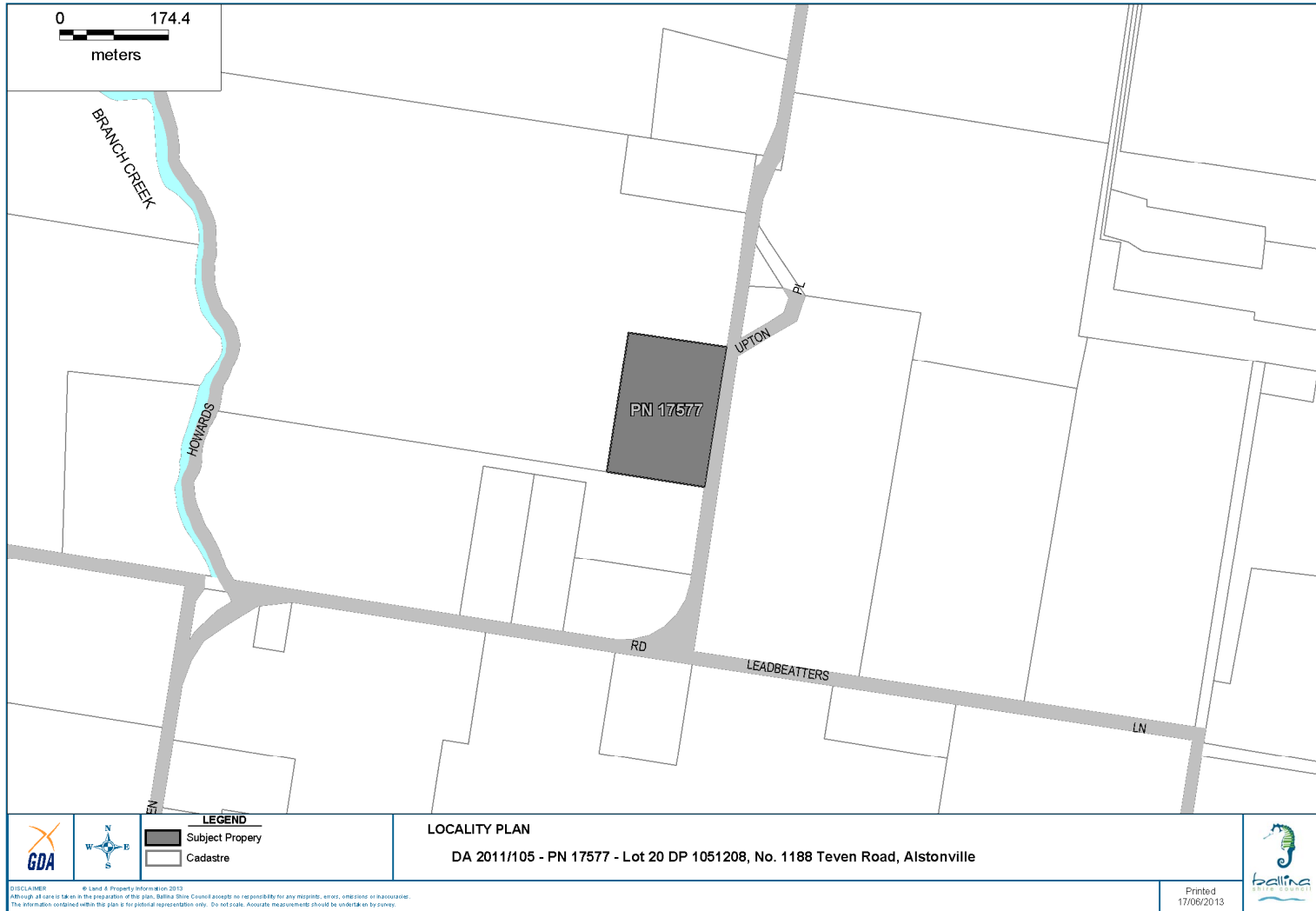
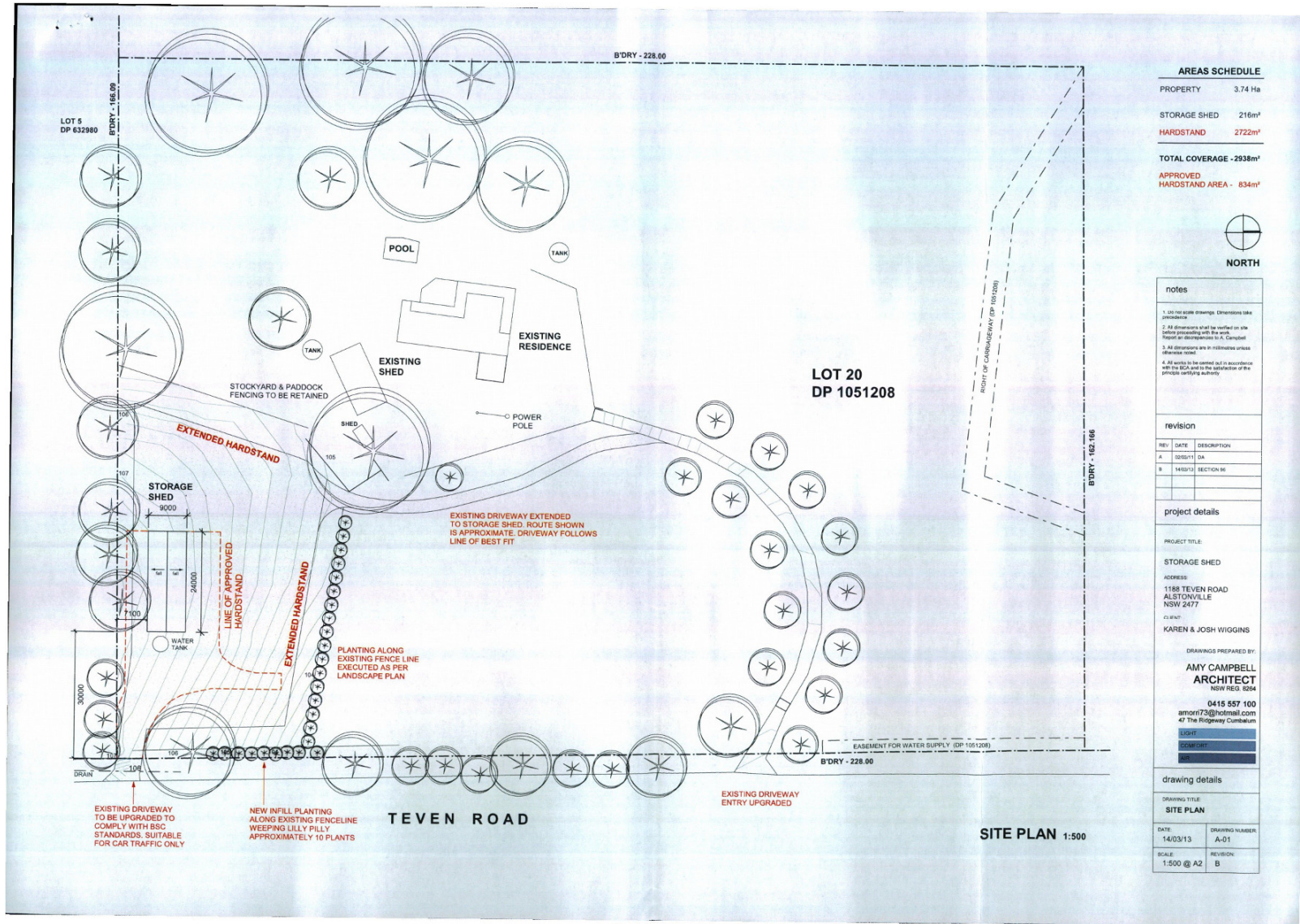


8.1 **DA 2011/105 - Section 96 - Bulk Storage.DOC**



8.1 DA 2011/105 - Section 96 - Bulk Storage.DOC



Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Dear Sir/Madam,

We wish to advise we have been made aware of the Section 96 application lodged on behalf of Wiggins Hire Pty Ltd with regard to the existing scaffold storage facility located at 1188 Teven Road, Alstonville.

We understand the proposal involves the following:

- Permission to store scaffold external to the existing shed
- An extended gravel storage area per the attached Shed & Yard Plan (Dwg A-02 Revision B)
- Alternate driveway access at the southern end of the property

Our property is in close proximity or adjacent to the land in question and we have no objection to the proposal in its current form.

Also, we have not been affected by the existing operations and do not believe the rural amenity of the area has been/will be compromised either visually or due to any noise attributable to the operation.

Regards,

Vanessa Bennett

Name

11.04.13

Date

1220 Teven Rd Alstonville NSW 2478

Address



Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

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Regards,

WILLIAM PRETORIUS

Name



11/4/2013

Date

68 HOWARDS RD ALSTONVILLE NSW 2477

Address

Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

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Regards,

B. Daley (B. DALEY)                      11/4/13.  
Name    Date

1147 TEVEN RD. ALSTONVILLE.  
Address

Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

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Our property is in close proximity or adjacent to the land in question and we have no objection to the proposal in its current form.

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Regards,

Alicia Rogers.

Name

11.4.13.

Date

9 Leadbeaters Lane Alstonville.

Address

## 8.1 DA 2011/105 - Section 96 - Bulk Storage.DOC

8.1 DA 2011/105 - Bulk Store - Scaffold Business

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### 8. Regulatory Services Group Reports

#### 8.1 DA 2011/105 - Bulk Store - Scaffold Business

<b>File Reference</b>	DA 2011/105
<b>Applicant</b>	Newton Denny Chapelle
<b>Property</b>	Lot 20 DP 1051208 No. 1188 Teven Road, Alstonville
<b>Proposal</b>	The establishment of a bulk store for a scaffold business involving the construction of a shed and vehicular access for the bulk store of trucks and scaffold equipment.
<b>Effect of Planning Instrument</b>	The land is zoned 1(a1) – Rural (Plateau Lands Agriculture) Zone under the provisions of the Ballina LEP
<b>Locality Plan</b>	The subject land is depicted on the locality plan attached.

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#### **Introduction**

Council is in receipt of a development application seeking consent for the establishment of a bulk store for a scaffold business. The proposal involves the erection of a 216m<sup>2</sup> shed, associated hardstand area and vehicular access for the purpose of storing scaffold, trucks and ancillary equipment.

The subject site is located within the 1(a1) – Rural (Plateau Lands Agriculture) Zone under the provisions of the Ballina Local Environmental Plan 1987 (BLEP). The applicant has made previous enquiries with Council on both this and another property in the 1(a1) Zone. Upon the request of the Council, this application is being reported to the Council for determination.

Whilst the establishment of a bulk store is permissible in the 1(a1) Zone, Council must take into consideration the consistency of the proposed development with the zone objectives, the appropriateness of the location of the bulk store in this rural locality, its impacts on surrounding land uses and whether or not the proposed development on land zoned for agricultural purposes is in the public interest.

#### **Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil



**Public Exhibition**

The proposed development, being the establishment of a bulk store in the 1(a1) – Rural (Plateau Lands Agricultural) Zone, is classified as ‘advertised development’ for the purposes of the BLEP.

Consequently the development application was placed on public exhibition from 24 March 2011 to 22 April 2011. No public submissions were received during the exhibition period.

**Applicable Planning Instruments**

*Ballina Local Environmental Plan 1987*

The establishment of a bulk store is permissible with consent and is classified as advertised development in the table to Clause 9 of the BLEP. The objectives of the 1(a1) zone are as follows:

- A *The primary objectives are:*
  - (a) *to regulate the subdivision and use of land within the zone to ensure that:*
    - (i) *land actually used for purposeful agricultural production, particularly horticulture, or*
    - (ii) *land having the potential for purposeful agricultural production, particularly for horticulture,*
  - is developed in a manner to optimise its production potential, and*
  - (b) *to enable development which is ancillary to the agricultural use of land within the zone (particularly dwelling-houses, rural workers’ dwellings and rural industries) where such facilities do not significantly reduce the production potential of the subject land or other land in the locality.*
- B *The secondary objectives are to ensure that development within the zone:*
  - (a) *maintains the rural character of the locality, and*
  - (b) *does not create unreasonable or uneconomic demands, or both, for the provision or extension of public amenities or services.*
- C *The exceptions to these objectives are:*
  - (a) *development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives, subject to the impact on agricultural resources being minimised, where practical, and*
  - (b) *development of land for extractive resources extraction.*

The applicant, in the Statement of Environmental Effects submitted with the development application has sought to address how the proposed bulk store will be consistent with the objectives of the 1(a1) zone.

The subject site comprises an area of 3.742 hectares and contains an existing dwelling house, small shed and swimming pool. Given the size of the allotment and the location of the dwelling and ancillary structures, the subject land is not currently being utilised for agricultural purposes. It is considered given the constraints of the site that it does not readily lend itself to productive or economically viable agricultural activity.

8.1 DA 2011/105 - Bulk Store - Scaffold Business

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It is also considered, however that the establishment of the bulk store and associated hardstand area as proposed in this development application does not result in development that optimises the potential for purposeful agricultural production, particularly horticulture, as specified in Objective A(a) above.

The proposed bulk store has been sited so as to minimise its impacts on current land uses being undertaken on adjoining parcels. The applicant has also provided detailed information emphasising the low impact and small scale of the proposed development.

Notwithstanding this, Council must assess the application not only on the merit issues of minimising impact and preserving amenity but also on the statutory requirement that the development must be consistent with the objectives of the zone. Having specific regard to the zone objectives, the proposed development is not considered to be "ancillary to the agricultural use of land within the zone" as specified in Objective A(b) as the proposed use, regardless of its perceived impact and scale, cannot be considered a use that is ancillary to agriculture.

As noted, the proposed bulk store has been sited to minimise the impact on adjoining properties. The existing established vegetation in the vicinity of the proposed bulk store assists in the minimisation of the likely impacts of what is essentially a light industrial development in a rural zone. Notwithstanding the above, in general terms it is considered that the establishment of a bulk store of this nature (being for a scaffold business that is not necessarily associated with rural land uses) does not seek to maintain the rural character of the locality.

When considered on its own, the proposed bulk store will not likely result in the creation of unreasonable and uneconomic demands for the provision or extension of public amenities and services.

Concern is raised however as to the cumulative impacts and precedents that would be set if this development is supported. In consideration of the above, the proposed development is therefore considered to be not consistent with Objective B of the 1(a1) zone.

The proposed development does not comprise development that is an exception specified in Objective C.

Having regard for the above, it is considered that the proposed development is not consistent with the objectives of the 1(a1) – Rural (Plateau Lands Agriculture) Zone.

*State Environmental Planning Policy (Rural Lands) 2008*

The subject land, being within the 1(a1) zone under the BLEP is subject to the provisions of this SEPP.

Clause 2 contains the aims of the SEPP which are:

- (a) *to facilitate the orderly and economic use and development of rural lands for rural and related purposes,*

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- (b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,*
- (c) to implement measures designed to reduce land use conflicts,*
- (d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- (e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

The proposed development, involving the establishment of a bulk store for a scaffold business is not considered to be an orderly or economic use or development of rural lands for rural and related purposes. Consideration has been made with regard to land use conflict and the expected noise generated through the loading and unloading of equipment from trucks. Although the applicant has stated these activities will be minimised to reduce impacts, it is considered that this aspect of the development will be difficult to regulate and has the potential to result in unreasonable land use conflicts.

In consideration of the above, the proposed development cannot be considered to be consistent with the aims of this SEPP.

Clause 7 of the SEPP also contains a series of Rural Planning Principles as follows:

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

It needs to be considered whether or not the establishment of a bulk store for a scaffolding business and associated hardstand area is a productive and sustainable economic activity in a rural area. Concern is raised over the impacts the proposed development will have on the agricultural potential of the subject land and the cumulative impacts of the precedent set should this development be supported on rural land.

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Council has set aside, through land use planning controls, certain areas of the Shire that it considers suitable for particular land uses. Thus it also needs to be considered whether or not the proposed development, should it be supported, will achieve a balance in meeting the social, economic and environmental interests of the community.

While these planning principles appear somewhat ambiguous, it can be generally considered that the establishment of a bulk store for the establishment of a scaffold business, being essentially a light industrial land use, is not suitable in a rural area and cannot be consistent with these planning principles.

*North Coast Regional Environmental Plan*

Clause 12 of Division 1 of the NCREP reads as follows:

*The council shall not consent to an application to carry out development on rural land unless it has first considered 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 impacts of the proposed development on the use of adjoining or adjacent agricultural land have been considered in the assessment of this development proposal. It is considered that while efforts can be made to minimise and mitigate against the amenity impacts of the proposal on adjoining and adjacent properties, the proposed development, in general, represents an industrial type land use that should not be supported on rural land and has the potential for land use conflicts to be generated.

The proposal will not result in any substantial loss of prime crop or pasture land.

*Draft Ballina Local Environmental Plan 2010*

The Draft Ballina Local Environmental Plan 2010 applies to the subject land. The draft BLEP was publicly exhibited from 15 March to 4 June 2010.

The subject site is located on land proposed for inclusion in the RU1 – Primary Production zone.

'Bulk store' is not a defined land use in the Draft BLEP. Under the Draft BLEP provisions, the definition of the proposed development is 'storage premises' which is:

*a building or place used for the storage of goods, materials, plant or machinery for commercial purposes and where the storage is not ancillary to any business premises or retail premises on the same parcel of land.*

Storage premises is not listed as a permissible land use in the RU1 zone and is therefore prohibited development on the subject land in accordance with the provisions of the Draft BLEP.

**Report**

The development application for the establishment of a bulk store for a scaffold business has been assessed against the heads of consideration as contained in Section 79C of the *Environmental Planning and Assessment Act 1979*. As detailed above, it is considered that the proposed development is inconsistent with the objectives of the 1(a1) – Rural (Plateau Lands Agriculture) Zone under the provisions of the *Ballina Local Environmental Plan 1987*.

The proposal is also inconsistent with the planning provisions specified in both the *North Coast Regional Environmental Plan, State Environmental Planning Policy (Rural Land) 2008* and *Draft Ballina Local Environmental Plan 2010*.

The planning instruments referenced above provide strong development controls that seek to preserve and maintain the amenity and agricultural viability of rural land and seek to prevent the incursion of non-compatible land uses into rural areas. In assessing the proposed development against these controls it has been found to be generally inconsistent with the preferred land uses and does not maintain the desired character preferred for rural land in the shire.

The proposed bulk store is also considered to have the potential to create an unreasonable impact on the rural amenity of the locality. The proposed land use, being a bulk store for a scaffold business, is not considered to be a compatible land use in the 1(a1) Zone and is more suited to an industrial zone.

The development application has been assessed by Council's development engineer having particular regard to the proposed access driveway off Teven Road. The assessment of this aspect of the development has revealed that any proposed driveway on the boundary of the site with Teven Rd can only achieve a sight distance of less than 200 metres due to the existing dip and blind spot.

The required safe intersection sight distance (SISD) is 270 metres. The existing driveway to the dwelling on the site achieves a sight distance of 240 metres, which is still less than the required 270 metres as specified in the Austroads guide. Any proposed driveways for this site accessing Teven Road cannot be supported due to inadequate sight distance constraints.

The existing driveway servicing the dwelling does not comply with the SISD requirements and it is considered undesirable for trucks to enter Teven Road from this location. Therefore, the application as lodged cannot be supported in this regard given the road safety issues with the proposed road access.

Notwithstanding the abovementioned access issues, should a favourable consideration be given to the use of the subject land as a bulk store for a scaffold business, the risk needs to be considered with regard to the land use precedent this would set and the potential erosive effects this precedent may have through the encouragement of similar land uses in rural zones.

Concern is also raised with regard to potential economic impacts where rural land is optimised for the incursion of non-rural uses and the how this may affect property values where rural land may be seen as more viable for non-rural land uses. Consideration also needs to be given to whether allowing this type of land use in a rural zone is equitable when other operators who seek to comply with the relevant land use controls may view this development, should it be supported, as having an unfair advantage.

Having regard to the above and the assessment of the proposal against the relevant regulatory controls, the proposed development is not supported and is recommended for refusal.

#### **Conclusion**

The subject application is seeking development consent for the establishment of a bulk store for a scaffolding business on rural land within the BLEP 1(a1) – Rural (Plateau Lands) Agriculture Zone. In assessing the proposal, it is considered that it is inconsistent with the zone objectives and an incompatible land use in a rural area.

This position is further supported by additional planning instruments and development controls. The engineering assessment of the proposal reveals that the proposed access to the development is unsatisfactory. Having regard for these issues, the proposed development is not supported. However, should favourable consideration be given to this proposal, Council must also consider the precedent it may set, the cumulative impacts and flow on effects in the allowing of a non-rural land use in a rural zone.

Based on the above, the development application is recommended for refusal. This conclusion has been reached, not only in relation to the assessment of the merits of the proposal, where amenity impacts and scale of the proposal are considered, but also on the statutory requirements of development being consistent with the BLEP 1(a1) zone objectives and relevant provisions of applicable statutory planning instruments.

Having regard to the outcomes of the assessment undertaken as detailed above, Council has the following options with regard to determining the subject application:

#### Option 1

That Council REFUSE the development application, in consideration of the applicable zone objectives, the provisions of the *North Coast Regional Environmental Plan*, the provisions of *State Environmental Planning Policy (Rural Land) 2008*, the provisions of the *Draft Ballina Local Environmental Plan 2010* and the inadequacy of the proposed access arrangements, or

Option 2

That Council APPROVE the development application subject to standard conditions of consent for this type of development, including an appropriate condition requiring a further review of the proposed access arrangements off Teven Road. Should Council elect to proceed with this option, it must be satisfied that the proposed development is consistent with the objectives of the 1(a1) – Rural (Plateau Lands Agriculture) Zone under the provisions of the *Ballina Local Environmental Plan 1987*, is consistent with provisions of Clause 12 of the *North Coast Regional Environmental Plan*, is consistent with the aims (Clause 2) and Rural Planning Principles (Clause 7) of *State Environmental Planning Policy (Rural Land) 2008* and is consistent with the provisions of the *Draft Ballina Local Environmental Plan 2010*.

Option one is the recommended approach for the reasons outlined in this report.

**RECOMMENDATIONS**

That DA 2010/216 for the establishment of a bulk store for a scaffold business involving the construction of a shed and vehicular access for the bulk store of trucks and scaffold equipment on Lot 20 DP 1051208, No. 1188 Teven Road, Alstonville be **REFUSED** for the following reasons:

1. The proposed development is inconsistent with the objectives of the 1(a1) – Rural (Plateau Lands Agricultural) Zone of the *Ballina Local Environmental Plan 1987*
2. The proposed development is inconsistent with the provisions of the *North Coast Regional Environmental Plan*
3. The proposed development is inconsistent with the provisions of *State Environmental Planning Policy (Rural Land) 2008*
4. The proposed development is inconsistent with the provisions of the *Draft Ballina Local Environmental Plan 2010* and
5. The proposed access arrangements to the site from Teven Road are inadequate and do not meet engineering standards.

**Attachment(s)**

1. Locality Plan
2. Site Plan
3. Shed Plan

DA 2011/105 - Bulk Store - Scaffold Business (Wiggins Hire Pty Ltd)







