

JOINT REGIONAL PLANNING PANEL Northern Region

JRPP No	2015NTH009
DA Number	2015/203
Local Government Area	Ballina Shire
Proposed Development	Establishment of a Waste Management Facility comprising of a Waste Transfer Station capable of the temporary storage of up to 100,000 litres and Associated Works
Street Address	Lot 10 DP 1137966, No. 540 Pimlico Road, Pimlico
Applicant/Owner	Ardill Payne & Partners / FJ & JW Rose
Number of Submissions	1
Regional Development Criteria (Schedule 4A of the Act)	The proposed development is categorised as item 8 of Schedule 4A being; <i>Particular designated development</i> - Development for the purposes of: <i>8(c) waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.</i> The proposed development comprises designated development for the purposes of Section 77A of the EP & A Act 1979 because it meets the criteria for a "waste management facility or work" as defined in clause 32 of Schedule 3 of the EP & A Regulation 2000.
List of All Relevant s79C(1)(a) Matters	• Ballina Local Environmental Plan 2012 • Ballina Development Control Plan 2012 • Schedule 3 of the Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 33 – Hazardous and Offensive Development • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy No. 71 – Coastal Protection • State Environmental Planning Policy (Rural Lands) 2008
List all documents submitted with	• Site and detail – survey Rob Jacob (Ardill Payne & Partners)

this report for the panel's consideration	• Site and development plans Charlie Hewitt (Charlie Hewitt Engineering Design) • Site and building plans – All Steel Garages and Sheds • Draft Conditions of Consent • Letter - NSW Transport - Roads & Maritime Service • Letter - NSW Department of Planning & Environment
Recommendation	Approved with conditions
Report by	Craig Bradridge

DA 2015/203 - Establishment of a Waste Management Facility comprising of a Waste Transfer Station capable of the temporary storage of up to 100,000 litres and Associated Works.

File Reference	DA 2015/203
Applicant	Ardill Payne & Partners / FJ & JW Rose
Property	Lot 10 DP 1137966, No. 540 Pimlico Road, Pimlico
Proposal	Establishment of a Waste Management Facility comprising of a Waste Transfer Station capable of the temporary storage of up to 100,000 litres and Associated Works.
Effect of Planning Instrument	The subject land is zoned RU1 – Primary Production under the provisions of the Ballina Local Environmental Plan 2012, permissible pursuant to Clause 121(1) of the Infrastructure SEPP State Environmental Planning Policy (Infrastructure) 2007. Other Planning instruments of consideration are; State Environmental Planning Policy No. 33 – Hazardous and Offensive Development, State Environmental Planning Policy No. 55 – Remediation of Land, State Environmental Planning Policy No. 71 – Coastal Protection, State Environmental Planning Policy (Rural Lands) 2008.
Locality Plan	The subject land is depicted on the locality plan attached

1.0 Proposal

Development Application 2015/203 seeks consent to establish a Waste Management Facility involving:

- temporary storage of a maximum of 100,000 litres of waste material (approx. 100 tonnes), consisting of vacuum excavation mud, waste oil, oily waters, sewerage (pump outs) and grease trap waste
- storage of such material in appropriate containers/tanks on a temporary basis to facilitate testing (where required) and until a sufficient amount is collected to enable a bulk load to be transported to the appropriate waste receival facility
- haulage via tanker trucks via the existing driveway to Whytes Lane (west to the Pacific Highway) and then north or south along the Pacific Highway
- construction of four buildings which will be situated wholly on the fill pad that was approved under the terms and conditions of DA 2013/355.

The proposed buildings and improvements include:

- one x metal shed (24m x 15m) to be used for workshop, storage and secure parking of trucks
- one x metal shed (24m x 7.7m) to be used for storage of the waste materials (will contain a number of different bulk storage vessels) – the total floor area of this building will be bunded and drained to two sumps
- one x metal office building (reception, office, meeting room, lunch room, storage room)
- one x metal amenities block (one x male toilet, one x disabled/unisex toilet and one x shower)
- two x water storage tanks (roof water collection)
- construction and landscaping of an earthen mound (approx.. 1m high) adjacent to the driveway
- landscaping along the western (Pacific Highway) boundary of the site
- construction of 11 x on-site car parking spaces and five x single unit trucks and two x semi-trailer parking spaces
- modification of southern end of existing driveway to provide new (and second) access to fill pad.

2.0 Background

Lots 10 and 11 DP 1137966 were registered on the 1 May 2009 as a part of the Woodburn to Ballina Pacific Highway upgrade project. Lot 11 is to be dedicated as public road under Section 10 of the Roads Act 1993 after the highway's construction.

During 2012 and 2013 Council and the NSW Environmental Protection Authority (EPA) investigated unauthorised filling and use of the subject land. The EPA issued a clean-up notice on 17 October 2012 to remove and lawfully dispose of drilling/excavation mud unlawfully applied to the land and liquid waste unlawfully stored at the premise. The land owner was also required to remediate contaminated soils and soil disturbance to the dam located on the south eastern boundary of the property. On 16 January 2013 correspondence was sent to Mr Rose from the EPA outlining that the clean-up actions had been completed in accordance with the issued notice.

On 12 December 2013 consent was granted to undertake site filling (DA 2013/355) to create a fill pad 70m x 90m in the south west corner of the property. The fill pad was proposed to accommodate a possible future house and/or farmshed and other associated improvements.

Ardill Payne & Partners sought the Director-General's Requirements (DGR's) for an environmental impact statement (EIS) in respect of a waste management facility (being a waste transfer station) in May 2013. DGR 752 was issued by the Department of Planning on the 16th July 2013.

3.0 Consultation

The application was placed on public exhibition from 13 May 2015 to 17 June 2015. One submission was received during this period. The letter received contained questions relating to zoning and permissibility, access, truck wash down area(s) and potential compensation should surrounding property values fall.

Contained in this report the issue of permissibility is addressed under *Key Assessment Matters, 5.1 Permissibility*. Conditions of consent have been applied in relation to a wash down facility capable of washing down trucks and equipment. The issue of access is covered in detail under Section 79C(1)(b), *Internal and External Roads and Access*.

3.1 External Referrals

The application was referred to the following authorities:

- **NSW Environment Protection Authority** - The application is classified as Integrated Development and requires general terms of approval under the Protection of the Environment Operations Act 1997. The general terms of approval were issued 11 February 2016 and are incorporated into the Notice of Determination **attached**.
- **NSW Transport - Roads & Maritime Services** – Referred as required by Clause 104(3) of State Environmental Planning Policy (Infrastructure) 2007. A response was provided by the RMS 15 June 2015 **attached** and is further discussed under the *Internal and External Roads and Access* section of this report.
- **NSW Department of Planning & Environment** - Referred for the purpose of exhibition and comment. A response was received 4 March 2016 **attached** noting there are no issues of State or regional significance and that the general terms of approval from the EPA should be incorporated into the consent.
- **NSW Department of Primary Industries (Office of Water)** - Referred for the purpose of comment. A response was received 26 May 2015 **attached** noting that a controlled activity approval is not required and no further assessment was necessary by their department.
- **NSW Department of Primary Industries (Fisheries)** – Referred for information and/or comment. No response was received.
- **JALI Local Aboriginal Land Council** - Referred for information and/or comment. No response was received.

4.0 Site Description

The subject site is located in a rural locality characterised by agricultural production (predominately sugar cane), stands of bushland, scattered rural dwelling houses and associated farm buildings and situated approximately half way between the townships of Wardell and Ballina. The closest three dwellings to the proposed development are located approximately 210m (Lot 9 DP 594556), 350m (Lot 5 DP 223267) and 450m (Lot 141 DP 755731) away from the proposed operational areas

(fill pad). Another five - 10 dwellings exist within approximately 500-700m of the proposed operational area. The current and proposed access for the property/proposed facility is via Whites lane.

The site is approximately 1 kilometre from the Richmond River and within the coastal floodplain. The property is a corner allotment bounded by the Pacific Highway and Whites Lane with large drainage channels along the roadside perimeters.

The site has an existing access driveway adjacent to the intersection of Whites Lane and the Pacific Highway. This driveway sits over an area of land that has been acquired by the RTA for highway upgrade works.

The subject site has been modified by prior and current activities (including prior nursery, existing agriculture and on-going filling). The northern section of the land contains sugar cane cropping. A dwelling house exists on the eastern section. The proposed works/use is situated on the south-western section of the land, which previously contained the nursery.

The site has a total area of 12.54ha. The proposed operations will have an area of approximately 1ha. That part of the site that is subject to the proposed works/use is heavily disturbed and is characterised by areas of gravel hardstand, drainage channels, grass, trees (including stands of palm trees) and a shed. The proposed development will be situated on a fill pad that is currently being constructed and which was approved by Council under DA 2013/355.

4.1 Topography

The site is predominately flat and level with the area to be filled recorded at the time of DA 2013/355 as approximately 1.6-2.0m AHD. DA 2013/355 required the subject land to be filled to a minimum level of RL 3.1m AHD.

4.2 Visual context

The subject site runs parallel to the Pacific Highway with proposed sheds to be approximately 10 metres away on a raised building pad (DA 2013/355). The development site is visible from the Highway. The nature and visual appearance of the proposed buildings (metal sheds) are characteristically rural in nature, being comparable to rural farm sheds and buildings. There is some existing vegetation between the highway and the proposed development site that will serve to screen the development to some extent.

It is proposed to have landscaping along the western (Pacific Highway) boundary of the site and an earthen mound of approximately 1m in high with plantings along the Eastern access road to serve as buffers.

5.0 Assessment - Environmental Planning and Assessment Act 1979

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979 as follows.

5.1 Permissibility

The site is zoned RU1 – Primary Production under Ballina LEP 2012. Development for the purposes of a ‘waste or resource management facility’ is prohibited in the RU1 zone. However, Clause 121(1) of the Infrastructure SEPP provides that a ‘waste or resource management facility’ may be carried out by any person with consent on land in a prescribed zone. RU1 is a prescribed zone and the provisions of the Infrastructure SEPP prevail over the Ballina LEP 2012.

The project is considered ‘designated development’ under Schedule 3 of the Environmental Planning and Assessment Regulation 2000 as a ‘waste management facility’ that would purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials.

The development is classified as ‘Integrated Development’ under Section 91A of the EP&A Act. As such, prior to determination of the application, approval under the Protection of the Environment Operations Act 1997(POEO Act) must be obtained. The EPA has provided the general terms of approval of which are included in the Notice of Determination.

5.2 Section 79C(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

Division 23 of the Infrastructure SEPP relates to the development of waste or resource development facilities. Clause 121 (1) states that development for the purpose of waste or resource management facilities may be carried out by any person with consent on land in a prescribed zone. The RU1 Rural Landscape zone (as applicable for the proposed development) is a prescribed zone under the Infrastructure SEPP and as such the proposed facility is permitted with development consent under Part 4 of the EP&A Act.

The proposed development is listed within Column 1 of the Table to Schedule 3 of the SEPP. Clause 104(3) requires Council to refer the application to the RMS and consider any submission that the RMS provides. A submission was received from the RMS 15 June 2015 **attached** and further discussed under the Internal and External Roads and Access section of this report.

State Environmental Planning Policy No.33 – Hazardous and Offensive Development

The facility is proposed to store a maximum volume of 100,000 litres of liquid type waste material. The maximum storage volume of the main liquid type waste materials is:

- grease trap waste – 30,000 litres (stored in aluminium tanks or similar)
- septic waste – 30,000 litres (stored in stainless steel tank or similar)
- excavation/drilling mud – 30,000 litres (stored in steel skip bins)
- waste oil – 4,000 litres (stored in plastic intermediate bulk containers (IBCs))
- oily waters – 6,000 litres (stored in stainless steel tank or similar)

The quantities of waste oil is below screening threshold quantities outlined in the “*Hazardous and Offensive Development Application Guidelines – Applying SEPP 33*”, therefore the quantities are not considered potentially hazardous with respect to SEPP 33. A Hazardous Materials SEPP 33 Assessment (HMA) was undertaken by Tim Fitzroy & Associates (February 2015) and submitted with the application. The HMA concluded that:

- *the relatively small quantities of waste oil is below screening threshold quantities outlined in Applying SEPP 33 Guidelines and therefore, the quantities are not considered potentially hazardous with respect to SEPP 33*
- *the number of generated traffic movements associated with delivery of the materials are less than the transportation screening threshold outlined in Applying SEPP 33 Guidelines and therefore, the transportation of the materials is not considered potentially hazardous*
- *as hazardous materials associated with the development did not trigger the screening thresholds for quantities of materials nor transportation movements, the development is not considered potentially hazardous and therefore SEPP 33 does not apply*
- *the safety management regime for the materials should be based on observance of standard engineering codes and standards*

The development is however considered potentially offensive. The commentary to Question 2.3 of Section 2.1 of the guidelines states that, if the proposal requires a licence under any pollution control legislation administered by the DECCW (or other public authority), then the proposal should be considered potentially offensive. Appendix 3 of Applying SEPP 33 Guidelines nominate industries involving waste, particularly grease trap waste as being potentially offensive. The Guidelines outline the main concerns with such activities are the impact on air quality and water.

State Environmental Planning Policy No.55 – Remediation of Land

The land upon which the proposed development is to be sited is the fill pad that was approved under the terms and conditions of DA 2013/355. The fill pad is situated on land that contained the prior plant nursery. Other sections of the land have been used for sugar cane production. The following notes are recorded in relation to the assessment of DA 2013/355:

Council and the EPA have had cause to conduct investigations in respect to unauthorised use of the subject land. The EPA has conducted soil testing on various locations on the property to ascertain if any contamination had leached into the soils, the EPA confirmed that the subject allotment did not contain any form of contamination.

Having regard to the above, it is considered that no further investigation is required pursuant to SEPP 55.

State Environmental Planning Policy 71 – Coastal Protection

The eastern section of the subject land is within the “Coastal Zone” as defined in the Coastal Protection Act 1979.

The subject land proposed to be developed is outside of the coastal zone mapped area. The land is approximately 1 kilometre from the Richmond River and over 5 kilometres from the Coast.

Clause 8 provides matters for consideration by a consent authority when it determines a development application to carry out development to which SEPP 71 applies. The following comment has been provided by the applicant as a brief précis of these Clause 8 matters:

- *the proposed development does not involve the clearing of any land*
- *the proposed built form comprises metal sheds which are compatible in terms of bulk, size and external appearance of farm sheds and buildings in rural areas*
- *the land is not situated on the foreshore of any waterway or waterbody*
- *the proposed development will not impair existing or future public access to the foreshore of any waterway or waterbody*
- *the proposed development will not have any significant impacts upon flora and fauna or the scenic qualities of the locality and will not impact upon the environment of any coastal foreshore*

The development will not impact on public access to or along any coastal foreshore. The proposal is considered generally consistent with the aims and objectives of the Policy.

State Environmental Planning Policy (Rural Lands) 2008

As the subject land is zoned RU1 – Primary Production the Rural Lands SEPP applies under the provisions of the BLEP 2012. The following comments have been made by the applicant in respect of the Rural Planning Principles contained in Clause 7 of the SEPP:

- *the proposed development is considered to be such that will comprise a productive and sustainable economic activity in a rural area*
- *the land upon which the proposed works are to be situated has consent to be filled (DA 2013/355) – the land is marginal agricultural land (Class 4) with limited productive potential – the use of the land for a waste transfer station is expressly permitted by SEPP (Infrastructure) 2007*
- *the proposed development will result in positive economic benefits to the local economy and is not such that will have significant adverse social impacts (subject to implementation of appropriate controls and mitigation measures as detailed in this EIS)*
- *as detailed in this EIS, it is submitted that the proposed development is such that will provide an acceptable balance of the social, economic and environmental interests of the community*
- *the subject land is devoid of any significant vegetation or habitat – the land upon which the proposed works are to be situated has consent to be filled (DA 2013/355) – the site constraints are not such that would preclude/prohibit the proposed development*
- *the locality is characterised by relatively sparsely scattered dwelling houses – the proposed development is not such that will adversely impact the local rural lifestyle or social and economic welfare of the local community subject to the implementation of all proposed environmental management measures/controls*
- *the proposed development does not involve rural housing*
- *the proposed development is not inconsistent with the Far North Coast Regional Strategy 2006-31.*

The subject application is considered consistent with relevant sections of the SEPP.

Ballina Local Environmental Plan 2012 (BLEP 2012)

Aims, objectives of BLEP2012 (Clause 1.2)

The application generally complies with the aims and objectives of the BLEP 2012 particularly 2(a), by providing for a sustainable Ballina that recognises and supports community, environmental and economic values through the establishment and maintenance of diverse and balanced land uses.

Land use definition (Clause 1.4)

The proposed use is described under the BLEP 2012 definitions as a **waste or resource transfer station** meaning *a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport. Waste or resource transfer stations are a type of waste or resource management facility, waste or resource management facility means any of the following:*

- (a) a resource recovery facility,*
- (b) a waste disposal facility,*
- (c) a waste or resource transfer station,*
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).*

Zoning (Clause 2.3)

Under the provisions of BLEP 2012 the land is zoned RU1 – Primary Production. Development for the purposes of a ‘waste or resource management facility’ is prohibited in the RU1 zone. However, Clause 121(1) of the Infrastructure SEPP provides that a ‘waste or resource management facility’ may be carried out by any person with consent on land in a prescribed zone. RU1 is a prescribed zone and the provisions of the Infrastructure SEPP prevail over the Ballina LEP 2012.

Objectives (Clause 2.3)

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 and/or uneconomic demands for the provision of public infrastructure.*

The proposed development is generally consistent with the above objectives.

Acid Sulfate Soils (Clause 7.1)

The subject land is identified on Council's Acid Sulfate Soils Planning Maps as being part Class 3 and part Class 4 land. The land upon which the fill pad has been approved and upon which the development is proposed is contained wholly within Class 3 land. The objective of clause 7.1 is to ensure development does not disturb expose or drain acid sulphate soils and cause environmental damage.

There is minimal excavation required in relation to the proposed application. It is unlikely the excavation works will encounter acid sulphate soils, or be lower than 1 metre than the natural ground level, as most of the development will be in areas that have been filled. Conditions of consent have been applied to mitigate against possible environmental damage by Acid Sulfate soils should they be encountered.

Earthworks (Clause 7.2)

The objective of this clause is to ensure that the earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Minor excavation may occur in the cut and fill process, and the grading and levelling of the base for the gravel driveway. Any spoil that remained shall most likely be utilised for the earthen buffer mound or other areas that require filling. No major earthworks comprise part of the proposed development. The filling of the land has been assessed and approved under DA 2013/355. DA 2013/355 was supported by flood modelling that concluded the proposal will not adversely impact on drainage patterns. Appropriate measures such as sediment and erosion controls have been conditioned and shall be implemented prior to construction and in perpetuity.

Flood planning (Clause 7.3)

The objectives of this clause are to minimise the flood risk to life and property associated with the use of land and to avoid significant adverse impacts on flood behaviour and the environment. The proposed site is identified as being flood affected on Council's 1 in 100 year flood event map. The issue of flood is addressed under Section 79C(1)(b) following in this report.

5.3 Section 79C(1)(a)(ii) provisions of any proposed instrument that is or has been the subject of public consultation under this 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)

Council is not aware of any proposed instrument of relevance that is or has been the subject of public consultation under this Act.

5.4 Section 79C(1)(a)(iii) provisions of any development control plan

Ballina Development Control Plan 2012 (DCP 2012)

The subject land is mapped on the DCP as follows:

- Minimum Fill Policy (m AHD) 100 Year ARI Flood Levels – Map 1b – Minimum Fill Levels – 2.5-2.7m AHD
- Minimum Fill Policy (m AHD) 2100 Climate Change Scenario 100 Year ARI Flood Levels – Map 2b – Minimum Fill Levels – 3.1m AHD
- Mosquito Management Map – Sheet MM_2_080 – Coastal Plain & Lowlands (Below 10m Contour)

Chapter 2 – General and Environmental Considerations

Clause 3.1 - Land Use Conflict

As previously mentioned, the waste management facility was not determined hazardous under State Environmental Planning Policy No. 33 Hazardous and Offensive Development. However, the facility would be considered potentially offensive under SEPP 33. Appendix 3 of Applying SEPP 33 Guidelines nominate industries involving waste, particularly grease trap waste as being potentially offensive. The Guidelines outline the main concerns with such activities are the impact on air quality and water. In addition the facility would also be considered potentially offensive as it requires an environmental protection licence under the *Protection of the Environment Operations Act 1997*.

Chapter 2 of Ballina Shire Council's Development Control Plan 2012 nominates the recommended buffer distances for waste management facilities and hazardous or offensive developments as shown below:

Table 2 - Chapter 2 of DCP - Minimum Buffer Distances for Specified Land Uses

Land Use	Dwelling House, or Rural Workers Dwelling	Rural Tourist Facility
Hazardous or Offensive Industry	150m	1000m
Waste or Resource Management Facility	150m	300m

The proposed waste management facility is not located within 150m of a dwelling house or rural workers dwelling. The closest dwelling is the dwelling on 52-58 Laws Road Pimlico to the south at approximately 210m. In addition, a search of the

internet and Council's records did not identify any tourist facilities located within 1000m of the proposed development site.

As the recommended minimum buffer distances can be met and the submitted noise and air quality information was able to demonstrate minimal impacts on nearby sensitive receivers, with the inclusion of conditions of consent a land use conflict risk assessment was not required.

It is concluded that there is a minimal likelihood of land use conflicts arising as a result of the proposed waste management facility.

Clause 3.4 - Potentially Contaminated Land

Comments in respect of contamination are provided in Section 5.2 under State Environmental Planning Policy No.55 – Remediation of Land.

Clause 3.6 – Mosquito Management

The property is not located in the area of high risk for mosquitoes, nor does the application involve buildings comprising residential, tourist and visitor accommodation or day care centre. Conditions relating to the screening of rainwater tanks have however been included.

Clause 3.7 – Waste Management

A Site Waste Minimisation and Management Plan is to be provided prior to the issue of the Construction Certificate for the buildings. Conditions of consent have been included that waste from the storage facility (including administration waste) is disposed of at an approved waste disposal facility.

Clause 3.8 – On-site Sewage Management Systems

The application proposes an amenities block containing two toilets and a 500 litre pump out septic tank system. Council's OSSM Officer has assessed the application and concluded that a wastewater collection well with pump out system is plausible.

Clause 3.9 – Stormwater Management

Council's Development Engineer has stated the following in relation to stormwater:

Ballina DCP 2012 current at the time of the application does not require formal stormwater management plans for lots greater than 2,000 m². However as the site will be unsealed, erosion and sediment controls required during construction, will be required to be adapted for the operational phase and maintained permanently.

Suitable conditions have been applied to the consent to achieve the above objective and insure the erosion and sediment controls are sufficient.

Clause 3.10 – Sediment and Erosion Control

A sediment and erosion control plan has been submitted and is deemed as adequate for the construction phase of the development. However, Council's Development Engineers have conditioned that detailed erosion and sediment

control plans are to be submitted to and approved by Council addressing both the construction phase and the operational phase of the development.

Clause 3.11 – Provision of Services

Electricity and telecommunication services are available to the site. Reticulated town water and sewerage are not available. Conditions of consent have been applied in relation to rain water harvesting and the installation of an on-site sewage treatment system. A private water supply quality assurance program must be submitted to and approved by NSW Health prior to the issue of the occupation certificate.

Clause 3.12 – Heritage

The subject site is modified from its original form by uses including clearing, sugar cane production and a retail plant nursery. The site is not within or adjoining any site identified as being of heritage significance under the BLEP 2012 or the State or National Heritage Registers. A search of the Office of Environment and Heritage AHIMS Web Services failed to identify Aboriginal sites in or near the subject site.

Council contacted JALI Local Aboriginal Land Council on 11 May 2015 to provide information and to invite comment on the subject application. No comment has been received.

Clause 3.19 – Car Parking and Access

Council's Development Engineer has applied the following condition in relation to car parking:

The development shall provide seven car parking spaces, one articulated vehicle parking space and five heavy rigid vehicle (HRV) parking spaces. The access, manoeuvring areas, loading/unloading areas and parking areas are to be provided with an all weather gravel pavement, minimum 300mm thickness. The geometric design of parking spaces, manoeuvring areas and vehicular accesses is to be in general accordance with "Layout Drawing No. 034-002" submitted with the development application, comply with Australian Standard AS/NZS 2890.2-2002 and where appropriate accommodate the turning paths of a standard articulated vehicle and/or heavy rigid vehicle. The extent of individual parking spaces shall be designated on site with bollards, kerb stops or other approved delineation devices. 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.

Additional comment on Access is provided in the section following under section 79C(1)(b) - likely impacts of that development.

Clause 3.21 – Bushfire

The subject land is mapped on Council's Bush Fire Prone Land Map as being bushfire prone. The southern section of the land is mapped as - Vegetation Category 1 vegetation + 100m buffer, with the bushfire source being the stand of vegetation on the adjoining land to the south, being Lots 9 and 10 DP 594556.

The proposed development does not constitute integrated development under the Rural Fires Act 1997 and therefore was not referred to the NSW Rural Fire Service. The application included a Fire and Incident Management Assessment undertaken by Tim Fitzroy & Associates (December 2014). The following measures have been proposed in relation to bushfire:

- fire extinguishers will be kept in the office, storage/parking and waste material storage sheds – their locations will be clearly marked and will be referenced on an emergency plan for the site
- a fire fighting pump will be kept on the site for connection to the 2 x water storage tanks

Chapter 2b – Floodplain Management

Comments in respect of flooding are provided in section 5.8 of this report.

Chapter 7 – Rural Living and Activity

Clause 3.7 – Building Lines and Setbacks

All buildings and structures in rural areas must comply with the minimum building line or setback requirements set out in Table 7.2 of the DCP that requires a setback for the front boundary of 20m from a sealed road, 50m from an unsealed road and 28m from the Pacific Highway and Bruxner Highway. The prescribed secondary frontage setback is 10m.

The subject land has primary frontage (and access to Whytes Lane and Pimlico Road) and has a secondary frontage to the Pacific Highway. Subject to the Woodburn to Ballina Pacific Highway upgrade however, the land will no longer have frontage to the actual Pacific Highway, with frontage being to what will be the “old Pacific Highway” and a new connection to Whytes Lane.

The proposed storage and secure parking building has a setback of approximately 250m to Whytes Lane (primary frontage) and 11m to the Pacific Highway (secondary frontage). The proposed liquid store building has a setback of approximately 280m to Whytes Lane (primary frontage) and 18m to the Pacific Highway (secondary frontage).

Based on the above and in consideration of the highway upgrade, the proposed building line to the west is reasonable in that it is the secondary frontage of the land and will become a local road when the highway upgrade is completed. Further, the proposed buildings comprise metal sheds which are characteristic of farm sheds in the local area and the development will be screened by vegetation.

Clause 3.8 – Roads, Vehicular Access and Parking

Comments in respect to roads, vehicular access and parking are provided in section 79C(1)(b) *the likely impacts of that development*, following in this report.

5.5 Section 79C(1)(a)(iia) provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

There is no planning agreement or draft planning agreement applying to this development or the subject site.

5.6 Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The proposed development comprises a “waste management facility or work” as described in Item 32 of Schedule 3 of the EP & A Regulation 2000. The development is therefore considered designated development pursuant to Section 77A of the EP & A Act, 1979.

Division 5 Public participation – designated development

Clauses 77 – 81 of the Regulations specifies how public participation must be undertaken for designated development. It is confirmed that Clauses 77 – 81 have been complied with through Council's notification of the application and the forwarding of the submissions to the Director-General as required by Clause 81.

5.7 Section 79C(1)(a)(v) provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

No specific coastal zone management plan applies to the site.

5.8 Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Environmental Impacts

Flooding

The site is flood affected and a fill pad is to be created and filled to a minimum 3.1m AHD in accordance with Condition 9 and 10 of the Consent for DA 2013/355. This level is consistent with the current minimum fill level required by Ballina DCP 2012 Floodplain Management Maps. Minimum floor level is required to be 200 mm higher at 3.3 m AHD.

In the assessment of DA 2013/355 the applicant was required to have flood modelling completed. The modelling was to be completed by Council's consultant,

with the engagement arranged through Council's Engineering Works Section. The modelling & report from BMT WBM stated the following:

Simulations have been undertaken using Ballina Shire Council's 'Integrated Flood Model'. Typically flood impacts are assessed against the 20 year and 100 year ARI flood events. However, the site is currently shown to be flood free in the 20 year ARI event, thus impacts have only been assessed using the 100 year ARI Richmond River dominated event. The modelling indicates that the proposed filling will have a negligible impact on 100 year ARI flood levels (less than 1mm). The negligible change is attributed to the marginal change of flood storage due to filling, in comparison to the volume of flood flows within the Richmond River. Further, since the site is not in a conveyance zone, or floodway, site filling will have negligible impact on the movement of floodwater across the floodplain during events up to and including the 100 year ARI event.

The fill pad where the Waste Management Facility is proposed is deemed to have acceptable impacts in regards to the floodplain.

Odour

The *Air Quality Assessment*, dated 12 March 2015 and additional information, dated 10 December 2015 prepared by Tim Fitzroy and Associates included an assessment of the potential impacts of odour, particulate matter and greenhouse gas emissions. The following comments are from Council's Environmental Health Officer:

The odour assessment concluded the closest sensitive receptor is outside the radius of affected zone for the worst case scenario of transferring grease trap waste from the proposed waste storage shed, and are therefore unlikely to be impacted by offensive odours under normal operating conditions. However upsets may occur and contingency measures have been outlined. The contingency measures include:

- The installation of vapour recovery systems that return the air displaced from the headspace of the storage tank to the tanker during filling.
- Use of activated carbon filters to capture vapours
- Good housekeeping to avoid spillages
- Implementation of an odour management plan and complaints management within the site's environmental management system.
- The use of a hose and standard camlock fitting when transferring waste between tankers and storage facilities to reduce odour and aerosol generation.

These measures have been included in the EPA General Terms of Approval and Council's conditions of consent.

Particulate matter (dust) emissions primarily from vehicle movement from the site were not considered significant. Greenhouse gas emissions were also considered insignificant with no mitigation measures proposed.

The EPA General Terms of Approval have however included the below requirement to reduce dust emissions:

O2.1 Activities occurring at the premise must be carried out in a manner that will minimise emissions of dust from the premise.

Noise

Noise has been recognised as a potentially problematic issue. The following are comments are from Council's Environmental Health Officer:

The submitted Noise Impact Assessment prepared by Ambience Audio Services, dated 6 March 2015 determined the rating background noise level (RBNL) by carrying out background noise monitoring at a dwelling approximately 500m to the east of the development site (on 540 Pimlico Road, Pimlico), which is not the closest sensitive receiver. The closest sensitive receiver is the dwelling approximately 210m to the south of the development. During discussions the Acoustic Consultant outlined this location was chosen due to the receiver to the south (52-58 Laws Road Pimlico) having a higher background noise level because of its close proximity to the highway and the dense vegetation between the receiver and proposed development.

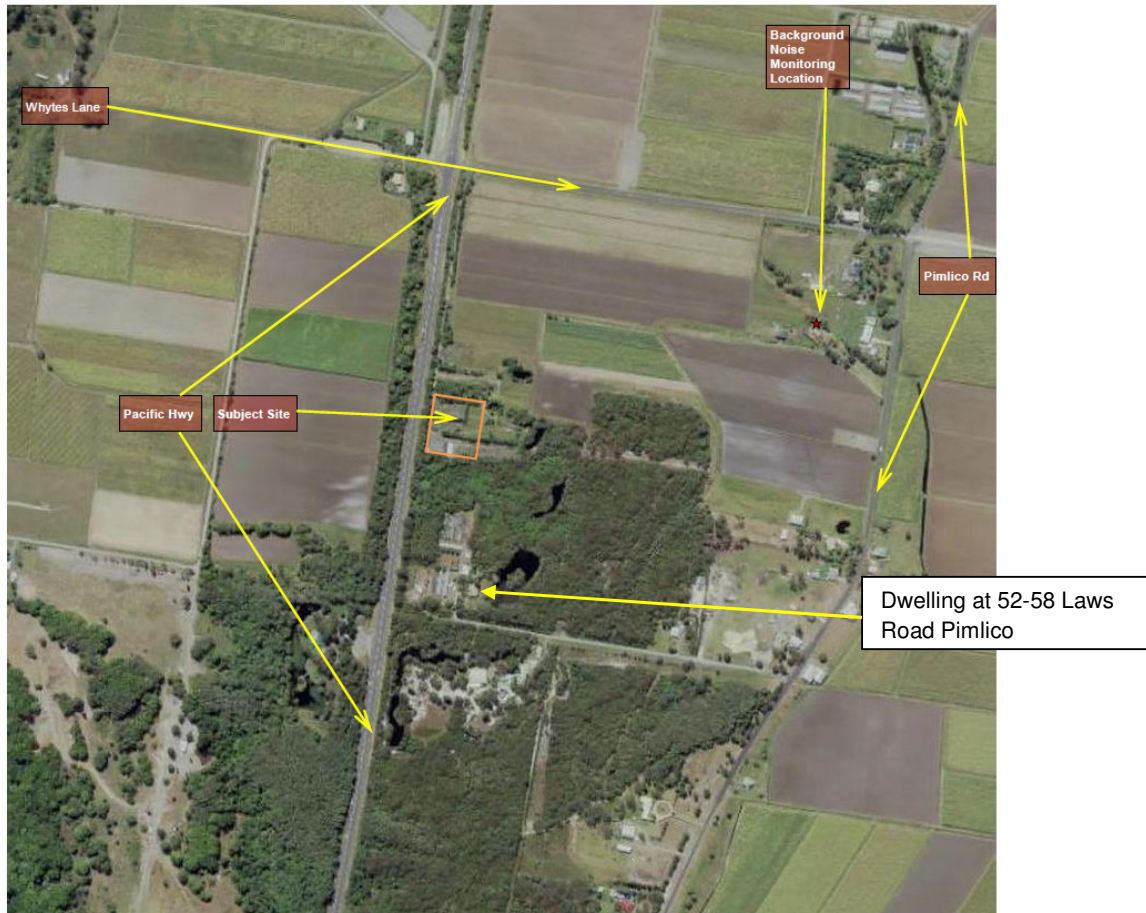


Figure 1- Noise Impact Assessment Location Map

The level of noise generated by the pump trucks loading and unloading was also a concern. The Assessment outlined the project specific noise levels (noise from the premise must not exceed) in the table below.

Table 1 – Project Specific Noise Levels

Locality	NOISE LIMITS dB(A)		
	DAY	EVENING	NIGHT
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
Any residence	41	41	36

The Additional Information for Noise Levels prepared by Ambience Audio Services, dated 6 April 2015 demonstrated the RBNL for the day and evening period would be higher by two dB, while it would be the same for the night period for the dwelling to the south. The additional information outlined that the activities associated with the

waste management facility could comply with the project specific noise levels with the recommendation that:

All trucks that are pumping into or out of the storage tanks must park to the east of the semi-trailer pump to act as a noise barrier to receivers to the east.

The exception is the pumping of waste material into and out of the storage tanks at night. Although the acoustic information outlined pumping would only occur during the day other sections of the application stated pumping may occur in emergency situations.

To ensure operations comply with the PSNL the following requirements have been included in the EPA General Terms of Approval and Council's conditions of consent:

- All trucks that are pumping into or out of the storage tanks must park to the east of the semitrailer pump to act as a noise barrier to receivers to the east; and
- Hours of operation are restricted to –

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

Except in the case of an emergency, truck movements are allowed to leave and return to the premise, but no pumping of waste products or other material is permitted outside of the approved operating hours.

Waste

A Waste Management Assessment (WMA) has been undertaken by Tim Fitzroy & Associates (12 March 2015). The WMA identifies:

- the likely waste streams to be generated during construction and operation;
- proposes management measures; and
- the development and implementation of standard operating procedures.

The WMA concludes that the potential environmental impact is low. The EPA has assessed the proposed measures and deemed them acceptable subject to all waste being taken to a lawful facility that can accept the waste.

Hazards and risk

A Fire and Incident Management Assessment was undertaken by Tim Fitzroy & Associates (12 March 2015). A range of spill, fire and incident management measures are proposed which include:

- *full bunding of the total floor area of the material storage shed which will drain to 2 sumps – the safety factor of the bund is 1.14 of the largest storage vessel/container – the bund has a volume of 34.9m³ with the largest container having a volume of 30.6m³*

- *fire extinguishers will be kept in the office, storage/parking and waste material storage sheds – their locations will be clearly marked and will be referenced on an emergency plan for the site*
- *a fire fighting pump will be kept on the site for connection to the 2 x water storage tanks*
- *the water storage tanks will supply water for fire fighting and for dust suppression (if required)*
- *spill kits are provided to each truck with additional kits being kept in both of the sheds*
- *first aid kits will be provided in the office and storage/parking shed*
- *preparation and implementation of a Pollution & Incident Response Management Plan*

Built Environment Impacts

Internal and External Roads and Access

The Roads and Maritime Response in their letter dated 15 June 2015 reads as follows:

The proposed waste management facility is adjacent to the Pacific Highway. Currently the site has access to Whytes Lane, close to the intersection with the Pacific Highway.

Roads and Maritime are developing the Woolgoolga to Ballina upgrade of the Pacific Highway. At the completion of this project it is anticipated the site of the waste transfer facility will have access to the old Pacific Highway which will become a service road for local traffic.

In the mean time, access to the site will be from Whytes Lane. Due to increases in heavy vehicle movements and proximity to the Pacific Highway, it is recommended Council ensure the existing access can accommodate the swept path of heavy vehicles exiting the site. To reduce vehicle conflict, the largest vehicle leaving the site should be able to complete the manoeuvre without crossing the centre of Whytes lane...

Council's Development Engineer supplied the following comments in regards to Roads and Access:

The application proposes using the existing access onto Whytes Lane in the interim period until Whytes Lane is relocated by RMS as part of the Pacific Highway Upgrade. It is understood RMS will then construct a new access onto the relocated Whytes Lane. Council's engineer was concerned that due to the close proximity of the interim access to the Pacific Highway, southbound trucks to the development site could cause queueing issues onto the existing highway southbound lane. The proponent's consultant has responded with three options to deal with this issue. Option 1, reproduced below is favoured:

Option 1: Cane Pad Turnaround (Preferred)

All vehicles associated with the development wishing to access the site from the Pacific Highway will continue east along Whytes Lane, past the site access, cross Pimlico Road and make a U-turn manoeuvre on the existing cane pad, thereby accessing the site via a left-in movement from the east (see Option 1 sketch attached). A signed letter of agreement will be obtained from the relevant property owner. All road rules will be obeyed at all times. This arrangement will continue until such time as an alternative access is provided by the RMS.

This option is preferred, as it results in the least disruption to local traffic and adds the least amount of travel time for vehicles associated with the development.

In accordance with the RMS response both the interim and final accesses must ensure that *"the largest vehicle leaving the site should be able to complete the manoeuvre without crossing the centre of Whytes lane"*. The final access will also need to be compliant with the with the minimum requirements of the Northern Rivers Local Government Development Design and Construction Manuals including standard drawings R14 and R15.

Cultural heritage

A cultural heritage assessment of Aboriginal and non-indigenous cultural heritage concluded that no Aboriginal objects, places of cultural significance or items of historic heritage significance, were identified within the project area.

5.9 Section 79C(1)(c) – The suitability of the site for the development

Subject to compliance with the conditions of consent, the subject site is considered suitable for the proposed development as it is relevantly isolated and within close proximity to the Pacific Highway.

5.10 Section 79C (1)(d) Any submission made in accordance with this Act or the Regulations?

The application was placed on public exhibition from 13 May 2015 to 17 June 2015. One submission was received during this period. The issues raised in the submission have been discussed in Section 3 of this report.

5.11 Section 79C(1)(e) The public interest.

The public interest is best achieved by a proposal complying with the relevant planning instruments. In this instance, the proposal has demonstrated compliance with the applicable planning instruments. The facility will serve the interests of the community by providing a facility to lawfully store waste while not unreasonably impacting upon amenity or the environment. The proposal is considered to be within the public interest.

6.0 Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

In relation to the pertinent issues relating to the proposed development the application has been assessed for possible negative impacts to the natural and built environments. Where negative outcomes have been anticipated such as with access issues and noise impacts, further investigation and mitigating measures have been undertaken and issues rectified.

It is considered the submitted EIS, reports and associated studies have satisfied the Director General's Requirements and provide a complete outline for the construction and operation of the facility. It is determined that through the application of the attached Notice of Determination with incorporated general terms of approval from the EPA, the proposed development can perform its purpose while providing a favourable environmental outcome.

7.0 Recommendation

That Development Application 2015/203 to establish a Waste Management Facility comprising of a Waste Transfer Station capable of the temporary storage of up to 100,000 litres and associated works at 540 Pimlico Road, Pimlico be **APPROVED** subject to conditions **attached**.