



STATEMENT OF ENVIRONMENTAL EFFECTS

PROPOSED BAIT PROCESSING AND COLD STORAGE FACILITY

AT LOT 9, DP 1240915
FAIRTRADER DRIVE, YAMBA

PREPARED FOR: TWEED BAIT PTY LTD

DATE: JANUARY 2021

TABLE OF CONTENTS

ANNEXURES

ANNEXURE A Application Plans – Gavin Duffie, January 2021

ANNEXURE B Clause 4.6 Request to Vary a Development Standard – Brad Lane Town Planner,
January 2021



STATEMENT OF ENVIRONMENTAL EFFECTS
PROPOSED BAIT PROCESSING AND COLD STORAGE FACILITY
AT LOT 9 DP 1240915 FAIRTRADER DRIVE, YAMBA

1.0 INTRODUCTION

Tweed Bait Pty Ltd has commissioned the preparation of this Statement of Environmental Effects to accompany a Development Application for the construction of a new purpose built bait processing and cold storage facility at the subject site.

This Statement is divided in to six (6) sections. The remaining sections will provide a description of the proposal, the site and the surrounds, the planning and development context, environmental assessment and a conclusion.

2.0 THE SITE AND SURROUNDS

2.1 The Site

The subject land is described as Lot 9, DP 1240915 Fairtrader Drive, Yamba. The site is presently vacant land in a contemporary industrial subdivision located approximately 600m south west of the Yamba Marina in a direct line. (see **Figure 1**).



Figure 1 – Aerial Photograph
Source: Six Maps

The subject site is of a generally regular shape with a northern boundary 51.815m to the unformed road reserve of Deering Street, an eastern boundary of 78.295m, a southern frontage of 51.425m to Fairtrader Drive, and a western boundary of 84.955m providing a site area of 4,196m².

The site is relatively flat resulting from filling undertaken during the subdivision works which created the industrial estate. An easement for sewer 3m wide runs within the site adjacent to the site frontage as well as angled parts of easements within the front setback area at the eastern and western sides, which unusually, appear to cover the connection points to each proposed lot. A 1.5m wide easement to drain water is located across the northern (rear) part of the site. The vegetation on the site comprises low cut grass.

The site is urbanised and it is apparent that the vegetation is not of ecological significance and does not provide habitat for rare or threatened species.

2.2 The Surrounds

The site is located within an industrial area with existing and future industrial uses adjoining.

To the north of the site is the unformed and mostly vegetated Deering Street road reserve. Further to the north (approximately 100m from the subject site) are detached dwellings with frontage to William Street.

To the east of the site is a 2 storey building containing light industrial and recreation facility (indoor) uses. Further to the east is the Yamba Industrial area and public open space playing fields and sports centre. To the south and west is industrial land.

3.0 DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed development includes the construction of new industrial building which is designed as a purpose built bait processing and cold storage facility for Tweed Bait Pty Ltd. The proposal includes on-site car parking, loading facilities and landscaping.

The proposed facility will employ 3 full time staff and 5 casual staff and will operate 7am to 6pm, up to 7 days per week, depending on the season.

Tweed Bait is presently the largest wholesale bait supplier in Australia with products distributed to over 3000 retail locations. Yamba is a strategic location for the business as the company's fishing vessel operates from Yamba.

Complete details of the proposed development are shown on the Application Plans (**Annexure A**). A summary of the proposed uses and the key features of the development are discussed as follows.

Vehicular access is provided to the site via two proposed vehicle crossovers to site's frontage to Fairtrader Street. The car park will provide a total of 18 on-site car parking spaces as well as manoeuvring and separate lock up storage for delivery trucks associated with the proposed use. The proposed dual driveway design allows for the delivery vehicles to enter and leave the site in a forward direction.

The main storage and processing area is accessed from the site frontage and the rear of the site and contains two individual quick freeze (IQF) tanks and two blast freezers as well as packaging machines, a reception area, staff room and staff amenities.

The western side of the building, comprises the cold storage facility with a maximum capacity of 252 pallets. The cold storage area has a raised floor to facilitate loading of trucks. The height of the proposed building is 11.2m above ground level (existing).

The external appearance of the building has been designed to complement the scale and built form of the buildings in the surrounding area.

4.0 PLANNING AND DEVELOPMENT CONTEXT

4.1 State Environmental Planning Policy (Coastal Management) 2018

In summary, the site is not within an area mapped as coastal wetland, littoral rainforest or their proximity areas. The northern edge of the site is mapped within the Coastal Environment Area. Given the nature and location of the proposed development which is within an existing industrial estate, is well removed from and not visible from any coastal area, and not subject

to environmental constraints, it is submitted that the proposed development is entirely consistent with the matters for consideration under Clause 13 of the Policy.

4.2 State Environmental Planning Policy No. 55 – Remediation of Land

In summary, Clause 7 of this Policy provides that the consent authority must not consent to the carrying out of any development on land unless it has considered, among other things, whether the land is contaminated, based on a preliminary investigation of the land carried out in accordance with the Contaminated Land Planning Guidelines.

The Contaminated Land Planning Guidelines (Department of Urban Affairs and Planning, Environment Protection Authority, 1998) provide information relating to preliminary contamination investigations. In addition, Council has adopted a Contaminated Land Policy, which contains details of the information required to be submitted with applications for development.

The applicant provides the following response to the questions required by the guideline.

Please specify all land uses to which the site has been put, including the current use.

The site is a lot created in a contemporary industrial subdivision, for which SEPP 55 matters must have been previously assessed at the subdivision stage. The land is vacant and has not been put to any uses which may be considered potentially contaminating since the industrial subdivision was completed.

Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify.

Adjoining land uses are vacant industrial land, light industrial and recreation facility (indoor).

Do any of the uses correlate with the potentially contaminated activity set out in table 1 in schedule 1 of this policy?

No.

If the answer to 3 is yes – has there been any testing or assessment of the site and, if so, what were the results?

Not Applicable.

Is the proponent aware of any contamination on the site?

No.

Accordingly it is submitted that the land, which is vacant and was created in a recent industrial subdivision, is unlikely to be contaminated and is suitable for the proposed development.

4.3 State Environmental Planning Policy (State and Regional Development) 2011

This State Environmental Planning Policy nominates a range of developments for which the Minister is the consent authority or determination is to be made by Regional Panels depending on the class of development (type of use and value) and certain developments on specified sites.

Clause 8 of the State Environmental Planning Policy identifies State Significant Development as development described in Schedules 1 or 2.

Clause 20 of the State Environmental Planning Policy identifies Regional Development as development described in Schedule 7 of Policy. Relevant provisions of Schedule 7 are addressed in **Table 1**.

| TABLE 1 – REGIONAL DEVELOPMENT SCHEDULE 4A EP&A ACT 1979 (AS AMENDED) | |
|--|---|
| CRITERIA | COMMENT |
| General development over \$30 million | |
| Development that has a capital investment value of more than \$30 million. | The development does not have a CIV of more than \$30 million. |
| Council related development over \$5 million | |
| Development that has a capital investment value of more than \$5 million if: <ul style="list-style-type: none"> (a) a council for the area in which the development is to be carried out is the applicant for development consent, or (b) the council is the owner of any land on which the development is to be carried out, or (c) the development is to be carried out by the council, or (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council). | The proposal is not a Council related development. |
| Crown development over \$5 million | |
| Crown development that has a capital investment value of more than \$5 million. | The proposal is not a Crown development. |
| Private infrastructure and community facilities over \$5 million | |
| Development that has a capital investment value of more than \$5 million for any of the following purposes: | The proposal has a CIV of less than \$5 million. |
| <ul style="list-style-type: none"> (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities, (b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship. | The proposed development is not caught by any of the categories in Subclauses (a) or (b). |
| Eco-tourist facilities over \$5 million | |
| Development for the purpose of eco-tourist facilities that has a capital investment value of more than \$5 million. | The proposed development is not for the purpose of eco-tourist facilities. |

| TABLE 1 – REGIONAL DEVELOPMENT SCHEDULE 4A EP&A ACT 1979 (AS AMENDED) | |
|---|--|
| CRITERIA | COMMENT |
| Particular designated development | |
| <p>Development for the purposes of:</p> <p>(a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or</p> <p>(b) marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or</p> <p>(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.</p> | <p>The proposed development is not designated development.</p> |
| Coastal subdivision | |
| <p>Development within the coastal zone for the purposes of subdivision of the following kind:</p> <p>(a) subdivision of land for any purpose into more than 100 lots, if more than 100 of the lots will not be connected to an approved sewage treatment work or system,</p> <p>(b) subdivision of land for residential purposes into more than 100 lots, if the land:</p> <p>(i) is not in the metropolitan coastal zone, or</p> <p>(ii) is wholly or partly in a sensitive coastal location,</p> <p>(c) subdivision of land for rural-residential purposes into more than 25 lots, if the land:</p> <p>(i) is not in the metropolitan coastal zone, or</p> <p>(ii) is wholly or partly in a sensitive coastal location.</p> | <p>The proposal does not involve subdivision.</p> |
| Certain coastal protection works | |

| TABLE 1 – REGIONAL DEVELOPMENT SCHEDULE 4A EP&A ACT 1979 (AS AMENDED) | |
|--|--|
| CRITERIA | COMMENT |
| <p>(1) The following development on land within the coastal zone that is directly adjacent to, or is under the waters of, the open ocean, the entrance to an estuary or the entrance to a coastal lake that is open to the ocean—</p> <p>(a) development for the purpose of coastal protection works carried out by a person other than a public authority, other than coastal protection works identified in the relevant certified coastal management program,</p> <p>(b) development for the purpose of coastal protection works carried out by or on behalf of a public authority (other than development that may be carried out without development consent under clause 19(2)(a) of State Environmental Planning Policy (Coastal Management) 2018).</p> <p>(2) Words and expressions used in this clause have (in relation to coastal protection works) the same meaning as they have in State Environmental Planning Policy (Coastal Management) 2018.</p> | <p>The development is not coastal protection work.</p> |
| Development subject to delays in determination | |
| <p>Development that has a capital investment value of more than \$10 million but less than \$20 million:</p> <p>(a) for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and</p> <p>(b) that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel,</p> <p>unless the chairperson of the regional panel concerned determines that the delay in determining the development application was caused by the applicant.</p> | <p>The proposal does not have a CIV greater than \$10 million.</p> |
| Development in council areas where development assessment unsatisfactory | |
| <p>(1) Development within the area of a particular council for particular purposes designated by the Minister by order published on the NSW legislation website.</p> <p>(2) Such an order cannot be made unless the Minister is satisfied that the performance of the council concerned in dealing with development matters has not met applicable performance criteria.</p> | <p>No such orders have been published.</p> |

The proposed development is not caught by any elements described in Schedules 1 or 2 of the Policy or Schedule 7 of the Policy. In this case Clarence Valley Council is the Consent Authority and Determining Authority for this Development Application.

4.4 NSW Coastal Policy, 1997

The maps accompanying the Coastal Policy indicate that the site falls within the area to which the Policy applies.

Table 2 of the Coastal Policy contains a number of strategic actions relevant to development control. Assessments of the strategies which are of particular relevance to this application are provided in **Table 2**. In summary, approval of the application would not be inconsistent with the Coastal Policy.

| TABLE 2 – NSW COASTAL POLICY COMPLIANCE | | |
|---|----------------------------------|--|
| STRATEGIC ACTION NO. | STRATEGIC ACTION | COMMENT |
| 1.3.2 & 1.3.8 | Stormwater Quality | Appropriate erosion and sedimentation controls are to be implemented during the construction phase. |
| 1.4.5 | Coastal Hazards | The land is not affected by coastal processes. |
| 2.1.4 | Acid Sulphate Soils | This issue is addressed in Section 4.5 of this Statement. |
| 3.2.1 | North Coast Design Guidelines | The key guidelines are reflected in the design and siting of the proposed buildings. |
| 3.2.4 | Design and Locational Principles | The site is located away from the foreshore. The development will not overshadow a beach or foreshore open space. The heights of the proposed buildings are consistent with the planning controls and strategies relating to the site. |
| 7.2.3 | Surf Life Saving Facilities | Local beaches are provided with Surf Lifesaving facilities. The proposed development does not increase demand for the facilities. |

4.5 Clarence Valley Local Environmental Plan 2011

This Plan was gazetted on 4 April 2014. Under the provisions of CVLEP2011, the subject land is zoned IN1 General Industry as shown on the Zoning Map at **Figure 2**.

The proposed use is characterised as development for the purpose of "light industry". Development for the purpose of light industry is permissible, with consent in the IN1 zone.

Relevant clauses contained in the Plan are addressed as follows:

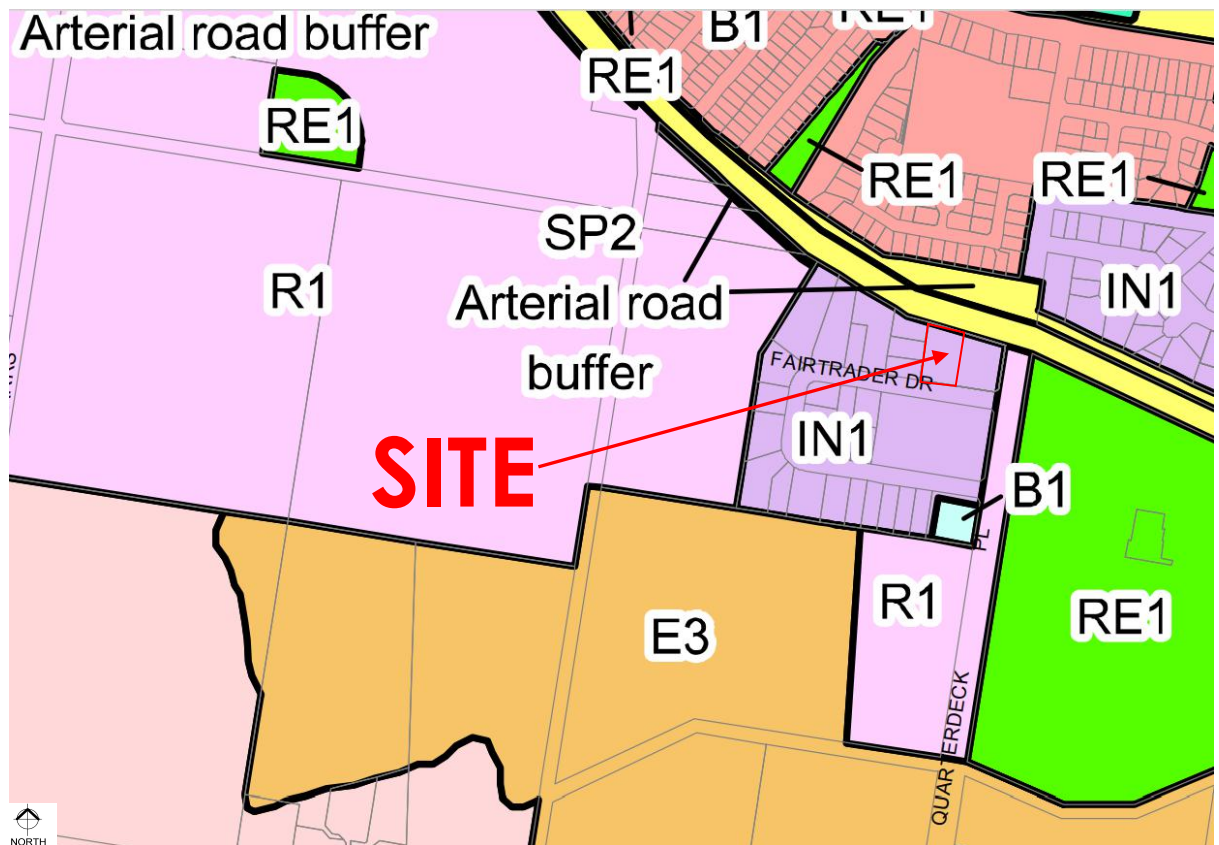


Figure 2 – Zoning Map
Source: Clarence Valley Local Environmental Plan 2011

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a Development Application. The zone objectives for the IN1 zone are in the following terms:

“Objectives of zone

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To minimise the environmental impacts of development.
- To allow limited commercial activities that provide direct services to the industrial activities and the associated workforce.”

The proposed development will provide a new purpose built industrial building for the processing and cold storage of bait products, creating additional local employment opportunities during the construction and operational phases. The proposal is therefore consistent with the zone objectives.

Clause 4.3 – Height of Buildings

A building height limit of 9m applies to the subject site. The proposed buildings provide a maximum building height of 11.2m and therefore does not comply with this development standard.

A request to vary the development standard pursuant to Clause 4.6 of the CVLEP 2011 is provided as **Annexure B**. In summary, the proposed building height variation is required to facilitate a safe and efficient loading dock and the efficient vertical storage of bulk refrigerated stock, whilst maintaining the minimum air gap required between the cool room and ceiling. All of these elements are necessary for the safe, efficient and economically feasible operation of the business.

Clause 7.1 – Acid Sulphate Soils

The site is located on land mapped as Class 2 acid sulfate soil. The proposal involves excavation to trim the site, prepare footings and to connect to services.

The site was filled during the construction of the subdivision that created the site. Accordingly the proposed minor ancillary earthworks required for the proposed building (as described above) are unlikely to intercept the *natural ground level*.

On that basis, an Acid Sulphate Soils Management Plan is not required.

Clause 7.2 – Earthworks

Minor ancillary earthworks are proposed as part of this application to trim the site, install footings and connect to services.

Although the earthworks are ancillary and do not require consent pursuant to this clause, in relation to the matters for consideration (by the consent authority) in Clause 7.2(3), appropriate sediment and erosion control during the construction phase will minimise impacts on water quality. The proposed earthworks have been designed to maintain site stability and maintain the visual amenity of adjoining properties. The minor quantity of material to be excavated is suitable for reuse as fill on the site. The site has been highly disturbed and is unlikely to disturb Aboriginal objects.

Clause 7.3 – Flood Planning

The subject site is filled and almost completely located above the design flood level. Refer to comments and an extract of the flood mapping in section 4.6 of this Statement. Accordingly, the proposal to site an industrial building on the subject land is compatible with the flood hazard of the land, and the other matters for consideration under this clause of the LEP.

Clause 7.8 – Essential Services

The proposed development will be connected to reticulated water and sewer services. Electricity and telephone services will also be provided, together with appropriate stormwater drainage and stormwater management measures. Suitable vehicular access will be provided.

4.6 Clarence Valley Development Control Plan 2011 - Industrial Zones

The planning controls contained in Clarence Valley Development Control Plan 2011 - Industrial Zones applies to the proposal. An assessment of the proposal's compliance with each of the relevant controls of the Plan is provided as **Table 3**.

| TABLE 3 – CLARENCE VALLEY DCP 2011, INDUSTRIAL ZONES | | |
|---|--|-------------|
| CONTROL | PROPOSED | COMPLIANCE |
| Part C - General Controls for Industrial Development | | |
| <u>Building design</u> | The building design is functional and of a neat external appearance. | Yes |
| <u>Disabled access and facilities</u> | PWD access is available to the building and a PWD toilet is provided within the building. | Yes |
| <u>Height</u> | Refer to comments provided in response to the Clarence Valley LEP building height Limit. | See comment |
| <u>Setbacks</u> Front 9m Side 0m | The proposed building is setback 10m from the front boundary and 3.9m from the western (side boundary) and 6.5m from the eastern (side boundary). Part of the building (the ante room) will be sited over the sewer easement which relates to stub or junction. Council is requested to vary or modify the easement to facilitate the development and adjustment of the sewer connection. | Yes |
| <u>Landscaping</u> | Areas between the site frontage and the proposed driveway are available for landscaping. | Yes |
| <u>Storage of machinery and other equipment</u> | Plant and equipment is to be stored within the building. | Yes |
| <u>Services</u> | The proposed development will be connected to all normal urban services. | Yes |
| <u>Controls for flood prone land</u> | The site is elevated and is located almost entirely above the design flood level. (see Figure 3). No further assessment is necessary. | Yes |
| <u>Dwellings</u> | No dwelling is proposed. | Yes |
| <u>Retailing</u> | No Retail sales from the site are proposed. | Yes |
| <u>Air, water and noise pollution</u> | The proposed development will be effectively managed to control odour noise by refrigerating all waste until collection and by installing modern refrigeration plant | Yes |

| | | |
|--|---|----------------|
| | which the applicant advises achieves 0db at 50m. | |
| <u>Waste Management</u> | Waste is to be refrigerated prior to collection to minimise potential odour. | Yes |
| <u>Crime Prevention</u> | The development will include fencing to secure the yard and lighting will be provided. The proposed development is considered to be consistent with the crime prevention through environmental design (CPTED) principles. | Yes |
| <u>Controls for bush fire prone land</u> | The site is not bushfire prone land. | Not applicable |
| <u>Sites subject to land slip/ geotechnical hazard</u> | The site is within a contemporary industrial subdivision and is not subject to any known geotechnical hazard. | Yes |
| Part E - Parking and Vehicular Access Controls | | |
| <u>Car Parking</u> Industry - 1 space per 100m ² GFA | The proposal provides 1,390m ² of GFA and therefore requires at total of 14 spaces. The proposed development provides 18 car spaces, which fully complies with the numerical controls of the DCP. | Yes |
| <u>Manoeuvring, Loading & Unloading</u> | The subject site has been designed to meet the operational needs of the owner of the premise and includes sufficient on site loading bays, manoeuvring and parking bays for the trucks associated with the proposed use. | Yes |
| <u>Access to the Site</u> | All vehicles are able to enter and leave the site in a forward direction. | Yes |
| Part L - Controls for Deering Street Yamba | | |
| <u>Roads</u> | No new road are required or proposed. | Yes |
| <u>Drainage</u> | The development may comply with the DCP control to provide on-site detention to limit the developed stormwater flow to that of pre-development flows. | Yes |
| <u>Buffers</u> | The rear setback of the building is 20m | Yes |

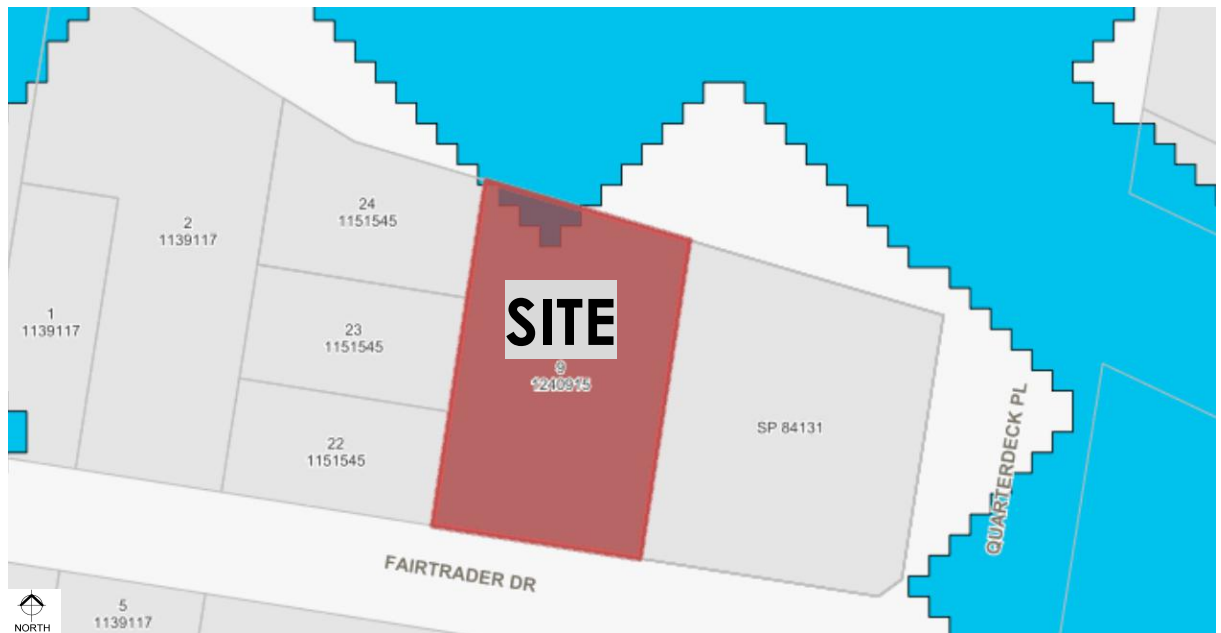


Figure 3 – Design Flood Level
Source: Clarence Valley Council Online Mapping

4.7 Integrated Development

The need for approvals nominated under Section 91 of the Environmental Planning and Assessment Act 1979 (as amended) in relation to this development proposal are discussed in **Table 4** below.

| TABLE 4 – INTEGRATED DEVELOPMENT | | | |
|--|------------------|--|---|
| ACT | PROVISION | APPROVAL | COMMENTS |
| <i>Fisheries Management Act 1994</i> | s 144 | Aquaculture permit. | No approvals are required under this Act. |
| | s 201 | Permit to carry out dredging or reclamation work | |
| | s 205 | Permit to cut, remove, damage or destroy marine vegetation on public water land or an aquaculture lease, or on the foreshore of any such land or lease | |
| | s 219 | Permit to:(a) set a net, netting or other material, or(b) construct or alter a dam, floodgate, causeway or weir, or(c) otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat. | |
| <i>Heritage Act 1977</i> | s 58 | Approval in respect of the doing or carrying out of an act, matter or thing referred to in s 57 (1). | No buildings or structures on the site are listed under the Heritage Act and therefore approval under this Act is not required. |
| <i>Mine Subsidence Compensation Act 1961</i> | s 15 | Approval to alter or erect improvements within a mine subsidence district or to subdivide land therein. | No approvals are required under this Act. |
| <i>Mining Act</i> | ss 63, 64 | Grant of mining lease. | No approvals are required under |

| TABLE 4 – INTEGRATED DEVELOPMENT | | | |
|--|-----------------------|--|---|
| ACT | PROVISION | APPROVAL | COMMENTS |
| 1992 | | | this Act. |
| <i>National Parks and Wildlife Act 1974</i> | s 90 | Consent to knowingly destroy, deface or damage or knowingly cause or permit the destruction or defacement of or damage to, a relic or Aboriginal place. | No approvals are required under this Act. |
| <i>Petroleum (Onshore) Act 1991</i> | s 9 | Grant of production lease. | No approvals are required under this Act. |
| <i>Protection of the Environment Operations Act 1997</i> | ss 43 (a), 47 and 55 | Environment protection licence to authorise carrying out of scheduled development work at any premises. | No approvals are required under this Act. |
| | ss 43 (b), 48 and 55 | Environment protection licence to authorise carrying out of scheduled activities at any premises (excluding any activity described as a waste activity but including any activity described as a waste facility). | |
| | ss 43 (d), 55 and 122 | Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from the activity. | |
| <i>Roads Act 1993</i> | s 138 | Consent to:(a) erect a structure or carry out a work in, on or over a public road, or(b) dig up or disturb the surface of a public road, or(c) remove or interfere with a structure, work or tree on a public road, or(d) pump water into a public road from any land adjoining the road, or(e) connect a road (whether public or private) to a classified road. | A Section 138 Application to construct the new driveway crossovers will accompany the Construction Certificate Application. As Clarence Valley Council is the Road Authority this does not constitute an Integrated Approval. |
| <i>Rural Fires Act 1997</i> | s 100B | Authorisation under section 100B in respect of bush fire safety of subdivision of land that could lawfully be used for residential or rural residential purposes or development of land for special fire protection purposes. | No approval is required under this Act. |
| <i>Water Management Act 2000</i> | ss 89, 90, 91 | Water use approval, water management work approval or activity approval under Part 3 of Chapter 3. | No approvals are required under this Act. |

The proposed development does not require any approvals nominated as “integrated approvals”. Therefore the proposal does not comprise integrated development.

4.8 Flora and Fauna

The site is a highly urbanised area with low cut grass cover. It is therefore concluded that the land does not any contain any significant species or habitat and the development is not likely to have a significant effect.

The Commonwealth Environmental Protection and Biodiversity Conservation Act, 1999 requires certain proposals to be referred to the Commonwealth Department of Environment

and Heritage if they are likely to impact on matters contained in that Act. Having regard to the matters for consideration it is considered that referral under this Act is not required.

4.9 Access and Road Network - Section 138 - Roads Act, 1993

Legal and practical access will be available to the proposed development from two new driveway crossovers to Fairtrader Drive. Accordingly, approval under Section 138 of the Roads Act is required. It is proposed that a separate application under Section 138 will be submitted with the Construction Certificate application. Plans of the site showing levels and driveway details are included at **Annexure A**.

4.10 Drainage - Section 68 - Local Government Act, 1993

Approval under Section 68 for drainage works will be sought with the Construction Certificate application.

5.0 ENVIRONMENTAL ASSESSMENT

Clause 50(1)(a) of the Environmental Planning and Assessment Regulations, 2000 provides that a Development Application must contain the information and be accompanied by the documents specified in Part 1 of Schedule 1 of the Regulations.

Where applicable, the matters required by Clause 1 are addressed by the Development Application Form and the Statement of Environmental Effects.

Clause 2(4) of Part 1 of Schedule 1 provides that a Development Application must be accompanied by a Statement of Environmental Effects which must indicate the following matters:

- ♦ The environmental impacts of the development;
- ♦ How the environmental impacts of the development have been identified;
- ♦ The steps to be taken to protect the environment or to lessen the expected harm to the environment.
- ♦ Any Matters required by any guidelines issued by the director for the purposes of this clause

These matters are specifically stated in the following sections.

5.1 Identification of Potential Environmental Impacts

Potential adverse impacts arising from the proposed development are summarised as follows:

- ♦ Visual impacts.
- ♦ Overshadowing adjacent properties.
- ♦ Noise impacts to adjoining properties.
- ♦ Odour Impacts to adjoining.
- ♦ Impacts on the landscape.
- ♦ Impacts on the character of the area.
- ♦ Increased demand for car parking.

- ♦ Increased demand on the capacity of the local road network.
- ♦ Land, soil and water degradation.
- ♦ Additional demand on existing urban services.

5.2 Method of Determining Environmental Impacts

A range of measures have been used to identify potential environmental impacts of the proposed development, these include:

- ♦ A review of all relevant planning instruments, Clarence Valley Development Control Plan 2011 and Council policies.
- ♦ Consideration of the topographic features of the site.
- ♦ Consideration of existing development in the locality.
- ♦ Consideration of the site in relation to significant view corridors in the locality and from surrounding properties.
- ♦ Consideration of the significance of vegetation on the site.
- ♦ Completion of a preliminary visual assessment of the landscape values of the development site.
- ♦ Consideration of the capacity of the existing road network.
- ♦ Consideration of the socio-economic impact of the development.

5.3 Proposed Measures to Mitigate Potential Adverse Impacts

Mitigation and management of potential adverse impacts arising from the proposed development are identified in relevant sections of this statement and the various annexures. In summary, those measures include:

- ♦ Design of the buildings to reflect contemporary standards and guidelines including the Coastal Design Guidelines for NSW – (Coastal Council of NSW, 2003).
- ♦ Substantial compliance with Council's Codes, Clarence Valley Development Control Plan 2011 and relevant Environmental Planning Instruments.
- ♦ Provision of on-site car parking.
- ♦ Provision of appropriate landscaping to soften visual impacts, reduce run-off and improve the aesthetics of the public domain.
- ♦ Connection to all normal urban infrastructure.
- ♦ Provision for refrigeration of waste material prior to collection.
- ♦ Provision of design elements to reduce impacts associated with potential overshadowing, visual privacy and acoustic amenity of adjacent properties.
- ♦ Limiting work hours during the construction phase in accordance with normal Clarence Valley Council standards.

5.4 Matters required by any Guidelines Issued by the Secretary for the Purposes of this Clause

There are no guidelines issued by the Secretary, which are relevant to the proposed development.

6.0 CONCLUSION

As reflected in this Statement of Environmental Effects, the proposal is unlikely to result in any significant adverse impacts on the environment. The proposed development is consistent with the zone objectives and is permissible with the consent of Council.

The development satisfies the objectives of Clarence Valley Local Environmental Plan 2011, Clarence Valley Development Control Plan 2011 and will provide positive economic benefits for the local community by way of direct and indirect employment generation during the construction period.

This Statement of Environmental Effects identifies potential adverse impacts, assesses their magnitude and significance and proposes measures to mitigate and manage those impacts such that the ultimate development is sustainable and commercially viable.

Having regard to the above considerations, it is submitted that the proposed development gives effect to the planning controls which require industrial uses to be established on the land.

In the circumstances of this case the proposal is considered to be sustainable and is in the public interest. Accordingly, Council's approval of this application is respectfully requested.

ANNEXURE A Application Plans – Gavin Duffie, January 2021



ANNEXURE B **Clause 4.6 Request to Vary a Development Standard – Brad Lane Town Planner, January 2021**



REQUEST TO VARY A DEVELOPMENT STANDARD PURSUANT TO CLAUSE 4.6 OF CLARENCE VALLEY LEP 2011 FOR A PROPOSED BAIT PROCESSING AND COLD STORAGE FACILITY AT LOT 9 DP 1240915 FAIRTRADER DRIVE, YAMBA

INTRODUCTION

This request is made pursuant to Clause 4.6 of Clarence Valley Local Environmental Plan (CVLEP) 2011, to vary the development standard in relation to 9m maximum building height. The request is made to facilitate the erection of the proposed industrial building, which will have a maximum building height of 11.2m.

This request is made having regard to:

- i. The provisions of Clause 4.6 of the CVLEP 2011; and
- ii. Varying development standards: A Guide (August 2011) prepared by the Department of Planning and Infrastructure

The matters required by Clause 4.6(3)(a) are addressed in items 13 and 14 of this document, under the heading of, *information supporting the Clause 4.6 request*.

The following items address the matters required by Department of Planning and Infrastructure Guide.

INFORMATION SUPPORTING THE CLAUSE 4.6 REQUEST

1. What is the name of the environmental planning instrument that applies to the land?

Clarence Valley Local Environmental Plan 2011.

2. What is the zoning of the land?

IN1 General Industry.

3. What are the objectives of the zone?

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To minimise the environmental impacts of development.
- To allow limited commercial activities that provide direct services to the industrial activities and the associated workforce.

4. What is the development standard being varied? e.g. FSR, height, lot size

Maximum Building Height.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3.



6. What are the objectives of the development standard?

- (a) to maintain the low scale character of towns and villages in the Clarence Valley,
- (b) to protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.

7. What is the numeric value of the development standard in the environmental planning instrument?

9m.

8. What is proposed numeric value of the development standard in your development application?

11.2m.

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

24.4%.

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance is unreasonable in the circumstances of this case as it would otherwise preclude the orderly and economic development of the proposed industrial building on the land subject to the application.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the Act.

Section 5(a)(i) and (ii) of the Environmental Planning and Assessment (EP&A) Act 1979 has been replaced with Section 1.3. Section 1.3 of the Act is stated in the following terms:

“ The objects of this Act are as follows—

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.”

Compliance with the 9m development standard in relation to the proposed industrial development of the land which is well separated from residential areas and not visible



from coastal areas or villages would preclude an efficient use of the site which is an employment generating use processing, manufacturing and distributing bait products. The proposed additional 2.2m of building height over the cold storage area will be of no consequence to the character or amenity of any town or village area. Due to the location of the proposed building, which is well separated from the side boundaries to other industrial uses (east and west) and the road to the south, the variation will not result in disruption of views, loss of privacy or loss of solar access to existing development, or to public land.

In this case, compliance with the development standard would hinder attainment of the EP&A Act's object to promote orderly and economic use and development of land in accordance with the zoning of that land and its physical capabilities.

12. Is the development standard a performance based control?

No.

13. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary?

The Chief Judge of the NSW Land and Environment Court advised that the requirement to demonstrate that an objection is well founded and that the approval of the objection may be consistent with the aims of the policy can be satisfied in any one of the following ways:

- (i) The objectives of the standard are achieved notwithstanding non-compliance with the standard.
- (ii) The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
- (iii) The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
- (iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
- (v) The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In relation to the above matters, it is submitted that the item (I) is met as the objectives of the standard are achieved notwithstanding non-compliance with the standard.

14. Are there sufficient environmental planning grounds to justify contravening the development standard?

Yes. In this case contravening the development standard would not radically alter the built form, density or any other material planning outcome on the site.

The subject building substantially complies the building height limit, other than the part of the building containing the cold storage. To meet practical operational needs of the proposed use, the cold storage area requires the following design elements:



- a raised load dock area to allow for the safe and efficient loading and unloading of heavy vehicles,
- To achieve operational efficiency for the proposed use, the cold storage area must provide vertical storage to allow three bulk pallets to be stored vertically,
- an air gap above the cold storage room is required.

The proposed building has been designed to allow minimum dimensions for all of the above requirements.

The variation only applies to the part of the building containing the cold storage area.

As previously mentioned, the area of the non compliance is sufficiently located clear of the eastern and western boundaries and a road area is located to the south. In this regard the proposed variation complies with the objectives of the controls as addressed in Item 6 above.

CONCLUSION

It is submitted that upholding of the variation would be consistent with the objectives of Clause 4.6 in that strict compliance with the 9m maximum building height development standard would unreasonably preclude the appropriate industrial development of the site in accordance with the capability of the land.

In the circumstances of this case, non-compliance with the development standard is well founded, is in the public interest and is consistent with the objects of the Act.



17 June 2021

Project No. DUF 20-01

The General Manager
Clarence Valley Council
Locked Bag 23
Grafton NSW 2460

To Email Only: council@clarence.nsw.gov.au



Dear Sir,

DA2021/055 - DEVELOPMENT APPLICATION FOR PROPOSED BAIT PROCESSING AND COLD STORAGE FACILITY AT LOT 9 DP 1240915 FAIRTRADER DRIVE, YAMBA

I refer to Council's letter of 25 February 2021 requesting additional information. On behalf of my client Tweed Bait Pty Ltd provide the following response.

1 - Acoustic Impact

The operating hours of the proposed development are 7am to 6pm up to 7 days per week (season dependant). The rear of the premises (northern elevation) will provide a covered truck parking area and a single at grade covered driveway. The main loading dock for the premises is to be located at the Fairtrader Drive (southern) frontage of the site. The nearest residential use (not associated with the industrial area) is located over 100m to the north and is screened by existing vegetation.

Due to the large separation distance and the physical shielding provided by the proposed building between the loading dock and the residential uses to the north, It is submitted that the proposed development is unlikely to create any adverse noise impacts. The applicant is prepared to accept a condition of consent which will ensure that objective of the information requested is achieved, i.e. the condition may read:

Noise emissions from the activity shall not exceed 5d(B)A Leq (15min) above the background level measured at habitable areas of nearby residential properties during the hours of 7:00 A.M. through until 6:00 P.M. Noise emissions from the activity shall not exceed 3d(B)A Leq (15min) above the background level measured at habitable areas of nearby residential properties during the hours of 6:00 P.M. through until 7:00 A.M.



2 - Stormwater Management Plan

A conceptual stormwater management plan accompanied the development application. Again the applicant is willing to accept a condition which requires a detailed stormwater management plan (including detention to achieve pre-development flows) prior to the issue of a Construction Certificate.

3 - Vehicle Manoeuvring Diagrams

The applicant operates a number of similar bait processing sites in Australia. The proposed building has been designed to accommodate the largest vehicle used on the site such that they will be able to enter and exit the site in a forward direction.

4 - Adequate Buffering and Landscaping

Sufficient area has been reserved for landscaping in the proposed development at the front and rear of the premises. It is requested that the detail of species to be planted can be provided for approval prior to the issue of a Construction Certificate.

A separate information request was received from Council's Trade Waste Officer. A response was provided through the NSW Planning Portal to the effect that the requirement for a trade waste licence be applied as condition of the consent.

I trust that all is in order, however please do not hesitate to contact me should you have any queries in relation to this matter.

Yours faithfully



Brad Lane
Town Planner

Attachment C

From: Nick
Sent: Tue, 23 Feb 2021 11:50:01 +1100
To: Council Email
Subject: LATE SUBMISSION. Application number: DA2021/0055 3 Deering st Yamba.
Attention: Mr Patrick Ridgway. C.C. Ms Mandy Cronin.
Importance: Normal

Dear Patrick.

Further to discussion with Ms Cronin I would like to submit several points of concern regarding this D.A. There is a "motor room area" located on the drawing to the Eastern side of the building. There are no references to size nor dimension. There is no mention of what type of equipment will be driven by these motors or the noise these motors and subsequent machinery driven by the motors will create. It will likely be refrigeration equipment and therefore would be running around the clock. Presently there are three established business operating in our site. A local newspaper-printer, building company and a Gymnasium. I feel that a bait processing facility of this type will no doubt create putrid stench and vermin which impact on the surrounding established businesses. Our site, #1 Fair trader Drive is directly adjacent to this proposed operation. The business which is closest to and directly facing (only metres away) is the Gymnasium. I don't think it would be much fun hearing motors and compressors whilst taking deep breaths of smelly fish during a workout.

These issues will obviously affect other property owners and operators in the estate and I see it as a potential health and safety issue.

I would like to draw Council's attention to Paragraph 2.2 in which reference is made to the "detached dwellings" located to the North. In reality these dwellings are quite close to this proposed facility.

Whilst I welcome the new owners to Yamba and look forward to them doing well I feel these are basic, critical issues which if not properly addressed and conditioned could affect real estate values, personal comfort and health.

I would support Council providing approval of this development but request Council add conditions appropriate to these concerns.

Yours Sincerely,

Nick Moran

From: Clarence Valley Council
Sent: Fri, 19 Feb 2021 11:15:55 +1100
To:
Subject: DA Submission - DA2021/0055 - 3 Deering Street Yamba - Richard Robertson

Hi,

Thank you for your submission on DA2021/0055 - 3 Deering Street Yamba via our online Development Application Submission form. Please find below the details of your submission for future reference:

Your Reference : S-2021-00033

Timestamp : Friday, February 19 2021 at 11:15:55 AM

Submission Details:

Item on public exhibition :

DA2021/0055 - 3 Deering Street Yamba

Comments:

It is noted that a section of the proposed building will exceed the height limit by 2.1m. Although the submission contains good argument as to why this variation should be allowed it will if approved create a precedent for future buildings in the area.

It is noted the business will operate 7 days per week from 7 am to 6 pm. There is no mention of traffic movement particularly in relation to the number and size of vehicles entering and leaving the site during the operating hours. An increase in truck movements along Yamba Road and into Angourie Road is of great concern particularly during peak times. In addition traffic will pass through the State School drop off area creating dangers to children and traffic congestion.

In relation to noise, the plan only refers to a quiet refrigeration plant. There is no noise assessment detail to support this statement. My property located in William Avenue is within 250m of this proposed operation and I am concerned about the possible increase in noise from this operation.

Although I generally support this new business with the opportunities of new jobs and economic growth it will bring to the area, I would request Council consider my concerns as noted above.

You have indicated you have made a political donation or gift to a Clarence Valley Council employee or councillor in the last 2 years.

Contact details:

Name: Richard Robertson

Email:

Contact number:

Address:

YAMBA NSW 2464

Additional supporting documents:

From: Clarence Valley Council
Sent: Thu, 18 Feb 2021 13:48:30 +1100
To:
Subject: DA Submission - DA2021/0055 - 3 Deering Street Yamba - maxine mcneill
Attachments: DA 2021-0055 Submission Maxine McNeill.pdf

Hi,

Thank you for your submission on DA2021/0055 - 3 Deering Street Yamba via our online Development Application Submission form. Please find below the details of your submission for future reference:

Your Reference : S-2021-00032

Timestamp : Thursday, February 18 2021 at 1:48:29 PM

Submission Details:

Item on public exhibition :

DA2021/0055 - 3 Deering Street Yamba

Comments:

I wish to lodge the attached submission for DA 0055

You have indicated you have not made a political donation or gift to a Clarence Valley Council employee or councillor in the last 2 years.

Contact details:

Name: maxine mcneill

Email:

Contact number:

Address:

yamba

Additional supporting documents:

Additional supporting document-1 : DA 2021-0055 Submission Maxine McNeill.pdf

18/02/2021

Craigh McNeill

Yamba, NSW

RE: DA2021/0055

I wish to lodge the following submission against the proposed development.

Noise

My house is located in the industrial zoned land, about 130 meters from the proposed building. The house has been occupied as a house since rezoning.

I have lived in the house for about 15 years and I believe that I have existing use rights.

Additionally there are existing residential homes less than 100 meters from the proposed site.

The proposed development will have negative impacts upon our existing amenity and the residents of the residential zone.

The proposed development will have plant operating 24 hours a day, 7 days a week, 130 meters from our bedroom windows.

On Wednesday afternoons we can hear the touch football games being played at the sports oval and on Friday afternoons we can hear the swim club PA announcements, this is a distance of about 730 meters.

Processing, delivery, pickup and waste collection will operate from 7am to 6 pm, 7 days a week.

Truck air brakes and audible alarms fitted to trucks and forklifts will result in continuous antagonising noise while vehicles are reversing, loading and unloading 7 days a week.

The present ambient noise is the sound of our community coming together to enjoy sports, this will be replaced by alarms and vehicular movements.

This will not improve the quality of life for surrounding inhabitants but rather diminish it.

The proponent has completely neglected our existing home in the Statement of Environmental Effects and brings in to question the integrity of the development Application.

Building Height

The plan states the height is “*necessary for the safe, efficient and economically feasible operation of the business*”.

The plan is for a metal clad building, 11.2 meters in height, this is inconsistent with our LEP and would set a precedent where proposing “good value for money” was a determining factor for varying our LEP. While this standard has been varied for boat building, the site was not opposite residential homes and not on the main entry to Yamba.

This height variation will be at the expense of tourism and local amenity.

There are current Council plans for the Yamba Urban Bypass, the bypass will pass the subject site. On entry to the town, the metal clad shed would be clearly visible, even before passing the site as there is only “fragmented vegetation”ⁱ upon approach.

Further clearing required for the road works would increase the field of vision.

The shed would be clearly visible leaving Yamba from the east, towering over existing buildings.

The building is not of low scale character and will have an unattractive visual impact.

Consequently the most significant image entering the town of Yamba would be a big tin shed, it will become a landmark.

This will be in direct opposition to the efforts of local businesses and Council who gone to considerable extents to showcase Yamba as a scenic destination.

How many must suffer so a few may prosper?

Employment

While the proposal states “*the site which is an employment generating use*” it also states “*as the company’s fishing vessel operates from Yamba*”. Accordingly the bait is being processed somewhere.

Is the development actually generating employment or simply moving it?

If the project is truly worthy then why not locate it on vacant land at the south of the subdivision, away from existing residences.

Thanks,

Maxine McNeill

ⁱ CVC Yamba_Bypass_SIS_Section_1.pdf page 13

From: Clarence Valley Council
Sent: Tue, 16 Feb 2021 14:56:56 +1100
To:
Subject: DA Submission - DA2021/0055 - 3 Deering Street Yamba - Col Drayton
Attachments: doc00132320210216135445.pdf

Hi,

Thank you for your submission on DA2021/0055 - 3 Deering Street Yamba via our online Development Application Submission form. Please find below the details of your submission for future reference:

Your Reference : S-2021-00031

Timestamp : Tuesday, February 16 2021 at 2:56:55 PM

Submission Details:

Item on public exhibition :

DA2021/0055 - 3 Deering Street Yamba

Comments:

I have just been made aware of the details of the development at 3 Deering st Yamba .I am a resident of William avenue which is about 200 meters from this site .I am in support of this venture ,However the hours of operation are of concern .7 days a week 7am to 6pm , believe will effect the lives of those residences near by in the form of noise pollution .I believe that it is un fare for the average work er and family in Yamba who is home on weekends to have their home life disrupted (currently a peaceful location on weekends).I would hope that noise from trucks (reversing) and movement of industrial equipement has been considered in this approval .

You have indicated you have not made a political donation or gift to a Clarence Valley Council employee or councillor in the last 2 years.

Contact details:

Name: Col Drayton

Email:

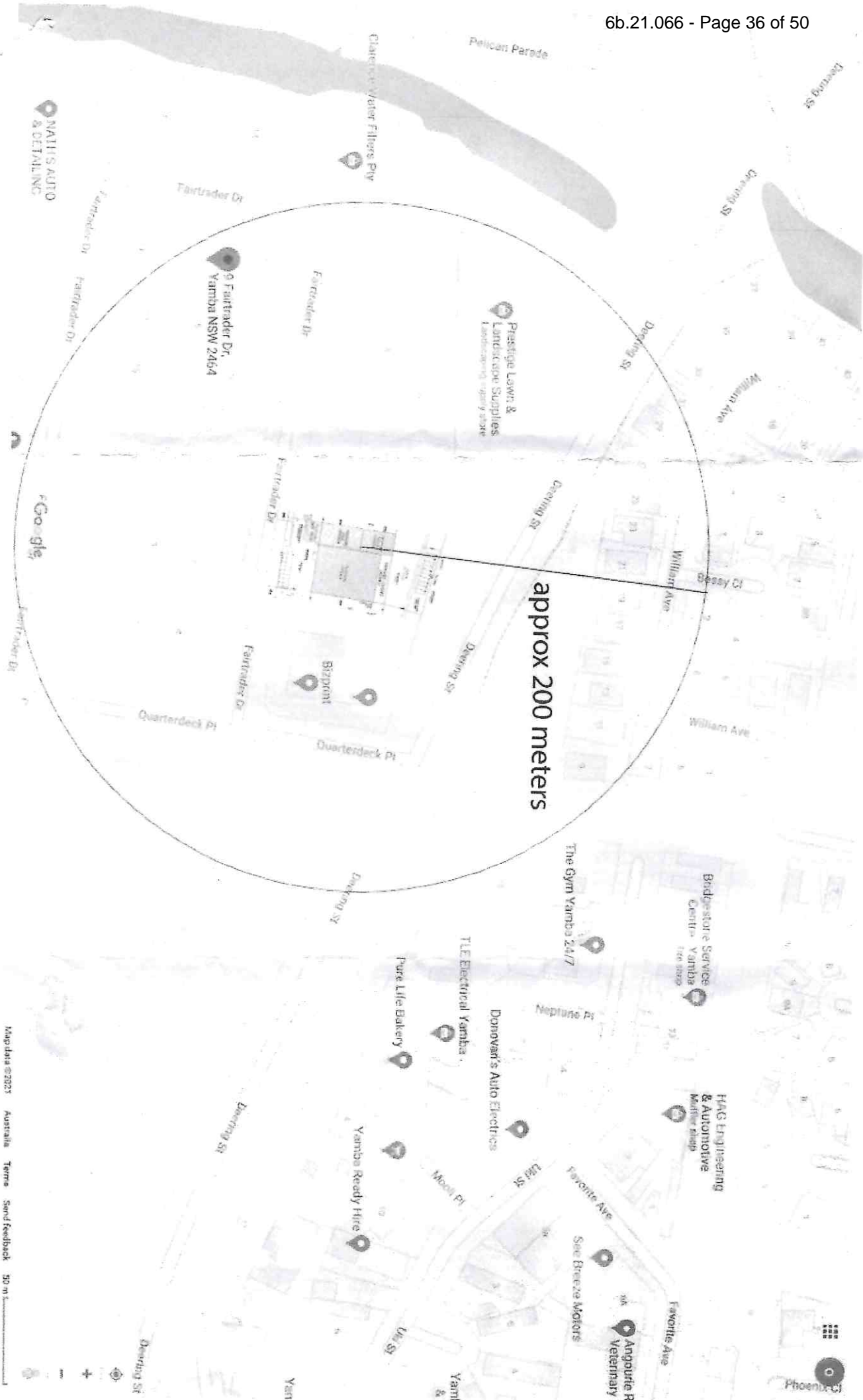
Contact number:

Address:

Yamba

Additional supporting documents:

Additional supporting document-1 : [doc00132320210216135445.pdf](#)



From: Clarence Valley Council
Sent: Mon, 15 Feb 2021 18:34:04 +1100
To:
Subject: DA Submission - DA2021/0055 - 3 Deering Street Yamba - craigh mcneill
Attachments: DA2021-0055 Craigh McNeill submission.pdf, DA2021-0055 area map.pdf

Hi,

Thank you for your submission on DA2021/0055 - 3 Deering Street Yamba via our online Development Application Submission form. Please find below the details of your submission for future reference:

Your Reference : S-2021-00030

Timestamp : Monday, February 15 2021 at 6:34:04 PM

Submission Details:

Item on public exhibition :

DA2021/0055 - 3 Deering Street Yamba

Comments:

please see attached

You have indicated you have not made a political donation or gift to a Clarence Valley Council employee or councillor in the last 2 years.

Contact details:

Name: craigh mcneill

Email:

Contact number:

Address:

Yamba

Additional supporting documents:

Additional supporting document-1 : DA2021-0055 Craigh McNeill submission.pdf

Additional supporting document-2 : DA2021-0055 area map.pdf

15/02/2021

Craigh McNeill

Yamba, NSW

RE: DA2021/0055

I wish to lodge the following submission against the proposed development.

Noise

The proposed, 7 day a week, 24 hour, cold storage is 130 meters from our 4 bedroom windows and 200 meters away from 17 other homes.

While the proponent claims

"The proposed development will be effectively managed to control odour noise by refrigerating all waste until collection and by installing modern refrigeration plant which the applicant advises achieves 0db at 50m"

The Statement of Environmental Effects does not address noise levels of other activities and there is no Noise assessment of the industrial noise impacts.

Accordingly the plan does not accord with government policies

- 1) Department of Planning - NORTH COAST REGIONAL PLAN 2036
Direction 14: Provide great places to live and work

There is no information on noise levels from industrial activity

- 2) ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 1.3
The objects of this Act are as follows--

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources

Without adequate measures to reduce noise the adjoining residential area will be noise affected from now and into the future.

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

By allowing, unregulated, noise generating development the council will set a precedence for future noisy development.

(g) to promote good design and amenity of the built environment

The design has not addressed the amenity of the built environment, how will the building improve the quality of life for surrounding inhabitants?

(j) to provide increased opportunity for community participation in environmental planning and assessment.

There has been no opportunity for community participation in the environmental planning

3) Clarence Valley Local Environmental Plan 2011 - Clause 2.3 – Zone Objectives -
To minimise any adverse effect of industry on other land uses

There is no noise report or any proposed

4) NSW Department of Planning - NORTH COAST REGIONAL PLAN 2036 – Implementation Plan 2017-2019 - Direction 13: Sustainably manage natural resources

“13.1 Enable the development of the region’s natural, mineral and forestry resources by directing to suitable locations land uses such as residential development that are sensitive to impacts from noise, dust and light interference”

There is no noise report or any proposed

5) DEVELOPMENT CONTROL PLAN 2011 - PART C GENERAL DEVELOPMENT CONTROLS FOR INDUSTRIAL ZONES- INDUSTRIAL ZONES

a) C7.8. *Additional setbacks may apply where land within an industrial zone is located on the opposite side of the road to land within a residential zone.*

In the Yamba Industrial estate, where land is located in Mulgi Street or Favourite Avenue opposite land in a residential zone, construction of a full block or brick wall on the Mulgi Street or Favourite Avenue frontage is required. Or alternatively, the wall may be setback and have no vehicular doors, providing at all times that ordinary doors and windows are not used to create a noise problem to residential land north of the industrial estate.

There is no proposal to reduce noise impacts, as recommend in the DCP

b) C14. Air, Water & Noise Pollution

Activities in industrial zones should not create a pollution problem by the discharge of an unacceptable level of air, water or noise emissions.

With unknown Noise emissions the proponents have not addressed C14

Operational Hours

The proposal is for a processing facility that operates 7 day a week, from 7am until 6pm, within 200 meters of many homes.

Trucks entering, loading and leaving will be all day every day.

This does not comply with The NSW Department of Planning - NORTH COAST REGIONAL PLAN 2036 – Implementation Plan 2017-2019 -

Direction 14: Provide great places to live and work

Height

The NSW Department of Planning - NORTH COAST REGIONAL PLAN 2036 – Implementation Plan 2017-2019 - Direction 14: Provide great places to live and work

*Deliver precinct plans **that are consistent with the Precinct Plan land use zoning, development standards** and developer contributions.*

As noted by The Chief Judge of the NSW Land and Environment Court “(iv) The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable”

The building is not in keeping with any other buildings in the precinct.

Why have a 9 meter building height maximum, if it can be changed for the financial benefit of one ratepayer. Our Council policies are to protect our amenity and the environment, not to isolate money as the primary objective.

The Development Plan is flawed

a) STATEMENT OF ENVIRONMENTAL EFFECTS - 2.0 THE SITE AND SURROUNDS

The plan makes no mention of the home and development to the west of the proposed building but instead refers to areas further away

b) Clause_4_6_Request

The proponent states that the plan *“is consistent with the objects of the Act” while noting “the EP&A Act’s object to promote orderly and economic use and development of land in **accordance with the zoning of that land** and its physical capabilities industrial building”*

How can the plan be “accordance with the zoning of that land” if there is a request to change accordance?

c) The proponent states the plan *“is in the public interest” but states “as it would otherwise preclude the orderly and economic development of the proposed industrial building”*

There is vacant land at the south of the precinct , without addressing the potential noise impacts the plan is not in the public interest but rather an individual financial interest.

d) Part C - General Controls for Industrial Development - Noise Policy for Industry

Assessment of industrial noise impacts

“The proposed development will be effectively managed to control odour noise by refrigerating all waste until collection and by installing modern refrigeration plant which the applicant advises achieves Odb at 50m”

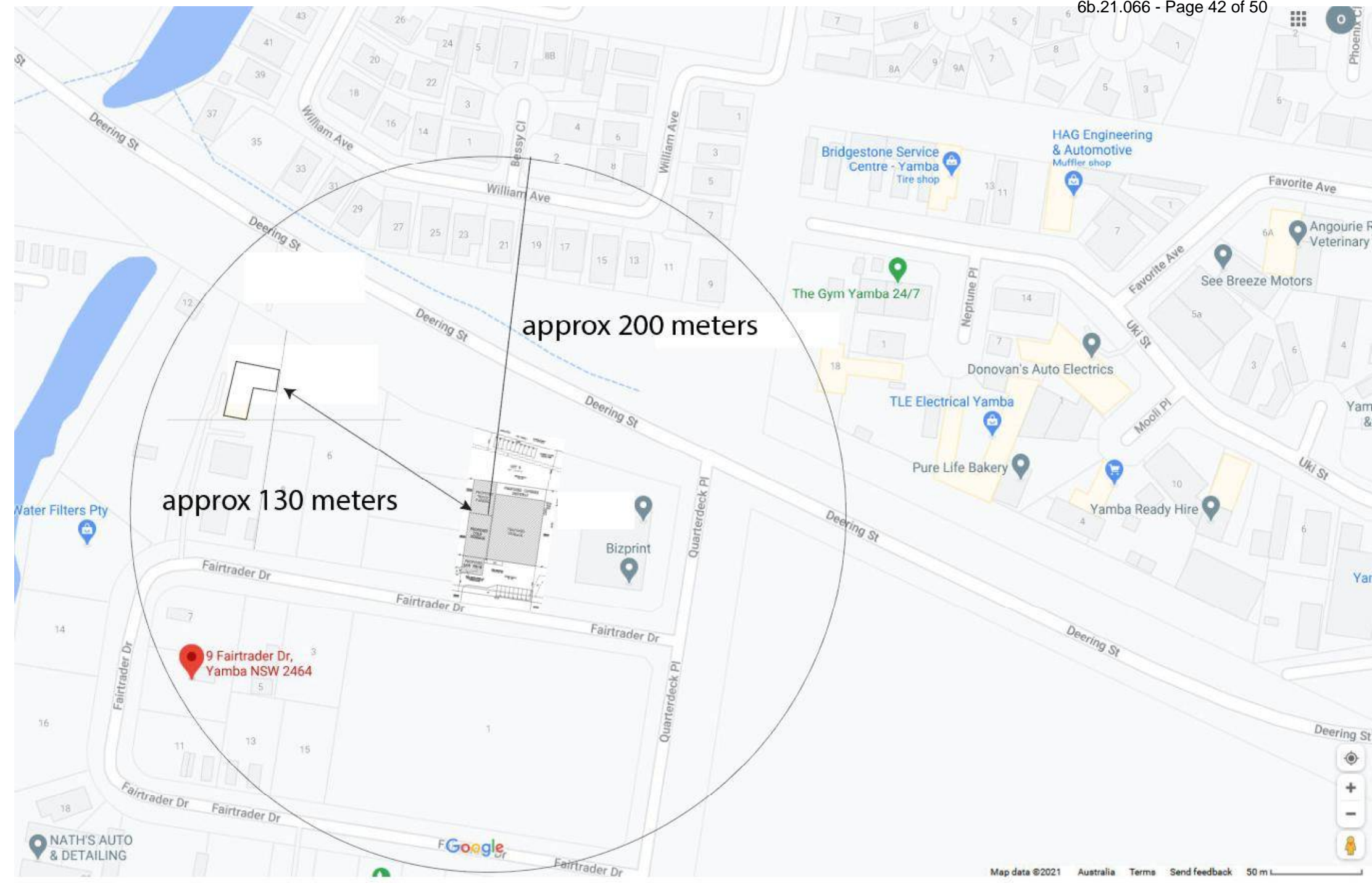
Is the proponent suggesting that the only noise to be emitted will be from the refrigeration plant?

e) 5.1 Identification of Potential Environmental Impacts

Noise impacts to adjoining properties

Thanks,

Craigh McNeill



SECTION 4.15 EVALUATION FOR DA2021/0055
- Lot 9 DP 1240915- 3 Deering Street YAMBA NSW 2464

Proposal:

Tweed Bait Pty Ltd seeks approval for a new industrial shed with a floor area of 1345.3m² in the new Yamba industrial area that includes a storage area with blast freezer (906 m²), truck parking area (217.6 m²), cool room (282.6 m²) and anti room (104.6 m²) with associated driveways and parking areas.

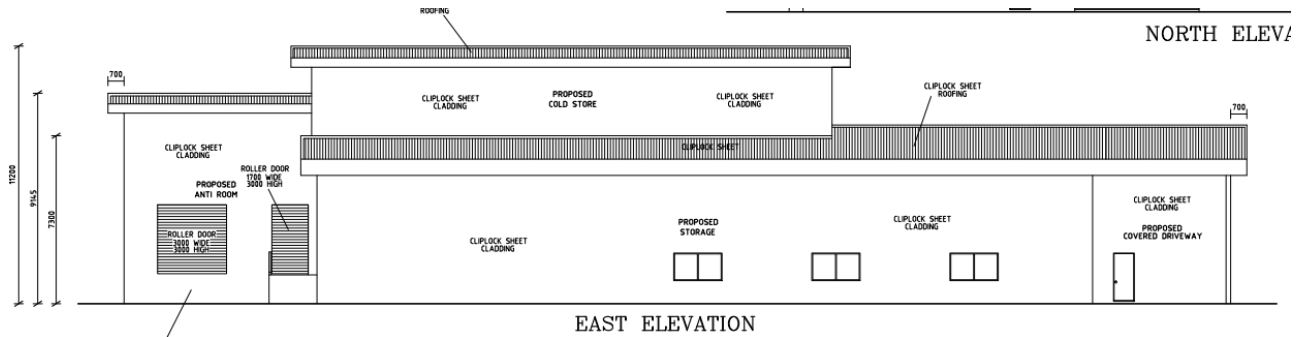
The proposal seeks a variation to the maximum height requirement of 9m for parts of the facility:

- cool room is to be 11.2m to the top of the roof (24.4% variation), and
- Anti room 9.145m to the top of the roof (1.6% variation)

The remaining roof areas will have a maximum height of 7.76m

As submitted by the Applicant, the variation is sought to facilitate a safe and efficient loading dock and the efficient vertical storage of bulk refrigerated stock. An increased height for the cool room is required to allow for a mandatory air gap between the cool room roof and ceiling of the building while allowing for sufficient cold storage space (vertical storage of 3 bulk pallets) to achieve operation efficiency of the business. The cool room floor is also elevated to facilitate the loading of trucks. The cool room roof area constitutes 21% of the total roof area of the facility.

The height variations and the issues raised in submissions have been recommended to the elected Councillors for approval.



State Environmental Planning Policy 55 – Remediation of Land

Clause 7 of the SEPP states that a consent authority must not consent to the carrying out of any development in land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The land is zoned IN1 Industrial and is considered suitable for the proposed light industrial facility. The use does not require investigation as the land is a greenfield site and not been used for another purpose since the filling of the land.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The proposal does not include removal of any vegetation other than ground cover grasses.

State Environmental Planning Policy (Coastal Management) 2018

The subject land is not located within any prescribed areas under the SEPP.

Clarence Valley Local Environmental Plan 2011

The subject land is zoned IN1 General Industrial under the provisions of the *Clarence Valley Local Environmental Plan 2011* (herein referred to as "the LEP").

The proposed construction of the industrial shed for industrial activities is permissible with consent in the zone. It is proposed that the use of the facility will be conditioned to prevent any likely adverse impacts on the surrounding environment. The proposed development is considered to be consistent with the objectives of the zone:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To minimise the environmental impacts of development.*
- *To allow limited commercial activities that provide direct services to the industrial activities and the associated workforce.*

Clause 4.3: Height of Buildings & Clause 4.6 Exceptions to Development Standards

The subject land has a maximum building height of 9m under the Clarence Valley Local Environmental Plan 2011.

The applicant has included an application under Clause 4.6 – Exceptions to Development Standards of the CVLEP with the application is seeking a variation to the height specified on the Height of Building Map of the Clarence Valley Local Environmental Plan 2011 (the LEP) which is 9 metres for this site.

The proposal seeks a variation to the maximum height requirement of 9m for parts of the facility; the cool room is to be 11.2m to the top of the roof (24.4% variation), and the anti room 9.145m to the top of the roof (1.6% variation). The remaining roof areas will have a maximum height of 7.76m

Clause 4.6 of the CVLEP enables a consent authority, in this case the Council, to grant development consent for a development that contravenes a development standard, such as the height of buildings criteria, when Council is satisfied about the following matters:

- (a) That the applicant has made written request seeking to justify the contravention of the development standard and such written request has adequately demonstrated:
 - (i) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (ii) that there are sufficient environmental planning grounds to justify contravening the development standard;
- (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out; and
- (c) The concurrence of the Secretary has been obtained.

[NOTE: The NSW Department of Planning Circular PS 08-003, dated 9 May 2008, notified that Council can assume the Director-General's concurrence where an environmental planning instrument has adopted clause 4.6 of the Standard Instrument. The CVLEP adopts clause 4.6 of that Instrument.]

The objectives of clause 4.6 are as follows:

- (a) To provide an appropriate degree of flexibility in applying certain development standards to particular development;
- (b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The height of buildings development standard is established within clause 4.3 of the CVLEP. The objectives of this clause are as follows:

- (a) To maintain the low scale character of towns and villages in the Clarence Valley;
- (b) To protect the amenity of neighbouring properties by minimising visual impact, disruption of views, loss of privacy and loss of solar access to existing development and to public land.

Comment

The variation is sought to facilitate a safe and efficient loading dock and the efficient vertical storage of bulk refrigerated stock. An increased height for the cool room is required to allow for a mandatory air gap between the cool room roof and ceiling of the building while allowing for sufficient cold storage space (vertical storage of 3 bulk pallets) to achieve operation efficiency of the business. The cool room floor is also elevated to facilitate the loading of trucks.

The applicant has submitted that compliance with the 9m development standard would preclude an efficient use of the site, the additional 2.2m in height over the cool room will be of no consequence to the character or amenity of town a village areas and the location of the building is well separated from adjoining land uses. Compliance with the development standard would hinder attainment of the Environmental Planning and Assessment Act objection to promote orderly and economic use and development of land.

The partial variation to the roof height will be over approximately 21% of the total roof area. The objection to the standard is supported by staff as it provides flexibility and a better outcome in the circumstances. The main height variation is for a small proportion of the building and there is no adverse visual impact, view loss, loss of privacy and solar access to adjoining land. The variation is supported on merit and staff recommend that Council support the variation to the standard.

Clause 5.10: Heritage Conservation:

The subject property is not a listed heritage item and not in a heritage conservation area. works.

Clause 7.1: Acid Sulfate Soils:

The subject land is identified as having class 2 Acid Sulfate Soils. The proposal will not require extensive earthworks and can be appropriately managed through conditions of consent. The land has been filled in the past under a former approval and the fill approved from non acid sulfate soil sources.

Clause 7.2: Earthworks:

There are no significant earthworks proposed as a result of this proposal. Sediment control fences will be required on-site to minimise the transport of sediment off-site and onto adjoining land for the duration of works. It is considered that the proposal is consistent with the objectives of the zone.

Clause 7.8: Essential Services:

The subject site has access to reticulated water, electricity and sewer. Stormwater will be discharged into existing on-site stormwater infrastructure. The site has suitable access and there are no proposed changes to traffic management for the site.

- (i) **any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and**

N/A

- (ii) **any development control plan, and**

The Industrial Zones Development Control Plan applies to the subject site.

The objectives of the Industrial Zones DCP is:

- (a) To provide, setbacks, landscaping and other development controls for industrial zones.
- (b) Set out procedures for notification and advertising of development applications in industrial zones.
- (c) Provide adequate on-site parking and area for manoeuvring of vehicles.
- (d) Provide controls for erosion and sediment control.
- (e) Provide controls to manage water in a sustainable way.
- (f) Provide subdivision and engineering standards.
- (g) Provide controls for advertising structures.
- (h) Ensure that development in flood prone areas is compatible with the flooding characteristics of the site and is designed so that the likelihood of damage to buildings, stock and equipment from floodwater is minimised.
- (i) Controls for brothels and restricted premises.
- (j) Provide controls for specific industrial areas or precincts.

The proposal is considered to be not inconsistent with the DCP objectives of the industrial zones DCP.

Part C: General Development Controls for Industrial Zones

The proposal is considered to be generally consistent with the objectives of the zone and provide a functional use of the land.

| Clause | Control | Complies |
|----------------------|---|----------|
| C.3: Building Design | Proportions, rooflines, frontage that is not dominating the streetscape and corner buildings strongly | Yes |

| Clause | Control | Complies |
|--|---|---|
| | designed. | |
| C.4: Disabled Access and Facilities | Provide details on plans of accessible facilities | An accessible carpark location is available. |
| C.5: Building Height | Maximum height limit 9m | Yes. |
| C.7: Setbacks | 9m front setback, side and rear setbacks are zero, and a setback of 1.5m from services. | Yes – the proposed building setbacks comply with the DCP and the proposed development is within the site boundaries. |
| C.8: Landscaping, paving and street furniture | Street frontages to enhance amenity and provide screening. | There is currently some landscaping provided on the site and it is proposed that a landscape management plan be submitted prior to issue of a construction certificate. |
| C.9: Storage of machinery and other equipment | No storage in front landscaped setback unless approved as a display area. | Not proposed to be within front landscape setback as part of the development. |
| C.10: Provision of essential services | Connect to available services and have council road access. | The proposed development will be connected to available services and has suitable road access. |
| C.11: Development on Flood Prone Land | | N/A |
| C.12: Dwellings | | N/A |
| C.14: Air, water and noise pollution | | Subject to the use and approvals. It is proposed that the business update an noise management plan be provided a condition of consent. Measures are imposed to manage potential odours. |
| C.15: Waste management | To be safe, tidy environmentally responsible. Dispose of waste suitably | Yes. |
| C.16: Crime prevention | Inclusion of crime prevention measures | The site has adequate boundary/security fencing. |
| Part E: Car parking requirements | General Industry, 1 space per 100m ² GFA. | Yes – The proposal includes adequate area for parking on site. Sufficient area for delivery vehicles is provided to service the development. |
| Part H: Erosion and sediment controls | Prevent land degradation and soil erosion | Erosion and sediment controls are to be conditioned with reference to standards. |
| Part O: Controls for Biodiversity and Habitat Protection | Minimise impact on biodiversity and habitat. | No clearing is proposed. |

- (iia) 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, and

N/A

- (iii) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,**

The proposed development is not considered to be inconsistent with the prescribed matters, *Environmental Planning and Assessment Regulation 2000* – Clause 92.

- (a) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.**

Minor earthworks are proposed for the development, furthermore sediment and erosion controls will be implemented during the construction phase on-site which will help maintain water quality. The proposed development is not considered to impact on the environment, natural waterways or biodiversity.

The proposed development will result in significant economic activity and employment generation. There will be some increase in economic activities and employment generation with the construction of the facility. There may be minor economic benefits if local labour and material are used for construction works and future operations. The development is not considered to impact on social wellbeing or cohesion. It is proposed that noise attenuation be provided with the construction design.

- (b) the suitability of the site for the development,**

The proposal will provide an additional industrial shed to meet the needs of the business and industry community. The proposal does not require any significant excavation works below the surface as works.

Noise and air pollution concerns have been raised in the submissions indicating that the existing management on the site is problematic. This is commented below in this report.

The site is considered suitable for the proposed development as approved subject to the imposition of suitable conditions.

- (c) any submissions made in accordance with this Act or the regulations,**

Concern has been raised in the 5 submissions in regard to the potential increased noise and odour pollution from the site. The submissions have been received from residents that are 130m, 200m and 250m from the site. In summary, the submissions raise the following issues and concerns:

- Ongoing noise and operation hours of the facility now and into the future
- No details of types and volumes of vehicles, trucks and forklifts
- Lack of detail on noise generating machinery and activities; traffic, machine room and 24 hour running refrigeration units,
- Sets a precedent for future noisy development in the estate,
- No submission of a noise assessment,

- Not consistent with the planning objectives to provide great places to live and work,
- Lack of opportunity for public participation,
- Height variation is the financial benefit of one ratepayer and not in the public interest, rather an individual financial interest,
- Will not protect the amenity of the environment,
- Odours from the bait processing facility, amenity impacts and health and safety impacts,
- Building is not of low scale character and will have an unattractive visual impact, and
- The facility would be better located away from existing residents

Comment

The NSW Noise Policy for Industry (NPfI) was released in 2017 and sets out the requirements for the assessment and management of operational noise from industry in NSW. Local Government is an independent regulator for noise under NSW legislation and has discretion for dealing with noise.

Staff consider that limiting the hours of operation should be in line with the NPfI and it is proposed that the operating hours be limited to 7am -6pm Monday to Saturday, 7am to 1.00pm Saturday and no operation on Sunday or Public Holidays to ameliorate the concerns and potential impacts on nearby residence in this location. This is reflected in a draft condition of consent.

Council's Environmental Officer has considered the proposal and has submitted recommended conditions to suitably address potential odour management and noise management from the site. These include:

- No storage of product where it can generate odours,
- No storage of equipment that may emit odours outside of the facility,
- No hosing down of equipment outside of the facility,
- Noise emissions not to exceed 5d(B)A Leq (15 min) above background levels measures at residential properties

It is submitted that the imposition of the noise emission requirements sets a precedent for good and effective management of noise from the industrial precinct. It is noted that the Applicant has agreed to the imposition of such a condition in response to Council information request.

Similar to other industrial developments that have the potential to impact on nearby residents it is proposed that:

- A Noise Management Plan be prepared by a suitably qualified acoustic practitioner for the ongoing operation of the facility and independent noise monitoring by a suitably qualified acoustic practitioner is to be undertaken within six months of operation of the shed and associated activities.
- An operational noise monitoring report is to be provided to Council to determine actual project noise levels. Any recommendations for additional noise mitigation measures is to be undertaken by the facility.

As mentioned earlier in the report the proposed use of the land for light industry is a permitted use in the IN1 zone. The conditions of consent can adequately mitigate the potential adverse impacts on the nearby residences.

Best practice procedures are recommended for the processing facility in that any potential offensive noise or odours be managed within the current NSW environmental guidelines.

(d) the public interest.

The proposed development is considered to be in the public interest by being generally consistent with relevant policies adopted by Council and meeting the objects of the Act.

Officer: Pat Ridgway, Senior Development Planner

Date: 10 September 2021