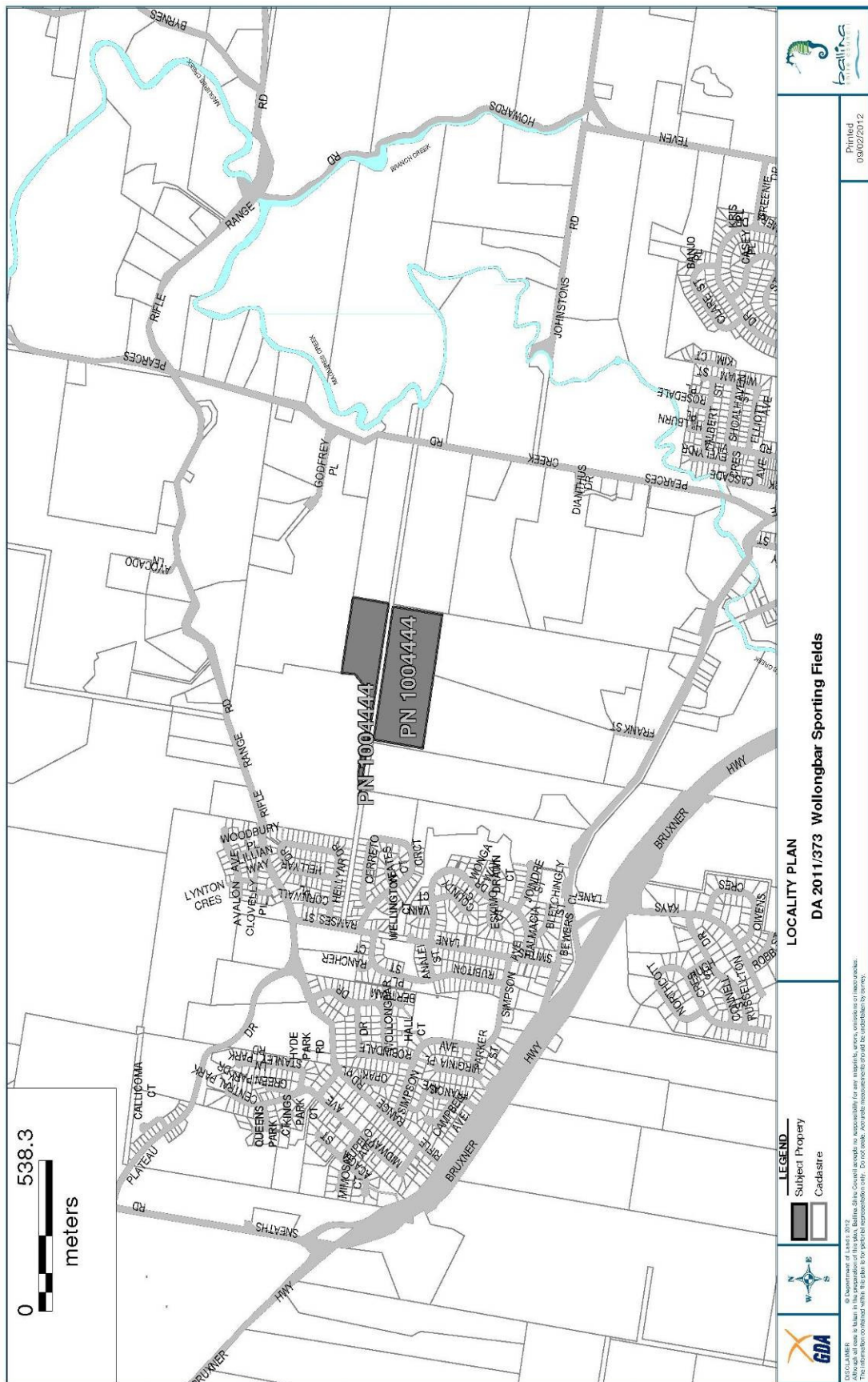


8.1 **DA 2011/373 - Wollongbar Sporting Fields**





Client: BALLINA SHIRE COUNCIL

Location: LOT 4 DP 678242, LOT 2 DP 875030 & LOT 4 CP 600108 RIFLE RANGE ROAD WOLLONGBAR

Amendments:

Date	Changes

Drawn: CD

Newton Denny Chapelle
 Surveyors Planners Engineers
 Email: office@newtondennychapelle.com.au
 Lismonie
 31 Campbell St, Lismore NSW 2480
 T: 6622 1011 F: 6622 4288
 G: F: 6622 0202

PLAN 2(a) - WOLLONGBAR SPORTS FIELDS - STAGE 1

Date: 6.12.11 Scale: 1:5000 @ A3 Ref No: 10/465

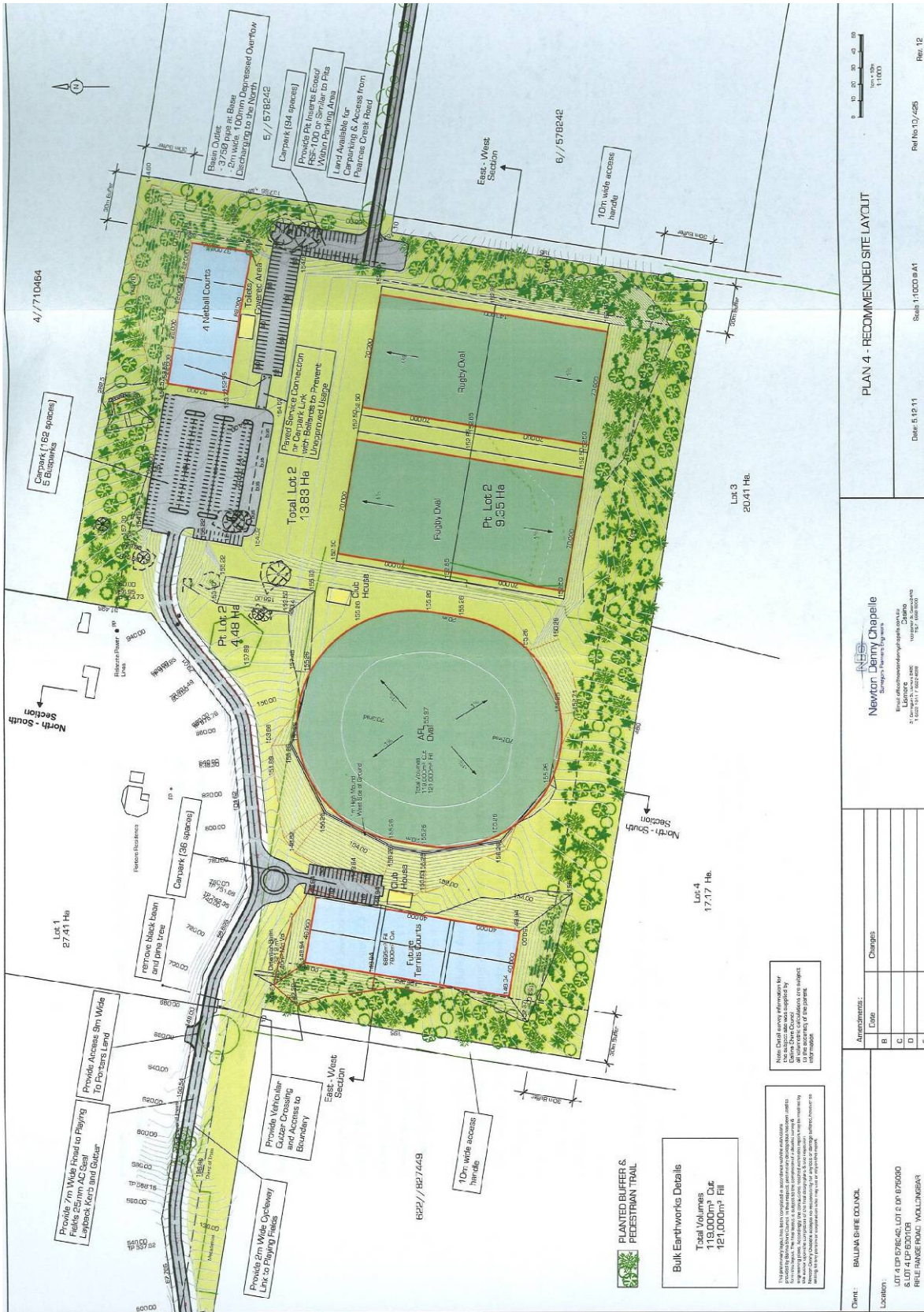
Bulk Earthworks Details
 Total Volumes
 119,000m³ Cut
 121,000m³ Fill

Notes: Refer to the site plan for information on the location of the proposed earthworks. The site plan is subject to the approval of the Council. The site plan is subject to the approval of the Council. The site plan is subject to the approval of the Council.

The information provided in this document is for informational purposes only. It is not intended to constitute an offer of any financial product or service. The information is provided as a general guide only and should not be relied upon for any specific purpose. The information is provided as a general guide only and should not be relied upon for any specific purpose.



Client : BALLINA SHIRE COUNCIL		Amendments :	
Location : LOT 4 DP 576242, LOT 2 DP 875030 & LOT 4 DP 600108 RIFLE RANGE ROAD WOLLONGBAR		Changes	
		B	
		C	
		D	
		E	
		F	
PLAN 2(b) - WOLLONGBAR SPORTS FIELDS - STAGE 2		Date: 6.12.11	Scale: 1:15000 @ A3
Newton Denny Chapelle Surveyors, Planners, Engineers Email: office@newtondennychapelle.com.au Lithgow NSW 2450 31 Curlew Street T: 0282 1011 F: 0282 4058		Date: 6.12.11	Scale: 1:15000 @ A3
Drawn: CD		Date: 6.12.11	Scale: 1:15000 @ A3
Ref No. 10/425		Date: 6.12.11	Scale: 1:15000 @ A3



Note: Detail earthwork information for this site is not provided by the client. The earthwork volumes are based on the client's information and are subject to change. The client is responsible for providing accurate information for the earthwork volumes.

Note: Detail earthwork information for this site is not provided by the client. The earthwork volumes are based on the client's information and are subject to change. The client is responsible for providing accurate information for the earthwork volumes.

PLAN 4 - RECOMMENDED SITE LAYOUT

Date: 6/12/11
 Scale: 1:1000 @ A1
 Ref No: 10/426
 Rev: 12

INES
Newton Denny Chapelle
 Surveyors & Planning Engineers
 51 Campbell Street, Suite 2000
 Wollongong NSW 2522
 Tel: (02) 4227 1111
 Fax: (02) 4227 1111

Amendments:

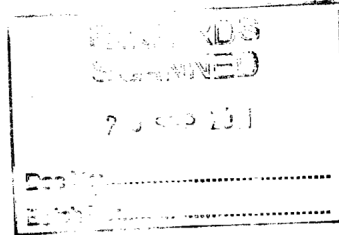
Date	Changes
B	
C	
D	
E	
F	

Client: BALLINA SHIRE COUNCIL
 Location: LOT 4 DP 678242; LOT 2 DP 676000 & LOT 4 DP 673010B
 FILE NAME: PLAN 4 - WOLLONGONG

19th September 2011

36 Cerreto Circuit
Wollongbar, NSW, 2477.

Mr Rod Willis,
Group Manager,
Regulatory Services,
Ballina Shire Council,
P.O.Box 450
Ballina, NSW, 2478.



Dear Mr Willis,

Re: DA/2011/373 Proposed access to sporting fields via
unmade road off Ramses Street, Wollongbar.

After discussions at a meeting of residents from both sides of the unmade road intended to be used as access to the proposed sporting field, I would like to make these suggestions.

Objections:

Access from Ramses Street will significantly increase traffic volume, congestion and noise for not only the immediately affected residents but the adjacent quiet residential streets that feed into the Ramses Street access point.

Potential household/swimming pool property damage and disturbance during road construction.

Decrease in the value of property on both sides of the unmade road.

Alternatives for consideration:

Vehicular road access to be made from Pearce's Creek Road to reduce impact on residential areas due to the increased traffic, volume, congestion and noise.

Distance measurements from Google Earth shows minimal distance difference from Pearce's Creek end and therefore similar construct and land acquisition cost to Council.

Cycle and footpath access for Wollongbar residents be made from Ramses Street.

If no fences are to be erected, the existing privacy hedges be retained.

Present levee outside houses 36 and 38 Cerreto Circuit where water runoff from the unmade road overflows into these two properties, be maintained.

Also that the road from Pearce's Creek be commenced at the same time as the road off Ramses Street.

Thank you for your consideration,

Yours faithfully,


ANA R. CREEVEY

*Michael and Karina Offley
12 Hellyar Drive
Wollongbar NSW 2477
phone: 66288380
email: mike.karina@bigpond.com*

21st September, 2011

Dear Councillors,

RE: DA 2011/373

I am writing as a very concern resident of Wollongbar, this access road will completely change the face of the village we love.

Objections:

Access from Ramses Street will **significantly** increase traffic volume, congestion and noise for not only the immediately affected residents but the adjacent quiet residential streets that feed into the Ramses Street access point.

Depreciation of property values of households adjacent to the access road.

Potential household/swimming pool property damage and disturbance during road construction.

Loss of rear yard access.

Breeze will be blocked by dirt mounds or unattractive high fences!

Street lights at the rear of our property.

Alternatives for consideration:

Residents recognise the need for sporting fields for the area.

Vehicular road access to be made from Pearce's Creek Road during Stage one to reduce impact on residential areas due to the increase traffic volume, congestion and noise.

Distance measurements from Google Earth shows minimal distance difference from the Pearce's Creek end and therefore similar construct and land acquisition cost to council.

Cycle and footpath access for Wollongbar residents be made from Ramses Street and/or existing Rugby facilities on Cerreto Circuit.

Wollongbar residents including the new Avalon housing estates (2500 residents) will have road access via Rifle Range Road and Pearce's Creek Road and foot/cycle access via Ramses Street cycle way.

We also urge council to negotiate with the Porter family in order to obtain land from the Porter Estate with the view to construct the road on his property with entrance coming from Rifle Range road. This access would be closer to the new sub division and have much less impact on the current residents of Wollongbar and our way of life.

Thank you for your time and consideration.

Michael and Karina Offley

From: Anthony Drew [drewy76@live.com.au]
Sent: Wednesday, 21 September 2011 11:06:57 PM
To: ballina@nsw.gov.au; Mayor Phil Silver
Subject: DA 373/2011 - Wollongbar Sporting Fields

We wish to lodge the following submission to the council in relation to the above DA lodged by Newton Denny Chapelle on behalf of the Ballina Shire Council.

Whilst we acknowledge that due to negotiations completed with the property owners it is a requirement that the access road from Ramses Street be built we would like to request that council constructs the access road from Pearces Creek Road in stage 1 of the proposed development.

COST

At the most recent public meeting held at Wollongbar Hall it was our impression that certain councillors were not willing to support the access road from Pearces Creek Road due to additional cost. However since the original plans were made public council has virtually been gifted potential savings in the project costs via residents input. The two main areas where these savings can be realised are through the removal of the proposed fence/sound barrier along both sides of the proposed access road running off Ramses Street and also the change in plans which will see the road constructed at the level of the current land rather than the original plan to construct the road at level well below the existing land.

Both of these areas alone would see large savings in the area of labour and earthmoving alone and therefore make the construction of the Pearces Creek Road access road less of an impost and a more attractive proposition.

SAFETY

It has been noted that Ramses and Rubiton Streets are capable of accommodating the additional traffic attracted by the sporting fields and there is sufficient room in Ramses Street for a turning lane into the new road. What measurements and surveys can not demonstrate is the unsafe nature of these roads. The lighting on both of these roads is limited at best and with no footpaths in Wollongbar the roads are already considered unsafe for pedestrians. The corner of Ramses & Rubiton Streets is at a virtual right angle and cars go around this corner on the wrong side of the road and at speeds unsafe for the road alignment. Remembering that the traffic flow is about to increase as more residents move into the new subdivisions off Rifle Range Road to add to this and send even more traffic down this road is simply asking for trouble and it would be just a matter of time before accidents occur at that dangerous point.

PRIVACY

Previous proposed plans indicated that council would remove all vegetation in the road reserve and construct a 1.8m high fence/sound barrier on or near the boundaries with the neighbouring properties. With the plans now having no fence in place we request that the privacy screen that was planted at the rear of our property by previous owners be left in place to maintain the privacy we are accustomed and entitled to. We already maintain this screen and the area immediately surrounding it and would continue to do this after construction of the new road.

USERS

Remembering that there is currently no such thing as a Wollongbar sporting club, only clubs which are aligned with Alstonville, it is actually more logical for council to construct the Pearces Creek access road now rather than in the future. With a large number of the expected users coming from Alstonville it makes sense to have the people using the fields accessing it from the Alstonville end now rather than sending all of the traffic through Wollongbar Streets. With the future expansion of Wollongbar then logic suggests more and more users will come from Wollongbar in the future and the Ramses Street access road should be constructed in the future.

For these reasons it could reasonably be suggested that the Pearces Creek Road access be built first with the Wollongbar access road built at a later date. Not being privy to the exact details of the negotiations over the sale of the land proposed for the sporting fields and the condition that access be constructed from Ramses Street we would be interested to know if there is a timeframe in the contract around exactly when the Ramses Street access road has to be constructed and believe it is worth further investigation by council.

Thank you for considering our submission.

Yours faithfully

Anthony & Helen Drew
40 Cerreto Circuit
Wollongbar NSW

16 September 2011

Peter & Jennifer Leslie
PO Box 3010
WOLLONGBAR NSW 2477

Re: **DA: 2011/373 – Wollongbar Sporting Fields Development Proposal**

Dear Ballina Councillors

As a new development application has been lodged, we are writing to object to the proposed development of the Ramses Street entry to the Wollongbar Sporting fields. All traffic including buses, cyclist and pedestrians will be syphoning right past our property, literally only **2 metres from our back door**, at 56B Cerreto Circuit, Wollongbar. This will severely compromise the privacy, security, comfort and living standard at our property. Will we be compensated for the negative impact?

The proposed Ramses Street access had never planned to service such a major sporting complex, pouring large amounts of traffic seven days a week, night and day, literally at our back door where our existing property was built long before this application was submitted.

Ballina Council had previously drawn up detailed plans for sporting fields at the old drive in site in Rifle Range Road. This would have given the community a safer and easier option. Instead, if approved, busy sporting events will frustrate drivers using the streets of Wollongbar and Ramses Street, as traffic chaos is created via the one way in and one way out entrance of stage 1. This is a similar situation to the chaotic entry of Alstonville's Cawley Close, where there is only one way in and out for all surrounding communal traffic servicing three schools.

Traffic will multiply in the streets of Wollongbar as commuters travel to and from Ballina, Lismore and surrounding towns and cities, entering the sporting fields. Not only Ramses Street but particularly Rubiton Street, which at times has likened to a racing track. The traffic in Rubiton Street has significantly increased with each new development and will only escalate. The current rugby ground at the end of Cerreto has seasonal traffic which we have learnt to live with, but unfortunately the proposed sporting grounds will have a marked increase in traffic and noise, as sports are played all year, day and night and along with this will come training and special events, raising traffic concerns in the area.

As rate payers, we feel Council have an obligation for our safety and comfort, and hope that council reconsider the development application due to the unsuitable location and inappropriate access of traffic travelling right up next to our back door and windows of our property.

Regards

Peter & Jennifer Leslie

21 September 2011

Attn: Rod Willis
Group Manager – Regulatory Services
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Mr Willis,

Re: **DA NO 2011-373**

We are writing to lodge our objections and concerns to the proposed public road access to the sports fields from Ramses Street along the unformed road reserve between Cerreto Circuit & Hellyar Drive Wollongbar.

- **PLANS FOR NEW ROAD & INFRASTRUCTURE / BUFFER ZONE**

At the public meeting in Wollongbar discussion was held regarding the plans for the new road and buffer zone, residents showed clear concerns about the proposed fence and how this would affect the adjoining properties. At this meeting I thought council stated residents would be advised further on the fencing/buffer zone and any decisions, there was no vote regarding options yet it now seems according to the plans on display that no fence is being erected. If this is the new proposal should the residents not have been advised? Does this now mean that we can keep our existing fences and privacy screens?

- **DRAINAGE**

We also have concerns regarding the new proposed road and drainage. At the back of our property Council installed a levy bank to stop water run off onto our land. If the new road is to go ahead and even more water run off would be associated with this, will council be leaving this levy bank in to protect our property from water damage? If not what steps will the engineers be undertaking to protect our property and neighbouring properties from any potential flood damage from the new road and will they be consulting with property owners?

- **ROAD SPEED LIMITS AND PARKING ISSUES**

What speed limit will be imposed on the new road and will this road be stated as a Clearway Zone with no parking, especially at sporting events so we do not endure parking at the front and rear of our homes and how will this be policed??

- **PEARCES CREEK ROAD ENTRY**

Construction of the Pearces Creek Road is planned for Stage 2, why is this not being implemented at the same time of the proposed road off Ramses Street, what guarantee do we have that council will still proceed with the 2nd road or was this option just given to pacify us at the meeting.

It would be greatly appreciated if the Ballina Shire Council would acknowledge and respond to our concerns and objections before anymore life changing decisions are made on our behalf!!

Yours faithfully

ALAN & BETH SILK
38 CERETTO CIRCUIT
WOLLONGBAR NSW 2477
PHN: 02 6628 8167
E-Mail: absilk@bigpond.com

From: Naomi McCarthy [naomih@ballina.nsw.gov.au]
Sent: Friday, 23 September 2011 11:41:46 AM
To: 'reception@busilaw.com.au'
Subject: RE: DA 2011/373 - Wollongbar Sporting Fields

Dear Alister,

Further to our phone conversation this morning, please be advised that Council is willing to grant an extension of time, being close of business Tuesday, 27 September 2011, for you to lodge a submission in relation to DA 2011/373.

If you have any further enquiries in relation to DA 2011/373, please contact myself on this email address or via phone on the contact numbers below. Alternatively, you can also contact reghelpdesk@ballina.nsw.gov.au.

Regards,

Naomi McCarthy | Senior Town Planner
Regulatory Services Group
Ballina Shire Council

www.ballina.nsw.gov.au

p: (02)6686 1254 | f: (02)6681 1375

From: Janelle Snellgrove **On Behalf Of** Regulatory Support Staff
Sent: Friday, 23 September 2011 9:30 AM
To: Naomi McCarthy
Subject: FW: DA 2011/373 - Wollongbar Sporting Fields

Janelle Snellgrove | Secretary
Regulatory Services
Ballina Shire Council

www.ballina.nsw.gov.au

p: 66861426 | f: 66811375 |

<hr size=2 width="100%" align=center tabindex=-1>

From: BusiLaw * previously known as Alister Somerville, Solicitor [mailto:reception@busilaw.com.au]
Sent: Friday, 23 September 2011 9:27 AM
To: Regulatory Support Staff
Subject: FW: DA 2011/373 - Wollongbar Sporting Fields

Attention - Janelle

As discussed with Valda a short time ago, ***attached** below is the e-mail sent to Maria on Wednesday.

Regards

BusiLaw *previously known as Alister Somerville, Solicitor

Per: Alister Somerville

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14/02/2012

Ph: 02 6621 9722
Fx: 02 6621 2993
2/33 Woodlark Street
P O Box 114
LISMORE NSW 2480

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Liability limited by a scheme approved under Professional Standards Legislation.

From: BusiLaw * previously known as Alister Somerville, Solicitor [mailto:reception@busilaw.com.au]
Sent: Wednesday, 21 September 2011 12:13 PM
To: 'MARIAB@ballina.nsw.gov.au'
Subject: DA 2011/373 - Wollongbar Sporting Fields

Dear Maria

I refer to our telephone conversations on Monday and yesterday and also to the e-mail that you sent to me late Monday afternoon.

I confirm that I am acting for Mr B & Mrs JG Van Straaten of 139 Pearces Creek Road, Alstonville in relation to them making submissions to the Council in relation to the above Development Application.

Mr & Mrs Van Straaten saw me for the first time last Friday and gave me preliminary instructions. They also provided me with a copy of various documents. Since then I have been making appropriate searches and enquiries regarding all relevant matters.

I note that the closing date for submissions is Friday, 23 September. It is hoped that a submission will be made before the closing date. However, Mr & Mrs Van Straaten are hosting an overseas guest for the whole of this week and which might impede their making a submission in time.

The purpose of this e-mail is to request a short extension until say 5:00pm next Tuesday should the submission not be lodged in time.

I look forward to hearing from you.

Regards
BusiLaw *previously known as Alister Somerville, Solicitor

Per: Alister Somerville

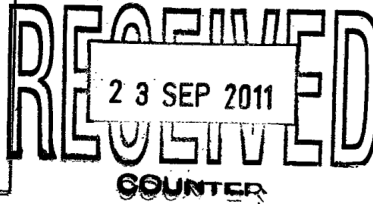
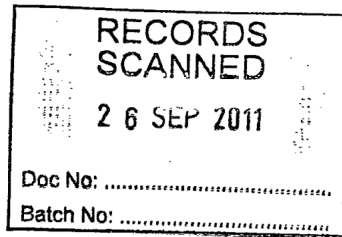
Ph: 02 6621 9722
Fx: 02 6621 2993
2/33 Woodlark Street
P O Box 114
LISMORE NSW 2480

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14/02/2012

Guy and Louisa Clifford
140 Pearces Creek Road
Alstonville.



To whom it may concern

In regard to the following development application;

DA 2011/373

Applicant: Newton Denny Chapelle

Property: Lot 4 DP58242 Rifle Range Road; Lot 2 DP 875030 and Lot 4 DP 600108, Frank Street; Wollongbar.

Proposal: Staged construction of sporting fields and facilities including public road access, car parking, creation of sports field/court lighting, earthworks, provision of utility services, vegetation removal and other associated works.

We wish to make a submission of objection to this development and we submit the following for your consideration.

- A) The land zoning for the area is stated as Environmental protection –(urban buffer) with present land use being rural dwellings, agriculture and grazing. Much emphasis is made in the development proposal, as justification of the site for this development, that the development will not compromise the surrounding agriculture land. I quote page 49 “ not considered that the design of the playing fields will compromise the relationship and continued use of adjoining lands particularly the integrity of the agriculture capacity of adjoining lands given purpose, scale and configuration of the development”. We feel that this is not the issue. The land which is being considered for the development is prime agriculture land. With uncertain global future concerning food production we should be looking further forward, than short term goals of recreation facilities for this generation and considering the needs of following generations i.e the need for good quality food production lands. It is certainly foolhardy and irresponsible to be turning prime agriculture land into playing fields and for that matter, housing estates. We owe it to future generations to preserve areas like this for food production. We feel that it is not the integrity of the adjoining lands to the development being compromised, but the integrity of the land being considered for this development, that is being compromised. The council should consider locating and sourcing land, which does not have such high value for food production for this development. We have a moral obligation to preserve high quality food producing land for future generations. This is a precious diminishing resource and should not be squandered.

- B) Proposed opening and construction of access roads. As long term residents of Pearces Creek Road we would question the safety issues surrounding the opening of the proposed access road on to Pearce’s Creek Road. We note that a vehicle survey has been conducted and that the traffic count indicated 930 trips over a weekly period. We note with some cynicism that

this traffic count was carried out over a period of time 6th January to 19th of January which as most people would probably agree, would be the quietest time on this road due to many local businesses being closed for annual leave, residents taking annual leave and obviously no school. The proposal also indicates that the increase in the traffic volume on Pearces Creek Road would be by approximately 170 daily trips. The proposal states that Pearces Creek Road is of adequate standard to cope with this level of traffic. We find this very questionable. On a personal level we have been involved in two accidents on the stretch of road between our residence and where Pearces Creek Road enters Alstonville at the tennis courts. People who have entered our property from Pearces Creek Road and vice versa have had near misses and in one case have been rear ended. A percentage of people who drive this stretch of the road do not adhere to the speed limit and do not drive to the condition, structure or terrain of the road. There is a tendency to view the hill coming down to the proposed entry point of the access road and the bend in the road following this as a race track. On page 68 and I quote it is stated "that additional traffic generated by development is not considered to cause any significant impact" This we feel is highly questionable as the road is not adequate or indeed safe for the present volume of traffic. We note that there is provision to provide a turning lane, however whether this would improve safety could be debated, particularly for the residents who turn into their driveways in this vicinity. We note that the development proposal admits the higher speed environment of 80km and provision of turning lanes and shoulder widening required, to facilitate this access road is in the proposals own words on Page 65 " not the preferred access". We would urge the council to pursue other options if the development proposal goes ahead. The cost effectiveness of what is needed to make this proposed access road and the issues of safety, warrant further consideration.

Thank you for considering the above submission and we trust that the council will give this development proposal more critical thought and look beyond short term goals.

Yours faithfully,

Louisa and Guy Clifford.



SEVENTH-DAY
ADVENTIST
AGED CARE
(North New South Wales) Ltd

ABN 51 104 269 221

23 September 2011

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Mr Paul Hickey

Dear Paul

RE: WOLLONGBAR PLAYING FIELDS

With regards to the proposed Wollongbar Playing fields and in particular the proposed access from Pearce's Creek Road (option 4), Alstonville Adventist Retirement Village has significant concerns in relation to this proposal due to the probable increased traffic down Pearce's Creek Road.

Yours sincerely

David Knight
Managing Director

Avondale Retirement Village

Independent Living Units, Avondale Adventist Aged Care Facility, Kressville Lodge
Remans Drive & Central Road
Box 105, Cooranbong NSW 2265
Ph: 02 4977 0000 Fax: 02 4977 0144
aacnsw.com.au

Alstonville Adventist Retirement Village

Independent Living Units, Alstonville Adventist, Aged Care Facility
77 Peaces Creek Road,
Alstonville NSW 2477
Ph: 02 6628 1944 Fax: 02 6628 3634
aarv@aacnsw.com.au

23/09/2011

~~January 17, 2011~~

Attn: Naomi McCarthy
Ballina Shire Council

Dear Naomi

Re: DA 2011/373

We refer to the above Development Application that is in relation to the subdivision of neighbouring lands adjacent to the south western corner of our property and the proposal to develop a number of sporting facilities and supporting infrastructure.

At this stage, and prior to satisfactory comment from Council in answer to our concerns which follow, we are not resistant to the proposal. We do however have three principal concerns in relation to this development these being;

- *the potential for land use conflict between our long established horticultural operation and an immediately adjacent new non-agricultural development;*
- *how the above will impact on our right to farm the land and;*
- *the potential for drainage waters from the development to impact to a greater extent on our land above that which occurs at present.*

Prior to making more detailed comment in relation to our principal concerns we would first of all like to make reference to the Ballina LEP and the Northern Rivers Farmland Protection Project.

Ballina LEP

The Ballina LEP zones our land and also the lands that are proposed for this development as 7(i) Environmental Protection (Urban Buffer) Zone. The objectives of this zone and our comments are as follows:

- A. The primary objective is to create a rural buffer in the locality of Alstonville and Wollongbar and to prevent development of an urban character within any part of the zone which is likely to be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality.

The proposed developments are purely urban in character as they will be utilized predominantly by residents from Alstonville and Wollongbar. It would be our belief also that the proposed development would be observable from Rifle Range Road nearby to the north.

- B. The secondary objective is to enable development as permitted by the primary and secondary objectives of Zone No. 1(a1), except for development which would conflict with the primary objective of this zone.

The primary and secondary objectives of Zone No. 1(a1) relate to the preservation and protection of rural land for existing or potential agricultural use. We make further comments in this letter in relation to the potential for land use conflict developing between our intensive and purposeful horticultural operation and the proposed development and in doing so how this will potentially threaten the use of our land for agricultural production.

- C. The exception to these objectives is development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.

The proposed developments may help to support the recreational requirements of the residents of Wollongbar and Alstonville however it is difficult for us to categorise sporting fields in the same category as hospitals and schools.

The Ballina Urban Land Release Strategy has classified lands on the northern side of Rifle Range Road and extending to the west to Sneaths Road as 1(d) Urban Investigation. Council has communicated that the former "drive-in" site does not have the space to accommodate the sports facilities buffer zones that are required. Hence therefore the supposed need to develop the sports facilities on lands elsewhere from the 1(d) zone. It is difficult for us to understand how Council did not initially accommodate enough land for facilities of this nature when the lands to the north of Rifle Range Road were initially zoned to 1(d) Urban Investigation. As it is this development which is purely urban in nature is now to be developed on lands that were not and are not classified as urban investigation but that which are rather located within an area of prime agricultural land as categorized by existing and potential agricultural uses.

It would appear therefore that existing agricultural land owners within this area of the 7(i) zone are required to provide (land, potential production due to land use conflict) for the needs of urban residents whom are separate to their lands. Again, should not these facilities have been more adequately planned and provided for within the 1(d) zone that is more appropriate to these developments?

The Northern Rivers Farmland Protection Project

We also refer to the inherent agricultural value of our land which from our understanding is quite high. We do this because we had understood that identified high value agricultural land within the Ballina and other shires was to be protected for long term, purposeful agricultural use from inappropriate or conflicting developments; that rural resources were to be preserved and protected from encroaching urban or other incompatible uses and that rural land use conflict was to be minimized through the provision of appropriate land use buffers and other strategies¹.

The Northern Rivers Farmland Project² classifies the land within our property as a combination of Regional and State Significant Farm Land. Independent assessment has classified the land as Special Class horticultural land; that is it is land which, because of a combination of climate and soil, is well suited to intensive production of a crop or a narrow range of crops whose special requirements limit their successful culture to such land. While Councils are not required to base their agricultural protection zones on the farmland protection mapping, the project did provide recommendations that it be used as a planning tool for future strategic planning. We refer to the following extracts from the Farmland Protection Project that we believe are relevant to this situation.

Regional farmland objectives

1. To establish the priority of legitimate rural uses (farming, conservation, extractive industry, forestry, rural industry) over non-rural uses, without one rural use necessarily having preference over another rural use.
2. To recognise and conserve the best agricultural land in the region for current and future rural uses.
3. To prevent fragmentation, alienation and encroachment of the most important agricultural areas by land uses unrelated to agriculture and rural uses.

Planning principles

1 State significant farmland, urban and rural residential development

State significant farmland cannot be considered for urban (including housing, retailing and other uses normally located within towns) or rural residential rezoning. The only exception is where the land is identified in a council settlement strategy which has been agreed to between December 1994 and December 2004 under clauses 20 or 38 of the North Coast Regional Environmental Plan (or placed on public exhibition by the end of 2004 and subsequently approved). Councils when preparing new settlement strategies cannot consider state significant farmland for inclusion.

¹ Ballina Shire Council (2009) *Ballina Shire Combined Development Control plan – Chapter 18 Rural Land*

² Department of Infrastructure, Planning and Natural Resources, NSW Department of Primary Industries (2005) *Northern Rivers Farmland Protection Project. Final Recommendations.*

Is Council able to provide therefore a guarantee that if the property was sold in the future that the sale price achieved would (ignoring inflationary factors and fluctuating real estate trends) be at the least the same as that which would be achieved if the property did not have such a conflicting land use as an immediate neighbour? If Council is unable to provide such a guarantee will Council provide us with compensation according to the foregone lost value of the property in light of the proposed development?

Application of Pesticides

One particular area of farm management that we believe will be adversely impacted is pest and disease management; that is the application of pesticides. It is best practice to apply chemicals only during conditions of light breezes that are blowing away from sensitive land uses. With sensitive land uses (including the proposed development) occupying lands to the north, east and south the majority of our spray applications will only be able to be carried out when light breezes are blowing from east to west. That is the proposed sporting fields will, if developed, at the minimum potentially impact on our orchard productivity through a restriction in the conditions during which pesticides are able to be applied without risk of land use conflict.

The application of insecticides and fungicides within our orchard is undertaken only when necessary and according to an IPM program that is undertaken annually. Furthermore, to avoid any development of conflict and to maintain neighbourly relations, we as chemical users are recommended to give notification to all neighbours of any intended chemical applications.

Depending on the insect and disease pressure of the particular season up to five separate insecticide or fungicide sprays may be required. For all spray applications undertaken it is critical for optimal yield and quality that these operations be carried out as soon as possible (that or the following day – irrespective of the week day) after the professional pest and disease scout provides the recommendation to do so.

With that in mind is the Council able to provide a guarantee that our ability to apply insecticides, fungicides or herbicides within the recommended timeframes, following the notification of neighbours and according to suitable weather conditions will not be hampered by any event/s (e.g. sporting fixtures) at the proposed sporting fields and facilities?

Buffer Zones

We understand that in situations of this nature where conflicting non-agricultural land uses are to be situated in close proximity to existing agricultural operations, buffer zones are required to be situated along relevant boundaries so as to assist with the avoidance of land use conflict. The design specifications of buffer zones seem to vary according to the nature of land use (potential or adopted) that abuts or is in proximity to sensitive land uses.

Buffer zones can be in the form of separation zones, vegetative/biological zones or property management zones⁴ and the minimum specifications seem to vary between publications.

- The Ballina DCP Chapter 18 – Rural Land provides a guide to minimum buffer distances between various land uses and potential sensitive uses (e.g. residential) and these are listed in Table 3.1, page 12 of the document. Other than macadamia de-husking facilities no mention of macadamia or other intensive horticultural orchards is given.
- Table 6: Recommended minimum buffers (metres) for primary industries of the Living and Working in Rural Areas handbook does however provide more detailed information and quotes a minimum buffer zone of 300 metres for horticulture and residential areas and urban development. This same document mentions the potential for biological and vegetated buffers that are commonly used for aesthetic and drift (dust and chemical) management. No design specifications are however given for these biological buffers.

⁴ Ballina Shire Council (2009) *opcit*

4 Regionally significant farmland: future urban strategies

Regionally significant farmland is not an absolute constraint to future strategic urban development. Councils when preparing new urban settlement strategies under clause 38 of the North Coast Regional Environmental Plan can consider regionally significant farmland for future urban use if all of the following apply:

- the proposed new urban area or use would form part of the urban areas of Lismore, Murwillumbah, Kyogle, Casino or Ballina¹ and no viable alternative land is available in proximity to those towns, or it would form a minor 'rounding-off'² on the edge of an urban centre which would make good planning sense given the nature of the locality; and
 - it would be adjacent or close to an existing zoned urban area; and
 - it would not significantly undermine the integrity of a regionally significant farmland area by creating wedges or spikes of urban development; and
 - it would not compromise local or regional agricultural potential by alienating agricultural infrastructure or agricultural transport routes, or decreasing 'critical mass' for any existing agricultural industry; and
 - it would not create impacts which would compromise the agricultural use of nearby regionally significant land; and
 - it would not be located in an area where there was an identified risk of land use conflict near an existing agricultural enterprise; and
 - it would not involve filling part of a floodplain unless consistent with a floodplain management plan prepared in accordance with the Floodplain Management Manual.
-

Therefore while we are not at this stage resistant to the development (provided our specific concerns which follow are adequately addressed) we do however acknowledge that this development does appear to be in contradiction to the objectives of various government planning policies.

Land-use Conflict and the Right to Farm

Our property is utilized predominantly for intensive horticulture; namely macadamia production. The orchard is characterized by approximately 5,000 mature macadamia trees that are approaching 20 years of age. The orchard is therefore of a significant enough scale to classify it as a purposeful agricultural operation. Over the life of the orchard significant investments have been made to maintenance and operation as well as infrastructural and machinery improvements (dehusking shed, tractors and ancillary equipment).

With the development of the lands immediately to the south-west of our property, our orchard would, with the exception of grazing land to the west be surrounded on all sides by non-agricultural land uses all of which (rural residential, urban related use) either separately or in unison produce a higher than desirable risk of land use conflict and this we believe is irrespective of our adoption of best practices for conflict avoidance.

In short we are extremely concerned that our right to farm the land and utilize it according to its agricultural potential will, with developments of this nature, be severely compromised. We acknowledge that the right to farm the land comes with a minimum level of responsibility to both the community and the environment. However we also acknowledge that we live within a rural area and that therefore "routine and lawful rural land management practices will generally have precedence in rural areas, and new or prospective landowners should accept that agricultural and rural industry operations are a part of rural life."³

We also refer to the value of our land from an agricultural real estate perspective. This development and the greater potential for land use conflict that it will represent will pose greater limitations on achieving optimal and practical farm management and this will potentially therefore impact upon production and the value of the property. From our perspective any prospective buyer who is looking to purchase a purposeful agricultural operation would pay more money for such an enterprise that was not situated immediately adjacent to such a sensitive and conflicting land use.

³ Learmonth, R., Whitehead, R., Boyd, B. and Fletcher, S (2007), *Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast*.

- The Lismore Development Control Plan – Chapter 11 Buffer Areas seems to provide the most detailed design specifications for situations of this nature. This document recommends a minimum distance of separation of 150 metres where there is no planted buffer or alternatively an 80 metre distance of separation (to a dwelling) that includes a biological buffer of minimum width of 30 metres⁵.
 - It is acknowledged that a sporting field does not constitute a dwelling; however during sporting events it is also acknowledged that sporting fields would be associated with a significantly greater population of people than would any single dwelling. Additionally athletes partaking in sporting activities within the ovals would in many instances (depending on the sport) have a significantly higher rate of breathing (and therefore we would presume a greater chance of inhaling air borne particles – dust, chemicals) in comparison to say (an) urban resident whom may for instance be gardening. Furthermore there is also the location of the clubhouse, amenities and carpark to consider in this regard.

In regard to property management buffers which could possibly be for instance an alteration to existing chemical application patterns, we are aware of situations elsewhere within the northern rivers where owners/operators of agricultural enterprises have been forced to adopt a no spray zone within certain areas of their property/s (e.g. boundaries adjacent to residential areas) and that this has not necessarily been as a result of an order from a governing authority.

In light of the above if we are similarly forced to adopt a no-spray zone within a specified area of our property that is adjacent to the proposed sporting fields, can Council indicate whom will provide us with compensation for the lost value of macadamia production (yield and quality) that will result from our inability to provide adequate pest and disease control measures within these areas?

Irrespective of the type of buffer that is to be implemented (assuming it is the intention to incorporate a buffer zone in the design process) it is our understanding that it is the requirement of the developer of the encroaching development to incorporate the buffer zone onto the land that they are developing.⁶

Can Council therefore indicate whether a buffer zone is to be implemented within the design process of this project? If a buffer zone is to be implemented can Council provide definitive specifications as to the location and width? For instance according to the published information available it is our understanding that a suitable buffer zone would need to be at least 80 metres wide with an incorporated 30 metre wide zone of vegetation, that this zone would need to extend along the total length of the proposed development, that this buffer zone would need to be developed on the land that is associated with the proposed development and that this buffer zone would need to be developed to a suitable standard (height of vegetation) prior to operation of the proposed development (sporting facility).

A buffer zone that incorporates a vegetative zone will assist with controlling spray and dust drift. While we undertake all chemical pesticide applications according to recognized best practices¹⁰, e.g. applying chemicals only during periods of favourable weather conditions (light breeze blowing away from sensitive land uses), sudden unforecast changes in weather direction and speed may mean the unavoidable drift of chemical spray particles towards sensitive land uses.

⁵ Lismore City Council (2007). *Lismore Development Control Plan – Chapter 11 Buffer Areas*

⁶ Ballina Shire Council (2009) *op cit*

⁷ *ibid*

⁸ Learmonth, R., Whitehead, R., Boyd, B. and Fletcher, S (2007), *op cit*

⁹ Department of Infrastructure, Planning and Natural Resources, NSW Department of Primary Industries (2005) *op cit*

¹⁰ Australian Strategic Planning Pty Ltd (2003), *Code of Practice for the Control of Spray Drift and Use of Chemicals in Macadamia Orchards. "A Good Neighbour Policy"*.

Is Council therefore able to provide a guarantee that any buffer zone to be developed will be of a sufficient standard to avoid a worst case scenario of unintended spray drift into the area of sporting fields and associated infrastructure?

Areas of vegetation such as those which commonly occur along property boundaries, within natural drainage lines and watercourses are often a habitat for rodents and in particular rats. Rats are a major pest of economic significance for macadamia orchards within the Northern Rivers and according to our agronomist are potentially the greatest pest of concern next to Fruit Spotting Bug.

Management practices for the control of rat populations and therefore rat damage within macadamia orchards in addition to baiting take the form of general orchard maintenance – cleaning up of orchard peripheries, headlands and gullies etc. Rats avoid open spaces and so the slashing of grass within tree rows and along row headlands is one such operation that is commonly undertaken.

If a zone of vegetation as a part of a buffer area was to be planted along and adjacent to our boundary that abuts the proposed development it is very likely that this will provide additional habitat for rat populations and that our existing rat control program (that is undertaken according to industry best practice) will not be adequate to provide satisfactory and economic control of this pest. In light of this it would therefore be our request that any vegetative buffer zone to be implemented be planted at a distance of say 10 metres from our adjoining boundaries; that is to provide a 10 metre zone of open space through which published research indicates that rats are less likely to move across.

Is Council therefore able to provide comment as to whom will be responsible for the maintenance of any implemented vegetative buffer zone and what this program of maintenance will constitute? Furthermore in the event that any implemented vegetative buffer zone results in an increase in the rat populations moving into and subsequently causing greater economic damage within our orchard is Council able to provide comment as to whether or not any compensation for damages will be available to ourselves for the value of lost production?

Drainage Waters from Neighbouring Lands

During periods of excessive rainfall, runoff waters from neighbouring lands to the west and southwest flow onto our property and depending on the intensity of rainfall received have in the past caused a significant level of soil erosion.

Is Council therefore able to provide a plan for management of drainage waters as they leave lands associated with the development and can Council provide a guarantee that the volume of runoff water flowing onto our land will be no greater than that which occurs under the current situation where the neighbouring lands of concern are identified as a grazing enterprise?

We believe that the information in the preceding pages constitutes all of our relevant comments and or concerns. We look forward to Council's comments in relation to these matters.

Kind regards,



Mr W M & Mrs M M Godfrey

BusiLaw*

business, property, estate and succession planning solicitors

Solicitors

Alister Somerville B.A. LL.B. (Principal)

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ANS:VS

23 September 2011

The General Manager
Ballina Shire Council
PO Box 450
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naomih@ballina.nsw.gov.au

Dear Sir/Madam

Re: **DA 2011/373 – Staged construction of sporting fields and facilities at Wollongbar**

We have been instructed by Ben & Jeannine Van Straaten of 139 Pearces Creek Road to make a submission on their behalf in relation to the above DA.

Our clients' land is described as lot 6 DP578242 and which adjoins the subject land on its eastern edge. It contains 12.49 hectares. Our clients live on the land and farm it as a macadamia plantation. There are approximately 2,000 trees. The running of the macadamia plantation is their livelihood. We wish on behalf of our clients to make submissions in relation to the above DA and which we set out below.

Our clients acknowledge receiving the Council's letters dated 22 October 2010, 13 December 2010, 12 July 2011 and 8 September 2011.

We have examined the DA and its incorporated documents including the Statement of Environmental Effects ("SEE") and the Engineering Services Report ("ESR") and wish to make the following submissions on behalf of our clients.

SUBMISSIONS

(a) Zoning

- Both the subject land and our clients' land are zoned no. 7(i) Environmental Protection (Urban Buffer) Zone. The primary objective of this zoning is to create a rural buffer and to prevent development of an urban character. The secondary objective is to enable

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development as permitted by the objectives of Zone no. 1(a1) Rural (Plateau Lands Agriculture) zone unless they conflict with the primary objective of Zone 7(i).

- Zone 1(a1) has as its primary objectives to regulate the subdivision and use of land to ensure that the land is used essentially for agricultural production (particularly horticulture) in a manner so as to optimise its production potential. The secondary objectives are to ensure that development maintains the rural character of the locality and does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.
- However, it is noted that the exemptions to the objectives in both the above zones include the development of land for public works and services, but subject to the qualifications as stated.
- The proposed development incorporates 3 sporting fields (1 x AFL field with associated sports lighting, 2 x rugby fields with associated lighting – to be used as 1 x cricket field in summer), 6 x tennis courts with associated sports lighting, 4 x netball courts, land area for clubhouse facilities, 193 car spaces and 2 bus parking bays for stage 1 and 94 car spaces to be accessed from Pearces Creek Road (coming in from our clients' end) (stage 2) with associated vehicular access.
- It is fundamental to the approval of this development that it comply with the zoning. The SEE, in realising that "sports fields" is not a defined land use in the BLEP, attempts to justify that the development satisfies the primary objective of Zone 7(i) by stating: "..... the provision of larger tracts of grassland for playing fields and associated limited disturbance for built form structures could not be considered or deemed to be considered to be of an urban character". We disagree with that statement. The primary objective of the zone is to create a rural buffer and which we submit would be to prevent the extension of urbanised areas beyond areas zoned for that purpose. Notwithstanding what the SEE says, it is our firm view that this proposed development is an extension of the urban area. It is not of a rural nature or character and, furthermore, such is the size of the area of the land to be used (13 hectares) that this large parcel of prime agricultural land will be lost for that purpose. This contradicts the objectives of zone 1(a1). Whilst reference is made (as stated above) to provision of larger tracts of grassland, this statement severely plays down the fact that it is really a large-scale development that will have many non-rural structures in place such as sports lighting, clubhouse facilities, hard surfaces for tennis courts and netball courts and 289 hard-surfaced car parking spaces. A lot of this good rural land will be covered in a hard impermeable surface. All of these things will be an intrusion on the maintaining or creating of a rural buffer. We therefore submit that these arguments as set out in the SEE cannot be accepted as satisfying compliance with zoning requirements.
- The SEE then tries to argue that the proposed development could come within the exception so as to permit development of land for public works and services and outside the parameters specified in the primary and secondary objectives of both stated zones. We firmly believe that the proposed development cannot be approved under this exception. We dispute the claim that Section 41 of the Public Works Act and the stated provisions of the Local Government Act enable this development. It is stretching logic and reason to argue that this large development can be described as public works and services.
- The second objective of zone no. 1(a1) is to ensure that development within the zone maintains a rural character of the locality. This large-scale development is an intrusion on that rural character.
- All in all, we strongly submit that the zoning does not permit the proposed development and therefore should be refused on that basis alone.

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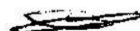
(b) Purposeful agricultural production

- The secondary objective of Zone 7(i) also preserves the objectives of Zone 1 (a1) and which are, as stated, the preservation of purposeful agricultural production and its optimisation. We reassert our submission as stated above that the proposed development is contradictory to that objective. They also feel that the proposed development will most likely impact on our clients' rights to farm their land in that, amongst other things, it could mean that they will not be able to apply insecticides and fungicides. Depending on the insect and disease pressure of the particular season, up to 5 separate sprays may be required. For all spray applications undertaken, it is critical for optimal yield and quality that these operations be carried out as soon as possible (irrespective of which day of the week) after the professional pest and disease scout provides the recommendation to do so. Our clients will need a guarantee from the Council that their ability to apply insecticides, fungicides and herbicides within the recommended time frames, following notifications to neighbours and according to suitable weather conditions, will not be hampered (or even prevented) by any events at the proposed sporting fields and facilities. It needs to be clearly understood that our clients' land immediately adjoins the eastern boundary of the proposed development and their very productive macadamia trees go right up to that boundary. Their livelihood could be affected.
- Our clients understand that suitable vegetative buffer zones will be established to avoid a worst case scenario of unintended spray drift into the area of the sports fields, but can Council guarantee that these buffer zones will be of a sufficient standard to prevent this from happening?
- Another concern regarding vegetative buffers is that these buffers can provide a habitat for rodents, and in particular rats, which are a major pest of economic significance in macadamia orchards in our clients' area. Who will be responsible for keeping these vegetative zones clear of such vermin? Our clients' right to farm their land so as to optimise its production potential must not be reduced by this proposed development. However, we fear that it will. Will compensation be payable?

(c) Social impact and loss of amenity

- This is not a small-scale development of just one or two sporting fields. It is a large-scale development that is going to attract lots of people and many vehicles. It is going to be used both during the day and also at night. It is highly likely that the AFL field and the 2 rugby grounds will be used for training during the evening during the week and the tennis courts will be played on as well at night time. All of these grounds and courts will have sports lighting. There will be much coming and going and there is likely to be night-time noise and perhaps to the extent that it will have a social and personal impact, not only on our clients, but also on all of the other people who live in the near vicinity.
- Then there will be the traffic noise and potential hazards associated with traffic movement. We realise that the 94 car spaces to be accessed from Pearces Creek Road are labelled for stage 2. However, they are still included in this DA and therefore must be dealt with. There is no doubt that if stage 2 goes ahead, then there is going to be quite a change to noise levels along the complete northern side of our clients' land and which will be occupied by a sealed road, whereas now it is grassland with other vegetation.
- The proposed clubhouse facilities will surely be used for social activities and not just for the changing of clothes, showering and other such things. A clubhouse is highly likely to have kitchen, eating and bar facilities and which, one day, might be licensed under the

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Liquor Act. The likely use of the clubhouse for social functions will further add to the adverse environmental impacts on both the natural and built environments, including social and personal wellbeing. This will take away from the rural character of the area by creating more urban intrusion.

- Further with regard to the proposed 94 car spaces to be accessed from Pearces Creek Road, how will users know if there are any car spaces left and, having got to the parking area and found it full, what will they do? We know that there is no vehicular access between the two car lots (and which must not change) and so cars will spill on to the proposed new road. There must be safety concerns about that.
- These are sporting facilities on a large scale and perhaps will, if approved, result in some augmentation so as to provide for grandstands for viewing. Such a thing would of course increase the intensity and this would just make things worse. It's possible that this area could become a major sports ground attracting many visitors for major sporting events. This must be prevented.

(d) Unsuitability of access from Pearces Creek Road

- It is a well-known fact that Pearces Creek Road is quite narrow and the turn-off to the current unformed road is not far from a hill, thereby limiting the visibility of oncoming traffic. In order to make the intersection and access safe, the Council will be required on behalf of its ratepayers to spend a large amount of money. Our clients firmly believe that this would be an unwarranted expense, having regard to all circumstances.
- There will also be great expense in forming the new road. Once again, we argue that this would be an unwarranted expense having regard to all of the circumstances.

(e) Conclusion

- For the reasons stated, although we strongly object to the proposed development, if it does get approved in principle then the proposed access along the unformed road from Pearces Creek Road must be rejected and not form part of the approval.
- We expect and trust that Council will give due and proper consideration to these submissions and all other matters that it is required to consider at law, and in particular under Section 79C of the Environmental Planning and Assessment Act.

Yours faithfully

BusiLaw * previously known as Alister Somerville, Solicitor

Per: Alister Somerville



E-mail: alister@busilaw.com.au

From: Michael [ballina2478@hotmail.com]
Sent: Friday, 23 September 2011 9:36:53 PM
To: Ballina Shire Council
Subject: DA 2011/373

Ballina Shire Council

Further to our earlier objection we also object to DA 2011/373 for the following additional reasons;

- * the T intersection of Pearces Creek Road & Godfrey Place, Alstonville NSW has historically been covered in rising waters from Maguires Creek during periods of rainfall. The new access road commencing at Pearces Creek Road and finishing at the new sporting ovals will increase water run off into Maguires Creek and will also increase water running north along Pearces Creek Road (from the T intersection of the new access road & Pearces Creek Road). This increased water run off from the new access road will substantially increase water at the intersection of Pearces Creek Road & Godfrey Place, posing a danger to pedestrians, vehicular traffic, and our property. We anticipate our home being flooded from these increased waters. It is our intention to hold Ballina Shire Council liable for any damages, loss of amenity and economic loss sustained from the waters that may trespass upon our house or property.
- * the new access road from Pearces Creek Road will increase pedestrian traffic from Alstonville but there is no provision for a footpath along Pearces Creek Road, creating a danger to both pedestrians & vehicular traffic along Pearces Creek Road.

Yours sincerely
William Godfrey, Margaret Godfrey & Michael Godfrey
169 Pearces Creek Road, Alstonville NSW 2477

BusiLaw*

business, property, estate and succession planning solicitors

Solicitors

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ANS:VS

26 September 2011

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478
naomih@ballina.nsw.gov.au

Dear Sir/Madam

Re: **DA 2011/373 – Staged construction of sporting fields and facilities at Wollongbar**
Submission – allocated document no. 1885764

We refer to our letter of 23 September.

In that letter, we overlooked in reserving the right to make further submissions should that be considered warranted.

We now wish to make a further submission on behalf of our client, although it is just an expansion of what we said about Section 41 of the Public Works Act under the heading (a) Zoning.

Section 41 states that for the purposes of the last preceding section (Section 40) certain works shall be deemed to be public works and undertakings. There are several examples of works and undertakings that are listed including "public parks, or grounds for public recreation, or places for bathing, and for the reclamation of land for or in connection therewith" and as stated by the Applicant. However, these listed works and undertakings only apply to Section 40 of the Public Works Act and which relates to the acquisition of land for public purposes other than authorised works. This Section is not relevant to town planning. The list of works and undertakings is strictly restricted to Section 40. It cannot be applied outside the scope and intent of Section 40. Therefore the argument as submitted must be rejected.

Furthermore, the list includes works and undertakings such as lunatic asylums, the establishment of public abattoirs and other such works and undertakings that would not come within the exception in Zone no. 7(i).

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It is also submitted that the matter stated concerning the Local Government Act are not relevant either.

Reason would suggest that the public works and services referred to in the exception would be restricted to such things as public roads, water and sewage reticulation and the like and certainly not all of the public works and undertakings listed in Section 41.

Yours faithfully

BusiLaw * previously known as Alister Somerville, Solicitor

Per: Alister Somerville



E-mail: alister@busilaw.com.au

23 January 2012

Attn: Rod Willis
Group Manager – Regulatory Services
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Mr Willis,

Re: **DANO 2011-373**

Further to your letter on 16 December 2011 regarding additional information on this DA we would just like to reiterate our concerns regarding the noise assessment.

It has now been amended that a 12 month trial period will go ahead for both residents and Council to identify the need for fencing. Our question to you is if no fence is going to be constructed, will we be able to keep our existing privacy screen, (which we do acknowledge is on council land and planted on top of the levy bank that council put in as mentioned in our previous letter) for the trial period as we do not want to go to the expense of putting a new solid fence in, only to be told in 12 months time that this may be taken down if Council decide to proceed with the proposed acoustic fencing.

Yours faithfully

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