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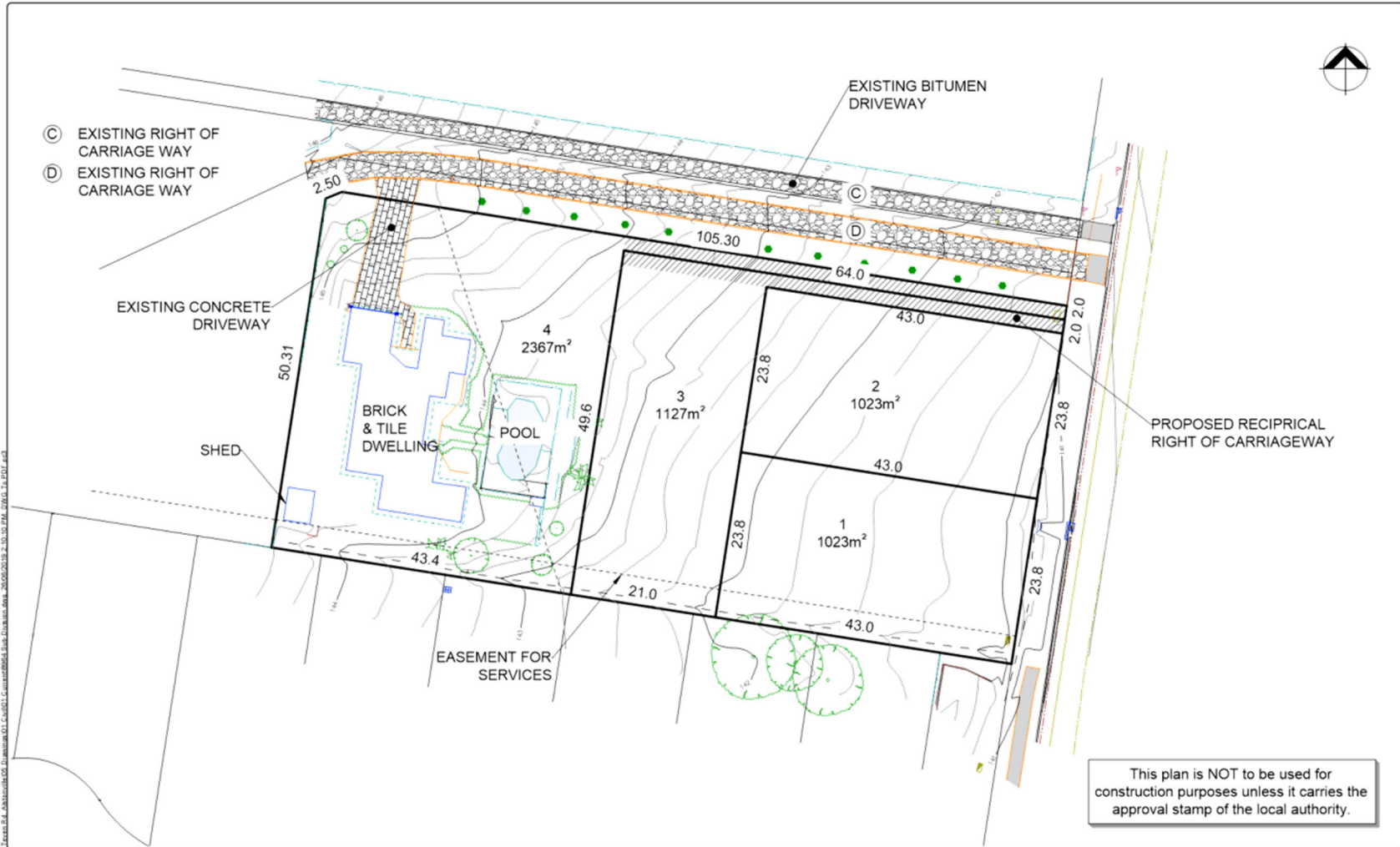


DA 2019/702 - 81 Teven Road, Alstonville - Residential subdivision to create four lots

ballina shire council
 geographical information system

Projection: GDA94 / MGA zone 56
 Date: 28/04/2020

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Project: 81 TEVEN RD, ALSTONVILLE
 LOT 4 DP 879770
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Client: MARLON CROWTHER
 Title: PROPOSED
 SUB-DIVISION PLAN

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 ENVIRONMENTAL PROJECT MANAGEMENT
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Designed	Scale 1:250 @ A1, 1:500 @ A3		
Drawn DW	0 2.5 5 7.5 10		
Checked PS	File Name 8964-Sub-Division.dwg		
Approved APP	Date 11/06/2019	Datum AHD	
Job No. 8964	Dwg No. SK01	Issue A	

Build something great™



9 December 2019

The General Manager
Ballina Shire Council
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Dear Mr Hickey,

Objection – Proposed 4 Lot Subdivision, 81 Teven Road, Alstonville (DA2019/702)

As a neighbouring stakeholder and operator of the Asphalt Plant in Gap Road Alstonville, Boral *objects* to the proposed four Lot Subdivision (hereafter 'proposed subdivision') at 81 Teven Road, Alstonville (DA 2019/702) for the reasons outlined below.

Background

Boral operates the Alstonville Asphalt Plant ('the asphalt plant'), located at the entry to and within the Tuckombil Quarry site, Gap Road, Alstonville. The site is owned by Ballina Shire Council and Boral operates the asphalt plant under a lease. The asphalt plant has been operating since 1978 supplying asphalt for the Far North Coast region, building roads and other infrastructure that people use every day. It plays an important part in keeping road construction and maintenance costs competitive in the region. Likewise, the adjoining quarry is an important hard rock resource in the region that keeps construction material prices competitive. Given the heavy weight of these products, being close to market keeps transport costs to a minimum for the consumer.

The adjoining Tuckombil Quarry has supplied the asphalt plant with the necessary aggregates to manufacture asphalt at the site until quarry operations were suspended in recent years. As a result, Boral sought a modification to the asphalt plant's consent in 2016 which was approved to allow the importation of these aggregates from other locations. Importing these aggregates adds further cost to asphalt manufacture.

Industries like quarrying and asphalt manufacture have inherent impacts (such as noise, dust and odour) that even with on-site mitigation need planning buffers from incompatible development that cause landuse conflicts. Residential development is one such incompatible land use.

Incompatibility with Ballina Development Control Plan 2012

Chapter 2 of the Ballina Shire DCP 2012 provides controls in relation to land use conflict, including minimum buffer distances for specified land uses in Table 2.1. Whilst the Alstonville Asphalt Plant is located on Deferred Land, the land use conflict applications apply to RU1 and land adjoining this zone, so this development control is relevant to the proposed subdivision at 81 Teven Road.

Boral's hot mix asphalt batch plant meets the description of "older technology" which requires a 1000m buffer to urban residential areas including the subject site. The Land Use Conflict Risk Assessment (LUCRA) accompanying the DA (Appendix G - Tim Fitzroy & Associates October 2019) states that the proposed development is **350m** from Boral Asphalt plant operations, well within the 1,000m land use conflict zone.

Boral does not agree with the "controlled rankings" applied in Table 3.4 of the LUCRA as they do not take account the actual, existing land use conflicts which Council and the EPA are aware of through complaints about odour, traffic and noise from residents in the locality of the plant. Boral has provided a copy of the 2019 Alstonville Asphalt Plant Complaints Register on 25 November 2019 to Council's Environmental Health team, of which there are 26 complaints recorded which demonstrate actual conflict. In every complaint event, the wind direction was recorded as coming from the north, north-north-east or north-east which will be the direction of 81 Teven Road from the asphalt plant.

The LUCRA did not consider the operational "worst case" scenario including night time operations for which the Asphalt Plant has development consent to undertake over 60 nights per annum a period when people are most likely to be at home. Application of actual data would show that the proposed subdivision is an incompatible land use as the *probability* of complaints should be "Likely" as it is 'known to occur', and 'it has happened' and the *consequence* is likely to be "Moderate" as short term environmental issues are known to occur. Applying the risk matrix of Likely probability and Moderate consequence would result in a risk rating of 17 which is an **unacceptable land use risk**.

The proposed subdivision is within the R2 Low Density Residential and in an area of transition between the buffers referred to above. Adding four residential lots close to Tuckombil Quarry and Alstonville Asphalt Plant has the potential to cause additional land use conflicts, threaten the longevity of these local industries associated the employment benefits they bring and impact on future inhabitants of the allotments through exposure to odour, dust and noise.

Compatibility with adjoining extractive industry

In 2007, the NSW Government introduced *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* (hereafter 'Mining SEPP') to, amongst other things, facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources.

Clause 13 of the Mining SEPP states:

'13 Compatibility of proposed development with mining, petroleum production or extractive industry

(1) *This clause applies to an application for consent for development on land that is, immediately before the application is determined:*

(a) *in the vicinity of an existing mine, petroleum production facility or extractive industry,.....*

.....

(2) *Before determining an application to which this clause applies, the consent authority must:*

(a) *consider:*

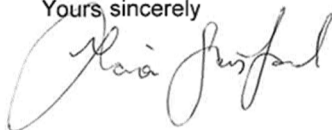
- (i) *the existing uses and approved uses of land in the vicinity of the development, and*
- (ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
- (iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*

- (b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).'*

The hard rock resource at Tuckombil Quarry is important for the growth of the Far North Coast region. Clause 13 of the Mining SEPP exists to ensure consent authorities adequately assess the impacts of developments that are incompatible to the extraction of approved and future extractive resources. It is believed that the hard rock reserves on Council land adjoining the quarry could last many decades under a future development application. Council needs to assess whether the proposed subdivision will impede the assessment of this important future resource and the longevity of co-located industry such as the asphalt plant.

Thank you for the opportunity to provide a submission. Please contact me if you require any further information or clarification.

Yours sincerely



Fiona Gainsford
Planning & Development Manager (NSW/ACT)
Boral Property Group

Alan Anderson

From: Alan Anderson <alansylvia@bigpond.com>
Sent: Sunday, February 18, 2018 12:55 PM
To: council@ballina.nsw.gov.au
Cc: 'david.wright@ballina.nsw.gov.au'; 'phil.meehan@ballina.nsw.gov.au'; 'nathan.willis@ballina.nsw.gov.au'; 'stephen.mccarthy@ballina.nsw.gov.au'; 'sharon.cadwallader@ballina.nsw.gov.au'; 'jeff.johnson@ballina.nsw.gov.au'; 'keith.williams@ballina.nsw.gov.au'; 'eoin.johnston@ballina.nsw.gov.au'; 'ben.smith@ballina.nsw.gov.au'; 'sharon.parry@ballina.nsw.gov.au'
Subject: CONFLICT OF LAND USE

Tracking:	Recipient	Read
	council@ballina.nsw.gov.au	
	'david.wright@ballina.nsw.gov.au'	Read: 2/18/2018 1:08 PM
	'phil.meehan@ballina.nsw.gov.au'	Read: 2/18/2018 3:20 PM
	'nathan.willis@ballina.nsw.gov.au'	Read: 2/18/2018 12:55 PM
	'stephen.mccarthy@ballina.nsw.gov.au'	
	'sharon.cadwallader@ballina.nsw.gov.au'	
	'jeff.johnson@ballina.nsw.gov.au'	
	'keith.williams@ballina.nsw.gov.au'	Read: 2/18/2018 1:39 PM
	'eoin.johnston@ballina.nsw.gov.au'	Read: 2/18/2018 9:16 PM
	'ben.smith@ballina.nsw.gov.au'	Read: 2/18/2018 1:17 PM
	'sharon.parry@ballina.nsw.gov.au'	
	Ballina Shire Council	Read: 2/19/2018 8:22 AM

WITHOUT PREJUDICE

Re Conflict of Land use resulting in Health Issues and Loss of Amenity for the Residents of Panorama Estate, Teven Road and Tanamera Drive, Alstonville.

From 1978 when the Boral Asphalt Plant was established I believe that Ballina Council has continued to simultaneously approve the development of residential areas around the Tanamera Drive, Panorama Estate (1983) and Teven Road whilst also approving DA's for the growth of the Boral Asphalt Plant. Much of this development is within a radius of 500 m and most of it is within 1000 m of the asphalt plant and the Tuckombil Quarry. Council approved these subdivisions and continued to do so knowing there would be a conflict of land use in relation to proximity to the quarry and asphalt plant. The conflict has now reached unacceptable proportions.

I live, like many other residents, within a 500 m radius of these extractive industries. The noise, odour and dust are particularly confronting to our health and the amenity of the area. We have complained to Boral and the EPA but really it is council's responsibility. We have maintained communication and consultation with Boral by attending all visitor open days including phone contact.

The EPA in its comments to the council regarding DA2014/383 is supportive of our concerns "EPA..... advice emphasizes the potential of conflict between the dwelling and the nearby quarry in relation to dust, noise and odours. It is considered that these issues are valid and should be addressed....." It further advises "that the council may be ignoring the guidelines within Chapter 2 of the 2012 DCP" which states "A buffer of 500 m is nominated or 1000 m if blasting occurs." It is very likely that blasting will resume as Council, at its meeting on 24 November 2016, resolved to seek approval for expansion of the quarry with a revised resource estimate of 6.9 million tonnes and nominated a 50 year operational period. Council approved this application (DA2014/383) with special conditions regarding acoustic protection on bedroom windows, core external doors and air conditioners as well as siting the residence at the rear of the block being the maximum distance from the quarry and plant. Is this an acknowledgement from council that there are problems especially with residences situated within a 500 m radius?

This conflict must end now as it is severely impacting on ratepayers' health and amenity. I request the following:

1. Scientific testing, monitoring and analysis of air, noise and dust should be conducted wholly by an independent authority such as the EPA. This should be done at various distances and directions up to 1000 m from the quarry and plant. Many residents including myself are genuinely concerned about the health impacts so this

needs to be addressed immediately and the results released to the public.

2. That Council rescind the DA for Boral to operate on a 24 hour basis. It is absolutely unacceptable that residents have to tolerate industrial noise, dust and foul odour for 24 hours a day for 60 days a year and up to four consecutive days. On summer nights residents are forced to shut all windows and doors and operate air conditioners in an endeavor to dampen the extensive noise from the plant and conveyancing trucks. From research I have discovered that most quarries and asphalt plants in NSW are in industrial areas away from residential areas and only operate in normal daytime hours. A reliable source from the EPA has informed me that the Tuckombil quarry and Boral asphalt plant is probably the only one operating at night near a residential area in NSW.

3. No further development to take place in the buffer zone of 1000 metres. The battleaxe subdivision of 10 lots at 77 Teven Road (DA2017/679) is within the 500 m radius of the quarry and asphalt plant and should not be approved by council as it exposes the residents to health issues associated with noise, odour and dust. If approved it will set a precedent for further development of the buffer zone. However, most importantly, it is contrary to both council's 2012 DCP and the objectives of the Alstonville Strategic Plan.

Alan Anderson



CONFIDENTIAL SUBMISSION

DA 2019/702 – 81 Teven Road, Alstonville

Please note private and identifying information has been removed from this submission in accordance with the Privacy & Personal Information Protection Act 1998 at the request of the submitter.

Ordinary Meeting 28/5/2020

4/12/2019



Dear Sir/Madam,

We wish to make a submission for the development application 2019/702. We own number [redacted] [redacted] which will be affected by this development [redacted] [redacted]

We do not wish to lose the rural outlook from the rear of our house [redacted] [redacted] especially as we have moved here from a farm.

If this DA is approved, we would like it to state that only single storey dwellings could be built, as this was a requirement of our land purchase, be in keeping with the 'village' ideal and we don't want the invasion of privacy that a double storey dwelling would create.

Regards





Our Reference: DOC 19/1024221-02
Contact: Peter Lynch Ph: (02) 6640 2502

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

Attention: Matthew Wood

Development Application 2019/702, General Referral, Proposed Residential Subdivision Lot 4 DP 879770, 81 Teven Road Alstonville

I refer to the Ballina Shire Council (Council) general referral to the Environment Protection Authority (EPA) for a proposed residential subdivision to create four lots at Lot: 4 DP 879770, 81 Teven Road Alstonville.

The EPA notes that the proposed residential subdivision is near to several existing industrial premises, being Tuckombil Quarry, Boral Asphalt Plant on Gap Road and the Ron Southon Blasting Depot. Tuckombil Quarry is licensed by the EPA via Environment Protection Licence (EPL) 3856 and the EPA is the appropriate regulatory authority (ARA) for the Boral Asphalt Plant. The EPA notes that the proposed residential development site is approximately 425m from Tuckombil Quarry and 350m from the Boral Asphalt Plant.

The subject site is well within the recommended buffer limits of 1000m to a quarry with blasting (as provided by both *Living and Working in Rural Areas Handbook*, Dept. of Primary Industries et al 2007. In light of the proximity of the proposed subdivision to the quarry and asphalt plant it is apparent that, should development consent be granted, land use conflict is likely between any new sensitive receiver and the existing approved quarry and asphalt plant.

Boral Asphalt Plant has been the subject of numerous noise and odour complaints and impacts and Council is aware of ongoing community concerns. The EPA emphasises that potential odours from the plant are likely to generate land use conflict with the residents of the proposed residential subdivision.

Under certain operational and weather conditions, impacts from noise, blasting and asphalt odour are likely. It should be noted that compliance with EPA criteria will not necessarily mean that residents will not be affected by noise and/or blasting and asphalt odour emissions. Aspects of quarry and asphalt plant operations and traffic movements have the potential to cause noise impacts, but further amelioration at the emission source may not be reasonable or feasible.

Should the EPA identify that the quarry regulated under EPL 3856 and the Boral Asphalt Plant are complying with licence conditions and are undertaking quarrying and asphalt plant operations, including blasting, in accordance with accepted industry practises, further restrictions on the quarry and asphalt plant operations or compliance action would not be reasonable or feasible.

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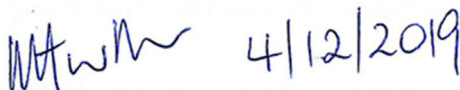
With the separation distances identified between the proposed residential dwelling and the existing quarry and asphalt plant, it would appear that the two land uses are incompatible. Once a land use conflict has arisen; the EPA or Council (depending on the scale of the activity) will be responsible for investigating complaints and enforcing compliance or further regulating off-site emissions.

The planning system is the prime mechanism for preventing potential or new conflicts between land uses. Whilst environmental protection mechanisms can ameliorate land use conflicts, it is more effective to prevent impacts from occurring than to attempt to minimise the impacts of incompatible land uses post approval. At-house noise mitigation features, such as double glazing, insulation and structural design, should also be considered as part of this proposal.

The EPA asks that you take these concerns into consideration before determination of development application DA 2019/702.

Should you require any further information, please contact Peter Lynch on (02) 6640 2502.

Yours sincerely

Handwritten signature in blue ink, followed by the date 4/12/2019.

Robert Donohoe
A/Head Environment Management Unit – North Coast
Environment Protection Authority