



IRF23/2039

## Gateway determination report – PP-2023-1569

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Tuckombil Quarry rezoning to facilitate use of site for high technology, recreational and community purposes

July 23

Published by NSW Department of Planning and Environment

[dpie.nsw.gov.au](https://dpie.nsw.gov.au)

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# Acknowledgment of Country

The Department of Planning and Environment acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
Planning Proposal Film Industry Tuckombil Quarry Gap Road, Alstonville
Appendix 3 – Traffic Impact Assessment
Appendix 4 – Biodiversity Assessment Report

Appendix 5 - LUCRA

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Appendix 6 – Contamination Report

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Appendix 7 - Noise

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

<b>LGA</b>	<b>Ballina Local Government Area</b>
<b>PPA</b>	<b>Ballina Shire Council</b>
<b>NAME</b>	<b>Tuckombil Quarry Rezoning</b>
<b>NUMBER</b>	<b>PP-2023-1569</b>
<b>LEP TO BE AMENDED</b>	<b>Ballina Local Environmental Plan 2012</b>
<b>ADDRESS</b>	<b>Gap Road, Alstonville</b>
<b>DESCRIPTION</b>	<b>Lot 3 DP 1130300 Lot 22 DP 1243105 Lot 21 DP 1243105</b>
<b>RECEIVED</b>	<b>25/07/2023</b>
<b>FILE NO.</b>	<b>IRF23/2039</b>
<b>POLITICAL DONATIONS</b>	<b>There are no donations or gifts to disclose, and a political donation disclosure is not required</b>
<b>LOBBYIST CODE OF CONDUCT</b>	<b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b>

## 1.2 Objectives of planning proposal

The planning proposal seeks to facilitate the use of the site for the purposes of a film studio and to allow some recreational and community uses. This will be achieved through the introduction of a new zone, SP4 Enterprise, into the Ballina LEP 2012 and applying this zone to the site.

The proposal will allow a local film production company to lease the site as a location for its headquarters and studio facilities, generating approximately 20 jobs.

In addition, the proposal seeks to allow for the provision of ancillary temporary accommodation on the site, only for persons involved with the approved film studio land use.

The proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The proposal will achieve the objective by introducing SP4 Enterprise Zone, a new land use zone, into the Ballina LEP 2012. The SP4 Enterprise Zone was introduced into the Standard Instrument LEP as part of the recent Employment Zone Reform process. The key objective of the zone is to

support enterprise and productivity and the Explanation of Intended Effect indicated that this zone would be introduced to support unique areas that required tailored land use planning. It is considered that the future use of the site requires a tailored approach.

Council has included the intended land use table, which is considered acceptable for exhibition, noting that changes may be made during the legal drafting stage by Parliamentary Counsel. It is noted that all land uses proposed for inclusion in the land use table are permitted, pursuant to the Standard Instrument LEP.

The proposal will seek to make consequential amendments to relevant clauses, as required, resulting from the introduction of the new zone, along with the introduction of a new site-specific heads of consideration clause that will also permit with consent the proposed ancillary temporary accommodation. These clauses are outlined in Council's planning proposal and are also subject to change at legal drafting stage.

The SP4 Enterprise zone will be applied to Lot 3 DP 1130300, Lot 22 DP 1243105 and Lot 21 DP 1243105 to facilitate the future use. The site is currently zoned 1(e) Rural (Extractive and Mineral Resources) under Ballina LEP 1987.

In addition, the proposal will apply a maximum height of building restriction of 10m and a minimum lot size of 1000m<sup>2</sup> to the site.

The planning proposal seeks the changes to the site, as outlined below:

**Table 3 Current and proposed controls**

Control	Current	Proposed
LEP	Ballina LEP 1987	Ballina LEP 2012
Zone	1(e) Rural (Extractive and Mineral Resources)	SP4 Enterprise Zone
Maximum height of the building	-	10m
Minimum lot size	-	1000m <sup>2</sup>

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

## 1.4 Site description and surrounding area

The site is located to the north-east of the existing footprint of Alstonville (**Figure 1**). The site is surrounded by non-urban land and use of adjoining land varies from plant nursery, grazing of stock, rural lifestyle blocks and horticultural operations.

The planning area (**Figure 1**) is comprised of three irregularly shaped lots (**Figure 3**), which are all currently owned by Ballina Shire Council.

Table 4 outlines the current use carried out on the three lots comprising the planning area.

**Table 4 Current uses**

Lot	Current Use
Lot 22 DP 1243105	Quarrying activities have been undertaken on Lot 22 since 1908. Active quarrying operations were most recently undertaken under Development Consent 1995/276. The consent did not outline a maximum time for

Lot	Current Use
	<p>operation, however enabled extraction of 450,000m<sup>3</sup> of material. Active quarry operations ceased in August 2016.</p> <p>Due to the proximity of residential land uses to the site, Council is reluctant to pursue the continuation of quarrying activities.</p>
Lot 21 DP 1243105	<p>Boral Asphalt currently occupy Lot 21, however regular operations ceased in July 2020. Council indicate that the plant is no longer open for sales and operates infrequently.</p> <p>The lease will end in 2024 and Council have outlined to the tenant that it does not intend to renew the lease.</p> <p>As part of the requirements of the lease, Boral will be required to remediate the land. This is discussed in further detail below.</p>
Lot 3 DP 1130300	<p>A private company occupies Lot 3 for the purposes of storage and maintenance of drilling plant and equipment and the storage of hazardous materials (explosives).</p> <p>The lease on Lot 3 also ends in 2024, however Council has advised the tenant that it intends to renew the lease, subject to agreement that the manufacture and storage of explosive and/or hazardous material will cease at the site, where a development application to facilitate film studio uses is approved on Lot 22. The tenant has advised Council that, in this circumstance, a lessor approval will be sought for administrative purposes only, with storage and manufacture relocated to an alternate site.</p> <p>Council has indicated that this would likely be achieved through the update to the lease arrangements, although Council may wish the lessee to lodge a modification application to amend the original consent for the activity.</p>



**Figure 1 Subject site (source: Councils Planning Proposal)**

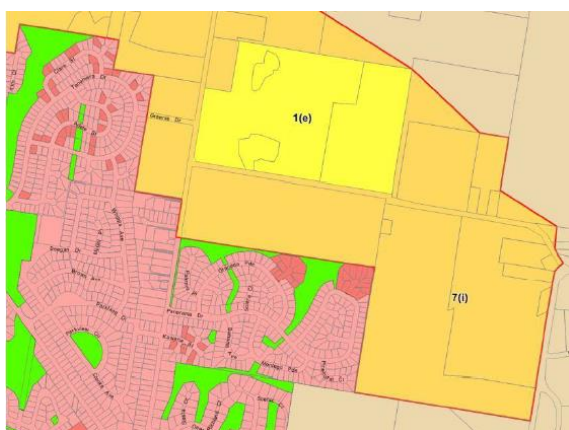


## 1.5 Mapping

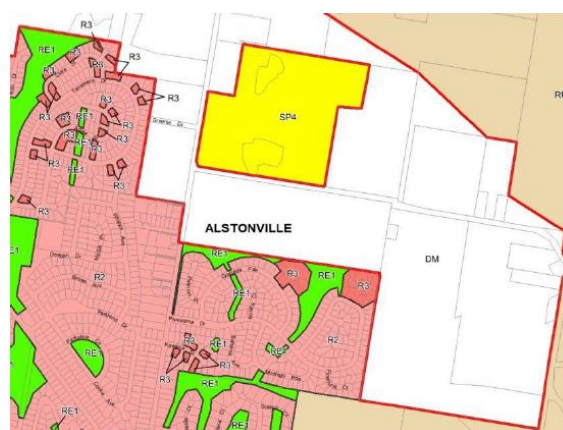
The planning proposal includes mapping showing the proposed changes to the land zoning, minimum lot size and height of building maps. A condition has been included requiring these maps to display a legend to articulate the control applied to the land, which will ensure these are suitable for community consultation. As the land will be brought into the Ballina LEP 2012 a Land Application Map will also be required and a condition has been included. Technical maps will be required at finalisation stage.

Ballina Shire Council has not transitioned to digital land zoning maps at this stage. As such the following map sheets will be amended (in addition to the Land Application Map) as a result of this planning proposal:

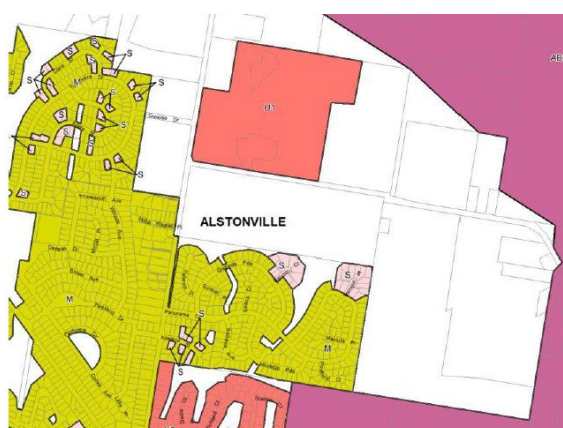
- Land Zoning Map LZN\_002A
- Lot Size Map LSZ\_002A
- Height of Building Map HOB\_002



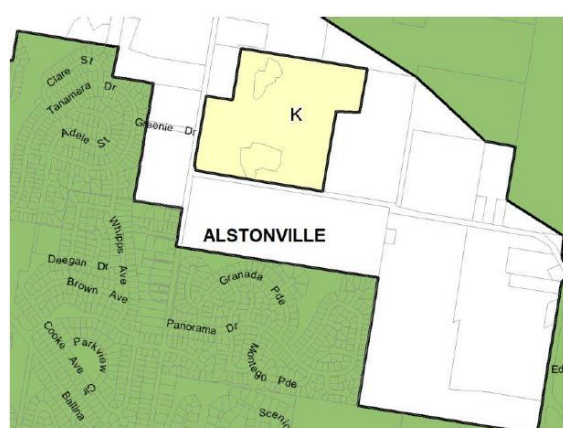
**Current zoning map**



**Proposed zoning map**



**Proposed height of building map**



**Proposed minimum lot size map**

## 1.6 Background

Consistent with the recommendations of the LEP Making Guidelines (September 2022), Council approached the Department to arrange a scoping meeting to discuss the proposal. The meeting was held on 5 September 2022 and attended by the following agencies:



- Transport for NSW (TfNSW);
- Biodiversity and Conservation Division (BCD);
- Department of Primary Industries – Agriculture (DPI - Ag); and
- Mining, Exploration and Geoscience (MEG).

NSW Rural Fire Service were an apology but provided written commentary to Council.

Agencies raised matters for consideration by Council in the preparation of the planning proposal, however no major issues were identified as part of the scoping meeting that would prevent the proposal from proceeding. Of specific note, MEG raised no concerns with the proposal proceeding, despite the presence of the former quarry and resource within the planning area.

Council has sought to address matters raised by agencies as part of the planning proposal prepared and submitted to support this assessment.

Further consultation with relevant agencies on these matters will occur following the issuing of a Gateway determination.

## 2 Need for the planning proposal

The planning proposal is not the direct result of a local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report. The proposal is in response to changing circumstances and Council reviewing lease opportunities and consideration of highest and best use of existing employment land that is in close proximity to expanding residential land uses.

The planning proposal is the best means of achieving the objectives or intended outcomes. During the scoping meeting, an additional permitted use on the land under the Ballina LEP 1987 was explored, however the Department advised a rezoning was preferred, in order to bring the land under the Ballina LEP 2012, rather than retaining in the former LEP.

The proposal seeks to facilitate 20 jobs on the site, however, this figure could be greater depending upon the size of the facility that is ultimately developed.

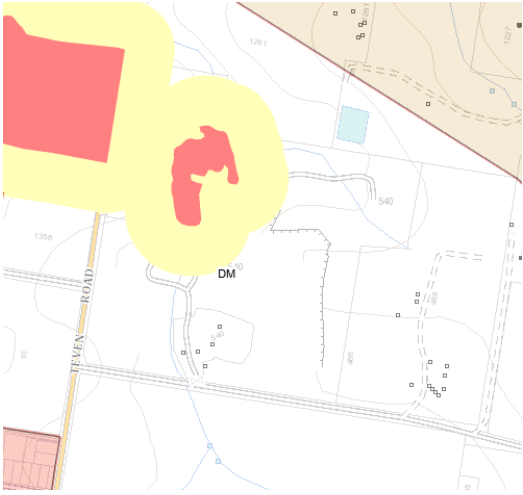
## 3 Strategic assessment

### 3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041.

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
Objective 3: Protect regional biodiversity and areas of high environmental value	<p>The proposal is considered consistent with this objective as it is supported by a Biodiversity Assessment which has identified HEV assets within the planning area at the planning proposal stage and how these can be managed/avoided.</p> <p>It is noted that the submitted Biodiversity Report indicates that consideration could be given to the application of conservation zones on areas identified as having biodiversity value within the planning area, however this has not been pursued as part of the planning proposal.</p>

	It is considered appropriate for the Biodiversity and Conservation Division to review the recommendations of the Biodiversity Report and provide comment in relation to this recommendation. Consultation with BCD forms part of the conditions of the Gateway determination.
Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change	<p>The proposal is broadly consistent with this objective. The north-west quadrant of the subject site (affecting Lot 22 and Lot 3 of the planning area) is identified as bushfire prone land.</p>  <p>Council indicates that the risk can be managed on site, based on the preparation of a detailed Bushfire Assessment at a future development stage.</p> <p>It is noted that NSW RFS as part of comments received during the scoping stage outlined that the planning proposal should include a discussion on bushfire risk to the future land use activities and identify suitable risk mitigation measures to identified risk as per the relevant sections of Planning for Bushfire Protection (PBP) 2019.</p> <p>It is considered appropriate for NSW RFS to review this justification and provide comment in relation to this approach. Consultation with NSW RFS forms part of the conditions of the Gateway determination.</p>
Objective 8: Support the productivity of agricultural land.	<p>The planning area is identified as important farmland under the NCRP 2041 and proposes rezoning of the site for urban purposes.</p> <p>Consistent with the requirements of the North Coast Regional Plan 2041, Council has addressed the urban growth area variation principles to assess the suitability of the use of this pocket of land for non-agricultural land use.</p> <p>Notwithstanding the current nominal mapping of the site as important farmland, due to the existing long term developed nature of the site for employment uses and quarrying since 1908, the site is not considered to constitute important farmland for the purposes of the NCRP 2041. This rezoning represents a logical translation of the existing use to an appropriate future zone when considering the existing and likely possible future uses of the land based on its current conditions and the likely impracticality of utilising the land for viable agricultural activities.</p> <p>The proposal is therefore considered consistent with the broad requirements of this objective. It is however considered appropriate</p>

	that DPI-Ag be consulted as part of the agency exhibition process, due to the surrounding agricultural land identified as important farmland.
Objective 10: Sustainably manage the productivity of our natural resources	<p>The proposal is considered consistent with this objective. Whilst the proposal currently supports an existing quarry, early consultation with MEG has been undertaken to explore the value of the quarry. The proposal notes that resource is not viable due to substantial overburden.</p> <p>There is also an incompatibility between the operation of the quarry and surrounding residential land uses, which leads to land use conflict.</p> <p>Quarrying operations ceased in 2016 and Council has elected to explore the potential for an alternate land use zone that will continue to contribute employment opportunities in the LGA.</p>
Objective 11: Support cities and centres and coordinate the supply of well-located employment land.	<p>The proposal is considered consistent with this objective which notes that certain industries may need to be located away from traditional centres. As noted, this proposal is not supported by an endorsed local employment land strategy. Whilst the proposal seeks to rezone land currently zoned 1(e) Rural (Extractive and Mineral Resources) to SP4 Enterprise, this is not considered “new employment land” as there are existing employment operations being carried out on the site and the proposed creative arts hub is a fairly unique proposal that has size and locational requirements that can’t be accommodated elsewhere in the Shire.</p> <p>The rezoning will facilitate the ongoing use of a developed site for employment land.</p>
Objective 14: Deliver new industries of the future.	The proposal is considered consistent with this objective. The regional plan specifically notes the benefits of expanding the film sector, including opportunities to grow and expand the local economy based on the region’s natural endowments.
Objective 18: Plan for sustainable communities	The proposal has addressed the urban growth variation principles, consistent with the requirements of this objective. This assessment concludes that the proposal is broadly consistent with the North Coast Regional Plan 2041.

### 3.1.1 Attachment B Urban Growth Area Variation Principles

Urban Growth Area Variation Principles	Justification
Policy	<p>The proposal is considered broadly consistent with the requirements of the North Coast Regional Plan 2041.</p> <p>Whilst the land is not located within the urban growth area boundary, the site has long term employment land use, with a rural industry established since 1908. It is noted the land has not been utilised for agricultural production since this time and based on the operations on the site, is concluded to support long established rural industrial use.</p> <p>As demonstrated above, the proposal is considered consistent with the objectives of the regional plan. Consideration has been given to</p>

Urban Growth Area Variation Principles	Justification
	<p>relevant Section 9.1 Ministerial Directions and State Environmental Planning Policies below.</p> <p>This site is not specifically addressed in the Ballina Shire Local Growth Management Strategy. The Alstonville Strategic Plan 2017-2037 however refers to the quarry limiting potential of residential expansion to the northeast. This is not directly relevant to this proposal but highlights the challenge of maintaining a rural industry in close proximity to residential uses. The rezoning to facilitate the use of the site for light industry is considered to continue to secure the land for employment while managing impacts to surrounding residents.</p>
Infrastructure	<p>Council have indicated that water and sewer is available to the site and can be upgraded to meet the demand of the future development.</p> <p>The Traffic Impact Assessment confirms that there is sufficient capacity in the road network to accept the traffic volumes as a result of the proposal.</p>
Environmental and heritage	<p>The proposed rezoning is not considered to result in impacts on areas of high environmental value or heritage value.</p>
Avoiding Risk	<p>Consideration has been given to the bushfire and potential for land slip (which are discussed in further detail below) and it is considered both risks are manageable on site.</p> <p>This will be further extrapolated as part of agency consultation.</p>
Coastal Strip	<p>The site is not located in the coastal strip.</p>
Land Use Conflict	<p>The land is considered to be appropriately separated from incompatible land uses. The existing location of the site provides a buffer to the established urban footprint and residential land uses in Alstonville. The submitted LUCRA indicates that land use conflict to surrounding agricultural land uses is acceptable and can be mitigated. This will be confirmed by way of consultation with DPI-Ag.</p>
Important Farmland	<p>As discussed above, the site is not considered to constitute important farmland for the purposes of the NCRP 2041.</p>

## 3.2 Local

Council have indicated that the proposal is in accordance with Council's Local Strategic Planning Statement 2020 and the Community Strategic Plan 2017-2027.

The LSPS promotes the prosperous economy theme and the CSP outlines under outcome PE1.2 that opportunities should be provided for new business.

It is noted that there is no locally endorsed strategic plan that supports the extension of the UGA to incorporate this site. Should Council wish to amend the UGA more broadly in the future to include this site or any surrounding lands, this should be explored by way of an endorsed local strategic plan.

### 3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

**Table 6 Section 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
1.1 Implementation of Regional Plans	Yes	The proposal is considered to be consistent with the NCRP 2041 as discussed above.
1.4 Site Specific Provisions	Minor Inconsistency	<p>The proposal is considered inconsistent with this Direction as it permits development to be carried out only by imposing requirements in addition to those already contained in the principal environmental planning instrument being amended.</p> <p>In this instance, the proposal seeks to introduce a new local provision that would permit temporary accommodation on the site, but only for persons involved with the approved land uses.</p> <p>The inconsistency is minor as the accommodation is only a small ancillary component of the wider operations. The local clause will only establish the permissibility of this ancillary use to avoid any potential confusion regarding permissibility arising at the development application stage. The inclusion is considered appropriate in this instance.</p>
4.3 Planning for Bushfire Protection	Unresolved	Part of the planning area is identified as bushfire prone land. As such, referral is required to the NSW Rural Fire Service. Consistency of the proposal with this Direction therefore can't be determined until after this consultation has been undertaken.
4.4 Remediation of Contaminated Land	Unresolved	<p>The planning proposal is supported by a Preliminary Site Investigation for Contamination report. The report concludes that the site is considered suitable for the proposed rezoning for high technology industrial use.</p> <p>It is noted that the contamination report defines the site or planning area as only Lot 22 DP 1243105. The planning area as outlined in Council's planning proposal comprises three lots:</p> <ul style="list-style-type: none"> <li>• Lot 3 DP 1130300,</li> <li>• Lot 22 DP 1243105,</li> <li>• Lot 21 DP 1243105.</li> </ul> <p>Council indicates that condition 31 of the lease agreement for Lot 21 requires Boral to remove all buildings, structures, and fixtures from the site prior to the expiration of the lease. Further the</p>

lease agreement requires that the lessee de-contaminate, remediate, and remove from the property and the soil underneath the property and any chemical residues or other hazardous or toxic substances to the satisfaction of the Lessor and the Environment Protection Authority. Written certification from an appropriately qualified Authority that the land and soil has been de-contaminated, remediated, and that chemical residues or substances have been removed. The Lessee is required to comply with all directions and requirements of the Lessor and other competent Authority.

There is no information provided in relation to the suitability of the rezoning of Lot 3 DP 1130300.

As such, the report should be updated to address Lot 3 and provide comment on the suitability of the rezoning on this site.

Further, it is considered that the Environmental Protection Authority (EPA) should be consulted, given the reference to this agency in the lease agreement.

Further, it is noted that there a number of additional recreational and community uses, as well as the temporary accommodation uses, which are sought as permissible within the zone or on the site. The report references the suitability of the high technology industrial use, but not the wider SP4 Enterprise zone and the accommodation under the local provision that is sought.

It is considered the report should be updated prior to consultation to address the suitability of the site to accommodate the full range of uses as part of the proposal.

Finally, it is noted that the report notes levels of site assessment criteria metals and nutrients in the surface water samples within the quarry void.

Additionally, pH, electrical conductivity, turbidity and dissolved oxygen values in the surface water samples were also above or below the adopted site assessment criteria.

The report outlines that the water can be used as a dust suppressant on the site, but water should be treated first if discharged into a watercourse. This includes treatment of any excess runoff draining directly into the stormwater system.

Council indicates that water is proposed to remain in the quarry void. The water level within the void is approximately 4.6 metres below the water level



		<p>in the nearest watercourse, based on survey work undertaken at the site and provided by Council.</p> <p>Council indicates there are no low points between the pit and the watercourse therefore limiting the opportunities for the water within the void to discharge into the watercourse.</p> <p>It is considered that the NSW Resources Regulator should be consulted on the suitability of the approach relating to the rehabilitation of the site and the management of the water in the void, as the responsible agency for regulating rehabilitation of a quarry.</p> <p>Based on the outstanding matters outlined above, it is considered that consistency with this Direction remains unresolved until further studies and consultation can be undertaken.</p>
4.6 Mine Subsidence and Unstable Land	Minor inconsistency	<p>The proposal is inconsistent with this Direction as the Preliminary Site Investigation for Contamination report identifies areas of landslip observed along the quarry cliff faces.</p> <p>Notwithstanding, the proposal's inconsistency is considered to be minor as the areas of landslip are limited to quarry cliff faces and evidence of landslip has not been noted as being widespread across the site. Further, Council has mapped areas of landslip concern within the LGA and the site is not identified as having landslip risk.</p> <p>As part of the lease arrangements for future use, Council indicates it, as landowner, will also undertake a 'due diligence' safety audit to determine the most effective management for safety of these faces.</p> <p>It is appropriate for this landslip risk to be considered as part of the quarry rehabilitation, which is outlined above. As such, consultation with the NSW Resources Regulator is considered appropriate.</p>
5.1 Integrating Land Use and Transport	Minor inconsistency	<p>The proposal is inconsistent with this direction as the proposal seeks to create a zone and provisions relating to employment land outside of an existing centre.</p> <p>The site is separated from the existing urban footprint and the location isn't considered to:</p> <ul style="list-style-type: none"> <li>• improve access to jobs and services by walking, cycling and public transport,</li> <li>• decrease the dependence on cars, and</li> <li>• doesn't reduce travel demand including the number of trips generated by the</li> </ul>

		<p>development and the distances travelled, especially by car.</p> <p>The inconsistency however is considered minor as the land is already developed for employment uses and the rezoning represents a continuation of the industrial use, albeit a change from a rural industrial use to a light industrial use.</p> <p>Further, the separation from the existing urban footprint of this land is appropriate to minimise the potential for land use conflict arising between the established and ongoing use of the site and surrounding residential uses.</p>
8.1 Mining, Petroleum Production and Extractive Industries	Unresolved	<p>The proposal is inconsistent with this Direction as the change to SP4 Enterprise Zone will prohibit mining and extractive industries.</p> <p>The Direction requires that the Secretary of the Department of Primary Industries (DPI) shall be consulted and provided 40 days to provide any objection to the terms of the planning proposal.</p> <p>The consistency of the proposal with this Direction is therefore considered to be unresolved until this consultation has been undertaken.</p> <p>It is understood that Mining, Exploration and Geoscience is now the responsible body for mining and extractive industries in NSW. MEG currently sits within the portfolio of Regional NSW.</p> <p>It is noted that preliminary consultation was undertaken with MEG and no concerns with proposal proceeding, despite the presence of the former quarry within the planning area.</p> <p>As such, consultation is recommended to be undertaken with both DPI and MEG to satisfy the inconsistency.</p>
9.1 Rural Zones	Minor inconsistency	<p>The proposal is inconsistent with this Direction as it seeks to rezone land from a rural zone (1(e) Rural (Extractive and Mineral Resources) under Ballina LEP 1987) to an SP4 Enterprise zone.</p> <p>This inconsistency is considered minor as despite the rural zone under the Ballina LEP 1987, the land has been used for non-agricultural employment purposes since 1908. The proposed SP4 Zone is also considered to be more consistent and reflective of the existing and likely future use of the site.</p>
9.2 Rural Lands	Minor inconsistency	<p>The proposal is inconsistent with this Direction as it affects land within an existing rural zone and</p>

		<p>isn't considered to address the requirements of the Direction.</p> <p>This inconsistency is considered to be of minor significance as the land has been used for non-agricultural purposes since 1908 and is significantly disturbed making any future agricultural use unlikely.</p> <p>It is also noted that DPI – Ag provided comments at the scoping meeting raised no objection to the proposal subject to Council considering the proposed uses on site and that any land use conflict issues arising from these proposed uses and impact are to be considered, particularly to surrounding agricultural land uses.</p> <p>The potential for land use conflict to surrounding rural land has been addressed in the submitted land use conflict risk (LUCRA) and noise impact assessments (NIA) with all impacts identified to be minor or negligible.</p> <p>Notwithstanding the minor nature of the inconsistency, it is still considered appropriate for DPI – Ag to review the LUCRA and NIA.</p>
9.4 Farmland of State and Regional Significance on the NSW Far North Coast	Inconsistent	<p>The proposal is inconsistent with this Direction as the planning proposal applies to land mapped as State Significant Farmland under the Northern Rivers Farmland Mapping Project 2005 and seeks to rezone this land for urban purposes.</p> <p>In accordance with the terms of the Direction, the proposal is satisfactory as it is consistent with the NCRP 2041 as discussed above.</p>

### 3.4 State environmental planning policies (SEPPs)

The proposal is considered to be consistent with all applicable SEPP.

## 4 Site-specific assessment

### 4.1 Environmental

The following table provides an assessment of the potential environmental impacts and outstanding requirements that will need to be addressed to determine the full impact of the proposal.

**Table 7 Environmental impact assessment**

Environmental Impact	Assessment
Biodiversity Value	<p>The land is identified as having some small areas of secondary koala habitat along the western boundary and an area mapped on the Biodiversity Values Map along the creek traversing the site. The proposal identifies these values can be avoided in any further development. The impact of the proposal on biodiversity value is considered to be low and can be confirmed by way of consultation with BCD. The decision to apply conservation zones as outlined in the Biodiversity Report can be considered during this consultation. Should a conservation zone be sought, the application of this would need to be consistent with the Northern Councils E Zone Review Final Recommendations Report.</p>
Contamination	<p>The supporting Preliminary Site Investigation will need to be updated prior to consultation to address the following matters:</p> <ul style="list-style-type: none"> <li>• Include Lot 3 DP 1130300 and provide comment on the suitability of rezoning this site as part of the proposal; and</li> <li>• Address the suitability of the site to accommodate the full range of uses in the zone.</li> </ul> <p>Additionally, Council will be required to consult with the EPA and NSW Resources Regulator on the proposed approach to remediation and rehabilitation of the land.</p>
Land Use Conflict	<p>It is considered appropriate for DPI – Ag to be consulted on this matter to consider the recommendations of the LUCRA which identifies no significant impacts.</p> <p>In regard to land use conflict to other land uses, the LUCRA identifies residential receivers, a sporting field, and a nursery in proximity to the site.</p> <p>The impacts to all land uses are considered to be minor or negligible and management approaches, particularly for the development application stage, identified. These landowners of surrounding sites will be given an opportunity to comment on the proposed rezoning at the exhibition stage.</p> <p>Finally, the LUCRA identifies that a considerable risk would exist internally of the site, should the operations on Lot 3 continue to store explosive materials. However, the LUCRA states that based on the decision by Council to negotiate with the landowner to limit the use to just administrative purposes, this risk will no longer be relevant, and no further consideration is required.</p>
Landslip	<p>Areas of landslip have been identified on the quarry cliff faces. Council indicates that as part of lease arrangements for future use, Council, as landowner, will undertake a 'due diligence' safety audit to determine the most effective management for safety of these faces.</p> <p>It is also considered that consultation with NSW Resources Regulator is appropriate, given this landslip is a result of extractive industries and may require rehabilitation as a result of that use.</p> <p>Wider landslip risk is considered low as the site is not identified on Council's mapping as having a risk of land slip.</p>

Bushfire	The land is bushfire prone, and consultation will be undertaken with NSW RFS to determine whether any further consideration will need to be given to the proposals risk. It is noted that there is no specific supporting information addressing this risk for this stage of the process and this may be a requirement of the consultation.
Noise	<p>A NIA has been prepared to assess the impact of the proposal on surrounding receivers.</p> <p>The report identifies that the anticipated activities at the site are predicted to be within the Project Noise Trigger Level during the day and evening periods at all sensitive receptors.</p> <p>The proposal is considered to have a minor impact in relation to noise generation.</p>
Traffic Generation	<p>A Traffic Impact Assessment has been prepared to support the proposal. This report identifies that the volume of traffic will increase along Gap and Teven Road as a result of the proposal. The TIA outlines that the proposal is not expected to reduce the efficiency of the existing road network.</p> <p>There were a number of recommendations made regarding potential upgrades to the road network which may be required. It is recommended that Council consult with TfNSW to confirm the findings and impact as outlined in the report.</p> <p>The report recommends a Construction Management Plan be prepared to manage impacts at the construction stage, which will be a consideration for the consent authority at the development application stage.</p>
Development on Waterfront Land	<p>A natural watercourse, Branch Creek, traverses the site. The access driveways to the various lots cross over the river at various locations. The proposal may result in a change to these driveways to provide continued access to Lot 3.</p> <p>It is considered that the Natural Resource Access Regulator should be consulted to provide comment on the proposal.</p>

## 4.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

**Table 9 Social and economic impact assessment**

Social and Economic Impact	Assessment
Cultural Heritage	<p>The site is highly disturbed as a result of long-term extractive industries operating on the site since 1908. Notwithstanding, it is acknowledged that cultural heritage considerations incorporate places, objects and stories which are significant for Aboriginal people and the story of New South Wales.</p> <p>It is considered appropriate that consultation be undertaken with Heritage NSW and the Local Aboriginal Land Council. Additionally, consultation with the general public will capture wider views of traditional owners.</p>

## Generation of Employment Opportunities

The proposal is considered likely to have a positive impact on employment generation in the LGA. The proposal seeks to facilitate 20 jobs on the site, however, this figure could be greater depending upon the size of the facility that is ultimately developed.

## 4.3 Infrastructure

Council have indicated that water and sewer is available to the site and can be upgraded to meet the demand of the future development.

The Traffic Impact Assessment confirms that there is sufficient capacity in the road network to accept the traffic volumes as a result of the proposal.

## 5 Consultation

### 5.1 Community

Council proposes to undertake community consultation in accordance with the Gateway determination.

The proposal is classified as a complex as it is introducing a new zone and applying to land not identified for an urban zoning in the NCRP 2041 or in a Department approved local strategy.

It is recommended Council exhibit the proposal for 30 working days.

### 5.2 Agencies

The proposal does not identify which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 40 days to comment:

- NSW Rural Fire Service
- Transport for NSW
- Biodiversity Conservation Division
- Heritage NSW
- Local Aboriginal Land Council
- Department of Primary Industries
- Natural Resources Access Regulator
- NSW Resources Regulator
- Mining, Exploration and Geoscience
- Environment Protection Authority

## 6 Timeframe

Council proposes a four month time frame to complete the LEP.

The Department recommends a time frame of six months to ensure it is completed in line with its commitment to reduce processing times.

A condition to the above effect is recommended in the Gateway determination.



## 7 Local plan-making authority.

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

As the site is owned by Council, it is recommended that Council not be authorised to be the local plan-making authority for this proposal.

## 8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- The proposal will facilitate the reuse of employment land and generate additional jobs within the local government area,
- The proposal is broadly consistent with the LSPS,
- The proposal is consistent with the North Coast Regional Plan 2041.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Update the maps to include a Land Application Map and to display a legend to articulate the controls applied to the land,
- 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 the rezoning this site as part of the proposal; and
  - the suitability of the site to accommodate the full range of uses in the zone.

## 9 Recommendation

It is recommended the delegate of the Secretary:

- Agree that any inconsistencies with section 9.1 Directions 1.4 Site Specific Provisions, 4.6 Mine Subsidence and Unstable Land, 5.1 Integrating Land Use and Transport, 9.1 Rural Zones, 9.2 Rural Lands and 9.4 Farmland of State and Regional Significance on the NSW Far North Coast are minor or justified in accordance with the Direction; and
- Note that the consistency with section 9.1 Directions 4.3 Planning for Bushfire Protection, 4.4 Remediation of Contaminated Land and 8.1 Mining, Petroleum Production and Extractive Industries are unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal is to be updated, prior to community consultation, to:
  - Update the maps to include a Land Application Map and to display a legend to articulate the controls applied to the land,
  - Update the Preliminary Site Investigation for Contamination to address the following matters:
    - Include Lot 3 DP 1130300 and provide comment on the suitability of the rezoning this site as part of the proposal,
    - The suitability of the site to accommodate the full range of uses in the zone.
2. Consultation is required with the following public authorities:
  - NSW Rural Fire Service
  - Transport for NSW
  - Biodiversity Conservation Division

- Heritage NSW
  - Local Aboriginal Land Council
  - Department of Primary Industries
  - Natural Resources Access Regulator
  - Mining, Exploration and Geoscience
  - Environmental Protection Authority
3. The planning proposal should be made available for community consultation for a minimum of 30 working days.
  4. The timeframe for completing the LEP is to be six months from the date of the Gateway determination.
  5. Given the nature of the proposal, Council should/ should not be authorised to be the local plan-making authority.



3/8/23

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(Signature)

\_\_\_\_\_  
(Date)

Craig Diss

Manager, Local and Regional Planning, Northern Region



8/8/2023

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(Signature)

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