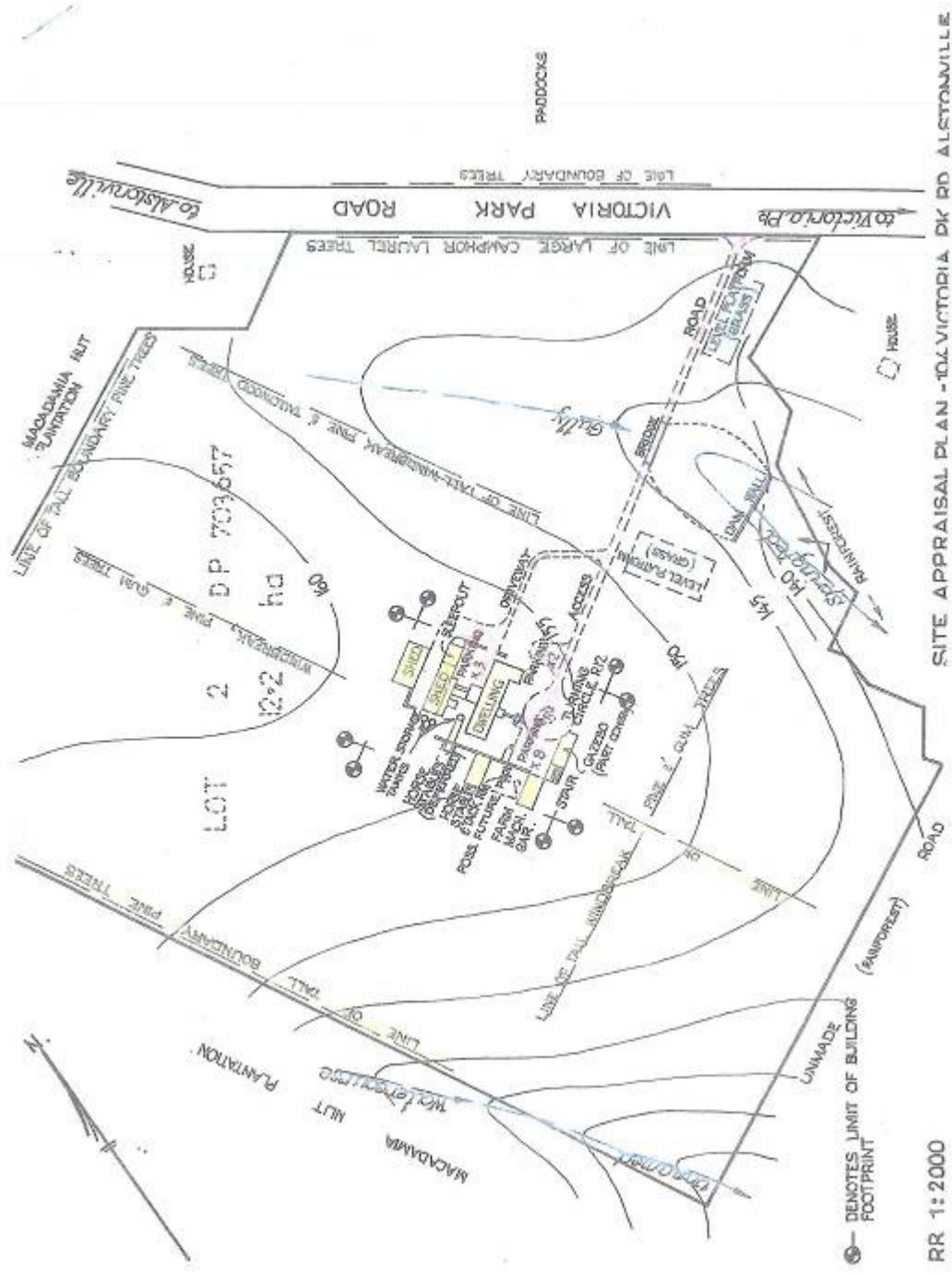
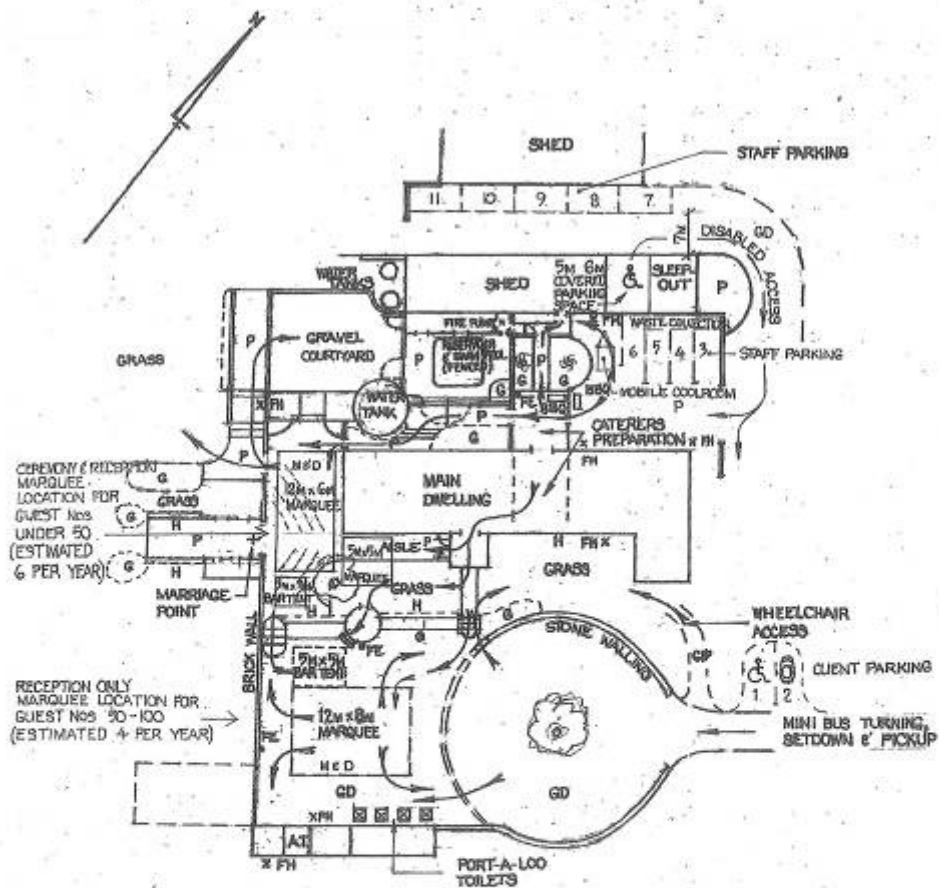


8.4 **DA 2011/341 - Wedding Function Centre - Dalwood**







LEGEND

- P PAVED
- G GARDEN
- GD GRAVEL DRIVEWAY
- H HEDGE ROW
- GP GRAVEL PATHWAY
- FE FIRE EXTINGUISHER
- FH FIRE HOSE POINT (30m GARDEN HOSE)
- General STAFF & GUEST CIRCULATION INDICATORS
- AT ACCESS TOILET
- M&D MUSIC & DANCE

WEDDING EVENT OPERATIONAL PLAN ISSUE 'D' JULY 2011

STAFF AND B&B GUESTS ONLY TO HAVE ACCESS TO BUILDINGS DURING WEDDING EVENT

RR 1:500

1 Introduction

This section introduces the proposal and provides a general overview of the project.

1.1 Background

Ardill Payne and Partners (APP) has been engaged by Mr Sven Christian to provide town planning services in the preparation and lodgement of a development application and statement of environmental effects with Ballina Shire Council.

Development consent is sought to utilise an existing property ("Deux Belettes") which contains a dwelling house/B&B for the purposes of a place of assembly for the conduct of a maximum of 12 weddings per year.

1.2 Structure and Scope of Report

- | | |
|------------------|---|
| Section 2 | Describes the subject land and its local and regional environmental context. |
| Section 3 | Describes the development proposal in detail. |
| Section 4 | Reviews the key environmental interactions and proposed management measures. |
| Section 5 | Reviews the statutory and planning policy provisions applying to the project. |
| Section 6 | Provides a summary and conclusions. |

A number of appendices form part of this report being:

- | | |
|-------------------|--|
| Appendix A | Copy of deposited plan |
| Appendix B | Aerial photograph of subject and adjoining land |
| Appendix C | Site appraisal plan, wedding event operational plan, access and parking plan |
| Appendix D | Letters of support from adjacent neighbours |
| Appendix E | Fire rating test reports (marquees) |
| Appendix F | Deux Belettes' terms and conditions |
| Appendix G | Noise impact assessment |

1.3 Overview of Statutory Framework

Ballina Council is the consent authority for the development application as defined in Clause 4(1) and pursuant to Section 80 of the EP & A Act 1979.

The proposed development does not comprise integrated development for the purposes of Section 91 of the Act.

1.4 Communications with Council Officers

A number of consultations and meetings have been held with Council's Technical Officers, details of which are as follows:

- Council Officers Stephen Rendall and Gavin Spring inspected the site on the 17th November 2010 which resulted in a letter being sent to the Christians dated 15th December 2010 in respect of some compliance matters.
- The Christians had a telephone conversation with Council's Regulatory Services Group Manager Rod Willis in November 2010 seeking advice in respect of the subject property and proposed use.
- The Christians met with Council's Matthew Wood to discuss the provisions of the Draft BLEP 2010 with respect to the subject property.
- The Christians met with Council Officers Andrew Smith, Stephen Rendall and Matthew Wood on the 2nd February 2011 to discuss the proposed use under the BLEP 1987.
- The Christians sought advice from Council's Andrew Smith via email dated 9th February 2011 seeking advice in respect of off-site infrastructure costs (developer contributions).
- The Christians spoke with Council's Paul Wilson in February 2011 in respect of site conditions.
- Andrew Smith advised the Christians via email dated 11th February 2011 that the roads contributions would be in the order of \$200.00, based on transport requirements for guests.
- The Christians met with Council's Andrew Smith on the 18th May 2011 to discuss Council's rejection of the development application on the 27th April 2011 which was submitted on the 15th April 2011. Mr Smith re-affirmed the need to engage specialist assistance in preparing the DA/SEE.

- A pre-DA meeting was held at Council Offices on the 5th July 2011 to discuss the proposed development. In attendance was:
 - Andrew Smith – Development Services Manager (BSC)
 - Paul Wilson – Development Engineer (BSC)
 - Dave Tyler – Senior Building Surveyor (BSC)
 - Rachel Jenna – Senior Environmental Health Officer (BSC)
 - Ross Christian – property owner
 - Sven Christian – proponent
 - Paul Snellgrove – Town Planner (APP)

1.5 Development Application/Building Application History

A search of Council's records has identified the following development and building applications that have been determined by Council in respect of the subject property:

- DA 2011/169 – alterations and additions to dwelling house – endorsement date of consent 16th May 2011
- DA 2008/650 – farm shed – endorsement of consent 5th March 2008 (Techton 2008/214)
- DA 2006/796 – horse stables – endorsement date of consent 20th July 2006 (including s96 amendment dated 25th July 2006)
- DA 1997/65 – B&B establishment – endorsement date of consent 28th October 1996
- BA 603/1979 – dwelling house
- BA 934/1984 – alterations and additions to dwelling house
- BA 88/1996 – alterations and additions to dwelling house

A development application was prepared by the Christians and lodged with Council on the 15th April 2011.

Council by letter dated 27th April 2011 returned the application on the basis that insufficient information was provided to enable a competent assessment of the application as per the requirements of Clause 51(1) and Part 1 of Schedule 1 of the EP & A Regulation 2000.

1.6 Landowner and Applicant Details

The land that is subject of this application is owned by Mr Ross and Mrs Sharon Christian of 104 Victoria Park Road, Alstonville. The landowners' consent to the making of this application is provided with the development application form.

The applicant is Ardill Payne & Partners, PO Box 20, Ballina on behalf of Mr Sven Christian.

Should Council require any additional information or clarification with respect to this application, please contact Paul Snellgrove (APP) on 6686 3280 prior to final determination of this application.

1.7 General Land Use History

The Christians have provided the following information in respect of the evolution of the uses of the site:

"The zoning of the 1(a1) Rural (Plateau Lands Agriculture) within Ballina's Local Environmental Plan 1987, Development Control Plan and associated documents supports rural tourism and allows bed & breakfast as a means of attracting visitors to rural areas. As a further means of attracting visitors, a 'place of assembly' for wedding events to be held is proposed to formalise an activity that has been occurring at the property since 1990.

Prior to 1996 (when a B&B licence was granted) small events such as weddings and birthday parties were held with guests often staying the night. After 1996 when the B&B licence was granted similar events were held with guests again staying on the premises often taking weekly bookings of the entire house. The owners were completely unaware that there was a requirement for Council approval for this practice either before or after 1990 and continued to hold these events until they were notified in November 2010 that approval was necessary.

It can be importantly noted that during twenty years of bed & breakfast and wedding activity at this property, no incidents have been reported.

The owners of this property (Ross & Sharon Christian) have been developing it since purchase in 1980 and have been commercially producing avocados from around 1985. Other fruits, such as mandarins, oranges and persimmons have also been grown since 1981 but found to be commercially unsuccessful.

A horse riding school was being run on part of the property in 1980, Victoria Park Road was unsealed at that time, cattle were also run on the land until avocados were planted.

The property site on the edge of the escarpment of the plateau facing south, is on the low side of Victoria Park Road and since the road was realigned and sealed, takes stormwater runoff from all adjoining properties and Victoria Park Road. Avocados planted in runoff affected paddocks did not survive.

In 1996 Council granted a bed & breakfast licence to the property and paying guests have been patronising the bed & breakfast facility since that time.

Farm management over the thirty year period has focussed on organic production of avocados and other fruits and has involved on-farm processing for direct transport to market.

There has been a transition over many years from rainforest (big scrub) to dairy, beef cattle and horses then gladioli farm, peanuts and potatoes as use of the land. Horticulture including replanting of rainforest pockets surrounding natural watercourses and spring fed gullies has more recently occurred.

In conjunction with farm development a building program has been continuing since 1980 to provide farm support buildings and a comfortable dwelling for the family. The owners have adopted the principles of recycling of building materials in their design and construction techniques, evolving as an extremely attractive concept for visitors to observe. The country style buildings complement the uniqueness of the area in general and of Victoria Park in particular."

2 The Site and Its Context

This section describes the subject land and identifies the geographical context of the site and its relationship to the surrounding locality.

2.1 Existing Situation

The subject land is described in real property terms as Lot 2 DP 703657, Parish of Meerschaum, County of Rous. The land is commonly known as No. 104 Victoria Park Road, Dalwood ("Deux Belettes").

The land is irregular in shape with the following dimensions and area:

- 227.41m eastern boundary (to Victoria Park Road)
- 95.05m north-eastern boundary (to Lot 1 DP 589386)
- 976.67m northern boundary (to Lot 15 DP 399716)
- 399.89m western boundary (to Lots 1 & 2 DP 546124)
- 218.43m southern boundary (to road reserve)
- 294.29m south-eastern boundary (to Lot 3 DP 703657)
- 12.2ha

A copy of the deposited plan is provided at **Appendix A**. An aerial photograph of the subject and adjoining land is provided at **Appendix B**.

Existing on the land is a double storey masonry and shingle roof dwelling house, in-ground swimming pool and a number of other rural sheds and improvements/structures.

The subject land comprises a mixture of pasture land, horticulture and stands of bushland (including rainforest regeneration).

Vehicular access to the existing dwelling house is via a part gravel and part concrete all-weather driveway to Victoria Park Road.

As is evidenced by a site inspection, the subject property is kept, operated and managed in an immaculate condition to an extremely high standard.

2.1.1 Topography

Contours over the subject land are identified on the Site Appraisal Plan provided at **Appendix C**. The site is undulating with varying relief in the order of approximately 140-160m AHD.

2.1.2 Soils

Morand 1994 maps the land as "wo – Wollongbar" soil landscape grouping, details of which are as follows:

- Landscape
 - very low to low gently undulating to rolling rises and hills on plateau surfaces of the Lismore Basalts
 - slopes 3-15%, relief generally 30-60m, altitude 140-200m
 - extensively cleared closed-forest (Big Scrub)
- Soils
 - mostly deep (>200cm) well drained Krasnozems with shallower (80-150cm), stonier Krasnozems on crest/upper slope boundaries
 - wet alluvial Krasnozems in drainage lines

2.1.3 Vegetation

The subject land comprises a mixture of pasture, horticulture and stands of bushland. The vegetation locations are evident on the aerial photograph at **Appendix B**.

Sections of the land have been subject of rehabilitation works involving weed control, fencing and planting with appropriate native rainforest species.

A number of planted buffers/wind-breaks also exist around the periphery of and within the site.

2.2 Adjoining and Surrounding Land Uses

The subject land is situated within a rural environment that is characterised by scattered rural and rural residential dwellings, agricultural/horticultural pursuits and stands of bushland vegetation.

2.3 Dwelling Entitlement

The subject land has a dwelling entitlement pursuant to Clause 12(3)(e) of the BLEP. Existing upon the land is a dwelling that was approved under the terms and conditions of BA 603/1979.

2.4 Other matters

Planning investigations into the subject land have revealed that the land is not:

- situated within the coastal zone and is thus not subject to SEPP 71 – Coastal Protection
- identified as being or containing an item of environmental heritage as listed in Schedule 1 of the Ballina LEP 1987
- identified as being within 60m of an item of environmental heritage as listed in Schedule 1 of the BLEP
- identified in the Ballina Flood Study Update (Draft Public Exhibition Version BMT WBM, Nov 2007) as having the potential to be affected by flooding
- mapped on the BLEP Amendment No. 66 being subject to acid sulfate soils
- mapped on the Ballina Bush Fire Prone Land Map (re-certified 21 March 2007) as being bushfire prone
- identified as being affected by the operation of Sections 38 or 39 of the Coastal Protection Act 1979
- affected by any road widening or realignment proposal under either Division 2 of Part 3 of the Roads Act 1993, any environmental planning instrument or any resolution of Council
- identified as being subject to acquisition by a public authority under the provisions of any environmental planning instrument, deemed or draft environmental planning instrument
- mapped as being subject to SEPP 14 – Coastal Wetlands or SEPP 26 – Littoral Rainforests

3 Description of Proposal

This section describes the proposed development and identifies specific environmental and development objectives that will be adopted in conjunction with the project.

3.1 Proposed Development

Development consent is sought for the use of the existing site and associated improvements as a place of assembly for the holding of wedding receptions, details of which are as follows:

- maximum of 12 weddings per annum (in each calendar year)
- maximum 1 day duration for each wedding
- maximum of 100 persons per wedding (includes catering/servicing personnel)

Provided at **Appendix C** are plans of the site and a Wedding Event Operational Plan (WEOP). As is evidenced on the WEOP, there are two locations on the site (both of which are within the curtilage of the existing dwelling house) that are used for weddings.

For weddings of between 50-100 guests, a 12 x 8m marquee and a 5 x 5m bar tent are erected at the end of the driveway turnaround. Weddings of this size are estimated to occur 6 times per year.

For weddings under 50 guests, a 12 x 6m marquee, a 5 x 5m marquee and a 3 x 3m bar tent are erected adjacent to the dwelling house. Weddings of this size are estimated to occur 6 times per year.

The following control mechanisms have and will continue to be applied by management to all weddings held at the site:

3.1.1 Noise

Any noise is strictly controlled such that it remains at 'reasonable levels' and is required to be ceased by 11.00pm. During the lead-up to and the course of a wedding, the clients are given clear briefing by management as to noise restrictions and are required to sign an agreement regarding control of noise limits.

Clients are given strict advice as to the types of acceptable music (eg no large bands) and the type of instrumentation and equipment that is allowable for amplification of the music (eg no saxophones, drums or large db speakers etc).

A typical example of noise level control during a wedding event is that the manager or owners (who are always in residence), walk along Victoria Park Road to listen for noise at peak times during the event and should it be considered as unacceptable, the clients are instructed to reduce levels. If this instruction is ignored or refused, electricity to the equipment generating the noise is cut.

Drivers of vehicles are requested to drive in a forward direction on the site (which is achievable due to the driveway configuration) so that reversing alarms are not triggered.

3.1.2 Lighting

Adequate lighting is available (as per the existing situation) for all proposed activities and there is no external adverse impact from such lighting. No additional lighting is required or proposed.

Lighting is considered by management to be an important and safety feature for any visitors to the property. Lighting is activated manually as need arises to achieve both safety of movement and ambience.

Lighting at the property entrance is low voltage feature lighting and is provided for landscape enhancement and identification purposes.

All external lighting is switched off by 11.30pm.

3.1.3 Traffic

All guests are required to arrive and depart the site by maximum 34 seat mini buses. This is one of the conditions of the contract for having weddings at the site and if breached will incur financial penalty.

This sized mini bus is able to enter and leave the site in a forward direction through the main entry gate.

Events for up to 100 people typically include 8-10 staff cars, some of which leave the property by 10.00pm. Two of the staff vehicles typically deliver food and equipment for catering and generally vacate the property by 10.00pm.

If a marquee is used, the hire company generally delivers and erects it 1-2 days prior the event and remove it the first working day after the event.

As evidenced on the plans at **Appendix C**, there are 12 formal car parking spaces on the site within the curtilage of the dwelling house (including 2 disabled spaces).

3.1.4 Food/drink

All catering conducted at the property is required to meet the requirements of the Food Act 2003 (NSW) and the Food Standards Code. All drinks are required to be served under the requirements of the NSW Liquor Licensing Act.

Mobile catering equipment is hired in for food preparation at each event. Caterers deliver the bulk of the food 'ready to eat' on the day of the event, however some pre-prepared food requires heating at the site and some requires BBQ'ing on equipment supplied by the caterers or hire company.

Drinks are delivered to a hired cool-room either the day before or on the day of the event.

There is no Liquor License existing or proposed for the development.

3.1.5 Waste

All waste is collected and removed by the caterers following each event. Waste from the B&B is already managed by Council's kerbside waste and recycling services.

Waste separation and recycling has and will continue to be strictly controlled by management and is promptly removed from the site.

3.1.6 Temporary structures

Marquees are often erected on the site so that an event can run successfully in all weather conditions. Marquees are hired and erected by a hire company 1-2 days prior to an event and removed generally the first working day after an event.

Marquees are provided by only reputable hire companies who are required to satisfy the relevant Australian Standards for these types of structures. Provided at **Appendix E** are fire rating test reports relating to the fabric used in the manufacture of the marquees that are used.

Fire extinguisher, pressurised garden hose and fire pump locations are shown on the Wedding Event Operational Plan provided at **Appendix C**.

Egress paths from marquees vary to suit client preferred layouts, however are always provided as a means of orderly and safe egress in the event of an emergency.

3.1.7 Toilet facilities

It is a mandatory requirement for clients to hire in "Port-a-loo" units in sufficient numbers to cater for all persons attending the event (including staff).

The number of units required is calculated using the suppliers data, that each unit will take 450 uses during an event (eg maximum number of units required for a 100 person event – $100 \text{ persons} \times 5 \text{ uses each} \div 450 = 1.11 \text{ units}$).

In order to minimise wait times, a factor of around 4 has historically been used. Generally 4 units would need to be provided.

4 Statement of Environmental Effects

Section 79C of the EP & A Act 1979 requires consideration of likely impacts of the development on the natural and man-made environment of the locality. This report contains information and assessment of the various aspects of the proposal and its locality, as well as measures that will be implemented to minimise any impacts on the environment.

4.1 Water Quality and Stormwater

The proposed development will not result in an increase in impervious surfaces on the land, with the exception of the temporary marquees. The largest marquee has dimensions of 12 x 8m (area of 96m²). The marquees are erected for a period of 2-4 days for up to 12 events per year over surfaces that are impervious and thus the potential for stormwater generation is considered nil to negligible.

There are no additional building or civil works associated with weddings proposed on the site and thus no disturbance of site soils or vegetation. There is thus no potential for increased erosion or sedimentation.

Port-a-loos are brought onto and removed from the site by appropriately licenced/experienced contractors to service each event. The number of units is as determined by management in consultation with the client.

All domestic use water is reticulated to internal and external water points of buildings and is sourced through rainwater falling to clean zincalume shed roofing. Rainwater is transferred via zincalume gutters and pvc downpipes to concrete holding tanks. The tanks are serviced with first flush devices and screened inlets which are regularly maintained.

Two electric dual pressure systems and elevated gravity feed systems provide continuous and emergency supply to all outlets.

The existing stormwater situation for the subject property will remain unchanged.

4.2 Flora and Fauna

The marquees are to be situated on land that is within the curtilage of the dwelling house comprise garden and lawn areas. There is no vegetation required to be removed to facilitate the holding of weddings.

The land has and continues to be subject of rainforest regeneration (weed control and planting of native endemic species).

4.3 Contamination

The subject land is being used for rural residential purposes (including a B&B) and agricultural pursuits. Contamination is not considered to be a restrictive or prohibitive issue due to the fact that:

- the wedding functions are held wholly within the curtilage of the existing dwelling house and ancillary structures/improvements
- there is no material change of use of the site
- there are only 12 events per year with guests being on the site for less than 1 day
- there are no building or site works proposed or required and thus there will not be any disturbance of site vegetation or soils
- wedding functions are not considered to be highly sensitive receivers

4.4 Visual Impacts

The proposal is for only 12 temporary events per year with marquees being erected for a period of between 2-4 days wholly within the curtilage of the existing dwelling house and improvements/structures .

The visual impact of these temporary structures is not such that will adversely impact the visual character or setting of the site or locality. The existing buildings (curtilage) are not visible in the local context primarily as consequence of existing vegetation (including planted buffers).

As is evidenced from a site inspection, the site is kept in a meticulous state. The attraction of the site for weddings is largely reliant upon its visual setting, ambience and beauty.

There will not be any adverse visual impacts upon the landscape and scenic quality or character of the subject or adjoining land from the proposed weddings.

4.5 Traffic and Parking

Neither the RTA Guide to Traffic Generating Developments or Policy Statement No. 2 – Carparking and Access (Combined DCP 2006) provide specific traffic generation estimates for places of assembly (wedding function centres).

It is a condition of the contract that all guests are bussed to the site. Typically 2-3 mini buses will drop off and pick up guests. No guests are therefore permitted to drive themselves to events.

Each event also requires an additional 6-8 staff/service vehicles to attend the site.

A number of formal and informal parking areas exist on the site, which are more than adequate to service the small number of vehicles that will be generated by each wedding (refer Wedding Event Operational Plan at **Appendix C**).

Vehicular access to the site is via an existing all-weather driveway to Victoria Park Road. Sufficient on-site manoeuvring areas exist on the site (including a loop turning head on the driveway) to enable vehicles (including 34 seat mini buses) to enter and leave the site in a forward direction.

The traffic generated by the B&B has not been considered as the B&B continues to operate under the terms and conditions of a separate development consent.

4.6 Waste Management

All waste is collected and removed from the site by the event caterers following each event. Waste separation and recycling has and will continue to be strictly controlled by management and is promptly removed from the site.

Recyclables and general waste generated by the B&B are and will continue to be disposed of via Council's rural collection service.

4.7 Noise

A Noise Impact Assessment (NIA) was undertaken by Ambience Audio Services (dated 2nd August 2011), a copy of which is provided at Appendix G.

The NIA gave the following conclusions and recommendations:

- noise from the driveway is considered not to have any significant impact at the closest residential dwelling
- road traffic calculations indicate that noise levels will be below the guidelines as outlined in the NSW Environmental Criteria for Road Traffic Noise
- noise levels at receiver locations from smaller wedding functions (up to 60 guests) held in the courtyard would be at least 5 decibels below the noise levels for the functions held in the larger marquee in the open area due to reduced number of people and the containment of sound in the courtyard area
- a noise management plan be developed and should be implemented to ensure that noise exceedances do not occur

A Noise Management Plan (NMP) has been prepared by the acoustic consultant in consultation with the owners/managers of the subject land, which is provided at Appendix F to the NIA. It is the intention for this NMP to form part of this development proposal.

5 Statutory and Policy Planning

This section of the report identifies and addresses the applicable environmental planning instruments (EPs) and policy planning documents that must be considered by the consent authority in the consideration of this application.

5.1 Environmental Planning Instruments (EPs)

This section identifies and provides comment on the EPs and EP & A 1979 provisions that are of relevance to the proposed development.

5.1.1 Local Environmental Plans (LEPs)

The Ballina Local Environmental Plan 1987 (BLEP) is the only LEP applying to the subject land. The subject land is zoned 1(a1) – Rural (Plateau Lands Agricultural) Zone.

The objectives of the 1(a1) zone are:

A. *The primary objectives are:*

(a) *to regulate the subdivision and use of land within the zone to ensure that:*

(i) *land actually used for purposeful agricultural production, particularly horticulture, or*

(ii) *land having the potential for purposeful agricultural production, particularly for horticulture,*

is developed in a manner to optimise its production potential, and

(b) *to enable development which is ancillary to the agricultural use of land within the zone (particularly dwelling-houses, rural workers' dwellings and rural industries) where such facilities do not significantly reduce the production potential of the subject land or other land in the locality.*

B. *The secondary objectives are to ensure that development within the zone:*

(a) *maintains the rural character of the locality, and*

(b) *does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.*

C. *The exceptions to these objectives are:*

- (a) *development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives, subject to the impact on agricultural resources being minimised, where practical, and*
- (b) *development of land for extractive resources extraction.*

There is no definition contained in the BLEP (or adopted Model Provisions) which expressly references wedding functions/events. In discussions with Council's Town Planners it is considered that the use is appropriately defined as a place of assembly, viz:

"place of assembly" means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.'

Place of assembly is a permissible use with consent with the 1(a1) zone. The following comments are made with respect to the objectives the 1(a1) zone:

- the events are temporary in nature, being a maximum of 12 per calendar year for a duration of 1 day per event and are situated wholly within the curtilage of the existing dwelling house
- the temporary nature and location of the event on the site are not such that will impact, compromise, constrain or preclude the existing or future production potential of the subject or adjoining land – the land is and will continue to be used for productive agricultural purposes
- wedding events have been held at the subject premises for a number of years without any adverse impacts on the:
 - amenity of the locality
 - agricultural use of adjoining properties
 - provision of public services and amenities in the locality
 - rural character of the locality

Having regard to the above, it is submitted that the proposed development is consistent with the relevant zone objectives.

The subject land has a dwelling entitlement pursuant to Clause 12(3)(e) of the BLEP. A dwelling house exists on the land that was approved under the terms and conditions of BA 603/1979.

5.1.2 Regional Environmental Plans (REPs)

The North Coast Regional Environmental 1988 (NCREP) is the only REP applying to the subject land. The following clauses are relevant to Council's consideration of the proposed development.

Clause 12 – Development control – impact of development on agricultural activities provides that Council shall not consent to an application to carry out development on rural land unless it has first considered the likely impact of the development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The proposed wedding receptions will be conducted on land that is within the curtilage of the existing dwelling house and ancillary improvements/structures. This part of the land is constrained from an agricultural perspective due to the existence of these buildings/structures.

As is evidenced from the aerial photograph at **Appendix B**, the bulk of the property is available for use for productive agricultural purposes with significant vegetative buffers existing around the periphery of the site.

Having regard to the above, the proposed development will not cause a loss of prime crop or pasture land and will not have detrimental impacts upon adjoining or adjacent agricultural activities.

5.1.3 State Environmental Planning Policy No. 55 – Remediation of Land

The subject land is currently used for rural residential (including B&B within existing dwelling house) and agricultural purposes. As detailed on the Wedding Event Operational Plan at **Appendix C**, the wedding functions are situated wholly within the curtilage of the existing dwelling house.

Communications with Council's EHOs has confirmed that a preliminary contaminated site investigation is not required due to the fact that:

- the wedding functions are held wholly within the curtilage of the existing dwelling house
- there is no material change of use of the site
- there are only 12 events per year with guests only being on the site for less than 1 day
- there are no building or site works proposed or required and thus there will not be any disturbance of site vegetation or soils
- wedding functions are not considered to be highly sensitive receivers

Based on the above and given the proposed development of the site no further investigation is recommended.

5.1.4 State Environmental Planning Policy (Rural Lands) 2008

The Rural Lands SEPP (RL SEPP) applies to the proposed development. The matters contained in Part 3 (being Clauses 8-10) relate to development applications for rural subdivisions or rural dwellings only and are thus not applicable to the proposed development.

The Rural Planning Principles (Clause 7) of the RL SEPP are as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native*

- vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
 - (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
 - (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

It is submitted that the proposed holding of small scale, low-key wedding functions at the site is such that is consistent with all of the relevant rural planning principles. The environmental, social and economic impacts of the development are articulated in **Section 4** of this report.

5.1.5 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The erection of specific temporary structures comprises exempt development under SEPP ECDC.

Subdivision 39A relates to temporary structures, other than tents and marquees and Subdivision 39C relates to tent or marquees used solely for filming purposes.

The SEPP thus has no specific application to this proposal.

5.1.6 Draft Ballina LEP 2010

The Draft BLEP 2010 was publicly exhibited for the period 15 March 2010 to 18 June 2010.

The subject land is identified on the Draft BLEP mapping as follows:

- Land Zoning Map – sheet LZN-004 – RU1 – Primary Production Zone
- Lot Size Map – sheet LSZ-004 – AB 400,000sq m (40ha)
- Height of Buildings Map – sheet HOB-004 – 8.5m maximum building height

Function centre is defined in the Dictionary to the Draft BLEP 2010 as *"..a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility."*

Function centre is a prohibited use within the RU1 zone, however Clause 2.6B(1) provides a mechanism for the temporary use of land *"..if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land and its surrounds."*

Clause 2.6B(2) provides that *"Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary purpose for a maximum period of 30 days (whether or not consecutive days) in any period of 12 months."*

Clause 2.6B(3) provides that consent must not be granted unless Council is satisfied that:

- "(a) the temporary use will not prejudice the subsequent carrying out of the development on the land in accordance with this Plan and any other applicable environmental planning instrument, and*
- (b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and*
- (c) the temporary use and location of the any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and*
- (d) at the end of the temporary use period the site will, as far as is practicable, be restored to the condition in which it was before the commencement of the use."*

As detailed in Section 3 of this report, the proposed use is appropriately defined as a temporary use for the purposes of Clause 2.6B and therefore the use is permissible notwithstanding the zoning table prohibition.

Comments in respect of considerations (a)-(d) are provided in Sections 4 and 5 of this report.

5.2 Ballina Shire Combined Development Control Plan

5.2.1 Chapter 13 – Stormwater Management

Roof-water is already collected in storage tanks and used as the potable water and bushfire supply for the dwelling house. Stormwater is not likely to be problematic and will not impact adjoining properties or downstream receiving environments due to the fact that there are no new permanent additional impervious areas. The temporary nature of the marquees is not such that will generate additional stormwater.

5.2.2 Ballina Shire Combined DCP 2006 – Chapter 18 – Rural Land

Chapter 18 applies development on non-urban land and provides standards, principles and objectives for the development thereof.

The information required of the site analysis as required by Part 1.12 is provided in Section 2.0 and Appendices B and C (site appraisal plan and aerial photograph of subject and adjoining land) of this report.

The following table provides comments in respect of the general development controls for non-urban lands, contained in Part 3.

Issue	Development control requirements	Comments
3.1 Rural Land Use Conflict	Development to be compatible with the minimum buffer distances contained in Table 3.1. Development to comply with minimum setback requirements contained in Table 3.2.	There are no uses listed in Table 3.1 situated within the minimum buffer distance of the site. The proposed use is not such that will create or be impacted by rural land use conflict.
3.2 Ridge Lines and Scenic Areas	Development design to be compatible in appearance with natural environment and scenic qualities of land and locality. Buildings and works should not be situated on ridgelines unless no suitable alternative location is available.	The visual impact of the proposed development is detailed in Section 4.4 of this report. The curtilage of the dwelling is not visible in the local context. Only temporary structures

	Details of building colours and materials to be provided with DA.	(marquees) are proposed for no more than 12 events per year (being erected for 2-4 days each time).
3.3 Environment and Ecologically Sensitive Areas	<p>Development (except dwellings and basic agricultural buildings/activities) to demonstrate net environmental benefit.</p> <p>Compensatory planting required where natural habitat removed.</p> <p>DA's for land within or adjacent to ecologically sensitive areas to provide ecological assessment.</p> <p>Development footprint in or within close proximity to ecologically sensitive areas to be minimised.</p> <p>Buffers to be provided to ecologically sensitive areas.</p>	<p>There is no vegetation required to be removed on the site.</p> <p>Substantial established landscaping exists around the periphery of the site and within the curtilage of the dwelling house.</p> <p>The location of the weddings is on land that has been subject of prior disturbance, is not identified as being of conservation value and is not proximate to any ecologically sensitive areas.</p> <p>Sections of the subject land have and continue to be subject of intensive weed management and rehabilitation planting.</p>
3.4 Landscaping	Landscape plan required where development has potential to negatively impact on visual or rural amenity of locality.	A landscaping plan is not required.
3.5 Potentially Contaminated Land	Development to comply with "Ballina Shire Council Policy for the Management of Contaminated Land (BSC)" and SEPP 55.	Comments in respect of contamination are provided in Sections 4.3 and 5.1.3 of this report.
3.6 Flood Prone Land	Development to comply with the requirements of Chapter 1 – Urban Land, Policy Statement No. 11 – Flood Levels.	The subject land is not identified as being subject to flooding.
3.7 Land Slip/ Geotechnical Hazard	<p>Geotechnical report required where development to impact or be impacted by unstable lands.</p> <p>Slopes of 20% or more considered less suitable for development.</p> <p>Buildings to be sited to minimise earthworks with construction methods being responsive to slope and involve minimal cut and fill.</p>	There are no new building or civil works proposed or required. The weddings are held on level land within the curtilage of the existing dwelling house.
3.8 Mosquito Management	<p>Development to comply with Chapter 11 – Mosquito Management of Ballina Combined DCP 2006.</p> <p>All windows, doors and external openings to habitable rooms to be screened.</p>	Not applicable.
3.9 Waste Management	<p>All waste generated to be disposed of in accordance with the POEO Act 1997 and LGA 1993.</p> <p>Waste management plan to be submitted with DA where waste will be generated by proposed development.</p>	Waste management is detailed in Sections 3.1.5 and 4.6 of this report.
3.10 On Site Sewage Management Systems	Development to comply with "Ballina Shire Council On-Site Sewage and Wastewater Management Strategy".	Issues with respect to OSSMS for the dwelling house and B&B and being addressed under separate cover. Port-a-loos are provided for each event as detailed in Section 3.1.7 of this report.
3.11 Stormwater	Stormwater from small/low impact development to be disposed of in	The proposed development is temporary, small scale and low

Management	<p>nuisance free manner (no environmental impacts by erosion or increased sediment load).</p> <p>Stormwater from larger developments require stormwater management plan to be prepared in accordance with Chapter 13 – Stormwater Management of Ballina Combined DCP 2005.</p>	<p>impact and will not generate any significant additional stormwater and will not impact existing stormwater flows.</p> <p>All existing roof water is captured in roof water tanks.</p> <p>Due to the temporary nature of the marquees and the large size of the lot, there will be no impacts.</p>
3.12 Sediment and Erosion Control	<p>Erosion and sediment control measures to be in accordance with "Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004."</p> <p>Adequate erosion and sediment controls measures to be in place prior to commencement of works.</p> <p>Single all-weather access way to be provided on site that extends from public road system to building construction site.</p> <p>Sediment and erosion control plan or soil and water management plan may be required depending on characteristics of development and site.</p>	<p>There are no building or civil works proposed or required and thus no need for erosion and sediment controls.</p>
3.13 Water Supply and Provision of Services	<p>Sewer, power, water and telephone to be provided to all new development involving residential and tourist accommodation uses.</p> <p>Any business or facility (not household supply) that supplies drinking water from independent water supply to comply with "Private Water Supply Guidelines, May 2007."</p> <p>Business involved in the preparation or manufacture of food must use potable water for all such activities.</p>	<p>The existing dwelling house/B&B is serviced with on-site wastewater and potable water supply (refer Section 3.1.7 of this report).</p> <p>Port-a-toos are brought in to service each wedding event. Caterers are used to provide food and beverages (refer Section 3.1.4 of this report).</p>
3.14 Roads, Vehicular Access and Parking	<p>Traffic study required where development will generate significant traffic or parking.</p> <p>Safe and efficient access to be provided.</p>	<p>As detailed in Sections 3.1.3 and 4.5 of this report, the proposal will not generate a significant amount of additional traffic movements.</p> <p>Having regard to the temporary, small scale and low-key nature of the use it is submitted that a traffic study is not required.</p>
3.15 Temporary Use of Land	<p>Development to comply with Council's Special Events Policy</p>	<p>Not applicable.</p>
3.16 Heritage Items and Places	<p>Development to be sympathetic to any proximate heritage items.</p> <p>Proposals to undertake major alterations to existing heritage items to be subject of Statement of Heritage Impact.</p> <p>DA to be accompanied by archaeological assessment where land incorporates or is adjacent to known items of Aboriginal cultural significance or where advised by JALI.</p>	<p>The subject land does not comprise, nor is it identified as being in the vicinity of a heritage item or place.</p> <p>The subject land is not proximate to any heritage item or place.</p>

5.3 Crime Prevention Through Environmental Design

The aims of crime prevention through environmental design are to:

- Enhance the safety of developments for all users; and
- Minimise the opportunities for crime to be committed.

The safety and security of the guests (including the perception of safety and security that the site will provide) is of paramount importance to the success and attractiveness of the facility. The above aims will be achieved by having regard to the following criteria:

Surveillance

The weddings are held within the curtilage of the dwelling house within a completely controlled and managed environment. The resident managers are on-site at all times during all events.

Lighting of the facility exists and provides a safe night-time environment for guests.

Access Control and Target Hardening

The subject land is situated in a rural area that is not subject of high numbers of passing people due the relative isolation from towns and villages. Access to the site is via the existing driveway to Victoria Park Road (and existing internal driveway connecting thereto).

The events are controlled and managed at all times by the on-site resident managers.

Territorial Reinforcement

The managers live on-site with the functions being held within the curtilage of the dwelling house. The on-site resident managers inconspicuously supervise all use areas throughout each event. The locality is rural and is relatively remote and thus there is little passing vehicle and pedestrian traffic.

Defensible Space

As part of the routine occupation of the site, a very strong emphasis is placed on the maintenance and keeping of the site so that it presents in a neat, tidy and attractive manner.

All maintenance, repairs and the like are under the direct control/supervision of the on-site resident manager at all times. The presentation of the facility is critical in attracting guests and promoting a safe, clean and attractive place within which people would want to be married.

Under the circumstances, it will be very obvious that there is care and order at the site which will signify that the site is well maintained and 'defended'.

5.4 Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast

The Handbook does not provide any specific recommended buffer width for places of assembly. The Handbook recommends a minimum buffer width of 50m and 200m between rural tourist accommodation and cattle grazing and sugar cane, cropping and horticulture respectively.

As is evidenced on the aerial photograph at **Appendix B**, intensive horticulture exists on the northern and western adjoining properties.

As is evidenced from the plans at **Appendix B** and **C**, the weddings will be held on land that is a minimum of 100m from the closest lot boundary, being within the curtilage of the existing dwelling house which is generally centrally located on the site. The periphery of the site is generally well buffered with existing mature plantings.

The nature of the development involves the provision of a rural wedding experience. It is submitted that potential guests would be expressly seeking such an experience and would thus be more tolerant (and probably seeking/expecting) of rural activities. Any complaints would be provided directly to the on-site resident manager.

The proposed events are held in close proximity to the existing dwelling house and are well clear (>100m) of all lot boundaries which contained vegetative buffers. There should therefore be no land use conflict arising between the temporary weddings and adjoining agricultural pursuits.

Provided at **Appendix D** are letters of support that have been provided by local residents in the locality. There are obviously no land use conflict issues with these adjacent residents.

6 Conclusion

This section of the report provides a detailed conclusion of the development proposal.

The application seeks consent for the use of the existing site as a place of assembly (wedding receptions) for up to 12 events per calendar year for a maximum of 100 guests.

The development is a temporary, small-scale, low-key use that is compatible with the site and the locality. The proposal will not impact the agricultural production potential of the subject or adjoining land and will not compromise the environmental characteristics of the land and broader locality.

The proposed development is permissible with consent within, and is consistent with the objectives of the 1(a1) zone under the Ballina LEP 1987. The proposal is also consistent with the North Coast REP 1988 and other relevant environmental planning instruments, codes and policies.

The site is not highly visible in the local landscape and is not constrained by flooding, geotechnical, bushfire, acid sulphate soils, flora and fauna, contamination or any other known constraint.

In conclusion and having regard to the particular circumstances of this case, it is respectfully requested that consent be granted to this application.

APPENDIX D

Appendix D
Letters of support from
adjacent neighbours

Dear Sven,

Thank you for the opportunity to review your application to Council for extending activities at your property.

As a neighbor who has had close association with wedding celebrations there through family and friends, I can only offer my utmost support for such high standard, classy events.

The number of weddings proposed each year appears reasonable to me, I therefore wish you a successful outcome from your application to Council.

Yours Sincerely,

*Tim Reilly
151 Victoria Park Road,
Alstonville*

A handwritten signature in black ink, appearing to read 'Tim Reilly', written in a cursive style.

23 March, 2011


21 March 2011

115 Victoria Park Road,
Alstonville NSW 2477

Dear Sven, Sharon & Ross,

Thank you for consulting with us regarding your proposal for weddings to be continued at your property. As they would all be required to conclude no later than 11.00 pm we would not object during the process of requesting Development Approval with Council.

Kind Regards,



Marlene & Graham Backman



24-3-2011

112 Victoria Park Road,
Alstonville

Sven, Sharon & Ross,

Jill and I have considered your proposal to hold further weddings and art escapes at your neighboring property and give our full support, we would of course expect the occasional invite to further engage in the wonderful atmosphere created for those lucky participants. We also acknowledge that there are numerous advantages for the local community with these activities.

Regards,



Tony Perkins

23 March 2011

95 Victoria Park Road
Alstonville NSW 2477

Dear Sven, Sharon & Ross,

We do not have any objection to what you are proposing in your Development Application to Council, which will include further wedding celebrations at your property.

Kind Regards

Phil Jenke

A handwritten signature in black ink, appearing to be 'Phil Jenke', written over the printed name.

25 March, 2011

145 Victoria Park Rd
Alstonville. 2477

Hi Ross,

Seems that you are trying your best to continue as neighbors of ours by diversifying your activities a little further at your property. We have looked at your proposal for an application to Council to continue to do weddings and art escapes to supplement farm activities. The link to rural tourism can only be good for the area and if it will support the valuable environmental restoration work that you have been doing in association with your bed & breakfast we agree with the concept.

We look forward to more champagne, free gourmet food and free entertainment in the future.

Regards,



Phil & Patti Stacey

23/3/2011

RMB 568, Dalwood,
Victoria Park Rd,
Alstonville. NSW

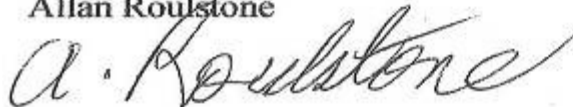
Dear Sven,

Thank you for consulting with us regarding your proposal for weddings to be continued at your property. We understand that each one would finish by 11pm.

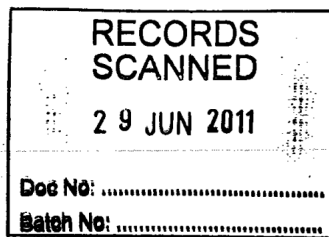
We do not see a need to object to your proposal when Council are considering your Development Application.

Yours Faithfully,

Allan Roulstone

A handwritten signature in cursive script that reads "A. Roulstone".

From: O Newton-John <ollybonger@mac.com>
Subject:
Date: June 19, 2011 10:55:29 PM EDT



Attention to whom it may concern,

RE: DA Submission- 104 Victoria Park Road Alstonville
NSW 2477

I have been a neighbor and friend of Ross and Sharon Christian of 104 Victoria Park Road for over 30 years ,indeed our properties share a grove of rainforest trees along the lane-way that boundaries both our properties and along the edge of the creek that runs thru our farms. I know them to be good citizens of good character who are very conscientious of protecting their local environment.

I recently returned to the USA from being home in Alstonville to hear the sad news that things have changed for the Christians.

They have always designed and built sustainably, even before it was required, and indeed always made me aware of the latest environmental measures.

Over the years I have attended many functions at their home, and at the wedding I attended there I was very impressed by the care and concern placed in the protection of their neighbors by bussing their guests in and out of their property to ensure there were no issues with noise and traffic on Victoria Park Road.

I believe the Christians are an asset to the area as they promote and employ so many local people from caterers, cooks, food and wine merchants, musicians and DJ,s, servers, bus drivers etc,- to the business their weddings provide to local hotels and the publicity their exquisite home has brought to the area.

I sang at one of the weddings and believe it to be one of the most beautiful weddings I have ever attended.

In addition I know that the Christians are donating a portion of their wedding profits to charity and have planted a tree for each bride and groom married there -

these are numbering about 40 trees along their driveway from past weddings since 2002 and their returning guests often revisit to see how their trees are doing-an obvious positive environmental contribution for the last almost 10 years.

I know that one of the other positive things the Christians are doing is to showcase organic produce and responsible farming methods and composting of environmental waste, and their guests love this special aspect of both staying at their home and attending an environmentally responsible wedding.

I therefore encourage you to grant them a licence to continue their small wedding practice which I believe to be a good thing for our area, for I fear if you dont we will lose these special people to another shire as they may have to move elsewhere to continue their business.

I believe there have been rumors about guests being in Victoria Park late at night making noise , but as the guests are bussed out of the property I believe this to be a misunderstanding-

I live adjacent to Victoria Park, and the park is open to anyone at night- maybe it should be closed after dark to prevent this happening again as it disturbs not only neighbors but the native animals.

I therefore encourage you to grant them approval.

Thank you for your attention.

yours sincerely



From: Alstonville Cottages [alstonvillecottages@gmail.com]
Sent: Friday, 26 August 2011 1:16:23 PM
To: Ballina Shire Council
Subject: ref. DA 2011/341 104 victoria park road alstonville.

I am writing in support of the above DA. They are a quality establishment and bring many people to the Ballina shire. The guests of Deux Belettes stay in Alstonville and wine and dine around the area

--

Regards
Duncan and Caroline
Alstonville Country Cottages
7 Alstonville Cemetery Rd
Alstonville
NSW 2477
Australia
Ph. 02 66281696
Mob.0402 281315
Fax. 02 66286208
Email info@alstonvillecottages.com
Website www.alstonvillecottages.com

Member of Byron Hinterland Accommodation Group



To whom it may concern,

Your Gourmet catering has been catering magical weddings at Deux Belletes for several years, and I can honestly say it is my all time favourite location, for many reasons.

Firstly, our clients absolutely love the beauty, unique character, and magic of the property and buildings. You can't take a bad picture there!

For the staff, the planning and simple infrastructure makes our job so safe and much easier. The covered cooking area, the concealed garbage areas, the paved area for our cool room, the staff room all mean we can just show up shortly before service with all our equipment and provide a very professional, organized level of service. The lighting and electricity are all well managed and make our jobs safer and smoother. They always have a generator, just in case.

It is an easy place for the hire company to deliver all our equipment and cool room the day before each event. BBQ's, roaster ovens, plates, cutlery and glass wear is delivered in sealed plastic tubs to the covered BBQ area, ready for us to use (we don't use the kitchen inside). And the next day is it all ready for the hire company to remove, to be washed in their commercial machines offsite.

Sharon and her family are supportive and friendly and give the brides a level of care that does not exist in the shire. The brides really get to be a pampered princess for a day!

Deux Belettes is currently not taking any wedding bookings, and this has had a huge impact on our business. I employ over 10 locals as chefs and waiters. These are long time locals, not backpackers, who all have their RSA's and are covered by workers compensation. The lack of wedding work has hit them (and me!) hard.

Recently I have had several brides who have decided to get married elsewhere, such as the Gold Coast, Noosa and Hayman Islands, as they could not find an appropriate venue locally.

I think Deux Belettes has the potential to be the best wedding venue in the Northern Rivers area, and I hope this can happen soon!

On a personal level, I think Sharon, Ross and Sven are kind, fun, hard working people who I have come to count as friends. My husband, my girls, and I all feel welcome every time we come to their property. Over the last 30 years, they have created a special unique place in the country. I sincerely hope that they can start sharing this special place again.

Sincerely,

Leela Anna Brett

PO Box 425, Bangalow, NSW 2479 Australia
www.yourgourmet.com.au | 0439 656 063

From: The Garden Inn Motel [info@gardeninn.com.au]
Sent: Wednesday, 24 August 2011 5:41:23 PM
To: Ballina Shire Council
Subject: 2011/341 Victoria Park Road, Alstonville

ATTENTION: Jenna McNabb

Good afternoon Jenna,

We own The Garden Inn Motel and would like to express our opinion on keeping Deux Belettes operating as a wedding venue. Not only is there nothing like it anywhere in Australia (we travelled for five years), it is unique. It is a source of income for many local businesses.

We gain a lot of business from Deux Belettes when they host weddings. In this current economic climate every referral helps.

It would be a great pity to see this wonderful property not operating as a wedding reception venue.

Regards,

Laurie & Sherry Fehring
The Garden Inn Motel Wollongbar
6628 5666



CREATIVE WEDDINGS
Byron bay

Po Box 1107
Byron bay NSW 2481

M «Phone»
T 02 6687 5515
«Email»
www.weddingsbyronbay.com.au

26th August 2011

To whom it may concern

Re: Deux Belettes

I am a resident of Ballina Shire.
I have been engaged by numerous brides as a wedding-planner/co-ordinator at Deux Belettes over several years.
I work with many different venues in Byron bay and have found Deux Belettes to be a very professional and accommodating venue to work with. I rely on these venues for my livelihood and take my work very seriously.

I feel that offering my clients destination weddings also brings much needed business to the small business owners in the Ballina Shire and surrounding areas.

My duties have been to organise and run the event in conjunction with both the bride and Deux Belettes and specifically to adhere to the Terms and conditions specified by Deux Belettes and the Ballina shire council regarding music levels and finishing times, to instruct party hire companies on the location of their marquee and setup and styling of tables and decoration inside the marquee.
I provide a run sheet for the caterers, celebrant, bus companies, musicians, florists, hair/ makeup artists and of course the owners of Deux Belettes who are always in attendance to instruct me should any issues arise.

I have successfully lobbied bus companies to provide small buses for guests attending local wedding venues so that traffic is no longer an issue. This has been especially beneficial to Deux Belettes who up until then had only been able to use 54 seat buses which had difficulty turning/reversing at the end of Victoria Park road late at night. Although these school buses travel the road during daylight hours it was not an ideal situation when after the wedding guests had to walk down a long driveway to Victoria Park Road, sometimes in the rain, to get on the bus. The small 34 seat buses have also done away with the issue of buses being parked anywhere along Victoria Park Road or outside Victoria Park Nature Reserve as they are able to turn at the top of Deux Belettes' driveway.

Also from a security point of view there is no longer any physical indication that there is a wedding in progress.

I now note that most bus companies have a fleet of small buses that can negotiate our rural roads for efficient safe transport of guests..

Sincerely yours,

Ainslie Gascoigne
Creative weddings
Byron bay NSW

From: Penny [Penny@byronbayweddingandpartyhire.com.au]
Sent: Thursday, 15 September 2011 9:09:13 PM
To: Jenna McNabb
CC: info@ardillpayne.com.au
Subject: RE: Council DA 2011/341 104 Victoria Park Road

Dear Jenna

I am writing in response to a letter of objection mounted by Mr Jeff Stewart in relation to the above DA.

Our family has been friends of the Christian family for many years having been neighbours in the same street in Sydney. Our children, having a mutual interest in music, formed a band and performed on a social basis for friends and family. We had always longed to move out of the city and after the Christians moved to Northern NSW they convinced us that there was nowhere else better than this area to relocate. This we did in early 1992.

In 2004, we purchased an Event Hire company in Byron Bay. At the time, the wedding industry then was just beginning to kick off. We worked in close conjunction with both North Coast Party Hire (Ballina) and Lismore/Goonellabah party Hire, sub hiring from each other and purchasing new stock as our businesses grew....and grew they certainly did. Byron Bay, together with the nearby hinterland, has become one of the most sought after wedding destinations for couples planning their weddings. The majority of these weddings are not for local people but those coming from elsewhere ... other parts of NSW, all states in Australia and overseas. So often the guests at these weddings look at Byron Bay, Ballina and surrounds as an opportunity for not only attending a wedding but as a holiday for themselves, extending their stay for several days. Numerous businesses, directly or indirectly, in both Ballina and Byron have grown as a result of this industry with an increase in accommodation providers to handle the influx and ... it is not always the obvious for instance, we have our linen laundered and pressed at a business in Ballina Shire.

We supply numerous venues in Byron hinterland but only a few in Ballina Shire. Deux Belettes is a very special venue and the owners of that property go to great lengths to ensure that there are no issues with neighbours by imposing a sensible curfew and ensuring that buses come into the property to take the guests home.

When our son was looking for a venue for his wedding a little over 3 years ago, it was with great delight that the Christians offered their home for his wedding.

We engaged, a Sydney based (licenced) company who supplied fireworks that did not cause fires when they landed. We requested permission to also light a bonfire in the padcock. This was obtained from the Rural Fire Brigade who inspected the site. Our Children organised their old band to come together to play on the evening.

This was a private party, the Christians were invited guests and we partied well into the night.

Over the years, we and the Christians attended several bonfire and fireworks nights at Rous Public School. The Christians no longer allow fireworks at their venue because they have horses but I believe that if fireworks are provided by an authorised and licenced operator, and at the appropriate time of the year, they can be as safe as they are at Rous School and other public venues.

Deux Belettes is a unique property on offer for weddings. I would not call this a function centre as such ... it is far from it. Just a beautiful home that attracts a special person. The industry is very seasonal with the main periods being autumn and spring but even then, no venue is fortunate enough to have a wedding every week or every month in some cases even during the main wedding period. We find now, with the limitations that Council has imposed on this property, that we are all losing valuable clients not only for weddings but for the economic benefits that flow on from a wedding.. For many, there is no alternative in

the area so they go elsewhere.

I do hope you favourably consider the Christian's application to continue to offer their property as a wonderful experience. This is marketing the shire cannot buy.

Kindest regards

Penny Rettenmaier

Byron Bay Wedding and Party Hire

Ph: +61 (2) 6685 5483

Mob: +61 (2) 439 855 483

Web: www.byronbayweddingandpartyhire.com.au

From: JOHN and ANNA TONKIN [johntonkin28@bigpond.com]
Sent: Sunday, 28 August 2011 7:30:30 PM
To: Ballina Shire Council
Subject: submission re DA 2011/341 104 Victoria Park Road, Dalwood. Hard copy in the mail.

25th August 2011
John and Anna Tonkin
20 Victoria Park Lane
Dalwood NSW 2477

Ballina Shire Council
PO Box 450
Ballina NSW 2478

Attention: Town Planners .

Dear Sir/Madam,

Re: DA No. 2011/341
Lot 2 DP 703657 104 Victoria Park Road Dalwood
To utilise the existing premises to hold wedding functions.

Firstly we wish to disclose that we have not now or in the past made any donations or gifts to a Councillor or Council employee.

We hereby make a submission to Ballina Shire Council regarding the above DA.

In the twenty or so years we have lived at Victoria Park we have enjoyed a good relationship with the applicants.

We have read the DA and wish them well in gaining approval as is stated ie; 12 functions per year, all guests arriving and departing by bus and all music and noise finished by 11pm.

We agree generally with the letters submitted by other neighbours in support of the proposal. The understandings however are based upon a personal relationship with the applicants. There is no certainty that this trust will continue in the event of the property changing hands.

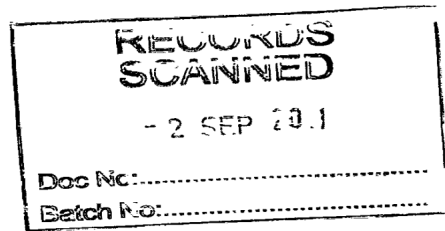
If this does occur, what guarantee does council provide in ensuring continuation of the agreed DA conditions? This is our concern.

Yours sincerely,

John Tonkin , Anna Tonkin

Jeff Stewart
181 Cooks Lane
Dalwood. NSW
2477

Ballina Shire Council
Attention: Town Planner
P.O.Box 450
Ballina. NSW
2478



Subject: DA 2011/341

01/09/2011

Dear Sir/Madam,

I have recently been notified of the above mentioned Development Application. I take this opportunity to strongly object to the application being approved. My property's boundaries are adjacent to and within a couple of hundred metres of the proposed function centre.

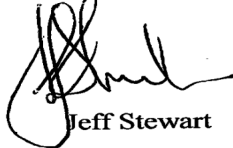
I believe the area in which we reside is zoned rural (1A) and should remain so. I feel that if a function centre be approved at this site, it would only be a matter of time before complaints from the owners and patrons of said Function Centre would begin to flow about the agricultural activities on adjacent farms.

I have had issues in the past with the practises of this unregulated/uncertified Function Centre. Because the entertainment area faces my residence, the noise from the amplified public address and music travels unhindered to my home and others. The noise is heard from functions held during daylight hours and night time. Before Council stopped the illegal activities, this could occur on a frequent basis and I fear this would only increase regularity if DA approved. If I'd wanted to live next to a night club I would have moved to town.

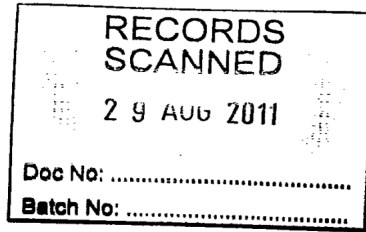
Illegal fireworks have also been fired from functions held at the site. With no thought to the risk of grass fire, no license or notification given to council or authorities, the applicant exposed themselves and others to action by regulatory authorities. These reckless actions led to some local residents spending days rounding up spooked stock and lost dogs.

The applicant has a history of total disregard for the rights and concerns of Dalwood residents and I fear this may continue if the DA is approved. Strong objection to rezoning or approval from Rural to Commercial is submitted.

Yours sincerely,



Jeff Stewart



This letter is Anonymous for fear of intimidation

Re: Development Application 104 Victoria Park Road, Dalwood 2477.

I would like to lodge a letter of concern for the proposed development of a reception area at 104 Victoria Park Road, Dalwood.

I bought on Victoria Park Road for the quiet serene country lifestyle. I believe that allowing a reception venue would be detrimental to this environment.

Allowing loud music and noise which this type of business will generate (it depends on the weather – wind etc and on a still night it can travel kilometres) is not conducive with the above lifestyle. Most of the population on this road are over 50 and allowing the music curfew to be **11pm is far too late even more so on a week night** when most residents have to work the next day. Also guest numbers should be carefully looked at as **50 people can make an awful lot of noise** especially after a few alcoholic drinks and even more so on a still night never mind 100 as proposed.

To say the owner/managers would be vigilant in keeping noise etc to a minimum is alright for now but what happens when the venue is sold? Would the next owners be as vigilant? Who keeps track of how many functions are held each year and if this number is exceeded who polices and acts on it?

I hope that you will please take this letter of concern into consideration.

Dear Sir,

Page 1 of 1

From: JOHN and ANNA TONKIN [johnntonkin28@bigpond.com]
Sent: Friday, 2 September 2011 9:08:49 AM
To: Regulatory Support Staff; mark.vittavino@environment.nsw.gov.au
Subject: Re: DA No 2011/341, 104 Victoria Park Road Dalwood

2nd September 2011
John and Anna Tonkin
20Victoria Park Road
Dalwood NSW 2477

Ballina Shire Council
PO Box 450
Ballina NSW 2478
Attention: Town Planners

Dear Sir/Madam,

Re: DA No 2011/341
Lot 2 DP 703657 104 Victoria Park Road Dalwood.

Addendum to our Submission dated 25th August 2011

Our letter supported the proposal with the understanding DA conditions would be adhered to. Following our discussions with council, it is clear that there are no assurances or guarantees these conditions will be monitored or enforced by the council once the request has been granted.

We have been told that it will be up to the neighbours to complain. This is not satisfactory.

As neighbours living very close to the Christian's property and directly opposite Victoria Park for 20 years, we wish to express our strong objections to the proposal.

Given that weddings and functions have been a regular occurrence for the past ten years, it is curious that a formal application is now being sought. We are concerned that the property may be sold to a commercial entity who will want to grow the business.

We do not feel reassured by the council and we are therefore very concerned about the potential impact of increased functions, increased noise levels, traffic and damage to wildlife during after parties in Victoria Park Nature Reserve when the property changes hands.

Yours sincerely,
J & A Tonkin

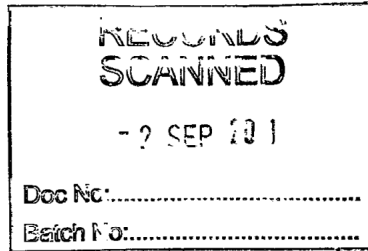
Cc'd to National Parks and Wildlife, Alstonville.

file://C:\DataWrks\temp\1871196\dwa2E.htm

05/12/2011

30th August 2011

Regulatory Services Manager
Ballina Shire Council
P.O.Box 450
BALLINA NSW 2478



Dear Sir

RE: DEVELOPMENT APPLICATION 2011/341

I am writing to show concern with the above Development Application for the premises at 104 Victoria Park Road Dalwood NSW 2477.

As our land use at 10 Victoria Park Lane is an Orchard, I have a problem that a Commercial type "Function Centre" is being considered, less than 200 metres from our Boundary.

My concerns are:

1. How would Council monitor the Functions as Wedding Functions and restrict those functions to 12 per year?
2. What arrangements are being proposed by Council for parking, traffic and noise including the pickup and drop off for guests outside the property? This would also include maintaining the road.
3. What regulations and restrictions are put in place for future development should the existing owner decide to sell the property?
4. What restrictions are in place for future Liquor Licensing and Commercial Accommodation?

I do not have any problem with the premises used for family social occasions, that may include a wedding or similar function, however when it comes to a "Commercial Enterprise" I feel that our occupation as an "orchard" is under threat as we are situated in a fragile environment.

Should the owners wish to discuss this with me I am happy to have a meeting to discuss as we have not been advised of the application prior to the submission.

Yours faithfully

Andrew G Burnet



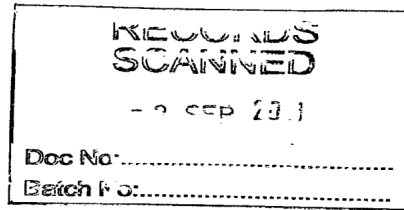
VICTORIA PARK PLANTATIONS

ABN 56 187 303 893

371 Dalwood Road, Rous Mill NSW 2477.
Phone: (02) 6629 5099 Fax (02) 6629 5046
Email: victoriapark@bigpond.com.au

31 August 2011

Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Dear Sir/Madam

**RE: Withdrawal of Objection
DA 2011/341 No. 104 Victoria Park Road, Dalwood**

We have previously written to you on 24th August, about our objection to the above request for DA approval, pending some form of written confirmation from the development application participants ensuring that their endeavour would not interfere with our right to currently farm as a long term neighbouring agricultural entity.

Since lodging our objection we have discussed the issue with the applicants by phone and by email, and subject to the mutual signed attached 'Memorandum of Understanding', are happy to withdraw our objection, subject to the terms of the attached agreement being signed by both parties, and efforts being made to mutually uphold the terms of this agreement into the future.

Yours faithfully

WARREN ELVERY
Manager
Victoria Park Plantations



UNI-FACT PTY LTD - SARATOGA HOLDINGS PTY LTD - NEW LINE INVESTMENTS P/L

**Memorandum of Understanding Dated 1 September 2011
Boundary Agreement**

After communication by email and phone, both Victoria Park Plantations and the applicants of DA 2011/341 for future business endeavours on Lot 2 DP 703657, being the operating owners of 104 Victoria Park Road, Dalwood, agree to uphold and maintain the following requests:

- 1) Being able to forum discussion on any issues relevant to our mutual boundary, and attempt to reach an amicable decision, in the spirit of allowing the current agricultural premises to continue to operate their agricultural endeavours as required.
- 2) This includes attempting to give at least 2 weeks' notice of being aware of negotiating extended hours of operation, night farm operations or other farm activities around seasonal periods as required.
- 3) Each party to this Agreement can attempt to plant a buffer zone along their boundary (eg. Casuarinas) to fill in the gaps on the existing boundary line.
- 4) Each party must notify the other by telephone or in writing when and if a booked event will occur, and whenever possible give at least 2 weeks' advance notice.
NB: Notification of booked events and weddings are usually 12 months in advance and there are usually only up to 12 per year, of which most will be from September to May.
- 5) Each party must notify the other by telephone or in writing when and if a spray event is being planned, and whenever possible give at least 2 weeks' advance notice.
NB: Spray notification will usually identify a 'period' in which spraying may be completed dependant on wind and weather factors to determine the actual times of spraying during the nominated period.

This Agreement allows both parties to add/delete/amend or change any of the above factors through discussion.

Upheld by –



Party 1:

I/We, Victoria Park Plantations agree to the above Terms of Agreement

Signed: 
Name: Warren Elvery
Position Held: Manager
Contact Phone: 0427 295099
Office Contact Ph: 0266 295099

Party 2:

I/We Deux Belettes Guesthouse agree to the above Terms of Agreement

Signed: 
Name: Sharon Christian/Sven Christian
Position Held: Proprietor
Contact Phone: 0413 966636
Office Contact Ph: 0266 295377 

APPENDIX F
Noise Management Plan

Deux Belettes Noise Management Plan for Weddings
September 2011

1. Hours of operation for service industries for the set up and removal of equipment for the event to be conducted during business hours on weekdays
2. No dismantling or removal of service equipment on Sunday
3. All guests to be transported to and from the venue in buses with a capacity no greater than 34 seats
4. Glass bottles not be bulk dumped on the night
5. Music speaker system in the large marquee to face the west
6. No bands with drum kits or guitar and keyboard amplifiers – Acoustic guitarists with vocals and string quartet and woodwind type performances only
7. Music levels to be no louder than 75 dBA (average) when measured 5m directly in front of the speaker
8. Music levels to be no louder than 60 dBA (average) when measured 10m directly behind the speakers
9. Music levels to be turned down after 10.00pm so that it is not audible at the front gate
10. No music to be played after 11.00pm
11. All guests to be departed by 11.30pm
12. Catering staff reminded and supervised to pack up in a quiet manner
13. All staff reminded to leave premises in a quiet manner
14. Event Coordinator responsible for controlling loud or offensive noise from patrons
15. Deux Belettes management reserve the right in their absolute discretion to exclude or remove any undesirable persons from the event or premises without liability



Land and Environment Court
of New South Wales

CITATION : Boutros v Strathfield Municipal Council [2005] NSWLEC 76

PARTIES : APPLICANT
Chalita Boutros

RESPONDENT
Strathfield Municipal Council

FILE NUMBER(S) : 10677 of 2005

CORAM: Nott C

KEY ISSUES: Words and Phrases :- proposed reception centre (to which the general public will not be invited) is not a "place of assembly"

LEGISLATION CITED: Environmental Planning and Assessment Act 1979 s97

CASES CITED: Cook v Wollongong City Council (1980) 41 LGRA 54 at 158 159;
Finn v Shoalhaven City Council (1995) 86 LGERA 425

DATES OF HEARING: 16 February 2005
EX TEMPORE JUDGMENT DATE : 16/02/2005

LEGAL REPRESENTATIVES: APPLICANT
Mr P Clay, barrister
SOLICITORS
Pike Pike & Fenwick

RESPONDENT
Mr A Seton, solicitor
SOLICITORS
Marsdens

JUDGMENT:

<http://www.lawlink.nsw.gov.au/lecjudgments/2005nswlec.nsf/00000000000000000000000000000000...> 23/11/2011

**IN THE LAND AND
ENVIRONMENT COURT
OF NEW SOUTH WALES**

Nott C

16 February 2005

10677 of 2004 Chalita Boutros v Strathfield City Council

JUDGMENT

1 This is an appeal against the council's refusal of a development application relating to the property at 78-80 Cosgrove Road, on the corner of Pilcher Street, Strathfield South. The application proposes the demolition of an existing factory building and associated structures and the construction of a reception centre.

2 Mr J Lovell, consultant town planner, described the proposal in more detail in his report, exhibit C:

In summary, I would describe the proposed development as comprising demolition of the existing improvements and construction of a two-storey reception centre incorporating three reception areas ranging in size from 560 sq m to 1600 sq m. The facility is intended to be used for weddings, engagements and private parties with the individual reception areas hired for a fee. It is expected that the majority of events will occur on Friday, Saturday, and Sunday evenings between approximately 5pm and 3am. Off-street car parking is proposed for 255 vehicles within a two-level basement structure with separate provision made for drop off/pick up facilities adjacent to the main entrances to the individual reception areas.

3 The parties were directed at a call-over to prepare for a hearing on a preliminary point as to whether or not the proposed development is permissible under the *Strathfield Planning Scheme Ordinance*. It was agreed that the preliminary hearing should be on the question whether the proposed development falls within the definition of "place of assembly" or not.

4 If the proposed use does fall within that definition, it was agreed that the proposed development is prohibited, since the subject land is located in the 4 Industrial zone under that ordinance. If the proposed development does not fall within the definition of place of assembly, it was further agreed that the proposed development would be "commercial premises" as defined in the ordinance, and that subject to consideration of other provisions of the ordinance the use may or may not be permissible.

5 In my opinion it is somewhat unfortunate that the parties agreed to split the hearing, because if a finding is made that the premises are not a place of assembly, then there is still a question as to whether the particular type of commercial premises are permissible with consent. Not all commercial premises are prohibited, but some are, as seen in the table to cl 22 of the ordinance. In addition, if I hold that the proposed development in the general sense is commercial premises, a determination would then have to be made as to whether the proposed development is capable of being granted consent because of clause 61GB of the ordinance.

6 In order to determine the questions relating to the particular commercial premises, however, additional facts would be required to be presented to the Court, and therefore I confine my consideration to whether or not the proposed development is a place of assembly. I do not

<http://www.lawlink.nsw.gov.au/lecjudgments/2005nswlec.nsf/00000000000000000000...> 23/11/2011

express any definite opinion as regards the merits of the proposal, although on the face of it there could be problems for the applicant having regard to the nature and character of surrounding existing uses. However, I withhold making any definite decision on that point because it was agreed by the parties that I should not do so.

7 Clause 4(1) of the ordinance defines "*place of assembly*" to mean—

a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive-in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of public worship, an institution or an educational establishment.

8 During the hearing on this preliminary point, the applicant requested that the proposed use be more narrowly described, and it is in respect of the more narrow description that I will make my ruling.

9 The proposed use is now to be described as *a reception centre to be used for weddings, engagements and private parties whether they are of a personal or commercial nature, not being any use of a like character to a public hall, theatre, cinema, music hall, concert hall, dance hall or music bowl, and there being no invitation to the general public to attend or general invitation to the public to attend.*

10 The definition of "*place of assembly*" (identical to that in the *Strathfield Planning Scheme Ordinance*) was the subject of consideration by Powell J in *Cook v Wollongong City Council* (1980) 41 LGRA 54 at 158-159. The words "*like character*" are to be given a wide meaning, according to his Honour; and his Honour went on to say:

I am disposed to think that the essential characteristics of a "place of public assembly" in this ordinance is that it is a place to which members of the general public are either entitled, accustomed, or invited to have resort, whether upon payment of a fee, or otherwise, for some public or private purpose—and that such purposes are not restricted to, but at least include entertainment and recreation. It follows, in my view, that a roller skating rink is for the purpose of this ordinance a "place of public assembly".

11 In *Finn v Shoalhaven City Council* (1995) 86 LGERA 425, Bannon J in this Court held that a scout hall was not permissible in the particular open space zone under the *Shoalhaven Local Environmental Plan 1985* and in the course of his consideration his Honour held that the proposed scout hall was a place of assembly.

12 The answer to the preliminary question posed by the parties is clearly not easy to resolve. No doubt in a reception centre where a wedding is being held, music could be played and there could be dancing, but the characteristics of a reception centre, used for example for a wedding reception, makes it a different type of use in my opinion to the types of uses that fall within the definition of place of assembly in the *Strathfield Planning Scheme Ordinance*.

13 The *general public* will not be invited to attend any function at the proposed centre if it is approved, and I think that this distinguishes the proposed use from other uses that might fall within place of assembly, even though that definition encompasses a wide variety of uses.

14 I therefore find that the proposed use is not a "place of assembly" as defined by the ordinance.

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15 My finding does not bring to an end these proceedings because as I mentioned at the beginning, the applicant will still have to show that the proposed use as commercial premises is a type of commercial premises in respect of which it is open to the council to grant approval, and that such consent should be granted as a matter of merit.

16 By consent, I adjourn the proceedings to the Registrar's call-over on 9 March 2005.

A J Nott
Commissioner of the Court
ljr

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Last updated 10 August 2007

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DA 2011/341 - DRAFT Conditions of Consent

1. GENERAL CONDITIONS

General

- 1.1 Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans Submitted with the Development Application:
- 'Wedding Event Operational Plan' Issue D, Dated July 2011;
 - 'Access Road and Car Parking Plan Showing Stormwater Drainage Pattern' Issue C, Dated July 2011;
 - 'Revised Noise Impact Assessment for Place of Assembly at Lot 2 DP 703657, No. 104 Victoria Park Road, Alstonville 2478', Prepared by Garry Hall, Dated 30 September 2011;
- except as modified by any condition in this consent.
- 1.2 **Commencement of occupation or use**
Use of the premises for the purposes authorised by this consent shall not commence until all conditions of this consent have been complied with, unless alternative arrangements have been made with Council.
- 1.3 No more than twelve (12) weddings are to be held at the premises in a twelve month period.
- 1.4 No more than 100 guests are to attend any function at the premises.
- 1.5 Weddings and receptions are only to be held within the curtilage of the dwelling on the site
- 1.6 Wedding functions shall only be held on-site whilst ever there is an on-site resident manager responsible for ensuring all conditions of consent are being complied with during the duration of the wedding function.

2. DURING CONSTRUCTION

The following conditions in this section of the consent must be complied with or addressed during the course of carrying out the construction works relating to the approved development.

Set Up and Equipment Removal

- 2.1 The house of operation for any noise generating set up and equipment removal activities (including the delivery of materials to and from the site) for the proposed use are to be limited to within the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

3. PRIOR TO OCCUPATION OR USE

Unless otherwise stated all development and works referred to in other sections of this consent are to be completed together with the following conditions prior to occupation or use.

Contributions

- 3.1 Prior to use of the premises for a wedding reception venue, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 :

Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Contributions Plan 2008	23 October 2008
Ballina Shire Roads Contribution Plan 2010	25 February 2010
Ballina CBD Car Parking Contribution Plan	25 November 2004
Lennox Head Village Centre Car Parking Contribution Plan	12 February 2004
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au. The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).

Car Parking & Access

- 3.2 The design of all disabled car parking spaces are to be in accordance with Australian Standard AS/NZS 2890.6:2009. Design plans are to be certified by a suitably qualified professional and approved by Council prior to use.
- 3.3 The design of all car parking and vehicular accesses are to be in accordance with the Australian Standard AS/NZS 2890.1:2004. Design plans are to be certified by a suitably qualified professional and approved by Council prior to use.

Registration and Inspection – Bed & Breakfast and Wedding Functions Premises

- 3.4 Trading must not commence until application has been made to Council to register the business on Council's "Commercial Premises Register" and the appropriate fee paid.
- 3.5 Council's Environmental Health Officers must inspect the premises and all equipment prior to the commencement of trade.
- 3.6 Registration of the business details on the NSW Food Authority's Notification and Food Safety Information System is required prior to commencement of trading. This can be completed online at www.foodnotify.nsw.gov.au

Swimming Pool

- 3.7 Notification shall be made to Council to include the swimming pool on Council's Semi-Public Swimming Pool Register and inspection program prior to use commencing.

On-Site Sewage Management System

- 3.8 A suitably qualified person (refer to definition) is to be engaged to undertake an inspection and provide a full written report to Council on the capacity and condition of the existing On-Site Sewage Management System (OSSMS) to be used for wedding functions, detailing how the existing OSSM meets the requirements of the *Ballina Shire Council On-Site Sewage & Wastewater Management Strategy 2008* and the proposed use of the property. This report is to be submitted to Council prior to use of the premises for wedding functions.

Definition of Suitably Qualified Person – means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill, for the performance of the specific work. For designing On-Site Sewage Management Systems the adequate qualifications are completion of either the Centre of Environmental Training – On-Site Wastewater Management Course or Skills tech Australia (QLD Tafe) Design of On-Site Sewerage Facilities Course. Other equivalent courses or qualifications will be assessed on a case by case basis. Professional indemnity insurance is to be obtained and the insurance certificate of currency must state that it is for designing On-Site Sewage Management Systems.

- 3.9 If the existing OSSMS is unable to meet the requirements of the *Ballina Shire On-Site Sewage & Wastewater Management strategy 2008* and the proposed use of the property, a suitably qualified person is to be engaged to conduct a site and soil assessment and prepare a report in accordance with the Local Government (General) regulation 2005 and *Ballina Shire Council On-Site Sewage & Wastewater Management Strategy 2008*. The OSSMS shall be sized according to the loading rate based on the potential occupation of the premises and shall meet the current Council regulations and associated guidelines including the *Ballina Shire On-site Sewage and Wastewater Management Strategy 2008*.
- 3.10 A Section 68 Application of the *Local Government Act 1993 (NSW)* is to be submitted to Council with the OSSMS report by a suitably qualified person. The application must be accompanied by adequate plans to show all works and dimensions including distances of land disposal area to:
- Boundaries;
 - Water courses
 - Drainage channels; buildings;
 - Any permanent surface waters;
 - Wells/bores; and
 - Cattle dip site Ashley; and
 - Paths and walkways.

4. CONDITIONS OF USE/DURING OCCUPATION

The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.

Car Parking

- 4.1 Maintenance of the parking areas and driveway is to be regularly undertaken to ensure that these areas remain stable, and function as all-weather surfaces that do not cause any dust and erosion.

Noise

- 4.2 Operation of the site shall be in accordance with recommendations included in the Revised Noise Impact Assessment dated 30 September 2011 prepared by Ambience Audio Services, as outlined below:
- The LAeq noise level emitted from the use must not exceed 40 dB in any Octave Band Centre Frequency (3.15Hz to 8KH inclusive) between the hours of 7.00am and 10.00pm when assessed 30m from the nearest affected residential dwelling.
 - The LAeq noise level emitted from the use must not exceed the background (l90) noise level in any Octave Band Centre Frequency (31.5 Hz to 8 KHz inclusive) between the hours of 10.00pm and 7.00am when assessed at the boundary of the subject property. The background noise level must be measured in the absence of noise emitted from the use.
 - Notwithstanding compliance with the points above, the noise from the use must not be audible within any habitable room in any residential property between the hours of 10.00pm and 7.00am.
 - All music shall cease at 11.00pm.
 - Live music shall be limited to acoustic guitars, vocals, string, woodwind or similar performances only. Rock bands and similar shall be prohibited.
 - Guests shall be transported to and from the venue in small buses with a capacity of no more than 34 passengers.
 - All guests shall be unloaded and loaded completely within the subject property.
- 4.3 The Noise Management Plan (NMP) which has been approved by Council must be implemented in full during use.
- 4.4 An acoustic report is to be submitted to Council within three (3) months of the use commencing confirming that the use complies with the acoustic targets identified in the "Revised Noise Impact Assessment", dated 30 September 2011, prepared by Ambience Audio Services. If necessary, the approved Noise Management Plan shall be amended to address any non-compliance issues and submitted to Council for approval.
- 4.5 A minimum of fourteen (14) days notice is to be provided to properties within a 400m radius of the subject site boundaries prior to a wedding being held at the premises. Details are to include date of the function, hours of the function, number of guests and the function number in that 12 month period (i.e. Function 1 of 12).

Waste Management

- 4.6 Waste shall be removed to a licensed waste disposal facility at regular, as required, intervals to prevent the creation of an odour or pest nuisance.

Swimming Pool/Spa

- 4.7 Swimming pool and pool surrounds must be maintained in accordance with the *Public Health (Swimming Pools and Spa Pools) Regulation 2000*. Note guidance may also be obtained from the NSW Health Department's *Swimming Pool and Spa Pool Guidelines*, available from Council.
- 4.8 The swimming pool water is to be recirculated, filtered and disinfected in accordance with the requirements of the *Public Health (Swimming Pools and Spa Pools) Regulation 2000*.
- 4.9 The swimming pool water shall be maintained at a satisfactory level of purity for bathing at all times.

Private Water Supply

- 4.10 Water used for any activities involved in the preparation of food, personal hygiene, cleaning and sanitising shall be of a potable standard. Non potable water may be used for cleaning and similar uses, only where it will not compromise the safety of food on the premises.
- 4.11 All private water supplies shall be managed in accordance with NSW Health's Private Water Supply Guidelines May 2007. The potable water must consistently meet the *Australian Drinking Water Guidelines* requirements or appropriate warning signage must be displayed.

Amenity

- 4.12 The land use on the site shall not interfere with the amenity of the locality by reason of the emission of noise, vibration, odours, fumes, smoke, vapour, steam, dust, water, waste products and the like.

Food Premises

- 4.13 The preparation/cooking area must have hand-washing facilities that are located where they can easily be:
- easily accessed by food handlers;
 - connected to a supply of warm running potable water **dispensed from a single mixer set**;
 - of a size that allows easy and effective hand washing; and
 - clearly designated for the sole purpose of washing hands, arm and face.
- 4.14 Provision is to be made for dispensing soap or detergent and for single use towels at each designated hand wash basin provided in the food preparation areas.
- 4.15 A probe type thermometer is to be provided to measure the temperature of foods that are required to be stored at a temperature of 5°C or less, or at 60°C or more.
- 4.16 A regular pest control program is to be implemented and maintained throughout the premises.
- 4.17 The applicant shall operate and maintain the premises in accordance with the provisions of the Australian Food Safety standards 3.1.1, 3.2.2 and 3.2.3.

Marquees

- 4.18 The erection and use of the marquees is only to be for private (non-public) functions and the marquees are to be located only in the positions indicated on the approved plans.
- 4.19 The floor area of any one marquee is not to be more than 100 square meters, and the total floor area of all marquees erected on the land at the same time is not to be more than 200 square meters.
- 4.20 As measured from the surface on which a marquee is erected, the heights of the walls are to be not more than 4 metres, and highest point is to be not more than 6 metres.
- 4.21 The marquees are to have at least the following number of exits arranged so as to afford a ready means of egress from all parts of the marquee to man open space:
- i) 1 exit if the marquee has a floor area of not more than 25 square meters;
 - ii) 2 exits in any other case; and
 - iii) The width of each exit referred to above is at least 800 millimetres.
- 4.22 The marquees are to be erected at ground level.
- 4.23 The marquees and any stage or platform are to be designed and constructed to resist loads determined in accordance with the Australian and New Zealand Standards entitled:
- i) AS/NZS 1170.0:2002 – Structural design Actions – General Principles; and
 - ii) AS/NZS 1170.1:2002 – Structural design Actions – Permanent, imposed and other actions; and
 - iii) AS/NZS 1170.2:2002 – Structural design Actions – Wind Actions.
- 4.24 Marquees are not to contain tiered seating.
- 4.25 The marquees are not to remain on the land for more than 2 days after a function.
- 4.26 A marquee, stage or platform is not to be erected on the land for more than 7 days.
- 4.27 The number of days for which a marquee, stage or platform is erected on the land, together with the number of days for which marquees, stages or platforms have previously been erected on the land in any one calendar year, does not exceed 30 days.
- 4.28 The floor area of any stage or platform is not to be more than 50 square metres.
- 4.29 The height, as measured from ground level to the floor of any stage or platform, is not to be more than 1 metre.

- 4.30 A notice, indicating the actual distributed and concentrated load for which the stage or platform has been designed is to be conspicuously displayed on the stage or platform.
- 4.31 Any temporary structures proposed to be erected that are outside the above criteria will require either a Development Application or Complying Development Application to be lodged and approved prior to its erection.

OSSMS

- 4.32 An adequate OSSMS is to be provided for a maximum of 100 guests.

REASONS FOR CONDITIONS

- ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
- ensure compliance with the objectives of the Ballina Local Environmental Plan, 1987;
- ensure an appropriate level of amenities and services is available;
- protect the existing and likely future amenity of the locality;
- maintain, as far as practicable, the public interest;
- ensure compliance with the Building Code of Australia and relevant Australian Standards;
- ensure satisfactory compliance with relevant Council plans, codes and policies.

ADVISORY MATTERS

1. ***Disability Discrimination Act 1992***

The granting of this consent does not imply or confer compliance with the requirements of the *Disability Discrimination Act 1992 (DDA)*. The applicant is advised to investigate any liability that may apply under that Act. *Australian Standard AS 1428 – Design for Access and Mobility* should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

Compliance with the BCA does not guarantee compliance with the DDA. The BCA provides important access provisions however:

- a) It does not cover all developments that are subject to the provisions of the DDA;
- b) It focuses primarily on access for people with disabilities which affect their mobility and does not address other disabilities, such as sensory disabilities; and
- c) While it mandates improved access for people with disabilities, it is not framed in terms of “equality of access”.

You are therefore advised to investigate your liability under the DDA with respect to any existing and proposed future works.

2. ***Protection of the Environment***

The development is to be operated in accordance with the provisions of the *Protection of the Environment and Operations Act 1997* as it applies to issues of air quality, noise generation, water and wastewater quality.

3. **Noise control**

Use of the premises/services/equipment/ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment & Operations Act 1997*.

4. **WorkCover requirements**

The premises shall be operated in accordance with the requirements of the WorkCover Authority.

5. **Wastewater management advice**

All work carried out in connection with this approval must comply with any applicable standard established by the *Local Government (Approvals) Regulation 1993*, the *Local Government (Water, Sewerage and Drainage) Regulation 1993*, or by or under the Act.

Advisory Note:

The applicant is advised to take care in ensuring that no damage is done to or unauthorised modifications are carried out on either Council's or any other organisation's underground infrastructure assets. Any Council sewer, stormwater or water main or other organisation owned electricity supply or telecommunication facility is not to be damaged or altered in any way without the necessary approvals being obtained beforehand from the relevant server.

You are advised to contact the following:

- Council - for information on sewer, water supply & stormwater
- Rous Water - Water Supply for Rous Water Authority controlled areas
- "Dial Before You Dig" - for other service infrastructure

The information relating to your property is to be obtained prior to any works commencing.