

Request for LEP
Amendment
Lot 1 DP 817406, Alstonville

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9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

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Introduction

This report provides a formal request, on behalf of the land owner, Stoville Pty Ltd, to prepare a Local Environmental Plan (LEP) Amendment in relation to land known as Lot 1 DP 817406, Alstonville on the Far North Coast of NSW. **Illustration 1** shows the site and its location.

As shown in **Illustration 1** the adjacent Russellton Industrial Estate has been constructed in a manner that effectively surrounds the existing dwelling on Lot 1 DP 817406, which is located in the north-western corner of that lot. This dwelling has been located in this position for around 100 years.

Under *Ballina Local Environmental Plan 1987*, all of Lot 1 DP 817406 is zoned 7(i) Environmental Protection (Urban Buffer). Under Draft Ballina LEP 2010, as exhibited, all of the lot is proposed to be zoned E3 Environmental Management.

At a recent meeting, Council resolved to invite the land owner to submit this LEP Amendment request to alter the zoning of a 0.68 hectare part of the land directly adjacent to the industrial estate to provide for its continued use for light industrial purposes. The area subject to this LEP Amendment request is shown in **Illustration 2**.

Background / Chronology

The key issue underpinning the rezoning proposal relates to an ongoing conflict associated with noise from an adjacent industrial activity. The history of this issue is summarised in a Council officer's report dated February 2002 (see Appendix A).

The dwelling on Lot 1 DP 817406 was located in its current position when the adjoining land was initially zoned to allow for industrial use, and it was located in its current position when the Russellton Industrial Estate was designed and laid out. It would appear that the proximity of the dwelling was not considered to be an issue when planning for this industrial estate.

Following the establishment of the estate, Council approved the use of the industrial site located closest to the dwelling for an intensive industrial use, rather than considering restricting use in this location for a less noise intensive use, such as warehousing / storage or the like.

The land use conflict was an almost inevitable result of this series of decisions.

Noise complaints associated with night time operation of the adjoining industrial activity (Duraplas – manufacturers of water tanks) were originally lodged by the occupiers of the house on Lot 1 DP 817406 in the 1990s. Subsequently, an agreement was reached between Duraplas and the owner of Lot 1 DP 817406 for the industrial operator to take over occupation of this part of the rural property, including a lease over the occupation of the dwelling. This has provided a temporary solution to the conflict, but does not address the basis of the problem.

The temporary situation prevents the owners of Lot 1 DP 817406 from continuing the residential use of this property, as they do not have the ability to obtain approval for another dwelling on the land. The situation, therefore, cannot remain in place over the longer term.

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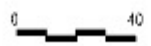


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1160604

The Site
Illustration 1

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Geospatial Technology

Stoville: Planning Proposal
1160604

Area Proposed for LEP Amendment

Illustration 2

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Additionally, Council has issued Development Consent 2000/631, which authorised the previously unapproved use of the industrial site for the construction of tanks. The consent includes a condition (Condition 1.2) aimed at addressing the noise issue. The condition imposes restricted hours of operation (i.e. cessation of the existing 'night-shift'), but links the commencement of those restricted hours to the expiration of the lease to occupy the dwelling on the subject land.

Clearly, this condition recognised the value of the temporary solution (i.e. the lease) allowing Duraplas to continue 24-hour operation as long as they have control over the adjoining dwelling.

Duraplas is a significant employer in the area, with a local workforce of around 50 people at this Alstonville site. Stoville are keen to assist them in maintaining the viability of their business, hence the current land owner arrangement. Stoville cannot, however, continue this arrangement indefinitely, as it prevents the full use of the rural property.

Duraplas currently operate 24 hours per day, seven days per week. We are advised that the business would not be feasible if faced with the loss of the night shift, and that it would be forced out of the local area. This outcome would force the retrenchment of a significant number of staff.

We understand that Duraplas has been looking for additional land within the last stages of the Russellton Estate that would allow them to shift some activities further away from the dwelling, but that suitable land is not available. It is apparent, therefore, that there is no suitable land available locally and without a resolution to the current conflict, the business would undoubtedly be lost to the local area.

Objective of LEP Amendment

The LEP Amendment is requested to enable the continued light industrial use of a 0.68 hectare portion of Lot 1 DP 817406, that is currently zoned 7(i) Environmental Protection (Urban Buffer) and to facilitate a boundary adjustment subdivision involving Lot 1 and adjoining Lot 53, to amalgamate the industrial use within a single title.

Council is requested to amend the Ballina Local Environmental Plan 1987 Zoning Map such that the nominated area within Lot 1 DP 817406, currently zoned 7(i) Environmental Protection (Urban Buffer), where currently utilised by Duraplas, would be zoned 4 Industry (or IN1 General Industry).

Justification

Section A – Need for the Planning Proposal

Is the planning proposal a result of any strategic study or report?

This request is not the result of any strategic study or report. The proposed rezoning is required to resolve a longstanding land use conflict that has occurred as a result of the Russellton Industrial Estate being developed in close proximity to a rural dwelling.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Ballina Local Environmental Plan 1987 so that part of Lot 1 DP 817406 containing the existing dwelling and the approved storage use is zoned 4 Industry is the first step in facilitating a permanent solution to this ongoing land use conflict.

Lot 1 has a total area of 15.46 ha. The area proposed for industrial zoning would be 0.68 ha, providing a residue of land within the 7(i) zone of 14.78 ha. This represents less than a 5% change to the current and only a very minor addition to the 4 Industry zoned land.

A second stage to resolving this land use conflict will entail a boundary adjustment subdivision, whereby the part of Lot 1 DP 817406 that is zoned 4 Industrial is excised and amalgamated with the adjoining industrial lot (Lot 53 DP 700227). This would allow for a following third stage, whereby the owners of Lot 1 DP 817406 would seek approval for the construction of a new dwelling, located at the far southern end of the property, well away from adjoining industrial land uses.

Under both the current and proposed draft LEP, an application for a boundary adjustment subdivision would be unlikely to be supported under the current zoning arrangements, given the extent of variation of the minimum lot size that would need to be supported by way of a SEPP No. 1 objection. Implementing the zoning change as a first step would therefore allow the subsequent boundary adjustment, providing a permanent solution to the existing land use conflict. No additional dwelling entitlements would result, and the proposal would not impact on the continued agricultural use or value of the property.

Is there a community benefit?

Duraplas is a significant employer in the area, with a local workforce of around 50 people at this Alstonville site. The owners of Lot 1 DP 817406 are keen to assist them in maintaining the viability of their business, hence the current lease arrangement. However, this arrangement cannot continue indefinitely, as it prevents the full use of the rural property.

Duraplas currently operate 24 hours per day, seven days per week. We are advised that the business would not be feasible if faced with the loss of the night shift, and that it would be forced out of the local area. This outcome would force the retrenchment of a significant number of staff.

Furthermore, it is understood that Duraplas has been looking for additional land within the last stages of the Russellton Industrial Estate that would allow them to shift some activities further away from the dwelling, but that suitable land is not available. It is apparent, therefore, that there is no suitable land available locally and without a resolution to the current conflict, the business would undoubtedly be lost to the local area.

The rezoning as proposed, followed by a boundary adjustment subdivision, would provide a permanent solution to land use conflict without detracting from the existing agricultural value of the land. Currently, the 0.68 hectare portion of Lot 1 is utilised for storage associated with the industrial use. The land use conflict has prevented its use for agriculture.

The remainder of Lot 1 will continue its current agricultural use, but the ability to provide a dwelling on the land at its southern end, will allow the owner to live on the farm and maximise its agricultural potential.

Section B – Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

The Far North Coast Regional Strategy does not identify an extension of the Russellton Industrial Estate in the location of Lot 1 DP 817406. The Strategy does, however, identify the need to create jobs for the projected increase in population in the area. Although this proposal will not necessarily create new employment, it will ensure the ongoing viability of Duraplas' operation at the Russellton Industrial Estate, thereby protecting an existing viable business and its associated jobs.

Northern Rivers Farmland Protection Project

The Farmland Protection Project seeks to protect important farmland from urban and rural residential development by mapping farmland and developing planning principles (p.4). All of Lot 1 DP 817406 is mapped as 'State Significant Farmland'.

Existing and future settlement areas identified in relevant strategies are not shown on the Farmland Protection maps. Rather, the report recommends that land identified in an agreed council settlement strategy can be considered for urban or rural residential rezoning even if it is mapped as significant farmland.

In considering this issue, the Farmland Project Report (at Section 4.4), suggests that Councils can consider 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 Ballina and no viable alternative land is available in proximity to those towns, or it would form a minor 'rounding-off' on the edge of an urban centre which would make good planning sense given the nature of the locality;*

The rezoning of this area would form a 'minor rounding-off' of the edge of the existing Russellton Industrial Estate. As described above, the proposal makes good planning sense in that it provides a permanent solution to a long-standing land-use conflict in a manner that has no impact on the continued agricultural use of viability of the land.

As shown in **Illustration 2**, the area proposed to be rezoned is not used for agriculture, nor has it ever had such a use. Prior to the current arrangement, it formed the curtilage of the existing dwelling.

- *it would be adjacent or close to an existing zoned urban area;*

As shown in **Illustration 2**, the site is directly adjacent to an existing zoned urban area.

- *it would not significantly undermine the integrity of a significant farmland area by creating wedges or spikes of urban development;*

The current proposal provides for a minor, and logical, extension to the zoned area. It will not undermine the integrity of the remaining parcel, particularly given that the subject area has not been used for agricultural production.

- *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;*

The rezoning of this land will have virtually no impacts on agricultural use or agricultural potential of the remainder of the parcel. The residue of Lot 1 will continue its current agricultural use in exactly the same manner as the current operation. The ability to eventually provide a dwelling to the south will only add to its viability, providing for an on-site farm manager.

- *it would not create impacts which would compromise the agricultural use of nearby significant land; and*

There would be no off-site agricultural impacts.

- *it would not be located in an area where there was an identified risk of land use conflict near an existing agricultural enterprise;*

The proposal arises as a solution to a long-standing land-use conflict.

- *it would not involve filling part of a floodplain unless consistent with a floodplain management plan prepared in accordance with the Floodplain Management Manual.*

There would be no filling within the floodplain.

Given the circumstances of mapping in this case, it is considered that industrial use of the subject land would be acceptable.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Ballina Shire Council does not have a strategy that is relevant to this planning proposal. Neither the Ballina Urban Land Release Strategy 2000 nor the Wollongbar Urban Expansion Area Infrastructure Strategy 2008 makes any mention of an extension to the Russellton Industrial Estate.

Is the planning proposal consistent with applicable State Environmental Planning Policies?

Several State Environmental Planning Policies (SEPPs) potentially apply to the proposed rezoning of the site. These are identified and discussed below.

SEPP Assessment

SEPP Requirement	Summary of Requirement	Proposed	Complies
SEPP 14 – Coastal Wetlands	In respect of land to which this policy applies, a person shall not: <ul style="list-style-type: none"> ▪ clear that land, ▪ construct a levee on that land, ▪ drain that land, or ▪ fill that land, except with the consent of the council and the concurrence of the Director.	There are no SEPP 14 Wetlands located within or near to the site. The nearest, No. 108, is located approximately 6.8 km south east associated with Duck Creek. The proposed rezoning would not have any impact on that coastal wetland.	Yes
SEPP 26 – Littoral Rainforests	The SEPP aims to protect and conserve littoral rainforests in their natural state.	There is no SEPP 26 Littoral Rainforest located within or near to the site. The nearest mapped rainforest areas are approximately 10.4 km to the south east of the site associated with Pimlico Island. The proposed rezoning would not have any impact on these rainforest areas.	Yes
SEPP 44 – Koala Habitat Protection	Council must determine if the land contains <i>potential koala habitat</i> (feed tree species constitute at least 15% of the trees in the upper or lower strata of the tree component)	The site does not contain more than 15% of trees listed under Schedule 2 of the Policy, and therefore does not contain potential Koala habitat.	Yes
SEPP Rural Lands 2008	This SEPP provides for the protection of agricultural land that is of State or regional significance via these rural planning principles: <ul style="list-style-type: none"> ▪ the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas. ▪ 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. 	The proposed rezoning will not impact on the size of the area within Lot 1 DP 817406 that is used for farming purposes. The subject 0.68 ha area of the site currently contains the only dwelling on the property and is leased by Duraplas and used for the storage of tanks and equipment. Under the existing scenario, the subject 0.68 hectares of the property cannot be used for farming. Under the proposed scenario, the same portion of Lot 1 DP 817406 would be farmed, with the only	

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<i>SEPP Requirement</i>	<i>Summary of Requirement</i>	<i>Proposed</i>	<i>Complies</i>
	<ul style="list-style-type: none"> ▪ in planning for rural lands, to balance the social, economic and environmental interests of the community. ▪ 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. ▪ the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities. ▪ the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing. ▪ ensuring consistency with any applicable regional or local strategy endorsed by the Director-General. 	<p>difference being that there would be a new dwelling constructed toward the southern end of the property. No land use conflicts would result from the construction of that new dwelling as it will be lived in by the operators of the farm.</p>	
SEPP Major Development	This SEPP consolidates criteria and identifies development, which are 'State Significant'.	The development of the site post rezoning would not be categorised under this SEPP as a project to which Part 3A of the Act applies, nor would it be categorised as Regional Development.	Yes
North Coast Regional Environmental Plan	Development proposals must be consistent with the requirements of the North Coast REP 1988. Council must consider the likely impact of the proposed 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 rezoning is consistent with the North Coast REP. The proposal will not result in any practical reduction in the area of agricultural land. The 0.68 ha of land proposed to be rezoned 4 Industrial is already used for that purpose by way of a lease agreement.	Yes

Is the planning proposal consistent with applicable Ministerial Directions (s. 117 directions)?

Directions made under section 117 of the Environmental Planning and Assessment Act 1979, issued on 1 July 2009, which are relevant to the site, are identified and addressed below.

Section 117 Directions

Direction No.	Objective	Consideration
No. 1.2 – Rural Zones	<p>A planning proposal must not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</p> <p>A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the planning proposal that are inconsistent are:</p> <p>(a) justified by a strategy which:</p> <ul style="list-style-type: none"> i) gives consideration to the objectives of this direction; (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning. 	<p>This planning proposal does seek to rezone land that currently has a rural zoning to an industrial zoning. However, the rezoning is necessary to rectify a long persisting land use conflict. The proposal will not result in a practical reduction in farmland.</p>
No. 1.5 – Rural Lands	<p>A planning proposal must be consistent with the Rural Planning Principles listed in SEPP Rural Lands.</p> <p>A planning may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Department of Planning that the provisions of the planning proposal that are inconsistent are:</p> <p>(a) justified by a strategy which:</p> <ul style="list-style-type: none"> (i) gives consideration to the objectives of this direction; (ii) identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites), and (iii) is approved by the Director-General of the Department of Planning. 	<p>See table above.</p>

<i>Direction No.</i>	<i>Objective</i>	<i>Consideration</i>
No. 4.3 – Flood Prone Land	To ensure that development of flood prone land is consistent with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual, 2005. To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The subject site is not mapped as flood prone.
No. 4.4 – Planning for Bushfire Protection	To protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas. To encourage sound management of bush fire prone areas.	The subject site is not mapped as bushfire prone land.
No. 5.1 – Implementation of Regional Strategies	Planning proposals must be consistent with a regional strategy released by the Minister for Planning.	This planning proposal is consistent with the Far North Coast Regional Strategy in that it will secure the continued operation of Duraplas in the Russellton Industrial Estate, which is a significant employer in the region.
No. 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	To ensure that the best agricultural land will be available for current and future generations to grow food and fibre. To provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning. To reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.	The site is identified as being State Significant Farmland. The proposed rezoning will result in 0.68 ha of State Significant Farmland being zoned 4 Industrial. Practically, as discussed above, the 0.68 ha is already occupied by an industrial land use and practically the proposed rezoning will have no impact on the actual area of land within Lot 1 DP 817406 that is used for farming.

Section C – Environmental, social and economic impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The only physical land use change that will ultimately occur as a result of this planning proposal is the construction of a new dwelling on Lot 1 DP 817406. A preliminary ecological assessment of the site has been conducted and it is considered that a suitable dwelling site can be located that will not have any impact of the site.

The vast majority of the site is utilised for avocado and macadamia nut farming. Ecology does not present a significant constraint to development.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Rezoning the 0.68 ha portion of Lot 1 DP 817406 in accordance with this planning proposal is likely to result in a development application from Duraplas to legalise their use of the land for industrial purposes. Should that transpire, the environmental impact of the use will be fully assessed and mitigation measures will be put in place to ensure there is no adverse impact. Potential impacts of the industrial use include noise emissions and polluted stormwater runoff.

How has the planning proposal adequately addressed any social and economic effects?

This aim of this planning proposal is to resolve existing social and economic issues that are occurring as a result of a land use conflict, i.e. a residential dwelling in close proximity to an intensive industrial use.

By rezoning the 0.68 ha portion of Lot 1 DP 817406 the social issue of noise impacting on a long-standing dwelling will be resolved. The economic consequences of Duraplas potentially being forced out of the Russellton Industrial Estate will be avoided.

Section D – State and Commonwealth interests

Is there adequate public infrastructure for the proposal?

The proposed rezoning will not result in any increase in demand for infrastructure. The rezoning will not result in an intensification of use of Lot 1 DP 817406 or any other site.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

This section of the planning proposal will be completed following consultation with the State and Commonwealth Public Authorities identified in the gateway determination. This section will summarise any issues raised by public authorities not already dealt with in the planning proposal, and will address issues as required.

Community Consultation

In accordance with 'A Guide to Preparing Local Environmental Plans' (Department of Planning, 2009) the gateway determination will specify the community consultation that must be undertaken on this planning proposal.

Conclusion and Recommendations

The existing land use conflict has arisen, in large part, from a series of Council decisions / actions in planning, designing and creating the industrial estate in such close proximity to an existing rural dwelling. This was compounded by the approval of intensive industry within the estate in this location.

Currently, land use conflict is avoided by way of a temporary solution, existing only by the grace of the current land owner, who has temporarily foregone the ability to reside on site. This arrangement does not provide a satisfactory permanent solution to the problem.

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The proposed extension of industrial zoning will allow for a subsequent boundary adjustment subdivision that would provide a permanent resolution to this situation without creating any further (or future) conflicts or impacts. This would provide a 'win-win' solution for the land owners without establishing any negative precedent and without any environmental, social or economic impacts.



Rob van Iersel
Principal / Senior Planner

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Appendix A

Ballina Shire Council Report



Request for LEP Amendment: Lot 1 DP B17406, Alstonville
1160541

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1. **Request for Amendment to the Ballina Local Environmental Plan 1987**
Property: Lot 1 DP 817406, Kays Lane, Alstonville

Background

The attached report (**Attachment 1**) was submitted to Council at its Ordinary Meeting of 27 September, 2001. The essence of the matter is that Mr Tim Reilly (Stoville Pty Ltd) the owner of Lot 1 DP 817406, Kays Lane, Alstonville was seeking Council's support to rezone an area of approximately 6,000 m² of his 15.46 hectare holding from *Zone 7(i) - Environmental Protection (Urban Buffer)* to *Zone 4 - Industrial Zone*. A farm dwelling is located on part of the land proposed for rezoning under the terms of Council's LEP

The rationale for this proposal is that it would allow Mr Reilly to lodge an application to subdivide or sell the 6000 m² area with the farm dwelling to Williams Brothers Services Pty Ltd (Mr John Flemming) being the operator of a plastic tank manufacturing business trading under the name of Duraplas on industrial zoned land adjacent to the dwelling.

The rezoning would enable, with Council's consent, Williams Brothers Services Pty Ltd to incorporate the use of the land and dwelling into its tank manufacturing operations and remove the potential noise nuisance experienced at the dwelling from the tank manufacturing process on the adjacent industrial zoned lot 53. It is also apparent that this arrangement will enable Williams Brothers Services Pty Ltd to acquire a substantial parcel of industrial zoned land to legitimize the existing unauthorised expansion of its business onto this land on a permanent basis.

A diagram of the subject and adjoining land (**Attachment 2**) shows the proposed rezoning area and the extent of the "Duraplas" operation.

Council resolved, when last considering this matter at its Ordinary Meeting of 27 September, 2001, that discussions should be initiated with the land holder and tenant to achieve a compromise. The outcome of these discussions is dealt with later in the report, however, some further background history relevant to this matter needs to be outlined first.

Planning of the Russellton Industrial Estate

Russellton Industrial Estate was rezoned from *Zone Non-Urban A & B* to *Zone 4 (a) Industrial - General Purpose* on 30 September, 1977, with development and subdivision commencing immediately after, under the development consent granted in DA 1978/74. At that time all the adjoining agricultural land was used for the grazing of cattle.

Development Application No. 1989/271 was approved on 26 October, 1989 for the development and subdivision of the balance of the industrial zoned land. This consent authorised the subdivision of 128 industrial lots, 1 recreation lot and 2 remnant lots comprising of 1 x 6.2 ha and 1 x 3.35 ha lot. A copy of this approved lot layout plan is attached (**Attachment 3**) for Council's information.

The August 1989 aerial photographs indicate that Mr Reilly's property had only just been planted out with macadamia trees at the time of this final consent. Mr Reilly (Stoville Pty Ltd) subsequently purchased this property from Dintan Pty Ltd on 15 March, 1994 with the established macadamia trees.

The same 1989 aerial photograph show no signs of any such macadamia plantings on Mr White's farm to the south of the Industrial Zone.

Previous Development Application - DA 2000/631

Development Application No. 2000/631 was submitted on behalf of Williams Brothers Services Pty Ltd to legitimize the manufacturing of plastic water tanks on Lot 53 that had commenced without consent. Council will recall that when dealing with this development application at its Ordinary Meeting of 22 June, 2000, a critical issue was noise emissions experienced at the nearby dwelling owned by Stoville Pty Ltd. The issue of noise impact was particularly relevant to the Company's desire to operate at night. At the time, this dwelling was tenanted and the problem concerning noise was apparently alleviated by Williams Brothers Services Pty Ltd taking over the lease of the dwelling (in addition to some adjoining land used for tank storage) and arranging for it to be occupied by persons who were more tolerant of the factory noise.

The dwelling and adjacent land has been leased to Williams Brothers Services Pty Ltd on a 5 year lease with just under 3 years remaining.

The report to Council's Ordinary Meeting of 11 June, 2000 dealing with that development application indicated under the subheading of "Rezoning".

"The proposition of rezoning the land on which the rural dwelling sits may have merit. However, it would be more appropriate to consider such a change in a broader context. The implications of allowing a further incursion of the industrial estate onto quality agricultural land in an environmental protection zone cannot be dismissed lightly. A submission would need to be put forward by the proponent justifying the rezoning as being in the interest of good and orderly planning".

It is apparent that Mr Reilly has taken some encouragement from this part of the report in pursuing his rezoning request.

Council approved the development application to legitimize the tank manufacturing with the following condition regarding noise:

"1.2 The hours of the use hereby approved and all activities ancillary thereto are to be within the hours of 7.00am to 10.00pm Monday to Saturday and 8.00am to 10.00 pm on Sundays and Public Holidays and SHALL APPLY FROM 12 December, 2004 unless the tenancy lease the operator of the subject industry has over part Lot 1 DP 817406 expires earlier. Council reserves the right to restrict the hours of operation during this period pursuant to its powers under the Protection of the Environment Operations Act, 1987.

In other words, once the lease agreement for Mr Reilly's dwelling expires, no more night-time manufacturing use will be permissible. This condition was imposed on the recommendation of Council's Environmental Health Officer, who advised Council at the time that:

- Investigations undertaken prior to the lodgement of a development application, and in relation to the initial tenant complaints, indicated that the general noise level from the tank manufacturing process at the dwelling during the day did not exceed the EPA's guideline. The guidelines require that noise levels for rural area be less than 5 dB(A) above background levels.
- The Acoustics Report submitted with the development application for the tank manufacturing concluded that operations between 10.00pm at night and 7.00 am in the morning, which defines "night" are likely to exceed the background noise levels by up to 22 dB(A). This level exceeds the EPA's guideline of a maximum of 5 dB(A) above background levels. It is likely that noise level from the tank manufacturing during the evening, which is defined as the time between 6.00pm & 10.00 pm, may also exceed EPA guidelines.

It should also be noted that complaints were made by the previous tenants of Mr Reilly's dwelling about odour associated with the tank manufacturing. Council's Environmental Health Officer has indicated in respect to such complaints, that:

- On no occasion have odours from the plastic tank manufacturing operation been detected by Council Officers during inspections.
- Inquiries of the suppliers of the material used in making the tanks suggests that there is no way in the course of normal operations that the level of carbon monoxide, formaldehyde and acrolein would approach the health threshold levels and that emissions should not be detectable 50-100 metres away. It should be noted that this conclusion is still disputed by Mr Reilly.

Planning Framework

As indicated previously, Council presently owns 11.18 hectares of vacant land zoned for industrial purposes within Russellton Estate. Having regard to past trends in the sale and development of industrial land there, the remaining area represents a substantial supply and there would appear to be no overriding need to supplement this supply for the time being. Even if Council does take steps to enlarge the estate at some future time, it should not be taken for granted that such expansion would occur on land owned by Stoville Pty Ltd. In any future deliberations on expansion, Council will need to have careful regard to the fact that enlargement of the estate would alienate high quality agricultural land from purposeful production. Furthermore, such enlargement could have the effect of incrementally reducing the operation and effectiveness of the urban buffer zone presently in place between Alstonville and Wollongbar.

The rezoning of the subject land would also presumably have an impact on the adjoining agricultural land if a significant buffer is required to minimise the potential impact of chemicals used on the balance of the macadamia farm from drifting over this land.

Mr Reilly's dwelling is not connected to Council's sewerage reticulation system and relies on the on-site disposal of effluent. It would appear, in the absence of a detailed survey, that only approximately one third of the area proposed for rezoning is capable of being serviced by Council's reticulated sewerage system. The installation of a pump station would be required to service the remainder of the land.

The land cannot be drained to the existing stormwater system within the Russellton Industrial Estate, although Council's Civil Services Group does not raise this as a major concern.

The proposed rezoning and the subdivision of the dwelling onto a separate lot would be capable of being sold independently of Duraplas's operation, and there is the potential for the industrial/residential conflict to be exacerbated if the owner of the new 6000 m² lot were to make application to excise a number of smaller industrial lots. This is possible in the industrial zone where there is a minimum lot size of 1200 m², although appropriate access may be difficult to achieve.

The following provisions of The North Coast Regional Environmental Plan are relevant to the proposed rezoning:

Clause 6

The objective of this plan in relation to agricultural resources are:

- (a) *to conserve the productive potential of agricultural land;*
- (b) *to ensure that commercial agriculture is not affected adversely by incompatible uses which impair its long term sustainability*

Clause 37.

The objectives of this plan in relation to urban development are to (a) provide for the orderly and economic release of urban land and identify growth centres.

Clause 29

A local environmental plan shall (b) not alter or remove existing environmental protection zonings or controls within them, without undertaking a detailed analysis to determine whether there will be adverse environmental effects resulting from such action.

Clause 46.

This objective of this plan in relation to commercial and industrial development is to encourage an adequate supply of zoned land located where there are planned growth areas foreshadowed and where essential services can be provided with minimal environmental damage.

Council's Resolution

Council resolved at its Ordinary Meeting of 27 September, 2001, in respect of the rezoning request *"that Council initiate discussions with the land holder and tenant to achieve a compromise"*.

Several discussions have taken place and correspondence transacted between both Mr Tim Reilly (owner of the house) and Mr John Flemming (Tank manufacturer) in pursuit of Council's resolution.

Mr Tim Reilly has indicated a desire to reach a more permanent long-term solution to the noise intrusion experienced at the dwelling than the existing lease agreement. It is apparent that Mr Reilly wishes to reside on his land without nuisance from the adjoining industrial uses. At this stage he would appear adamant that the only solution is for his land to be rezoned and sold to Mr Flemming. Council has been advised by GeoLINK Pty Ltd that it has been engaged by Mr Reilly to further examine his rezoning proposal. Mr Reilly has also raised other matters such as:

- The lack of a buffer zone between the undeveloped section of the industrial estate and his agricultural property that is presently separated by the unsealed section of Kays Lane within a 20 metre road reserve. The adjacent macadamia row is setback a further 7 metres from the road reserve boundary. It should be noted when visually inspecting the property that a substantial section of the grassed area between the macadamia row and the fence is actually within the road reserve, the fence being on an incorrect alignment. Mr Reilly is specifically concerned about the potential of chemicals he uses on his macadamia trees to drift from his land and the potential for such spray drift to cause nuisance and health impacts on workers in the future stages of the Industrial Estate on the other side of Kays Lane. The planning history of the Russellton Industrial Estate and the use of the surrounding land for grazing at the time of its initial planning and the current legislative obligations on the use of farm chemicals, suggests that the provision of a buffer is a matter that Mr Reilly should address within the confines of his own property. It should be noted that there is still considerable debate about the ideal width of buffers and their effectiveness given that so much depends on the weather conditions at the time of spraying and the topography of the land.

It is, however, considered that Council could assist in reducing future conflict by redesigning the proposed internal layout of the Russellton Industrial Estate so that all access to future lots located along Kays Lane comes from internal roads and vehicular access to Kays Lane is prohibited. This would ensure that future industrial buildings open to the west, away from Mr Reilly's property and the potential spray drift to effect workers is likely to be reduced. It should be noted that Council has also received correspondence from Mr E White echoing similar sentiments regarding the need for a buffer on Council's industrial land. Mr White has indicated that he considers that a buffer of 25 metres wide should be provided to Kays Lane within the Industrial Estate.

- The issue of stormwater from the further development of the Russellton Industrial Estate and its detrimental impact on adjoining land. The developed part of the Industrial Estate drains to the north, while the majority of the undeveloped part drains to the south. This issue is specifically relevant to Mr E L White, the owner of Land to the south, through which Council's undeveloped industrial zoned land drains. Mr White is a co-signatory with Mr Reilly in a previous letter to Council that raised this issue. It is considered that any drainage issues associated with future development can be addressed with appropriate stormwater design, that may include stormwater retention, treatment and retardation devices. A contour plan of the Industrial Estate is provided as **Attachment 4**.
- The unkempt state of the undeveloped section of the Russellton Industrial Estate adjacent to his property. Mr Reilly claims that the area harbours rats that have an impact on his macadamia nut harvest. The area involved is between 1 and 2 hectares of uneven terrain containing a number of trees, some lantana and vines. The work involved to render the area capable of being slashed would be considerable. Council requested further information from Mr Reilly regarding any contribution he would be prepared to make in respect of the initial work or the on-going maintenance, together with a plan showing the precise areas to be cleared. It should be noted that the majority of the undeveloped industrial land is covered with serratis grass that is harvested on an annual basis.

Unauthorised Use

The current leasing arrangement between Williams Brothers Services Pty Ltd (Mr John Flemming) and Stoville Pty Ltd (Mr Tim Reilly), as well as neutralising any complaints from the residents of the farm dwelling, is also obviously to provide a substantial area for the storage of tanks that would otherwise have to be found within the Industrial Estate. Mr Fleming has indicated verbally that a Council Planner had indicated to him that the storage of water tanks was not unacceptable because of its affinity to a "rural industry".

Council should be aware that the company also currently leases an area of the undeveloped part of the industrial estate on the western side of Lot 53 to Williams Brothers Pty Ltd for storage of tanks and materials.

Conclusion

Proposed rezoning

It is considered that the proposed rezoning, subdivision and sale of Mr Reilly's dwelling on a 6000m² lot currently zoned 7(i) - *Environmental Protection (Urban Buffer) Zone* is an inappropriate way to solve a potential nuisance problem created by the water tank manufacturing process. The subject dwelling is located some 95 metres from the shed used to manufacturing plastic water tanks and this would be a suitable separation distance between a residential use and many industrial uses. At this stage there would appear to be no issue with the manufacturing of tanks during the day because of the higher background noise levels. An acoustics report has confirmed that the noise from the manufacturing of tanks does not comply with the EPA's guidelines during the night (10.00pm-7.00am) and probably the latter periods of the evening (6.00pm –10.00pm).

Ultimately it is the responsibility of the tank manufacturer to mitigate nuisance by either:

1. Altering his operations and or building to comply with the requirements of the Protection of Environment Operations Act.
2. Further negotiating with Mr Reilly for the continuation of the present lease arrangements in accordance with the arrangement that Council has endorsed to date.
3. Making arrangements with Mr Reilly to relocate his dwelling to another part of the property, preferably at the southern end where access is possible from Ellis Road. While both parties have indicated that this option has been entertained, Mr Reilly has indicated that he estimates that this option would cost in the order of \$100,000. Mr Reilly has indicated that there would be some additional costs in terms of building a road to the preferred "house" site and in connecting to town water.
4. Relocating his tank manufacturing business to a more suitable site. To date the decision by Mr Flemming to locate the manufacturing operations on Lot 53 would appear to be directly related to the long establishment of fibreglass manufacturing operations owned and operated by Mr Flemming on an adjacent lot (on which the Duraplas Office is located). Council should be aware that complaints from adjoining industrial properties and the residents of Mr Reilly's dwelling regarding odour from this operation have been received by Council from time to time over the last 15 years.

Mr Flemming has indicated verbally that relocating his tank manufacturing operation to another more suitable site would be an extremely costly exercise and he would be more receptive to funding the relocation of Mr Reilly's dwelling.

While Mr Reilly maintains that the Industrial Estate was badly planned by having no buffer zone to his house, there are a significant number of industrial uses along the northern boundary of the property in proximity to the subject dwelling that cause no nuisance. This is primarily because the rear of the buildings are invariably solid walls that provide a barrier between the industrial activities and the dwelling. A number of panel beating businesses are located in these buildings located on this boundary, which apparently have not caused any noise problems at Mr Reilly's dwelling to date. The issue would appear to be about the appropriate type of industrial use and shed design in the vicinity of the subject dwelling.

It would appear that the appropriate option is a purely commercial one that needs to be made by Mr John Flemming (Williams Brothers Pty Ltd), possibly in negotiation with Mr Tim Reilly depending on the option pursued.

Unauthorised Use

It is also considered that the unauthorised use of land owned by Mr Tim Reilly (Stoville Pty Ltd) involving the storage of manufactured water tanks should be addressed by Council. Deferring the requirement for this unauthorised use to cease may facilitate an arrangement between Mr John Flemming and Mr Reilly to come to some longer term solution. In this regard:

- Council could give until the end of the existing lease period to cease storage of tanks on this land in recognition that the arrangement has in part been struck to address the potential noise nuisance experienced at the farm dwelling.
- Council could allow the unauthorised storage arrangement to remain in place for a limited period, say 8 years (3 years under the present lease and a further 5 year lease) as a concession for Mr Flemming paying for the relocation of Mr Reilly's dwelling to the other end of his property adjacent to Ellis Road. This concession would not compromise the long term planning objectives of the Ballina LEP.

Request for Buffer

As indicated above, Council's industrial estate was planned and approved many years ago now. The chronology of events raises the question about who should be providing the buffers. It should also be noted that ultimately it is the responsibility of the persons using chemicals to ensure that they don't drift onto adjoining properties under the legislation controlling the use of farm chemicals. The chemical that is most likely to be of concern in respect of macadamia cultivation is the insecticide Endosufan. This chemical can only be purchased and sprayed by registered persons on crops a maximum of twice a year.

Notwithstanding the responsibility of farmers to ensure that farm chemicals do not drift onto adjoining land, Council could assist in reducing the potential impacts of spray drift by redesigning the approved future stage to ensure that all lots along Kays Lane are provided with access from an internal road. This would likely mean that the major openings to future industrial buildings would be on the opposite side to the adjoining farms. It is considered that the rear of such buildings are likely to be a more effective barrier than a grassed, mounded or treed buffer. This arrangement appears to work well along the northern boundary of Mr Reilly's property.

This redesign is not likely to have a major impact on the lot yield for the future stages, and may be off-set by reducing development costs by eliminating the need to upgrade Kays Lane.

Ultimately it is considered that there is no compulsion on Council's part to make any concession with regard to buffers to the adjoining farms, given that the need arises from the farming activities that have been more recent than the planning of the industrial estate, and the legal onus that is on the user of farm chemicals to ensure that they do not drift onto adjoining land.

The conclusions reached above disregard any commercial advantage Council may or may not have as the developer and owner of industrial land within the Russellton Industrial Estate.

RECOMMENDATION

That Council:

1. Advise Stoville Pty Ltd (Mr Tim Reilly) that it is not supportive of the rezoning proposal for the following reasons:
 - a. There are sufficient stocks of industrial land in the vicinity for the foreseeable future.
 - b. No study or decision has been taken by Council on whether the existing Industrial Estate should be expanded or how it will be expanded.
 - c. The proposal will alienate high quality agricultural land by consuming the said land for industrial use and by the provision of appropriate buffers.
 - d. The proposal will compromise the 7(i) Environmental Protection (Urban Buffer) zone.
 - e. The proposal is not part of an integrated plan for the industrial estate with the accompanying planning of services.
2. Advise Williams Brothers Pty Ltd (Mr John Flemming) that Council is not supportive of the rezoning proposal and that ultimately the tank manufacturing operations are required to comply with the Protection of the Environment Operations Act.

3. Advise Williams Brothers Pty Ltd (Mr John Flemming) that Council will require the tank storage within the Reilly lease area to be vacated at the end of the lease period (12 December, 2004) unless arrangements have been made for Mr Reilly's dwelling to be relocated to the Ellis Road end of the property prior to that date, in which case, Council will not require the area to be vacated until 12 December, 2009 (N.B. a development application for the storage activity will need to be lodged with and assessed by Council).
4. Endorse the redesign of the future stages of the Russellton Industrial Estate such that access along Kays Lane be prohibited and access be gained from internal roads.

Attachment 1

BALLINA SHIRE COUNCIL

STRATEGIC & COMMERCIAL SERVICES GROUP MANAGER'S REPORT 'A' - 27/9/2001

A4. RUSSELLTON INDUSTRIAL ESTATE
(Index: DA 2000/631 & Doc. No: 357380)

INTRODUCTION

Council is in receipt of correspondence from TL Reilly, J Fleming and E White who have raised issues concerning Council's Industrial Estate at Wollongbar.

BACKGROUND

On 22 June last year, Council received and considered a report concerning a development application involving Williams Bros. (Duraplas Tanks) occupying an existing building on Allotment 53 within the Russellton Estate for the purpose of manufacturing plastic water tanks. Council will recall that the critical issue was noise emission, particularly the Company's desire to operate at night, apparently due to market demand for its product, and the resultant affects of that noise emission on a nearby farm dwelling owned by Stoville Pty Ltd. At the time, the farm dwelling was tenanted and the problem concerning noise was apparently alleviated by Williams Bros taking over the lease of the dwelling and arranging for it to be occupied by persons who were more tolerant of the factory operations.

It is understood that part of a longer term solution for the noise issue proposed by Stoville Pty Ltd was for an area of that Company's land to be excised in title from the remainder of the farm and for that area to be acquired by Williams Bros, possibly for the purpose of its factory expansion or for associated usage. The excision was to be accompanied by rezoning of that area of land under the terms of Council's planning instrument to enable its more intensive use, as presently it lies outside of the zoned industrial estate.

REPORT

A copy of the report which Council considered in June, 2000 is attached (Item A8 - Chief Town Planner's Report - A Classification). It is accompanied by a letter from Stoville Pty Ltd dated 22 June, 2000 (regrettably not received in time for presentation to Council at its meeting), a further letter from Stoville Pty Ltd dated 29 December, 2000 and Council's letter of reply dated 2 March, 2001.

It is relevant to point out that Council's Environmental Health Department has not received any complaints concerning noise from occupants of the tenanted residence since Williams Bros. have held the lease.

Presently, Council owns 11.18 hectares of vacant land zoned for industrial purposes within Russellton Estate. Having regard for past trends in the sale and development of industrial land there, the remaining area represents a substantial supply and there would appear to be no overriding need to supplement this supply for the time being. Even if Council does wish to take steps to enlarge the estate at some future time, it should not be taken for granted that such expansion would occur on land presently owned by Stoville Pty Ltd.

This is Page 7 of the Strategic & Commercial Services Group Manager's
'A' CLASSIFICATION - 27/9/2001

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BALLINA SHIRE COUNCIL

STRATEGIC & COMMERCIAL SERVICES GROUP MANAGER'S REPORT 'A' - 27/9/2001


In any future deliberations on expansion proposals, Council will need to have careful regard for the fact that enlargement of the estate would alienate high quality agricultural land from purposeful production. Furthermore, such enlargement could have the effect of incrementally reducing the operation and effectiveness of the urban buffer zone presently in place between Alstonville and Wollongbar.

RECOMMENDATION

*** Having regard for the matters contained in the preceding report, including the attachments hereto, it is **RECOMMENDED** that Council receive and note the information contained in the letter dated 7 August, 2001 but decline to initiate any action to amend the Ballina Local Environmental Plan at this time.

This is Page 8 of the Strategic & Commercial Services Group Manager's
'A' CLASSIFICATION - 27/9/2001

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PROPOSED REZONING & OTHER ISSUES RAISED BY MR TIM REILLY

Produced by :

Dept :

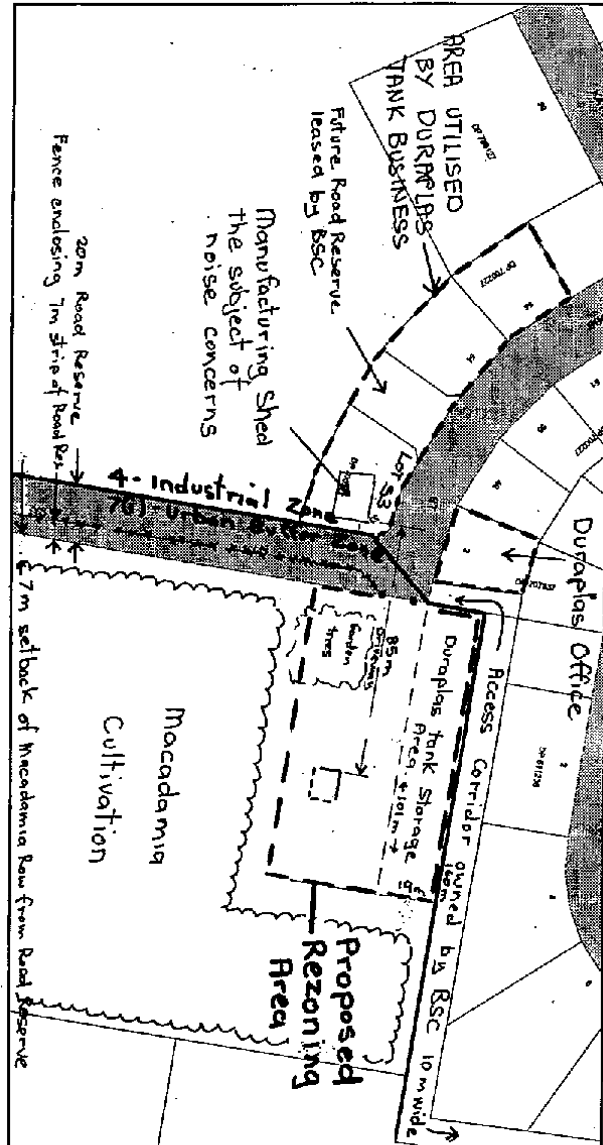
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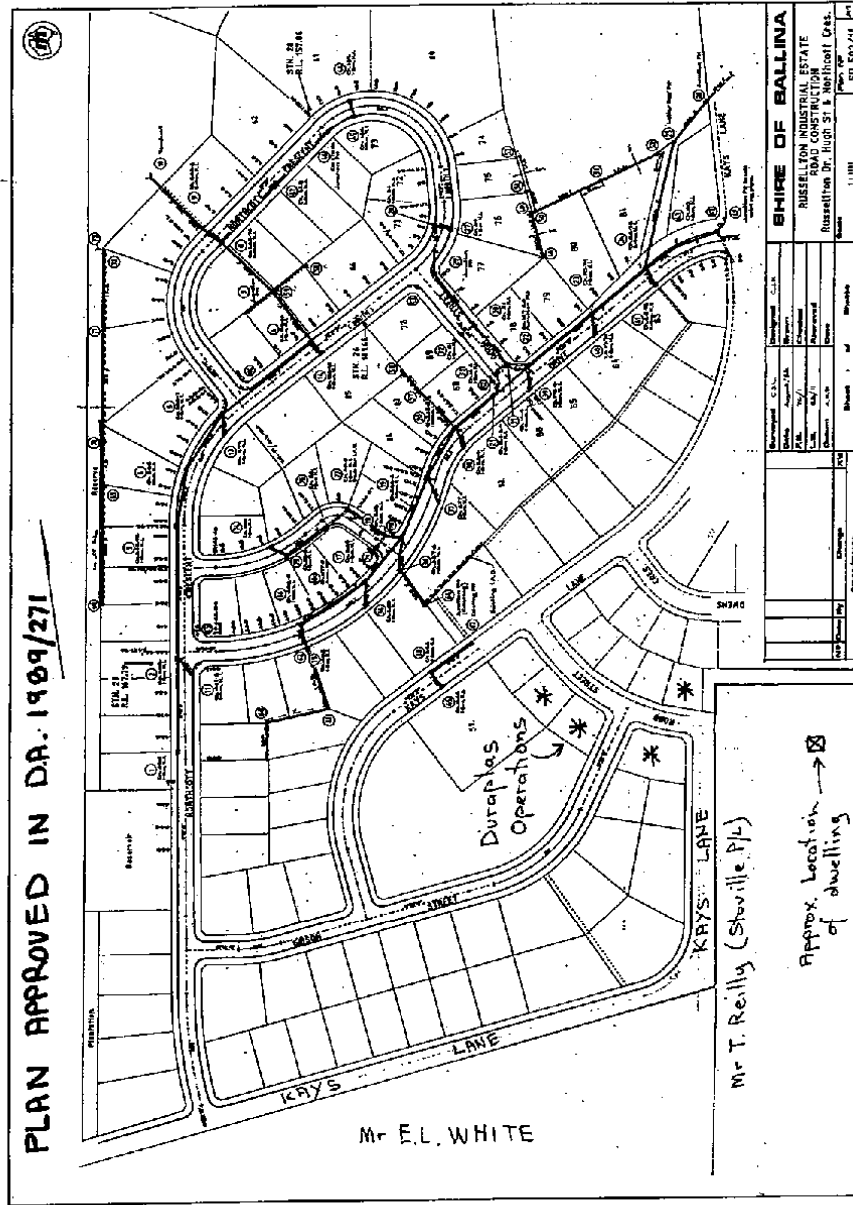
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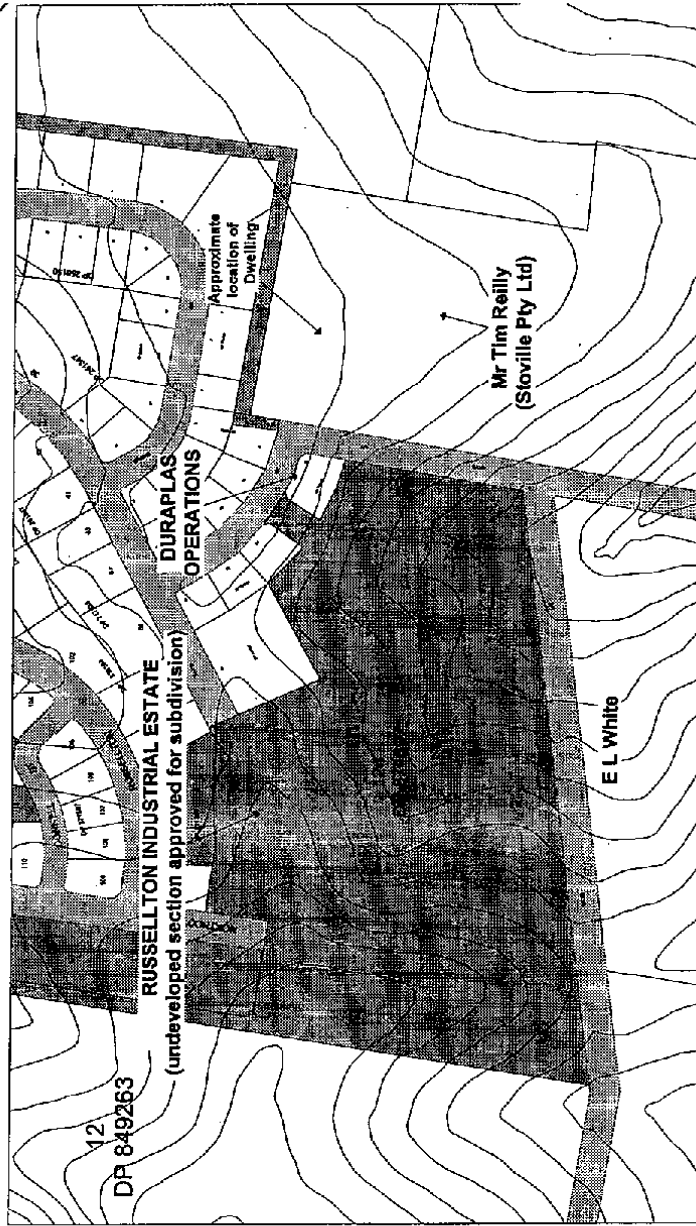
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The diagram is a site plan showing various zones and features. At the top, a shaded area is labeled '4- Industrial Zone'. Below it, a 'Manufacturing Shed' is noted as 'the subject of noise concerns'. To the right, a 'Dusaplas Office' is shown. A 'Proposed Rezoning Area' is outlined in the lower right. Other features include 'Macadamia Cultivation', 'Dusaplas Tank Storage Area', and 'Access Corridor owned by RSC 10m wide'. Road reserves are marked as '20m Road Reserve' and '7m setback of Macadamia Row from Road Reserve'. A 'Fence enclosing 7m strip of Road Res.' is also indicated. A note states 'AREA UTILISED BY DURAPLAS TANK BUSINESS' and 'Future Road Reserve leased by RSC'. A '70 Urban Reserve' is also shown.



Attachment 4



Contour Plan of Russellton Industrial Estate & Adjoining Land.
(2 metre contours)

Produced by:
Referred to :

Approx. Scale 1:3200
Date : 12/02/2002

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Ballina Shire Council

Planning Proposal - April 2012

Stoville Pty. Ltd.

(Lot 1 DP 817406)

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Introduction

Summary of Planning Proposal

This Planning proposal applies to land referred adjacent to the Russellton Industrial Estate at Alstonville identified as Lot 1 DP 817406 and as shown on the locality plan provided at **Appendix 1**.

The subject site has an area of 15.46 hectares and is in the ownership of Stoville Pty Ltd.

Under the terms of the *Ballina Local Environmental Plan 1987* (Ballina LEP 1987) the site is wholly within the 7(i) – Environmental Protection (Urban Buffer) Zone.

This planning proposal seeks to rezone a 0.68 hectare portion of the site to allow its use for industrial purposes. This area is detailed on the locality plan (**Appendix 1**) and on the plan provided in **Appendix 2**. The remainder of the subject site will retain its existing environmental protection zoning.

The existing zone arrangement, pursuant to the Ballina LEP 1987, is shown in the map provided in **Appendix 3**.

The proposed zones, under the terms of the Ballina LEP 1987 are:

- 4 – Industrial Zone for land comprising an area of approximately 0.68 hectares directly adjoining land currently zoned as 4 – Industrial Zone; and
- 7(i) – Environmental Protection (Urban Buffer) Zone - for the remainder of the site.

Under the terms of the (exhibited) *Draft Ballina Local Environmental Plan 2011* (Draft Ballina LEP 2011, prepared in accordance with the standard instrument, the proposed zones are:

- IN1 – General Industrial for land comprising an area of approximately 0.68 hectares directly adjoining land currently zoned as 4 – Industrial Zone; and
- E3 – Environmental Management - for the remainder of the site.

The zone arrangement pursuant to the Council endorsed Draft Ballina LEP 2011 is shown in the map provided in **Appendix 4**.

It is anticipated that the planning proposal (if it proceeds to conclusion) will amend the Ballina LEP 1987. However, proposed zone arrangements under the Draft Ballina LEP 2011 have been identified in the event that the Draft Ballina LEP 2011 is implemented prior to the completion of this planning proposal.

Planning History to Date

The subject site (Lot 1 DP 817406) is a rural property containing a dwelling house. The majority of the land is used for agricultural purposes (macadamia cultivation). The rural dwelling is located at the northern end of the property in close proximity to adjoining industrial land. One of the land uses on the industrial land adjoining the site involves the manufacture of polyurethane tanks (Duraplas). This land use pattern is conducive to land use conflict between an intensive industry and the residential occupation of the rural dwelling. As an interim measure to resolve the current land use conflict issues, a section of the subject site where it adjoins the industrial zoned land has been occupied by Duraplas through a lease agreement with the land owner. This area of the site is also currently being

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used by Duraplas for tank storage and contains the rural dwelling. The use of this part of the site for industrial related activity has been undertaken without development consent.

In seeking a permanent resolution to the land use conflict issue and to realise the rural residential use of the property, the owner of the subject land, Stoville Pty. Ltd. (Stoville) made a request in 2001 to rezone that part of the land currently utilised by Duraplas and containing the rural dwelling. This request was considered by Council in February 2002 and was declined based on the following reasons:

- *There are sufficient stocks of industrial land in the vicinity for the foreseeable future.*
- *No study or decision has been taken by Council on whether the existing industrial estate should be expanded or how it will be expanded.*
- *The proposal will alienate high quality agricultural land by consuming the said land for industrial use and by the provision of appropriate buffers.*
- *The proposal will compromise the 7(i) – Environmental Protection (Urban Buffer) Zone.*
- *The proposal is not part of an integrated plan for the industrial estate with the accompanying planning of services.*

At that time Council also resolved to:

Advise [Duraplas] that Council will require the tank storage within the [Stoville] lease area to be vacated at the end of the lease period (12 December 2004) unless arrangements have been made for [Stoville's] dwelling to be relocated to the Ellis Road end of the property prior to that date, in which case, Council will not require the area to be vacated until 12 December 2009 (N.B. a development application for the storage activity will need to be lodged with and assessed by Council).

Compliance with the above was not achieved and the issue remains unresolved. In a further attempt to seek support for the rezoning of the section of the land occupied by Duraplas, Stoville made a submission in response to the public exhibition of the Draft Ballina Local Environmental Plan 2010. In assessing this request, Council's Environmental and Sustainability Committee recommended that the proposal to rezone part of Lot 1 DP 817406 be subject to a site specific planning proposal. This recommendation was adopted by Council in May 2011.

In June 2011 a formal request for the rezoning of 0.68 hectares of Lot 1 DP 817406 to industrial land was received by Council. This request was reported to Council's Ordinary Meeting on 28 July 2011 where it was resolved:

1. That Council proceed to prepare a planning proposal for part of Lot 1 DP 817406 to enable the application of an industrial land use zone to the north western portion of the land subject to the requirements set out in item (2).
2. That prior to the preparation of a planning proposal:
 - a) The proponent is to provide Council with suitable documentation outlining the proponent's proposed approach to the following matters in the event that an industrial zone is applied to part of Lot 1 DP 817406:
 - the removal, relocation or permanent decommissioning of the dwelling house on Lot 1 DP 817406;
 - the mechanism for subdivision of the land; and
 - the provision of a formal buffer between industrial and agricultural land uses on Lot 1 DP 817406.
 - b) Council is to receive a further report regarding the proposed LEP amendment where there is uncertainty in relation to the removal, relocation or decommissioning of the dwelling on Lot 1 DP 817406, a suitable mechanism

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for the subdivision of the land and/or provision of a suitable buffer area between industrial and agricultural land uses.

The proponent has addressed the requirements of item (2) above in a draft planning agreement submitted in support of the rezoning application a copy of which is attached in **Appendix 5**. The draft planning agreement provides as follows:

- **Mechanism for Subdivision of the Land:** following the rezoning of the land, subdivision will only proceed by way of a boundary adjustment that adds the rezoned portion of Lot 1 DP 817406 to Lot 2 DP 707837.
- **Future Use of Dwelling:** prior to the issue of a Subdivision Certificate for the boundary adjustment subdivision, the existing dwelling on the land will be removed from the site or rendered uninhabitable.
- **Landscape Buffer:** prior to the issue of a Subdivision Certificate for the boundary adjustment subdivision of the land, a 10 metre wide landscape buffer will be planted within the dedicated buffer along the southern and eastern boundaries of the land.

Part 1 - Objectives or Intended Outcomes

The objectives or intended outcomes of this planning proposal are:

- to rezone part of Lot 1 DP 817406 to enable its excision from the remainder of the lot and allow for the use of the excised portion for industrial purposes; and
- to allow for the integration of part of Lot 1 DP 817406 into the existing adjoining industrial zone.

Part 2 - Explanation of Provisions

This planning proposal applies to Lot 1 DP 817406 having an area of 15.46 hectares and is currently zoned 7(i) – Environmental Protection (Urban Buffer) Zone under the provisions of the *Ballina Local Environmental Plan* 1987. The proposal seeks to rezone a 0.68 hectare section of Lot 1 DP 817406 to 4 – Industrial Zone as illustrated on the map contained in **Appendix 2**.

Under the provisions of the (exhibited) Draft Ballina LEP 2011, prepared in accordance with the standard instrument, Lot 1 DP 817406 is to be zoned E3 – Environmental Management. This planning proposal would result in the change of 0.68 hectares of the subject site to IN1 – General Industrial.

The rezoning of the 0.68 hectare section of Lot 1 DP 817406 is proposed as part of a permanent solution to resolve an ongoing land use conflict issue resulting from the existence of a rural residential dwelling in close proximity to intensive industrial activity. The rezoning is being sought to rationalise the existing occupation of a portion of the 7(i) – Environmental Protection (Urban Buffer) Zone adjacent to the 4 – Industrial Zone and to integrate the 0.68 hectare part of Lot 1 DP 817406 with an adjoining existing industrial land use.

Part 3 - Justification

Section A - Need for the Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the result of any strategic study or report. The subject land has not been investigated to future urban or industrial use by any strategic studies undertaken by Council to date.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The planning proposal seeks to achieve a permanent resolution to an ongoing land use conflict issue arising from the close proximity of a rural dwelling house and intensive industrial activities. The subject land is currently being occupied and used for industrial purposes associated with the adjoining land use, albeit without development approval. Thus, the planning proposal seeks to formalise this use.

3. Is there a net community benefit?

The planning proposal will result in minimal net community benefit, although it will support the current operations of a substantial local industry. In essence, the planning proposal will result in the formalisation of the current unauthorised use of the land.

Section B - Relationship to the Strategic Planning Framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Far North Coast Regional Strategy (FNCRS) provides the regional framework for the consideration of rezoning land for urban purposes in Ballina Shire. The FNCRS does not identify the subject land as a 'Proposed Future Urban Release Area' within the 'Town & Village Growth Boundary' for Ballina Shire (refer Town and Village Growth Boundary Map - Sheet 3, excerpt below).

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The subject site is also identified as State Significant Farmland on the Natural Resources Map contained in the FNCRS. This is inconsistent with the action requirements in Chapter 4 of the FNCRS which requires that:

Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development.

5. **Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plans?**

Ballina Local Environmental Plan 1987

The subject land is currently zoned 7(i) – Environmental Protection (Urban Buffer) Zone under the provisions of the *Ballina Local Environmental Plan 1987*. The objectives of this zone are:

- 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.*
- 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.*
- C. *The exception of 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 area of land proposed to be zoned 4 – Industrial is not likely to be seen by existing or likely future residents of the villages of Alstonville or Wollongbar or from a major road in the locality. The 0.68 hectares proposed to be rezoned adjoins existing industrial land on its northern and western sides and can be expected to integrate well with the existing adjoining industrial development. As a consequence, it is not expected that the rezoning of this section of the 7(i) – Environmental Protection

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(Urban Buffer) Zone will compromise the overall effect of the buffer and of Objective A.

Ballina Urban Land Release Strategy 2000 (ULRS-2000)

Ballina Urban Land Release Strategy 2000 (ULRS-2000) provides the Departmental-endorsed urban land release strategy for the Ballina local government area. It has been prepared in accordance with the provisions of clause 38 of the North Coast Regional Environmental Plan 1988 (the REP). The land release program contained within the Strategy has been agreed with the former Department of Infrastructure Planning and Natural Resources as required by subclause 38(3) of the REP.

The subject site adjoins an established industrial precinct known as the 'Russellton Industrial Estate' which currently contains approximately 23.6 hectares of occupied industrial land. This precinct also includes an additional 7.5 hectares of vacant land which is zoned for industrial purposes and yet to be developed. The ULRS-2000 does not provide for the rezoning of additional industrial land in the Alstonville-Wollongbar area and it is considered that the existing supply of industrial zoned land in this precinct is sufficient to satisfy the demand for the short to medium term.

Having regard for the above, this planning proposal seeks to rezone land that has not been considered as part of the ULRS-2000. However, Council has resolved to proceed with the proposal to rezone the subject land in the absence of a land use strategy for the site.

6. **Is the planning proposal consistent with applicable state environmental planning policies?**

State Environmental Planning Policy Checklist Planning Proposal – Stoville Pty Ltd

SEPP Title	Compliance of Planning Proposal
SEPP No. 1 - Development Standards	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 6 - Number of Storeys in a Building	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 14 - Coastal Wetlands	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 15 - Rural Land-Sharing Communities	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 21 - Caravan Parks	The planning proposal is consistent with the provisions of this SEPP.

9.3 Ballina LEP Amendment Request - Stoville, Alstonville.DOC

SEPP Title	Compliance of Planning Proposal
SEPP No. 22 - Shops and Commercial Premises	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 26 - Littoral Rainforests	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 30 - Intensive Agriculture	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 33 - Hazardous and Offensive Development	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 36 - Manufactured Home Estates	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 44 - Koala Habitat Protection	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 50 - Canal Estates	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 55 - Remediation of Land	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 60 - Exempt and Complying Development	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 62 - Sustainable Aquaculture	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 64 - Advertising and Signage	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 65 - Design Quality of Residential Flat Development	The planning proposal is consistent with the provisions of this SEPP.
SEPP No. 71 - Coastal Protection	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Affordable Rental Housing) 2009	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Building Sustainability Index: BASIX) 2004	The planning proposal is consistent with the provisions of this SEPP.

9.3 Ballina LEP Amendment Request - Stoville, Alstonville.DOC

SEPP Title	Compliance of Planning Proposal
SEPP (Exempt and Complying Development Codes) 2008	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Housing for Seniors or People with a Disability) 2004	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Infrastructure) 2007	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Major Development) 2005	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Rural Lands) 2008	The planning proposal is consistent with the provisions of this SEPP.
SEPP (State and Regional Development) 2011	The planning proposal is consistent with the provisions of this SEPP.
SEPP (Temporary Structures) 2007	The planning proposal is consistent with the provisions of this SEPP.
North Coast Regional Environmental Plan (deemed SEPP)	<p>The North Coast Regional Environmental Plan (REP) has been classified by the Department of Planning and Infrastructure as a deemed SEPP since 1 July 2009. As such, its provisions must be considered in the assessment of this planning proposal.</p> <p>The planning proposal is generally consistent with the provisions of the North Coast Environmental Plan. Division 1 of Part 2 of the REP applies to the protection of agricultural resources. The subject site is identified by the Department of Planning and Infrastructure as State Significant Farmland. One of the objectives of Division 1 of the REP in relation to agricultural resources is to conserve the productive potential of agricultural land. The REP provides direction that in regard to planning for the use of "prime crop or pasture land" as follows:</p> <p><i>A draft local environmental plan applying to prime crop or pasture land should:</i></p> <ul style="list-style-type: none"> <i>(a) identify and include land in an agricultural protection zone and contain provisions that:</i> <ul style="list-style-type: none"> <i>(i) prevent the subdivision of land within the zone for purposes other than commercial farming,</i> <i>(ii) set minimum allotment sizes which maintain the concept of a minimum area capable of efficient, sustainable agricultural production in the long term,</i> <i>(iii) separate land zoned for residential use from land zoned or used for agricultural use or for intensive animal industries, and</i> <i>(iv) prohibit development which is incompatible with the objectives of this Division, and</i> <i>(v) rezone prime crop or pasture land for purposes other than agricultural only after a detailed analysis of the agricultural capability of the land and adjoining land has been carried out, and</i> <i>(b) in relation to any prime crop or pasture land not identified and included in an agricultural protection zone in paragraph (a):</i> <ul style="list-style-type: none"> <i>(i) include provisions that retain the land for commercial farming purposes, and</i> <i>(ii) set minimum lot sizes which are sufficient to maintain commercial farming in the long term.</i>

9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

SEPP Title	Compliance of Planning Proposal
	<p>While the area proposed to be rezoned is not currently actively used for agricultural purposes, it is identified as State Significant Farmland. It is currently zoned 7(i) – Environmental Protection (Urban Buffer) under the Ballina LEP 1987 which offers a level of protection that accord with the provisions of Division 1 of Part 2 of the REP. It is considered that the rezoning of part of the subject site for industrial purposes may not be consistent with the provisions of the REP in this regard. Notwithstanding, Council has determined that the circumstances warrant rezoning and as such has resolved to proceed with the planning proposal. http://www.legislation.nsw.gov.au/fragview/inforce/epi+51+1988+pt.2-div.1-cl.7+0+N?tocnav=y</p>

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Section 117 Direction Checklist
Planning Proposal – Stoville Pty Ltd

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
1. Employment and Resources		
1.1 Business and Industrial Zones	<p>Applies when a planning proposal affects land within an existing or proposed industrial zone (including the alteration of an industrial zone boundary). Requires that a planning proposal must:</p> <ul style="list-style-type: none"> a) <i>give effect to the objectives of this direction,</i> b) <i>retain the areas and locations of existing business and industrial zones,</i> c) <i>not reduce the total potential floor space area for employment uses and related public services in business zones,</i> d) <i>not reduce the total potential floor space area for industrial uses in industrial zones, and</i> e) <i>ensure that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning.</i> 	<p>The planning proposal is generally consistent with the objectives of this direction. The proposal, however, seeks to expand the existing Russellton Industrial Estate precinct into an area designated as urban buffer. The expansion of the Russellton Industrial Estate is not currently foreshadowed as part of any growth or expansion strategy for urban land.</p>
1.2 – Rural Zones	Applies to Ballina Shire. Does not apply to this planning proposal.	
1.3 – Mining, Petroleum Production and Extractive Industries	Applies to Ballina Shire. Does not apply to this planning proposal.	
1.4 – Oyster Aquaculture	Applies to Ballina Shire. Does not apply to this planning proposal.	
1.5 – Rural Land	<p>In summary, this Direction provides that a Planning Proposal must be consistent with the Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008. This Direction applies to both rural and environmental protection zones.</p>	<p>The planning proposal seeks to rezone an area currently zoned for environmental protection and as such the provisions of this Direction apply to the proposal.</p> <p>The Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 are as follows:</p> <ul style="list-style-type: none"> a) <i>the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,</i> b) <i>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,</i> c) <i>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</i>

9.3 Ballina LEP Amendment Request - Stoville, Alstonville.DOC

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
		<p><i>development,</i></p> <p>d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i></p> <p>e) <i>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,</i></p> <p>f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i></p> <p>g) <i>the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i></p> <p>h) <i>ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.</i></p> <p>The planning proposal is not consistent with the above Rural Planning Principles, particularly due to its inconsistency with the Far North Coast Regional Strategy. However, Council considers that the proposal satisfies the Sustainability Criteria as contained within the Far North Coast Regional Strategy. As such, Council has resolved to proceed with the submission of The planning proposal for determination.</p>
2. Environment and Heritage		
2.1 – Environmental Protection Zones	A Planning Proposal shall include provisions that facilitate the protection and conservation of environmentally sensitive areas and shall not reduce the environmental protection standards that apply to the land.	<p>The planning proposal seeks to rezone a portion of land zoned 7(i) – Environmental Protection (Urban Buffer) Zone under the provisions of the <i>Ballina Local Environmental Plan 1987</i>. The primary objective of the 7(i) – Environmental Protection (Urban Buffer) Zone is:</p> <p><i>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.</i></p>

9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
2.1 – Environmental Protection Zones (continued)		The planning proposal seeks to rezone land within the rural buffer for industrial purposes. The site will not be seen by existing or likely future residents of the villages of Alstonville and Wollongbar or from a major road in the locality. Although the proposal may not satisfy consistency provisions contained in section 6 of this Direction, Council considers that it adequately satisfies the Sustainability Criteria as contained within the Far North Coast Regional Strategy. As such, Council has resolved to proceed with the submission of The planning proposal for determination.
2.2 – Coastal Protection	Applies to Ballina Shire. Does not apply to this planning proposal.	
2.3 – Heritage Conservation	Applies to Ballina Shire. Does not apply to this planning proposal.	
2.4 – Recreation Vehicle Areas	Applies to Ballina Shire. Does not apply to this planning proposal.	
3. Housing, Infrastructure and Urban Development		
3.1 – Residential Zones	Applies to Ballina Shire. Does not apply to this planning proposal.	
3.2 – Caravan Parks and Manufactured Home Estates	Applies to Ballina Shire. Does not apply to this planning proposal.	
3.3 – Home Occupations	Applies to Ballina Shire. Does not apply to this planning proposal.	
3.4 – Integrated Land Use and Transport	In summary, this Direction provides that a Planning Proposal must locate zones for urban purposes and include provisions that give effect to or are consistent with the aims, objectives and principles of Improving Transport Choice – Guidelines for Planning and Development (DUAP 2001) and The Right Place for Business and Services – Planning Policy (DUAP 2001).	The planning proposal seeks to rezone a relatively small area of land within an urban buffer zone for industrial uses. The rezoned area will be integrated with the adjacent established industrial precinct which has with adequate road access and infrastructure services. In this regard, it is considered that the proposed rezoning is consistent with this Direction.
3.5 – Development Near Licensed Aerodromes	Applies to Ballina Shire. Does not apply to this planning proposal.	
4. Hazard and Risk		
4.1 – Acid Sulphate Soils	Applies to Ballina Shire. Does not apply to this planning proposal.	
4.2 – Mine Subsidence and Unstable Land	Applies to Ballina Shire. Does not apply to this planning proposal.	
4.3 – Flood Prone Land	Applies to Ballina Shire. Does not apply to this planning proposal.	
4.4 – Planning for Bushfire Protection	Applies to Ballina Shire. Does not apply to this planning proposal.	

9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
5. Regional Planning		
5.1 – Implementation of Regional Strategies	This Direction provides that when a Council prepares a Draft LEP the Plan shall be consistent with a Regional Strategy released by the Minister for Planning.	<p>The subject site is not identified in the Far North Coast Regional Strategy as a future urban release area and is not located within the identified Town and Village Growth Boundaries specified in the Strategy. The site is also identified in the Far North Coast Regional Strategy as State Significant Farmland and requires that</p> <p><i>Local environmental plans will not zone land within the Environmental Assets and Rural Land area to permit urban purposes, other than rural residential development.</i></p> <p>Although The planning proposal does not satisfy the requirements of section 5 of this Direction, the proposal is considered by Council to adequately satisfy the Sustainability Criteria as contained within the Far North Coast Regional Strategy. As such, Council has resolved to proceed with the submission of The planning proposal for determination.</p>
5.2 – Sydney Drinking Water Catchments	Does not apply to Ballina Shire.	
5.3 – Farmland of State and Regional Significance on the NSW Far North Coast	In summary, this Direction provides that a Draft LEP shall not rezone land identified as State Significant Farmland or Regionally Significant Farmland for urban or rural residential purposes, unless the Draft LEP is consistent with Section 4 of the Report titled “Northern Rivers Farmland Protection Project – Final Recommendations, February 2005”.	<p>The subject land is identified as being State Significant Farmland. This Direction requires that a planning proposal must not rezone land identified as State Significant Farmland for urban or residential purposes. A planning proposal may be inconsistent with the terms of this Direction only if it can be satisfied that The planning proposal is consistent with:</p> <p>a) the Far North Coast Regional Strategy, and</p> <p>b) Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005, held by the Department of Planning.</p>

9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
5.3 – Farmland of State and Regional Significance on the NSW Far North Coast (continued)		<p>Section 4 of <i>Northern Rivers Farmland Protection Project – Final Recommendations, February 2005</i> provides as follows:</p> <p><i>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.</i></p> <p>Notwithstanding the above, the area proposed for rezoning is not currently used for purposeful agriculture and is currently being occupied in conjunction with an adjoining industrial activity. Council considers that in this regard, the subject site is appropriate for rezoning and has resolved to submit this planning proposal for determination.</p>
5.4 – Commercial and Retail Development	Applies to Ballina Shire. Does not apply to this planning proposal.	
5.5 – Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Does not apply to Ballina Shire.	
5.6 – Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	Repealed.	
5.7 – Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	Repealed.	
5.8 – Second Sydney Airport: Badgerys Creek	Does not apply to Ballina Shire.	

9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

TABLE 1 – SECTION 117 DIRECTIONS		
DIRECTION NO.	REQUIREMENTS	COMMENTS
6. Local Plan Making		
6.1 – Approval and Referral Requirements	In summary, this Direction provides that a planning proposal shall minimise the inclusion of provisions that require the concurrence, consultation or referral of development applications to a Minister or Public Authority, not contain these provisions unless Council has obtained approval from the relevant Authority and not identify development as designated development unless certain prerequisites can be met.	The planning proposal is consistent with this Direction in that it will not require the introduction of any new concurrence or consultation provisions which do not already exist in the Ballina LEP 1987. The Draft LEP does not propose to introduce any additional designated development types.
6.2 – Reserving Land for Public Purposes	This Direction provides that a planning proposal shall not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant Authority among other things.	The planning proposal is consistent with this provision as it simply adopts the existing provisions of Ballina Local Environmental Plan 1987.
6.3 – Site Specific Provisions	This Direction provides that a planning proposal that amends another Environmental Planning Instrument in order to allow a particular development proposal shall either allow that land use to be carried out in the zone that the land is situated on or rezone the site to an existing zone already applying in the Environmental Planning Instrument that allows that land use without imposing any development standards or requirements in addition to those already existing or allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal Planning Instrument being amended.	The planning proposal is consistent with this Direction. The proposal seeks to rezone a portion of environmental protection zone to industrial zone to allow the land to be used for industrial purposes.
7. Metropolitan Planning		
7.1 – Implementation of the Metropolitan Strategy	Does not apply to Ballina Shire	

Section C - Environmental, Social and Economic Impact

8. **Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats will be adversely affected as a result of the proposal?**

The 0.68 hectare area proposed for rezoning is currently clear of significant vegetation and does not contain any critical habitat or threatened species, populations or ecological communities or their habitats.

9. **Are there any other likely environmental effects as a result of the planning proposals and how are they proposed to be managed?**

Should the rezoning of the 0.68 hectare area occur an increased incursion of industrial land use into land used for rural purposes will result. The proponent has addressed this by making a commitment to the provision of a 10 metre wide landscaped buffer zone between the proposed industrial zoned land and the adjoining environmental protection (urban buffer) zone upon which rural land uses will continue.

10. **How has the planning proposal adequately addressed any social and economic effects?**

Minimal social and economic effects are expected from the proposed rezoning. The rezoning will allow the transfer of part of the site for its incorporation into the existing adjoining industrial land use. Consequently, positive economic effects can be expected to result from the sale of that part of the land and the resultant economic growth expected from industrial activity. In particular, it is expected that the availability of the land for industrial purposes will support the existing operations of a significant local business (being Duraplas).

Section D - State and Commonwealth interests.

11. **Is there adequate public infrastructure for the planning proposal?**

The proposed rezoning of 0.68 hectares is not expected to place unreasonable demands on the provision of public infrastructure. The subject site adjoins existing industrial land which is readily serviced by standard public urban infrastructure.

12. **What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?**

No engagement with State or Commonwealth public authorities has been undertaken as part of this Planning Proposal to date. It is anticipated that further consultation will be undertaken with relevant agencies during the exhibition of the planning proposal and associated supporting documentation.

Part 4 – Community Consultation

9.3 Ballina LEP Amendment Request - Stoville, Alstonville.DOC

No community consultation has been undertaken to date with regard to this Planning Proposal. It is intended that this proposal be exhibited for a period of twenty-eight (28) days following the gateway determination of the proposal. To engage the local community the following will be undertaken:

- Notice in the local newspaper
- Exhibition material and relevant consultation documents to be made available at Council's Customer Service Centre
- Consultation documents to be made available on Council's website; and
- Written notification advising of the proposed rezoning and how to submit comments will be forwarded to all adjoining landowners and other stakeholders (including public authorities) that Council deem relevant to this planning proposal.

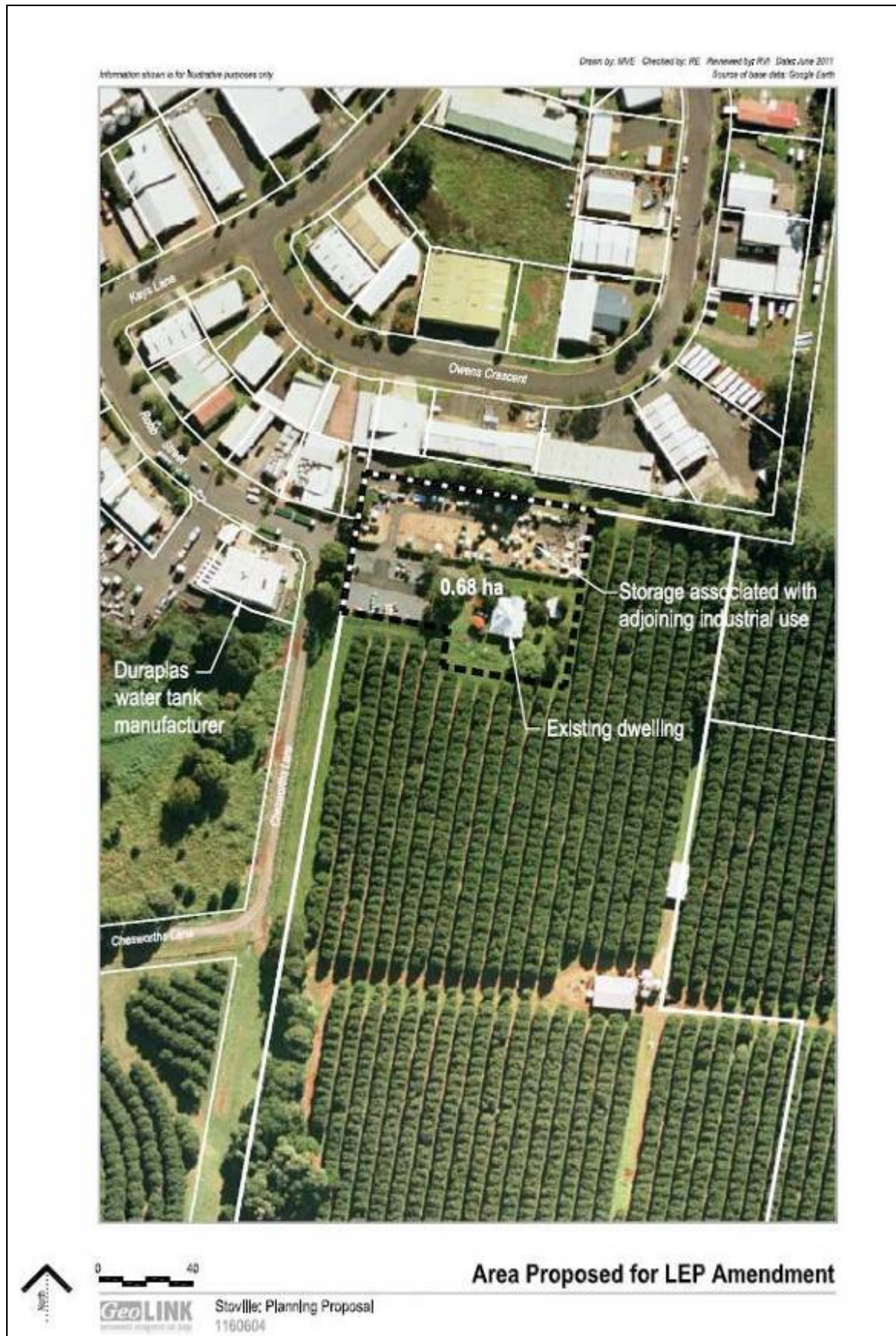
At the close of the consultation process, Council officers will consider all submissions and present a report to Council for its endorsement before proceeding to finalisation of the planning proposal.

Appendices

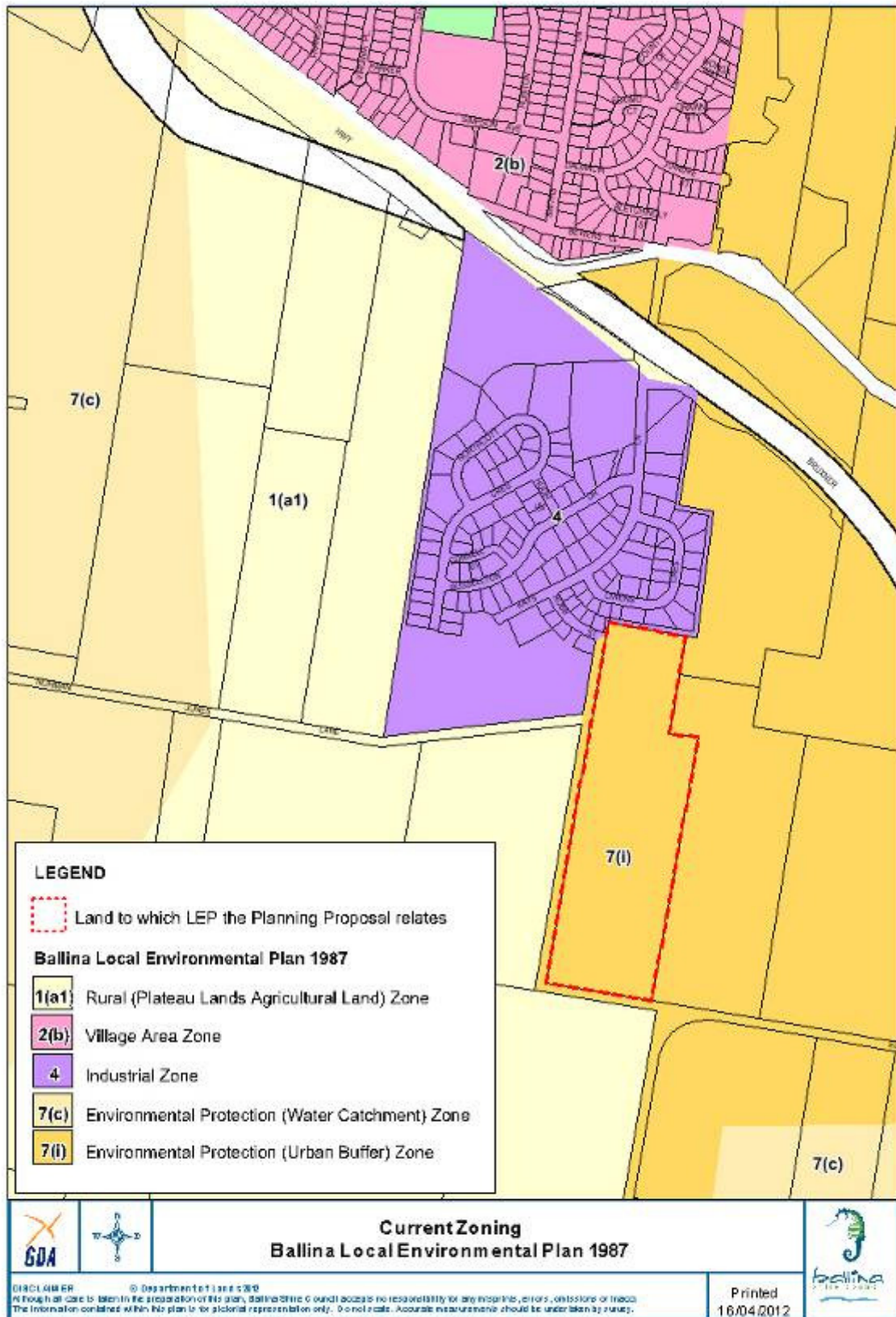
Appendix 1 - Locality Plan



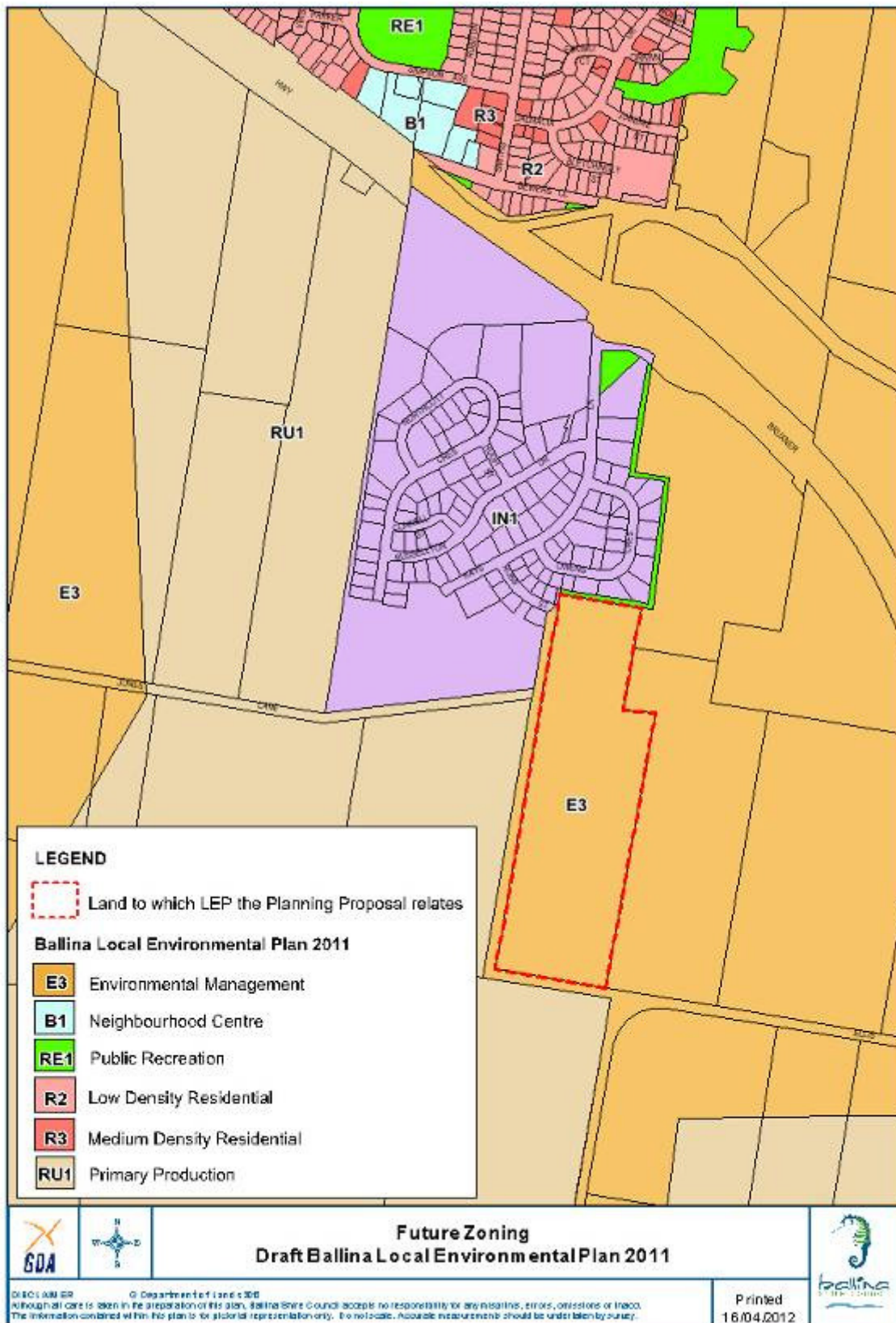
Appendix 2 – Area of Proposed Rezoning



Appendix 3 - Current zoning - Ballina LEP 1987



Appendix 4 - Future zoning – Draft Ballina LEP 2011



Appendix 5 – Proposed Voluntary Planning Agreement

DRAFT

Stoville / JC & RM Fleming Planning Agreement

Under s93F of the Environmental Planning and Assessment Act 1979

Ballina Shire Council
Stoville Pty Ltd
JC & RM Fleming

Dated "[Insert Date]" 2012

Updated draft March 2012

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
Stoville Pty Ltd & JC & RM Fleming

STOVILLE / JC & RM FLEMING PLANNING AGREEMENT

Summary Sheet

Council:

Name: Ballina Shire Council
Address: PO Box 450
BALLINA NSW 2478
Telephone: 02 6686 4444
Facsimile:
Email: council@ballina.nsw.gov.au
Representative:

Developers:

Name: Stoville Pty Ltd
Address: PO Box 480
ALSTONVILLE NSW 2477
Telephone: 02 6629 5332
Facsimile: 02 6629 5332
Email: treilly@bigpond.com
Representative: Mr Tim Reilly

Name: JC & RM Fleming
Address: 8 Bertram Place
WOLLONGBAR NSW 2477
Telephone: 02 6628 0002
Facsimile: 02 6628 3804
Email: john@duraplas.com.au
Representative: Mr John Fleming

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
Stoville Pty Ltd & JC & RM Fleming

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

As per Council adopted Contributions Plans

Application of s94, s94A and s94EF of the Act

See clause 6.

Developer Commitments:

See Part 2 and clauses 7, 8 and 9.

Registration:

See clause 13.

Dispute resolution

Expert determination and mediation. See clauses 11 and 12.

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
Stoville Pty Ltd & JC & RM Fleming

STOVILLE / JC & RM FLEMING PLANNING AGREEMENT

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Ballina Shire Council ABN [tba] of PO Box 450, BALLINA NSW 2478
(Council)

and

Stoville Pty Ltd ABN [91923273253] of PO Box 141, KEMPS CREEK NSW 2178

and

JC & RM Fleming of 8 Bertram Place, WOLLONGBAR NSW 2477
(Developers)

Background

- A. Stoville Pty Ltd is the owner of the land.
- B. Duraplas Industries Pty Ltd, owned by JC & RM Fleming, currently occupies the land, utilising it to support activities undertaken by it on adjoining land in its ownership, being Lot 2 DP 707837.
- C. Stoville Pty Ltd has lodged with the Council a Rezoning Submission relating to the land, seeking to have it zoned for industrial use.
- D. Should the land be so zoned, the Developers are committed to proceeding with a boundary adjustment subdivision that transfers the land from Lot 1 DP 817406 to Lot 2 DP 707837.
- E. Following the boundary adjustment subdivision, the Developers are committed to removing the existing house on the land.
- F. The Developers are committed to providing a minimum 10 m wide landscaped buffer within the land.

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
Stoville Pty Ltd & JC & RM Fleming

Operative Provisions

Part 1 - Preliminary

1 Definitions & Interpretation

1.1 In this Agreement the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Agreement means this Agreement and includes any schedules, annexures and appendices to this Agreement.

Council means the Ballina Shire Council.

Development means the rezoning of the land from 7(i) Environmental Protection (Urban Buffer) Zone to 4 Industry Zone.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards, a public purpose.

Land means the land specified or described in Schedule 1.

Party means a party to this agreement, including their successors and assigns.

Provision means the Developer's provision under this Agreement.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Work means the physical result of any building, engineering or construction work in, on, over or under land required to be carried out by the Developer under this Agreement.

1.2 In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

1.2.1. Headings are inserted for convenience only and do not affect the interpretation of this Agreement.

1.2.2. A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

1.2.3. If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.

1.2.4. A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

1.2.5. A reference in this Agreement to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.

1.2.6. A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
Stoville Pty Ltd & JC & RM Fleming

- 1.2.7. A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- 1.2.8. A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- 1.2.9. An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 1.2.10. Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 1.2.11. A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- 1.2.12. References to the word 'include' or 'including' are to be construed without limitation.
- 1.2.13. A reference to this Agreement includes the agreement recorded in this Agreement.
- 1.2.14. A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- 1.2.15. Any schedules, appendices and attachments form part of this Agreement.
- 1.2.16. Notes appearing in this Agreement are operative provisions of this Agreement.

2 Application of this Agreement

- 2.1 This Agreement applies to the Land and to the Development.

3 Status of this Agreement

- 3.1 The Developers are under no obligation in relation to the commitments provided for in this Agreement unless and until both of the following matters have occurred in sequence:
 - 3.1.1 the LEP amendment having the effect of rezoning the land from 7(i) Environmental Protection (Urban Buffer) Zone to 4 Industry Zone, comes into effect, and
 - 3.1.2 this Agreement is entered into as required by clause 25C(1) of the Regulation.
- 3.2 Until then, this document, executed only by the Developers, is to be read and construed as containing the Developers' irrevocable offer to make commitments once all of the matters specified in clause 3.1 have occurred.
- 3.3 The Council must notify the Developers immediately after the Council executes this Agreement and promptly provide the Developers with the Agreement as executed by the Council.

4 Further Agreements Relating to this Agreement

- 4.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Agreement that are not inconsistent with this Agreement for the purpose of implementing this Agreement.

5 Surrender of right of appeal, etc.

- 5.1 The Developers are not to commence or maintain, or cause to be commenced or maintained, any proceedings in the Land and Environment Court involving an appeal against, or questioning the validity of, a Development Consent relating to the Development or an approval under s96 of the Act to modify a Development Consent relating to the Development to the extent that it relates to

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
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the existence of this Agreement or requires any aspect of this Agreement to be performed according to the terms of this Agreement.

6 Application of s94, s94A and s94EF of the Act to the Development

- 6.1 This Agreement does not exclude the application of s94 to the Development.
- 6.2 Any benefits under this Agreement will not be taken into consideration when determining a development contribution under s94 of the Act in relation to the Development.
- 6.3 This Agreement does not exclude the application of s94A to the Development.
- 6.4 This Agreement does not exclude the application of s94EF to the Development.

Part 2 - Developer and Council Commitments

7 Mechanism for Subdivision of the Land

- 7.1 The Developers agree that, following the rezoning of the land, subdivision will only proceed by way of a boundary adjustment that adds the rezoned portion of Lot 1 DP 817406 to Lot 2 DP 707837.

8 Future Use of Dwelling

- 8.1 The Developers agree that, prior to the issue of a Subdivision Certificate for the boundary adjustment subdivision, the existing dwelling on the land will be removed from the site or rendered uninhabitable.

9 Landscape Buffer

- 9.1 The Developers agree that, prior to the issue of a Subdivision Certificate for the boundary adjustment subdivision of the land, a 10 m wide landscape buffer will be planted within the dedicated buffer along the southern and eastern boundaries of the land.

Part 3 – Other provisions

10 Enforcement in a court of competent jurisdiction

- 10.1 Without limiting any other remedies available to the Parties, this Agreement may be enforced by either Party in any court of competent jurisdiction.
- 10.2 For the avoidance of doubt, nothing in this Agreement prevents:
 - 10.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates,
 - 10.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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11 Dispute Resolution – expert determination

- 11.1 This clause applies to a dispute under this Agreement which relates to a matter that can be determined by an appropriately qualified expert.
- 11.2 Any dispute between the Parties as to whether a dispute to which this clause applies can be determined by an appropriately qualified expert is to be referred to the Chief Executive Officer of the professional body that represents persons with the relevant expertise for determination, which is to be final and binding on the Parties.
- 11.3 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 11.4 If a notice is given under clause 11.3, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 11.5 If the dispute is not resolved within a further 28 days, the dispute must be referred to the President of the NSW Law Society to appoint an Expert for Expert Determination.
- 11.6 The Expert Determination is binding on the Parties except in the case of fraud or misfeasance by the Expert.
- 11.7 Each Party must bear its own costs arising from or in connection with the appointment of the Expert and the Expert Determination.

12 Dispute Resolution - mediation

- 12.1 This clause applies to any dispute under this Agreement other than a dispute to which clause 11 applies.
- 12.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 12.3 If a notice is given under clause 12.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 12.4 If the dispute is not resolved within a further 28 days, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and must request the President of the Law Society, or the President's nominee, to select a mediator.
- 12.5 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

13 Registration of this Agreement

- 13.1 The Parties agree to register this Agreement, subject to obtaining the agreement of the persons specified in s93H (1) of the Act.

14 Assignment, Sale of Land, etc

- 14.1 Unless the matters specified in clause 14.2 are satisfied, the Developers are not to do any of the following:
- 14.1.1 if the Developers are the owner of the Land, to transfer the Land to any person, or

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
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14.1.2 assign or novate to any person the Developer's rights or obligations under this Agreement.

14.2 The matters required to be satisfied for the purposes of clause 14.1 are as follows:

14.2.1 the Developers have, at no cost to the Council, first procured the execution by the person to whom the Developer's rights or obligations under this Agreement are to be assigned or novated, of an agreement in favour of the Council on terms satisfactory to the Council, and

14.2.2 the Council, by notice in writing to the Developers, has stated that evidence satisfactory to the Council has been produced to show that the assignee or novatee, is reasonably capable of performing its obligations under the Agreement,

14.2.3 the Developers are not in breach of this Agreement, and

14.2.4 the Council otherwise consents to the transfer, assignment or novation.

15 Review of this Agreement

15.1 The Parties, acting in good faith and using their best endeavours, agree to review this Agreement if either party is of the opinion that any change of circumstance has occurred that materially affects the operation of this Agreement.

15.2 For the purposes of clause 15.1, the relevant changes include (but are not limited to) any change to a law that restricts or prohibits or enables the Council or any other planning authority to restrict or prohibit any aspect of the Development.

15.3 For the purposes of addressing any matter arising from a review of this Agreement referred to in clause 15.1, the Parties are to use all reasonable endeavours to agree on and implement appropriate amendments to this Agreement.

15.4 If this Agreement becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Agreement is entered into.

15.5 A failure by a Party to agree to take action requested by the other Party as a consequence of a review referred to in clause 15.1 is not a dispute for the purposes of clauses 11 and 12 and is not a breach of this Agreement.

16 Notices

16.1 Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

16.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or

16.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or

16.1.3 emailed to that Party at its email address set out in the summary Sheet.

16.2 If a Party gives the other Party 3 business days notice of a change of its address, fax number or email address, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address, fax number or email address.

16.3 Any notice, consent, information, application or request is to be treated as given or made if it is:

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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Ballina Shire Council
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- 16.3.1 delivered, when it is left at the relevant address.
- 16.3.2 sent by post, 2 business days after it is posted.
- 16.3.3 sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

16.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

17 Approvals and Consent

- 17.1 Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- 17.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

18 Costs

18.2 The Parties agree to bear their own costs of preparing, negotiating, executing and stamping this Agreement and any document related to this Agreement.

19 Entire Agreement

- 19.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.
- 19.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

20 Further Acts

20.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

21 Governing Law and Jurisdiction

- 21.1 This Agreement is governed by the law of New South Wales.
- 21.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 21.3 The Parties will not object to the exercise of jurisdiction by those courts on any basis.

22 Joint and Individual Liability and Benefits

- 22.1 Except as otherwise set out in this Agreement:
 - 22.1.1 any agreement, covenant, representation or warranty under this Agreement by 2 or more persons binds them jointly and each of them individually, and
 - 22.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
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23 No Fetter

23.1 Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

24 Representations and Warranties

24.1 The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

25 Severability

25.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

25.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

26 Modification

26.1 No modification of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement or their successors or assigns.

27 Waiver

27.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.

27.2 A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given.

27.3 It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

28 Explanatory Note Relating to this Agreement

28.1 The Appendix contains the Explanatory Note relating to this Agreement required by clause 25E of the Regulation.

28.2 Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Planning Agreement.

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
Ballina Shire Council
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Schedule 1

(Clause 1.1)

The Land

That portion of Lot 1 DP 817406 shown edged in heavy black in the attached illustration titled "The Land"

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9.3 **Ballina LEP Amendment Request - Stoville, Alstonville.DOC**

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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Insert Illustration

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

Stoville / Duraplas Planning Agreement
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Execution

Executed as an Agreement

Dated:

Executed on behalf of the Council

General Manager

Witness / Name / Position

Executed on behalf of the Developer in accordance with s127(1) of the Corporations Act (Cth) 2001.

Stoville Pty Ltd

Name / Position

Witness / Name / Position

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Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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Ballina Shire Council
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JC & RM Fleming

Name / Position

Witness / Name / Position

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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Appendix
(Clause 33)

Environmental Planning and Assessment Regulation 2000
(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Ballina Shire Council ABN [tba] of cnr Tamar and Cherry Streets, Ballina, NSW 2478 (Council)

Stoville Pty Ltd Pty Ltd ABN [tba] of PO Box 480, Alstonville, New South Wales 2478 (Developer)

JC & RM Fleming of 8 Bertram Place, Wollongbar, New South Wales 2477 (Developer)

Description of Land to which this Draft Planning Agreement applies:

That portion of Lot 1 DP 817406 shown edged in heavy black in the illustration to Schedule 1, being land located in the north-eastern corner of Lot 1.

Description of Proposed Change to Environmental Planning Instrument/Development Application

Rezoning of the land from its current zoning of 7(i) Environmental Protection (Urban Buffer) Zone to 4 Industry Zone.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

This Agreement commits the developers to:

- proceeding with subdivision of the land by way of a boundary adjustment between Lot 1 DP 817406 and Lot 2 DP 707837;
- removing the existing dwelling on the land; and
- planting a landscape buffer within the 10 m strip of land to be dedicated to Council along the southern and eastern boundaries of the land (subject to Council agreement below).

Appendix 5 – Proposed Voluntary Planning Agreement (cont.)

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Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

Resolution of a long-standing land use conflict.
Provision of buffer between industrial and agricultural land uses.

How the Draft Planning Agreement Promotes the Public Interest

Provides for resolution of land zoning in accordance with historic land uses in the area.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter

[## to be completed by the Council ##]

All Planning Authorities – Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

[## to be completed by the Council ##]