

ATTACHMENTS TO

Ordinary Meeting Business Paper

27 June 2024

Excluded from Agenda

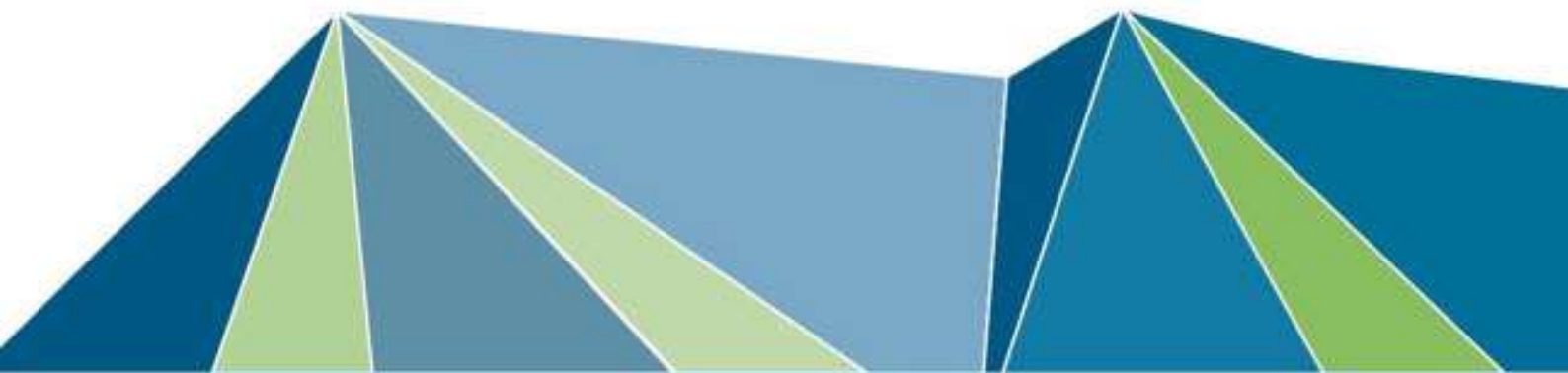


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Planning Proposal PP-2023-1569

» Tuckombil Quarry
Gap Road, Alstonville

June 2024 (v4 Final) 24/16923

ballina
shire council

Ballina Shire Council acknowledges that we are here on the land of the Bundjalung people. The Bundjalung are the traditional owners of this land and are part of the oldest surviving continuous culture in the world.



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1. Introduction

Overview

This planning proposal (PP) applies to Council-owned land at Alstonville containing the dis-used Tuckombil Quarry.

Quarrying activities ceased at the site in 2016. Council has investigated potential uses for the site and is considering a proposal from a film production company to lease the site as a location for its headquarters and studio facilities.

The purpose of this PP is to rezone the land to facilitate its use for film, arts, high technology, creative industry, recreational and community purposes.

The following technical studies have been undertaken to support the proposal, and this PP should be read in conjunction with those studies:

Supporting Specialist Studies:

Tuckombil Quarry Traffic Impact Assessment	GeoLINK	Feb 2023 Updated April 2024
Tuckombil Quarry Biodiversity Assessment Report	GeoLINK	Mar 2023
Land Use Conflict Risk Assessment	Tim Fitzroy & Associates	June 2023
Preliminary Site Investigation for Contamination (Lot 22)	Douglas Partners	Oct 2022
Report on Contamination Assessment (Lot 3)	Douglas Partners	Oct 2023
Noise Impact Assessment	Tim Fitzroy & Associates	June 2023

Subject Land

This PP relates to land shown in **Figure 1**, known as Lot 22 DP 1243105, with an area of 22.96 ha, Lot 21 DP 1243105, with an area of 1.582 ha, and Lot 3 DP 1130300, with an area of 9,161 m².

The site is located north-east of existing residential areas of Alstonville, surrounded by non-urban land (see **Figure 2**).

The land is owned by Ballina Shire Council.

Lot 21 is currently leased to Boral Asphalt for the purposes of operating an asphalt batching plant, with that lease to expire in December 2024. At the time of drafting this PP, Boral are in the process of decommissioning their plant.

Lot 3 is leased to a private company for the storage and maintenance of drilling plant and equipment and the storage of hazardous materials (material used in making of explosives).

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

The land is a 'deferred matter' under Ballina Local Environmental Plan 2012, retaining the zoning of 1(e) Rural (Extractive and Mineral Resources) Zone under Ballina LEP 1987.

Figure 1: Subject Land

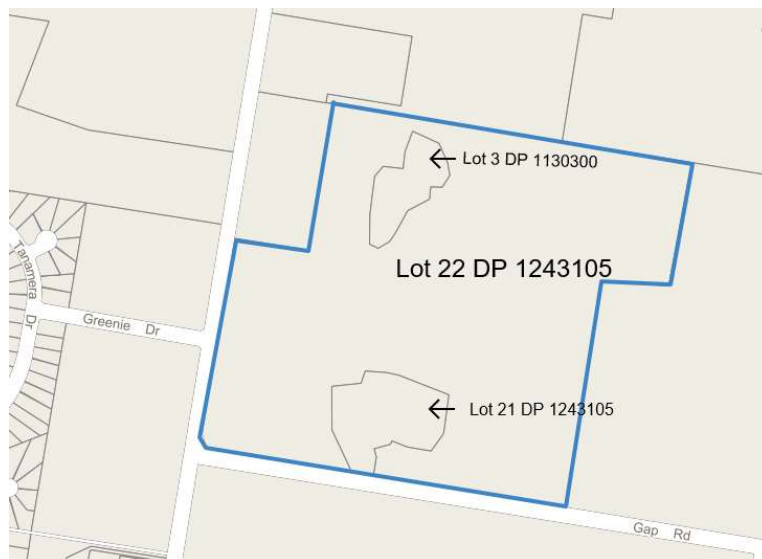


Figure 2: Site Locality



remediate, and remove from the Property and the soil underneath the Property any chemical residues or other hazardous or toxic substances to the satisfaction of the Lessor" (Council).

The lease on Lot 3 also ends in 2024, and Council has advised the tenant that it intends to renew the lease, subject to an agreed condition requiring that the manufacture and storage of explosive and/ or hazardous material will cease at the site in the event of an approved Development Application for creative or high technology industrial uses within Lot 22. The tenant has advised that, in those circumstances, they would seek lessor approval to retain a site presence for administrative purposes only.

In 2021, Byron Studios Pty Ltd expressed an interest in entering into a long-term staged lease arrangement, to develop a film and creative precinct at this site.

Byron Studios has been actively investigating long term site options since commencing operations at Alstonville Cultural Centre in December 2020. The Tuckombil Quarry site has been identified as a preferred location due to its size, location and capacity to establish a successful film and creative arts precinct.

Byron Studios is a film and production company with facilities that comprise of stages, edit suites, production offices and screen theatres.

The current rural zoning of the land is not appropriate for the intended land uses. This PP, therefore, intends to alter the zoning of the land by applying an appropriate employment zone under Ballina Local Environmental Plan 2012.

Analysis undertaken on the behalf of the NSW Government and Northern Rivers RDA has indicated significant potential for the growth of digital content production industry in the Northern Rivers Region (*Digital content production as a driver of economic development in the Northern Rivers region*, RDA Northern Rivers, Nov 2017).

This assessment reflected on the region's physical characteristics, which provides a broad variety of ideal filming locations, accessibility to SE Queensland by road and to Sydney and Melbourne by air, combined with a varied and skilled workforce. It concluded that:

Considering potential for economic growth based on new-economy industries, the Northern Rivers has features making it better placed than any other region in Australia. The region:

- is centrally located between Australia's largest and third largest cities and is adjacent to Australia's latest non-capital city suburban agglomeration*
- has highly sought after environmental amenity*
- has a residential and holiday population of high net-worth and entrepreneurial individuals*
- has an international profile as a holiday destination and cultural centre (international film, music and writer's festivals)*
- contains a wealth of proven creative talent focused on commercial outcomes*
- has an ambitious highly networked business community*
- has an international brand as a lifestyle destination known for wellness, lifestyle, surfing, yoga and alternative sports*

Several characteristics make the Northern Rivers region an unusual if not unique proposition for the digital content production industry. Standing out, in particular, is the human capital of the region – in terms of creative and business skills and experience.

An SP4 Enterprise zoning would allow for the commencement of master planning for the site, to provide for both the short and longer term visions of Byron Studios or similar uses,

with an appropriate mix of recreational and community uses that could complement the commercial filming/ creative industry uses. The zoning also enables other high technology and creative industry uses.

Council Resolutions

Council considered a report on the future of the Tuckombil Quarry at its Finance and Facilities Committee Meeting of 19 May 2022, and, in relation to the zoning of the land, resolved:

1. *That Council engage the relevant experts to prepare a planning proposal to support a proposed rezoning of the property to provide for film, arts, high technology, recreational and community use at the Tuckombil Quarry site.*
2. *That Council seek a Gateway Determination for the site rezoning and authorise the public exhibition of that proposal.*
3. *That Council receive a report on the findings from the public exhibition process.*

A copy of the report to the Finance and Facilities Committee is contained in **Appendix 1**.

The Committee recommendation was subsequently endorsed at the Ordinary Council meeting of 26 May 2022.

Following public exhibition of the planning proposal, a report on submissions received was considered by Council at its Ordinary meeting of 27 June 2024.

At that meeting, Council resolved:

A copy of the report is contained at **Appendix 1**.

Scoping Meeting

A Scoping Meeting was held regarding this project on 5 September 2022. The meeting was attended by representatives of:

- Department of Planning and Environment
- Transport for NSW
- Biodiversity and Conservation Division
- Department of Primary Industries – Agriculture
- Mining, Exploration and Geoscience

Notes of that meeting are contained at **Appendix 2**. This PP has addressed the comments made by the agencies at the meeting.

Gateway Determination

The Department of Planning and Environment issued a Gateway determination for the project on 8 August 2023. A copy of the Gateway is contained in **Appendix 3**, and this PP has been updated to reflect the conditions of that document.

The Gateway was subsequently altered in January 2024, to be completed by 8 May 2024. A copy of the amended Gateway is contained at **Appendix 3**.

Following delays in finalising the updates traffic study, a further Gateway extension was granted in April 2024, with the rezoning to be completed by 8 July 2024.

2. Planning Proposal

Section 3.33(2) of the *Environmental Planning and Assessment Act 1979* (the Act) outlines requirements that must be provided for when preparing PPs. The following sections provide details of the PP as it relates to Section 3.33(2) of the Act.

Part 1 – Objectives or Intended Outcomes

The intended outcome of this PP is to amend Ballina LEP 2012 to:

1. introduce the SP4 Enterprise zone into Ballina Local Environmental Plan 2012 and make appropriate consequential amendments to various clauses.
2. apply the SP4 Enterprise zone to most of the site to facilitate its future use for creative industry, high technology industry, recreational and community purposes and amend relevant LEP maps.
3. apply a zoning of C2 Environmental Conservation to parts of the site containing biodiversity values.
4. add a new site-specific Local Provision into Part 7 of the LEP to allow temporary accommodation on the site for persons involved with approved land uses and provide appropriate objectives and considerations for such use.

Part 2 – Explanation of the Proposal

SP4 Enterprise Zone Land Use Table integration

As part of DPE's employment zones reform, *State Environmental Planning Policy Amendment (Land Use Zones) (No 2) 2022* commenced on 26 April 2023. It had the effect of omitting the previous business and industrial zones from Ballina LEP 2012, introducing new employment zones.

The amending SEPP did not introduce the SP4 Enterprise zone into Ballina LEP 2012. That zone is, however, available as part of the Standard Instrument Template, intended to support unique areas that require tailored land use planning.

This PP intends to introduce the following land use table into Ballina LEP 2012. The objectives and land uses mandated by the Standard Instrument Template are shown in **BLACK** text in the zone table below. The objectives and land uses identified in **RED** have been included by Council based on local provisions/ issues.

Zone SP4 Enterprise

1. Objectives of zone

- To provide for development and land uses that support enterprise and productivity.
- To provide opportunities for new and emerging creative and high technology industries and recreational land uses.

2. Permitted without consent

Environmental protection works

3. Permitted with consent

Artisan food and drink premises; Building identification signs; Business identification signs; Car Park; Community facility; Creative Industry; High Technology Industry; Plant nursery; Recreation area; Recreation facility (outdoor); Roads; Take-away Food and drink premises

4. Prohibited

Agriculture; Commercial premises; Industry; Residential accommodation; Any other development not specified in items 2 or 3.

In terms of the uses permitted with consent, *artisan food and drink premises*, *creative industry* and *high technology industry* are each a type of *light industry*. The definition of *light industry* is not, however, restricted to these land uses and potentially allows a wide range of industrial activities. The child definitions have therefore been preferred in this case.

Application of SP4 Enterprise zone to the subject land

The planning proposal will amend the Ballina LEP Land Zoning Map in relation to the majority of the land within Lot 22 DP 1243105, Lot 21 DP 1243105, and Lot 3 DP 1130300, by applying a zoning of SP4 Enterprise.

Council have undertaken a strategic review of existing and potential business/ employment areas across the Shire and are of the view that the subject Tuckombil Quarry site is the only one suitable for the proposed SP4 zoning.

In addition to amending the Zoning Map, the PP will amend the following Ballina LEP Maps:

- the Land Application Map, to identify that the site is subject to the provisions of BLEP 2012;
- the Lot Size Map, by applying a 1,000m² minimum lot size to the area to be zoned SP4 and a 40ha minimum to the area to be zoned C2; and
- the Height of Buildings Map, by applying a maximum height of buildings of 10m to the area to be zoned SP4 and 8.5m to the area to be zoned C2.

The thumbnail maps contained in Part 4 of this PP indicate the mapping outcomes proposed by this planning proposal. These maps may require additional adjustments to ensure consistency with the *Standard Technical Requirements for Spatial Datasets and Maps*.

Application of C2 Environmental Conservation zone to parts of the subject land

The Biodiversity Assessment Report prepared for the proposed rezoning identified areas within the site which contain High Environmental Values (HEV), including the Branch Creek riparian corridor, mapped on the Biodiversity Values map, and vegetation within the site constituting over-cleared vegetation types and a Threatened Ecological Community (TEC).

Much of the identified area is significantly degraded, including sections of Branch Creek that have been piped and filled, and areas dominated by non-native vegetation and/ or Camphor Laurel, assessed as being of low condition.

In response to the biodiversity attributes of the site and having regard for the degraded nature of much of the site, the presence of weed and non-native species and the potential future development, it is proposed that two areas within the site be zoned C2, located in the north-west and south-eastern corner respectively.

As part of future site development, a Vegetation Management Plan can be developed to provide for the rehabilitation of these two areas, to improve local biodiversity values.

New local provision

Long term plans of Byron Studios Pty Ltd include accommodation for workers and others involved in film productions at the site. Such accommodation would be temporary, depending on the nature, scale, and timeframe of approved activities at the site.

Accommodation would only be available to persons involved in approved activities on the site.

As such, it is considered that making *tourist and visitor accommodation*, or *residential accommodation* permissible land uses in the SP4 Enterprise zone would create the potential for accommodation proposals that are not ancillary to other permissible or approved uses.

The PP proposes, therefore, to add a new site-specific clause to Part 7 of BLEP 2012. In addition to specifying ancillary tourist and visitor accommodation as a use permitted with development consent on this site, the site-specific clause provides Council's planning objectives for the development of the land and matter for consideration in the assessment of applications for development of the site.

A draft of the proposed clause is outlined below. Final wording of the clause will be subject to review of Parliamentary Counsel.

7.18 Use of land at "Tuckombil Quarry Site", 540 Gap Road, Alstonville

- (1) *The objectives of this clause are:*
 - (a) *To minimise conflict between land uses within this zone and land uses within adjacent zones;*
 - (b) *To encourage development that achieves the efficient use of resources such as energy and water; and*
 - (c) *To facilitate development that is ancillary to and supports creative and high technology industries at the site.*
- (2) *This clause applies to land known as "Tuckombil Quarry Site", being:*
 - (a) *Lots 21 & 22 DP 1243015; and*
 - (b) *Lot 3 DP 1130300*
- (3) *Despite any other provision of this Plan, development consent may be granted for tourist and visitor accommodation at the site, in the form of hotel or motel accommodation or serviced apartments, if persons accommodated are involved with approved creative or high technology industry being undertaken at the site.*
- (4) *Development consent must not be granted for development at this site, including tourist and visitor accommodation permissible under Part 3 above, unless the consent authority has considered:*
 - (a) *The potential for development to create conflict with any adjoining or nearby agricultural land uses;*
 - (b) *Whether the development achieves a high standard of architectural design, materials and detailing and incorporates sustainable design principles, including in relation to the following:*
 - (i) *sunlight,*

- (ii) *natural ventilation,*
- (iii) *reflectivity,*
- (iv) *visual and acoustic privacy,*
- (v) *safety and security,*
- (vi) *resource, energy and water efficiency, durability and adaptability,*

Consequential LEP amendments

The introduction of the SP4 zone into the LEP will require the following amendments:

Clause 2.1 Land Use Zones

Add the following to the zones listed in this clause:

SP4 Enterprise

Clause 5.4 Controls relating to miscellaneous permissible uses

Amend part 10 of the clause to add the SP4 zone, to read:

Artisan food and drink industry exclusion *If development for the purposes of an artisan food and drink industry is permitted under this Plan in Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Waterfront, **Zone SP4 Enterprise**, or an industrial or rural zone, the floor area used for retail sales (not including any cafe or restaurant area) must not exceed—*

- (a) *25% of the gross floor area of the industry, or*
 - (b) *400 square metres,*
- whichever is the lesser.*

Part 3 – Justification

Section A – Need for the Planning Proposal

Q1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

The PP is a result of a report to Council examining potential future issues of the site (see **Appendix 1**).

It also builds on regional economic studies highlighting the strong potential for creative and digital industries to drive significant economic development in the Northern Rivers (RDA Northern Rivers, 2017).

Q2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The intended outcome is to facilitate the future use of the land for filming, creative industry, high technology industry, community and recreation uses.

The use of the SP4 Enterprise zone is preferred in the circumstances to achieve that outcome.

The land is currently zoned 1(e) Rural (Extractive and Mineral Resources) under Ballina LEP 1987. *Industries* are permitted with consent in that zone. The LEP, however, does not contain definitions for creative industry or high technology industry. It is also considered that the proposed uses of the land are not consistent with the 1(e) zone objectives, which relate specifically to extractive industry uses.

Creative industry, high technology industry, plant nursery, recreation area and recreation facilities (outdoor) are permissible in the E4 General Industrial zone. *Community facilities* are, however, prohibited and the E4 zone permits a wider range of industrial activities than are considered appropriate for the site.

The use of the SP4 Enterprise is the best zoning fit for the land, given the specialised nature of the anticipated uses and the nature and location of the site.

Section B – Relationship to Strategic Planning Framework

Q3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The North Coast Regional Plan 2041 is the current strategic planning document applying to the Ballina Shire.

The proposal is broadly consistent with the Regional Plan, which provides the regional framework for the consideration of policy development and the overall vision of the future.

An assessment of the proposal against the relevant objectives and strategies of the Plan is provided below.

Table 1: Assessment of North Coast Regional Plan 2041

Objective / Strategy	Comment
Support cities and centres and coordinate the supply of well-located employment land	
<p>Strategy 11.3 Support existing and new economic activities by ensuring council strategic planning and local plans:</p> <ul style="list-style-type: none"> • identify local and subregional specialisations • provide flexibility in local planning controls • are responsive to changes in industry to allow a transition to new opportunities • focus future commercial and retail activity in existing commercial centres, unless there is no other suitable site within existing centres, there is a demonstrated need, or there is positive social and economic benefit to locate activity elsewhere 	<p>The proposal by Byron Studios provides an opportunity to build on established local strengths in the areas of creative industry and film production.</p> <p>The proposed SP4 Enterprise zone will provide flexibility that will allow future growth of creative and high technology industries as they evolve, while providing for a growing film industry in the region.</p> <p>While these uses could be established in an existing industrial estate in the Shire, there are simply no sites available in the shire of a size that meet the spatial needs of the proposal.</p>

The site is not located within the Urban Growth Area boundary as mapped in the Regional Plan. The proposal therefore requires consideration of the Urban Growth Area Variation Principles, as addressed in Table 2 (below):

Table 2: Assessment of Urban Growth Area Variation Principles

Principle		Comment
Policy	The variation needs to be consistent with the objectives and outcomes in the <i>North Coast Regional Plan 2041</i> and should consider the intent of any applicable Section 9.1 Direction, State Environmental Planning Policy and local growth management strategy.	See Table 1 above regarding North Coast Regional Plan 2041, and Q5 & Q6 (below) regarding consistency with relevant SEPPs and s9.1 Planning Directions.
Infrastructure	The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.	The site is serviced with water and sewer connections, which are sized for the current minor demand. These services can be upgraded to meet future demands of the project. The site is well located in proximity to the Bruxner Highway, and the supporting traffic assessment (GeoLINK, 2024) indicates that development at the site, as proposed, is unlikely to result in significant traffic impacts and can proceed with minimal upgrades to existing road infrastructure.
Environment and heritage	The variation should avoid, minimise and appropriately manage and protect any areas of high environmental value and water quality sensitivity, riparian land or of Aboriginal and non-Aboriginal heritage.	Use of the land as proposed can be undertaken without significant impacts on any areas of high biodiversity value (see Biodiversity Assessment Report, GeoLINK, 2023). Protection and rehabilitation of two areas within the site will provide for improved biodiversity outcomes across the site.
Avoiding risk	Risks associated with physically constrained land are identified and avoided, including: <ul style="list-style-type: none"> • flood prone • bushfire-prone • highly erodible • severe slope, and • acid sulfate soils 	The north-west corner of the land is mapped as bushfire prone land. Bushfire hazard can be adequately managed on the property, subject to a detailed bushfire assessment undertaken at a subsequent development application stage. No other significant risks are applicable to the property. Observations made in the Lot 22 Contamination Assessment noted that areas of landslip were observed along the quarry cliff faces. These slip areas are minor and restricted to the excavation cliff faces. As part of lease arrangements for future use, Council, as landowner, will undertake a 'due diligence' safety audit

Principle		Comment
		to determine the most effective management for safety of these faces.
Coastal strip	Only minor and contiguous variations to urban growth areas will be considered within the coastal strip due to its environmental sensitivity and the range of land uses competing for this limited area.	The site is not located within the coastal strip.
Land use conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewerage treatment plants, waste facilities and productive resource lands.	<p>A consideration of potential land use conflicts has been undertaken (see LUCRA, Tim Fitzroy & Associates, 2023).</p> <p>As highlighted above, Lot 3 is currently leased for the purposes of manufacture and storage of explosives.</p> <p>The lease on Lot 3 also ends in 2024, and Council has advised the tenant that it intends to renew the lease, subject to an agreed condition requiring that the manufacture and storage of explosive and/ or hazardous material will cease at the site in the event of an approved Development Application for creative or high technology industrial uses within Lot 22. The tenant has advised that, in those circumstances, they would seek lessor approval to retain a site presence for administrative purposes only.</p>
Important farmland	<p>The planning area is contiguous with existing zoned urban land and the need and justification is supported by a sound evidence base addressing agricultural capability and sustainability and is either for:</p> <ul style="list-style-type: none"> • a minor adjustment to 'round off an urban boundary', or • if demonstrated through a Department approved local strategy that no other suitable alternate land is available, and if for housing, that substantial movement has been made toward achieving required infill targets within existing urban growth area boundaries. 	<p>The property is mapped within a wider area of State Significant Farmland, which covers the majority of the Alstonville/ Wollongbar Plateau.</p> <p>Clearly, the agricultural potential of the property has been significantly lessened though its historical use for quarrying.</p> <p>The LUCRA has considered the proposed future use of the land in the context of the surrounding agricultural land and concludes that the proposed land uses will not result in significant conflicts with existing rural land uses in the locality.</p>

Q4. Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?*Ballina Shire Council Community Strategic Plan 2017-2027*

The proposal is consistent with the Prosperous Economy theme contained within Council's Community Strategic Plan 2017 – 2027. Specifically, it is consistent with outcome PE1.2:

Provide opportunities for new business.

Ballina Local Strategic Planning Statement 2020

The proposal is consistent with a key theme within the LSPS of prosperous economy.

Q5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

Relevant State Environmental Planning Policies (SEPPs) are addressed in Table 3, below:

Table 3: Assessment against relevant SEPPs

SEPP	Comment
<i>SEPP (Biodiversity and Conservation) 2021</i>	
Chapter 4 Koala habitat Protection 2021	<p>The subject land is not defined as "Core Koala Habitat" under the <i>Ballina Shire Koala Management Strategy 2017</i>.</p> <p>The land is mapped as part of a Koala Management Precinct known as the "<i>Plateau Koala Management Precinct</i>". Within this precinct, koala habitat is located in small pockets of highly fragmented remnant vegetation, supplementing the koala food trees found in windbreaks.</p> <p>Over time, it is envisaged that a collaborative approach to managing the availability of koala habitat will result in an increase in areas which are not utilised for agricultural purposes providing koala habitat.</p> <p>Small areas of the existing perimeter vegetation on the western property boundary are mapped as Secondary Habitat. These areas will not be impacted by future development.</p>
<i>SEPP Resilience and Hazards (2021)</i>	
Chapter 4 Remediation of Land	<p>Contamination investigations have been undertaken across the site, with an initial report addressing the main part of the property, Lot 22. The Gateway approval was conditioned to require contamination assessment of Lot 3 (i.e. site leased by Ron Southon Pty Ltd). A subsequent investigation was therefore carried out on that property.</p> <p>The resulting reports are submitted in support of this PP.</p> <p>The assessment concludes that the sites are suitable for the intended use. No remediation will be required for Lot 22, however, further detailed investigations will be carried out on Lot 3, as part of a subsequent DA process, to confirm whether remediation might be required in a small area.</p>

SEPP	Comment
	<p>Contamination assessment has not addressed Lot 21, which is currently leased to Boral for the purposes of an asphalt plant.</p> <p>The Boral Asphalt plant on Lot 21 ceased regular operation in July 2020. The plant is no longer open for sales and operates on an infrequent basis. The lease on this property ends in 2024 and Council has advised its intention to not renew that lease.</p> <p>Condition 31 of the lease requires Boral to removal all buildings, structures, and fixtures from the site prior to the expiration of the lease. Part (ii) of that condition reads:</p> <p><i>The Lessee shall.....</i></p> <p><i>Immediately prior to the expiration or sooner determination of this Lease de-contaminate, remediate, and remove from the Property and the soil underneath the Property any chemical residues or other hazardous or toxic substances to the satisfaction of the Lessor and the Environment Protection Authority and to provide to the Lessor, written certification from an appropriately qualified Authority that the said Property and soil under the said Property has been de-contaminated, remediated, and that such chemical residues or substances have been removed and in this regard the Lessee shall comply with all directions and requirements of the Lessor or other competent Authority.</i></p> <p>The lease condition referred to above is quite clear that, on Boral vacating the site, it will be clear of "any chemical residues or other hazardous or toxic substances".</p> <p>Council, as landowner and lessor, is therefore satisfied that the land within Lot 21 will be suitable for its intended use following expiration of the Boral lease.</p> <p>The contamination assessment noted elevated nutrient levels in the water within the quarry void, noting that onsite use of this water for dust suppression is acceptable, but that treatment would be required if this water were to be discharged to a watercourse.</p> <p>Water will remain in the pit but it is not proposed to be used for any purpose. The survey shown below demonstrates that the water level within the void is approx. 4.6m below the water level in the nearest watercourse.</p> <p>There are no low points between the pit and the watercourse and therefore there are no circumstances where the water within the pit could naturally discharge to the watercourse.</p>

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville



Q6 Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?

Yes. A number of section 9.1 directions are relevant to the planning proposal and area addressed in Table 4, below.

Table 4: Section 9.1 Directions

Direction	Compliance of Planning Proposal
Focus Area 1: Planning Systems	
1.1 Implementation of Regional Plans	Consistent The planning proposal is consistent with the North Coast Regional Plan 2041. While the site is not located within the Urban Growth Area, application of the Urban Growth Area Variation Principles demonstrates the suitability of the proposed rezoning (see Table 2).
1.2 Development of Aboriginal Land Council Land	Does not apply to planning proposal.
1.3 Approval and Referral Requirements	Consistent This planning proposal does not contain provisions requiring concurrence, consultation or referral of development applications.
1.4 Site Specific Provisions	Justifiably inconsistent The PP will introduce a new zone into Ballina LEP 2012 – SP4 Enterprise. As discussed above, this new Standard Template zone is appropriate for the site given the specialist nature of the proposed use. It will also introduce a site-specific Additional Local Provision clause into the LEP. The clause does not impose additional development standards or requirements, rather it outlines site planning objectives and development considerations.
1.4A Exclusion of Development Standards from Variation	Does not apply to planning proposal.
Focus Area 1: Planning Systems – Place-based	
	None apply to planning proposal.
Focus Area 2: Design and Place	
	No applicable Directions.
Focus Area 3: Biodiversity and Conservation	
3.1 Conservation Zones	Consistent. The proposal includes the application of a C2 Environmental Conservation zone to two areas identified within the biodiversity assessment (GeoLINK, 2023) as areas of environmental value. These areas are currently degraded and assessed as 'low condition'. However, a Vegetation Management Plan can be developed as part of the future site development to enhance the biodiversity values of these areas and offset future impacts on other part of the site, also identified as low condition environmental value.
3.2 Heritage Conservation	Consistent. The site is highly disturbed and is not known to contain any items of environmental or cultural heritage.
3.3 Sydney Drinking Water Catchments	Does not apply to planning proposal.

Direction	Compliance of Planning Proposal
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	Consistent. See further discussion below this table.
3.5 Recreation Vehicle Areas	Consistent. The proposal does not enable land to be developed for the purposes of a recreation vehicle area.
3.6 Strategic Conservation Zoning	Does not apply to planning proposal.
3.7 Public Bushland	The Direction does not apply to Ballina Shire
3.8 Willandra Lakes Region	The Direction does not apply to Ballina Shire
3.9 Sydney Harbour Foreshore and Waterways Area	The Direction does not apply to Ballina Shire
3.10 Water Catchment Protection	The Direction does not apply to Ballina Shire
Focus Area 4: Resilience and Hazards	
4.1 Flooding	This Direction does not apply as the site is not flood prone.
4.2 Coastal Management	This Direction does not apply as the site is not within the coastal zone.
4.3 Planning for Bushfire Protection	Consistent A small area within the north-west corner of the site is mapped as bushfire prone. NSW Rural Fire Service were invited to attend the Scoping Meeting for this proposal but provided an apology. The requirements of Planning for Bushfire Protection can be adequately addressed in a subsequent development proposal for use of this site.
4.4 Remediation of Contaminated Land	Consistent. The Contamination Assessments demonstrates that the site is suitable for its intended use. See commentary above regarding remediation at the (leased) Boral site (Lot 21). Conditions of the lease require that, on exiting the site, Boral must de-contaminate and remediate the land. The lease requirement goes further that requiring the Lessee to return the site to a pre-identified stat; it requires that any and all chemical residues or substances be removed from the soil. As such, the planning proposal authority has certainty that the land within Lot 21 will be suitable for its intended use.
4.5 Acid Sulfate Soils	This Direction does not apply as the site is not mapped as containing acid sulfate soils.
4.6 Mine Subsidence and Unstable Land	Does not apply to planning proposal.

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Direction	Compliance of Planning Proposal
Focus Area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	Justifiably inconsistent. See traffic assessment (GeoLINK, 2023).
5.2 Reserving Land for Public Purposes	Consistent. The planning proposal does not reserve land for a public purpose or effect any such land already reserved.
5.3 Development Near regulated Airports and Defence Airfields	Does not apply to planning proposal.
5.4 Shooting Ranges	Does not apply to planning proposal.
Focus Area 6: Housing	
6.1 Residential Zones	Does not apply to planning proposal.
6.2 Caravan Parks and Manufactured Home Estates	Does not apply to planning proposal.
Focus Area 7: Industry and Employment	
7.1 Business and Industrial Zones	Consistent. This PP will result in an increase in local employment land uses in the locality.
7.2 Reduction in Non-hosted Short-term Rental Accommodation Period	Does not apply to planning proposal.
7.3 Commercial and retail Development along the Pacific Highway, North Coast	Does not apply to planning proposal.
Focus Area 8: Resources and Energy	
8.1 Mining, Petroleum Production and Extractive Industries	Consistent. Consultation with Department of Primary Industries occurred through the Scoping Meeting held in September 2022. As detailed in the meeting notes in Appendix 2 , the representative of the Mining, Exploration and Geoscience Division indicated that there are no issues with the proposal in regard to the objectives of this Direction. This was confirmed by the Department's letter dated 16 November 2023, which states: <i>MEG has no concerns to raise in relation to section 9.1(2) of the Environmental Planning and Assessment Act 1979, Direction 8.1 – Mining, Petroleum Production and Extractive Industries.</i>
Focus Area 9: Primary Production	

Direction	Compliance of Planning Proposal
9.1 Rural Zones	<p>Justifiably inconsistent.</p> <p>The PP seeks to rezoning land from 1(e) Rural (Extractive and Mineral Resources) to SP4 Enterprise.</p> <p>The objective of this Direction is to protect the agricultural production value of rural land. Given the history of site use as a hard rock quarry, it has no agricultural value.</p> <p>In the circumstances, the proposed rezoning is considered to be of minor significance.</p>
9.2 Rural Lands	<p>Justifiably inconsistent.</p> <p>In accordance with this Direction, the planning proposal must:</p> <p>(a) <i>be consistent with any applicable strategic plan, including regional and district plans endorsed by the Planning Secretary, and any applicable local strategic planning statement</i></p> <p>See assessment above. The PP relies on the Urban Growth Area Variation Principles because the site is not mapped within the Urban Growth Area. The assessment demonstrates that the proposal is acceptable, given the nature of the site and the intended use.</p> <p>(b) <i>consider the significance of agriculture and primary production to the State and rural communities</i></p> <p>The site has no agricultural potential, given its historic use for extractive industry. As such, the rezoning will have no impact on local primary production.</p> <p>(c) <i>identify and protect environmental values, including but not limited to, maintaining biodiversity, the protection of native vegetation, cultural heritage, and the importance of water resources</i></p> <p>The biodiversity assessment (GeoLINK, 2023) demonstrates that the site has limited areas environmental value, primarily around the riparian area in the west of the site. Where these areas do exist, they can and will be protected during subsequent site development.</p> <p>Those areas do not meet the criteria for protection by way of zoning, but Council will retain ownership of the site and will ensure that future uses do not impact on the riparian area.</p> <p>(d) <i>consider the natural and physical constraints of the land, including but not limited to, topography, size, location, water availability and ground and soil conditions</i></p> <p>Subsequent development applications will address these issues in detail, in designing the layout of the proposed use.</p> <p>(e) <i>promote opportunities for investment in productive, diversified, innovative and sustainable rural economic activities</i></p> <p>While not rural in nature, the PP will facilitate an activity that has the potential to generate significant economic returns to the region.</p> <p>(f) <i>support farmers in exercising their right to farm</i></p> <p>A LUCRA has been prepared to ensure that the future activities do not impinge on adjoining and nearby farming activities (Tim Fitzroy & Associated, 2023).</p> <p>(g) <i>prioritise efforts and consider measures to minimise the fragmentation of rural land and reduce the risk of land use conflict, particularly between residential land uses and other rural land use</i></p> <p>See LUCRA.</p>

Direction	Compliance of Planning Proposal
	<p>(h) <i>consider State significant agricultural land identified in chapter 2 of the State Environmental Planning Policy (Primary Production) 2021 for the purpose of ensuring the ongoing viability of this land</i></p> <p>The site is mapped as State Significant Farmland. It has no agricultural potential given its historic use for extractive industry. The potential impacts on adjoining and nearby significant farmland is considered in the LUCRA.</p> <p>(i) <i>consider the social, economic and environmental interests of the community</i></p> <p>Continued quarrying at the site is not considered to be in the social interest given the proximity of residential land and the disturbance resulting from extractive operations.</p> <p>The site also has no agricultural potential.</p> <p>The use as proposed can generate significant social and economic benefits through a use that will have minimal impact on the environment and on adjoining communities.</p>
9.3 Oyster Aquaculture	Does not apply to planning proposal.
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	<p>Justifiably inconsistent.</p> <p>The assessment above indicates that the proposal is consistent with the North Coast Regional Plan 2041.</p> <p>While the site is mapped as within the wider area of State Significant Farmland, the historic extractive industry use has clearly resulted in the loss of agricultural potential, primarily because of the large quarry void that takes up a significant portion of the land.</p>

Direction 3.4: Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs

This direction applies when a PP introduces or alters a C2 Environmental Conservation or C3 Environmental Management zone. It requires that the PP must apply these zones in accordance with the *Northern Councils E Zone Review Final Recommendations*.

The Final Recommendations Report states that:

E2 and E3 zones will only be applied if the primary use of the land is considered to be environmental conservation (E2) or environmental management (E3) and the land contains attributes which meet one or more of the criteria for an E2 or E3 zone (Tables 1 and 2)

Primary Use:

The primary use of the land is the main use for which the land has been used for the last two (2) years.

Over this time, parts of the subject land have been used in association with the Boral Asphalt Plant. The south-western part of the site was also used as an emergence waste collection / storage location associated with the immediate clean-up after the 2022 Lismore and Ballina floods.

The site contains vegetation that has elements that meet the criteria for High Environmental Value, although much of that vegetation is of low to moderate condition (See GeoLINK Biodiversity Assessment).

The majority of the existing vegetation was originally planted by Council and has been managed over the years to provide a visual and noise screen for quarrying activities.

E Zone Criteria:

The tables below assess the land against the criteria outlined in the Final Recommendations Report.

Table 5: Criteria for Application of C2 Environmental Conservation Zone

Criteria	Comments
SEPP Littoral Rainforest	The property does not contain any areas of mapped littoral rainforest.
SEPP Coastal Wetland	The property does not contain any areas of mapped coastal wetland.
Endangered Ecological Communities (EECs) listed under the <i>Threatened Species Conservation Act 1995</i> and/or the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .	<p>The property contains areas that meet some of the characteristics of <i>Lowland rainforest in the NSW North Coast and Sydney Basin Bioregion</i>, which is a Threatened Ecological; Community (TEC) under the <i>Biodiversity Conservation Act 2016</i>.</p> <p>As described in the Biodiversity Assessment undertaken for the site (GeoLINK, 2023), this community exists in a highly degraded form within the site, mapped in Illustration 5.1 of that report.</p> <p>This planning proposal suggests a C2 Environmental Conservation Zoning over two areas where lowland rainforest is present, located in the south-east and north-western parts of the property, being the least disturbed parts of the vegetation.</p> <p>The remaining areas of this community will be addressed and considered in further detail at the development application stage.</p>
Key Threatened Species Habitat	The site does not contain habitat for key threatened species.
Over-cleared Vegetation	Lowland rainforest is also considered to be over-cleared vegetation. See comments above.
Culturally Significant Lands	The site is a disused quarry that does not contain any culturally significant lands.

Based on the criteria within the *Northern Councils E Zone Review Final Recommendations*, environmental zones are not appropriate for a large area of the site, based on the significantly degraded condition of the vegetation and *primary use* considerations.

Notwithstanding, the landowner agrees to the implementation of a C2 Environmental Conservation Zone over two parts of the site, where the vegetation has been least disturbed.

Council, as landowner, can ensure that other vegetated areas can be protected and rehabilitated through weed control and replanting, as part of future lease and development application arrangements.

Section C – Environmental, Social and Economic Impact

Q7 Is there any likelihood that critical habitat or threatened species, population or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The Biodiversity Assessment Report (GeoLINK, 2023) indicates that only one threatened flora species was found at the site, located in a garden area planted near the Boral plant.

The report also indicates that there is vegetation on the site that is considered representative of a highly degraded form of *Lowland rainforest in the NSW North Coast and Sydney Basin Bioregion TEC* (Suballiance No. 1: *Argyrodendron trifoliolatum*).

Two of these areas are protected through an environmental conservation zone. The remaining areas will be subject to further assessment the development application phase having regard for vegetation condition, weed and non-native species presence and opportunities for restoration and enhancement.

Q8 Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Environmental effects can be adequately managed through site design and a subsequent development approval process. The technical assessments supporting this PP demonstrate that the site can be developed for its intended uses in a manner will not result in significant environmental impacts.

Q9 Has the planning proposal adequately addressed any social and economic effects?

Use of the site to establish creative or high technology industry development has the potential to generate significant economic and social benefits for the locality, the Shire and the region in a manner that has minimal impact on the locality.

Section D – State and Commonwealth Interests

Q10 Is there adequate public infrastructure for the planning proposal?

Water and sewerage infrastructure is available to the site and can be upgraded to meet the needs of future development. The traffic assessment (GeoLINK, 2023 & 2024) indicates that the existing road infrastructure has sufficient capacity to accept the traffic volumes likely to be associated with future site development.

Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

State agencies were consulted in accordance with the Gateway determination. The following table summarises the responses received.

Comments were also sought from the Widjabul Wia-bal Registered Native Title Body Corporate, as traditional owners of the area, as suggested by Heritage NSW. No response was received from that organisation. Notably the land is freehold land owned by Council.

Table 5: State Agency Comments

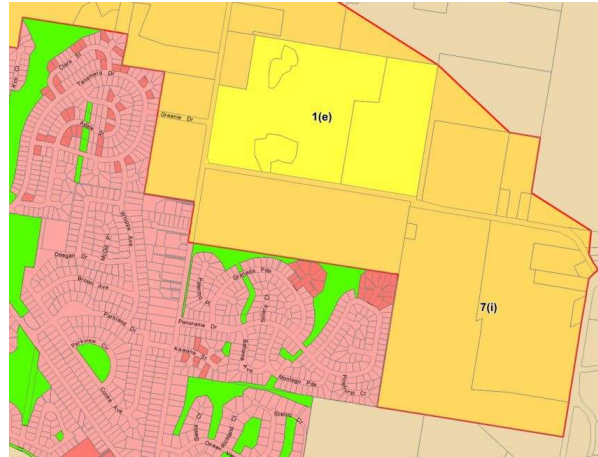
Agency	Comments	Discussion
Transport for NSW	The initial response requested that further assessment be provided addressing the potential impact on the Ballina Road / Bruxner Highway intersection	An updated Traffic Assessment Report was prepared and provided to TfNSW on 10 April. By letter dated 10 May 2024, TfNSW advised that they have reviewed the updated traffic report and have no objections to the proposed rezoning.
Biodiversity and Conservation	Areas identified as HEV should be rezoned to C2 Environmental Conservation A Biodiversity Management Plan or Vegetation Management Plan be prepared and implemented to improve and manage the biodiversity values of HEV areas	See discussion above. Much of the vegetation identified as HEV is assessed as poor condition. Sections of Branch Creek within the site, mapped on the Biodiversity Values Map, have been piped and filled associated with previous quarrying use, removing most of the riparian vegetation. Two areas are proposed to be zoned C2 Environmental Protection. The majority of the remaining vegetation is predominantly located on the site boundaries, having been planted. A Vegetation Management Plan will be required at Development Application stage, to manage the C2 zoned area and other vegetation on the site.
Regional NSW – Mining, Exploration and Geoscience	No concerns raised in relation to section 9.1(2) Direction 8.1 – Mining, Petroleum Production and Extractive Industries.	Noted.
Heritage NSW	Suggested consultation with the Widjabul Wia-bal Registered Native Title Body Corporate, as traditional owners of the area	Correspondence was sent to NTS Corp, the contact organisation for the Native Title Body Corporate, seeking comment on the proposal. A response was not received.
Rural Fire Service	The RFS has no objection to the rezoning and LEP amendment and notes that future development applications will need to address bushfire threat.	Noted.

Part 4 – Mapping

The following thumbnail figures indicate the mapping outcomes proposed by this planning proposal. These maps may require additional adjustments to ensure consistency with the *Standard Technical Requirements for Spatial Datasets and Maps*.

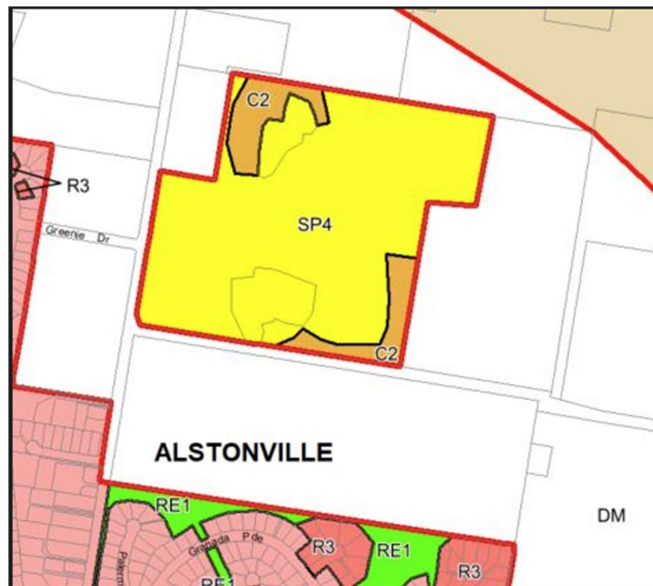
Figure 4: Existing and Proposed Zoning

Existing



Zone	
C1	National Parks and Nature Reserves
E1	Local Centre
E2	Commercial Centre
E3	Productivity Support
E4	General Industrial
MU1	Mixed Use
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
SP2	Infrastructure
W1	Natural Waterways
W2	Recreational Waterways
DM	Deferred Matter

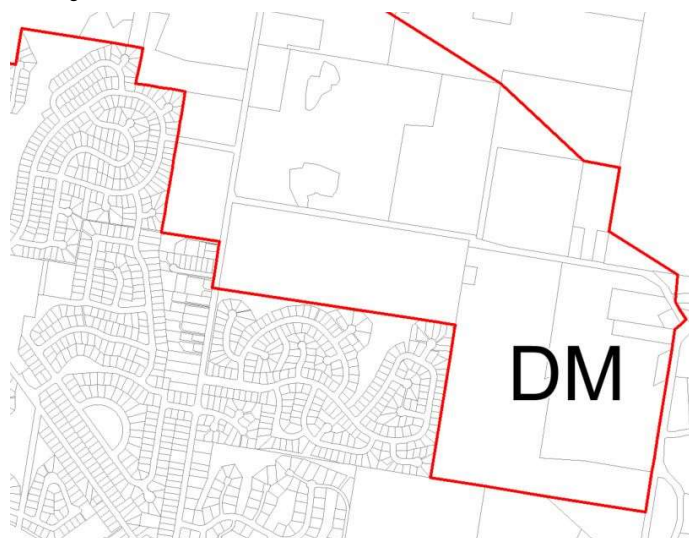
Proposed



Zone	
C1	National Parks and Nature Reserves
C2	Environmental Conservation
E1	Local Centre
E2	Commercial Centre
E3	Productivity Support
E4	General Industrial
MU1	Mixed Use
R2	Low Density Residential
R3	Medium Density Residential
RE1	Public Recreation
RE2	Private Recreation
RU1	Primary Production
RU2	Rural Landscape
SP2	Infrastructure
SP4	Enterprise
W1	Natural Waterways
W2	Recreational Waterways
DM	Deferred Matter

Figure 5: Existing and Proposed Land Application

Existing



Proposed

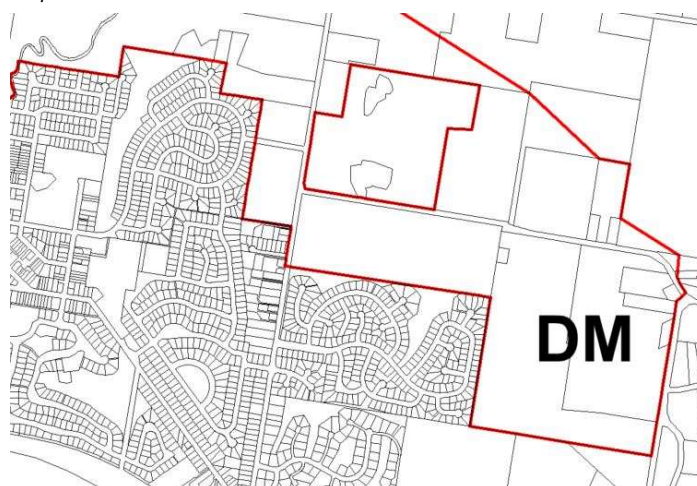
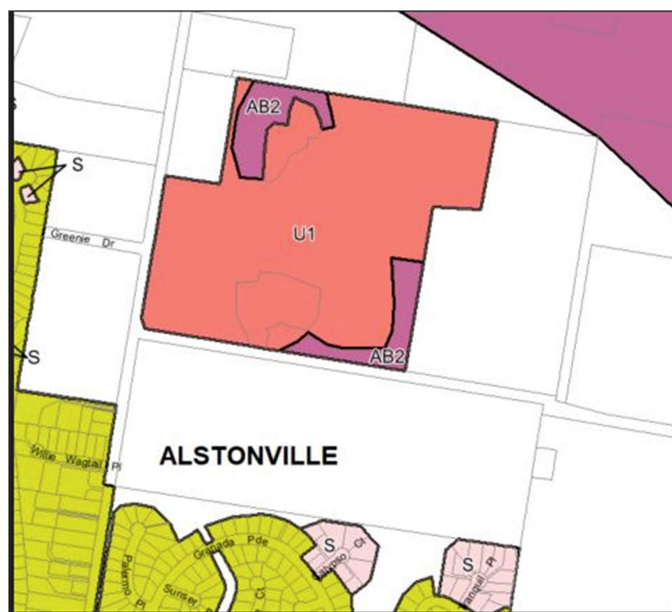


Figure 6: Proposed Minimum Lot Size

Minimum Lot Size (sq m)

G	450
M	600
S	800
U1	1000
U2	1200
Y	10000 (1ha)
Z	20000 (2ha)
AB1	200000 (20ha)
AB2	400000 (40ha)

Figure 7: Proposed Height of Buildings



Part 5 – Community Consultation

This planning proposal and supporting documents were exhibited in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979* between 6 November and 15 December 2023. Seven (7) public submissions were received, four (4) in support of the proposal, two (2) objecting and one (1) containing a suggestion the site be zoned for sporting fields and recreational uses. Matters raised are summarised and addressed in the table below.

These submissions were considered by Council at the meeting of 27 June 2024. Council was of the view that there were no issues raised in those submissions that would prevent the finalisation of the Planning Proposal.

Table 6: Issues Raised in Community Submissions

Issue	Comments
Reference to the original quarry approval – DA 1995/276. Approval required environmental rehabilitation of the quarry after completion of the extraction works	<p>Rehabilitation of the site was the intention of Council at the time of the quarry approval in the 1990s.</p> <p>The rezoning as proposed would still allow areas of the site, particularly the site's edges, to be rehabilitated through weed control and additional tree planting.</p> <p>The suggestion in the submission is that total revegetation of the site would be less intrusive in the locality.</p> <p>The noise and land use conflict assessments demonstrate that the site can be used for its intended purpose in a manner that will result in minimal disruption in the local area.</p>
Concern on learning that Lot 3 is used for storage and manufacture of explosives.	<p>Lot 3 has been used for the storage of components used in the manufacture of explosives for industrial purposes for many years. The use is not directly related to the rezoning.</p> <p>The facility is subject to SafeWorkNSW requirements and has never been the subject of any infringement notices or any other local issues.</p> <p>A report on the potential conflict between the existing facility and potential future uses was considered by Council's Commercial Services Committee on 20 April 2023, noting that the current use is incompatible with the proposed rezoning.</p> <p>Based on that, Council resolved:</p> <p><i>That based on the Risk Assessment Report for the Tuckombil Quarry Site, which identifies the current use is incompatible with the proposed rezoning, Council authorises the General Manager to offer Ron Southon Pty Ltd a new 5+5 lease effective 1 January 2025, including a "break clause" granting Council, as landlord, the right to terminate the lease by giving 12 months' notice.</i></p>
Site should be rezoned for the community, planted with "big scrub trees" and a picnic area created for residents to enjoy.	<p>Council previously considered a range of options for the future use of the property, including an open space use.</p> <p>Council resolved to proceed with the proposed rezoning.</p>
Site would be better used for active and passive recreation.	<p>As above. These uses were considered by Council in 2022. It is noted that <i>recreation area</i> and <i>recreation facility (outdoor)</i> are uses permitted with consent in the SP4 zone.</p>

Part 6 – Timeline

The timeline for completion of the planning proposal is as follows:

Plan Making Step	Estimated Completion (Before)
Gateway Determination	August 2023
Completion of Technical Information	October 2023
Government Agency Consultation	November 2023
Public Exhibition Period	November 2023
Public Hearing	N/A
Submissions Assessment	June 2024
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	July 2024
LPMA Decision to Make the LEP Amendment (if delegated)	July 2024

Appendices

Appendix 1 – Council Reports

Appendix 2 – Scoping Meeting Notes

Appendix 3 – Gateway Determination

Appendices 4 – 8 – Technical Reports – provided under separate cover

Appendix 1 – Council Report

5.2 Tuckombil Quarry Site - Future Use Options

Section	Commercial Services
Objective	To determine whether Council wishes to proceed with a change of use for the Tuckombil Quarry site.

Background

The Tuckombil Quarry site is located at 540 Gap Road Alstonville. The quarry site is approximately 25 hectares in size and has two existing commercial leases on part of the site with Boral Asphalt and Ron Southon, both of which expire on 31 December 2024.

Council has a current development consent in place to undertake extractive industry, providing the ability to extract a maximum of 450,000m³.

A material quantity and quality study indicated that there is up to 300,000m³ of overburden material still remaining on site, within the current extraction limits of the development consent. Material tests indicate that the material can be used as select fill.

The quarry has been in existence since 1908 however has not operated as a quarry since August 2016. This is predominately due to the lack of market demand for the costs associated with removing the overburden material from the site.

The current position of Council has been not to renew the existing lease with Boral Asphalt, and to review the use of this site with a current Operational Plan Activity for 2021/22 being to 'Determine future of Tuckombil Quarry'.

On 10 May 2021 Byron Studios expressed an interest to enter into a long term, staged lease arrangement, to construct a film and creative precinct at this site. This was based on the understanding that Council's intentions were to examine other opportunities for this site.

Byron Studios has been actively investigating long term site options since commencing operations at Alstonville Cultural Centre in December 2020. The Tuckombil Quarry site has been identified as a preferred location due to its size, location and capacity to establish a successful film and creative arts precinct.

At the 27 May 2021 Ordinary meeting Council supported proceeding with investigations into the potential benefits of this proposal and allocated a

budget allocation of \$50,000 from the Quarry Reserve to proceed with the engagement of a consultant to assess constraints and opportunities for the entire site.

Council engaged AEC Group Limited (AEC) in June 2021 to conduct this review. The potential for Byron Studios to establish a film and creative arts precinct, at this site, formed part of the scope requirement of the consultant's brief.

AEC Group Limited completed their review in two phases with the final report submitted to Council on 21 January 2022.

The final documents are included as Attachments 1 and 2 to this report.

A briefing was provided to Councillors on 21 February 2022 to provide an overview of the Byron Studios proposal for this site.

This report outlines the findings from the consultant's report and seeks Council direction on the preferred future use of this site.

Key Issues

- Existing leases at Tuckombil Quarry site
- Community concerns
- Existing licence agreement and Heads of Agreement with Byron Studios
- Required planning requirements to change use
- Optimum use for the site

Discussion

There is an existing development consent, which still allows for quarrying activities to occur on site, with extraction being contained to physical extraction limits and the rate per annum being limited.

In the short-term, there is the opportunity to still be extracting material for use.

This is dependent on there being a market for the material and this has been limited based on the costs associated with extracting and processing the overburden fill material.

There may still be an opportunity to use the material on Council's Southern Cross Industrial Land developments, however that is dependent on the commercial viability of extracting and transporting the material, along with the suitability of the material. This will be further evaluated when the Southern Cross project advances to the appropriate stage for further filling.

Considering the long-term, Quarry Development Plans were prepared in 2016 for the Tuckombil Quarry.

The plans were prepared by a quarrying specialist who undertook field investigations, drilling and resource estimates to present plans, for the future expansion of the site.

The assessment of a proposed expansion for Tuckombil Quarry indicated a resource of up to 17.3 million tonnes (Mt) is available on the site, with 11Mt of this being slightly weathered – fresh basalt rock.

The information gathered during the development of these plans in 2016 allowed for a valuation to be performed that considered the land value and the resource value (under the current consent and pending a future approval).

Land Value (unimproved)	\$1,405,000
Resource Value (current DA)	\$990,000
Resource Value (proposed DA)	\$1,670,000
Total	\$4,065,000

To proceed with a new approval would involve the preparation of an Environmental Impact Statement (EIS) for submitting a development application for the proposed development plan. The preparation of the EIS would come at an approximate cost of \$120,000.

The quarry expansion has the following benefits to Council:

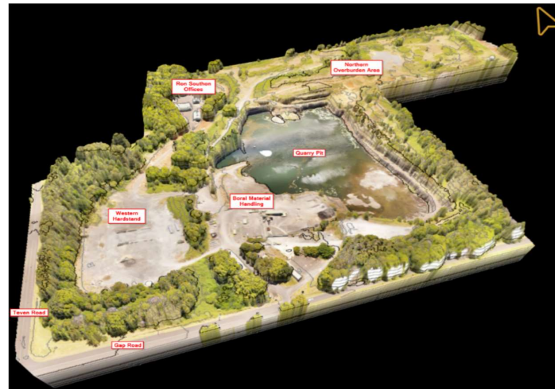
- The quarry would be able to supply a local product to local projects / customers. The materials from the quarry would be crushed on site and sold locally. This supply being available in the area would benefit local projects and building programs; this is due to transport costs comprising a significant proportion of the delivered material.
- Employment opportunities would be created once the quarry is operational.

Due to residents' concerns about the quarry operations, the long-term use of the site for the purpose of increased quarrying remains unlikely. As such, Council is looking for viable opportunities for the Site for future planning, with alternate options being more complementary to its close location to residential areas.

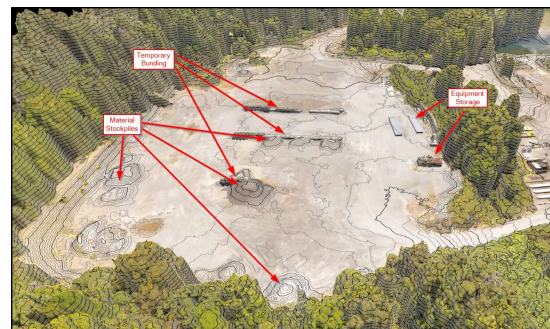
Even if quarrying activities are no longer to occur, it is a requirement of the existing development consent that the site is to be remediated. This is to ensure that the site is put in a safe and environmentally sound condition. Council currently holds an internal reserve with a cash balance of approximately \$700,000 allocated for the rehabilitation of this site.

Site Overview

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville



Western Hardstand



Northern Overburden Area



With the understanding that Council was investigating potential alternative uses for the Tuckombil Quarry site, Byron Studios expressed interest in the site during a Councillor onsite inspection of Byron Studios filming operations at Alstonville Cultural Centre in May 2021.

Byron Studios had been actively investigating potential sites that could support the establishment of a film industry within Ballina Shire. The Tuckombil Quarry site was identified as the preferred option due to its location, size, and unique features it offers such as the quarry pit for filming purposes.

The need to determine the future use of the quarry is also a current Operational Plan action for 2021/22.

Based on this background, in May 2021, Council supported a budget allocation of \$50,000 to proceed with undertaking a detailed assessment of the potential use options at the Tuckombil Quarry site.

In recognition of the time required to complete the consultancy review on quarry use options and the need for Byron Studios to progress their business planning, Byron Studios requested support from Council to formulate a Heads of Agreement in June 2021 to enable the establishment of a temporary licence agreement over part of the front of the Quarry site for the purposes of parking vehicles.

This support was needed to enable Byron Studios to keep progressing with their business plan and to assist with reducing vehicle movement in the residential streets adjoining the Alstonville Cultural Centre and Agricultural Showground precinct.

A report was subsequently submitted to the 22 July 2021 Ordinary meeting with Council resolving as follows:

- “1. *That Council authorizes the General Manager to proceed with the preparation of a Memorandum of Understanding, with terms to be agreed upon between Byron Studios and Council, based upon the contents of this report.*
2. *That Council authorizes the General Manager to establish an interim use agreement for part use of the front section of Tuckombil Quarry site, not currently under lease for the purposes of Byron Studios to park vehicles.*
3. *That a further update report be presented to Council in November / December 2021 at the conclusion of the consultancy and master planning process for the Tuckombil Quarry site”.*

A copy of the report is included as Attachment 3.

In August 2021 a Heads of Agreement (otherwise referred to as Memorandum of Understanding) was drafted by Council's Solicitor.

A copy of this document is included as Attachment 4.

Although this Agreement is not legally binding on either party, it reaffirmed Council's commitment to working with Byron Studios to establish a film industry within our Shire and provided the support needed for Byron Studios to progress with seeking external financial support for the establishment of a film and creative arts precinct at the Tuckombil Quarry site.

At this stage Byron Studios has not progressed with the licence agreement to use the front part of the quarry site. The reason being the significant cost associated with construction of a separate access point and the need for Council to firstly determine its preferred future use of the site following consideration of the Consultant's review.

Constraints and Opportunities Assessment

AEC commenced the review of constraints and opportunities for Tuckombil Quarry site in June 2021. This consultancy assessment was approved to be undertaken in two phases being:

Phase 1 – Assess the proposal put forward by Byron Studios for use of the quarry site for establishment of film studio under a long term lease with progressive staged occupation.

Phase 2 – Identify alternative potential uses for the site including residential, technology and light industrial land uses, public recreation and community uses, and adventure tourism uses.

As part of the assessment process, AEC worked with Council to agree on the following **strategic alignment evaluation criteria** to assess potential uses being:

- Permissibility under existing zoning, or potential to be rezoned to allow land use.
- Likely to be supported by the community and stakeholders.
- Whether the potential use would comprise the reserve of extractive materials.

Utilising this evaluation criteria, the following potential options were shortlisted:

- Public recreation and community use such as sporting fields, picnic area and outdoor venue operated by Council for hire to the community.
- Adventure Tourism use such as zip-lining, rock climbing, obstacle course, archery, kayaking.
- Byron Studios Creative Arts and Film Precinct, including use of the quarry pit for filming.

In each of the above options, AEC assessed the strengths and weaknesses against social, economic, environment and financial criteria.

The outcome of the evaluation process is that there was merit in exploring each option, recognising that each option had its own benefits, risks and considerations.

A detailed summary of the assessment evaluation is illustrated in page iv of the AEC Phase 2 report, as per Attachment 2 to this report.

Applying the strategic alignment evaluation criteria, AEC have identified opportunities and risks identified in each of the three options assessed.

Byron Studios option

According to the AEC report, this is the most 'commercially focused' option, with a private investor already identified and willing to negotiate. It also potentially provides the highest economic benefits as it proposes to establish a new industry in the Shire.

The challenge with this option is the scale of the proposed development, as it includes five stages and would compromise the future extraction of materials on the site.

As part of the opportunities assessment, AEC included case studies of successfully redeveloped quarries within and outside of Australia.

The examples provide a diverse range of ideas subject to clearly understanding financial constraints, risk appetite and the priority of community needs.

Analysis undertaken on the behalf of the NSW Government and Northern Rivers RDA has indicated significant potential for the growth of digital content production industry in the Northern Rivers Region.

This assessment reflected on the region's physical characteristics, which provides a broad variety of ideal filming locations, accessibility to SE Queensland by road and to Sydney and Melbourne by air, combined with a varied and skilled workforce.

One of the key barriers identified in the assessment, however, was the lack of appropriate film studio space, ideally located within a multipurpose creative industries precinct and industry incubator, incorporating digital media post-production and set and costume production and other associated uses.

Multi-media production requires a broad range of activities and skills, including supporting service industries and as such employment opportunities associated with growth in the industry could be significant.

The driving factor behind Council working with Byron Studios since 2018 has been to support a new industry that can create employment, education, and business development opportunities within our Shire.

The Ballina Economic Development Strategy identifies key drivers for economic development in Ballina Shire and actions Council will pursue for entrepreneurship and innovation.

The vision for Byron Studios is to develop a film and creative arts precinct at the Quarry site and to continue to work with local educational institutes and organisations such as Screenworks to be able to create a successful film industry within our Shire.

The Tuckombil Quarry site location and size will support the ability to develop, as the first stage (referred to as Stage 1), studios equivalent to what they are operating within now at Alstonville Cultural Centre and to expand the operations.

This is subject to addressing relevant planning and environmental considerations associated with an LEP amendment and any future development application.

In particular, matters associated with the importance of the remaining extractive resources at the site, State significant farmland, traffic, potential land use conflict and potential site contamination need to be investigated and addressed.

There is also a need to address consistency with the local and State strategic planning framework. Of particular note is Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries which requires that State or regionally significant reserves of extractive materials are not compromised by inappropriate development.

Under this Direction, the Minister for Planning must be satisfied the requirements of this direction are satisfied for any proposed change to the LEP that relates to the quarry site and its surrounds.

Council's planning staff have advised Byron Studios that the current Ministerial Direction 8.1 is a significant issue that may prevent the enabling of film studio infrastructure on the site, and in particular the use of the site as envisaged beyond Stage 1. It is also not certain that Stage 1 will meet the requirements of the Direction.

In the event that Stage 1 could be successfully accommodated, relative to the planning and environmental considerations, but Stage 2 is not able to proceed, the information provided to Council by Byron Studios is that this will significantly impact on their ability to obtain government, industry and investor support, placing the viability of the project construction at this site in jeopardy.

Byron Studios proposed staged development – Tuckombil Quarry



This means that to support Byron Studios full staged proposal, over the entirety of this site, will require preparation of a planning proposal that seeks to justify the consistency of the development.

This will require Council to prepare a planning proposal that seeks to justify the proposal relative to the terms of Ministerial Direction 8.1. Any inconsistency with the Direction must be agreed by the Minister for Planning.

The only current reason for an inconsistency being valid is that such inconsistency is deemed to be minor as referenced in the below extract from the direction. A full copy of the direction is contained in Attachment 5.

Consistency

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Planning Secretary (or an officer of the Department nominated by the Secretary), that the provisions of the planning proposal that are inconsistent are of minor significance.

From a planning perspective, Council's planning staff concern is the nature and scale of the development proposed, relative to the need for impact on the future extractive of the rock resource to be minor.

Therefore, to support Byron Studios staged proposal over the entirety of the site, would require removal of the Ministerial Direction 8.1.

If Council determines to pursue steps to enable establishment of a film and creative arts industry on the land, the following process could be applied to support the staging of Byron Studios project. The timeframes are indicative as they are dependent on a wide variety of factors.

Proposal	Process and timeframes
Stage 1 – Development of 15,000 square metre studio	<p>An LEP amendment is required to permit the proposed development with consent on the land. This requires investigation and assessment of the land relative to the proposal and the preparation of a planning proposal.</p> <p>Once the required investigations are complete (e.g. site contamination, ecology, land use conflict), an LEP amendment of this type (if supported by the Department of Planning particularly with reference to Direction 8.1) typically takes in the order of six to nine months to complete.</p> <p>As part of this process there will be a public exhibition process and it is expected this would attract community feedback which may extend the timeframe depending on the issues arising.</p> <p>If an LEP amendment enabling stage 1 is successful, a development application is then required. This requires further assessment to prepare an application and for the application to be assessed and determined. This process is likely to take in the order of six to 12 months (additional to the planning proposal process).</p>
Stages 2, 3 and 4 – Construction of creative education precinct, screen	<p>The same process as outlined above is required.</p> <p>If stage 1 and 2 are done in conjunction Ministerial Direction 8.1 may prevent both progressing</p>

Proposal	Process and timeframes
hub, offices and larger studio	<p>(however it will be known whether the Minister for planning can be satisfied with respect to inconsistency with the direction).</p> <p>Adding Stage 2 to the planning proposal process for stage 1 will likely extend the process timeframe because of additional complexity with addressing Ministerial Direction 8.1.</p> <p>If Stage 2 is separated from Stage 1, it is likely a planning proposal would take in the order of 12 months to complete. A development application would then need to follow and given the nature of the proposal, it is likely the DA process from application preparation to completion would take in the order of 12 months as well.</p>

Byron Studios understand the current Ministerial Direction, the community expectations to cease quarry operations on this site, and the opportunities that this site could provide in the creation of a new industry.

Byron Studios representatives have met with the Hon Ben Franklin MLC onsite to present the proposed creative arts and film industry proposal and reportedly received positive response for establishment of a creative arts and film industry at this location.

Byron Studios has also been liaising and working closely with Screen NSW to establish a regional film industry.

Byron Studios has reported to Council that they have had strong interest from local and international film companies interested in filming at the Tuckombil Quarry site.

A Councillor briefing was held on 21 February 2022 where Byron Studios reaffirmed their commitment to work with Council to develop a film industry and creative arts precinct at Tuckombil Quarry.

At this briefing, Byron Studios also explained that if their proposal was limited to Stage 1, they would encounter difficulty in obtaining financial and industry support.

Byron Studios has also communicated that to achieve investor support will require a long-term lease over the quarry site and are seeking a minimum 50 year lease together with the capability to expand beyond Stage 1.

Byron Studios is currently operating from Alstonville Cultural Centre. This licence arrangement expires in December 2022.

The main purpose for Byron Studios to enter into a temporary licence agreement over this building was to provide the opportunity for Byron Studios to trial the establishment of a new creative industry whilst Council progressed with planning and funding approvals for the much needed redevelopment and refurbishment of this facility.

Byron Studios is currently in discussions surrounding the next production. This production is likely to go beyond the current licence agreement term at Alstonville Cultural Centre.

Due to the timing of the redevelopment works of Alstonville Cultural Centre and investigations into potential use of Tuckombil Quarry site, Council may wish to consider an extension of the current licence agreement with Byron Studios. The progress of the proposed redevelopment of the Alstonville Cultural Centre is discussed further in a separate report within this Agenda.

Public recreation and community open space option

This option is 'community and environmentally focused' option, according to the AEC report, with the highest social and environmental outcomes. It would provide unique outdoor venue that is not provided in the Shire.

The challenges with this option include:

- Funding risk – project would have to be funded by Council, with very limited potential to attract private investment.
- Long-term realisation – funding constraints may result in the development to be progressed in stages with unknown timeframes.

Council has recently completed a review of the Open Spaces and Community Facilities Developer Contributions Plan. This process has identified that Ballina Shire is currently well-served for open spaces.

There is currently no funding in the Long Term Financial Plan for the construction of additional open space facilities in this area.

Should Council wish to pursue this option, a detailed masterplan would need to be completed and reported back to Council.

Adventure Tourism option

According to the AEC report, this option is the most 'balanced' option, with moderately high social, economic, and environmental benefits.

However, this option would be subject to it being partially funded by a private operator. The challenges with this option include:

- Private Operator - May be difficulties in finding a private operator to develop the site.
- Funding risk – for the open space portion of the site which is available for public use.
- Potential conflicts in managing the 'public' and 'private' sections of the site.

Should this option be selected, Council would need to determine how the various components of the site would be managed, and how much might be contracted out to the private sector.

There are also a variety of planning considerations associated with this option that would need to be examined further, with costs associated with these tasks.

Boral Asphalt Lease

Boral Asphalt has a lease on the front section of the quarry with the entrance off Gap Road.

Council has previously resolved not to renew the lease with Boral Asphalt.

This means that Boral will need to complete all remediation works associated with their lease requirements prior to cessation of the lease term being December 2024.

Ron Southon Lease

An inspection of the site located on Tuckombil Quarry leased by Ron Southon Pty Ltd was undertaken with its owner/director, Mr Geoff Chilcott, who indicated his strong desire to remain on site due to the significant investment he has made in infrastructure and employing specially trained staff since operations commenced in 1999.

Ron Southon Pty Ltd are drilling and blasting contractors and were encouraged by Council to relocate to Tuckombil Quarry in 1999, to allow it to continue operating within the Shire. The business is also licenced by Safework NSW to store explosive and dangerous goods.

Mr Chilcott advises that the business employs 20 full time staff supporting local families and injects about \$10m per annum into the local economy. In excess of \$1m has been invested in infrastructure on the site.

If a new lease is not granted to the business, it would probably close down given the difficulty in finding an alternate site and the investment required to develop same.

Ron Southon Pty Ltd has been an excellent tenant by promptly paying all rentals on time, complying with all lease conditions and keeping the site in a clean and tidy state.

Over the years Ron Southon Pty Ltd has also acted as de-facto security for the entire Tuckombil Quarry site by ensuring the site access gates are locked every night and maintaining surveillance of people entering the site during the day.

Preliminary investigations, including consultation with representatives from Ron Southon Pty Ltd and Byron Studios, indicate there may be potential for the business (Ron Southon Pty Ltd) to remain on site and co-exist with other uses, including Byron Studios, subject to a new access road being constructed from the Ron Southon site to Teven Road.

Mr Chilcott is keen to work with Council to reach mutually acceptable solutions to enable his business to remain on site, including leasing or purchase of the site he currently leases.

Council currently receives rental of \$16,628 p.a. + GST from Ron Southon Pty Ltd and \$49,619 p.a. + GST from Boral Bitupave, however both leases expire on 31 December, 2024.

A review of the site as part of the consideration of Byron Studios proposal, including current access and resources at this site, has identified the capability for Byron Studios and Ron Southon to co-exist.

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With the known cessation of Boral Lease, it has been identified that there would be benefit in potentially creating an alternative access for Ron Southon off Teven Road or Gap Road.

As part of the cessation of the Boral Lease, Ron Southon would also need to relocate the existing weighbridge from the Boral site to their leased site.

If Council were to resolve to proceed with the Byron Studios proposal, it may be some time before planning and construction approvals are granted and Stage 1 is constructed.

It is therefore important for Council to ensure rental income of some form is derived from the site and that a responsible tenant remain in occupation to ensure security over what is a potentially hazardous site.

Community Consultation Policy

If Council resolves to proceed with the recommendations proposed in this report, consultation with the community will need to form part of the masterplan and rezoning process for this site.

Financial / Risk Considerations

In determining the preferred options for this site, key risk considerations include funding and maintenance and Council's risk appetite.

For example, should Council, as an owner operator, wish to proceed with the adventure tourism option, then as part of the master planning process, it would need to complete a detailed risk assessment with Council's Insurer to ensure that we had adequate risk controls, including insurances, in place.

Whereas, the risk exposure to Council would be different in a situation where Council leased the site to an external commercial operator.

There is also the matter of who pays for and carries out the work required to prepare a planning proposal (and if an LEP amendment is successful), and subsequent development applications.

The cost of undertaking the rezoning process at the Tuckombil Quarry is estimated to be \$150,000.

Costs could extend further depending on the complexity of issues associated with the address of Ministerial Direction 8.1 and any issues arising from the detailed site assessments.

If Council wishes to proceed with rezoning of the land to permit other uses, such as enabling commercial operations on this site, Council could fund these works and then seek to recover this as part of future lease fees.

This site is located on operational land under the provisions of the Local Government Act 1993 and Council is able to lease / licence or even sell the property.

Options

The findings from the AEC report have identified three potential use options for this site. The next step is for Council to determine if it wishes to proceed with any of these options or to retain the land in its current form.

Based on the report findings, the available options are:

1. Public Recreation and community open space. Support the commencement of master planning and community engagement process to support the redevelopment of this site as community recreation and open space.

In this situation Council would need to prepare a planning proposal to rezone the site which triggers consideration of Ministerial Direction 8.1

This option is not recommended based on the current areas of passive and active community open space on the Alstonville / Wollongbar Plateau and the lack of funding to develop and maintain such a facility.

2. Adventure Tourism. Support the commencement of master planning and community engagement process to develop this site for adventure tourism.

In this situation Council would need to prepare a planning proposal to rezone the site which triggers consideration of Ministerial Direction 8.1.

This option is not recommended based on the substantial investment required to develop, including rehabilitation costs and questionable financial returns.

3. Multi use of site. Support all three options through approval for Byron Studios to construct Stage 1 and commence master planning process for the remainder of the site to be used for public recreation and community open space and adventure tourism.

The risk to this is that it is likely that Byron Studios will not be able to proceed at this site due to the inability to expand their operations.

In this situation Council would need to prepare a planning proposal to rezone the site which triggers consideration of Ministerial Direction 8.1

There is also no funding available to support the development of open space and adventure tourism.

4. Byron Studios. Determine that Council does not wish to retain the site for future quarrying operations and commence process to seek the removal of the extractive industry constraints on this site to enable the development of a long term lease arrangement with Byron Studios.

If this option is supported, this would provide Byron Studios with the required certainty, albeit there will still be risk until the Ministerial Direction is resolved. The benefit is that Council could proceed with the planning process to enable development of a film and creative arts precinct.

Under this arrangement, the preferred approach would be to enable Ron Southon to remain on this site due to the identified capability for both

Byron Studios to co-exist safely on this site. Ron Southon has existing use rights for this site and any rezoning will not impact on this operation.

The cost to undertake this process is approximately \$150,000. Creative arts grant funding opportunities could be explored to fund the costs associated with these works, or a co-contribution approach towards payment of costs with Byron Studios, or alternatively Council could fund the costs associated with these works from existing quarry reserves.

Based on the delays in any potential grant funding opportunities and current uncertainty of rezoning to support Byron Studios proposal, it is recommended that Council initially fund these works from the quarry reserve and recover these expenses through any future lease income generated from the site.

The creation of a film and creative arts precinct option is preferred to support a new industry within Ballina Shire that will generate employment, business and educational opportunities and tourism.

5. Maintain the current uses and not proceed with rezoning or master planning process.

This option is not recommended as investigations identified in this report indicate quarrying of the Tuckombil Quarry site is questionable in the context of financial viability. Furthermore, this is a significant site on the Alstonville Plateau that could potentially generate positive economic and social benefits for Council and the community.

RECOMMENDATIONS

1. That Council engage the relevant experts to prepare a planning proposal to support a proposed rezoning of the property to provide for film, arts and high technology use at the Tuckombil Quarry site.
2. That Council seek a Gateway Determination for the site rezoning and authorise the public exhibition of that proposal.
3. That Council receive a report on the findings from the public exhibition process.
4. That Council fund the \$150,000 costs associated for the planning and rezoning costs for this proposal through a transfer from the internal Quarry Reserve.
5. That Council offer Ron Southon Pty Ltd a new 5+5+5 lease effective 1 January 2025 on the proviso that they construct an alternative access road onto Teven Road or Gap Road and relocate the existing weighbridge from the Boral site to their site.

Appendix 2 – Scoping Meeting Notes

Department of Planning and Environment
Meeting Minutes



Scoping Meeting – 540 Gap Road, Alstonville (Lot 3 DP 1130300, Lots 21 and 22 DP 1243105)

Held on: 5/09/2022 – 2:00pm to 3:00pm
 At: Online
 Chaired by: Ella Wilkinson

Attended

Craig Diss, Manager Northern Region (Department of Planning & Environment)
 Matthew Wood, Manager Strategic Planning (Ballina Shire Council)
 Rob van Iersel, Strategic Planner (Ballina Shire Council)
 Liz Smith, Manager Development Services North (Transport for NSW)
 Dimitri Young, Senior Team Leader, North East Branch, Biodiversity and Conservation Division (Department of Planning & Environment)
 Rachel Lonie, Senior Conservation Planning Officer, Biodiversity and Conservation Division (Department of Planning & Environment)
 Selina Stillman, Agricultural Land Use Planning Officer (Department of Primary Industries – Agriculture)
 Steven Palmer, Manager Land Use (Mining, Exploration and Geoscience)
 Ella Wilkinson, Senior Planner (Department of Planning & Environment)

Apologies

Don Owner, Senior Conservation Planning Officer, Biodiversity and Conservation Division (Department of Planning & Environment)
 Malcolm Drummond, Senior Geoscientist (Mining, Exploration and Geoscience)
 Alan Bawden, Supervisor – Development Assessment and Planning (NSW Rural Fire Service)
 Nicole Davis, Manager Assessments Aboriginal Cultural Heritage (Heritage NSW)
 James Hunt, Operations Officer, Regulatory Operations Regional (NSW Environmental Protection Authority)
 Jeremy Morice, Manager Licensing and Approvals West (DPE Water Group)

Agenda item discussion and actions


Action	Responsible	Status
Acknowledgement of Country	Department of Planning and Environment (DPE)	Complete
Overview of the proposal	Ballina Shire Council (BSC)	Complete

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Action	Responsible	Status
Access arrangements and haulage along public roads <ul style="list-style-type: none"> Proposed uses and traffic generation of these uses to be understood. TfNSW available to work with BSC on these assumptions. 	Transport for NSW (TfNSW)	Ongoing
Important farmland consideration <ul style="list-style-type: none"> Proposed uses to be taken into consideration. Land use conflict issues arising from these proposed uses and impact are to be considered, particularly to surrounding agricultural land uses, such as to the north-east of the site. 	Department of Primary Industries – Agriculture (DPI – Ag)	Ongoing
Ongoing operation of quarry and value of extractive resource <ul style="list-style-type: none"> No issues raised with the proposal. Need for referral requirement queried. Determined that due to section 9.1 Ministerial Direction 8.1 Mining, Petroleum Production and Extractive Industries, referral would be required to MEG following issuing of a Gateway determination. 	Mining, Exploration and Geoscience (MEG)	Ongoing
Biodiversity considerations <ul style="list-style-type: none"> BCD questioned whether restoration or rehabilitation of the land is required by conditions of consent for the quarry. BSC indicated that it is not aware of any condition requiring this but that revegetation would likely be pursued through future land use. BCD indicated that consideration would then need to be given to any high environmental value present on the land. BCD offered further guidance material. 	Biodiversity Conservation Division (BCD)	Ongoing

Department of Planning and Environment Meeting Minutes		
		
Action	Responsible	Status
<p>however BSC indicated that they had a copy of this information.</p> <ul style="list-style-type: none"> Land immediately to the south has wetland birds and migratory species. Existing flows to this area would ideally be maintained. BCD requested BSC arrange access to facilitate a site inspection by BCD. This matter is to be managed between BCD and BSC 		
<p>Planning matters (introduction of SP4 Enterprise Zone into Ballina LEP 2012 and North Coast Regional Plan (NCRP))</p> <ul style="list-style-type: none"> DPE recommended that if Council continue to pursue a SP4 Enterprise zone for the site that consideration also be given to the application of the SP4 Enterprise and use elsewhere under the Ballina LEP 2012 when drafting the land use table to ensure this translates across the local government area, where appropriate. Other options to achieving the desired land use on site could include an additional permitted use provision rather than rezoning. DPE preference is to bring land into the Ballina LEP 2012, rather than keeping under Ballina LEP 1987. The site is located outside the identified urban growth area (UGA) defined under the NCRP. Consideration will need to be given to the variation criteria under the NCRP to vary the UGA, which will be supported by consideration to other matters raised as part of this meeting. Draft North Coast Regional Plan 2041 likely to be finalised by the time planning proposal is submitted. 	BSC/DPE	Ongoing

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Action	Responsible	Status
<ul style="list-style-type: none"> Any environmental zone proposed on the land will need to demonstrate consistency with the Northern Councils E Zone Review – Final Recommendations Report. 		
<p>Summary, next steps and close</p> <ul style="list-style-type: none"> BSC has resolution to proceed to preparation of the planning proposal and supporting studies. DPE identified a number of agencies were invited to attend this meeting, however, were apologies. Where comments were received, these will be provided to Council as an attachment to the minutes. Studies required have been included under 'other comments'. 	DPE	Ongoing

Other comments

Key issues for consideration:

- Proposed zone and land uses
- Traffic impact
- Land use conflict risk
- High environmental value
- Aboriginal cultural heritage
- Bush fire risk
- Servicing strategy
- Contamination
- Demonstrating consistency with North Coast Regional Plan 2036 and/or draft North Coast Regional Plan 2041
- Consideration of development on waterfront land

Declarations of interest

N/A

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Upcoming meetings

As required throughout the preparation of supporting studies.

Attachments

NSW Rural Fire Service – Written Advice

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Appendix 3 – Gateway Determination



Department of Planning and Environment

Gateway Determination

Planning proposal (Department Ref: PP-2023-1569): to rezone the Tuckombil Quarry (Lot 3 DP 1130300, Lot 22 DP 1243105 and Lot 21 DP 1243105), Gap Road, Alstonville, to facilitate the use of the site for high technology, recreational and community purposes.

I, the Director, Northern Region at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the EP&A Act) that an amendment to the Ballina Local Environmental Plan 2012 to rezone the Tuckombil Quarry (Lot 3 DP 1130300, Lot 22 DP 1243105 and Lot 21 DP 1243105), Gap Road, Alstonville to facilitate the use of the site for high technology, recreational and community purposes should proceed subject to the following conditions.

The LEP should be completed six months from the date of Gateway determination.

Gateway Conditions

1. The planning proposal is to be amended prior to consultation to:
 - (a) update the maps to include a Land Application Map and to display a legend to articulate the controls applied to the land; and
 - (b) update the Preliminary Site Investigation for Contamination Report to address the following matters:
 - include Lot 3 DP 1130300 and provide comment on the suitability of rezoning this site as part of the proposal; and
 - the suitability of the site to accommodate the full range of uses in the zone.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the EP&A Act as follows:
 - (a) the planning proposal is categorised as complex as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 30 working days; and
 - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the EP&A Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:
 - NSW Rural Fire Service

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

- Transport of NSW
- Biodiversity Conservation Division
- Heritage NSW
- Local Aboriginal Land Council
- DPI – Agriculture
- Natural Resources Access Regulator
- Mining, Exploration and Geoscience
- Environmental Protection Authority

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 days to comment on the proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

Dated 8 day of August 2023.



Jeremy Gray
Director, Northern Region
Local and Regional Planning
Department of Planning and Environment

Delegate of the Minister for Planning and
Public Spaces

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville



Department of Planning, Housing and Infrastructure

Alteration of Gateway Determination

Planning proposal (Department Ref: PP-2023-1569)

I, Acting Director, Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 8 August 2023 for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Change part of the description of the planning proposal

from The LEP should be completed six months from the date of Gateway determination.

to The LEP should be completed by 8 May 2024.

Dated 12th day of January 2024.

A handwritten signature in black ink, appearing to read "Lucy Walker".

Lucy Walker
A/ Director, Northern Region
Local and Regional Planning
Department of Planning and Environment

Delegate of the Minister for Planning and
Public Spaces



Department of Planning, Housing and Infrastructure

Alteration of Gateway Determination

Planning proposal (Department Ref: PP-2023-1569)

I, Director, Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* to alter the Gateway determination dated 8 August 2023 for the proposed amendment to the Ballina Local Environmental Plan 2012 as follows:

1. Change part of the description of the planning proposal

from The LEP should be completed by 8 May 2024.

to The LEP should be completed by 8 July 2024.

Dated 26 day of April 2024.

A handwritten signature in black ink, appearing to read 'J. Gray'.

Jeremy Gray
Director, Hunter and Northern Region
Local Planning and Council Support
Department of Planning, Housing and
Infrastructure

**Delegate of the Minister for Planning and
Public Spaces**

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Appendix 4 – Traffic Assessment

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Appendix 5 – Biodiversity Assessment

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Appendix 6 – LUCRA

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Appendix 7 – Contamination Assessment

Planning Proposal PP-2023-1569 Tuckombil Quarry, Alstonville

Appendix 8 – Noise Assessment

Transport for NSW

10 May 2024

File No: NTH24/00283/001

Your Ref: 20240410 - PP-2023-1569, BSCPP22/006

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Rob van Iersel / Paula Newman (Council)

Bruxner Highway (HW16): PP-2023-1569 - BSCPP22/006 - Planning Proposal - Gateway Determination - Updated TIA - Film and creative precinct - Tuckombil Quarry - 540 Gap Road Alstonville

I refer to the abovementioned Planning Proposal referred to Transport for NSW (TfNSW) on 10 April 2024 for revised comment.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with the *Future Transport Strategy*.

Bruxner Highway (HW16) is a classified State Road. Tuckombil Road is an unclassified Regional road (RR7734). Teven and Gap Roads are local roads. Council is the roads authority for all public roads in the area, in accordance with Section 7 of the *Roads Act 1993*.

The Bruxner Hwy / Ballina Rd intersection is subject to proposed improvements under TfNSW 'Bruxner Highway and Ballina Road intersection improvements – Alstonville' project, as detailed [here](#).

TfNSW has reviewed the Planning Proposal and has no objection to the proposed amendments on the basis that any future Development Application is supported by an appropriate Traffic Impact Assessment (TIA) that has consideration to:

- the proposed intersection arrangement under the 'Bruxner Highway and Ballina Road intersection improvements – Alstonville' project, and;
- any additional egress development traffic (light and heavy vehicle movements) diverted through the local road network.

Should you require further information please contact Masa Kimura, Development Services Case Officer, on 1300 207 783 or 0407 707 999 or by emailing development.north@transport.nsw.gov.au.

Yours faithfully

A handwritten signature in black ink that reads 'Court Walsh'.

Court Walsh
Team Leader Development Services
North Region | Community & Place
Regional & Outer Metropolitan

OFFICIAL

6 Stewart Avenue (Locked Bag 2030) Newcastle West NSW 2302
76 Victoria Street (PO Box 576) Grafton NSW 2460

1300 207 783 ABN 18 804 239 602
transport.nsw.gov.au 1 of 1



Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Your reference: (REF-2498) PP-2023-1569
Our reference: SPI20231031000140

ATTENTION: Rob van Iersel

Date: Monday 12 February 2024

Dear Sir/Madam,

**Strategic Planning Instrument
LEP Amendment - Planning Proposal**

Introduce SP4 Enterprise Zone into Ballina LEP 2012; apply SP4 zone to subject site; add new local provision to permit certain ancillary tourist and visitor accommodation at the site, with development consent.

I refer to your correspondence dated 30/10/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

No objection to the rezoning and LEP amendment proposal. Future development applications to address bushfire threat and recommend measures to minimise bushfire risk.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Timothy Carroll
**Manager Planning & Environment Services
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1

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Transport for NSW



5 December 2023

File No: NTH12/00101/04

Your Ref: (PP-2023-1569 - Ref-2496)

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

Attention: Rob van Iersel

PLANNING PROPOSAL PP-2023-1569 SEEKING TO INTRODUCE AN SP4 ENTERPRISE ZONE INTO BALLINA LOCAL ENVIRONMENTAL PLAN 2012 AND APPLY THIS ZONING TO THE SUBJECT SITE, LOT 3 DP 1130300 & LOTS 21 & 22 DP 1243105, 540 GAP ROAD, ALSTONVILLE

I refer to the abovementioned Planning Proposal referred to Transport for NSW (TfNSW) on 30 October 2023 for agency consultation.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with the *Future Transport Strategy*.

Bruxner Highway (HW16) is a classified State Road, Tuckombil Road is an unclassified regional road (7734) and Teven and Gap are local roads. Council is the roads authority for both roads and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*.

At this time, TfNSW withholds its final response to agency consultation as the full impact on the road network is undetermined. To enable TfNSW to undertake a thorough assessment of the proposal, the following matters identified are to be addressed:

- Potential impacts on the safety and efficiency of the Ballina Road and the Bruxner Highway intersection are to be addressed. Traffic analysis of this major intersection is required, using SIDRA or similar traffic model, including:
 - Current traffic counts and 10-year traffic growth projections
 - With and without development scenarios
 - 95th percentile back of queue lengths
 - Delays and level of service on all legs for the relevant intersections
 - Electronic data for TfNSW review.
 - Any other impacts to the road network including consideration of active transport and public transport facilities.
- Traffic counts have not been undertaken in order to understand existing traffic conditions. Current traffic counts for all relevant traffic routes and relevant intersections, including connections to the classified (State) road network is requested.

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TfNSW's advice to the Plan Making Authority


- There is a risk that the assumed trip generation rate for the Planning Proposal does not accurately anticipate future land use uplift.

Whilst acknowledged that the RMS *Guide to Traffic Generating Developments* (2002) does not specify rates for a film studio, traffic surveys of similar operating developments should be undertaken to compare the average trip generation.

Failing the above, if a generic trip rate for the enterprise zone is not used to consider worst case development scenario, a development standard would need to be imposed to cap future intensification of the site.

Should you require further information please contact Holly Taylor, Development Services Case Officer, on 1300 207 783 or 0499 313 670 or by emailing development.north@transport.nsw.gov.au.

Yours faithfully



Court Walsh
Team Leader Development Services
North Region | Community & Place
Regional & Outer Metropolitan

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**Regional
NSW**

16 November 2023

Rob Van Iersel
Consultant Planner
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Our ref: RDOC23/258280
Your ref: BSCPP 22/006 (PP-2023-1569)

Uploaded to: NSW Planning Portal

Dear Mr Van Iersel

Subject: BSCPP 22/006 - Rezone to SP4 - 540 Gap Rd Alstonville - Former Tuckombil Quarry

Thank you for the opportunity to provide advice on the above matter.

MEG understand that the planning proposal is to introduce an SP4 - Enterprise Zone into the Ballina Local Environment Plan 2012 to the subject site comprising Lot 22 DP1243105.

MEG has no concerns to raise in relation to section 9.1(2) of the *Environmental Planning and Assessment Act 1979*, Direction 8.1 - Mining, Petroleum Production and Extractive Industries.

Queries regarding the above information should be directed to the MEG Land Use team at landuse.minerals@regional.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Drummond'.

Malcolm Drummond
A/Manager, Coal Innovation & Land Use
Mining, Exploration & Geoscience

**Department of Planning and Environment**

Your ref: PP-2023-1569
Our ref: DOC23/951237-5

General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Attention: Mr Rob Van Iersel

Dear Mr Hickey

RE: Planning Proposal - Tuckombil Quarry (Lot 3 DP1130300, Lot 22 DP1243105 and Lot 21 DP1243105), Gap Road, Alstonville (PP-2023-1569)

Thank you for your referral dated 31 October 2023 about the planning proposal for the Tuckombil Quarry (Lot 3 DP1130300, Lot 22 DP1243105 and Lot 21 DP1243105), Gap Road Alstonville, seeking comments from the Biodiversity and Conservation Division (BCD) of the Department of Planning and Environment. I appreciate the opportunity to provide input.

The BCD understands the purpose of the planning proposal is to facilitate the use of the Tuckombil Quarry site for film, arts, and technology purposes by:

1. introducing the SP4 Enterprise zone into the Ballina Local Environmental Plan 2012 (BLEP) and making appropriate consequential amendments to various clauses,
2. applying the SP4 Enterprise zone to the site to facilitate its future use for creative industry, high technology industry, recreational and community purposes and amending relevant BLEP maps, and
3. adding a new site-specific Local Provision into Part 7 of the BLEP to allow temporary accommodation on the site for persons involved with approved land uses and providing appropriate objectives and considerations for such uses.

After reviewing the documents supplied, the BCD has no issues with applying the SP4 zone to most of the site. However, some parts of the site comprise High Environmental Value (HEV) land, and we consider the SP4 zone is unsuitable for these areas.

The Biodiversity Assessment Report prepared by GeoLINK and dated 2 March 2023 has correctly identified HEV land and recommended the proponent protect and manage these areas by applying a conservation zone and preparing a Biodiversity Development Plan or Vegetation Management Plan, but these measures are absent from the planning proposal itself.

These issues are discussed in detail in **Attachment 1** to this letter. The BCD recommended approach for assessing biodiversity at the planning proposal stage, including identifying and assessing HEV land, is provided in **Attachment 2**.

Level 8, 24 Moonee Street, (Locked Bag 914), Coffs Harbour NSW 2450 | Ph (02) 6659 8200 | environment.nsw.gov.au

In summary, the BCD recommends that:

1. Areas identified as HEV on Illustration 5.1 of the Biodiversity Assessment Report be rezoned to C2 Environmental Conservation, and
2. A Biodiversity Management Plan or Vegetation Management Plan be prepared and implemented to improve and manage the biodiversity values of HEV areas.

If you have any questions about this advice, please do not hesitate to contact Mr Gene Mason, Senior Conservation Planning Officer, at gene.mason@environment.nsw.gov.au or 8289 6315.

Yours sincerely



DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

17/11/2023

Enclosures:

Attachment 1: Detailed BCD Comments - Planning Proposal - Tuckombil Quarry (Lot 3 DP1130300, Lot 22 DP1243105 and Lot 21 DP1243105), Gap Road, Alstonville (PP-2023-1569)

Attachment 2: BCD NE Branch Approach to Biodiversity Assessment for Planning Proposals

Attachment 1: Detailed BCD Comments – Planning Proposal - Tuckombil Quarry (Lot 3 DP1130300, Lot 22 DP1243105 and Lot 21 DP1243105), Gap Road, Alstonville (PP-2023-1569)

The Biodiversity and Conservation Division (BCD) of the Department of Planning and Environment has reviewed the planning proposal to rezone the Tuckombil Quarry (Lot 3 DP1130300, Lot 22 DP1243105 and Lot 21 DP1243105), Gap Road Alstonville to facilitate the use of the site for film, arts, and technology purposes, and we provide the following comments.

Strategy 3.1 of the North Coast Regional Plan (NCRP) 2041 requires strategic planning to consider opportunities to protect biodiversity values by:

- focusing land use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and Planning Proposals,
- identifying HEV assets within the planning area at Planning Proposal stage through site investigations, and
- applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets.

HEV land is considered present in a planning area if one or more of the following components occurs there:

- Land identified on the Biodiversity Values Map
- Land containing over-cleared vegetation types
- Land containing native vegetation within an over-cleared landscape (Mitchell landscapes)
- Land containing a Threatened Ecological Community (TEC)
- Land within 100 metres of a Coastal Wetland and/or Littoral Rainforest mapped as per the *State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021*
- Key habitat for threatened species (i.e. vulnerable, endangered or critically endangered flora and fauna species listed under the *Biodiversity Conservation Act 2016* (BC Act))
- Nationally important wetlands
- Areas of geological significance

The following HEV components are present on the site:

- Branch Creek and its riparian area, which are identified on the Biodiversity Values Map
- Vegetation that is representative of the TEC Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions
- Known habitat for two vulnerable plants, durobby (*Syzygium moorei*) and rough-shelled bush nut (*Macadamia tetraphylla*)

As shown in the excerpt below, these HEV components are identified in the Biodiversity Assessment Report prepared by GeoLINK and dated 2 March 2023.

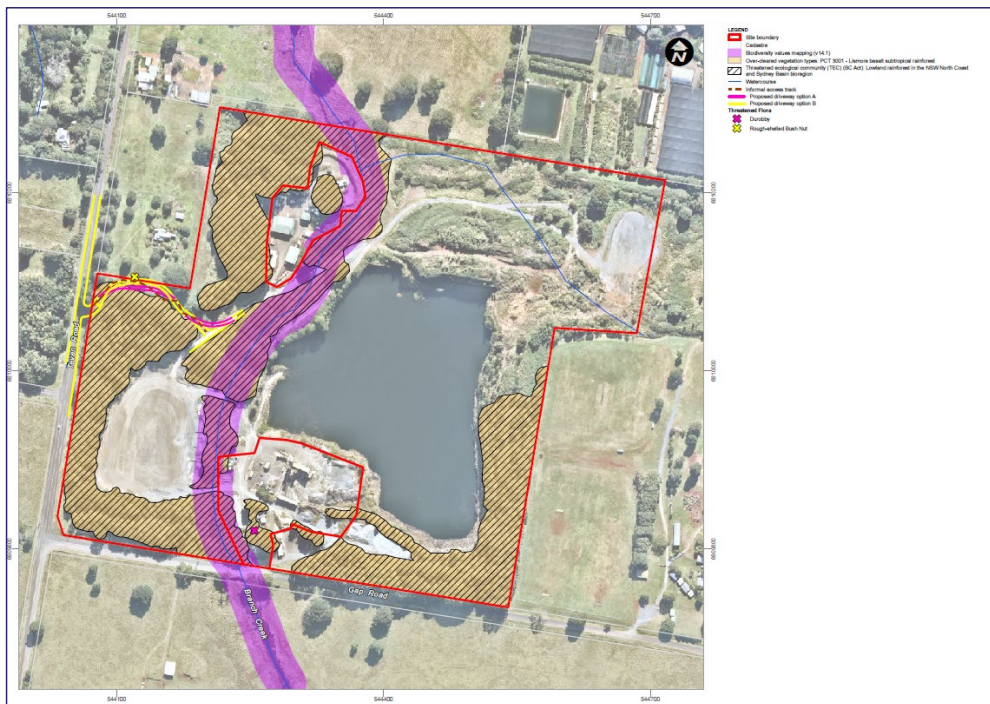


Illustration 5.1 High Environmental Values (HEV) Geolink (2023).

The Biodiversity Assessment Report recommends the proponent considers protecting and managing the HEV areas by applying a conservation zone and preparing a Biodiversity Management Plan or Vegetation Management Plan. However, the planning proposal itself does not appear to include these measures.

The BCD considers that applying the C2 Environmental Conservation zone to the HEV areas and managing them through a Biodiversity Development Plan or Vegetation Management Plan would better protect biodiversity values on the site from future development impacts and would accord with the NCRP 2041.

BCD Recommendations:

1. Areas identified as HEV on Illustration 5.1 of the Biodiversity Assessment Report be rezoned to C2 Environmental Conservation, and
2. A Biodiversity Management Plan or Vegetation Management Plan be prepared and implemented to improve and manage the biodiversity values of HEV areas.

Attachment 2: BCD NE Branch Approach to Biodiversity Assessment for Planning ProposalsIntroduction

Planning proposals should demonstrate consistency with the strategic planning framework including the relevant Regional Plan.

To achieve biodiversity goals, directions, and actions in the relevant Regional Plan for areas with High Environmental Value (HEV), planning proposals should identify areas of HEV at the property scale and the current land uses in such areas should not be intensified.

Areas of HEV should instead be better protected by planning proposals through an appropriate zone which has strong conservation objectives and limited land uses, an appropriate minimum lot size so the land cannot be subdivided, and future management through a Biodiversity Management Plan (BMP) and Vegetation Management Plan (VMP). Also, the residual biodiversity impacts of planning proposals should be offset.

Planning proposals should also secure the provision of these biodiversity offsets and the preparation and implementation of the BMP and VMP.

Biodiversity assessment for planning proposals

Biodiversity assessment for planning proposals should be undertaken in accordance with the following seven steps:

Step 1: Include the entire lot in the planning area The planning area should cover the entire cadastral lot unless only a part of the lot is identified in a growth management strategy, in which case the planning area could be limited to just that part of the lot.

Step 2: Consider biodiversity certification The proponent should consider seeking biodiversity certification of the proposed future development land in the planning area as part of the planning proposal.

Step 3: Identify HEV If biodiversity certification is not sought, then the planning proposal should identify and map areas of HEV in the planning area with desktop analysis and site investigations as set out in Appendix 1.

Step 4: Avoid and minimise impacts on HEV The planning proposal should be designed to maximise avoiding land use intensification in HEV areas and should provide justification to demonstrate how the land use zones and minimum lot sizes (MLS) applied to HEV areas and to other parts of the planning area accord with the guidance in Appendix 2.

Step 5: Protect HEV and SAI The planning proposal should use planning mechanisms (e.g. Conservation zones, Minimum Lot Sizes to preclude subdivision) and a BMP and VMP to protect HEV.

Step 6: Calculate biodiversity credits for future development impacts The planning proposal should apply Stage 1 of the Biodiversity Assessment Method to calculate the biodiversity credits for the parts of the planning area to be rezoned for land use intensification.

Step 7: Secure biodiversity credits and the BMP and VMP

The planning proposal should include a planning agreement to secure:

- a. the provision of the biodiversity credits from Step 6 at the development application (DA) stage unless the Biodiversity Offsets Scheme (BOS) is triggered by that DA, and more biodiversity credits are required by the BOS for the DA; and
- b. preparation and implementation of the BMP and VMP for the C zoned land.

Appendix 1 - BCD NE Branch HEV Criteria and Identification Methods at the Property Scale

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
Criterion 1. Sensitive biodiversity mapped on the Biodiversity Values Map		
1.1 Biodiversity Values Map		<ul style="list-style-type: none"> a. Identify the parts of the land on the Biodiversity Values Map. b. Inspect those mapped areas on the land to verify accuracy and map as HEV where the map is accurate.
Criterion 2. Native vegetation of high conservation value		
2.1 Over-cleared vegetation types		<ul style="list-style-type: none"> a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the Vegetation Information System (VIS) database. c. Use the VIS to determine whether the % cleared status of the PCTs identified through field work on the land is above 70%. d. Map all PCTs on the land with the % cleared above 70% as HEV.
2.2 Vegetation in over-cleared landscapes (Mitchell landscapes)		<ul style="list-style-type: none"> a. Identify over-cleared Mitchell landscapes by viewing map data from the SEED Portal – selecting NSW (Mitchell Landscapes) – latest version, selecting Show on Seed Map and viewing the View Over Cleared Land Status. b. Map all native vegetation on the land as HEV if it is in an over-cleared Mitchell landscape.
2.3 Threatened Ecological Communities - any vulnerable, endangered, or critically endangered ecological community listed under the <i>Biodiversity Conservation Act 2016</i> (BC Act), the <i>Fisheries Management Act 1994</i> or the <i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i> and not mapped on the Biodiversity Values Map		<ul style="list-style-type: none"> a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the VIS database. c. Use the VIS to determine whether the PCTs on the land have Threatened Ecological Community (TEC) Status. d. If not <i>identified</i> as a TEC from steps a – c above, then refer to the NSW Threatened Species Scientific Committee determinations, schedules 4, 4A and 5 of the FM Act, and the EPBC Protected Matters Search Tool to consider whether the any of the PCTs accord with the determinations. a. Map all PCTs on the land that are TECs as HEV.
2.4 100m buffer on Coastal Wetlands and Littoral Rainforest areas as per the State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021		<ul style="list-style-type: none"> a. Locate the land on the SEPP (Resilience and Hazards) Maps b. Map any parts of the land shown as proximity areas for Coastal Wetlands and Littoral Rainforest as HEV.
Criterion 3. Threatened species		
3.1 Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act)	Key breeding habitats with known breeding occurrence	<ul style="list-style-type: none"> a. Search BioNet for threatened species records on and within 5km of the land b. Undertake field work to identify potential breeding habitats on the land for threatened species. c. Either assume breeding occurrence and map identified breeding habitats on the land as HEV or undertake targeted surveys during the breeding season and map these habitats as HEV if breeding occurs there.
	Core Koala Habitat	<ul style="list-style-type: none"> a. Check council records for approved comprehensive or individual property Koala Plans of Management (KPoM). b. Identify areas of core koala habitat on the land mapped in any approved KPoM and map these areas as HEV. c. If there are no approved KPoMs, then undertake field work in accordance with the relevant State Environmental Planning Policy (SEPP) for koalas, e.g. SEPP (Koala Habitat Protection) 2020, to determine whether Core Koala Habitat is present on the land. d. Map any core koala habitat identified on the land through field work as HEV.

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
	Habitat for known populations of species-credit-species and SAI entities (species-credit species and SAI entities are identified in the Threatened Biodiversity Data Collection)	<ul style="list-style-type: none"> a. Search BioNet for threatened species records on and within 5km of the land. b. Undertake field work to identify populations of threatened species credit species on the land and their habitats. c. Map all habitats of known populations of species credit species on the land as HEV. <p>The Biodiversity Assessment Method and the Department's survey assessment guidelines should be referred to for suitable habitat assessment methodologies.</p> <p>If a recent Biodiversity Development Assessment Report has been prepared for the land, then this could be referred to in support of demonstrating how this criterion has been considered.</p>
	Key habitats for migratory species	<ul style="list-style-type: none"> a. Search BioNet for threatened migratory species records on and within 5km of the land. b. Undertake field work to identify habitats of threatened migratory species on the land. c. Map all habitats of threatened migratory species on the land as HEV.
Criterion 4. Wetlands, rivers, estuaries & coastal features of high environmental value		
4.1 Nationally important wetlands	Note: Rivers and their riparian areas comprising HEV are included in the Biodiversity Values Map under HEV Criterion 1 as protected riparian land	<ul style="list-style-type: none"> a. Search the Directory of Important Wetlands in Australia for those occurring in NSW. b. Identify any nationally important wetlands listed in the directory that occur on the land and map these areas as HEV.
4.2 Vulnerable Estuaries and Intermittently Opening and Closing Lakes and Lagoons (ICOLLS)		<ul style="list-style-type: none"> a. Identify whether any vulnerable estuaries or ICOLLS occur on, or in the vicinity of, the land by reviewing the Maps. b. Map any vulnerable estuaries or ICOLLS that occur on, or in the vicinity of, the land as HEV.
Criterion 5. Areas of geological significance		
5.1 Karst landscapes		<ul style="list-style-type: none"> a. Identify whether limestone outcrops or caves occur on the land. b. Consider any additional Karst landscapes that occur in the vicinity of the land, with reference to the NSW Government's Guide to New South Wales Karst and Caves and any other available karst mapping, such as karts maps associated with local environmental plans. c. Map any limestone outcrops or caves on the land and any other karst landscapes that occur in the vicinity of the land as HEV.
5.2 Sites of geological significance included in the State Heritage Register or Heritage Inventory		<ul style="list-style-type: none"> a. Identify whether the land contains, or is in the vicinity of, the sites of geological significance listed in Annexure A. b. Map any sites of geological significance that occur on, or in the vicinity of, the land as HEV.

Annexure A: Sites of geological significance included in the State Heritage Register or Heritage Inventory

Local Government Area	Name	Location
Canterbury Bankstown	Enfield Brickpits	7 Juno Parade, Greenacre
Cessnock	Bow Wow Creek Gorge	Sandy Creek Road, Mulbring
Eurobodalla	Myrtle Beach - Wasp Head Coastal Area	Durras
	Melville Point	Red Hill Road, Tomakin
Goulburn-Mulwaree	Badgerys Lookout View	Tallong
Kiama	Bombo Headland Quarry Geological Site	Princes Highway, Bombo
Port Stephens	Seaham Quarry	Torrence Street, Seaham
Shellharbour	Bass Point Area	Bass Point Tourist Road, Shellharbour
Warrumbungle	Narangarie Quarry Geological Site	Narangarie Road, Coolah
Uralla	The Captain Thunderbolt Sites – Thunderbolt's Rock	New England Highway, Uralla

Appendix 2: BCD NE Branch Approach for Avoiding and Minimising Impacts on HEV Areas

Decisions about the location of land use intensification in planning proposals should be informed by knowledge of biodiversity values including High Environmental Values (HEV) recognising that this is an iterative process that should consider the guidance provided below.

Locating land use intensification to avoid and minimise impacts on native vegetation and habitat

1. Direct impacts on clearing of native vegetation and habitat can be avoided and minimised by:
 - (a) locating land use intensification in areas where there are no biodiversity values
 - (b) locating land use intensification in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)
 - (c) locating land use intensification in areas that avoid habitat for species that have a high biodiversity risk weighting or native vegetation that is a threatened ecological community (TEC)
 - (d) locating land use intensification such that connectivity enabling movement of species and genetic material between areas of adjacent or nearby habitat is maintained.
2. In selecting locations for land use intensification, the following should be addressed, as they apply to the planning proposal:
 - (a) an analysis of alternative modes or technologies that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed mode or technology
 - (b) an analysis of alternative routes that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed route
 - (c) an analysis of alternative locations that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed location
 - (d) an analysis of alternative sites within a property on which land use intensification is proposed that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed site.
1. Justifications for decisions on the location of land use intensification should identify any other site constraints that the proponent has considered in determining the location and design of these areas, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.
2. Actions taken to avoid and minimise impacts through locating areas for land use intensification must be documented and justified in the planning proposal.

Designing a planning proposal to avoid and minimise impacts on native vegetation and habitat

1. Planning proposal design, including the potential location of future temporary and permanent ancillary construction and maintenance facilities, should avoid and minimise clearing of native vegetation and habitat by:
 - (a) reducing the clearing footprint of future development
 - (b) locating ancillary facilities in areas where there are no biodiversity values
 - (c) locating ancillary facilities in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)

- (d) locating ancillary facilities in areas that avoid habitat for species and vegetation in high threat status categories (e.g. a TEC)
- (e) providing structures to enable species and genetic material to move across barriers or hostile gaps
- (f) making provision for the demarcation, ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation habitat on the development site.

2. Efforts to avoid and minimise impacts through design must be documented and justified in the planning proposal.

Other Impacts on HEV

Some future development to be enabled by a planning proposal may have other impacts on HEV in addition to, or instead of, impacts from clearing vegetation and/or loss of habitat. For many of these impacts, HEV may be difficult to quantify, replace or offset, making avoiding and minimising impacts critical. Other impacts on HEV can include:

- (a) impacts of future development on the habitat of threatened species or ecological communities associated with:
 - i. karst, caves, crevices, cliffs and other geological features of significance, or
 - ii. rocks, or
 - iii. human made structures, or
 - iv. non-native vegetation
- (b) impacts of future development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range
- (c) impacts of future development on movement of threatened species that maintains their life cycle
- (d) impacts of future development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining)
- (e) impacts of wind turbine strikes on protected animals
- (f) impacts of vehicle strikes on threatened species or on animals that are part of a TEC.

Locating a planning proposal to avoid and minimise other impacts on HEV

1. Other impacts on HEV can be avoided and minimised by:

- (a) locating areas of land use intensification to avoid direct impacts on such habitat features
- (b) locating areas of land use intensification to avoid and minimise future operations beneath such habitat features, e.g. locating future development away from geological features of significance or water dependent plant communities and their supporting aquifers
- (c) locating areas of land use intensification to avoid severing or interfering with corridors connecting different areas of habitat, migratory flight paths to important habitat or local movement pathways

- (d) optimising the locations of land use intensification to minimise future interactions with threatened species and ecological communities, e.g. allowing for buffers around features that attract and support aerial species, such as forest edges, riparian corridors and wetlands, ridgetops and gullies
 - (e) locating areas of land use intensification to avoid direct impacts on water bodies.
- 2. In selecting areas of land use intensification, the following should be addressed, as they apply to the planning proposal:
 - (a) an analysis of alternative modes or technologies that would avoid or minimise such impacts and justification for selecting the proposed mode or technology
 - (b) an analysis of alternative routes that would avoid or minimise such impacts and justification for selecting the proposed route
 - (c) an analysis of alternative locations that would avoid or minimise such impacts and justification for selecting the proposed location
 - (d) an analysis of alternative sites within a planning area that would avoid or minimise such impacts and justification for selecting the proposed site.
- 3. Justifications for decisions about areas of land use intensification should identify any other site constraints that the proponent has considered in determining the locations of such areas and design of the planning proposal, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.
- 4. Efforts to avoid and minimise impacts through locating areas of land use intensification must be documented and justified in the planning proposal.

Designing a planning proposal to avoid and minimise other impacts on HEV

- 1. Other impacts on HEV can be avoided and minimised by:
 - (a) engineering solutions, e.g. proven techniques to minimise fracturing of bedrock underlying features of geological significance, water dependent communities and their supporting aquifers, proven engineering solutions to restore connectivity and favoured movement pathways
 - (b) design of project elements to minimise interactions with threatened and protected species and ecological communities, e.g. designing turbines to dissuade perching and minimise the diameter of the rotor swept area, designing fencing to prevent animal entry to transport corridors
 - (c) design of the project to maintain environmental processes critical to the formation and persistence of habitat features not associated with native vegetation
 - (d) design of the project to maintain hydrological processes that sustain threatened species or TECs
 - (e) design of the project to avoid and minimise downstream impacts on rivers, wetlands and estuaries by control of the quality of water released from the site.

Efforts to avoid and minimise other impacts on HEV through design must be documented and justified in the planning proposal.

From: Louise Doherty <louise.doherty@environment.nsw.gov.au>
Sent: Tuesday, June 11, 2024 10:52 AM
To: Rob van Iersel <Rob.vaniersel@ballina.nsw.gov.au>
Subject: 540 Gap Road

Hi Rob,

Sorry about the wait.

Here is the extract you requested.

"We have reviewed the planning proposal and make the following comments:

In accordance with the gateway determination report the applicant should consult with the Native Title party in relation to cultural values.

The subject area is within the bounds of the Widjabul Wia-bal Goori naa ILUA accordingly the appropriate body to consult with is the Widjabul Wia-bal Registered Native Title Body Corporate.

Consultation with the Aboriginal community needs to occur early in the planning process to identify Aboriginal cultural heritage values that may occur within the proposal area and establish how this may constrain future development."

Kind regards,

Louise

Louise Doherty (*she/her*)
Senior Heritage Assessment Officer
Heritage NSW
**Department of Climate Change,
Energy, the Environment and Water**

T (02) 9995 5313 E louise.doherty@environment.nsw.gov.au

dcceew.nsw.gov.au

Working days Monday to Friday



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

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