

Ballina Shire Council
40 Cherry Street
BALLINA NSW 2478

PO Box 450
BALLINA NSW 2478

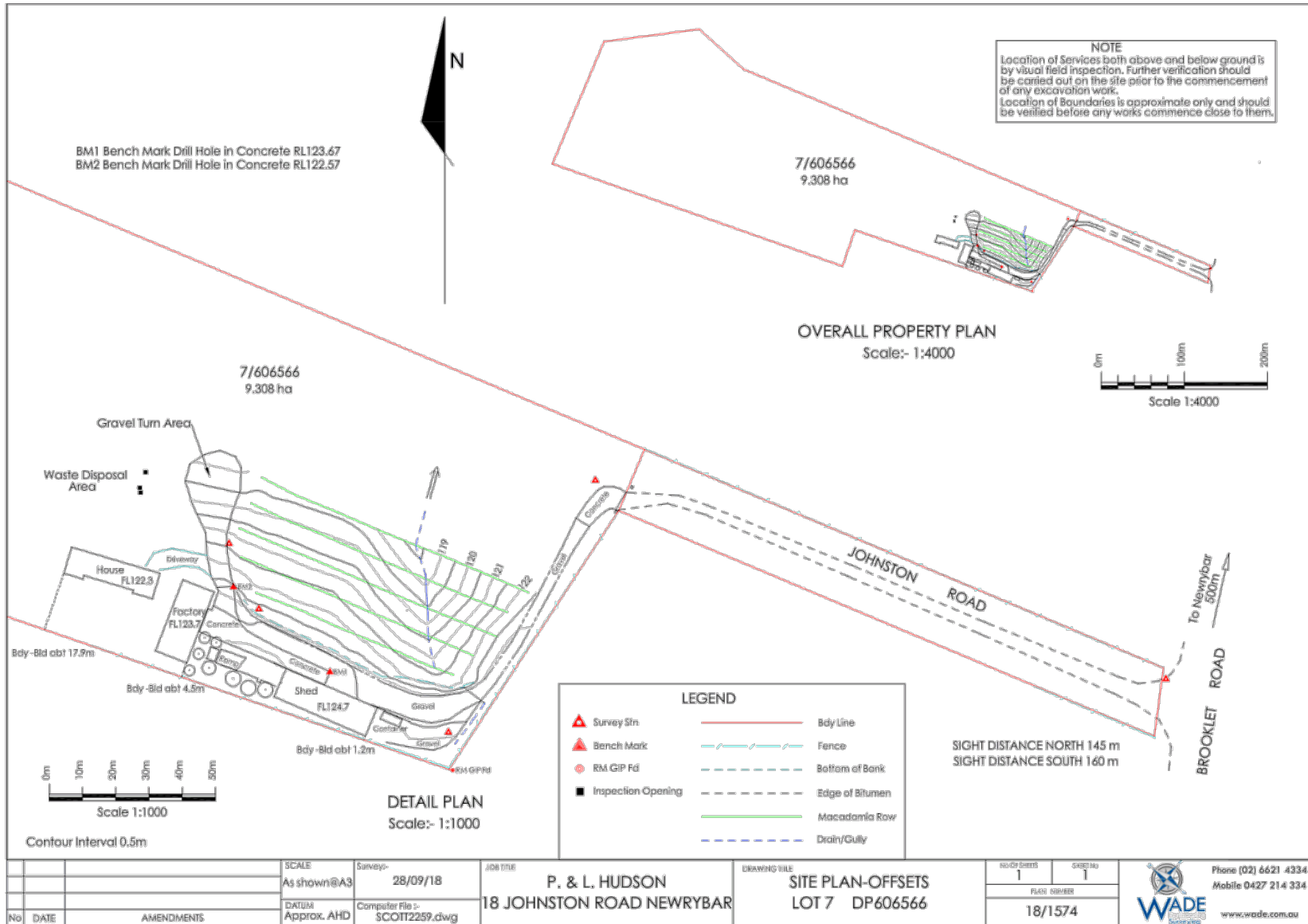
1300 864 444
council@ballina.nsw.gov.au
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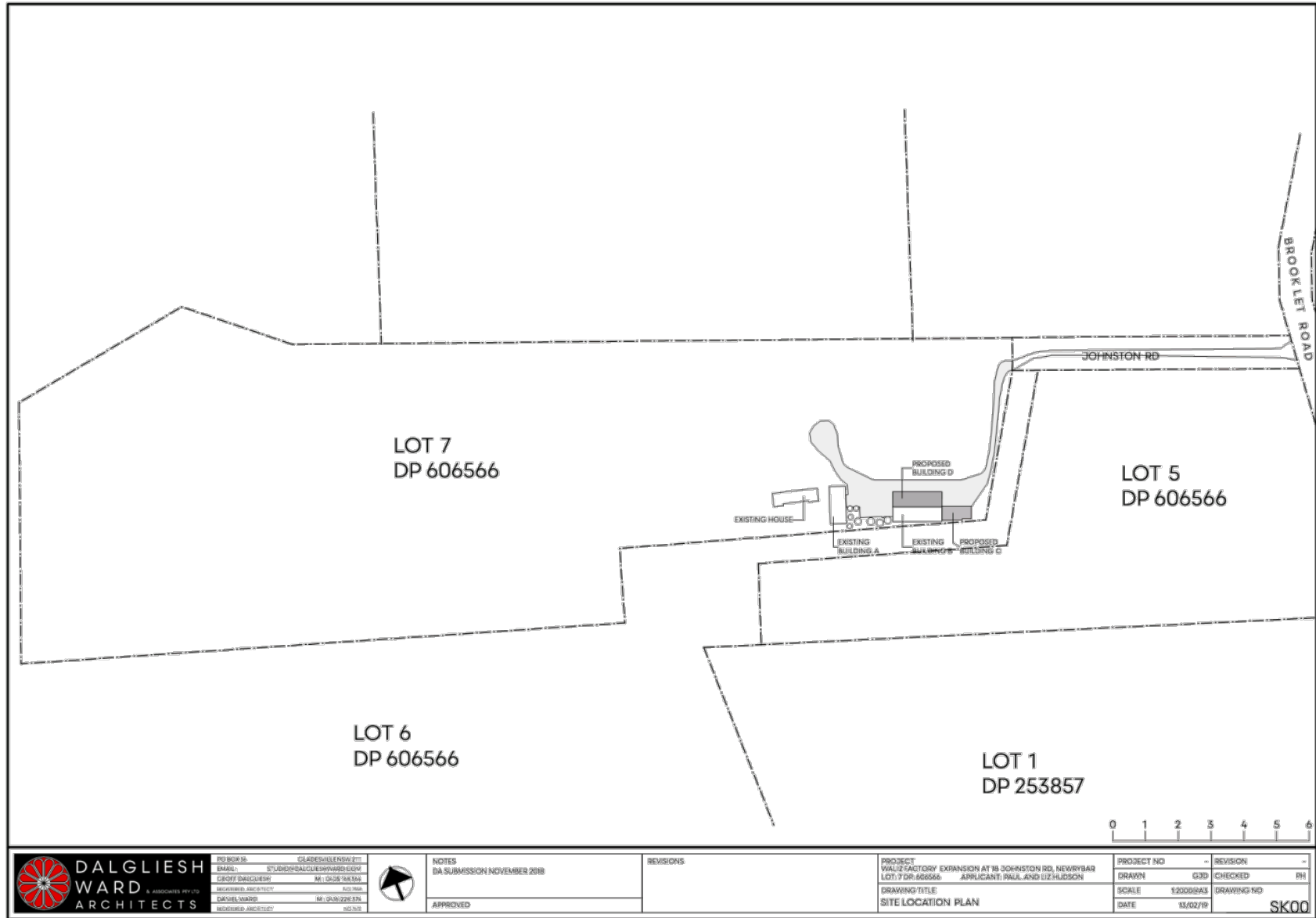


ballina shire council
geographical information system

Projection: GDA94 / MGA zone 56
Date: 11/08/2020

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PG BOK 16 CLADEWALLENSW/11
 EMAIL: STYLO@DALGLIESHWARD.COM
 DESIGN: DALGLIESH M: 0438 188 084
 REGISTERED ARCHITECT RG 3664
 DANIEL WARD M: 0430 226 876
 REGISTERED ARCHITECT RG 503

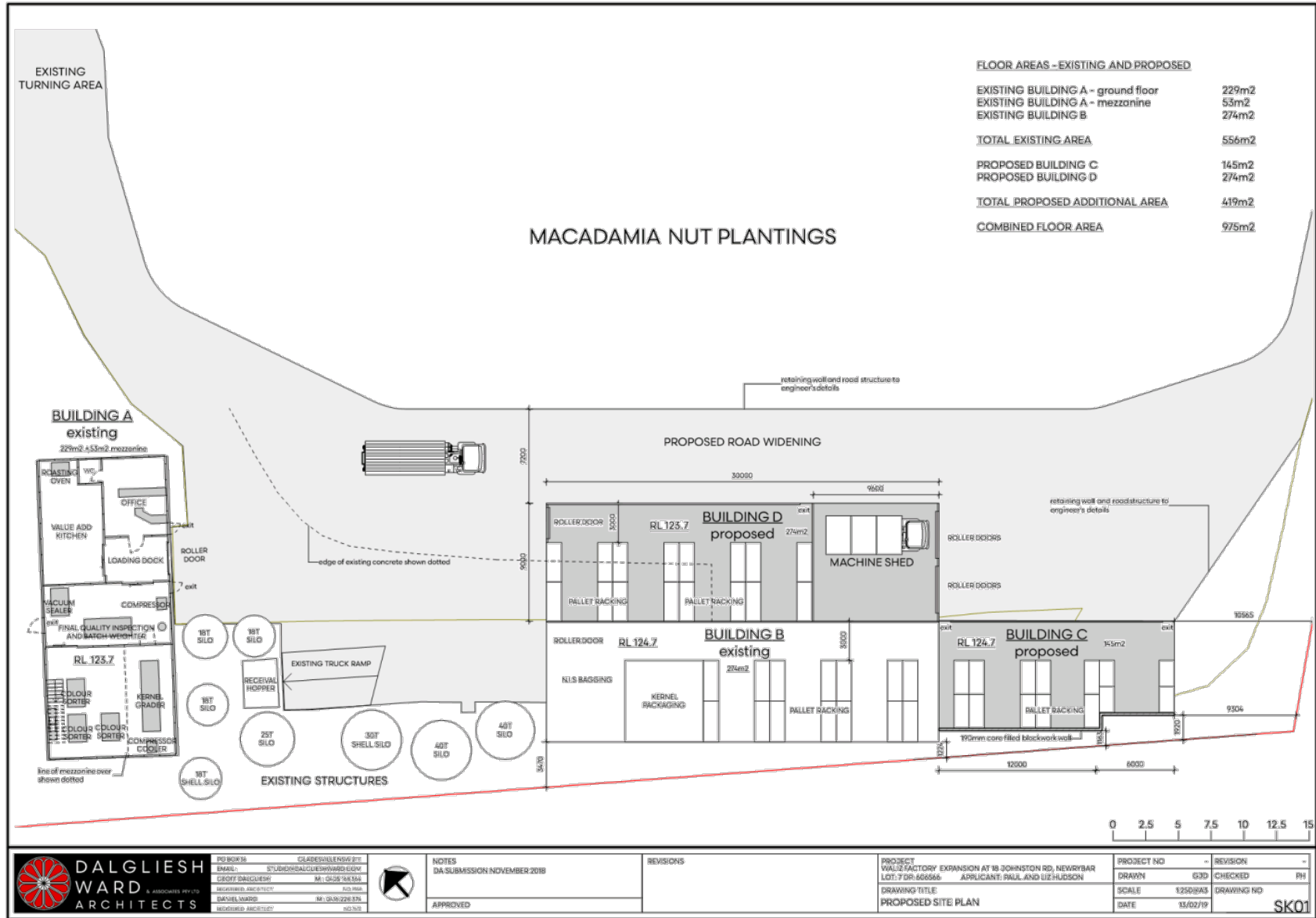


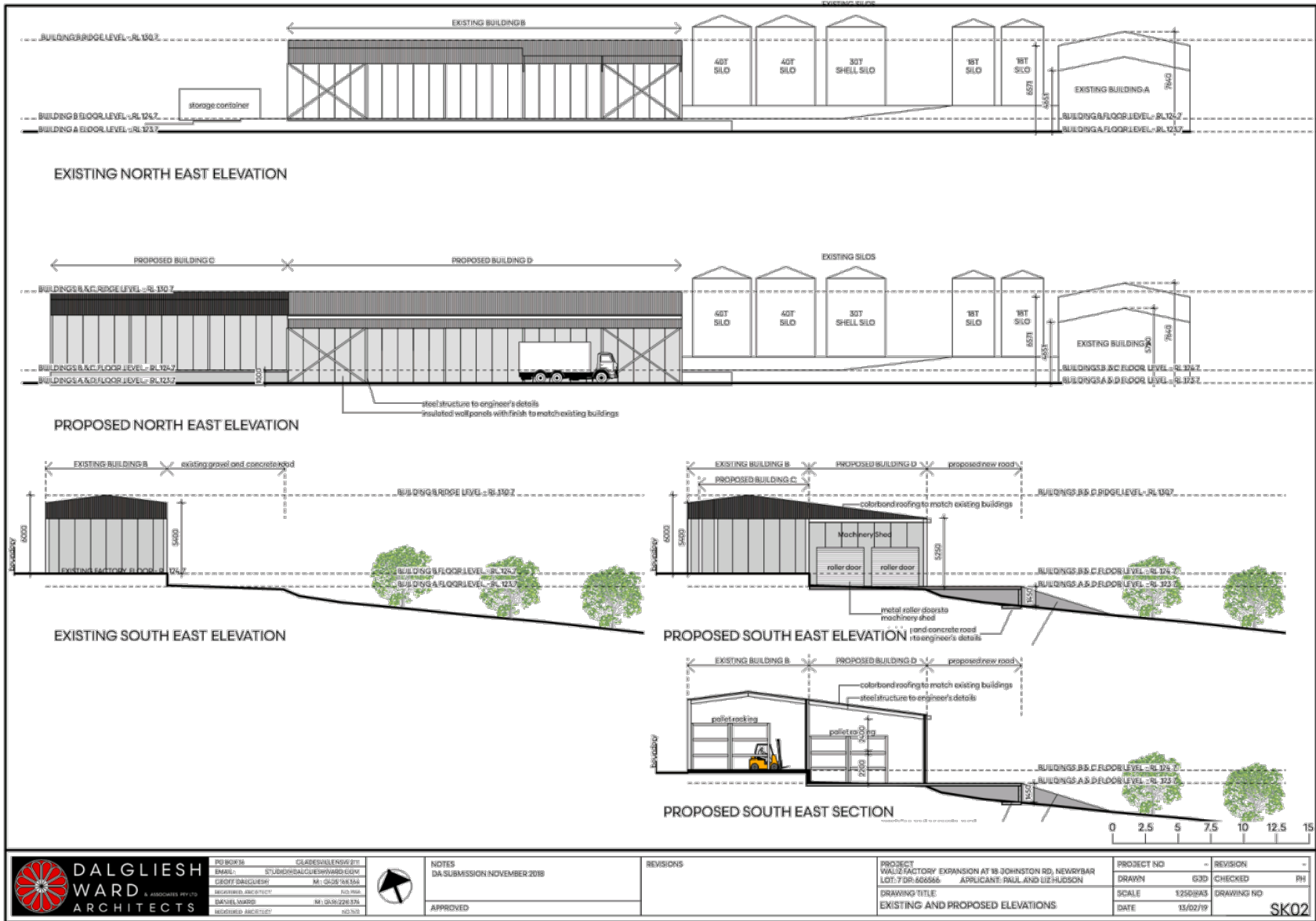
NOTES
 DA SUBMISSION NOVEMBER 2018
 APPROVED

REVISIONS

PROJECT
 WALZ FACTORY EXPANSION AT 18 JOHNSTON RD, NEWRYBAR
 LOT 7 DP 606566 APPLICANT: PAUL AND LIZ HILSON
 DRAWING/TITLE
 SITE LOCATION PLAN

PROJECT NO	-	REVISION	-
DRAWN	G3D	CHECKED	PH
SCALE	1:2000/943	DRAWING NO	
DATE	13/02/19		SK00





PO BOX 16 CLAREVILLE NSW 2111
 EMAIL: STUART@DALGLIESHWARD.COM
 CREST DALGLIESH M: 02 93 18 1564
 REGISTERED ARCHITECT RD 1664
 DANIEL WARD M: 02 93 226 876
 REGISTERED ARCHITECT NS 703

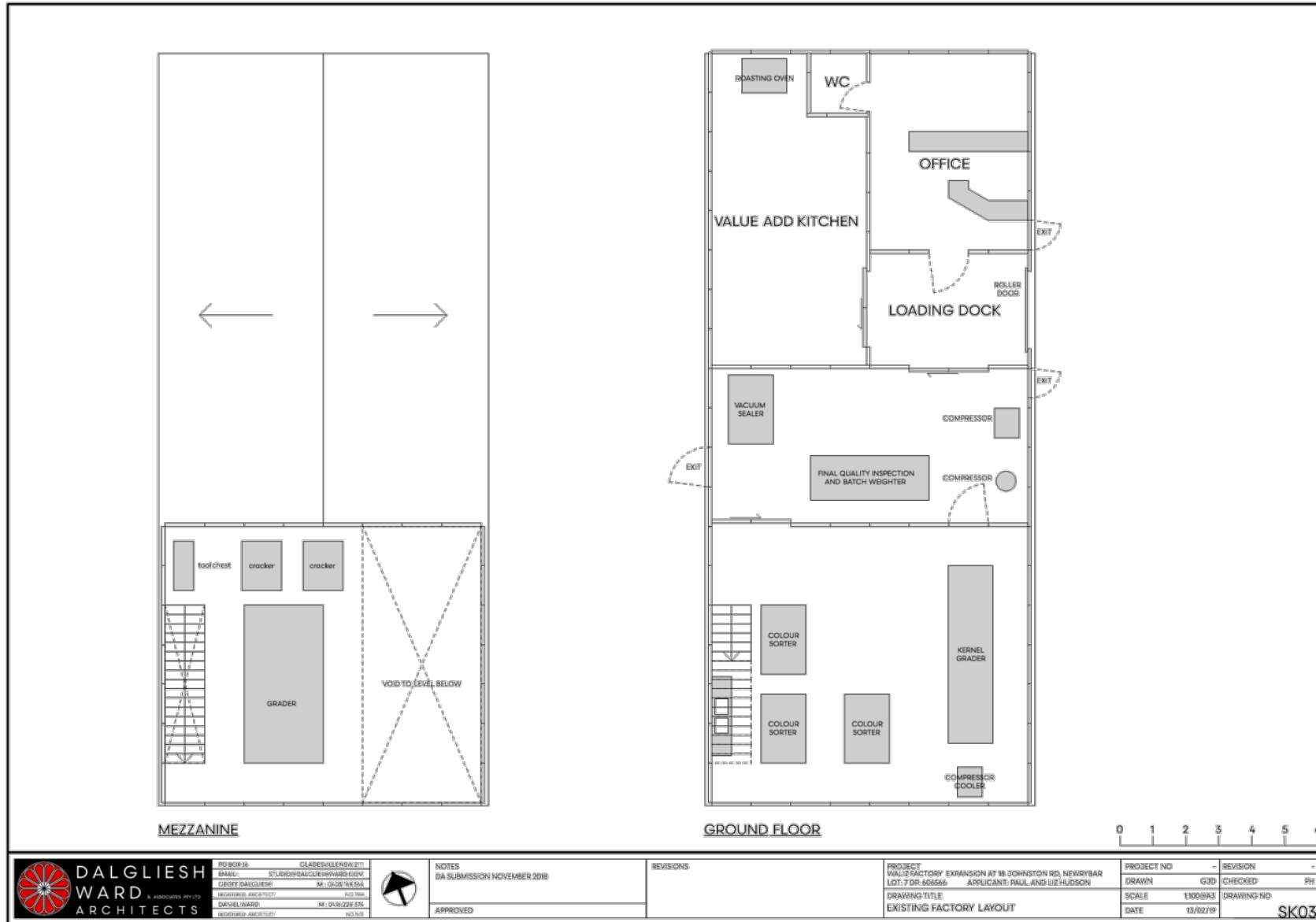


NOTES
 DA SUBMISSION NOVEMBER 2018
 APPROVED

REVISIONS

PROJECT: WALZ FACTORY EXPANSION AT 18 JOHNSTON RD, NEWRYBAR
 LOT: T196-455565 APPLICANT: PAUL AND LIEHLSON
 DRAWING TITLE: EXISTING AND PROPOSED ELEVATIONS

PROJECT NO	-	REVISION	-
DRAWN	GJD	CHECKED	PH
SCALE	1:250 @ A3	DRAWING NO	SK02
DATE	13/02/19		



PG BOX 16 GLADESVILLE NSW 2111
 EMAIL: STYLISH@DALGLIESHWARD.COM
 CREDIT: DALGLIESH M: 02 93 18 526
 REGISTERED ARCHITECT NO. 30666
 DANIEL WARD M: 04 30 22 6 376
 REGISTERED ARCHITECT NO. 503



NOTES
 DA SUBMISSION NOVEMBER 2018
 APPROVED

REVISIONS

PROJECT
 VALUFACTORY EXPANSION AT 18 JOHNSTON RD, NEWRYBAR
 LOT 159: 465656
 APPLICANT: PAUL AND LIEHLESON
 DRAWING/TITLE
 EXISTING FACTORY LAYOUT

PROJECT NO	-	REVISION	-
DRAWN	G3D	CHECKED	PH
SCALE	1:100 @ A3	DRAWING NO	
DATE	13/02/19		SK03

25 Boormans Road
Newrybar
NSW 2479

6th May 2020

Re: DA 2019/799 Waliz Nuts

Dear Ms Lee,

Further to our conversation on Monday I am forwarding you the noise impact assessment I have commissioned. In summary, if council grant the DA for macadamia processing and macadamia products factory in Johnston Road, Newrybar, our home will be subjected to offensive noise which is above the currently allowable levels. The property is currently processing macadamias without council approval and is requesting expansion.

The noise emanating from Waliz Nuts is incredibly intrusive. The frequency of noise from the hopper being filled has increased over the last few years as the business has grown. My heart sinks when I hear the the first hopper of the season being filled. The noise is audible inside the house, even with doors and windows closed. I find I cannot relax at home during this time, which can be an hour or two each day of operation. We have stopped inviting friends over for lunch as conversation is disrupted, despite the fact our entertaining area is on the opposite side of the house to the processing facility.

In addition to this, the noise coming from the storage silos is audible from our bedroom, making it difficult for me to settle back to sleep when I wake up in the night.

I have lived in Boormans Road for 22 years and have always accepted the occasional noise from farming activities. This activity however should be classed as industrial and, as such, would be better suited to an industrial area where residential homes will not be subjected to the offensive noise.

Thank you for tasking the time to consider this objection.

Regards,

Kerry Goldstone

6 May 2020
Ref: 32/2020

Kerry Goldstone
25 Boormans Road
NEWRYBAR NSW 2479

Dear Kerry

RE: DA 2019/799 Review of Noise Impact Assessment for Waliz Nuts Ingen Consulting 2 April 2020

At your request Tim Fitzroy & Associates (TFA) have undertaken a review of the *Noise Impact Assessment (NIA) Waliz Nuts* (Ingen Consulting, J1037, 2 April 2020) to support DA 2019/799 for the formalisation of an existing macadamia processing and storage facility located at Lot 7 DP 606566 No 18 Johnston Road Newrybar (your neighbouring property to the south east).

According to the report there is no macadamia de-husking undertaken (which is the noisiest operation in a macadamia processing shed).

The principal noises sources identified are:

- Filling of hopper; and
- heating fans in storage silos

Noise movements from trucks movement are intermittent (av 1 truck and dog per day) and not of significance.

The NIA has used relatively low background levels as a starting point to establish a project trigger level for macadamia processing activities, however the NIA has utilised the 'Code of Practice for Noise Management of On-Farm processing of Macadamia Nuts' (COP) (Lismore City Council 2004) to seek an exemption from Ballina Shire Council for noise generated by the hopper (the loudest noise source) stating that loading the hopper will only occur *occasionally, briefly and during the day*.

In addition, the NIA states that the proposed increase of nut delivery into hopper is from:

- 6.4T per day during season to 19.3T per day

1

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- Hopper takes 6T, resulting in average 1.9 hopper load per day increased to 3.0 hopper load per day
- One hopper load takes 40 minutes to process, resulting in **average of 44 minutes per day to 128 minutes (2 hours) per day** of using the hopper

Note: It could be debated as to whether the hopper loading (up to 2 hours per day) is *occasional and brief*.

This exemption is significant and allows the processing plant to operate with a higher acceptance level (at 50 dB) at the receivers rather than 43 Leq dBA during the day time in accordance with the Noise Policy for Industry (NPI) (NSW EPA 2017). In addition, it is important to note that the 50dB level is to be achieved at 1.5m from the wall of the receiver's building not at the boundary or if the dwelling is greater than 30m from the boundary at 30m from the dwelling.

In terms of silo operations the NIA states

- that there are a number of silos existing and additional silos to be placed on site. Not every silo emits noise. An overview as provided by the operator is given below:
 - The two main silos are heat silos and can run 24/7.
 - Two feeder silos, off heat, that generate no noise
 - One ducted silo emitting very little noise.
 - Remaining silos are for shell storage and do not create noise.

The noise modelling indicates compliance with the NPI (2017) intrusive noise criteria at your premises when heat silos are operating at all times ((Day (7am to 6pm) /Evening (6pm to 10pm) /Night (10pm to 7am)).

The noise modelling indicates noncompliance with the NPI (2017) intrusive noise criteria at your premises when heat silos + hopper are operating.

The NIA (Ingen 2020) considers noise impacts from the development on 7 receivers (R1 to R7) in the locality as described in Table 5 (see below). R2, R3 (your property, 25 Boormans Rd), R5 and R6 are residential receivers whilst R1, R4 and R7 are non-residential receivers.

In accordance with the NPI (2017) the intrusive noise criteria (RBL + 5 dB) would apply as the project trigger level for R2, R3, R5 and R6 rather than the higher acceptance level of 50 dBA (COP 2004) recommended by Ingen Consulting.

Note: Receivers R1, R4 and R7 have not been shown as exceedances in Table 3 as they are identified as not being residential and therefore the intrusive criteria does not apply.

Exceedances from the intrusive criteria (NPI (2017)) are shown in the report as:

- R2: 6 dB(A);

- R3: 3 dB(A);
- R5 7 dB(A); and
- R6 8 dB(A).

Table 5 | Single point modelling results

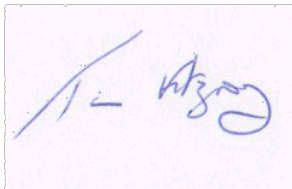
Receiver		Scenario 1, dB(A)		Scenario 2, dB(A)	
ID	Address	Impact	Limit (d / e / n)	Impact	Limit (day only)
R1	1 Johnston Road	38	50 / 45 / 40	50	50
R2	21 Boormans Road	32	43 / 35 / 35	49	50
R3	25 Boormans Road	29	43 / 35 / 35	46	50
R4	26 Boormans Road	26	50 / 45 / 40	32	50
R5	108 Brooklet Road	35	43 / 35 / 35	50	50
R6	116 Brooklet Road	34	43 / 35 / 35	51	50
R7	19 Johnston Road	11	50 / 45 / 40	17	50

In Summary

- The background noise levels used in the report are acceptable;
- The NIA(Ingene April 2020) has sought an exemption from the Noise Policy for Industry via adoption of the 'Code of Practice for Noise Management of On-Farm processing of Macadamia Nuts' (Lismore City Council 2004) .
- The effect of this exemption is that during hopper and heating silo operations there are exceedances of the intrusive Noise criteria (project trigger value) accordance with the Noise Policy for Industry (NSW EPA 2017) as follows
 - R3 (your residence there is an increase of 3dB);
 - R2 (an increase of 6dB);
 - R5 (an increase of 7dB); and
 - R6 (an increase of 8dB
- Receivers R1, R4 and R7 have not been show as exceedances in Table 5 as they are identified as not being residential and therefore the intrusive criteria does not apply.
- Whilst there are a number of silos on site and more to be installed noise measurement and predictions is primarily limited to the 2 heat silos. There is no indication that additional heat silos will be installed as part of the increase

- in throughput however it would be worth requesting BSC to confirm with the applicant as to whether this is the case. Modelled noise predictions from Ingene (2020) indicate compliance with NPI (2017) during day, evening and night at your premises from noise emissions associated with silo operations.
- The NIA recommends that the use of the hopper is limited to the following periods:
 - Weekdays: 9am – 5pm
 - Weekends: 10am – 2pm
 - Public holidays: none
 - Discussions with Council's Environmental Health Officer, Rachael Jenner have not confirmed as to whether Council has accepted the use of the watered down noise criteria in the 'Code of Practice for Noise Management of On-Farm processing of Macadamia Nuts' (Lismore City Council 2004) in lieu of the Noise Policy for Industry (NSW EPA 2017) to regulate noise impacts from the proposed development
 - It is our view that given the use of the hopper is estimated to be up to 2 hours per day for 6 days a week that this activity could not be described as *occasional or brief* and that Council should apply the daytime intrusive criteria (43 leq15min dB (A)) as per the Noise Policy for Industry (NSW EPA 2017) to regulate noise impacts from the hopper operations at the proposed development.

Kind regards,



Tim Fitzroy
Environmental Health Scientist
Environmental Auditor

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25 Boormans Road
Newrybar NSW 2479

28/01/2020

Re: Objection to DA 2019/799 - 18 Johnston Road, Newrybar

Dear Ms Lee,

As an adjoining owner I am writing to object to this development application on the grounds that the claim of being an ancillary use secondary to primary production is unjustifiable.

My limited understanding of local government planning is that, while allowing for development, it is intended also to provide reasonable protection for already approved adjacent land use, including residential and tourism.

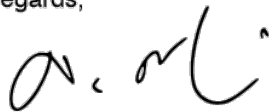
Having bought into rural zoning I have always understood that primary production will have associated ancillary land uses allowed, such as on site processing of farm produce. My understanding of the term 'ancillary' is that it is a use subordinate or subservient to the dominant purpose, which in this case should be primary production.

The proposed DA is primarily a high volume light industrial activity with associated impact on adjacent land use by noise and traffic flows.

Does any reasonable person regard the processing of **100 times the farm output** as a subordinate use?

Primary production will be the secondary activity, but is being used inappropriately to justify location of a factory outside of an industrial zone. Is this compatible with the intention of the planning process, and with protection of adjacent use?

Regards,



Nicholas Repin

14 Boorman's Road,
Newrybar NSW 2479

17th January, 2020

Reference: DA 2019/799, 18 Johnston Road, Newrybar

Dear Ms Lee,

I am writing to object to the proposed expansion of the macadamia nut processing plant, at Waliz Nuts, which is approximately 800 m from my property.

I am in the hospitality industry and an integral attraction of my business is the ability to relax and unwind. My business consists of five accommodation cabins, situated within 60m of the corner of Boorman's and Brooklet Roads.

My property and location is desirable for tourism stays because of the lush landscape, tranquil ambience and proximity to the highly attractive village of Newrybar.

The grounds of my objections relate to the undesirable impact the nut processing facility will have on my tourism business as well as other community concerns.

Firstly, I envisage the proposed expansion of capacity of the nut farm to considerably increase traffic on Brooklet Road, to which I share a boundary. Heavy vehicles like trucks, agricultural machinery and workers' cars mean a huge increase in traffic, noise and emissions, moving past my accommodation business.

The increased traffic on Brooklet Road will adversely affect the amenity, the desirable features of my cabins. How will my guests enjoy the serenity and natural beauty of their stay when there are multiple trucks emitting noise and vibrations, gearing up and down, for long hours of the day, for six months of the year?

Secondly, I anticipate damaging financial impacts on my business. My core business is guest accommodation, rest and relaxation. Disturbed sleep of my guests will lead to customer complaints, poor reviews, requests for refunds, and diminished return patronage. My occupancy levels will be severely impacted if there is no peace to be had (staying at my cabins).

Thirdly, traffic safety issues are of concern. The major component of my cabin DA (DA 2016/161) involved alleviating traffic at Brooklet and Boorman's Roads. Council has stipulated I build an internal road through my private property, to minimise traffic effects and increase traffic safety. This road cost to me is approximately \$200 000.00.

The traffic load generated by my five cabins is negligible compared to the high the volume of traffic anticipated if the nut farm starts processing other farms produce. How is the nut processing plant DA compatible to alleviating traffic on Brooklet Road, when I have been forced to take such extreme steps to mitigate traffic concerns?

Fourthly, my property has added appeal as it contains an environmentally sensitive area; a 1000 square meter rainforest. This unique landscape feature was a significant reason why I purchased the acreage.

I am very concerned the increased carbon monoxide, carbon dioxide and particulate matter (soot) emissions generated from extra vehicular traffic on Brooklet Road. These pollutants are environmentally unfriendly and will certainly be harmful to the trees, foliage, birdlife and animals in the rainforest on my land. This sensitive ecosystem is vulnerable and I do not want it damaged by increased traffic "belching" by it.

In conclusion, I trust the Council will consider my objections to the proposed expansion of the macadamia nut processing plant at 18 Johnston Road, Newrybar. These objections have been detailed and are based on protecting my guest leisure time and enjoyment, securing my business operations, as well as greater community concerns; traffic congestion, noise pollution, road safety and environmental impacts.

Respectfully,

Ms Louise Ebsary

25 Boormans Road
Newrybar NSW 2479

18/01/2020

Re: Objection to DA 2019/799
18 Johnston Road, Newrybar

Dear Ms Lee,

I am writing to object to the above development application on the grounds of both noise and traffic volume adversely affecting the amenity of neighbouring properties. The noise emanating from this property has become increasingly intrusive over the years as the business has expanded. In 2019 I had discussions about the noise with Mr Hudson and also wrote to council expressing my concerns. During the macadamia processing season we wake to the sound of nut trucks being emptied, and suffer disturbed sleep due to the noise from macadamia drying silos. With an increased throughput the noise will continue for a longer period each day and over more months of the year. As for traffic, the DA proposes a large increase in heavy vehicle traffic volume i.e. triple the number of 'inputs from other farms' and doubling of 'output of processed kernel', the noise from which will have a further negative impact on surrounding properties.

The proposed increase in traffic volume will also increase the risk of road accidents. Johnston Road exits onto an 80kmh zone at Brooklet Road, with poor visibility. This is not a suitable location for such an industry, with heavy vehicles entering and exiting Johnston Road. A factory and large volume macadamia processing business such as this should be located in an industrial area, where the noise and traffic will not adversely affect residential properties.

Newrybar is an area which tourists love to visit, with the village attracting numerous people daily. Ballina council have welcomed and supported the tourist industry in Newrybar, in particular in the immediate vicinity of Johnston Road, with approvals for a wedding venue at 1 Johnston Road and tourist cabins at 14 Boormans Road. The noise emanating from a factory and macadamia processing shed are in no way compatible with these tourist facilities. Additionally, an increase in heavy vehicle traffic, coupled with an increase in drivers unused to our country roads, will increase the risk of traffic accidents.

Please consider these objections when assessing this application for development.

Thank you,



Kerry Goldstone

19 Johnston Rd
Newrybar NSW
2479

Ballina Shire Council
www.ballina.nsw.gov.au

Re: Development Application 2019/799

Dear Ms Lee,

As neighbouring residents of the abovementioned property at 18 Johnston Rd Newrybar we have the following concerns and objections regarding DA 2019/799.

Firstly, the plans for the proposed new building illustrate it being situated well within the required 3 metre set back from our adjoining rural property. We would propose that the 3-metre set back is adhered to and measures taken to reduce the aesthetic impact on the entrance to our property are taken. To minimise both visual and noise pollution related to the significant increase in infrastructure and traffic movements at 18 Johnston Rd we propose that aesthetically sympathetic fencing and vegetation be installed and planted along the affected internal boundary as part of the development requirement. It would also be appropriate for new buildings to be constructed in a dark colour to blend into the landscape.

Secondly, given the significant increase in traffic anticipated on Johnston Rd associated with the tripling of macadamia nut processing we request Ballina Shire Council's advice as to who will be responsible for the upgrade and ongoing maintenance of Johnston Rd to cater for the additional vehicles and heavy loads. We also have concerns that access to our driveway will be compromised by the tripling of traffic flow in and out of the adjacent property.

Finally, the proposed operational hours of 6am – 8:30pm 6 days per week for 6 months per year and the associated noise and traffic impacts is not conducive to rural lifestyles or in the spirit of rural zoning.

We would welcome your comments and advice regarding our concerns.

Regards,

Diana Nielson and Jeff King

20 January 2020
Ref: 02/2020

Greg Rooke
1 Johnston Road
NEWRYBAR NSW 2479

Dear Greg

RE: DA 2019/799 Review of Noise Impact Assessment for Waliz Nuts Ingen Consulting 10 December 2019

At your request Tim Fitzroy & Associates (TFA) have undertaken a review of the *Statement of Environmental Effects (SEE)* (Malcolm Scott Town Planner, 10 December 2019) and the *Noise Impact Assessment (NIA) Waliz Nuts* (Ingen Consulting 10 December 2019) to support DA 2019/799 for the formalisation of an existing macadamia processing and storage facility located at Lot 7 DP 606566 No 18 Johnston Road Newrybar (your neighbouring property to the north west).

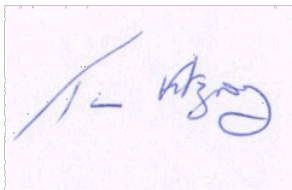
The focus of this review relates to potential noise impacts from the approval by Ballina Shire Council of Development Approval 2019/799 on your existing Wedding Ceremony operations under DA 2017/662.

Our review revealed that measured and modelled noise sources appear to be limited to the hopper and 2 silos use. The NIA does not appear to have considered noise impacts from macadamia processing within the sheds, the total numbers of silos in operation, vehicle movements onsite nor noise impacts from the 164 vehicles movements per day nominated in Table 1 of the SEE (Scott, 10 December 2019).

It is recommended that the NIA for DA 2019/799 be revised to nominate and predict noise impacts from all noise generating sources from the proposed development. In particular the revised NIA should include predicted noise impacts from:

1. Macadamia processing under full production during the nominated day (7am to 6pm), evening (6pm to 8:30pm) night (6am to 7am) periods;
2. All heating silos operating simultaneously; and
3. All vehicles movements both onsite and to and from site along Johnston Road

Kind regards,



Tim Fitzroy
Environmental Health Scientist
Environmental Auditor

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NORTHERN RIVERS LAND SOLUTIONS
Surveying | Town Planning | Engineering | Environmental
ABN: 93 143 457 210

Job No. 20007

21 February 2020

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

Dear Sir,

Re: Objection to DA 2019/799 New Commercial Building (retail/wholesale trade) - To formalise and expand an agricultural produce industry (macadamia nut processing and value adding facility) and to carry out associated works – 18 Johnston Road, Newrybar - Lot: 7 DP 606566 .

Council advertised the subject development application for public comment and on behalf of Dunnet Group of Lot 1 and 2 DP 1037189 and Lot 20 DP 1043497 and Bart Elias of Lot 8 DP 734619, I wish to advise that Northern Rivers Land Solutions have been retained to prepare the following submission objecting to the abovementioned development application.

Objection 1

Access to the proposed development site via Johnston Road is sealed, however it is in close proximity to existing dwellings and approved tourist accommodation and has the potential to result in light and noise impacts to adjoining properties and in particular to the residential buildings. In addition, the development will substantially increase traffic travelling on Brooklet Road, which is a narrow, sealed road in generally poor condition.

The sight distance at the intersection of Brooklet Road and Johnston Road has been overestimated in the Statement of Environmental Effects, prepared by Malcolm Scott – Consultant Town Planner, and is approximately 80m to the North-East towards Newrybar and 150m towards the South-West towards Brooklet. This is substantially less than the 180m required under Austroads Standards for an 80km/h speed environment and does not allow a driver on Brooklet Road sufficient distance to avoid a collision with a vehicle egressing Johnston Road. This is considered to be a major safety issue considering the amount of additional traffic that will be generated if the development was to go ahead. At a bare minimum a BAR-BAL type intersection treatment should be required to improve safety. It should be noted that a proportion of the additional traffic generated would be from heavy vehicles which are slower to accelerate and contribute to additional wear and tear to the local road network.

Objection 2

The Noise Impact Assessment, prepared by Ingen Consulting, addresses the impact of the processing facility during normal operation, however it fails to consider the impact of heavy vehicle movements which would also have a significant impact on the amenity of locality.



NORTHERN RIVERS LAND SOLUTIONS
Surveying | Town Planning | Engineering | Environmental
ABN: 93 143 457 210

Land Use Conflict Risk Assessment, prepared by Malcolm Scott – Consultant Town Planner, considers the potential impact of the processing on surrounding properties, however it fails to address ancillary impacts such as increased traffic movements, largely by heavy vehicles. These impacts may include dust, light, noise and additional traffic generation which will negatively impact on the general amenity of the locality, especially in regards to the proximity of the closest Dwelling House, which is located approximately 150m from the facility.

The objectives of the RU1 Primary Production zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.*
- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

The proposal is considered to have a negative impact on the amenity of the Newrybar and Brooklet localities, particularly in terms of traffic generation and noise generated by the expanded facility operating at increased hours.

The proposal has the potential to increase land use conflict in the zone and is clearly inconsistent with a number of the objectives of the RU1 zone.

Conclusion

On behalf of our client, we oppose the proposed development as the traffic and noise impacts associated with the facility are incompatible with
Please feel free to contact us if you require any further information.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Tony Hart'.

Tony Hart,
General Manager
Northern Rivers Land Solutions

24 Boormans Rd
Newrybar NSW 2479

26/01/2020

Ref DA 2019/799 18 Johnston Rd Newrybar

Dear Ms Lee

We are writing to object to the expansion of the Nut facility at 18 Johnston rd Newrybar, the noise that is generated at this facility is far greater than what a Macadamia farm that produces 20 tons of nut. They produce 20ton of nut on farm and truck another 1000 ton to the farm and want to increase this to 3000 ton. This is a business that should be moved to an industrial zone where there are no constraints.

The increase in large semi trailer type trucks through the village of Newrybar is another reason to reject the application, Newrybar is a thriving village with pedestrian traffic and narrow roads.

We live approximately 350m from the facility and have no peace from the noise of the Silos, they run 24hrs a day 7 days a week.

We have no objection for a farm to value add to what they produce, at present we believe they are operating outside of the land use. This is primary production land not light industrial.

Regards

Mark and Christine Jones

116 Brooklet Rd
Newrybar
NSW 2479

Ballina Shire
Council

30th January 2020

Re DA 799-2019

Dear Sir,

my wife and I wish to lodge our support for the above application. As a longtime resident (42 years) and residing on the same original subdivision being a close neighbour we have no issues since the Maccadonia Agricultural Business commenced

To see an application to advance the business process for maccadonia nut product enhancement would compliment the business process.

We have no concerns re expansion having considered noise traffic and water. As the Federal Government supports small business expansion we trust that the Ballina Shire Council will give its support to DA 799-2019.

Yours faithfully
Vivienne & Paul Carey

Development and Environmental Health Group Development Application Assessment Form

Pursuant to s.4.15 (1) of the EP & A Act 1979



ASSESSMENT OF THE APPLICATION UNDER SECTION 4.15 (1) OF THE EP& A ACT 1979

4.15 (1) (a) (i) - the provisions of any environmental planning instrument

Local Environmental Plans (LEPs)

Relevant LEP	Applies YES/NO
Ballina Local Environmental Plan 2012	Yes
Ballina Local Environmental Plan 1987 (Note: BLEP 1987 only applies to land identified as "Deferred Matter" on the Land Application Map accompanying the BLEP 2012)	No

Ballina LEP 2012 – Zoning, Permissibility and Relevant Clauses	Comments/Is consistency with these provisions achieved?
Aims, objectives of BLEP (Clause 1.2)	The proposal is considered to be generally consistent with the aims and objectives of the BLEP 2012.
Land use definition (Clause 1.4)	<p>The proposal is best defined as an agricultural produce industry, defined within the BLEP 2012 as follows:</p> <p>Agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.</p> <p>Agricultural produce industries are a type of rural industry:</p> <p>Rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:</p> <ol style="list-style-type: none"> agricultural produce industries, livestock processing industries, composting facilities and works (including the production of mushroom substrate), sawmill or log processing works, stock and sale yards, the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.
Zoning under BLEP 2012, permissibility within zone and regard for zone	The subject land is zoned RU1 Primary Production under the provisions of the BLEP 2012.

objectives (Clause 2.3)	<p>Development for the purposes of an 'agricultural produce industry' is permissible within the RU1 zone subject to the prior consent of Council.</p> <p>The objectives of the RU1 zone are as follows:</p> <ul style="list-style-type: none"> • To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To maintain the rural, cultural and landscape character of the locality. • To enable development that is compatible with the rural and environmental nature of the land. • To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure. <p>The proposed development is considered to be consistent with the zone objectives given it will encourage diversity in primary industry enterprises (agricultural produce industry comprising macadamia nut processing and value adding facility).</p> <p>With respect to conflict between land uses, this matter has been addressed within the DCP section of this report and in the discussion in the Council report regarding submissions received.</p>
Height of buildings (Clause 4.3)	<p>A maximum building height of 8.5 metres is applicable to the subject site.</p> <p>The applicant has indicated that there are no changes to the heights of Buildings A and B.</p> <p>The height of proposed Buildings C & D is approx. 7 metres from the existing ground level.</p> <p>In this regard, no issues are raised in relation to the requirements of this clause.</p>
Floor space ratio (Clause 4.4)	Not applicable.
Earthworks (Clause 7.2)	<p>Earthworks are proposed to facilitate the development. The applicant has provided the following comments with regard to earthworks:</p> <p><i>Minor excavation earthworks are required to provide the platform for Building C. The depth of works is approx. 0.3m and extends for approx. 130m².</i></p>

	<p><i>Some filling earthworks are required to provide the platform for Building D and for the relocation of the internal driveway. The depth of works is approx. 2m and extends for approx. 280m².</i></p> <p>Clause 7.2 (3) of BLEP 2012 states that before granting consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p><i>(a) The likely disruption of, or any detrimental effects on, drainage patterns and soil stability in the locality of the development;</i></p> <p>A Stormwater Management Plan prepared by Ingen Consulting was submitted with the application and amended on 2 April 2020 following a request for additional information from Council.</p> <p>With respect to impacts on drainage patterns in the locality, the proposed stormwater management approach on the site has been assessed and has deemed satisfactory by Council's Civil Services Division.</p> <p>With respect to soil stability, the subject site is not identified on Council's Landslip/Geotechnical Hazard map. The applicant has indicated that erosion and sediment controls will be placed around the area to be disturbed prior to works commencing and retained until works are completed. Conditions are recommended to be imposed on any consent granted to ensure such controls are implemented prior to the commencement of any works on the site.</p> <p><i>(b) The effect of the development on the likely future use or redevelopment of the land;</i></p> <p>The applicant has indicated that the proposed earthworks are ancillary to the use of the land for the purpose of an agricultural produce industry. It is considered that the development will not have an adverse impact on the future use or redevelopment of the land.</p> <p><i>(c) The quality of the fill or the soil to be excavated, or both;</i></p> <p>The applicant has indicated that any excavated soil will be used on the site as fill. If required, fill is to be sourced from an approved quarry or landscape supply business. Conditions are recommended to be imposed on any consent granted to ensure fill is only obtained</p>
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	<p>from approved sources.</p> <p>A condition is recommended to be imposed on the consent requiring that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime, with certification provided to the Principal Certifying Authority</p> <p><i>(d) The effect of the development on the existing and likely amenity of adjoining properties;</i></p> <p>The proposed earthworks are not anticipated to impact upon the existing and likely amenity of adjoining properties.</p> <p>The applicant has indicated that as the earthworks are generally well contained within the subject property. Therefore, it is not anticipated that any adverse impacts to adjoining land will occur. However, conditions are recommended to be imposed on any consent granted in relation to sediment and erosion control and stormwater management.</p> <p>It is considered the further modification of the site will not result in any additional impacts over and above the existing situation with respect to the existing and likely amenity of adjoining properties.</p> <p>Due to the topography of the site and the stormwater management approach proposed, it is not envisaged any drainage or ponding issues will occur.</p> <p><i>(e) The source of any fill material and the destination of any excavated material;</i></p> <p>The applicant has indicated that any fill imported will be from an approved source. Conditions are recommended to be imposed on any consent granted to ensure this requirement is complied with.</p> <p>A condition is recommended to be imposed on any consent granted requiring all demolition, construction or the like waste (including fill material) to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption.</p> <p><i>(f) The likelihood of disturbing relics;</i></p> <p>The applicant has indicated that the subject land has been previously used for grazing of cattle and subsequently developed for macadamia production.</p> <p>An AHIMS search was carried out on 13 January 2020</p>
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	<p>which indicated that no Aboriginal sites or places have been recorded/declared in or near the subject land.</p> <p>In this regard, it is considered highly unlikely that relics would be disturbed during works.</p> <p><i>(g) The proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area; and</i></p> <p>A waterway (Skinners Creek) is located approximately 250 metres to the west of the proposed earthworks. A mapped stream (as shown on Council's River Catchments and Drainage layer) is also located approximately 160 metres to the north-east of proposed works. Given the distance to the waterways and the sediment and erosion controls to be implemented, it is considered potential adverse impacts on this waterway are minimal. Conditions are recommended to be imposed on any consent granted to ensure these controls are implemented prior to works commencing on the site.</p> <p>The site is located within the Wilsons River Drinking Water Catchment. Impacts on the drinking water catchment are discussed under Clause 7.4 below.</p> <p><i>(h) Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p>The applicant has indicated that sediment and erosion controls will be implemented during construction to minimise any impacts of the earthworks proposed. Conditions are recommended to be imposed on any consent granted to ensure this requirement is complied with.</p> <p>Conditions are also recommended to be imposed to ensure stormwater management on the site occurs in accordance with the approved Stormwater Management Plan.</p> <p>Given the above, no concerns are raised with regard to the earthworks proposed as part of the subject application.</p>
Drinking water catchments (Clause 7.4)	<p>The subject land is located within the Wilsons River Drinking Water Catchment.</p> <p>Clause 7.4(3) of the BLEP 2012 requires that before determining a development application for development on land to which this clause applies, the consent authority must consider the following:</p> <p><i>(a) whether or not the development is likely to have</i></p>

	<p><i>any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following:</i></p> <p><i>(i) the distance between the development and any waterway that feeds into the drinking water storage,</i></p> <p>A waterway (Skinners Creek) is located approximately 250 metres to the west of the proposed earthworks. A mapped stream (as shown on Council's River Catchments and Drainage layer) is also located approximately 160 metres to the north-east of proposed works. Given the distance to the waterways and the sediment and erosion controls to be implemented, it is considered potential adverse impacts on this waterway are minimal. Conditions are recommended to be imposed on any consent granted to ensure these controls are implemented prior to works commencing on the site.</p> <p><i>(ii) the on-site use, storage and disposal of any chemicals on the land,</i></p> <p>The applicant has indicated that oils, grease and chemicals will be stored in designated areas within Building B and flammable liquids in an approved storage facility.</p> <p>Council's Public and Environmental Health Section has carried out an assessment of the proposal. A condition is recommended to be imposed requiring any liquid contaminants to be stored on site to be stored within an impermeable bunded and roofed on site storage area compliant with AS 1940-2017 'The Storage and Handling of Flammable and Combustible Liquids' and AS 4452-1997 'The Storage and Handling of Toxic Substances'. Clean up equipment including suitable absorbent material shall be stored on site to effectively deal with liquid contaminates such as oils and chemical spills.</p> <p>Subject to compliance with the recommended conditions of consent, no issues are raised in relation to this requirement.</p> <p><i>(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,</i></p> <p>The application was accompanied by an On-Site Sewage Management System (OSSM) report prepared by Ecoteam. Council's OSSM Officer has carried out an assessment of the application and no issues are raised with the OSSM report as amended. Conditions are recommended to be imposed on the</p>
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	<p>consent in relation to the installation and operation of the system.</p> <p><i>(b) the cumulative impacts of development on water quality and quantity in the catchment,</i></p> <p>Having regard for the mitigation measures proposed, is not considered the development will result in any adverse cumulative impacts on water quality in the catchment.</p> <p><i>(c) any appropriate measures proposed to avoid the impacts of the development,</i></p> <p>As discussed above, conditions are recommended to be imposed on the consent in relation to chemical storage, management of spills and implementation of sediment and erosion control measures. These measures have been assessed as suitable to avoid adverse impacts on the drinking water catchment as a result of the development.</p> <p><i>(d) any comments that have been provided in relation to the development by the relevant water supply authority or local or county council exercising water supply functions under Division 2 of Part 3 of Chapter 6 of the Local Government Act 1993,</i></p> <p>The application was referred to Rous County Council for comment. A response was provided on 14 January 2020 with respect to the contributions applicable, which is recommended to be imposed as a condition of consent.</p> <p>This response also indicated that the property is within a drinking water catchment, however the submitted OSSM report did not provide details on compliance with Rous Water On-site Wastewater Management Guidelines. This matter was included in a request for additional information to the applicant dated 17 February 2020.</p> <p>An amended OSSM report was provided to Council on 5 April 2020, which included a revised OSSM report dated March 2020. The amended OSSM report was forwarded to Rous who advised that the above concerns had now been addressed.</p> <p><i>(e) whether or not the development would be more suitably carried out on an alternative site.</i></p> <p>It is not considered that the development would be more suitably carried out on an alternative site as the potential impacts of the development can be suitably managed by way of conditions on any consent</p>
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	<p>granted.</p> <p>Having regard for the above, no issues are raised with respect to the requirements of this clause, subject to compliance with the conditions of consent.</p>
Essential services (Clause 7.7)	<p>The proposal is to formalise and expand an agricultural produce industry comprising macadamia nut processing and value adding facility.</p> <p>Clause 7.7(2) states that development consent must not be granted unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available where required:</p> <p><i>a) the supply of water,</i></p> <p>Council's Civil Services Division has commented that the development site has an existing connection to the Rous water supply system. Water supply servicing can be provided by this system. The application was referred to Rous County Council who provided advice on the applicable development contributions, which are recommended to be imposed as conditions of consent.</p> <p><i>(b) the supply of electricity,</i></p> <p>Electricity servicing is currently provided to the site and no alteration to this network is required to facilitate the proposed development. Council's Civil Services Division have advised that the development does not encroach on the minimum safe distance requirements in regards to structures/buildings and overhead power lines.</p> <p><i>(c) the disposal and management of sewage,</i></p> <p>The subject site is not connected to Council's reticulated sewer system. In this regard, an on-site sewage management (OSSM) system is proposed as part of the development.</p> <p>The amended On-Site Sewage Management System report prepared by Ecoteam dated March 2020 has been assessed by Council and no issues are raised in relation to the system proposed, subject to compliance with the recommended conditions of consent.</p> <p><i>(d) stormwater drainage or on-site conservation,</i></p> <p>A Stormwater Management Plan prepared by Ingen Consulting dated 10 December 2019 was submitted with the application. The plan was amended on 2 April</p>

	<p>2020 following a request for additional information from Council.</p> <p>Council's Civil Services Division have carried out an assessment of the proposal and Stormwater Management Plan, which is considered to be generally acceptable. The plan provides a 3KL rainwater tank connected to Building B and 3 x 5KL rainwater tanks connected to Building D. A vegetated swale drain is also proposed within the site. This approach has been assessed by Council's Civil Services Division who is satisfied the proposal meets Council's requirements.</p> <p>A condition is recommended to be imposed on any consent granted requiring the stormwater controls on the site to be in accordance with the approved stormwater management plan.</p> <p><i>(e) suitable vehicle access,</i></p> <p>The subject site is serviced by the existing road network. Council's Civil Services Division has commented that the existing external road network is constructed to a suitable standard to service the proposed development. A number of submissions received raised concerns in relation to the traffic impacts associated with the development. Vehicular access to the site is further discussed within the Ballina Development Control Plan 2012 (DCP) and the response to the submissions received.</p> <p><i>(f) telecommunication services.</i></p> <p>Telecommunication servicing is currently provided to the site and no alteration to this network is required to facilitate the proposed development. This has been deemed satisfactory by Council's Civil Services Division.</p> <p>Council's Civil Services Division has advised that the development does not encroach on any easement or the zone of influence of any existing water, sewer or drainage mains.</p> <p>Subject to compliance with the conditions of consent, no issues are raised in relation to the servicing of the proposed development.</p>
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State Environmental Planning Policies (SEPPs)

Relevant SEPPs	Comments/Is consistency with these provisions achieved?
State Environmental Planning Policy No. 55 –	The applicant has commented that neither the buildings nor land comprising their curtilage are known or considered to be potentially

<p>Remediation of Land</p>	<p>contaminated and that the land is not on Council's register of potentially contaminated sites. The land upon which the buildings exist has been used for agricultural storage purposes and the agricultural process industry since the late 1980s. The land is not within the 200 metre investigation buffer of a former cattle tick dip site and has been used for growing of macadamia trees for some 30 years.</p> <p>Council's Environmental Health Officer has carried out an assessment of the proposal. The following comments have been provided in relation to land contamination:</p> <p>Council's Environmental Health Officer has carried out an assessment of the proposal. The proposal is an expansion of the current operations which include intensive horticulture (macadamia cropping) and rural industry (macadamia processing). Agriculture is a potentially contaminating land use, however as the land use will continue, no further assessment of land contamination is required at this time. However, should an application for a more sensitive land use be received, further assessment may be required.</p> <p>A condition is recommended to be imposed on the consent requiring that any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination be immediately notified to the Council and the Principal Certifying Authority.</p> <p>Having regard for the above, no issues are raised in relation to the requirements of SEPP 55.</p>
<p>State Environmental Planning Policy No. 44 – Koala Habitat Protection</p>	<p>The subject site is mapped as Koala Planning Area within the Ballina Shire Koala Management Strategy (KMS) 2016:</p>  <p>The applicant has indicated that no native trees are proposed to be removed (other than planted macadamia trees). In this regard, no issues are raised in relation to SEPP 44.</p>

State Environmental Planning Policy No. 64 – Advertising and Signage	Not applicable – no business identification signage is proposed.
State Environmental Planning Policy (Primary Production and Rural Development) 2019	<p>Part 1 Preliminary The aims of the Policy are as follows:</p> <p><i>a) to facilitate the orderly economic use and development of lands for primary production,</i></p> <p>The applicant has commented that the productive agricultural land is a developed macadamia orchard and will be maintained. It is considered the provision of an agricultural produce industry will facilitate the agricultural use of the land on the subject land. It is also considered the proposal will facilitate the use of other agricultural land through the processing of produce from other farms.</p> <p><i>b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,</i></p> <p>Land use conflict matters are addressed within the DCP section of this assessment and in the response to submissions in the Council report.</p> <p><i>c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,</i></p> <p>The subject site is not mapped as State significant farmland. In this regard, no issues raised in relation to this requirement.</p> <p><i>d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,</i></p> <p>Not applicable – the proposal does not involve artificial waterbodies.</p> <p><i>e) to encourage sustainable agriculture, including sustainable aquaculture,</i></p> <p>The applicant has commented that the agricultural processing industry is ancillary to agricultural production of macadamia nuts.</p> <p><i>f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,</i></p> <p>Not applicable – the proposal is not in proximity to a priority oyster</p>

	<p>area.</p> <p><i>g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.</i></p> <p>Not applicable – no aquaculture proposed.</p> <p>Having regard for the above, no issues are raised in relation to the requirements of the SEPP.</p>
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4.15 (1) (a) (ii) – any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Draft EPI/Planning Proposal	Comments/Is consistency with these provisions achieved?
<p>Draft State Environmental Planning Policy (Infrastructure) Amendment (Review) 2016.</p> <p>Draft Amendment to State Environmental Planning Policy 44 – Koala Habitat Protection.</p> <p>Draft State Environmental Planning Policy - Remediation of Land.</p> <p>Draft State Environmental Planning Policy - Primary Production and Rural Development.</p> <p>Draft Amendment to State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.</p> <p>Draft Amendment to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.</p> <p>Draft Amendment to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.</p>	<p>No issues raised in relation to the draft SEPPs.</p>

4.15 (1) (a) (iii) – any development control plan (DCP)

DCPs currently in force:	
Ballina Shire Development Control Plan 2012	<input checked="" type="checkbox"/>

Ballina Shire DCP 2012	Comments/Assessment of proposal against provisions of DCP
Chapter 2 – General and Environmental Considerations	<p>Part 2 Chapter Planning Objectives The proposal is considered to be generally consistent with the objectives of Chapter 2.</p> <p>Section 3.1 – Land Use Conflict This section applies as the land is zoned RU1 Primary Production under the BLEP 2012.</p> <p>The applicant has provided a Land Use Conflict Risk Assessment (LUCRA) with the application.</p> <p>Council's Public and Environmental Health Section has carried out an assessment of the proposal in relation to land use conflict. Chapter 2, Section 3.1 of the DCP requires that agricultural produce industries be positioned at least 300 metres from urban areas and rural tourist facilities (not on the same land) and 150 metres from unrelated rural dwellings.</p> <p>In the instance of the proposal, there is no urban zoned area in proximity to the site, however the facility will be located over 800 metres from Newrybar Village. The facility is also located approximately 240 metres from the nearest rural dwelling (No. 25 Boormans Road, Newrybar – Lot 3 DP 244148).</p> <p>The facility is located approximately 245 metres from the dwelling house at No. 21 Boormans Road, Newrybar (Lot 2 DP 244148). With respect to tourist and visitor accommodation, the facility is located approximately 200 metres to No. 1 Johnston Road, Newrybar (Lot 5 DP 606566). Tourist and visitor accommodation was approved on the land via DA 2015/300. The temporary use of the land as a function centre was also approved via DA 2017/662. It is noted that the facility does not comply with the minimum 300 metre buffer distance to this land use.</p> <p>Noise impacts are considered to be one of the main sources of potential land use conflict. Within the Noise Impact Assessment prepared by Ingen Consulting dated 10 June 2020, the premises at No. 1 Johnston Road was identified as a commercial (non-residential) receiver and therefore the intrusiveness noise levels do not apply. Only the amenity noise levels are applicable. This approach has been accepted by Council's Public and Environmental Health Section.</p> <p>The Noise Impact Assessment has demonstrated that the facility can be operated in such a way that the likely noise impacts of the proposed operations would be acceptable under the 2017 EPA Noise Policy for Industry. In this regard, the non-compliance with the minimum 300 metre buffer distance is considered acceptable in relation to the proposal.</p>

	<p>The facility is also located approximately 325 metres to the dwelling at No. 14 Boormans Road, Newrybar (Lot 1 DP 244148). Tourist and visitor accommodation was approved on the site via DA 2016/161. The proposal meets the minimum buffer distance specified in the DCP.</p> <p>Having regard for the above, the proposal is considered acceptable with regard to land use conflict.</p> <p>Section 3.2 – Ridgelines and Scenic Areas Not applicable. The subject site is not identified on the Ridgelines and Scenic Areas map.</p> <p>Section 3.3 – Natural Areas and Habitat Not applicable. The subject site is not identified on the Natural Areas and Habitat or Wildlife Corridor maps.</p> <p>Section 3.4 – Potentially Contaminated Land No issues raised – refer to SEPP 55 section of this assessment.</p> <p>Section 3.5 – Land Slip/Geotechnical Hazard The subject site is not mapped within a landslip area. No issues are raised in relation to this section.</p> <p>Section 3.6 – Mosquito Management Not applicable.</p> <p>Section 3.7 – Waste Management <u>Construction</u></p> <p>The applicant has commented that a construction waste minimisation plan will be prepared prior to approval of the Construction Certificate. Operational waste is collected in bulk bins and taken to landfill and for recycling by contractors. Construction waste will be collected in a skip and taken to the BSC landfill.</p> <p><u>Operational</u></p> <p>The applicant has provided the following details with respect to operational waste:</p> <ul style="list-style-type: none"> • <i>Building A – office and reception</i> <p><i>Waste type – paper, cardboard, toner cartridges</i> <i>Waste storage – bins, paper shredder, secure document bin, recycled toner receptable</i> <i>Waste collection – waste collection bulk bin</i></p> <ul style="list-style-type: none"> • <i>Buildings A and B – processing and storage</i> <p><i>Waste type – paper, cardboard packaging, plastic</i> <i>Waste storage – industrial bins x 1 (1.3W x 1.3H x 1.8L = 3m³)</i> <i>Waste collection – waste collection bulk bin</i></p>
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	<p><i>Waste type – putrescible waste</i> <i>Waste storage – industrial bins x 1 (1.3W x 1.3H x 1.8L = 3m³)</i> <i>Waste collection – waste collection bulk bin</i></p> <p><i>Bulk bin waste is collected once every 3 weeks in season.</i></p> <p>Council's Environmental Health Officer has commented that as existing waste management arrangements will continue, no particular issues are raised in relation to this section.</p> <p>Conditions are recommended to be imposed requiring all demolition, construction or the like waste to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption.</p> <p>Section 3.8 – On-site Sewage Management Systems The application was accompanied by an On-Site Sewage Management System (OSSM) report prepared by Ecoteam.</p> <p>Council's OSSM Officer has carried out an assessment of the application and no issues are raised with the OSSM report as amended. Conditions are recommended to be imposed on the consent in relation to the installation and operation of the system.</p> <p>Section 3.9 – Stormwater Management Council's Development Engineer has carried out an assessment of the proposal. A stormwater plan has been provided, which is considered to be generally acceptable (report by Ingen Consulting dated 2 April 2020). The plan provides a 3KL rainwater tank connected to shed B and 3 x 5KL rainwater tanks connected to shed D in addition to a vegetated swale drain within the site. This approach has been deemed acceptable by Council's Civil Services Division.</p> <p>A condition is recommended to be imposed on the consent requiring the provision of stormwater controls on the site to be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 - Stormwater Management and the approved Stormwater Management Plan. A detailed design is required to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.</p> <p>Subject to compliance with the conditions of consent, no issues are raised in relation to this section.</p> <p>Section 3.10 – Sediment and Erosion Control Conditions are recommended to be imposed on the consent to ensure sediment and erosion control measures are implemented during construction.</p> <p>Section 3.11 – Provision of Services This matter has been previously addressed within this report in relation to Clause 7.7 of the BLEP 2012.</p> <p>Section 3.13 – Drinking Water Catchments</p>
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	<p>The subject property is identified on the Drinking Water Catchment map (Wilson's River Catchment).</p> <p>The objective of this section is to ensure that development does not adversely impact on water quality within drinking water catchments or groundwater resource areas that are part of the public water supply network.</p> <p>Development Controls</p> <p><i>i. Development must not adversely impact on the water supply associated with the catchment. This may be determined though the consideration of at least the following matters:</i></p> <ul style="list-style-type: none"> • Type, extent and risk of any likely or potential pollutants or contaminants (<i>including consideration of chemicals such as fertilisers and pesticides, sediment, effluent and nutrients</i>). <p>Comment: The applicant has indicated that oils, grease and chemicals will be stored in designated areas within Building B and flammable fluids in an approved storage facility.</p> <p>Council's Environmental Health Officer has carried out an assessment of the proposal. A condition is recommended to be imposed requiring any liquid contaminants to be stored on site to be stored within an impermeable bunded and roofed on site storage area compliant with AS 1940-2017 'The Storage and Handling of Flammable and Combustible Liquids' and AS 4452-1997 'The Storage and Handling of Toxic Substances'. Clean up equipment including suitable absorbent material shall be stored on site to effectively deal with liquid contaminates such as oils and chemical spills.</p> <p>Conditions are also recommended to be imposed on the consent with respect to sediment and erosion control.</p> <p>Subject to compliance with the recommended conditions of consent, no issues are raised in relation to this requirement.</p> <ul style="list-style-type: none"> • <i>Volume and quality of stormwater runoff;</i> <p>Comment: The application was accompanied by a Concept Stormwater Management Plan prepared by Ingen Consulting, which was amended on 2 April 2019 following a request for additional information on 17 February 2020. Council's Civil Services Division have commented that this plan provides a 3KL rainwater tank connected to shed B and 3 x 5KL rainwater tanks connected to shed D in addition to a vegetated swale drain within the site. This approach has been deemed acceptable.</p> <ul style="list-style-type: none"> • <i>Variation to water flows in the catchment;</i> <p>Comment: Given stormwater is to be suitably managed on site, it is not considered the proposed development will result in variation to water flows in the catchment.</p>
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	<ul style="list-style-type: none"> • <i>Loss or embellishment of catchment vegetation;</i> <p>Comment: No native vegetation to be removed (apart from planted macadamia trees).</p> <ul style="list-style-type: none"> • <i>Access and infrastructure requirements;</i> <p>Comment: The applicant has indicated that the proposed vehicle accesses and car parking areas are to be sealed. As the proposed stormwater management approach is considered acceptable, no issues are raised in relation to this requirement.</p> <p>The applicant has commented that there is a Rous supplied reticulated water supply to the land (40mm connection). Conditions are recommended to be imposed on the consent requiring the payment of developer contributions.</p> <ul style="list-style-type: none"> • <i>Distance between the proposed development and any waterway that feeds the drinking water supply;</i> <p>Comment: A waterway (Skinners Creek) is located approximately 250 metres to the west of the proposed works.</p> <p>A mapped stream (as shown on Council's River Catchments and Drainage layer) is also located approximately 160 metres to the north-east of proposed works.</p> <ul style="list-style-type: none"> • <i>Cumulative and incremental effects having regard for existing and approved uses within the catchment;</i> <p>Comment: Existing uses within the catchment predominantly comprise agricultural, residential and tourist land uses. A dwelling house and farm sheds associated with macadamia production currently exist on the subject property.</p> <p>It is not considered the proposed development will result in cumulative and incremental effects on these land uses.</p> <p><i>ii. Details of proposed safeguards must demonstrate that the effective mitigation of the identified impacts can be achieved. The materials used, longevity of the measure, ongoing maintenance requirements and likelihood of success must be considered to determine the suitability of the proposed measure.</i></p> <p>Comment: Council's Development Engineer has carried out an assessment of the proposed stormwater measures are satisfactory and is satisfied the approach meets Council's requirements. A condition is imposed on the consent requiring the stormwater controls on the site to be in accordance with the approved stormwater management plan. Prior to issue of the Occupation Certificate, certification is required to be provided to the Principal Certifying Authority (PCA) that the works have been provided in accordance</p>
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	<p>with the approved plans.</p> <p><i>iii. The proposed development must not be of a type that could reasonably be carried out on an alternative site. Existing approvals, dwelling entitlements, compatibility with surrounding uses and zone objectives, scale and intensity and proximity to surface water or groundwater bores should be considered to determine whether the proposal is reasonable within the water supply area.</i></p> <p>Comment: The proposed development is to be carried out on a rural allotment (zoned RU1 Primary Production) which contains an existing macadamia orchard with shed, dwelling house and associated vehicle accesses.</p> <p>With respect to the scale and intensity of the development, the proposal is consistent with the objectives of the RU1 zone.</p> <p><i>iv. Where development is located within the Emigrant Creek or Marom Creek Dam catchments, the proposal is to be designed having regard for the Rous Water On-site Wastewater Management Guidelines as applicable at the time of application.</i></p> <p>Comment: Not applicable – development is located within the Wilsons River catchment.</p> <p>Having regard for the above, the proposed development is considered acceptable with respect to drinking water catchments.</p> <p>Section 3.15 – Crime Prevention through Environmental Design The applicant has provided the following comments with respect to CPTED principles:</p> <p><u>Surveillance</u></p> <ul style="list-style-type: none"> • The buildings are wholly within the land and not visible from Brooklet Road or Johnston Lane. There is a security key-pad operative gate at the entrance to Johnston Lane and land secured by rural post and wire fencing. • Night lighting to the buildings is not required. CCTV is provided. <p><u>Access Control and Target Hardening</u></p> <ul style="list-style-type: none"> • It is proposed to use the existing driveway entrance. No identification signage is proposed. • The buildings are and will be constructed of durable materials. <p><u>Territorial reinforcement</u></p> <ul style="list-style-type: none"> • Access to the land is managed and controlled by provision of a gate. There is 24 hour on-site management.
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	<p><u>Space Management</u></p> <ul style="list-style-type: none"> The buildings are and will be regularly serviced and maintained. <p>The comments provided by the applicant are accepted and it is considered the proposed land use and building works are unlikely to increase the potential for crime to occur in the area.</p> <p>Section 3.19 – Car Parking and Access The applicant has indicated that the existing vehicular access onto Johnston Road and Brooklet Road will continue to be utilised. The internal access driveway is proposed to remain gravel and concrete. The relocated driveway adjoining the extension to Building B will be concreted.</p> <p>The application was accompanied by an Engineering Services Assessment and Traffic Impact Assessment prepared by Ingen Consulting.</p> <p>Council's Development Engineer has completed an assessment of the proposal and commented that the existing external road network is constructed to a suitable standard to service the proposed development.</p> <p>The driveway is located at the end of Johnston Road, with sight distances at the access point compliant with AS 2890.1. The existing driveway is approximately 3.5m wide, with widening at the horizontal curves. The application proposes to seal the driveway.</p> <p>There is provision for service and delivery vehicles to enter the site in a forward direction, safely manoeuvre and unload on site and leave the site in a forward direction.</p> <p>The following requirements apply with respect to car parking:</p> <table border="1"> <thead> <tr> <th colspan="2">Council Requirement</th> <th rowspan="2">Proposed GFA</th> <th rowspan="2">Required Number of Parking Spaces</th> </tr> <tr> <th>Use</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>Industrial</td> <td>1.3 spaces per 100m² gross floor area</td> <td>975 m²</td> <td>13</td> </tr> <tr> <td colspan="2"></td> <td>Total required</td> <td>13</td> </tr> </tbody> </table> <p>Council's Development Engineer has commented that the site has sufficient space to provide 13 car parking spaces if required. The application and letter from the applicant states that only four staff will be present at the site at any given time. The application proposes to provide 5 sealed parking spaces for its employees. The proposal is considered acceptable on a merit assessment basis given there is sufficient space on site for 13 spaces in total (using overflow spaces in the gravel area surrounding the buildings), should this be required.</p>	Council Requirement		Proposed GFA	Required Number of Parking Spaces	Use	Rate	Industrial	1.3 spaces per 100m ² gross floor area	975 m ²	13			Total required	13
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		Total required	13												

	<p>One accessible space is required to be provided.</p> <p>Conditions are recommended to be imposed on the consent to ensure the above requirements are complied with.</p> <p>Section 3.20 – Vibration No significant vibration issues are expected during the operation of the development. Vibration during construction is expected, however the construction phase will be maintained by way of conditions on the consent.</p> <p>Refer to the Chapter 7 and 'Noise and Vibration' sections of this assessment for discussion regarding noise impacts.</p> <p>Section 3.21 – Bushfire Management The subject site is mapped as bushfire prone land. Agricultural produce industries are not listed as a "Bush Fire Protection Purpose" and in this regard, the proposal does not comprise Integrated Development and was not required to be referred to the NSW Rural Fire Service. No issues are raised in relation to this section.</p>
Chapter 7 – Rural Living and Activity	<p>Part 2 Chapter Planning Objectives The proposal generally complies with the overarching objectives of this chapter.</p> <p>Part 3 General Controls</p> <p>Section 3.1 – Residential Development in Rural Areas The applicant has indicated that no changes are proposed to the existing, lawful approved dwelling on the subject site as part of the application. In this regard, no issues raised in relation to this section.</p> <p>Section 3.2 – Rural Subdivision Not applicable – no subdivision proposed.</p> <p>Section 3.3 – Rural Tourist and Visitor Accommodation Not applicable – no rural tourist and visitor accommodation proposed.</p> <p>Section 3.4 – Rural Industry</p> <p>3.4.2 Planning Objectives</p> <p>a) <i>Ensure siting and physical form of rural industries is compatible with the character and environmental values of the locality;</i></p> <p>Comment: The facility is not visible from the public domain and existing vegetation within the site will continue to soften and screen the development from public view.</p> <p>However, it is noted that the facility is visible from the adjoining property (No. 9 Johnston Road, Newrybar) and that concerns have been raised from the property owners regarding visual impact. In response to this matter, the applicant has indicated that the access shaft has been planted with bamboo to screen and provide separation between the driveway and existing buildings. It was also indicated that</p>

	<p>additional lilly pillies can be planted between the new building and the boundary. A condition is recommended to be imposed on the consent requiring additional plantings to be provided to soften the appearance of the building.</p> <p><i>b) Ensure that rural industries are designed so to ensure acceptable levels of amenity for occupants of adjacent premises; and</i></p> <p>Comment: It has been assessed that the agricultural produce industry will ensure acceptable levels of amenity, subject to the recommended conditions of consent. Visual amenity impacts are discussed above. Refer to discussion below with respect to noise impacts.</p> <p><i>c) Ensure that safe and adequate infrastructure is available to the premises.</i></p> <p>Comment: It has been assessed that adequate infrastructure and services are available (or can be made available) to the site to support the proposed use.</p> <p>3.4.3 Development Controls</p> <p><i>i. Buildings and other structures associated with the operation of the rural industry are to be designed so as to be:</i></p> <ul style="list-style-type: none"> • <i>Sympathetic to the visual amenity of the area;</i> <p>The existing buildings/operations are not visible from Brooklet Road. The applicant has indicated that the existing building setbacks will remain unchanged with existing landscaping to be retained. In this regard, the potential for visual impact is minimal.</p> <p>With regard to the properties to the north (i.e. Lot 2 DP 244148 – No. 21 Boormans Road, Lot 3 DP 244148 – No. 25 Boormans Road and Lot 5 DP 244148 – No. 26 Boormans Road), it is considered the operations are adequately screened by the existing macadamia trees on the subject property.</p> <p>However, it is noted that the facility is visible from the adjoining property (No. 9 Johnston Road, Newrybar) and that concerns have been raised from the property owners regarding visual impact. In response to this matter, the applicant has indicated that the access shaft has been planted with bamboo to screen and provide separation between the driveway and existing buildings. It was also indicated that additional lilly pillies can be planted between the new building and the boundary. A condition is recommended to be imposed on the consent requiring additional plantings to be provided to soften the appearance of the building.</p> <p>The buildings comply with the building height provisions contained within BLEP 2012. However, it is noted that the setbacks of the existing buildings (and proposed Building C) do not comply with the side building line requirements within Chapter 7 – refer to discussion</p>
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	<p>within Section 3.7 below.</p> <p><i>ii. Where there is potential for the proposed rural industry to generate noise and/or odour impacts, a noise and/or odour impact assessment must be carried out by a suitably experienced and qualified person(s) and provided with the development application.</i></p> <p>The proposal is not considered to result in the generation of odour impacts. As such, an odour impact assessment was not required.</p> <p>With respect to noise impacts, a Noise Impact Assessment (NIA) prepared by Ingen Consulting was submitted with the application.</p> <p>Council's Public and Environmental Health Section has carried out an assessment of the proposal and the associated NIA. Within Council's request for additional information dated 17 February 2020, it was requested that the submitted NIA be amended to address the requirements of Section 3.3.1 of the NSW EPA Noise Policy for Industry.</p> <p>The applicant provided an amended NIA (Revision B, dated 2 April 2020) in response to the issues raised. Council's Public and Environmental Health Section reviewed the amended NIA and requested that further information and assessment be carried out to determine what noise mitigation measures can be reasonably and feasibly implemented on-site to reduce the noise impacts to the identified sensitive receivers. A further request for additional information was issued to the applicant on 26 May 2020.</p> <p>A further amended NIA (Revision C, dated 10 June 2020) was submitted to Council. Council's Public and Environmental Health Section have advised that the NIA has generally been prepared in accordance with the requirements of the Noise Policy for Industry (2017). A combination of on-site measurements and historic data were used to establish a reasonable rating background level, which was used to developed project specific noise targets for the residential receivers for each time period (i.e. day, evening and night). The amenity criteria was used for the non-residential (commercial) receivers.</p> <p>The NIA considered two scenarios which related to the noisiest processing occurring on the site. Scenario 1 considered the noise generated from the drying silos, which operate 24 hours seven days per week during the macadamia season. Scenario 2 considered the operation of the drying silos combined with the use of the hopper, which is limited to two hours per day during the daytime period.</p> <p>The assessment shows the identified noise criteria for each time period (day, evening and night) can be achieved for scenario 1, drying silos only and scenario 2, drying silos and hopper.</p> <p>The hopper noise only occurs for approximately two hours per day and is proposed to be limited to between the hours of 7.00am and 6.00pm weekdays and Saturdays and 8.00am to 6.00pm Sundays,</p>
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	<p>with no operation on public holidays.</p> <p>A number of submissions raised concerns with respect to noise impacts associated with increased road traffic noise. The NIA states that the assessment addresses noise emissions from on-site operations and due to the low volume of traffic generated by the development (average 3 truck movements per day), a road traffic noise assessment is not warranted. Council's Public and Environmental Health Section has advised that this was not assessed due to the low traffic volumes projected for the project. It is noted from the submitted Traffic Impact Assessment (TIA) that overall vehicle trips are to decrease overall (compared to the existing situation) as part of the proposed development.</p> <p>The NIA concluded that the site is suitable for the proposed operations, subject to the recommendation that the use of the hopper be limited to the following periods:</p> <p style="text-align: center;"><i>Weekdays and Saturdays: 7.00am to 6.00pm</i> <i>Sundays: 8.00am to 6.00pm</i></p> <p>No use of the hopper is to take place on public holidays.</p> <p>A condition is recommended to be imposed to this effect on any consent granted.</p> <p>Subject to compliance with the recommended conditions of consent, it is considered noise impacts associated with the proposal can be suitably managed.</p> <p><i>iii. Where a rural industry includes an industrial retail outlet:</i></p> <ul style="list-style-type: none"> <i>a. The retail activity is to be contained within, or attached to, or within the curtilage of, a building utilised for the rural industry;</i> <i>b. Visitor parking and pedestrian access is to be physically separated from loading/unloading facilities in a manner that maintains public safety; and</i> <i>c. Where food items are sold in an industrial retail outlet this must not comprise a food and drink premises.</i> <p>Not applicable – the proposal does not include an industrial retail outlet.</p> <p>Having regard for the above, the proposal is considered to generally comply with the requirements of Section 3.4 within Chapter 7 of the DCP.</p> <p>Section 3.5 – Roadside Stalls Not applicable.</p> <p>Section 3.6 – Mining and Extractive Industry Not applicable.</p> <p>Section 3.7 – Building Lines and Setbacks All buildings and structures in rural areas must comply with the</p>
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minimum building line or setback requirements set out in Table 7.2:

Table 7.2 – Minimum Setbacks – Rural Land General	
Location	Setback
Front Boundary	20m from a sealed road. 50m from an unsealed road (applies only to uses which are likely to be adversely affected by dust nuisance such as dwellings and visitor accommodation). 28m from Pacific Highway and Bruxner Highway.
Side Boundary	10m
Secondary Frontage Setback	10m
Water and Sewer Mains	Refer to Policy for Building over Council Assets

Existing Buildings A and B

It is noted that Buildings A and B do not comply with the 10m side setback control. However, as these buildings are existing and no further changes to setbacks are proposed as part of the subject application, no issues are raised in relation to this control.

Proposed Building C

The applicant has indicated that the setback of proposed Building C is between 1.1m to 1.92m from the southern property boundary, which does not comply with the minimum setback control.

The applicant has indicated during an inspection of the site that the variation to this control is required to enable the functionality of the storage space (i.e. pallets and forklifts).

It is considered the location of Building C as proposed will assist in containing the development footprint and will ensure safe vehicular access to the facility is not compromised.

It is noted a submission has been received from the adjoining property owner (No. 9 Johnston Road) in relation to the visual impact of proposed Building C. In response to this matter, the applicant has indicated that the access shaft has been planted with bamboo to screen and provide separation between the driveway and existing buildings. It was also indicated that additional lilly pillies can be planted between the new building and the boundary. A condition is recommended to be imposed on the consent requiring additional plantings to be provided to soften the appearance of the building.

The setback from the southern boundary of proposed Building D is between 10 metres and 13 metres, which complies with the minimum setback control.

Having regard for the above, the proposal is considered acceptable with regard to building lines and setbacks.

	<p>Section 3.8 – Roads, Vehicular Access and Parking The application was accompanied by an Engineering Services Assessment and Traffic Impact Assessment prepared by Ingen Consulting. Council's Development Engineer has completed an assessment of the proposal which is generally consistent with the development controls within this section.</p> <p>3.8.2 Planning Objectives</p> <ol style="list-style-type: none"> a) <i>Provide adequate on site car parking for all types of rural development;</i> b) <i>Ensure car parking is designed in accordance with relevant standards and has adequate space and provision for vehicular turning areas to ensure all vehicles can enter and leave the site in a forward direction;</i> c) <i>Ensure access to the site has the capacity to cope with likely traffic loads including heavy vehicles;</i> d) <i>Ensure site accesses have adequate sight distances and are designed to ensure that all vehicles are able to safely enter and exit the site to maintain the safety and integrity of the road network; and</i> e) <i>Minimise disturbance to landform.</i> <p>Comment: It is considered the proposal has had regard for the planning objectives contained within this section.</p> <p>3.8.3 Development Controls</p> <ol style="list-style-type: none"> i. <i>Where a proposed development has the potential to generate significant additional traffic and require substantial car parking, a traffic study will be required.</i> <p>Comment: A Traffic Impact Assessment (TIA) prepared by Ingen Consulting dated 10 December 2019 was submitted with the application. Council's Civil Services Division have carried out an assessment of the report and no issues are raised with respect to traffic impacts.</p> <ol style="list-style-type: none"> ii. <i>External vehicular access must:</i> <ol style="list-style-type: none"> a) <i>not compromise the safety and efficiency of the road network;</i> b) <i>be suitable for use by emergency service vehicles; and</i> c) <i>be suitable for traversing in all weather conditions.</i> <p>Comment: Council's Civil Services Division have advised that the existing external road network is constructed to a suitable standard to service the proposed development.</p> <ol style="list-style-type: none"> iii. <i>External road access is generally to be sealed for the following land uses:</i> <ul style="list-style-type: none"> • <i>Tourist and visitor accommodation;</i> • <i>Recreation facilities (major and outdoor);</i> • <i>Restaurants or cafes;</i>
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	<ul style="list-style-type: none"> • <i>Intensive livestock agriculture;</i> • <i>Aquaculture;</i> • <i>Rural industries and industrial retail outlets;</i> <i>[emphasis added]</i> • <i>Mining and extractive industries;</i> • <i>Passenger transport facilities; and</i> • <i>Vehicle repair stations.</i> <p>Comment: The use of the site for a rural industry requires that external road access is to be sealed. Access to the property occurs via Johnston Road, which is a sealed road. No issues are raised in this regard.</p> <p><i>iv. Internal vehicular access must:</i></p> <ul style="list-style-type: none"> • <i>be suitable for the access of emergency service vehicles;</i> <p>Comment: The internal vehicular access is considered suitable for the access of emergency service vehicles.</p> <ul style="list-style-type: none"> • <i>be of all weather dust free construction and be suitable for traversing by standard 2 wheel drive vehicles;</i> <p>The application proposes sealed internal driveways. Conditions are imposed on the consent requiring internal road access to be designed and constructed to AS 2890.1 and that the driveways and parking bays within the development are constructed of sealed paved material.</p> <ul style="list-style-type: none"> • <i>be sealed in sections where grade exceeds 12%; and</i> <p>Comment: The driveway grade does not exceed 12%. No issues raised in this regard.</p> <ul style="list-style-type: none"> • <i>not exceed a grade of 25%</i> <p>Comment: The driveway grade does not exceed 25%. No issues raised in this regard.</p> <p><i>v. A suitable and safe connection must be provided between the existing road network and any proposed internal vehicular access infrastructure.</i></p> <p>Comment: The existing driveway is located at the end of Johnston Road. Council's Civil Services Division have advised that Sight distances at the access point are compliant with AS 2890.1.</p> <p><i>vi. A development application must address any potential environmental impacts caused by vehicular accesses (both internal and external) including erosion and sedimentation, dust, noise, traffic generation, amenity and visual impacts and vegetation removal with appropriate mitigation measures identified.</i></p>
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	<p>Comment: Conditions are recommended to be imposed on the consent in relation to erosion and sediment control. A condition is also recommended requiring the driveways and parking bays within the development to be constructed of sealed paved material. In this regard, dust generation is considered to be minimal. Existing vegetation on the site will continue to screen the development from Brooklet Road. In this regard, no concerns are raised with respect to visual impacts.</p> <p>vii. <i>Development must comply with the following on site vehicle parking requirements:</i></p> <ul style="list-style-type: none"> • <i>Adequate on site car parking must be available to accommodate all users of the site including residents, visitors or employees.</i> <p>Comment: A total of 13 car spaces (inclusive of one accessible space) are required to be provided for the agricultural produce industry in accordance with Chapter 2 Section 3.19 of the DCP.</p> <ul style="list-style-type: none"> • <i>On site car parking for a proposed land use must comply with the applicable car parking requirements specified in any other chapter of this DCP.</i> <p>Comment: A total of 13 car spaces (inclusive of one accessible space) are required to be provided for the agricultural produce industry in accordance with Chapter 2 Section 3.19 of the DCP. Conditions are recommended to be imposed on the consent to ensure the design of all car parking spaces is in accordance with the Australian Standards AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.</p>
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4.15 (1) (a) (iiia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Planning Agreement (or draft)	Comments
None applicable.	

4.15 (1) (a) (iv) – any matters prescribed by the regulations

	Comments/Is consistency with these provisions achieved?
If the DA is for the demolition of a building, consider the provisions of AS 2601-1991: The demolition of structures (as in force 1 July 1993):	<p>The applicant has indicated that demolition works are minor and will be carried out in accordance with AS 2601-1991. A condition is recommended to be imposed to this effect.</p> <p>Council's Building Surveyor has carried out an assessment of the application and no issues are raised in relation to the demolition works proposed.</p>
If the DA is only for a change of use or	The proposal involves a change in building

<p>the use of an existing building as a place of public entertainment, is the fire protection and structural capacity of the building appropriate to the building's proposed use?</p>	<p>classification to Class 5, 7b and 8 (macadamia processing). The application was supported by a BCA and Clause 93 & 94 Fire Safety Upgrade Report prepared by BCA Check dated 16 June 2019.</p> <p>Council's Building Surveyor has recommended a condition requiring the issue of a Fire Safety Schedule for the development prior to issue of the Construction Certificate. A further condition is imposed requiring a Fire Safety Statement to be provided prior to issue of an Occupation Certificate. An annual Fire Safety Statement is also required to be provided every 12 months.</p> <p>Subject to compliance with the above, no issues are raised in relation to this section.</p>
<p>If the DA is involves the rebuilding/ alteration/enlargement/extension of an existing building, is the existing building required to be brought into total or partial conformity with the Building Code of Australia (BCA)?</p>	<p>The proposal involves a change in building classification to Class 5, 7b and 8 (macadamia processing). The application was supported by a BCA and Clause 93 & 94 Fire Safety Upgrade Report prepared by BCA Check dated 16 June 2019.</p> <p>Conditions are imposed on the consent ensuring the proposal complies with the provisions of the National Construction Code (NCC) and that the specific recommendations of this report are complied with.</p>
<p>If the DA is for the erection of a temporary structure, is the fire protection and structural capacity of the structure appropriate to the proposed use of the structure?, and is the ground or other surface, on which the structure is to be erected, sufficiently firm and level to sustain the structure while in use?</p>	<p>Not applicable.</p>

4.15 (1) (b) – the likely impacts of that development

	<p>Discuss whether or not the impact is acceptable or not? If not, then describe the adverse impacts and the steps taken to mitigate the impacts</p>
<p>Urban and Building Design</p>	
<p>i) Context and Settings</p>	<p>The subject property is Lot 7 DP 606566 and is known as No. 18 Johnston Road, Newrybar. The property has a total area of 6.81 hectares.</p> <p>The property is located approximately 700 metres to</p>

	<p>the south-west of Newrybar village and approximately 960 metres to the Pacific Highway.</p> <p>The property obtains vehicular access via Johnston Road.</p> <p>The area is generally characterised by agricultural, residential/lifestyle and tourist and visitor accommodation uses. The surrounding locality comprises a mixture of small and large rural allotments.</p> <p>Distances of the facility to nearby properties (and associated land uses) are shown below:</p> <table border="1"> <thead> <tr> <th>Property address</th> <th>Legal description</th> <th>Distance</th> </tr> </thead> <tbody> <tr> <td>No. 25 Boormans Road, Newrybar</td> <td>Lot 3 DP 244148</td> <td>240 metres to dwelling</td> </tr> <tr> <td>No. 21 Boormans Road, Newrybar</td> <td>Lot 2 DP 244148</td> <td>245 metres to dwelling</td> </tr> <tr> <td>No. 26 Boormans Road, Newrybar</td> <td>Lot 5 DP 244148</td> <td>300 metres to dwelling</td> </tr> <tr> <td>No. 14 Boormans Road, Newrybar</td> <td>Lot 1 DP 244148</td> <td>325 metres to dwelling. Also note tourist and visitor accommodation approved via DA 2016/161</td> </tr> <tr> <td>No. 19 Johnston Road, Newrybar</td> <td>Lot 6 DP 606566</td> <td>400 metres to dwelling</td> </tr> <tr> <td>No. 1 Johnston Road, Newrybar</td> <td>Lot 5 DP 606566</td> <td>200 metres to tourist and visitor accommodation approved via DA 2015/300 and temporary function centre approved via DA 2017/662</td> </tr> <tr> <td>No. 108 Brooklet Road, Newrybar</td> <td>Lot 1 DP 253857</td> <td>240 metres to dwelling</td> </tr> <tr> <td>No. 116 Brooklet Road, Newrybar</td> <td>Lot 2 DP 253857</td> <td>250 metres to dwelling</td> </tr> </tbody> </table> <p>The proposal seeks to formalise and expand an agricultural produce industry (macadamia nut processing and value adding facility) and to carry out associated works on the subject land.</p> <p>It has been assessed that potential impacts on the amenity and rural character of the locality can be managed by way of the recommended conditions of consent.</p> <p>A number of submissions were received with respect to the proposal. These matters are discussion in detail in</p>	Property address	Legal description	Distance	No. 25 Boormans Road, Newrybar	Lot 3 DP 244148	240 metres to dwelling	No. 21 Boormans Road, Newrybar	Lot 2 DP 244148	245 metres to dwelling	No. 26 Boormans Road, Newrybar	Lot 5 DP 244148	300 metres to dwelling	No. 14 Boormans Road, Newrybar	Lot 1 DP 244148	325 metres to dwelling. Also note tourist and visitor accommodation approved via DA 2016/161	No. 19 Johnston Road, Newrybar	Lot 6 DP 606566	400 metres to dwelling	No. 1 Johnston Road, Newrybar	Lot 5 DP 606566	200 metres to tourist and visitor accommodation approved via DA 2015/300 and temporary function centre approved via DA 2017/662	No. 108 Brooklet Road, Newrybar	Lot 1 DP 253857	240 metres to dwelling	No. 116 Brooklet Road, Newrybar	Lot 2 DP 253857	250 metres to dwelling
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No. 116 Brooklet Road, Newrybar	Lot 2 DP 253857	250 metres to dwelling																										

		the Council report.
ii)	Site Design and Internal Design	<p>The site has a total area of 6.81 hectares. The proposed buildings are considered to be compatible with the existing buildings on the site with respect to scale, form and materials.</p> <p>The proposal involves the formalisation and expansion of an agricultural produce industry (macadamia nut processing and value adding facility).</p> <p>It is noted that existing Buildings A and B and proposed Building C do not comply with the required 10m setback requirement. Refer to the DCP section of this assessment for discussion.</p> <p>With respect to visual impact, the development is screened from view by existing vegetation in the front of the property. Concerns have been raised from the adjoining owner regarding the setback of proposed Building C and resulting visual privacy impacts. It is considered these concerns can be addressed by way of additional plantings along the southern property boundary. A condition is recommended to be imposed to this effect.</p> <p>Council's Environmental Health Officer (Food Specialist) has reviewed the proposed value adding facility and has recommended conditions of consent to ensure the relevant food safety requirements are complied with.</p> <p>Council's Building Services Section has carried out an assessment of the proposal. Conditions are recommended to be imposed on the consent to ensure the development complies with the requirements of the National Construction Code (NCC) and relevant standards.</p>
iii)	Ecologically Sustainable Building Design	No issues raised.
iv)	Access, Transport and Traffic	<p>Vehicular access, traffic and parking considerations have been previously considered within the DCP sections of this assessment and the Council report.</p> <p>The application was accompanied by a Traffic Impact Assessment (TIA) prepared by Ingen Consulting Pty Ltd. The TIA stated that due to increased mechanisation, the number of staff reduces from 8 to 6 per shift, resulting in a decrease in generated traffic of 17% compared to the current trip generation.</p> <p>Council's Development Engineer has completed an assessment of the proposal. The existing external road network is constructed to a suitable standard to service the development and use of the site.</p>

		It is noted a number of the submissions received raised concerns regarding the traffic impacts of the development. These matters are addressed in detail within the Council report.
v)	Public Domain	<p>The existing sheds are not visible from the public domain, screened by existing vegetation present on the site. This will remain unchanged as part of the proposed development.</p> <p>In this regard, it is not expected that the proposal will have a detrimental impact on the public domain.</p>
vi)	Utilities	No issues raised – the servicing of the development has previously been addressed within the BLEP 2012 section of this assessment.
vii)	Heritage	<p>No issues are raised. The subject site is not identified as containing an item of local heritage significance under the BLEP 2012.</p> <p>An AHIMS search was carried out on 13 January 2020 which indicated that no Aboriginal sites or places have been recorded/declared in or near the subject land.</p> <p>It is considered unlikely relics will be disturbed as part of the proposed works.</p> <p>In this regard, no issues are raised in relation to this section.</p>
viii)	Construction	Conditions are recommended to be imposed on the consent in relation to sediment/erosion control, waste management, cleanup of spills and the hours of operation for any noise generating activities associated with the proposed works.
Environmental Impacts		
ix)	Other Land Resources	<p>The proposal involves the formalisation and expansion of an agricultural produce industry (macadamia nut processing and value adding facility) and associated works within a rural zoned area.</p> <p>It is not considered the proposal will negatively impact upon the conservation and/or use of productive land or mineral and extractive resources. Refer to previous comments made in the BLEP 2012 of this assessment with respect to impacts on water supply catchments.</p>
x)	Water	The development site has an existing connection to the Rous water supply system. The subject site is also located within the Wilsons River Drinking Water Catchment area. In this regard, the application was referred to Rous County Council for comment. A response was provided in relation to the applicable developer contributions for the proposal. No concerns were raised with the OSSM report as amended.

		<p>Stormwater management has been assessed as part of the development – refer to DCP section of this assessment for discussion.</p> <p>The proposed development involves site filling and excavation. Conditions are imposed on the consent requiring erosion and sediment control measures to be implemented on site to minimise potential impacts on waterways.</p>
xi)	Soils	<p>The subject site is not mapped as containing Acid Sulfate Soils.</p> <p>Earthworks are proposed as part of the subject application. Conditions are imposed on the consent requiring erosion and sediment control measures to be implemented on site to minimise potential impacts on waterways.</p>
xii)	Air and Microclimate	<p>Council's Environmental Health Officer has carried out an assessment of the proposal. A condition is imposed on the consent to ensure the proposed rural industry does not interfere with the amenity of the locality by reason of the emission of noise, vibration, odours, fumes, smoke, vapour, steam, dust, water, waste products and the like.</p> <p>Council's Civil Services Division have recommended a condition requiring the driveways and parking bays within the development to be constructed of sealed paved material. In this regard, it is considered dust generation from the proposed development will be minimal.</p> <p>Subject to compliance with the recommended conditions of consent, no issues are raised in relation to this section.</p>
xiii)	Flora and Fauna	<p>The subject site is not mapped on the Natural Areas and Habitat or Wildlife Corridor maps.</p> <p>No issues are raised with respect to koala habitat – refer to SEPP 44 section of this assessment.</p>
xiv)	Waste	<p>This matter has been previously addressed within the DCP section of this assessment.</p>
xv)	Energy	<p>Energy efficiency provisions contained in Section J of the Building Code of Australia apply to the development. A condition is imposed on the consent requiring a Section J Energy Efficiency report to be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate.</p>
Hazards		

xvi) Noise and Vibration	<p>A Noise Impact Assessment (NIA) prepared by Ingen Consulting was submitted with the application.</p> <p>Council's Environmental Health Officer has carried out an assessment of the proposal and associated NIA. During the assessment of the application, Council requested that the submitted NIA be amended to address the requirements of Section 3.3.1 of the NSW EPA Noise Policy for Industry. It was also requested that further information and assessment be carried out to determine what noise mitigation measures can be reasonably and feasibly implemented on-site to reduce the noise impacts to the identified sensitive receivers.</p> <p>Following the applicant's response to this request, Council's Environmental Health Officer reviewed the amended NIA and the following comments were provided:</p> <p><i>The application as supported by the submission of a Noise Impact Assessment (NIA) prepared by Ingen Consulting dated 10 June 2020. The NIA has generally been prepared in accordance with the requirements of the Noise Policy for Industry (2017). A combination of on-site measurements and historic data were used to establish a reasonable rating background level which was used to develop project specific noise targets for the residential receivers for each time period i.e. day, evening and night. The amenity criteria was used for the non-residential (commercial) receivers.</i></p> <p><i>The acoustic assessment considered two scenarios which related to the noisiest processing occurring on the site. Scenario 1 considered the noise generated from the drying silos which operate 24 hours seven days per week during the macadamia season. Scenario 2 considered the operation of the drying silos combined with the use of the hopper which is limited to two hours per day during the day time period.</i></p> <p><i>The assessment shows the identified noise criteria for each time period (day, evening and night) can be achieved for scenario 1, drying silos only and scenario 2, drying silos and hopper.</i></p> <p><i>The hopper noise only occurs for approximately two hours per day and is proposed to be limited to between the hours of 7am and 6pm weekdays and Saturdays and 8am and 6pm Sundays with no operation on public holidays.</i></p> <p><i>Road traffic noise was not assessed due to the low traffic volumes projected for the project.</i></p> <p><i>The NIA recommends that the use of the hopper be</i></p>
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	<p><i>limited to the following periods:</i></p> <p><i>Weekdays and Saturdays: 7.00am to 6.00pm</i> <i>Sundays: 8.00am to 6.00pm</i> <i>Public Holidays: None</i></p> <p>A condition is recommended to be imposed on the consent to ensure the specified periods are complied with during operation.</p> <p>It is noted that a number of the submissions received raised concerns regarding noise impacts. These matters are addressed within the Council report.</p>
xvii) Natural Hazards	<p>The subject site is not flood prone.</p> <p>The subject site is mapped as bushfire prone land. Agricultural produce industries are not listed as a "Bush Fire Protection Purpose" and in this regard, the proposal does not comprise Integrated Development and was not required to be referred to the NSW Rural Fire Service. No issues are raised in relation to this section.</p>
xviii) Technological Hazards	<p>No issues raised in relation to contamination – refer to SEPP 55 section of this report for discussion.</p> <p>Conditions are recommended to be imposed on the consent in relation to the storage of liquid contaminants on site.</p>
xix) Safety, Security and Crime Prevention (CPTED)	<p>It is not anticipated the proposed development will increase the risk of crime in the locality – refer to DCP section of this assessment for discussion.</p>
Social and Economic Impacts	
xx) Social Impacts in the Locality	<p>The proposal is not considered to have negative social impacts on the locality, subject to compliance with the recommended conditions of consent, should consent be granted.</p> <p>The mitigation measures proposed (particularly with respect to noise impacts) will ensure impacts on the community are minimised.</p> <p>It is noted that there have been a number of submissions received in relation to the proposed expansion, particularly in relation to noise and traffic impacts. All submissions received have been addressed within the Council report.</p>
xxi) Economic Impact in the Locality	<p>The proposal is not considered to have negative economic impacts on the locality.</p> <p>One submission received from a nearby landowner has made reference to financial impacts on an approved tourist and visitor accommodation development on their property. These issues primarily related to noise</p>

	and traffic issues. It has been assessed that the anticipated impacts of the development can be suitably addressed and are to be managed by way of conditions. Potential amenity impacts on the locality have been assessed and can be managed by way of conditions.
Cumulative Impacts	
xxii) Cumulative Impacts	The proposal to formalise and expand the agricultural produce industry on the subject site is not considered to have any unacceptable negative cumulative impacts on the surrounding locality by way of noise or traffic impacts, subject to adherence with the recommended conditions of consent.

4.15 (1) (c) – The suitability of the site for the development

	Comments
i) Does the proposal fit in the locality?	<p>The proposal is considered to fit in with the locality, subject to compliance with the recommended conditions of approval.</p> <p>The design, bulk and scale of the development is acceptable having regard for the proposed activities, characteristics of the site and the amenity of the surrounding development.</p> <p>With respect to traffic and vehicular access, Council's Civil Services Division has commented that the existing road network is constructed to a suitable standard to support the development.</p> <p>It is noted that a number of submissions have been received with respect to the subject application. Concerns raised by adjoining property owners have been addressed in detail in the Council report.</p>
ii) Are the site attributes conducive to development?	It is considered that the site attributes are conducive to development. There is no aspect of the subject site that would preclude the development of the site for its intended purpose.

4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?

Is advertising required because the development is designated or "advertised" development?	No
If YES, how many submissions were received?	N/A
Is advertising required in accordance with established Council policy and practice?	Yes
If YES, how many submissions were received?	Nine

Document general terms of issues raised in any submission and how they are being considered/assessed:

Public Submissions:	A total of nine submissions were received in relation to the subject application. These submissions are discussed in detail in the body of the Council report.
Public Authority Submissions:	Comments were received from Rous County Council in relation to the proposal. Refer to Council report for details.

4.15 (1) (e) The public interest

Federal, State & Local Government interests and Community interests	The proposed development is in the interests of the Federal, State and Local Governments, and also the community.
Section 64 Contributions and Section 7.4 Contributions	Contributions applicable – refer to Schedule 1 and Development Engineer referral.

DA 2019/799 – Draft Conditions**DEFERRED COMMENCEMENT**

In accordance with Section 4.16(3) of the Act, this consent is not operational until the following Deferred Commencement conditions have been satisfied and confirmed in writing by Council.

- A Building Information Certificate is required to be obtained for Buildings A and B.

This deferred commencement consent will lapse if the above requirements are not complied with prior to **27 August 2021**.

GENERAL

1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including:

Plans prepared by	Drawing No.	Drawing Title	Dated
Wade Engineering and Surveying	18/1574	Site Plan – Offsets	28 September 2018
Dalgliesh Architects Ward	SK00	Site Location Plan	13 February 2019
Dalgliesh Architects Ward	SK01	Proposed Site Plan	13 February 2019
Dalgliesh Architects Ward	SK02	Existing and Proposed Elevations	13 February 2020
Dalgliesh Architects Ward	SK03	Existing Factory Layout	13 February 2020
Report prepared by	Report Title		Dated
Ingen Consulting Pty Ltd	Noise Impact Assessment, Revision C		10 June 2020
Ingen Consulting Pty Ltd	Traffic Impact Assessment, Revision C		11 June 2020
Ingen Consulting Pty Ltd	Engineering Services Assessment		2 April 2020
BCA Check Bushfire & Building Consultants	Food Premises Audit Report		10 June 2019
BCA Check Bushfire & Building Consultants	BCA and Clause 93 & 94 Fire Safety Upgrade Report		16 June 2019
Ecoteam	On-Site Sewage Management System Report		March 2020
eQA	Quality Assurance Audit Report		4 November 2019
Ingen Consulting Pty Ltd	Concept Stormwater Management Plan		2 April 2020

except as modified by any condition in this consent.

2. **NCC Compliance.** All building work is to comply with the requirements of the *National Construction Code* and relevant Australian Standards.

3. Commencement of occupation or use

Occupation or use of the (premises/site) for the purposes authorised by this consent shall not commence until all conditions of this consent have been complied with and a final occupation certificate has been issued by the Principal Certifying Authority (PCA), unless alternative arrangements have been made with Council.

4. No signs without approval

No advertising sign(s) is to be erected or displayed without prior submission of a development application to, and approval from, Council, unless the proposed signage is consistent with the terms and conditions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5. Construction certificate to be consistent with DA

Any Construction Certificate issued in association with this development must ensure that any certified plans are consistent (in terms of site layout, site levels, building location, size, internal/external design, external configuration and appearance) with the approved Development Application plans.

6. Driveway construction

The driveways and parking bays within the development are to be constructed of sealed paved material.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (Building)

The following conditions in this section of the consent must be complied with prior to the issue of any Construction Certificate relating to the approved development.

7. Long Service Levy

In accordance with Section 6.8 of the EP & A Act a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.

8. Fire Safety

Details verifying compliance with the following items within the *Fire Safety Upgrade Report* prepared by BCA Check, dated 16 June 2019, are to be submitted to the Principal Certifying Authority (PCA), prior to issue of a Construction Certificate:

- Items 5, 6, 7 and 8, outlined in Section 5.2
- Items a, d, e, f, g, and h, outlined in Section 5.3
- Items 2 and 3, outlined in Section 5.3

9. Section 68 Application

Prior to issue of a Construction Certificate an application is to be lodged with Council under Section 68 of the Local Government Act for all water, sewer, stormwater and any proposed fire service installations. Hydraulic details of all water, sewer, stormwater and fire service installations are to be submitted to Council and approved prior to the issue of a construction certificate. The plans are to be designed in accordance with AS3500 and NSW Code of Practice and other relevant Australian Standards regarding any essential fire services.

10. OSSM Application

An OSSM (Onsite Sewage Management System) Section 68 Application, under the provisions of the Local Government Act, must be submitted to Council for approval prior to the issue of the Construction Certificate. An on-site sewage management report prepared by a suitably qualified person must be submitted with the Section 68 application.

11. Fire Safety Schedule

a) Prior to the issuing of a Construction Certificate, either the Council or an appropriately accredited certifier shall issue a Fire Safety Schedule for the proposed development (Building B, C & D as denoted on SK01). In accordance with Clause 168(1), *Environmental Planning and Assessment Regulation 2000* a Fire Safety Schedule must specify the fire safety measures (both current existing and proposed to be installed) that should be implemented in the building premises.

b) The Fire Safety Schedule must deal with the whole of the building and not only to the part of the building to which this consent applies as provided for in Clause 168(3), *Environmental Planning and Assessment Regulation 2000*.

c) It is an offence to fail to provide a Fire Safety Schedule in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

12. Energy efficiency

Energy efficiency provisions contained in Section J of the Building Code of Australia apply to the development. A Section J Energy Efficiency report, prepared by a suitably qualified energy assessor, is to be submitted to the Principal Certifying Authority prior to issue of a Construction Certificate.

13. Car parking and vehicular access

The development shall provide a total of five sealed car parking spaces on-site inclusive of one accessible space. The design of all car parking and vehicular accesses must be in accordance with the Australian Standards AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009. Design plans are to be certified by a suitably qualified professional and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.

14. Stormwater management plan

The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 - Stormwater Management and in accordance with the Site Stormwater Management Plan by Ingen, Dated 2 April 2020. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

15. Developer Contributions

Prior to issue of a Construction Certificate where building work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 7.11 of the Environmental Planning & Assessment Act, 1979:

Contribution Plan/Development Servicing Plan	Adopted
Cumalum Urban Release Area Precinct A Contributions Plan 2015	26 February 2015
Ballina Shire Roads Contribution Plan Version 4.1	26 July 2018
Ballina Shire Open Spaces and Community Facilities Contributions Plan 2016	1 January 2017
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	24 October 2019

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

The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).

16. Developer Charges

Prior to issue of a Construction Certificate where building work is proposed, payment to council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2000. The amount payable will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2000 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

The charges are currently guided by the following development servicing plans:

Water Supply Authority	Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Council	Ballina Shire Council Water Supply Infrastructure Development Servicing Plans	27 February 2015
Ballina Shire Council	Ballina Shire Council Sewerage Infrastructure Development Servicing Plans	27 February 2015
Rous Water	Development Servicing Plan for Bulk Water Supply	15 June 2016

The Development Servicing Plans provide for the indexing of charges and are also subject to amendment and replacement. The charges payable are the charges set by the water supply authorities at the time payment is made. Copies of the Development Servicing Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website www.ballina.nsw.gov.au.

It should be noted that Ballina Shire Council acts as Rous Water's agent in the collection of Rous Water Bulk Water Supply Charge for developments that are connected to the Ballina Shire water supply.

The charges applicable at the time this consent is issued are included in Schedule 1 (attached).

PRIOR TO CONSTRUCTION WORK COMMENCING

The following conditions in this section of the consent must be complied with prior to commencement of construction works relating to the approved development.

17. Construction Certificate

Prior to construction of the approved development it is necessary to obtain a Construction Certificate. Either Council or an appropriately accredited certifier may issue a Construction Certificate. A separate application, complete with detailed plans and specifications, must be made to the Principal Certifying Authority for a Construction Certificate.

18. Notice of Commencement and Appointment of Principal Certifying Authority

Where Council is not nominated as the Principal Certifying Authority (PCA), the person having the benefit of this development consent is to submit to Council the following information:

- a) Written notification of the name and details of the Principal Certifying Authority (PCA); and
- b) The date of commencement and details of the Development Consent and associated Construction Certificate.

The above information is to be submitted at least two days prior to the commencement of any works, in accordance with the requirements of Section 81A(2) of the Environmental Planning & Assessment Act 1979 (as amended).

19. Erection of Signs

- (1) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with Section 109R of the Act, to comply with the technical provision of the NSW Government's building laws.

20. Survey peg-out

A survey peg-out is to be carried out by a surveyor to establish the correct position of the boundaries of the allotment before any building work commences, unless all the existing survey pegs can be located.

DURING CONSTRUCTION

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

21. Food Safety Standards

The applicant shall construct and fit-out the premises in accordance with the provisions of the Australian Food Safety Standards 3.1.1, 3.2.2 and 3.2.3. The applicant is responsible to ensure compliance with the Standards and Council will not accept responsibility at the time of final inspection for premises that are not in compliance with the Standards, regardless of the approved plans. Reference shall be made to the AS 4674 – 2004 "Design, Construction and Fit-Out of Food Premises" for guidance on construction of food premises.

22. Construction

The hours of operation for any noise generating construction activity (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

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

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

23. Hand washing facilities

The food preparation area must have hand washing facilities that are:

- located where they can be easily accessed by food handlers so that they need not travel more than 5 metres from any place where exposed food is handled;
- connected to a supply of warm running potable water dispensed from a single spout or mixer set;
- of a size that allows easy and effective hand washing; and
- clearly designated for the sole purpose of washing hands, arms and face.

24. Food premises

The design and construction of the food premises must permit the premises to be effectively cleaned, not permit the entry of pests and not provide for the harborage of pests.

25. Hot water unit

The hot water unit shall be of sufficient capacity and pressure to continuously supply water at a temperature of at least:

- 45°C for washing or cleaning operations; and
- 80°C for sanitising if sanitising by the use of hot water takes place at the sink.

NOTE: AS 2945 requires utensils to undergo a sanitising rinse at 80°C for 2 minutes, 75°C for 10 minutes or 70°C for 15 minutes.

26. Waste disposal

An approved facility shall be provided on site for the storage and disposal of all waste and shall be constructed in accordance with AS 4674-2004 "Design, Construction and Fit-out of Food Premises".

27. Waste disposal

An adequate on site facility for the disposal of all waste water that results from cleaning practices is required. A disposal facility such as cleaners sink or floor waste with a removable dry basket arrestor is acceptable. The waste water disposal facility (cleaner's sink) shall be located in a position away from food and food contact surfaces. The waste water disposal facility (cleaner's sink) shall be provided with a barrier of approved solid construction so that it is separate from food and food contact surfaces.

28. Toilet facilities

Toilet facilities to which food handlers have access must have hand washing facilities that are:

- a) immediately adjacent to the toilet cubicle;
- b) connected to a potable supply of warm running water dispensed from a single spout or mixer set;
- c) of a size that allows easy and effective hand washing; and;
- d) provided with a waste paper bin adjacent to the hand washing facilities.

29. Contamination

Any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.

30. Demolition

All demolition shall be carried out in accordance with AS 2601 – Demolition Code and the SafeWork NSW Code of Practice for Demolition Work for the removal of asbestos and lead based products.

Disconnected sewer, water and electrical services from the buildings are to be disconnected by licenced tradespersons. Disconnected sewer, stormwater and water services are to be capped off and inspected by Council prior to backfilling.

31. Traffic Control

All traffic control during construction shall be in accordance with the Roads and Maritime Services – Traffic Control at Work Sites Manual and the certified traffic control plan. At least one person at the site must be qualified to "Apply Traffic Control Plans" (Yellow Card).

32. Waste management

All demolition, construction or the like waste is to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption. If alternative disposal methods are to be sought, written approval is to be granted by the Principal Certifying Authority (PCA).

It is an offence to transport waste to a place that cannot lawfully be used as a waste facility.

33. Sediment and erosion control

To prevent the pollution of waterways, the applicant/builder is to ensure adequate sediment and erosion control measures are in place prior to the commencement of

works. These are to be maintained during the construction of the project until the site has been stabilised by permanent vegetation cover or a hard surface. This is to include:

- The prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and or adjoining land
- Service trenches being backfilled as soon as practical
- Downpipes being connected as soon as practical or the use of temporary downpipes
- Buffer vegetation zones being retained on sites that adjoin roadways, drainage systems and or watercourses
- Sediment and erosion control measures are to be maintained throughout the construction process and beyond by the owner, where necessary.

Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.

34. Fill sources

The applicant shall ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The supplier of the fill material must certify to the Principal Certifying Authority (PCA) at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

35. Equipment Storage

There shall be no storage of building materials, plant or equipment on the road, footway or reserve areas without prior written consent of Council.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

Unless otherwise stated all conditions referred to in other sections of this consent must be complied with together with the following conditions prior to occupation or use.

36. Landscape screening

Appropriate landscape plantings are to be provided between Buildings A, B and C and the southern boundary of the subject property. Plantings are to be chosen that will assist to partially screen the development from the adjoining property at No. 19 Johnston Road, Newrybar and consist of native and endemic species. Species should be selected for their non-invasive root system and low maintenance characteristics.

37. Pest control program

Written evidence shall be provided to Council's Environmental Health Officer that a pest control program has been implemented throughout the premises prior to the introduction of foods into the premises.

38. Exhaust Hood

A certificate of compliance is to be submitted to the Principal Certifying Authority (PCA) prior to the commencement of trading, that the filtered hood and air extraction system has been installed and operated in accordance with Australian Standard 1668 Parts 1 and 2.

39. Final inspection

A final inspection of the commercial premises fit-out by Council's Environmental Health Officer is to be conducted and the appropriate professional services fee is to be paid prior to the issuing of any Occupation Certificate.

40. Car parking (standard)

The construction of all car parking and vehicular accesses is to be in accordance with the approved Construction Plans and Australian Standard AS/NZS 2890.1: 2004. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

41. Car parking (disabled)

The construction of all disabled car parking spaces is to be in accordance with the approved Construction Plans and Australian Standard AS /NZS 2890.6: 2009. All works are to be certified by a suitably qualified consultant prior to issue of the Occupation Certificate.

42. Stormwater

Prior to the issue of an Occupation Certificate, certification must be provided to the Principal Certifying Authority that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan. This certification is to be provided by a registered certified practicing Engineer competent in the field of stormwater design and familiar with all aspects of the project.

43. Fire safety certificate

On completion of the erection of the building, the owner is required to provide Council with a Final Fire Safety Certificate for the proposed development and shall certify that all essential (fire safety) services installed in the building have been inspected and tested by a competent fire safety practitioner and were found to have been designed and installed to be capable of operating to the minimum standard required by the Building Code of Australia (BCA).

The Final Fire Safety Certificate to which this consent applies must be in the approved form and be provided in accordance with Clause 171 of the *Environmental Planning and Assessment Regulation 2000*.

It is an offence to fail to provide a Fire Safety Certificate in accordance with the requirements of the *Environmental Planning and Assessment Regulation 2000*.

CONDITIONS OF USE/DURING OCCUPATION

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

44. Hours of operation

The hours of operation for the hopper on the proposed development are to be limited to within the following times:

Monday to Saturday	7.00am to 6.00pm
Sunday	8.00am to 6.00pm

No use of the hopper is to take place on public holidays.

45. Noise nuisance

The development shall not cause a noise nuisance to any other person. Following occupation, should complaints of a noise nuisance be justified, an acoustic assessment shall be conducted by a qualified consultant and report provided to Council. The applicant shall then implement all recommendations provided under the assessment within a timeframe set by Council, to the satisfaction of Council and comply with any additional direction given by Council.

46. Liquid contaminants

If liquid contaminants and other possible pollutants are stored on site they shall be stored within an impermeable bunded and roofed on site storage area. Where applicable the bunded area must comply with AS 1940-2017 'The Storage and Handling of Flammable and Combustible Liquids' and AS 4452-1997 'The Storage and Handling of Toxic Substances'. If on site liquid storage is provided clean up equipment including suitable absorbent material shall be stored on site to effectively deal with liquid contaminants such as oils and chemical spills

47. External lighting

All external lighting to be installed and operated on site shall comply with the AS 4282:2019 "Control of the obtrusive effects of outdoor lighting".

48. Fire safety statement

The owner of the building must provide Council with an annual Fire Safety Statement at least once in each twelve months certifying that the essential and statutory fire safety measures in the building have been inspected and tested by a competent person and were found to have been designed, installed and capable of operating to the minimum standard required by the current Fire Safety Schedule.

The Annual Fire Safety Statement must be in the approved form in accordance with Clause 175, *Environmental Planning and Assessment Regulation 2000*.

A copy of the Annual Fire Safety Statement together with a copy of the Fire Safety Schedule are to be forwarded to the Commissioner, NSW Fire Brigades, and a copy of the Fire Statement and Schedule, prominently displayed in the building.

It is an offence to fail to provide an Annual Fire Safety Statement and to fail to prominently display the current Annual Fire Safety Statement and current Fire Safety Schedule within the building in accordance with the requirements of Clause 177 of the *Environmental Planning and Assessment Regulation 2000*.

PRESCRIBED CONDITIONS

Division 8A of the Environmental Planning and Assessment Regulation Prescribes the following conditions of development consent:

S98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

(cf clauses 78 and 78A of EP & A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building works:
 - a) That the work must be carried out in accordance with the requirements of the Building Code of Australia
 - b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (1A) For the purpose of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment

venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

- (2) This clause does not apply:
 - (a) To the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) To the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:
 - a) Development consent, in the case of a temporary structure that is an entertainment venue, or
 - b) Construction certificate, in every case.

NOTE. There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

B98A Erection of signs

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclause (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out.
 - a) Showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) Stating that unauthorised entry to the work site prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

S98B Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development for development that involves any residential building work within the meaning of the Home Building Act 1989.
- (2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - a) the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under part 6 of that Act,
 - b) in the case of work to be done by an owner-builder"
 - (i) the name of the owner builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

S98E Condition relating to shoring and adequacy of adjoining property.

For the purpose of section 4.17(11) of the Act, it is prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent such damage.
- (1) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

*Please be advised if this consent is for an **entertainment venue**, then there are further prescribed conditions that apply under clauses 98C and 98D of the Environmental Planning and Assessment Regulation.*

ADVISORY MATTERS**1. Disability Discrimination Act 1992**

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

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

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

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

2. Protection of the Environment

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

3. Noise control

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

4. WorkCover requirements

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

5. Wastewater management advice

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

6. Smoke Free Environment

As required by the *Smoke-free Environment Act 2000* smoking is banned within 4 metres of the pedestrian entrance or exit of the building used for non-residential purposes. 'No smoking' signage is recommended to support public awareness of the smoking ban. On the spot fines may be issued to those who do not comply with the 4 metre requirement.

Advisory Note:

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

You are advised to contact the following:

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

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

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SCHEDULE 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
Ballina Island Local Parks 2016	4301	equivalent residential allotment	\$262.00	0.0000	\$0.00
Ballina District Parks 2016	4302	equivalent residential allotment	\$1,165.00	0.0000	\$0.00
Ballina Playing Fields 2016	4303	equivalent residential allotment	\$2,625.00	0.0000	\$0.00
Regional Level Recreational Facilities (SHIRE) 2016	4304	equivalent residential allotment	\$1,906.00	0.0000	\$0.00
Ballina District Community Centres & Meeting Halls 2016	4305	equivalent residential allotment	\$1,135.00	0.0000	\$0.00
Regional Level Community Facilities (SHIRE) 2016	4306	equivalent residential allotment	\$1,118.00	0.0000	\$0.00
OS & CF Plan Administration (SHIRE) 2016	4307	equivalent residential allotment	\$113.00	0.0000	\$0.00
Roads Contribution Plan V4.1 (2018)	5206	equivalent residential allotment	\$12,704.00	0.0000	\$0.00
Roads Administration V4.1 (2018)	5207	equivalent residential allotment	\$190.00	0.0000	\$0.00
Ballina Island Wastewater Services (DSP Area B)	3001	equivalent tenement	\$5,301.00	0.0000	\$0.00
Ballina Island Water Supply (DSP Area B)	2001	equivalent tenement	\$3,463.00	0.0000	\$0.00
Rous Water 2016	5001	equivalent tenement	\$8,872.00	1.4600	\$12,953.12
No Car Parking Contribution Applicable					
TOTAL					\$12,953.12