





Planning Proposal BSCPP 12/002

July 2013

Robb Street, Alstonville

13/53707 Final

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INTRODUCTION

Summary of Planning Proposal

This planning proposal applies to land adjacent to the Russellton Industrial Estate at the end of Robb Street, Alstonville and is identified as part Lot 1 DP 817406 as shown on the locality plan provided in Appendix 1.

Lot 1 DP 817406 has an area of 15.46 hectares and is in the ownership of Stoville Pty Ltd. The planning proposal applies to an area of 6800m² at the north western corner of the land.

Lot 1 DP 817406 is currently wholly within the 7(i) – Environmental Protection (Urban Buffer) Zone under the provisions of the *Ballina Local Environmental Plan 1987* (BLEP 1987). This land is identified as deferred matter under the *Ballina Local Environmental Plan 2012* (BLEP 2012) due to the proposed application of the E3 Environmental Management Zone to the land under this plan.

This planning proposal seeks to rezone 6800m² 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 under the BLEP 1987.

The existing zoning arrangements surrounding the site are shown in the map provided in Appendix 3.

If finalised, this planning proposal will result in the rezoning of the identified 6800m² area from its current zoning of 7(i) – Environmental Protection (Urban Buffer) under the BLEP 1987 to Zone IN1 General Industrial under the provisions of the BLEP 2012. The proposed zone arrangements are shown in the map provided in Appendix 4.

The Department of Planning and Infrastructure (DP&I) has determined under section 56(2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) that the subject planning proposal may proceed conditionally. A copy of the Gateway determination is attached in Appendix 5 (the Gateway determination was modified in March 2013 to extend the timeframe for completion of the matter to September 2013).

Planning History

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

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The proponent has addressed the requirements of item (2) above in a voluntary planning agreement (Appendix 6). The voluntary planning agreement includes the following elements.

- Discontinuation of the use of the existing dwelling house for residential purposes.
- Consolidation of the rezoned portion of Lot 1 DP 817406 with Lot 2 DP 707837 (owned by the proprietors of Duraplas).
- Provision of a vegetated buffer along the eastern and southern boundaries of the rezoned 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 BLEP 1987. The proposal seeks to rezone a 6800m² section of Lot 1 DP 817406 and to apply to that area the IN1 General Industrial Zone under the provisions of the BLEP 2012 as illustrated on the map contained in Appendix 4.

The rezoning of the 6800m² 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 dwelling house 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 land already zoned IN1 General Industrial under the BLEP 2012 and to integrate the 6800m² section 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 in relation 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. Council, in its resolution of 26 April 2012, has indicated a view that this proposal is the best means of achieving the intended outcomes and will result in a "common sense" solution in resolving the land use conflict issues present on the site.

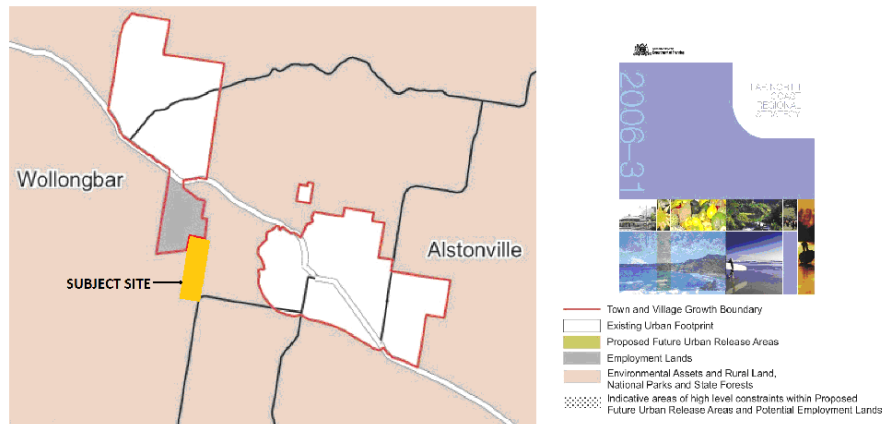
3. Is there a net community benefit?

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 and will support the resolution of the present land use conflict issue.

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).



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.

Notwithstanding, Council is of the view that the proposal is a “common sense” solution to the present land use conflict issue and consequently has resolved to give its strong support for the approval of the planning proposal.

The above position is supported by the Department of Planning and Infrastructure who issued a Gateway determination in favour of the proposal on 18 June 2012 (Appendix 5).

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.*

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The area of land proposed to be zoned IN1 General Industrial under the BLEP 2012 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 6800m² 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 (Urban Buffer) Zone will compromise the overall effect of the buffer or the principle of Objective A.

Ballina Urban Land Release Strategy 2000 (ULRS-2000) and Ballina Shire Growth Management Strategy 2012 (GMS)

The Ballina Urban Land Release Strategy 2000 (ULRS-2000) provided the Departmental-endorsed urban land release strategy applicable to the Ballina local government area at the time the planning proposal was submitted to the Department of Planning and Infrastructure for Gateway determination. Since that time, the ULRS-2000 has been superseded by the Ballina Shire Growth Management Strategy (GMS) adopted by Council in July 2012. The ULRS-2000 was 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 ULRS-2000 has been agreed with the former Department of Infrastructure Planning and Natural Resources as required by subclause 38(3) of the REP. The GMS was prepared as required by the Far North Coast Regional Strategy and its associated planning guidelines and seeks to provide a strategic framework for future urban development in the shire and to identify lands which may be suitable for rezoning and development for urban purposes.

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. Neither the ULRS-2000 nor the GMS identify potential 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 or the GMS. However, Council has resolved to proceed with the rezoning proposal and give its strong support for its approval, having regard for other potentially beneficial outcomes that may arise.

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

State Environmental Planning Policy Checklist Planning Proposal – Robb Street, Alstonville	
SEPP Title	Compliance of Planning Proposal
SEPP No. 1 - Development Standards	Consistent
SEPP No. 4 - Development without Consent and Miscellaneous Complying Development	Consistent
SEPP No. 6 - Number of Storeys in a Building	Consistent
SEPP No. 14 - Coastal Wetlands	Consistent

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SEPP Title	Compliance of Planning Proposal
SEPP No. 15 - Rural Land-Sharing Communities	Consistent
SEPP No. 21 - Caravan Parks	Consistent
SEPP No. 22 - Shops and Commercial Premises	Consistent
SEPP No. 26 - Littoral Rainforests	Consistent
SEPP No. 30 - Intensive Agriculture	Consistent
SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)	Consistent
SEPP No. 33 - Hazardous and Offensive Development	Consistent
SEPP No. 36 - Manufactured Home Estates	Consistent
SEPP No. 44 - Koala Habitat Protection	Consistent
SEPP No. 50 - Canal Estates	Consistent
SEPP No. 55 - Remediation of Land	Consistent
SEPP No. 60 - Exempt and Complying Development	Consistent
SEPP No. 62 - Sustainable Aquaculture	Consistent
SEPP No. 64 - Advertising and Signage	Consistent
SEPP No. 65 - Design Quality of Residential Flat Development	Consistent
SEPP No. 71 - Coastal Protection	Consistent
SEPP (Affordable Rental Housing) 2009	Consistent
SEPP (Building Sustainability Index: BASIX) 2004	Consistent
SEPP (Exempt and Complying Development Codes) 2008	Consistent
SEPP (Housing for Seniors or People with a Disability) 2004	Consistent
SEPP (Infrastructure) 2007	Consistent
SEPP (Major Development) 2005	Consistent
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	Consistent
SEPP (Rural Lands) 2008	Consistent
SEPP (State and Regional Development) 2011	Consistent
SEPP (Temporary Structures) 2007	Consistent
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. Because the land is subject to the provisions of the <i>Ballina Local Environmental Plan 1987</i>, the REP 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.</p>

SEPP Title	Compliance of Planning Proposal
	<p>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> <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.</p> <p>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 and strongly support the planning proposal.</p> <p>Further to the above, the Department of</p>

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SEPP Title	Compliance of Planning Proposal
	Planning and Infrastructure in the Gateway determination issued for the proposal acknowledges the inconsistencies of the proposal with relevant strategic planning provisions and has taken the position that the inconsistencies are of minor significance.

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

Section 117 Direction Checklist Planning Proposal – Robb Street, Alstonville	
DIRECTION NO.	Compliance of Planning Proposal
1. Employment and Resources	
1.1 Business and Industrial Zones	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. Notwithstanding, Council believes the proposal to be a "common sense" solution to resolving a land use conflict issue and has resolved to give its strong support to the progress of the proposal. In the Gateway determination issued for the proposal, the Department of Planning and Infrastructure acknowledges the inconsistencies of the proposal with relevant strategic planning provisions and has taken the position that the inconsistencies are of minor significance.
1.2 Rural Zones	Does not apply to planning proposal.
1.3 Mining, Petroleum Production and Extractive Industries	Does not apply to planning proposal.
1.4 Oyster Aquaculture	Does not apply to planning proposal.
1.5 Rural Land	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. The Rural Planning Principles listed in State Environmental Planning Policy (Rural Lands) 2008 are as follows: <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 development,</i> d) <i>in planning for rural lands, to balance the social, economic and environmental interests of the community,</i> 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> f) <i>the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,</i>

Section 117 Direction Checklist Planning Proposal – Robb Street, Alstonville	
DIRECTION NO.	Compliance of Planning Proposal
	<p><i>g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,</i></p> <p><i>h) 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. Notwithstanding, Council has resolved to proceed with the submission of the planning proposal for determination and strongly supports its progress. The Department of Planning and Infrastructure acknowledges these inconsistencies in the Gateway determination issued for the proposal and has taken the position that the inconsistencies are of minor significance.</p>
2. Environment and Heritage	
2.1 Environmental Protection Zones	<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> <p>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, the Council has resolved to strongly support the progress of the planning proposal.</p>
2.2 Coastal Protection	Does not apply to planning proposal.
2.3 Heritage Conservation	Does not apply to planning proposal.
2.4 Recreation Vehicle Areas	Does not apply to planning proposal.
3. Housing, Infrastructure and Urban Development	
3.1 Residential Zones	Does not apply to planning proposal.
3.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
3.3 Home Occupations	Does not apply to planning proposal.
3.4 Integrated Land Use and Transport	<p>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.</p>
3.5 Development Near Licensed Aerodromes	Does not apply to planning proposal.

Section 117 Direction Checklist	
Planning Proposal – Robb Street, Alstonville	
DIRECTION NO.	Compliance of Planning Proposal
4. Hazard and Risk	
4.1 Acid Sulphate Soils	Does not apply to planning proposal.
4.2 Mine Subsidence and Unstable Land	Does not apply to planning proposal.
4.3 Flood Prone Land	Does not apply to planning proposal.
4.4 Planning for Bushfire Protection	Does not apply to planning proposal.
5. Regional Planning	
5.1 Implementation of Regional Strategies	<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 Council has resolved to proceed with the submission of the planning proposal for determination and strongly supports its progress.</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	<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> <ul style="list-style-type: none"> a) the Far North Coast Regional Strategy, and b) Section 4 of the report titled Northern Rivers Farmland Protection Project – Final Recommendations, February 2005, held by the Department of Planning. <p>The Department of Planning and Infrastructure acknowledge the inconsistencies of the proposal with the above documents and has taken the position that the inconsistencies are of minor significance.</p>
5.4 Commercial and Retail Development	Does not apply to planning proposal.
5.5 Development in the vicinity of Ellalong Paxton and Millfield (Cessnock LGA).	Repealed.
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.
6. Local Plan Making	
6.1 Approval and Referral Requirements	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.

Section 117 Direction Checklist Planning Proposal – Robb Street, Alstonville	
DIRECTION NO.	Compliance of Planning Proposal
6.2 Reserving Land for Public Purposes	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	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 6800m² area proposed for rezoning is currently clear of significant vegetation and is not known to 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 6800m² 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 through a voluntary planning agreement (Appendix 6) 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 the 6800m² area 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?

Consultation with the NSW Department of Trade and Industry (Agriculture) and the NSW Rural Fire Service has been undertaken in accordance with the requirements of the Gateway determination. Copies of the responses received are contained in Appendix 7.

PART 4 – COMMUNITY CONSULTATION

This planning proposal was publicly exhibited from 17 July 2013 to 16 August 2013 in accordance with the (Appendix 5) and the terms of the *Environmental Planning & Assessment Act* 1979. Surrounding residents were notified in writing of the proposal as part of the exhibition process.

In accordance with the requirements of the Gateway determination, a copy of the planning proposal and supporting material was submitted to the Department of Trade and Industry (Agriculture) and the NSW Rural Fire Service to comment. Copies of the submissions received in response are contained in Appendix 7.

A total of 36 submissions were received from the community in response to the public exhibition of this planning proposal. These comprise 34 submissions objecting to the planning proposal and 2 submissions in support. The submissions in support were received from the proponent (landowner) and the proponent's consultant.

The content of the submissions was considered by Ballina Shire Council at its Ordinary Meeting on 26 September 2013.

Appendices

Appendix 1 - Locality Plan



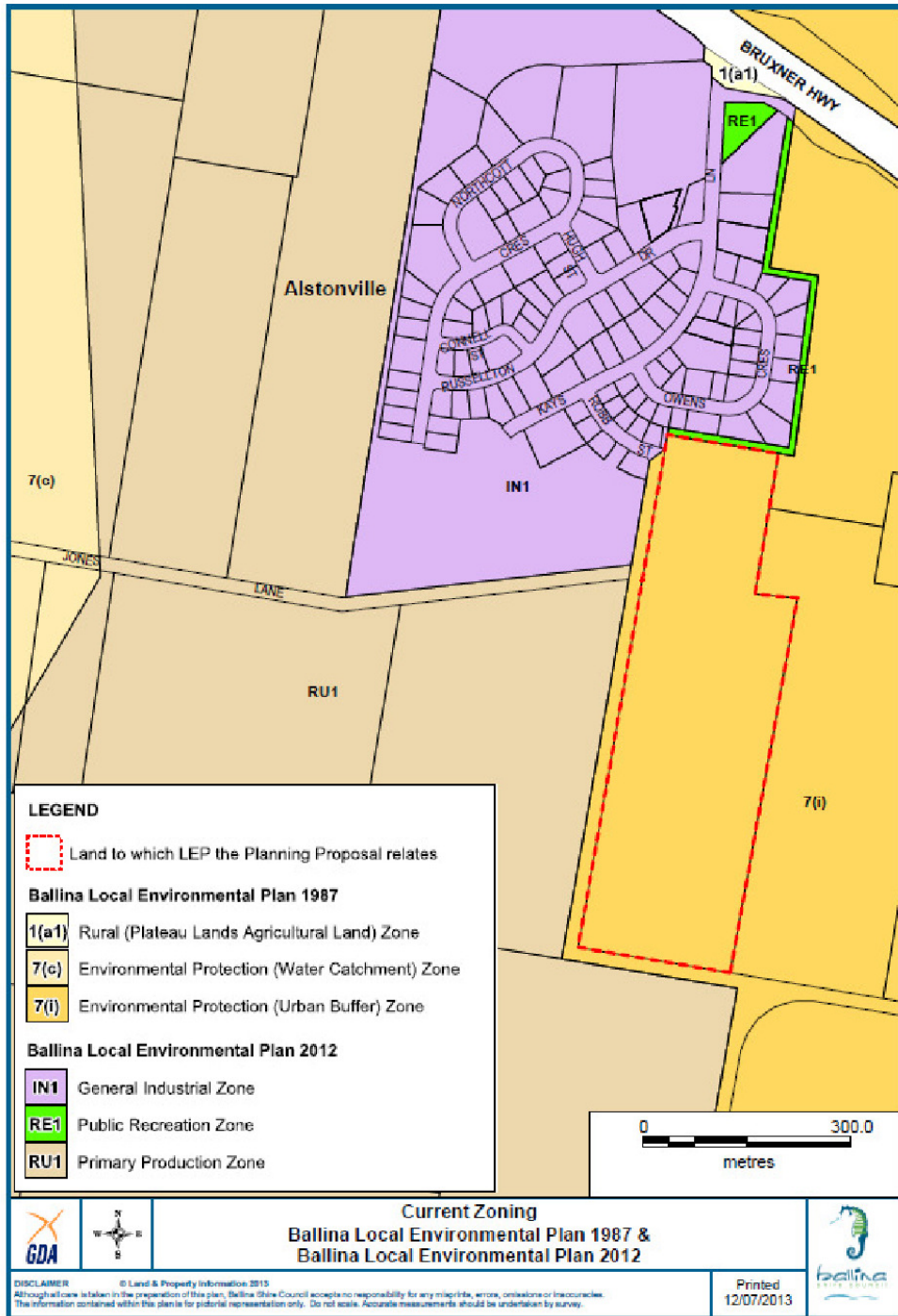
Planning Proposal – April 2013
Stoville Pty Ltd, Alstonville

Appendix 2 – Area of Proposed Rezoning



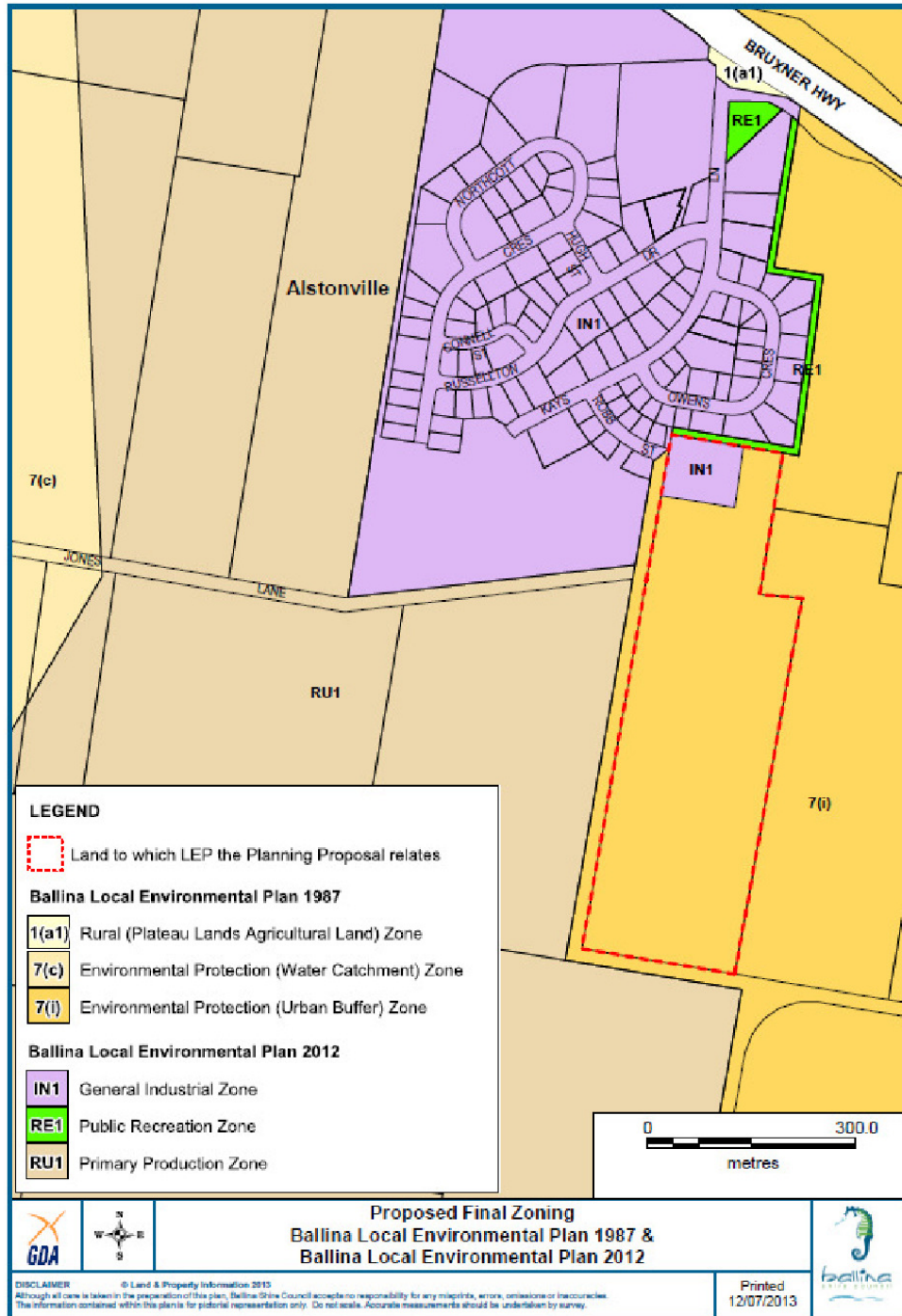
Planning Proposal – April 2013
Stoville Pty Ltd, Alstonville

Appendix 3 - Current zoning - Ballina LEP 1987 & Ballina LEP 2012



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 Stoville Pty Ltd, Alstonville

Appendix 4 – Final Proposed Zoning - Ballina LEP 1987 & Ballina LEP 2012



Planning Proposal – April 2013
 Stoville Pty Ltd, Alstonville

**Appendix 5 – Department of Planning & Infrastructure,
Gateway Determination**



Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Contact: Jenny Vallis
Phone: (02) 6641 6600
Fax: (02) 6641 6601
Email: Jenny.Vallis@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460
Our ref: PP_2012_BALLI_002_00 (12/07066)
Your ref: Ballina LEP Amendment Request, Stovielle Pty Ltd

Dear Mr Hickey,

Planning proposal to rezone 0.68 hectares of land at Robb Street, Alstonville from 7(i) Environmental Protection (Urban Buffer) to 4 Industrial under the Ballina LEP 1987

I am writing in response to your Council's letter dated 4 May 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Ballina Local Environmental Plan 1987 to rezone 0.68 hectares of land at Robb Street, Alstonville from 7(i) Environmental Protection (Urban Buffer) to 4 Industrial.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that the subject land is identified as State Significant Farmland under the Northern Rivers Farmland Protection Project and therefore the planning proposal is inconsistent with the requirements of S117 Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast. A planning proposal may be inconsistent with the Local Planning Direction if the planning proposal is consistent with the Far North Coast Regional Strategy (FNCRS). The land is not identified as future urban release under the FNCRS, but does adjoin the town and village growth boundary for Ballina, and is currently being utilised for industrial purposes.

The FNCRS permits variations to the growth boundary where sufficient justification has been provided. Given the land is currently being utilised for industrial purposes, it is considered that a variation to the growth boundary to include the subject land is necessary so that the land is correctly identified as being industrial. Therefore, the planning proposal is considered consistent with the FNCRS and the requirements of S117 Direction 5.1 Implementation of Regional Strategies, and that the planning proposals inconsistencies with S117 Direction 5.3 Farmland of State and Regional Significance on the NSW Far North Coast is of minor significance. No further approval is required in relation to this Direction.

I have also agreed that the planning proposal's inconsistencies with S117 Direction 1.1 Business and Industrial Zones and 1.5 Rural Lands are on minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Jenny Vallis of the Regional Office of the Department on 02 6641 6600.

Yours sincerely,


Sam Haddad
Director-General

18/6/2012 .



Gateway Determination

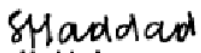
Planning Proposal (Department Ref: PP_2012_BALLI_002_00): to rezone 0.68 hectares of land at Robb Street, Alstonville from 7(i) Environmental Protection (Urban Buffer) to 4 Industrial under the Ballina LEP 1987

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan 1987 to rezone land at Alstonville from 7(i) Environmental Protection (Urban Buffer) to 4 Industrial should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Department of Trade and Industry (Agriculture)
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
3. Further to Condition 2 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department's Regional Office.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 13th day of June 2012.


Sam Haddad
 Director-General
 Delegate of the Minister for Planning and
 Infrastructure

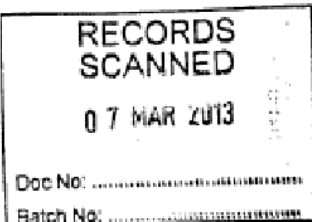
Ballina PP_2012_BALLI_002_00 (12/07066)



Planning & Infrastructure

Office of the Director General

Mr Paul Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478



Our ref: 12/07066
Your ref: BSCPP 12/002, Robb Street,
Alstonville – 13/7276

Dear Mr Hickey

Planning Proposal PP_2012_BALLI_002_00, Robb Street, Alstonville – Gateway Determination alteration and extension

I refer to your request on 6 February 2013 seeking an extension of time to complete the Planning Proposal PP_2012_BALLI_002_00 for the rezoning of 0.68ha of land, part Lot 1 DP 817406, Robb Street, Alstonville from 7(i) Environmental Protection (Urban Buffer) to 4 Industrial under the Ballina LEP 1987

I have determined as the delegate of the Minister, in accordance with section 56(7) of the Environmental Planning and Assessment Act, 1979, to amend the Gateway Determination dated 18 June 2012 for PP_2012_BALLI_002_00. An amended Gateway Determination is attached.


The Gateway Determination is amended by extending the time for the completion of the Planning Proposal by an additional six months and is now due for completion by 25 September 2013.

The amended Gateway Determination also references Ballina LEP 2012. It will be necessary to amend the Planning Proposal to reflect that the proposal seeks to rezone 0.68 ha of land from 7(i) Environmental Protection (Urban Buffer) zone under Ballina LEP 1987 to IN1 General Industrial under Ballina LEP 2012. Council will need to ensure that the maps for public exhibition are amended. The maps should be prepared in accordance with the Standard technical requirements for LEP maps.

Council should aim to commence the exhibition of the Planning Proposal within eight weeks from the week following this revised determination. Council's request for the Department to draft and finalise the LEP should be made eight weeks prior to the projected publication date.

If you have any questions in relation to this matter, please contact Jenny Vallis of the Department of Planning and Infrastructure's Northern Region, Grafton on 6641 6606.

Yours sincerely


Richard Pearson 1.3.13
A/Director General

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au


Gateway Determination (amended)


Planning Proposal (Department Ref: PP_2012_BALLI_002_00): to rezone 0.68 hectares of land at Robb Street, Alstonville from 7(i) Environmental Protection (Urban Buffer) – Ballina LEP 1987 and shown as DM (Deferred Matter) under the Ballina LEP 2012 to IN1 General Industrial

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Ballina Local Environmental Plan 2012 to rezone land at Alstonville from 7(i) Environmental Protection (Urban Buffer) – Ballina LEP 1987 and shown DM (Ballina LEP 2012) to IN1 General Industrial should proceed subject to the following conditions:

1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Department of Trade and Industry (Agriculture)
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.
3. Further to Condition 2 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection. Council is to amend the planning proposal, if necessary, and forward a copy of the revised planning proposal to the Department's Regional Office.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
5. The timeframe for completing the LEP is to be **15 months** from the week following the date of the original Gateway determination of 18 June 2012.

Dated 4th day of March 2013.


 Richard Pearson
 A/Director General
 Delegate of the Minister for Planning and
 Infrastructure

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
 Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

Appendix 6 – Voluntary Planning Agreement

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 12 June 2013

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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: 02 6686 7035
Email: council@ballina.nsw.gov.au
Representative: Mr Paul Hickey, General Manager

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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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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.

Registration:

See clause 11.

Dispute resolution

Expert determination and mediation. See clause 10.

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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 [53 929 887 369] of PO Box 450, BALLINA NSW 2478
(Council)

and

Stoville Pty Ltd ABN [82 839 837 370] of PO Box 480, ALSTONVILLE NSW 2477

and

JC & RM Fleming of 8 Bertram Place, WOLLONGBAR NSW 2477
(together, the **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 planning proposal that seeks an amendment to the *Ballina Local Environmental Plan 2012* to apply an industrial zone to the Land.
- D. Should the LEP take effect, the Developers are committed to consolidating the Land with Lot 2 DP 707837 in accordance with this agreement and to demolishing, relocating to another site or rendering uninhabitable the existing dwelling on the Land.

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

Stoville / Durapias 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.

Approval includes approval, consent (including Development Consent), licence, permission or the like.

Council means the Ballina Shire Council.

Developers mean, as the context requires, either or both of Stoville Pty Ltd and JC & RM Fleming.

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.

LEP means a local environmental plan that amends *Ballina Local Environmental Plan 2012* to zone the Land IN1 General Industrial.

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*.

Vegetated Buffer Area means an area of land having a minimum width of 10 metres along the southern and eastern boundaries of the Land and which is located entirely within the Land, entirely on land directly adjoining the boundary of the Land, or partly within the Land and partly on land directly adjoining the boundary of the Land.

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.

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

- 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.
- 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, Lot 1 DP 817406, Lot 2 DP 707837 and to the making of the LEP.

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 the LEP takes effect.
- 3.2 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

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

validity of this Agreement, or the making of the LEP, or the granting or modification of any Development Consent to the extent that the LEP was made or the Development Consent was granted or modified having regard to the existence 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 Consolidation of the Land and establishment and maintenance of Vegetated Buffer Area

- 7.1 Upon the LEP taking effect, the Developers are to consolidate the part of Lot 1 DP 817406 that is rezoned by the LEP with Lot 2 DP 707837.
- 7.2 The Developers are not to make or cause, suffer or permit the making of a Development Application or any other application for Approval to carry out development on the Land that is made permissible by the taking effect of the LEP (**Industrial Development**) unless the Developers at their cost prepare and submit to the Council for approval a vegetation management plan that specifies the design for planting in the Vegetated Buffer Area, and the plant species, planting schedule, maintenance program for planting in that area.
- 7.3 The Developers must establish the Vegetated Buffer Area prior to the commencement of any Industrial Development on the Land and maintain the Vegetated Buffer Area in accordance with the approved vegetation management plan to the satisfaction of the Council.
- 7.4 If requested by the Council in writing, the Developers are to dedicate the Vegetated Buffer Area to the Council free of cost by the time specified in the Council's written request.
- 7.5 Any dedication required by clause 7.4 is taken to have been made for the purposes of this Agreement when the Council is given:
 - 7.5.1 an instrument in registrable form under the Real Property Act 1900 duly executed by the Developer as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
 - 7.5.2 the written consent to the registration of the transfer of any person whose consent is required to that registration, and
 - 7.5.3 a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 7.6 The Developers are to do all things reasonably necessary to enable registration of the instrument of transfer by the Council to occur.
- 7.7 The Developers are to ensure that land required to be dedicated to the Council under this Agreement is, at the time of its dedication, free of all encumbrances and affectations (whether

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.

- 7.8 The Developers are to permit persons authorised by the Council to enter and inspect the Vegetated Buffer Area created for the vegetated buffer area for the purposes of enabling the Council to determine whether the Developers have complied with the approved vegetation management plan and, if the Council has requested the dedication of the Vegetated Buffer Area, whether the area is in a suitable state for dedication to the Council..
- 7.9 Nothing in this Agreement requires the Council to accept the dedication of the Vegetated Buffer Area if, at the time of the dedication, the Developer is in breach of its obligations under clause 7.2, 7.3 or 7.8.

8 Existing Dwelling on Lot 1 DP 817406

- 8.1 The Developer is not to use or cause, suffer or permit the use of the dwelling situated on Lot 1 DP 817406 at the date of this Agreement for any residential purpose, including but not limited to use as a dwelling, after the LEP takes effect.
- 8.2 Not later than **90 days** after the LEP takes effect, the Developers are to carry out works to the satisfaction of the Council to render the dwelling referred to in clause 8.1 uninhabitable for any residential purpose.
- 8.3 Nothing in clause 8.1 or 8.2 prevents the dwelling referred to in those clauses from being demolished or moved to another location subject to compliance with any applicable laws.

Part 3 – Other provisions

9 Enforcement in a court of competent jurisdiction

- 9.1 Without limiting any other remedies available to the Parties, this Agreement may be enforced by either Party in any court of competent jurisdiction.
- 9.2 For the avoidance of doubt, nothing in this Agreement prevents:
- 9.2.1 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,
- 9.2.2 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.

10 Dispute Resolution - mediation

- 10.1 This clause applies to any dispute under this Agreement.
- 10.2 Such a dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the dispute.
- 10.3 If a notice is given under clause 10.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the dispute.
- 10.4 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.

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

- 10.5 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.

11 Registration of this Agreement

- 11.1 The Parties agree to register this Agreement for the purposes of s93H(1) of the Act.
- 11.2 Upon execution of this Agreement, the Developers are to deliver to the Council in registrable form:
- 11.2.1 an instrument requesting registration of this Deed on the title to the Land duly executed by the Developers, and
 - 11.2.2 the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 11.3 The Developers are to do such other things as are reasonably necessary to enable registration of this Agreement to occur by the Council.
- 11.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Agreement from the title to the Land once the Developer has completed its obligations under this Agreement to the satisfaction of the Council.

12 Assignment, Sale of Land, etc

- 12.1 Unless the matters specified in clause 12.2 are satisfied, the Developers are not to do any of the following:
- 12.1.1 if the Developers are the owner of the Land, to transfer the Land to any person, or
 - 12.1.2 assign or novate to any person the Developer's rights or obligations under this Agreement.
- 12.2 The matters required to be satisfied for the purposes of clause 12.1 are as follows:
- 12.2.1 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
 - 12.2.2 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,
 - 12.2.3 the Developers are not in breach of this Agreement, and
 - 12.2.4 the Council otherwise consents to the transfer, assignment or novation.

13 Notices

- 13.1 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:
- 13.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
 - 13.1.2 faxed to that Party at its fax number set out in the Summary Sheet, or

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

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

13.2 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.

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

13.3.1 delivered, when it is left at the relevant address.

13.3.2 sent by post, 2 business days after it is posted.

13.3.3 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.

13.4 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.

14 Costs

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

15 Entire Agreement

15.1 This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with.

15.2 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.

16 Further Acts

16.1 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.

17 Governing Law and Jurisdiction

17.1 This Agreement is governed by the law of New South Wales.

17.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.

17.3 The Parties will not object to the exercise of jurisdiction by those courts on any basis.

18 No Fetter

18.1 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.

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

19 Representations and Warranties

19.1 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.

20 Severability

20.1 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.

20.2 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.

21 Modification

21.1 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.

22 Waiver

22.1 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.

22.2 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.

22.3 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.

23 Explanatory Note Relating to this Agreement

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

23.2 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.

9.1 **Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC**

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

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"



1160721

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

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 **DIRECTOR, STOVILLE PT**

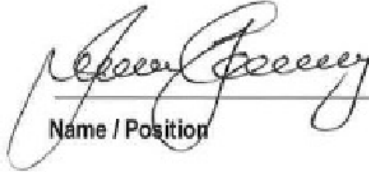


Witness / Name / Position **Paul Gallen .
Sales / Distributors .**

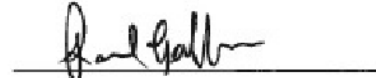
9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

JC & RM Fleming


Name / Position

JOHN FLEMING
MANAGING DIRECTOR


Witness / Name / Position

Paul Gallen
Sales/Distribution.

1160721

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9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

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 [53 929 887 369] of 40 Cherry Street, Ballina, NSW 2478 (**Council**)

Stoville Pty Ltd Pty Ltd ABN [82 839 837 370] of PO Box 480, Alstonville, NSW 2478 (**Developer**)

JC & RM Fleming of 8 Bertram Place, Wollongbar, NSW 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 under the *Ballina Local Environmental Plan 1987* to Zone IN1 – General Industrial under the *Ballina Local Environmental Plan 2012*.

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

This Agreement commits the developers to:

- proceeding with subdivision of the Land by consolidating it with Lot 2 DP 707837; and
- demolishing, removing to another site or rendering uninhabitable the existing dwelling on the land.
- establishing and maintaining a vegetated buffer area on the Land.

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

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

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.

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

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing services to the community by way of resolving a long-standing land use conflict,
- providing services to the community by facilitation the orderly and efficient use of land, and
- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.

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

The Planning Agreement does not affect or conflict with Council's Capital Works Program.

1160721

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Appendix 7 – Public Authority Submissions



Department of
Primary Industries

Our Ref: OUT13/22651
Your Ref: BCSP 12/002 Robb St Alstonville (13/40304)

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

Attention: Lachlan Sims

Re: Planning Proposal BCSP 12/002 Robb St Alstonville (13/40304)

In response to your letter on the 15/7/2013 NSW Department of Primary Industries (NSW DPI) Agriculture has reviewed the matter.

Agriculture NSW commends Ballina council on its efforts in maintaining the integrity of the rural zonings and buffers. The protection of rural lands from development speculation is needed to give confidence and consistency to those proposing to enter or already conducting a primary industry enterprise because: rural land prices need to be based on the productive capacity of the land not on speculative development prices such as industrial or rural residential prices; and primary industries' competitiveness must not be reduced by restriction on normal management practise as a result of land use conflict.

The proximity between the rural residence and the industrial zone is less desirable but appears acceptable if an adequate buffer had been maintained. However, the rural landholder appears to have forgone there ability to maintain a reasonable buffer between the industrial area through leasing part of the property for industrial purposes.

Agriculture NSW is informed that the subject area has been identified as State Significant Farmland. It is not in the regions or states interest to undermine the importance of land that is identified as State Significant Farmland. Land with the best combination of soil, climate, topography and water for agricultural production is a limited resource in New South Wales and should be maintained.

Agriculture NSW is informed that the subject land is not identified for future development under any land use strategy in addition there is already adequate land available for future industrial development within 200m of the current storage area namely lot 2 DP 1169153 and other vacant lots such as Lot 6 DP 258150; and Lot 20 DP 258150.

The planning system is not be responsible for catering for individual business decisions however, plays a vital role in providing confidence and consistency to those proposing to enter or already conducting business that zoning integrity will be maintained. It appears that there

NSW Department of Primary Industries
161 Kite Street, Orange NSW 2800
Locked Bag 21, Orange NSW 2800
Tel: 02 6391 3100 Fax: 02 6391 3336 www.dpi.nsw.gov.au ABN: 72 189 919 072

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

are adequate alternatives available in the form of vacant lots and an area identified for future industrial release that the significance of undermining the importance of State Significant Farmland is not warranted.

Agriculture NSW supports strategic planning where a change in land use appears to be desirable. Spot rezonings and other ad hoc approaches to planning are undesirable and not supported.

Agricultural industries are a fundamental asset to the state of NSW as they provide a long term means of providing employment, raw materials and fresh safe secure food while supporting regional communities.

Should you wish to seek further comment or advice please contact me on 02 67631142 or e-mail andrew.scott@dpi.nsw.gov.au

Thank you,



.....

Andrew Scott
A/Leader Land Use Planning

7 August 2013

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 1300 NSW RFS
e-mail: csc@rfs.nsw.gov.au

Facsimile: 8741 5433



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

Your Ref: PP BSCPP 12/0002
Our Ref: L12/0003
DA13071888248 PC

ATTENTION: Mr Lachlan Sims

5 August 2013

Dear Mr Sims

Planning Instrument for 1//817406 - Ballina LEP 2012 - Pp Bscpp 12/002 - Robb Street Alstonville

I refer to your letter dated 15 July 2013 seeking advice for the above Planning Instrument in accordance with the 'Environmental Planning and Assessment Act 1979'.

The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire.

For any queries regarding this correspondence please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely

Alan Bawden
Team Leader - Development Assessment & Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

BSCPP 12/002 - Robb Street, Alstonville
REGISTER OF SUBMISSIONS

No.	Name	Address	Date
1	Norma & Lance Kennaugh	lance.k@bigpond.com	08/08/2013
2	Wollongbar Progress Association	emperkins@oneseniors.com.au	11/08/2013
3	Leone Frogley	PO Box 70, Alstonville	07/08/2013
4	Dorothy Crawford	22/14 Alston Ave, Alstonville	12/08/2013
5	Ted & Marilyn Perkins	3 Wollongbar Dr, Wollongbar	13/08/2013
6	Robert Wilson	robert.wilson46@gmx.com	13/08/2013
7	Rose, Grace & Ruth Forsythe	roseforsythe@bigpond.com	15/08/2013
8	Tim Reilly	proponent	14/08/2013
9	Rosalie Lipscomb	douglee@virginbroadband.com.au	16/08/2013
10	Doug Lipscomb	douglee@virginbroadband.com.au	16/08/2013
11	Meredith Gardiner	meredith.gardiner@gmail.com	16/08/2013
12	Heather Bettinzoli	heathrob1013@gmail.com	15/08/2013
13	Jane Gardiner	16 Valley Dr, Alstonville	14/08/2013
14	Robert Bettinzoli	doctorrob54@gmail.com	16/08/2013
15	Malcolm & Judy Johnson	29 Godfrey Pl, Alstonville	16/08/2013
16	Shirley Felsch	4 Rubiton St, Wollongbar	15/08/2013
17	DN Brown	3/22 Stanley Park Rd, Wollongbar	15/08/2013
18	Diane Robertson	15 County Ct, Wollongbar	12/08/2013
19	Graeme Robertson	15 County Ct, Wollongbar	14/08/2013
20	Merle Packham	3 Maple Dr, Alstonville	16/08/2013
21	Alison Siliakus	14 Acacia St, Wollongbar	14/08/2013
22	Margaret Brown	3/22 Stanley Park Rd, Wollongbar	13/08/2013
23	Margaret Webb	44 Rifle Range Rd, Wollongbar	13/08/2013
24	Catherine Black	13 Queens Park Ct, Wollongbar	16/08/2013
25	Geoff Gardiner	16 Valley Dr, Alstonville	14/08/2013
26	Graham Black	13 Queens Park Ct, Wollongbar	16/08/2013
27	Judith Allen	PO Box 412, Alstonville	16/08/2013
28	Bill Boyd	34 Alston Ave, Alstonville	16/08/2013
29	Ian Taylor	68 Shaws Ln, Tuckombil	16/08/2013
30	Megan Daley	19 Joindre St, Wollongbar	19/08/2013
31	Esme Daley	PO Box 3101, Wollongbar	19/08/2013
32	Paul Earner	20 Lismore Rd, Alstonville	19/08/2013
33	Lesley Earner	20 Lismore Rd, Alstonville	19/08/2013
34	Ballina Environment Society	PO Box 166, Ballina	20/08/2013
35	Effie Ablett	519 Pearces Creek Rd, Alstonvale	21/08/2013
36	Geolink (for proponent)	PO Box 119, Lennox Head	19/08/2013

Lachlan Sims

From: Janeane Burke on behalf of Ballina Shire Council
Sent: Friday, 9 August 2013 8:15 AM
To: Lee Hillyard
Subject: FW: Rezoning proposal in Environmental Buffer Zone

From: lance.k@bigpond.com [mailto:lance.k@bigpond.com]
Sent: Thursday, 8 August 2013 9:31 PM
To: Ballina Shire Council
Subject: Rezoning proposal in Environmental Buffer Zone

We wish to record our very strong opposition to the rezoning proposal of any portion of the enviromental buffer zone between Wollongbar and Alstonville villages

Norma and Lance Kennaugh

Lachlan Sims

From: Janeane Burke on behalf of Ballina Shire Council
Sent: Monday, 12 August 2013 8:18 AM
To: Lee Hillyard
Subject: FW: General Manager: WPA Submission on Planning Proposal BSCPP 12/002 July 2013
Attachments: SUBMISSION - REZONE.pages; ATT00001.htm; LEP Review 2012-02-18. MAY 17-5.01
Ballina Planning Team Report against.pdf; ATT00002.htm

From: marilyn perkins [<mailto:emperkins@oneseniors.com.au>]
Sent: Sunday, 11 August 2013 5:41 PM
To: Ballina Shire Council
Subject: General Manager: WPA Submission on Planning Proposal BSCPP 12/002 July 2013

Mr P Hickey, General Manager,
Ballina Shire Council,
Ballina

Dear Mr Hickey,
Please find attached WPA Submission on **Planning Proposal BSCPP 12/002 July 2013, and the State Planning Team Report.**

Thankyou,

Marilyn Perkins,
Secretary,
Wollongbar Progress Association Inc.

Wollongbar Progress Association Inc

SUBMISSION:

Planning Proposal BSCPP 12/002 July 2013

Robb Street, Alstonville

History:

In 1980s a DA was submitted for a significant residential subdivision that would have joined Wollongbar and Alstonville. At the time, both communities worked really hard to ensure that this did not happen, and that each village retained its own identity. Commissioner Simpson sat in Ballina, and heard the combined submission from Alstonville and Wollongbar communities. Community effort resulted in the buffer being enshrined in the Council's 1987 LEP, thus ensuring that urban development could not happen anywhere within this buffer.

Other Regional and State planning instruments have been implemented since then, that further protect this buffer land.

Since 1987 a number of DA applications have gone to Council for development within that buffer, but all have been refused. For example, in 1994, an application came to Council for a variation of the LEP : Alston Park Development. This is a quote from the WPA submission:

the documents are impressive. Anyone unfamiliar with the local history, topography and sociology of the area, on reading these documents, would likely concede a case for the submission
(p.2, October 1994)

This 1994 application, by the way, was a 're-run' of the Application that had been refused in 1984.

Some Councillors would be aware of a number of attempts by the Seventh Day Adventist Village, on Pearces Creek Rd, to expand into the buffer zone; fortunately, each application has been refused.

The owner of the farm land adjacent to the land that is the subject of this planning proposal has a residential subdivision planned, and has recently been to Council to monitor progress of this current proposal.

Current Proposal:

The Planning Proposal that is before you today was refused in 2002. The reasons for refusal in 2002 remain valid, as the only change since then is the intensity of unauthorised industrial activity on the land in question: Council's resolution of 2002 has been simply ignored, and illegal use of the land has continued and intensified, including installation of hard surface areas.

The Robb St planning proposal includes emotive language in places, and again, the words in the WPA submission of 1994 apply:

Anyone unfamiliar with the local history, topography and sociology of the area, on reading these documents, would likely concede a case for the (proposal). (p.2)

However, the Robb St proposal has no justification. The Plateau community is relying on Council to carefully study and analyse the documents associated with this rezoning from an objective viewpoint.

Taken singularly, rezoning this small parcel of land would seem of minor significance. Nothing could be further from the truth: the potential for impact on Plateau residents of this 'small' decision looms large.

Council Report April 2012. Item 9.3: BLEP Amendment Request:

- There are sufficient stocks of industrial land in the vicinity for the foreseeable future (until 2028) (p.3 of report)
- There are alternative means of resolving the land use conflict (p.5 of report)
- the planning proposal is considered to be inconsistent with several Ministerial directions as detailed above and as such may not be supported by the Department of Planning and Infrastructure. (p.9 of report)
- ... will likely result in positive economic benefits for both the proprietor of the industry and the owner of the subject land. (p.10 of report)

9.3 Staff RECOMMENDATION April 2012

That Council ceases further action in relation to the planning proposal for the rezoning of part of Lot 1 DP 817408 on the basis that the proposal is inconsistent with local and state planning policies and statutory requirement

2

Compliance:

Ballina Shire :

This Planning Proposal contravenes

* **BLEP 7(i) Environmental Protection (Urban Buffer) Zone 1987 (proposed E3 Environmental Management Zone BLEP 2012)**

* **Industrial & Commercial Audit 2008** (sufficient Industrial Zoned land for projected demand until 2028)

* **Community Strategic Plan**

State / Regional:

This Planning Proposal contravenes

* **'State Significant' Prime Farm Land**
(Northern Rivers Farmland Protection Project Map)

* **Standard Instrument (LEPSS) Order 2006**

* **SEPP Rural Lands 2008**

* **Far North Coast Regional Strategy**

* **North Coast Regional Environment Plan (is deemed a SEPP) (p.3 Planning Team Report)**

* **Section 117 Directions:**

1.1 **Business & Industrial zones**

1.5 **Rural Lands**

2.1 **Environmental Protection zones**

5.1 **Implementation of Regional Strategies**

5.3 **Farmland of State & Regional Significance**

State Planning Justification: s55(2)(c)

* **Proposal is not the result of any strategic study or report.**

* **Proposal does not deliver any net community benefit**

Extracts from State Dept **Planning Team Report** 11th May 2012

A team of planners from the State Dept of Planning prepared a report on the Robb St planning proposal to rezone in May 2012. While the full report is attached, the following are pertinent excerpts from it:

- * The planning proposal has attempted to justify the inconsistencies with the section 117 Directions and the North Coast REP. However, **the justification for the inconsistencies is considered to be inadequate.** (p.3)
- * The State Significant Farmland designation has not been compromised here or anywhere else it applies, even for a small area. **To do so here, to allow an extension of an industrial zone would set a significant precedent.** (p5)
- * The planning proposal **is not justified by a strategy endorsed by the Department, nor does it provide adequate reasons to compromise the long standing 7(l) Environmental Protection (Urban Buffer)** (p6)
- * ... (planning proposal) is of minor significance in terms of area, **it is not minor in terms of impact & precedent in environmentally significant areas.** (p.6)

Planning Report Section (2)(a)

Q. Should the matter proceed? A. No

Reasons: ... encroachment into urban buffer land identified State Significant Farmland ... no identified need for additional industrial land ... **There are ... alternative means of resolving the land use conflict ...** (p.8)

Concluding recommendation:

... **it is not possible to justify an inconsistency with section 117 direction 5.3,** having regard to the significance of the Farmland Protection Policy, as it relates to State Significant Farmland (see "Assessment" above) (p.9)

Community Concern:

There are a number of issues associated with this proposal: long term unauthorised use of the land; non-compliance with a number of Ballina Council policy documents, non-compliance with Regional and State policies. A most significant issue is that State Significant Farmland has never been compromised anywhere: this proposal will compromise that State policy, and set a potentially far-reaching precedent, not just locally, but state-wide. (State Planning Team Report).

The primary concern of locals is the precedent this rezone would set, in terms of urban settlement; we know that a number of developers have waited for years for an opportunity to 'develop' on that wonderful space on the Plateau that is the buffer!

We believe we have the right to remain two communities, with different community characteristics, and different community focus; and, with a population size conducive to community social interaction. Any rezoning in the protected buffer area will put this in jeopardy.

We believe a number of applications for rezoning within the buffer zone will be a direct result of Council endorsement of this proposal.

Conclusion:

This planning proposal to rezone protected urban buffer State Significant Farmland to Industrial is not about individual businesses. It is not about individual families. It is about the future character and amenity of the two Plateau settlements of Alstonville and Wollongbar. It is about the shape of daily life for people who live on the Plateau.

If this rezoning proposal is endorsed, it will be the beginning of the end of 'community' as we currently know it on the Plateau. Subsequently, Council will be dealing with a number of proposals for intrusion into the buffer, with various rationales. But, each will cite the precedent set by this particular rezoning!

We, as local communities, rely on you, our Council representatives, to act in the best interests of the whole Plateau population: **refuse this planning proposal to rezone.**

Marilyn Perkins, Secretary, Wollongbar Progress Association Inc.

P.O. Box 70
Alstonville
7.8.13

Ballina Shire Council
Planning Division

Please don't take any more of
the buffer zone between Alstonville
& Wollongbar! Already the
Plateau is filling up with
developments with tiny blocks
& many houses in small spaces
so don't designate industrial
zone so further compounds
space this buffer zone area!

Sincerely

(Mrs) Leone Frogley

Mr Paul Hickey
General Manager
Ballina Shire Council

D. Crawford
22/14 Alston Avenue
Alstonville 2477

12th August 2013

Dear Mr Hickey,

I am writing in response to the proposal to rezone Lot 1 Robb Street Alstonville from Environmental Protection (Urban Buffer) to Industrial land.

The charm of the Plateau area is the villages dotted here and there between the agricultural farm land. Each village has its own identity.

The buffer zone between Alstonville and Wollongbar which is already small, to reduce it still further would be a very great shame.

So Ballina Shire Councillors please give this matter your very earnest consideration and remember once gone its gone for good.

Yours faithfully



Dorothy Crawford



3 Wollongbar Drive,
Wollongbar 2477
13th August 2013

Mr P Hickey, General Manager,
Ballina Shire Council,
BALLINA

Submission:

Planning Proposal BSCPP 12/002 July 2013. Robb Street, Alstonville

BUFFER HISTORY

As Council would be aware, at the time the DLEP was exhibited in 1980s, the Plateau communities of both Alstonville and Wollongbar worked together to ascertain community views, in order to prepare a submission. Commissioner Simpson's report to Council ensured that an Environmental Buffer was established to 1) conserve prime farming land, and 2) delineate the villages of Alstonville and Wollongbar, and ensure that each had the capacity to develop its own character and amenity.

A number of State policies have since consolidated protection of the important farmland that comprises the buffer.

Over the last 26 years, a number of DAs have come to Council, in attempts to establish residential developments, or to expand existing developments into the buffer. Each application has been refused, and Plateau communities appreciate the stand Council has taken in this regard.

Council has residential development plans in place, for both villages, to ensure growth is in line with strategic plans and policies. New residential land is currently being released in Wollongbar, under a growth strategy that dates back to Commissioner Simpson's report (see Recommendations 1,2,3, p.30, 1985) .

PLANNING PROPOSAL 12/002 July 2013

This proposal has a long history with Council, being first dealt with in 2002 when Council received **complaints** from the tenants of the house (on Stoville land) about **night-time noise**. Duraplas was operating illegally, as they did not have approval for night time / 24 hour operation. The landowner, Stoville, believed the "solution" was to rezone the area to Industrial.

Council refused the planning proposal to rezone, and gave the participants a time limit to reach a solution on noise, and included possible alternatives. This Council resolution was simply been ignored, as William Bros (Service) P/L (Duraplas) has consolidated their use, with increased storage and installation of hard surfaces, on the Stoville land.

The proposal to rezone to Industrial land was again submitted, by Geolink acting for Stoville, during the exhibition of DLEP 2010. In a puzzling decision, Council's Environment and Sustainability Committee decided to Invite landowners to progress the matter via a planning proposal (Submission No 68, Attachment 1, DLEP 2010 - Public Exhibition Submissions Review, Matters Arising From the Public Exhibition of the Draft LEP)

Geolink Report (for Stoville) to April 2012 Council Meeting:

When this proposal came to April 2012 Council Meeting, the Geolink report stated :

the dwelling on Lot DP 817406 was located in its current position when the adjoining land was initially zoned for industrial use, and it was located in its current position when the Russellton Industrial Estate was designed and laid out. (p. 137, Request for LEP Amendment, 26/4/'12 Meeting Attachments).

This is true, but the land was in different ownership: Stoville purchased the property in question in the early 1990s, after the land was zoned and after the Industrial Estate established.

The Geolink report also states:

...situation prevents the owners of Lot DP817406 from continuing residential use of the property, as they cannot get approval for another dwelling on the property (p. 137, Request for LEP Amendment, 26/4/'12 Meeting Attachments).

Again, true. But the owners have never lived in this house, it has always been tenanted, and the house could be relocated to another part of the property, as suggested by Council in 2002.

Further,

Stoville cannot ... continue this arrangement (Duraplas leasing the house) indefinitely, as it **prevents the full use of the rural property** (p.143).

However, in discussion about protection of agricultural land, the argument changes:

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 will not undermine the integrity of the remaining parcel, particularly **given that the subject are has not been used for agricultural production (p145)**

The report includes unsubstantiated comment that could be considered 'emotive language'.

It is apparent ... that there is no suitable land available and without a resolution to the current conflict, the business would undoubtedly be lost to the local area (p . 143)

There is a solution to the conflict: relocate the house.
There is industrial land available, adjacent to current Duraplas land. In fact, Duraplas has an arrangement with Council to use this large area of Industrial land that adjoins their back boundary. The land is sloping, but not steep.

Compliance:

In terms of Compliance, this proposal contravenes Ballina Shire's LEP and Community Strategic Plan. At Regional and State level, this proposal contravenes the Far North Coast Regional Strategy, SEPP Rural Lands 2008, SEPP North Coast Regional Environment Plan, State Significant Prime Farm Land, and five Section 117 Directions.

The Dept. Planning Team report states

*... the subject land is designated as State Significant Farmland ...
The State Significant Farmland designation has not been compromised here or anywhere else it applies, even for a small area. To do so here ... would set a significant precedent
(p.5, Planning Team Report, May 2012).*

The Planning Team report goes on to say

*The assessment provided by the planning proposal did not satisfy ... threshold sustainability criteria and the merits of the proposal were considered to be limited. The rezoning is not justified by a strategy endorsed by the Department and it is not considered to be of minor significance
(p.6, Planning Team Report, may 2012).*

Council's Position:

Council has sufficient stock of Industrial land across the Shire, including Russellton Estate, until 2028. (Ballina Shire Industrial & Commercial Audit 2008), with land available adjacent to current Duraplas land, so there is no need for further rezoning of Industrial land.

On the basis of sound reasoning, detailed in the Report to Council Meeting of April 2012, Staff recommended

That Council ceases further action in relation to the planning proposal for the rezoning of part of Lot 1 DP 817406 on the basis that the proposal is inconsistent with local and state planning policies and statutory requirements.

Ballina Shire Council Ordinary Meeting **26/04/12** p. 52

Community Position:

Both Wollongbar and Alstonville communities have grown and developed in different ways: people who decide to live on the Plateau also decide on the community in which they wish to settle.

Whilst this planning proposal might be put forward as small in size, therefore small in impact, and as 'rounding off' or 'tidying up' the Industrial estate, these contentions belie the reality: if this rezoning proposal is endorsed by Ballina Council, it will be the beginning of the end of 'community' as we know it in our villages on the Plateau.

Given the history of attempts to develop within the Environmental Buffer, Council will be dealing with a number of proposals for intrusion into the buffer, with various rationales. But, each will cite the precedent set by this particular rezoning!

Please prioritise the village populations of Alstonville and Wollongbar in your decision making, and do not support this planning proposal to rezone.

Ted and Marilyn Perkins.

Lachlan Sims

From: marilyn perkins [emperkins@oneseniors.com.au]
Sent: Wednesday, 14 August 2013 10:35 PM
To: Ballina Shire Council
Subject: Proposed plan for Robb Street
Attachments: Buffet Zone in Robb Street 2013 No2.doc; ATT00001.htm

Begin forwarded message:

From: Robert Wilson <robert.wilson46@gmx.com>
Subject: Proposed plan for Robb Street
Date: 14 August 2013 7:17:19 PM AEST

Ballina Shire Council.
Attention the General Manager.

Mr Paul Hickey,
Attached is a letter to Ballina Shire Council regarding the planning proposal for Robb Street in the Russellton Industrial Estate Alstonville.

Kind Regards
Robert C Wilson

13th August 2013

The General Manager
Ballina Shire Council
40 Cherry Street
Ballina
NSW 2478

Regarding the Planning Proposal for Robb Street
Alstonville Russellton Industrial Estate.

Attention: Mr Paul Hickey,

I am concerned about the planning proposal for Robb Street in the Russellton Industrial Estate and understand it will encroach on the existing Buffer Zones.

I strongly believe if this is allowed to go ahead it will have a major effect on these Zones that were put in place many years ago.

It will also open the gate for more planning proposals encroaching on the established Buffer Zones which would be detrimental to the Plateau settlements of Alstonville and Wollongbar.

There are many other areas of industrial land within the Estate that could be utilized rather than interfere with the existing Buffer Zones.

Robert C Wilson
Past President
Alstonville and District Ratepayers Association

7

Lachlan Sims

From: roseforsythe@bigpond.com
Sent: Thursday, 15 August 2013 12:56 PM
To: Ballina Shire Council
Subject: Development Alstonville, Wollongbar Buffer Zone

Dear Sir/Madam,

I would like to submit my strong objection to any development of this buffer zone. It is environmentally damaging to this beautiful area and the two villages need to retain their identity as two separate villages as has been the idea all along. This land has been zoned as a buffer zone for many years and all applications have been denied. Why now are you looking at changing the goalposts, and how much money is involved in this destructive development application.

This is prime agricultural land and plays a huge service in this area, Food is the future for this country and we live in an area of natural beauty and ideal for agriculture, I would remind council, like every other government organisation that they are caretakers of the shire, and their role is to preserve not destroy; once this land is developed it will be the open door to developments everywhere in the area. So it must not go ahead.

It will also destroy habitation of wildlife in the area.

Yours Sincerely,

Rose and Grace and Ruth Forsythe

RECEIVED
14 AUG 2013
COUNTER

8
**RECORDS
SCANNED**
15 AUG 2013
Doc No.....
Batch No.....
JULY 13

RESPONSE TO PLANNING PROPOSAL BSC PP 12/002

ROBB ST ALSTONVILLE

Last night it was brought to my attention by a neighbour that the local ABC featured a segment (Tuesday 13 August) on the Ballina Shire Council planning proposal 12/002 Robb St. Alstonville.

I have no idea who participated or organized this lengthy segment, or what was discussed, but I am disappointed that neither John Fleming or myself were advised that the segment was organized, so that balance could be put into the discussion as to the motivations for the proposal.

It is my understanding that only the negatives were voiced to the proposal (the negatives are minor to my view point compared to the positives) raising the emotional temperature, and I now intend to outline the positives. On this point, Council's Planning Proposal BSC PP 12/002 is very light on the positives and the impact of a negative outcome to Duraplas jobs. Furthermore, I would like to put on the record that both I and John Fleming (Duraplas) would be happy to address community meetings such as the Wollongbar Progress Association or the Alstonville Plateau Association on why the planning proposal is such a 'common sense' solution.

THE POSITIVES.

The major issue is noise, and mainly the noise at night. Duraplas work a 24 hour production system which is important for their viability (see Appendix 1 for John Flemings memo.) The process of the tank manufacture includes unbolting of huge moulds with air impact equipment. Bolt sizes are similar to those anchoring large electricity pylons or ski lift supports . It fails all the noise legal limits and is an acknowledged problem by Council. Also used are fork lifts with beeping in reverse when tanks are taken from the moulds to storage. Duraplas have a capacity of 400 tanks per week, and so the frequency of tank unbolting and transport to storage is often. At night is impossible for most people to sleep and Council and the Police are well aware of the problem as they were called out on numerous occasions by previous tenants. John Fleming in Appendix 1 states that, "ANY CHANGES TO THE CURRENT PRODUCTION WILL GREATLY AFFECT THE VIABILITY OF THE BUSINESS, CAUSE MANY JOB LOSSES AND WILL ADVERSELY AFFECT THE LOCAL ECONOMY." This is the central issue.

In Councils exhibition report, the question is asked:- **Is there a net community benefit?**

According to the exhibition report: "The planning proposal will result in minimal net community benefit, although it will support the current operations of a substantial local industry."

This is a massive understatement

. Duraplas have 40 employees. Input – output multiplier studies undertaken by the University of Queensland some years ago would indicate a multiplier effect of 3-4 extra jobs per worker. Over 100 jobs could be effected. Duraplas would be the major employer in the Russelton Industrial Estate and

2

would be one of the significant employers in the Ballina Shire. If this night shift was cut out to comply with noise laws and Councils requirements, the whole of Duraplas's viability could be threatened.

THE NEGATIVES.

BUFFER ZONE It appears that most opposition to the plan is due to incursion into the Urban Buffer and the precedent it could set. I would consider this to be a unique case and a 24 hour noisy industry should never have been located next to a domestic dwelling in the first place. Council would not allow this to happen in future. Unfortunately Duraplas have invested many millions of dollars in ovens and infrastructure and relocating the industry elsewhere would now defy common sense.

Furthermore, to get this solution to the current stage has taken over 12 years and massive expenditure with volumes of reports. It should be seen as a deterrent for any other rezoning proposal by another party.

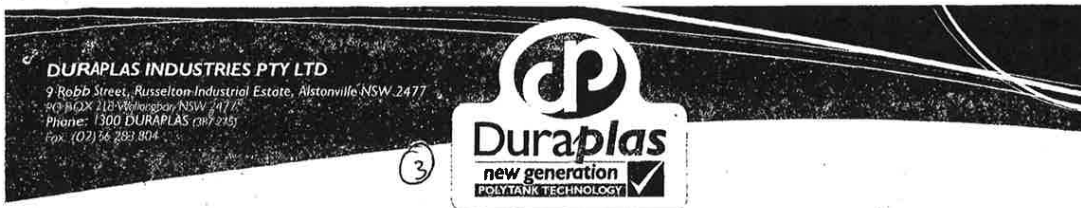
FARMING LAND The amount of land to rezone is only 6800 square meters, a large house block. It was lost to farming when Russelton Industrial Estate was commenced decades ago. Industrial buildings have bounded the land on two sides for at least 30 years. Farming this small area of land has never been possible and in the past decade it has been sealed and used for industrial purposes. Nothing will change if the proposal is successful.

INDUSTRIAL LAND Although totally irrelevant to the current proposal, the Council report makes reference to the supply of Russelton Industrial Estate land as being adequate for the short to medium term. Based on the historical uptake over time, this would be debatable. John Fleming (Appendix 1) states, "It has been suggested that there is plenty of industrial land stock available for future needs. I don't believe this is the true situation as other businesses in the estate (other than Duraplas) have had future expansion plans on hold because of the lack of suitable land."

CONCLUSION

For the Planning Proposal to be adequately assessed, the impact on Duraplas and the 40 local jobs must be taken into account. One would hope that common sense will prevail and the current proposal will mean that nothing will change on the ground. Planning should be flexible for unique cases and this is a totally unique case. If the proposal fails jobs will be lost and no gain will be obtained for farm land or the buffer. Twelve years of sensible planning would also be wasted.

*JCC Reilly
Director, Stroud PC
14 August, 2013.*



APPENDIX I

23/4/12

The Councillors

Ballina Shire Council

PO BOX 450

Ballina NSW 2478

Dear Councillor,

As you are no doubt aware Duraplas Industries Pty Ltd is a major manufacturer based in Alstonville and employing over 40 local personnel. Any changes to the current 24 hour production will greatly affect the viability of the business, cause many job losses and will adversely affect the local economy.

Since commencing 24 hour production over 10 years ago Duraplas has made every effort to ensure all parties were happy and it is worth noting that no noise complaints have arisen.

The rezoning of Lot 1 DP817406 is a 'common sense solution' to the land use conflict. It would rectify the original zoning issue of Sept 1977 and would provide a positive outcome for all parties involved. I therefore strongly encourage you to consider it positively.

It has been suggested that there is plenty of industrial land stock available for future needs. I don't believe this is the true situation as other businesses in the estate (other than Duraplas) have had future expansion plans on hold because of the lack of suitable land.

I am committed to working toward a good outcome for all parties involved.

Yours faithfully,

Mr John Fleming

Managing Director



Lachlan Sims

From: Doug Lipscomb [douglee@virginbroadband.com.au]
Sent: Friday, 16 August 2013 6:59 AM
To: Ballina Shire Council
Subject: Reject BSCPP 12/002 July 2013

The General Manager

Ballina Shire Council

Planning Proposal BSCPP 12/002 July 2013

Robb Street, Alstonville Lot 1 DP 817406

Please be advised that I am totally against any alterations to the existing buffer zones. I am advised that Council rejected this same application back in 2002, and can see no good reason as to why any changes should be made now. I am also advised that the applicant has been using this lot of land illegally, and in direct contravention of Council instructions.

The character of the Plateau must be preserved at all costs, and to create any precedent, would ultimately open the floodgates to those that only seek the dollar, at any cost to others.

Yours faithfully

Rosalie Lipscomb

38 Hellyar Drive Wollongbar.

Lachlan Sims

From: Doug Lipscomb [douglee@virginbroadband.com.au]
Sent: Friday, 16 August 2013 6:51 AM
To: Ballina Shire Council
Subject: Planning Proposal BSCPP 12/002 July 2013

The General Manager
Ballina Shire Council.

**SUBMISSION:
Planning Proposal BSCPP 12/002 July 2013
Robb Street, Alstonville.**

As a ratepayer and resident of Wollongbar, I am appalled and horrified at any suggestion that the existing buffer zone between Wollongbar & Alstonville might in any way be rezoned. The variation that is being sought might initially be on a small scale, but the precedent set would allow the “vultures” circling, to jump at the opportunity to carve up our unique village landscape, and destroy the reason so many residents chose to purchase their homes here.

Many residents feel that we were “done over” by Council with the proposed access road from Ramses Street to the new playing fields. Do not again dismiss the wishes of Wollongbar & Alstonville’s residents. We do not want our buffer zone altered in any way. All Councillors that stood at the last election were deafening in their desire to represent the constituents of this wonderful area. If so there will be no secret agendas, and Council will fully liase with the people they purport to represent.

The Planning Proposal that is before you today was refused in 2002. The reasons for refusal in 2002 remain valid, as the only change since then is the intensity of unauthorised industrial activity on the land in question: Council’s resolution of 2002 has been simply ignored, and illegal use of the land has continued and intensified, including installation of hard surface areas.

Yours faithfully
Doug Lipscomb
38 Hellyar Drive Wollongbar.

Lachlan Sims

From: Mere [meredith.gardiner@gmail.com]
Sent: Friday, 16 August 2013 6:13 AM
To: Ballina Shire Council
Subject: Submission: PLANNING PROPOSAL BSCPP 12/002 JULY 2013 ROBB STREET ALSTONVILLE

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

16th August 2013

Dear Mr Hickey,

Submission: PLANNING PROPOSAL BSCPP 12/002 JULY 2013 ROBB STREET ALSTONVILLE

I have heard from my parents that there is a proposal to rezone a section of rural land to industrial land in the Urban Buffer. I was raised on the Alstonville Plateau but now live in an urbanized environment. Living away from the area I can truly appreciate the rural character of the Plateau with its urban areas separated by fruit/nut trees, grazing and/or cropping.

I would like the Urban Buffer to remain in place and the rezoning to be rejected by our Councillors.

Sincerely

Meredith Gardiner

Lachlan Sims

From: heather bettinzioli [heathrob1013@gmail.com]
Sent: Thursday, 15 August 2013 8:51 PM
To: Ballina Shire Council
Subject: buffer zone between Alstonville and Wollongbar att;Mr Paul Hickey

As a resident of Wollongbar I am requesting that the submission to rezone a small parcel of land in the buffer zone between Wollongbar and Alstonville be refused.

I believe if this is not done it will open the door for other requests of the like, and once one has been given permission it's not likely in future it will be refused to others.

As a long term member of the Wollongbar community I would like both villages to stay separate and not end up just one big mass of buildings

yours sincerely

Mrs Heather Bettinzioli

Jane Gardiner
16 Valley Drive
Alstonville NSW 2477
gardiner2477@gmail.com
(02) 6628 3925

14 August, 2013

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

SUBMISSION

PLANNING PROPOSAL BSCPP 12/002 JULY 2013 ROBB STREET ALSTONVILLE

Dear Mr Hickey,

Personal Perspective

I am very disappointed that Councillors have previously agreed to the rezoning of land described as 7 (i) Environmental Protection Urban Buffer to industrial uses. When my family and I chose to settle in Ballina Shire nearly 30 years ago, we built our home in Alstonville for the simple reason that we liked the small village atmosphere and its rural setting. This rural setting was in large part provided by the land we now know at the Urban Buffer. I believe others appreciate this rural setting and am supported in this view by the new Ballina Shire Cultural Plan Issues Paper July which states "*Ballina Shire is within a region of towns, villages and hamlets which enjoy a rural setting*".

Being a past member of the Alstonville & District Citizens and Ratepayers Association, I am aware of the many proposals put forward to rezone this rather small buffer zone. However for at least 26 years our C ward Councillors and those elsewhere have consistently rejected any proposal to rezone. In fact Council refused rezoning of this site in 2002.

So what has now happened for our Councillors to decide to rezone this land?

I am struggling to find any legitimate reasons why the proposal to rezone was ever entertained. I have read various reports from both Ballina Council planners (Council Report April 2012 Item 9.3 BLEP Amendment Request) and the planning team at State Department of Planning & Infrastructure (Team Report 11th May 2012) and all have rejected this rezoning.

Reasons for rejecting the rezoning have included the following:

1. It will encroach into the Alstonville 7 (1) Environmental Protection urban buffer which will set a precedent for further rezoning;
2. It will encroach into State Significant Farmland, a designation which date has not seen any rezoning in Ballina Shire or elsewhere and thus also setting a precedent;
3. The rezoning would be inconsistent with direction 5 of the North Coast REP;
4. It could establish an undesirable precedent through a spot rezoning being used to solve a land use planning conflict;

1

5. There is already adequate supply of industrial land in the Russelton Industrial Estate for any business to use;
6. There is no community benefit from this rezoning;
7. There are alternative means of resolving the land use conflict ie relocating the rural dwelling, relocating the industry or Council could undertake compliance action etc.

Solutions

From my perspective the solution to this land use planning issue should follow good planning practice. As the NSW Department of Planning's publication A Guide to Preparing Planning Proposals states "*Attention (should) be given to the justification of the need for the planning proposal and consideration of whether or not the planning proposal is the best means of achieving its objectives or intended outcomes*".

It would seem Council has several options with regard to this land use conflict issue none of which include rezoning of Buffer land.

1. Relocate the house (preferred option combined with option 2)

The Image 1 shows that Stoville Pty Ltd owns a large rural block which has several entry points, including one from Ellis Road. The relocation of the house to the Ellis Road end of the property should then alleviate any noise problems from the industrial estate.

Given that Stoville Pty Ltd has been keen to assist Williams Bros (Service) Pty Ltd (Duraplas) maintain their business for many years allowing them to rent the dwelling house and use their agricultural land (although this was without Council consent) it may now be time for Williams Bros (Service) Pty Ltd (Duraplas) to assist Stoville Pty Ltd. They could move the dwelling for Stoville Pty Ltd and this would immediately allow them to continue operating 24 hours per day without noise affecting any residences. They would then not have to relocate their now substantial business (a concern raised in the Geolink report). It would be a win-win for all parties and the community would have retained the Buffer Zone.

2. Relocate tanks to Council-owned land behind the Duraplas site (preferred option)

In conjunction with the relocation of the dwelling Williams Bros (Service) Pty Ltd (Duraplas) should be required to remove the tanks to industrial land. This will again allow the Stoville Pty Ltd to fully utilise its agricultural land.

Image 2 shows there is abundant industrial land directly behind the Duraplas operations and it is understood that Duraplas already has an agreement with Council to operate on this land (this has not been confirmed by Council). This would be another win-win for all parties involved.

3. Council could undertake compliance action against Williams Bros (Service) Pty Ltd (Duraplas)

Council has had the option to take action against Duraplas since 2002 but has chosen not to do so. Unfortunately this has exacerbated the situation on the Robb Street land. As you can see from the attached Image 3, Duraplas has established (without approval) a substantial holding facility on the land which has precluded any agricultural activity Stoville Pty Ltd might have wished to undertake in the area.

As the Department of Planning states "Council's enforcement of the relevant environmental standard and compliance with conditions attached to the development consent for industrial

operationswould allow the dwelling to remain and provide accommodation for the macadamia nut farm”.

4. Relocation of the Williams Bros (Service) Pty Ltd (Duraplas) operations to another location within the Russelton Industrial estate.

As there is plenty of unoccupied industrial land within the Russelton Industrial Estate there is the option for Council to encourage Williams Bros (Service) Pty Ltd (Duraplas) to move to another part of the Industrial estate. This of course would be expensive for Duraplas, whose operations are now substantial. This situation would not guarantee that a new business on the present Duraplas land would not follow the same path and create similar land use conflict with the dwelling and macadamia nut farm.

I would like Councillors not to support the rezoning of the Buffer Zone land and to follow good planning practice and retain the character of the Alstonville Plateau. I would like them to uphold the ideals of the Far North Coast Regional Strategy 2006-2013 which seeks to protect the “unique environmental assets, cultural values and natural resources of the Region while ensuring future planning maintains character and provides for economic activities.”

Yours sincerely



Jane Gardiner

Image 1



Image 2

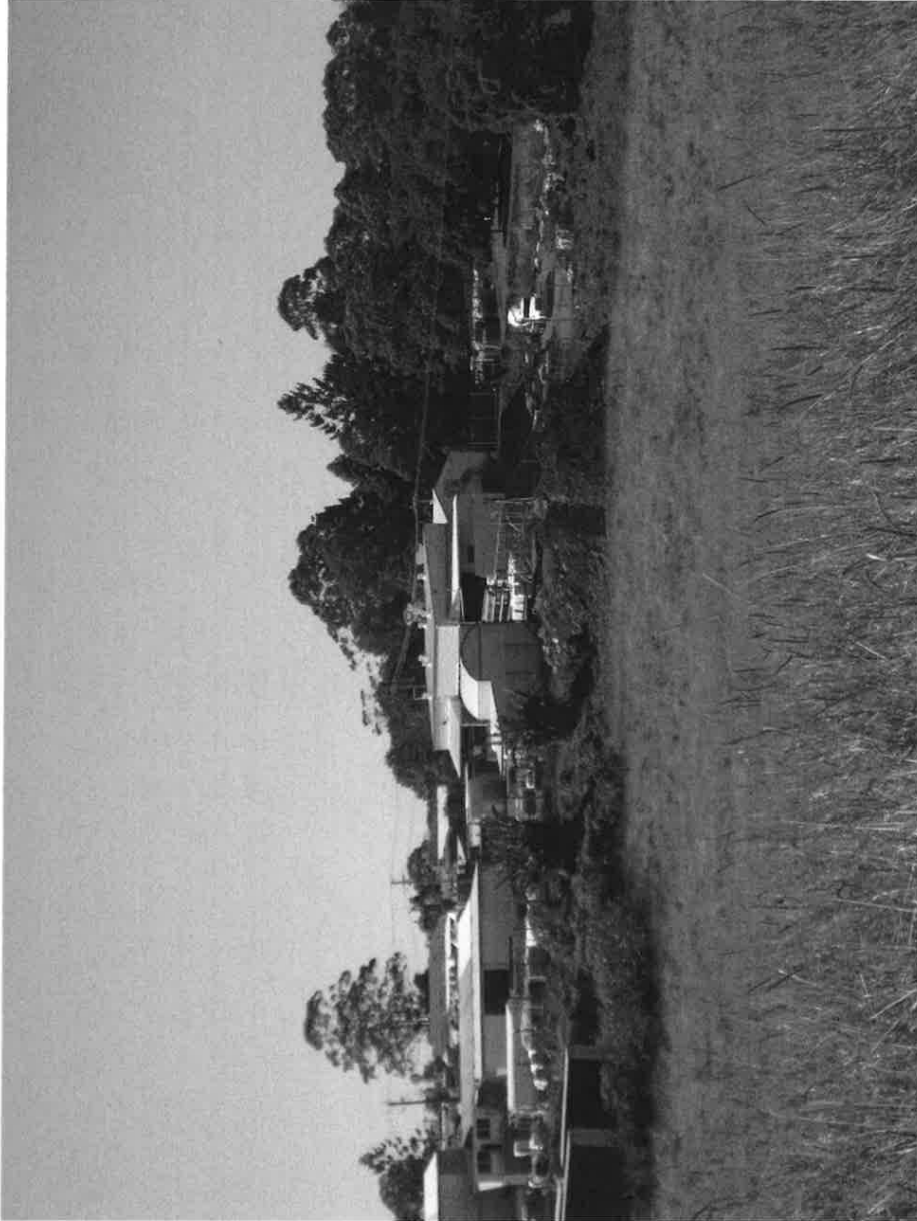


Image 3



Lachlan Sims

From: robert.bettinzoli [doctorrob54@gmail.com]
Sent: Friday, 16 August 2013 10:09 AM
To: Ballina Shire Council
Subject: Att:Mr Paul Hickey,General manager Ballina Council re:buffer zone

In the 1980s a DA was submitted for a significant residential subdivision that would have joined Wollongbar and Alstonville. At the time both communities worked hard so this did not happen, and that each village retained its own identity. Commissioner Simpson sat in Ballina and heard the combined submission from Alstonville and Wollongbar communities. Community efforts resulted in the buffer zone being enshrined in the Council 1987 LEP, thus ensuring that urban development could not happen within this area. The Planning Proposal that is before you today was refused in 2002. The reasons for refusal in 2002 remain valid as the only change since then is the intensity of unauthorised industrial activity on the land in question; Council resolution of 2002 has simply been ignored and illegal use of the land has continued and intensified, including installation of hard surface areas.

9.3 Staff Recommendation April 2012

That council ceases further action in relation to the planning proposal for re-zonning of part of Lot 1 DP 817406 on the basis that the proposal is inconsistent with local and state planning policies and statutory requirement.

There are a number of issues associated with this proposal, long term unauthorised use of the land, non compliance with regional and state policy and it sets a potentially far reaching precedent, not just locally but state wide.

As a community member I rely on council representatives to action the best interest of the whole plateau population and therefore refuse this planning proposal to re-zone.

yours sincerely

Robert Bettinzoli

1244 Bruxner Hwy
Wollongbar 2477

SUBMISSION

Re: PLANNING PROPOSAL LEP 2012
BSCPP 12/002 Robb Street Alstonville
Lot 1 DP 817406 Robb Street Alstonville
Rezoning of land adjoining Russelton Industrial Estate from Environmental Protection
Zone 7 (i) (Urban Buffer Zone) to Industrial Zone (IN 1)

OBJECTION TO THE ABOVE PLANNING PROPOSAL

By: Malcolm and Judy Johnson
29 Godfrey Place, Alstonville NSW 2477
Phone: (02) 6628 1951

As residents and property owners within the Environmental Protection Zone 7(i) (Urban Buffer Zone) we strongly object to the above Planning Proposal based on the following grounds:

1. This proposal is a "sweetheart deal" between the farmer, Stoville Pty Ltd and Williams Brothers (Service) Pty Ltd (Duraplas).

Ballina LEP adopted the Environmental Protection (Buffer Zone) in 1987.

Stoville purchased their Macadamia Farm in 1994 knowing they were located in the buffer zone.

Duraplas submitted their DA in 2000 for Tank Manufacturing located on Industrial Land classification.

In 2002 Duraplas broke the line demarcating the Industrial Zone and the Buffer Zone without legal authority.

In 2002 Stoville's DA to Ballina Council for rezoning farmland in the Buffer Zone to Industrial Zone was rejected by Ballina Shire Council (BSC) after advice by Council Staff not to approve the DA.

In 2012 BSC Planning Staff recommended that Ballina Council should not approve a Voluntary Planning Agreement submitted by Stoville Pty Ltd to rezone 0.68 hectare of Environmental Protection (Buffer Zone) to Industrial for the benefit of Duraplas.

Duraplas had the option to purchase Industrial Zoned land adjacent to their existing property.

In 2012 Ballina Shire Council proposed to NSW Planning that the land be subdivided and rezoned, a farm house be removed and a landscape buffer be established. NSW Planning Staff recommended that this proposal not be approved on the basis that the proposed land for rezoning was State Significant Farmland.

2. If this DA is approved and consent given it will set a precedent allowing others to seek rezoning of Environmental Protection (Buffer Zone) for alternate purposes.

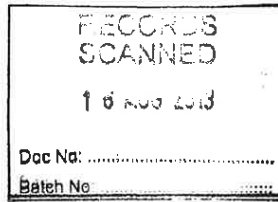
The maintenance of the Urban Buffer Zone between the villages of Alstonville and Wollongbar was an integral part of the Alstonville Plateau component of the Ballina Shire Council LEP 1987. It is widely supported by the local community and subsequent Councils where no approaches for rezoning of Urban Buffer land have been accepted over the 26 years of the LEP. This proposed rezoning, while small in area, has a huge potential to encourage others to apply for incremental rezoning of the Buffer Zone leading to its subsequent, progressive destruction.

3. The land involved is designated as State Significant Farmland by the NSW State Government. A rezoning of State Significant Farmland has never been allowed even for a small area. This proposed rezoning sets a precedent for the erosion of State Significant Farmland. Reduction of a farm's area of production may impact on the farm's future financial viability, efficiency and productivity in the event of change in agricultural markets.
4. Williams Bros (Service) Pty Ltd have constantly ignored BSC directions with respect to storing water tanks on adjoining farmland (BSC 2002). This proposed rezoning sets a strong precedent that if a developer is persistent enough, ignores Council directives and complains enough, then Council will admit defeat and give way to pressure, allowing developers to have their way in overturning previous planning principles.

Much of the Environmental Protection Zone (Urban Buffer) land adjoining the villages of Alstonville and Wollongbar is currently owned by Real Estate Developers.

161

Shirley Felsch,
4 Rubiton Street,
WOLLONGBAR. N.S.W. 2477



15th August, 2013.

Paul Hickey
General Manager,
Shire Council
BALLINA. N.S.W.2478

Dear Mr. Hickey & all Councillors,

I have been following the debate concerning the buffer zone between Alstonville & Ballina & now respectfully request that the said zone be left in place.

Yours sincerely,

A handwritten signature in cursive script that reads "S. Felsch".

Shirley Felsch

Ballina Shire Council

3/22 Stanly Park Rd.
Wollongbar N.S.W.2477

Aug. 15, 2013

My attention has been drawn to Council's proposal to re-zone the buffer areas of Alstonville and Wollongbar.

The beautiful rural surroundings of these villages are one big reason why people settled here in the first place. The re-zoning proposals if acted on, will not endear residents to Council. Changing the character of the area will not be appreciated and hopefully will not happen.

Yours faithfully

D.N.Brown.





15 County Court
Wollongbar 2477

12 August 2013

General Manager
Ballina Shire Council
Ballina 2478

***Planning Proposal BSCPP 12/002 July 2013
Robb Street Alstonville***

Dear Sir

The 'Buffer Zone' between Alstonville and Wollongbar is what makes people want to live in this type of environment.

The land is designated as ***State Significant Farmland*** .

State Significant Farmland is seen as the highest value and most unique agricultural resource that should be preserved for agriculture

It is desirable and important to protect agricultural land.

Agricultural land is a finite resource and is under increasing development pressure.

A great deal of good agricultural land has been lost already.

NOTE:

Preservation of Agricultural Land

Why should we preserve Agricultural Land?

The preservation of agricultural land is of concern in Australia.

Contrary to popular belief, Australia does not have a large supply of good agricultural land.

In fact, only 10% of Australia's landmass can be considered as land that is good for agriculture (ie, it is arable).

Most of this is on the coastal fringe of the continent and this is also where there is a high population growth rate.

Thus, the agricultural land is coming into conflict with the expansion of the urban areas and the associated rural residential development.

If this rezoning is approved it will open up for others who want to rezone in the **'buffer zone'** and before long this unique area between Wollongbar and Alstonville will be lost.

Please leave this land as it is.



Diane Robertson



15 County Court
Wollongbar 2477
14 August 2013

General Manager
Ballina Shire Council
Ballina 2478

Reference: Planning Proposal BSCPP 12/002 July 2013 Robb Street Alstonville

Dear Sir

I was alarmed to hear that the Ballina Shire Council is contemplating an amendment to the 'Buffer Zone' between Alstonville and Wollongbar and to voice my objection as a rate payer.

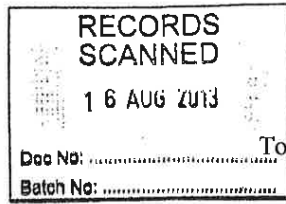
I wish to point out the following:

- It is the buffer zone that makes people wants to live in this type of environment and retain the village atmosphere.
- You are attempting to squander our prime Agricultural land which is a finite resource and is under increasing development pressure. Agricultural land should not be sacrificed. Most of this is on the coastal fringe growth should be confined to more marginal soil types.
- We have climate, favourable rainfall and good soil types which in the future **will** be necessary in the future to feed the increasing population growth. This country has limited area's that has good arable land.
- Any action in this regard will open-up this area to others to further pressure for the re-zoning of the buffer zone.

Could you please refrain from amending the buffer zone between Alstonville and Wollongbar.

Graeme Robertson

3 Maple Drive⁻²⁰
Alstonville
NSW 2497



To Ballina Shire Council

It is most distressing to find Ballina Council intends to rezone the agricultural buffer zone between Alstonville and Wollongbar included in the Local Environment Plan of 1987.

This is the beginning of the end for the individual villages on the plateau, as it sets a precedent for the rezoning of many previous applications on the plateau.

We value our environment.

Please rethink this matter.

Yours sincerely

Merle Parkham

21



"The Gambolds"
14 Acacia St
Wollongbar
NSW 2477.

14th August 2013

To Whom it may concern
Ballina Council.

Dear Sir or Madam,

I find it very sad, that The Ballina Council is even considering allowing rezoning of the 15.5 hectares of agricultural land between Wollongbar and Alstonville.

This area, established as long ago as 1987, ensures that we locals live in one of two villages, each very different from the other, but both, with the green areas around them, having a rural feel to them. Each also has a strong community atmosphere.

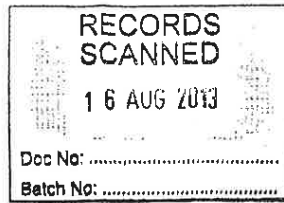
With rezoning, the whole area would quickly descend into an amorphous mass of industries and housing, totally losing its character.

Please do not let this happen.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Alison Siliakus", with a horizontal line underneath.

Alison Siliakus.



3/22 Stanley Park Road,
Wollongbar, 2477
13th August, 2013

To Ballina Shire Council

It is most distressing to find Ballina Council intends to rezone the agricultural buffer zone between Alstonville and Wollongbar included in the Local Environment Plan of 1987.

This is the beginning of the end for the individual villages on the plateau, as it sets a precedent for the rezoning of many previous applications on the plateau.

We value our environment.

Please rethink this matter.

Yours sincerely

Margaret E. Brown
Margaret E. Brown.

23

Rifle Range Rd,
Wollongbar 2477

13th August, 2013



Mr Paul Hickey, General Manager,
Ballina Shire Council.
Ballina.

Dear Paul,

SUBMISSION Regarding the buffer and the small parcel of land in the buffer that the owners want to rezone to Industrial.

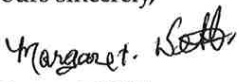
As a resident of Wollongbar, and as President of the Wollongbar Progress Association, I am asking Council to refuse this proposal.

If this small area is rezoned, many people will apply for rezoning of larger areas in the buffer. This means the Plateau could end up being an area of urban sprawl.

I believe that the two villages should not ever combine, as each village has its own historical identity, and we want to stay separate.

I am asking all Councillors to say 'No' to this proposal, for the good of Wollongbar and Alstonville.

Yours sincerely,


Margaret Webb.

SUBMISSION RE. PLANNING PROPOSAL RE-ZONING – ROBB ST ALSTONVILLE

Dear Ballina Shire Council,

I was extremely concerned to hear about the application by Duroplus to re-zone urban buffer land to industrial land for the expansion of their business.

The urban buffer zone has been put into place for good reasons – primarily to act as a buffer between villages, and to protect farmland. To re-zone any part of this urban buffer puts the whole concept under threat.

Further, if the council allow one business to re-zone land, this sets an unwelcome precedent for other individuals wishing to do the same.

Duroplus also borders available industrial zoned land, which could be used for expansion rather than re-zoning valuable farmland.

Duroplus have ignored previous directions from the council to comply with planning regulations. If the council caves in on this application, they are rewarding non-compliance with zoning regulations.

Many thanks,

Catherine Black

13 Queen's Park Ct

Wollongbar

NSW 2477

Geoff Gardiner
16 Valley Drive
Alstonville NSW 2477
gg2477@gmail.com
(02) 6628 3925

14 August, 2013

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Planning Proposal BSCPP 12/002 July 2013 Robb Street Alstonville

Dear Mr Hickey,

I am writing to request Council to reject this proposal.

Many years ago residents of the Alstonville Plateau campaigned to retain a rural character. This was achieved, in part, by maintaining a rural buffer between Alstonville and Wollongbar, thereby retaining a village atmosphere. I believe that people still want that. I see no valid reason in this proposal to change that situation. We don't want that rural buffer diluted at all!

There is no reason why rezoning is a solution to people flaunting the rules that we must all live by. Not only that, there is abundant nearby industrial land that could be used to store tanks. The current storage arrangement is simply a convenient business decision and there is no reason for Council to concern itself about that.

I am disappointed that Council has allowed this situation to arise by not performing its duty, over many years, to enforce various zonings and regulations. It is well past time to correct that – but not by making their illegal activities legal and rewarding them for their infringements.

Yours faithfully



Geoff Gardiner

SUBMISSION RE: PLANNING PROPOSAL ROBB ST, ALSTONVILLE

Dear Ballina Shire Council,

I firmly object to the re-zoning of the land bordering the Russelton Industrial Estate at the end of Robb Street from Environmental Protection Zone to Industrial Zone on the following grounds:

- 1) The Environmental Protection Zone needs to be preserved. There is precious little agricultural and urban buffer land as it is.
- 2) Duroplus do not need this land. If they want to expand, they can use the land adjacent to their current premises that is already zoned industrial.
- 3) Approval of this re-zoning would set a poor precedent. It suggests that the urban buffer is not a genuine Environmental Protection Zone, and invites future individuals and businesses to do the same.
- 4) Approval of the re-zoning would also reward the total disregard of council regulations shown by the applicant. It implies that if you ignore council stipulations, you will eventually get your way, even if what you are doing is against planning regulations.

I urge the council to stand up for the planning rules that are already in place, and refuse this application for re-zoning.

Yours faithfully,

Graham Black

13 Queen's Park Ct

Wollongbar NSW 2477

PO Box 412
Alstonville NSW 2477

16 August 2013

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

Dear Sir

ROBB STREET REZONING - DURAPLAS

I understand that Council is planning to rezone the buffer zone between Alstonville and Wollongbar from agricultural to industrial use.

I object on several counts:

This is prime agricultural land, and should not be despoiled by noisy and unsightly industry: the time will come when we need every bit of agricultural land which, once rezoned to industrial, will not be able to be reconverted to agriculture;

There is already industrial land available in the area;

Rezoning would set a precedent for ribbon - or worse - development along the plateau, and set the pattern for uncontrolled development in what is a precious tourist area, known and loved far and wide by people who bring tourist dollars to buy our agricultural products, accommodation, and craft;

I used the word 'uncontrolled' because I understand that

the original development of Duraplas proceeded without a Development Application, which was subsequently allowed. This is obviously a case of proceed first and apologise (if lucky) later. Allowing this is not a good precedent to set for future development, and suggests a lack of control by council;

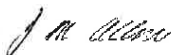
there have been complaints about noise from the plant, to which Duraplas responded by renting the property concerned. Of course they are not going to complain about their own noise, so noise control restrictions no longer need to be applied;

Duraplas has stored tanks on what is still agricultural land: this is not a proper or legal use for agricultural land. Does Council lack the power to control this?

My early training in ethics included the saying 'two wrongs don't make a right'. There are quite a few more than two wrongs contained in this proposal, and not one cancels out any of the others.

Please, Ballina Shire Council, do not allow yourselves to be bullied or compromised by developers into illegal and inappropriate development. Keep to the 2002 decision.

Yours faithfully



Judith Allen

Lachlan Sims

From: Janeane Burke on behalf of Ballina Shire Council
Sent: Monday, 19 August 2013 8:05 AM
To: Lee Hillyard
Subject: FW: Submission: Rezoning of land at Robb Street, Alstonville

-----Original Message-----

From: Bill Boyd [<mailto:William.Boyd@scu.edu.au>]
Sent: Friday, 16 August 2013 5:06 PM
To: Ballina Shire Council
Subject: Submission: Rezoning of land at Robb Street, Alstonville

Attention Mr Hickey, General Manager, Ballina Shire Council

I have recently been alerted to the fact that there is a proposal to re-zone land at Robb Street, Alstonville, to allow for industrial use.

I wish to submit my opposition to such a move. I write both as a resident of Ballina Shire Council (Alstonville), and as a professional geographer with a life-long scholarly interest in landscape. I am very concerned that this seemingly small re-zoning action sets a dangerous precedent for further land use change, and will threaten the character of the Alstonville Plateau.

Open space and public land, such as the buffer zone between Alstonville and Woollongbar is an extremely important asset to any community. It is very easy to lose that amenity by such small-scale re-zonings. A small change such as the proposed re-zoning opens the opportunity for further such change. I am sure this is not an outcome that the Shire Council wishes, and I am certain it is not one. While it may be argued that such a parcel of land is not being actively used, its presence in an ever-filling and ever-developed landscape is very important as a social amenity. It reflects the nature and character of villages such as Alstonville and Woollongbar, and every such re-zoning is an assault on the character and value of this rural area.

I gather that the land has been used for a long time against the terms of the current zoning. This re-zoning activity seems to be legalising a previously illegal activity. Why is the Council trying to resolve such a land use breach by this means?

I strongly urge you to resist this re-zoning proposal. It is a serious breach of the values espoused in the LEP, and an assault on the values and character of this rural area.

Yours sincerely,

Bill Boyd,

34 Alston Avenue, Alstonville, NSW 2477
Phone (02) 66 286 314

Dr Bill Boyd

Professor of Geography, School of Environment, Science & Engineering Chair, SCU Human Research Ethics Committee, and Animal Care & Ethics Committee PO Box 157, Lismore, New South Wales, Australia

T: 02 66 203650 | E: william.boyd@scu.edu.au Personal research web page:
http://works.bepress.com/bill_boyd/

The General Manager
Ballina Shire Council
Cherry Street
Ballina NSW 2478

16 August 2013

RECORDS SCANNED 19 AUG 2013 Doc No..... Batch No.....
--

"Hilltop"
68 Shaws Lane
Tuckombil NSW 2477

Dear Sir,

Rezoning of 0.68 hectares of land at Robb Street, Alstonville from Environmental Protection – Urban Buffer to Industrial land

I write to object to the above rezoning proposal currently on exhibition on the grounds that it is inconsistent with all the relevant guiding planning instruments. I support the Dept of Planning's regional team and Council's planners in their recommendations against the rezoning following their very thorough consideration.

Despite the Dept of Planning staff recommendation against the proposal the Director-General of Planning wrote to Council on 18 June 2012 advising "...that the planning proposal should proceed...".

However the Director-General's letter is based upon a false premise as follows and I have written to the Director-General asking re-consideration of the matter on the basis of the correct interpretation of the situational facts.

The Director-General's letter to Council advises:

"Given the land is currently being utilised for industrial purposes, it is considered that a variation to the growth boundary to include the subject land is necessary so that the land is correctly identified as being industrial".

The basis of this statement is flawed with the Director-General supporting the re-zoning as a corrective and "...necessary..." action warranted by the existence of what is assumed to be legitimate industrial activity on the subject rural land. In reality the "industrial purposes" referred to is an illegal occupation on rural land that has previously been called upon by Council for removal. I hope Council can see the flaw in the Government's advice here.

Additionally on this matter arguments in favour of the rezoning about the small parcel of land involved, clash of adjacent land uses, need to look after industry and jobs etc, should not be used as a reason for rezoning given the zoning delineations are based upon the most rigorous strategic considerations developed over many years. They represent the best zonings to provide the best outcomes for our communities, environment and local economy. There is also ample land available within the current industrial estate for operations expansion.

Please do not allow ad-hoc seemingly minor and harmless adjustments to the zone boundaries to occur and set the scene for more such ill-advised decisions in the future.

Yours faithfully, Ian Taylor



30

19 Joindary Street,
Wollongbar. 2477.



The Manager.
Ballina Shire Council,
Ballina. 2478.

Dear Sir,

I would like to record that I do not want the boundaries between Wollongbar and Alstonville changed. The two need to be separate, to avoid urban sprawl.

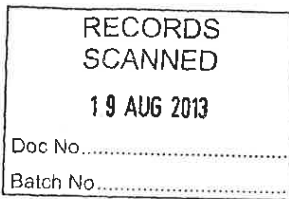
Yours faithfully,

A handwritten signature in cursive script, appearing to read "M Daley".

Megan Daley.

P.O. Box 3101,
WOLLONGBAR. 2477.

The Manager,
Ballina Shire Council,
Ballina. 2478.



Dear Sir,

I would like to put my voice to the call to leave the boundaries of Alstonville and Wollongbar as they are.

Peter and Esme Daley sold the industrial block on which Duplas stands. It was given to us by the Council in payment for taking some land for the walk way at the front of the then Daley land. It was never preposed to take any land across the lane, this was always to be farm land. I lived in the house for over 30 years, and it was then a dairy property, and rural. Duplas is in violation of this by building what seems to be tanks across on this land. They could build behind their existing block.

If one person breaks this boundary others will follow and expect the same treatment.

Please don't change the boundary between Alstonville and Wollongbar.

Yours faithfully,

ESME DALEY.

SUBMISSION RE: PLANNING PROPOSAL BALLINA SHIRE COUNCIL PP 12/002
ROBB STREET, ALSTONVILLE

The proposal to rezone land adjacent to the Russelton Industrial Estate from Environmental Protection Zone 7(i) (Urban Buffer) to Industrial Zone (IN1) sets very serious precedents for this area, and wider.

1. The maintenance of an Urban Buffer between the villages of Alstonville and Wollongbar was an integral and essential part of the Alstonville Plateau component of the Ballina Shire Council LEP of 1987.

The maintenance of this Urban Buffer has always had wide community, and Council, support. No approaches for rezoning of Urban Buffer land has been accepted in the whole 26 years of the plan.

This proposed rezoning, while moderate in size, is huge in its potential to encourage others to fight for their own particular reasons for incremental rezoning of the buffer zone and its subsequent progressive destruction.

2. The land involved is designated as State Significant Farmland by the State Government. In no other place where the designation State Significant Farmland applies, has a rezoning been allowed, even for a small area. The proposal also flies in the face of the Far North Coast Regional Strategy.

Again this proposed rezoning sets a precedent for State Significant Farmland erosion, not allowed anywhere since the establishment of this designation.

3. Stoville P/L purchased 15 ha of farmland in the early 1990's, long after the 1987 zoning of that land as Urban Buffer, and the adjacent land as Industrial. The house near the Industrial land was part of that purchase. It is inappropriate to change a LEP to alleviate a situation present when the land was purchased.

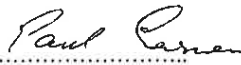
William Brothers Service P/L have constantly ignored Council directions with respect to their land usage (Ballina Shire Council 2002)

William Brothers Service P/L have also declined to purchase Council land already zoned Industrial, and which adjoins William Brothers Service P/L land.

With regards to the dwelling in the Urban buffer/farmland, William Brothers Service P/L have the choice of obeying environmental laws with respect to noise, or assisting Stoville P/L to move the dwelling to a further part of the 15 Ha block.

Again this proposed rezoning sets a strong precedent that if a developer is persistent enough, ignores Council directions enough, and complains enough, the Council will admit defeat and let the developer have his/her way, despite that way overturning previous planning principles.

The refusal of this rezoning application has been recommended by Ballina Shire Council Planning Department (2012), and the Northern Region of the N.S.W. Department of Planning & Infrastructure. I support that refusal and request that Ballina Shire Council refuse the application for rezoning.


.....
Paul Earner
20 Lismore Road
Alstonville 2477

Attachment Relevant Map

RECORDS SCANNED 19 AUG 2013 Doc No..... Batch No.....

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

Robb Street, Alstonville, New South Wales - Google Maps

16/08/13 10:37 AM

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



ADJACENT AVAILABLE LAND ALREADY ZONED INDUSTRIAL

LAND IN QUESTION

Attachment to submission - Paul Earner, Alstonville

<https://maps.google.com.au/maps?hl=en>

Page 1 of 1

SUBMISSION RE: PLANNING PROPOSAL BALLINA SHIRE COUNCIL PP 12/002

ROBB STREET, ALSTONVILLE

Duraplas have established their Industry on Russellton Industrial Estate in an area adjacent to vacant land zoned Industrial (owned by Ballina Shire Council) and also adjacent to Rural land with a dwelling in the vicinity of the Industrial Estate. See (A) attached sheet.

Instead of making arrangements with Ballina Shire to use adjacent industrial land or other land they already own/lease, **Duraplas** has sited some of its plant in an area which contravenes Environmental Laws regarding noise production in proximity to an established dwelling. See (B) attached.

To help alleviate this noise conflict between dwelling and plant, **Duraplas** entered a lease agreement with the land owner to lease the dwelling plus 6,800 sq m of surrounding property. Then, however, without Development Consent, and despite their Industry being conveniently located adjacent to vacant Industrial Land, **Duraplas** went on to use for many years (and continues to use) the leased Rural site for Industrial related activity. See (C) attached sheet.

Further, Duraplas did not comply, and continues not to comply with the resolutions set in place by Ballina Council in 2002 to resolve this issue.

Because of this lack of compliance of Duraplas, we are again facing a proposal submitted by the landowner to rezone this 6,800 sq m of Rural Land to Industrial.

I would hope that State Significant Farmland remains viable to feed future generations of Australians. Australia is not blessed with an abundance of this quality land. The rural area in the proposal PP 12/002 adjoining Russellton Estate is designated State Significant Farmland. In no other place where this designation applies, has a rezoning, no matter how small, been allowed. **I applaud the seriousness with which feeding future Australian families is being taken in to account- the recognition that it will take only one rezoning, large or small, to start the erosion.** Once started it will be gone forever as future food producing land. We are all aware of countless examples before the designation of State Significant Farmland was applied.

Is it going to be here in Ballina Shire that the first rezoning of State Significant Farmland will be allowed and set a precedent for erosion of viable farmland here and in other Shires?

And why are we allowing it? Duraplas is an important Industry to Ballina Shire. It is conveniently located adjacent to vacant Industrial land. A bulldozer and shifting a dwelling (already requested by the Council) is needed, not the first rezoning of State Significant Farmland to non-rural. **It seems such a small price to pay now in contrast to the potential loss of good food producing land in Australia.**

The refusal of this rezoning application has been recommended by Ballina Shire Council planning Department (2012), and the Northern Region of the N.S.W. Department of Planning & Infrastructure. I support that refusal and request that Ballina Shire Council refuse the application for rezoning.

.....*Lesley Earner*.....

Lesley Earner
20 Lismore Road
Alstonville 2477

RECORDS
SCANNED
19 AUG 2013
Doc No.....
Batch No.....

9.1 Planning Proposal BSCPP 12/002 - Robb Street, Alstonville.DOC

8/16/13


Robb St, Alstonville NSW - Google Maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

PARTIAL VIEW RUSSELLTON INDUSTRIAL ESTATE



ATTACHMENT NB. DURAPLAST 
 SUBMISSION RE: PLANNING PROPOSAL BALLINA SHIRE COUNCIL PP12/002
 ROBB ST, ALSTONVILLE

LESLEY EARNER 20 Lismore Rd Alstonville 2477

<https://maps.google.com.au/maps?hl=en&tab=wl>

1/1

Ballina Environment Society Inc
PO Box 166 Ballina
NSW 2478 Australia
Email: BES2478@gmail.com
Ph: 0421-551-768



Re: OBJECTION TO PLANNING PROPOSAL LEP 2012

BSCPP 12/002 Robb Street Alstonville

Lot 1 DP 817406 Robb Street Alstonville

Rezoning of land adjoining Russelton Industrial Estate from Environmental Protection 7(i) (Urban Buffer Zone) to Industrial Zone (IN 1)

Ballina Environmental Society strongly objects to the above Planning Proposal BSCPP 12/002 on the grounds that:

- i. The proposed rezoning of land adjacent to the Russelton Industrial Estate from Environmental Protection Zone 7(i) (Urban Buffer) to Industrial Zone (IN1) sets very serious precedents for the Alstonville Plateau, Ballina Shire and NSW planning.
- ii. In 2002 Ballina Shire Council staff advised NOT to approve Stoville's application to amend BLEP87 for rezoning 0.68 ha of Environmental Protection [7(i)] (Urban Buffer) zone to Industrial [IN1]. Ballina Shire Councillors rejected the application.
- iii. In 2012 Ballina Shire Council accepted a rezoning proposal, subject to the Voluntary Planning Agreement prepared for Council, despite Ballina Shire Council Planning Staff NOT recommending this proposal. The proposal was subsequently sent to NSW Planning, even though there is available Industrial Zoned land adjoining the Duraplas property.
- iv. The maintenance of an urban buffer between Alstonville and Wollongbar was an integral and essential part of the Alstonville Plateau component of the BSC LEP 1987. This principle has always had continued wide community and Council support. The current C Ward Councillors do not have a mandate to challenge this principle. Although moderate in size this proposed rezoning has the potential to encourage incremental rezoning of the buffer zone resulting in the progressive deterioration of this asset.
- v. If this rezoning proposal is endorsed by Ballina Council, it will degrade the concept of separate village communities. Subsequently increasing the need for Council to deal with proposals for intrusion into the buffer zone using various rationales, citing the precedent set by this rezoning. This is made more likely since much of the buffer zone adjacent to urban boundaries appears to be owned by local real estate developers.
- vi. The land involved is classified as State Significant Farmland and this has never been overturned, even for small areas. This proposal does not comply to the Far North Coast Regional Strategy. Approval will set a precedent for State Significant Farmland erosion, disallowed anywhere since the establishment of this designation.
- vii. Stoville Pty Ltd purchased this 15 ha of farmland long after the 1987 Urban Buffer zoning was adopted. It appears Williams Bros. (Service) Pty Ltd have ignored Council directions to stop using this farmland for industrial purposes, while vacant Council owned Industrial Zoned land adjoins their premises.

viii. The proposed rezoning sets a precedent that if a developer maintains pressure long enough, ignores Council direction and complains strongly enough, Council will succumb to pressure and overturn planning principles, or the developers will take it to the State Government.

If Council approves this breach of BLEP87, the ability to argue against NSW 'Planning Reforms' is diminished and ESD principles are one step closer to being relegated to history.

There has been no community consultation on this issue and Councillors should be aware that there is no mandate for this rezoning.

Fiona Folan
President
Ballina Environmental Society

Re: OBJECTION TO PLANNING PROPOSAL LEP 2012

BSCPP 12/002 Robb Street Alstonville
Lot 1 DP 817406 Robb Street Alstonville
Rezoning of land adjoining Russelton Industrial Estate from Environmental Protection 7(i)
(Urban Buffer Zone) to Industrial Zone (IN 1)

I strongly object to the above Planning Proposal BSCPP 12/002 on the grounds that the "green belt" or urban buffer zone between Alstonville and Wollongbar is essential to retain the environmental integrity and community ambience of the Alstonville plateau. In the past, this buffer zone has always had continued wide community and Council support, and the proposed rezoning, although small in size and impact, sets a dangerous precedent which will lead to the breaking up of the urban buffer zone with future applications.

There needs to be community consultation on the future of the urban buffer zone, and Councillors should be aware that there is no mandate for this rezoning without this. Furthermore, if this rezoning goes ahead without community consultation, the Council will be acting against the wishes of the residents of the Alstonville plateau.

Effie Ablett
519 Pearces Creek Rd
Alstonvale, NSW 2477



19 August 2013
Ref No: 1160-1005

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

Attention: Lachlan Sims

Dear Lachlan

Planning Proposal BSCPP 12/002 Robb Street, Alstonville

As you know, we act for the proponent, Stoville Pty Ltd. We have been made aware that Council has received a number of objections to the Planning Proposal, and I understand that a key basis for those objections relates to a perception that this would provide a precedent for further development within the Alstonville buffer area.

As you will be aware, this proposal has a long and unique history, relating to a land use conflict situation. I am strongly of the view that the circumstances are truly unique, such that approval of the rezoning proposal could not be considered as establishing a precedent.

Further, I am comfortable that the merits of the proposed rezoning are sufficient in these unique circumstances to warrant the rezoning of land mapped as significant farmland.

While you are aware of the history, it is important that the key aspects of this case are noted and communicated to Councillors. They are:

- The relevant stage of the Russelton Industrial Estate was approved and constructed around 1990, following original zoning of the land in the late 1970s.
- In part, the result was the creation of industrial blocks located in close proximity to land subsequently purchased by Stoville. That land contains an existing dwelling located close to the boundary of the industrial land.
- At some time in the 1990s, Duraplas Tanks purchased an industrial block in this location and commenced construction of rainwater tanks. The construction activities included 24-hour shift work.
- As a result, noise complaints were made to Council by the occupiers of the adjacent farmhouse (by that stage owned by our client).
- Stoville Pty Ltd and the owners of Duraplas worked together in an attempt to resolve the land use conflicts in an amicable way, and the result was that Duraplas took a lease over the farmhouse and its curtilage, utilising the house for office purposes and the curtilage for storage purposes.
- Council was consulted as part of this arrangement, which was clearly presented as a short-term proposition, pending a more permanent solution to the land use conflict.
- Council approved a subsequent development application from Duraplas to legitimize the tank-manufacturing activity, which had commenced without approval.

ABN 79 896 839 729
ACN 101 084 557

Return address:
PO Box 119
LENNOX HEAD
NSW 2478

LENNOX HEAD
T 02 6687 7666
F 02 6687 7782

COFFS HARBOUR
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F 02 6651 7733

www.geolink.net.au



quality solutions sustainable future

- The approval for tank manufacturing included a condition limiting the hours of manufacturing to daytime only, with a caveat that this restriction would not commence until December 2004 *"unless the tenancy lease the operator of the subject industry has over part Lot 1 DP817406 expires earlier"*.
- The owner of Duraplas has clearly stated that he could not economically continue his business if the restricted hours were enforced.
- The proposed rezoning was therefore proposed as a permanent solution to this issue – allowing Duraplas to continue its business in Alstonville, and removing the potential for land use conflicts associated with that use (there are no other dwellings close to this industrial estate).

The subject site has been occupied by the farmhouse and its cleared curtilage for around a century. While it has been mapped as significant farmland, this part of the land has never been used for agriculture; that use has always been on the remainder of the property.

The land owner (Stoville) has committed to removing the dwelling (or ensuring it is no longer habitable) and to pursuing any replacement dwelling on the southern end of the property, where there would be no potential for conflict from the industrial activities.

It is important to note that this situation has arisen from a planning decision taken in the 1970s to create industrial land uses in very close proximity to an existing farmhouse.

If the rezoning were not to proceed, Duraplas could no longer continue to use the farmhouse, which would revert to a residential use. This will result in the enforcement of the restriction on Duraplas' adjoining activities, which would force them to find a new site or cease business.

Given the proximity of the farmhouse to the existing industrial estate, this result would undoubtedly rekindle noise complaints, regardless of whether Duraplas operate during the night. The industrial estate is simply too close to the dwelling to avoid such conflict.

Given the circumstances that exist, it is clear that rezoning of the site will provide a permanent solution to a long-standing land use conflict issue. It is also clear that doing so would not create a precedent that would put further pressure on the Alstonville urban buffer.

Yours sincerely
GeoLINK



Rob van Iersel
Director / Senior Planner

Copy to: Stoville Pty Ltd

SUBMISSIONS REPORT

BSCPP 12/002 – ROBB STREET, ALSTONVILLE

ISSUES RAISED AGAINST THE PROPOSAL

1. Council has in the past rejected proposals for urban development in the buffer zone.

Comment: The buffer zone between the villages of Alstonville and Wollongbar was established with the commencement of the *Ballina Local Environmental Plan 1987*. This buffer provides a rural green belt surrounding the villages that seeks to preserve their character. Since 1987, no rezoning or urban encroachments on the buffer have been approved by Council. Although a number of requests to rezone parts of the buffer have been considered in the past, Council has not, to date, allowed any urban development to encroach on the buffer areas.

2. The current proposal was previously refused by Council in 2002.

Comment: A similar proposal to rezone part of Lot 1 DP 817406 from Zone 7(i) Environmental Protection (Urban Buffer) to Zone 4 – Industrial was considered by the Council at its Ordinary Meeting on 28 February 2002. At this meeting the Council resolved (Minute No. 280202(045)):

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 Fleming) 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 Fleming) 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.*

No further action was taken by Council in relation to the above resolution.

A new proposal (the current proposal) for the rezoning of the subject land was submitted to Council in June 2011. This proposal was reported Council's Ordinary Meeting on 28 July 2011 where the Council resolved (Minute No. 280711/10):

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

A planning proposal was subsequently prepared and reported to the Council at its Ordinary Meeting on 26 April 2012 where it was resolved (Minute No. 260412/2):

That Council support the rezoning of part of Lot 1 DP 817406 for industrial purposes and the attached planning proposal be submitted to the Department of Planning and Infrastructure for determination, with the submission also expressing Council's strong recommendation for approval.

3. The current use is illegal and has intensified with no action taken.

Comment: As reported to and acknowledged by the Council at its Ordinary Meeting on 28 February 2002, the occupation of the subject site for purposes of tank storage is not authorised and is being undertaken without development consent. No compliance or enforcement action has been taken by Council in relation to this matter since its 28 February 2002 resolution.

4. The proposed industrial zoning impacts on State Significant Farmland.

Comment: The subject site has been identified as State Significant Farmland as part of the Northern Rivers Farmland Protection Project. The project sought to protect important farmland from urban and rural residential development and aims to protect identified land to cater for a range of agricultural industries that may be important currently or in the future. The land identified as State Significant Farmland has also been identified in the Far North Coast Regional Strategy which seeks to protect these areas from urban development. The Minister for Planning and Infrastructure has also

issued a direction under section 117 of the Environmental Planning and Assessment Act 1979 in relation to the preparation of draft local environmental plans (rezoning proposals) for land identified as State Significant Farmland. This direction specifies that land identified as State Significant Farmland shall not be rezoned for urban or rural residential purposes unless the land is identified in an adopted land use strategy. The subject site is not identified for future urban land uses in any State or local strategies. It is noted that since its adoption, there has been no compromise of any State Significant Farmland in NSW for urban development.

5. The proposal sets a precedent for the further encroachment of urban development into the buffer at other locations.

Comment: While each rezoning proposal is assessed on its merit, it is acknowledged that to date, none of the land designated as urban buffer in the *Ballina Local Environmental Plan 1987* has been rezoned for urban purposes. Consequently, consideration should be given to whether the justification for the rezoning, if more broadly applied, could be used to justify other proposals for rezoning land within the urban buffer.

6. The buffer should be protected to maintain the separation between the two distinct characteristic villages of Alstonville and Wollongbar.

Comment: The subject proposal comprises the rezoning of a relatively small area of 6800m² that directly adjoins the existing Russellton industrial area on two sides. It is considered that this proposal, on its own, is unlikely to impact on the level of separation the buffer forms between the two villages.

7. The dwelling house could be relocated to eliminate the land use conflict and avoid the rezoning.

Comment: The relocation of the dwelling house to an area away from the industrial zone would result in the elimination of the land use conflict issues on the site. The site does not need to be rezoned to enable the relocation of the dwelling. The landowner has committed to the relocation (or discontinuation of use) of the dwelling as part of the rezoning proposal.

8. The rezoning is not necessary as there is sufficient stock of industrial land in the locality. The area for the storage of the tanks could be located on existing industrial zoned land in the Russellton Estate.

Comment: A large area of undeveloped land zoned for industrial purposes exists in the immediate vicinity of the site. The current proposal, however, seeks to rationalise and legitimise the existing land uses relating to the tank manufacturing operations with the subject site strategically located and ideally suited to the storage of tanks while also addressing the existing land use conflicts on the site.

9. The rezoning will impact on prime agricultural land.

Comment: As detailed above, the site has been identified as State Significant Farmland which recognises the significance of the site for its agricultural capacity. The protection of prime agricultural land is a key land use planning consideration in the distribution of land for urban land uses and the protection of agricultural land for current and future primary production land uses. The rezoning of the land for industrial purposes will result in the loss of the land for agricultural uses. In consideration of the

above it should be noted that the subject site comprises a relatively small area that is not currently used for agricultural purposes.

10. The rezoning will destroy wildlife habitat.

Comment: The subject site is currently used for tank storage, a dwelling house and agricultural production (macadamia nuts). The subject site contains no stands of natural vegetation and is not known to contain any wildlife habitat of significance.

11. The rezoning is an inappropriate means to address the long-standing, unauthorised land use.

Comment: It is not considered good planning practice to rely upon the rezoning process to legitimise long standing unauthorised land uses, particularly when other options for addressing the issue are available. It is noted that such an approach may have the perverse effect of encouraging non-compliance with Council's (and the State Government's) land use planning framework. This is further compounded where (such as in this case) the proposal is inconsistent with relevant strategic planning documents and policies.

12. The rezoning will set a precedent that justifies extended non-compliance.

Comment: As stated above, it is not considered good planning practice to rezone land to legitimise a long standing unauthorised land use. Further consideration should be given to whether or not this could set a precedent for further requests to legitimise non-compliant unauthorised land uses in other locations.

13. The proposal was supported by the Council in 2012 contrary to staff recommendations.

Comment: As stated above, the current proposal was given the strong support of the Council at its Ordinary Meeting on 26 April 2012. The staff recommendation in reporting the matter to the 26 April 2012 was that "the Council ceases further action in relation to the planning proposal for the rezoning of part of Lot 1 DP 817406 on the basis that the proposal is inconsistent with local and state planning policies and statutory requirements."

14. The proposal was not supported by Department of Planning and Infrastructure staff prior to Gateway determination.

Comment: The planning proposal was assessed by staff within the Department of Planning and Infrastructure where it was recommended that the proposal not proceed. The reasons for this recommendation by the Department's assessing officers were:

- The proposal involves the encroachment of an urban use into the long established Alstonville urban buffer and land identified as State Significant Farmland.
- There is no identified need for additional industrial land and vacant industrial land is available in the immediate vicinity.
- There are alternative means of addressing the land use conflict (e.g. relocation of the industry or the dwelling, undertaking compliance action, etc.)
- The proposal may establish an undesirable precedent through a spot rezoning to resolve a land use conflict issue.

- 15. The buffer zone was an integral part of the 1987 local environmental plan and the Council has no mandate to alter it.**

Comment: As stated above, the 7(i) Zone in the 1987 LEP was established at the commencement of the plan to provide a rural buffer between the villages of Alstonville and Wollongbar. Since the commencement of the plan, none of the land within the buffer area has been rezoned for urban purposes. There is concern that, should the subject proposal proceed, an undesirable precedent may be set that could result in the erosion of the buffer zone. The subject proposal has been reported to the Council for its consideration on several occasions. This most recent iteration of the proposal has been given the strong support of Council, notwithstanding the identified and expected impacts on the buffer zone. The Council should consider its position relation to the sanctity of the buffer zone and how it will distinguish the current proposal from any other similar proposals that may involve the urban development of the buffer zone.

- 16. The current proposal is small in scale but will encourage the gradual, incremental rezoning of the buffer resulting in its destruction**

Comment: This issue is similar to No. 15 above.

- 17. The planning proposal is not consistent with the provisions of the Far North Coast Regional Strategy.**

Comment: The proposed rezoning is inconsistent with the provisions of the Far North Coast Regional Strategy (FNCRS) which provides the regional framework for consideration of rezoning land for urban purposes in Ballina Shire. The subject site is located outside the identified Town and Village Growth Boundary and is not part of an identified Proposed Future Urban Release area. The FNCRS provides that any development proposed for greenfield sites in the non-coastal area that is located outside of the Town and Village Growth Boundary is to satisfy the Sustainability Criteria specified in the FNCRS. The proposed rezoning does not satisfy the specified Sustainability Criteria contained in the FNCRS.

- 18. Community consultation on the future of the buffer zone is required before any decision is made in relation to this proposal.**

Comment: This issue is similar to No. 15 above. It has been the practice of the Council since 1987 to protect the buffer zone from urban development with a number of development proposals rejected on this basis. Council's current strategy with regard to the use of the buffer zone is to retain and maintain its protection from urban development. This position is reflected in Council's Growth Management Strategy and in the Far North Coast Regional Strategy. Supporting the proposed rezoning would be inconsistent with these land use strategies.

ISSUES RAISED IN SUPPORT OF THE PROPOSAL

Two submissions were received in support of the proposal from the proponent (landowner) and proponent's consultant.

1. If the rezoning does not proceed it will impact on 40 Duraplas jobs and adversely affect the local economy.

Comment: While it is acknowledged that Duraplas provides a valuable and positive contribution to the economy of the shire, the land use conflict issues have arisen as a result of unauthorised land uses. It is not considered good planning practice to legitimise unauthorised land use activities by rezoning land contrary to established land use strategies when suitable alternative solutions exist.

2. Without the rezoning, the viability of the Duraplas business will be threatened.

Comment: It is understood that the operations of Duraplas' manufacturing activities have evolved and expanded over the years resulting in what is currently an intensive, 24 hour manufacturing cycle upon which the business has grown to rely. Notwithstanding, it is not considered good planning practice to rezone land contrary to established land use strategies when suitable alternative solutions exist.

3. Duraplas have invested considerable resources in establishing their operations and relocation of the business to another location would defy common sense.

Comment: This issue is similar to No. 2 above.

4. It has taken 12 years for the current proposal to reach its current status at great expense and with volumes of reports. This acts as a deterrent for any other rezoning proposal in the buffer by another party.

Comment: It is noted that proposals to rezone the subject site have been rejected by the Council in the past. The current iteration of the proposal has been before Council since June 2011. The persistence of the proponent (and the associated time and expenses incurred) are a consequence of the proponent's resistance to the Council's previous clearly stated policy position on this matter.

5. Farming on the subject land has not been possible since the establishment of the industrial estate.

Comment: Notwithstanding the above statement, the subject land has been identified as State Significant Farmland and is recognised as a natural resource in various land use planning strategies and regulations applicable to the site.

6. There is insufficient industrial land available and businesses have had not been able to expand as a result.

Comment: Council undertook a Commercial and Industrial Land Audit in 2008 which concluded that there is adequate zoned and planned industrial land in the shire to meet projected demand until approximately 2028. An undeveloped area of approximately 8 hectares exists at the southern end of the Russellton Estate.

7. The proposal is a common sense solution which will change nothing on the ground but will rectify the original zoning issue from 1977

Comment: It is acknowledged that there are long standing land use conflict issues relating the existing dwelling house in close proximity to industrial land uses. The dwelling house existed on the site prior to the industrial use of the land. It is standard practice for industrial land uses to implement measures to mitigate impacts on adjoining sensitive land uses. In the subject circumstances, any industrial land uses would ordinarily be required to implement appropriate mitigation measures to reduce the impacts of industrial activity on the adjoining dwelling. The current rezoning proposal is considered an inappropriate means of addressing the long standing unauthorised land use and non-compliance issues.

8. No noise complaints have arisen since commencing 24 hour production over 10 years ago.

Comment: Development consent granted by Council for the tank manufacturing industry specified limited operating hours. These operating hours were relaxed in connection with the occupation by Duraplas of the dwelling house and curtilage on the subject land which had the effect of removing the source of the conflict. As there are no longer any sensitive receivers in the immediate vicinity of the operation, the land use conflict issue has been alleviated. The issues relating to compliance with consent conditions and the unauthorised occupation of the subject land without development consent remain outstanding.

9. The circumstances of the case are unique and relate to a land use conflict situation. This means the current proposal cannot be seen as establishing a precedent.

Comment: It is not considered good planning practice to rezone land to address land use conflict where alternative solutions are available and where the rezoning is inconsistent with a number of established land use planning strategies and policies. In this regard, while the land use conflict is one of the key issues in the rezoning proposal, other significant issues arise in relation to compromising the buffer zone, contrary to established planning principles and policy.

10. The proposal will result in a permanent solution to the land use conflict issue.

Comment: The proposal is considered one way to address the land use conflict issue. There are other alternative solutions that could be utilised to address the issue. The relocation of the dwelling house is not dependent on the rezoning of the land and it could be removed without rezoning the land. Other alternatives include the relocation or reconfiguration of Duraplas' activities, the implementation of physical measures to mitigate the noise impacts and the enforcement of consent conditions to ensure compliance.

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