



Planning Proposal

» Film Industry

Tuckombil Quarry

Gap Road, Alstonville

June 2023 (v2. Gateway) 23/52017

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 local 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, recreational and community purposes.

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.

Figure 1: Subject Land

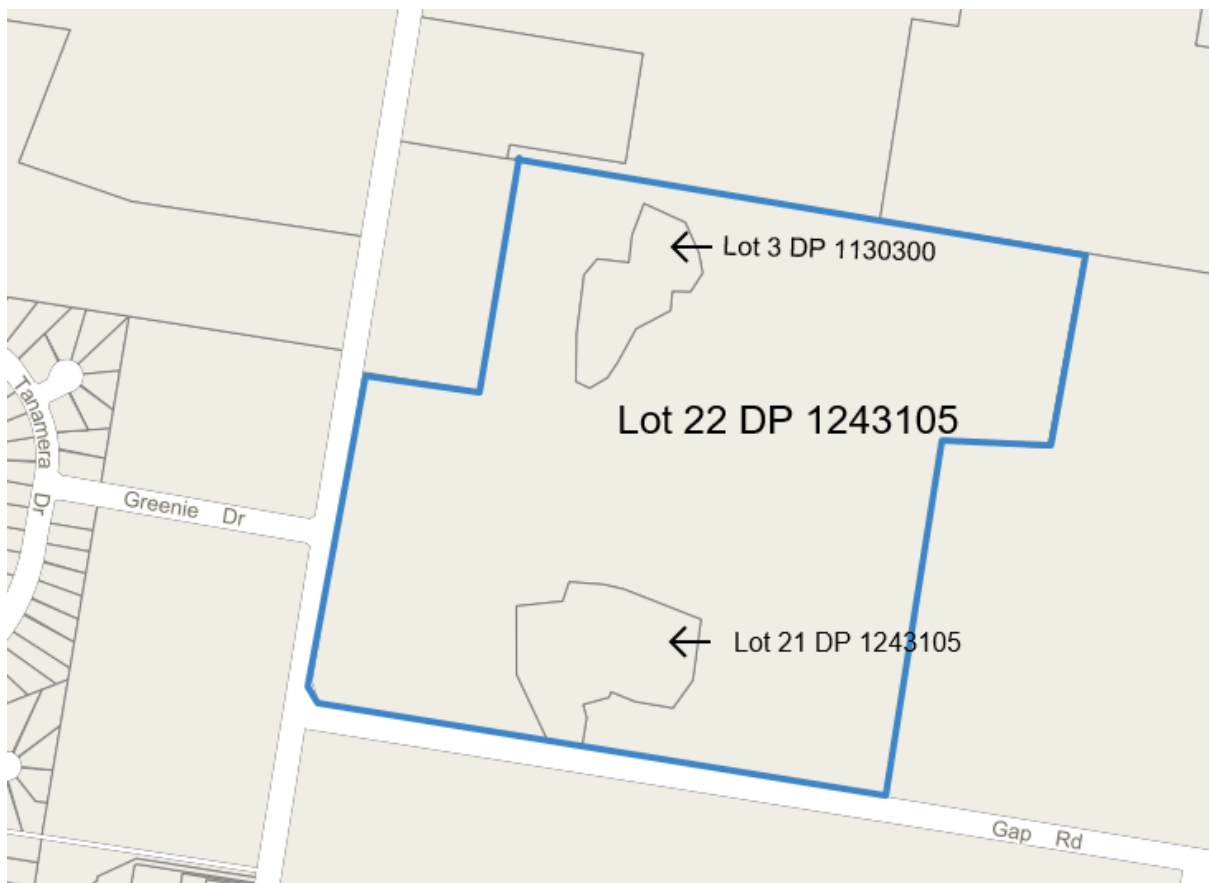


Figure 2: Site Locality



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 2024.

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

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 3: The Site



Background to the Planning Proposal

Tuckombil quarry had been in existence since 1908 and was previously operated by Lismore City Council under lease from Ballina Shire Council, ceasing active quarry operations in August 2016.

The operation of the quarry was most recently undertaken under Development Consent 1995/276. That consent did not specify a maximum time period for the quarry's continued operation, but enabled the extraction of a maximum of 450,000m³ of material.

Since termination of the Lismore City Council lease, Council has considered the future of the site on a number of occasions. To date, Council has declined to pursue continuation or expansion of quarrying activities at the site, primarily due to the proximity of residential areas.

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.

As part of the requirements of the lease, Boral will be required to removal all buildings, structures, and fixtures from the site prior to the expiration of the lease and "*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” (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, with an

appropriate mix of recreational and community uses that could complement the commercial filming/ 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.

Scoping Meeting

A Scoping Meeting was held in regard to 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

TBA

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 the site to facilitate its future use for creative industry, high technology industry, recreational and community purposes and amend relevant LEP maps.
3. 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 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 Lot Size Map, by applying a 1,000m² minimum lot size to the subject land; and
- the Height of Buildings Map, by applying a maximum height of buildings of 10m to the subject land.

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*.

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 201. 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.

7.17 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.	<p>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.</p> <p>The site is well located in proximity to the Bruxner Highway, and the traffic assessment (Appendix 3) 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.</p>

Principle		Comment
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 will not result in impacts on any areas of high environmental value (see assessment in Appendix 4).
Avoiding risk	<p>Risks associated with physically constrained land are identified and avoided, including:</p> <ul style="list-style-type: none"> • flood prone • bushfire-prone • highly erodible • severe slope, and • acid sulfate soils 	<p>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.</p> <p>No other significant risks are applicable to the property.</p> <p>Observations made in the Contamination Assessment (Appendix 6) noted that areas of landslip were observed along the quarry cliff faces.</p> <p>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 to determine the most effective management for safety of these faces.</p>
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 Appendix 5).</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</p>

Principle		Comment
		presence for administrative purposes only.
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. Clearly, the agricultural potential of the property has been significantly lessened though its historical use for quarrying.</p> <p>The LUCRA (Appendix 5) 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?

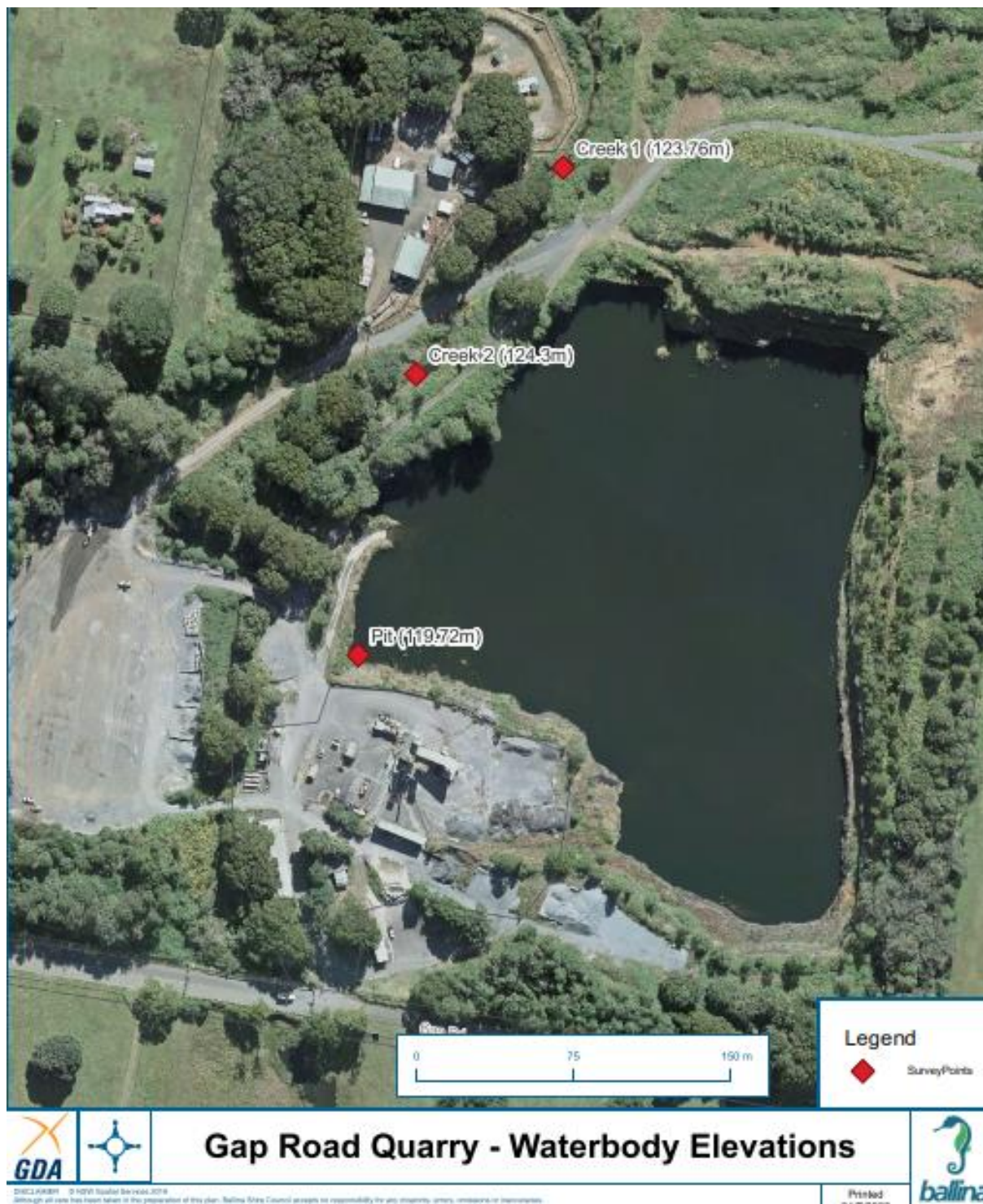
Relevant State Environmental Planning Policies (SEPPs) are addressed in Table 3, below:

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>

SEPP	Comment
	<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 is mapped as Secondary Habitat. These areas will not be impacted by future development.</p>
SEPP Resilience and Hazards (2021)	
Chapter 4 Remediation of Land	<p>A contamination investigation has been undertaken across the site, with the resulting report in Appendix 6. The assessment concludes that the site is suitable for its intended use and remediation is not required.</p> <p>The 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 (Appendix 6) 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>

SEPP	Comment
	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.



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	Consistent 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.
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 biodiversity assessment at Appendix 4 demonstrates that there are no areas of high environmental value that would meet the requirements for the application of a Conservation zone.
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.
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs	This Direction does not apply, as the PP does not affect any existing C zones or propose to introduce such zones.

Direction	Compliance of Planning Proposal
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 Assessment in Appendix 6 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.
Focus Area 5: Transport and Infrastructure	
5.1 Integrating Land Use and Transport	Consistent. See traffic assessment in Appendix 3 .

Direction	Compliance of Planning Proposal
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.
Focus Area 9: Primary Production	
9.1 Rural Zones	Justifiably inconsistent. The PP seeks to rezoning land from 1(e) Rural (Extractive and Mineral Resources) to SP4 Enterprise. 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. In the circumstances, the proposed rezoning is considered to be of minor significance.

Direction	Compliance of Planning Proposal
9.2 Rural Lands	<p>Consistent.</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>

Direction	Compliance of Planning Proposal
	<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 in Appendix 4 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 prepare to ensure that the future activities do not impinge on adjoining and nearby farming activities (Appendix 5).</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 in Appendix 5.</p> <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 in Appendix 5.</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.

Direction	Compliance of 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>

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 in **Appendix 4**, indicates that only one threatened flora species was found at the site, located in a garden area planted by the operators of 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*).

These areas can be protected in subsequent development of the site and do not warrant protection through an environmental conservation zone.

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 development 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 (**Appendix 3**) indicates that the existing road infrastructure has sufficient capacity to accept the traffic volumes likely to be associated with future site development.

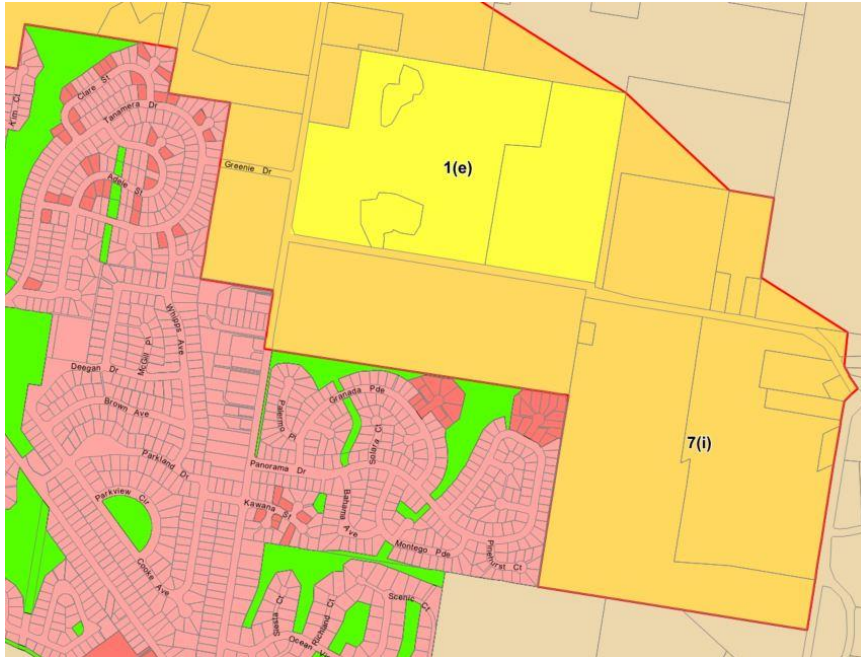
Q11 What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

State agencies will be consulted in accordance with a Gateway determination..

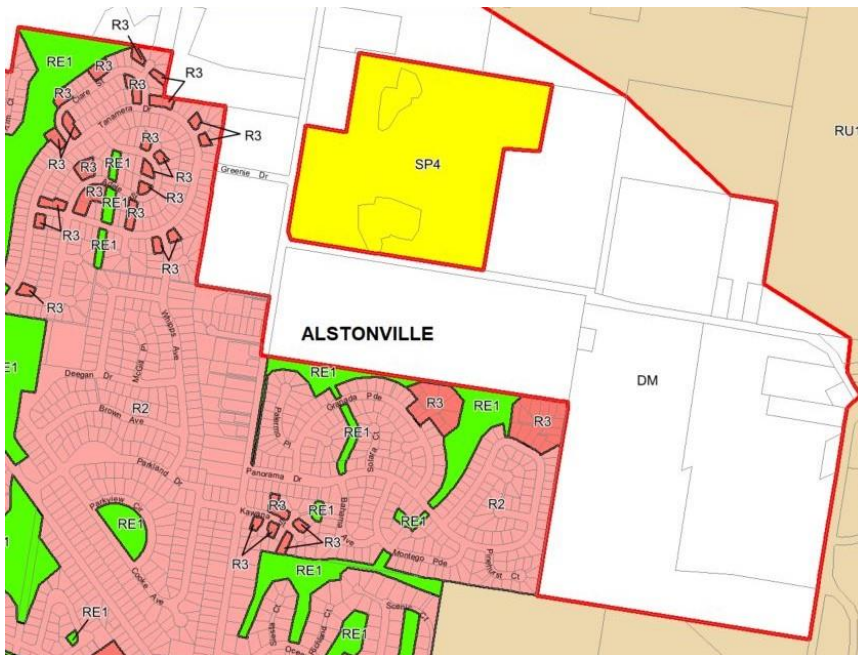
Part 4 – Mapping

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: Current and Proposed Zoning



Existing



Proposed

Figure 5: Proposed Minimum Lot Size

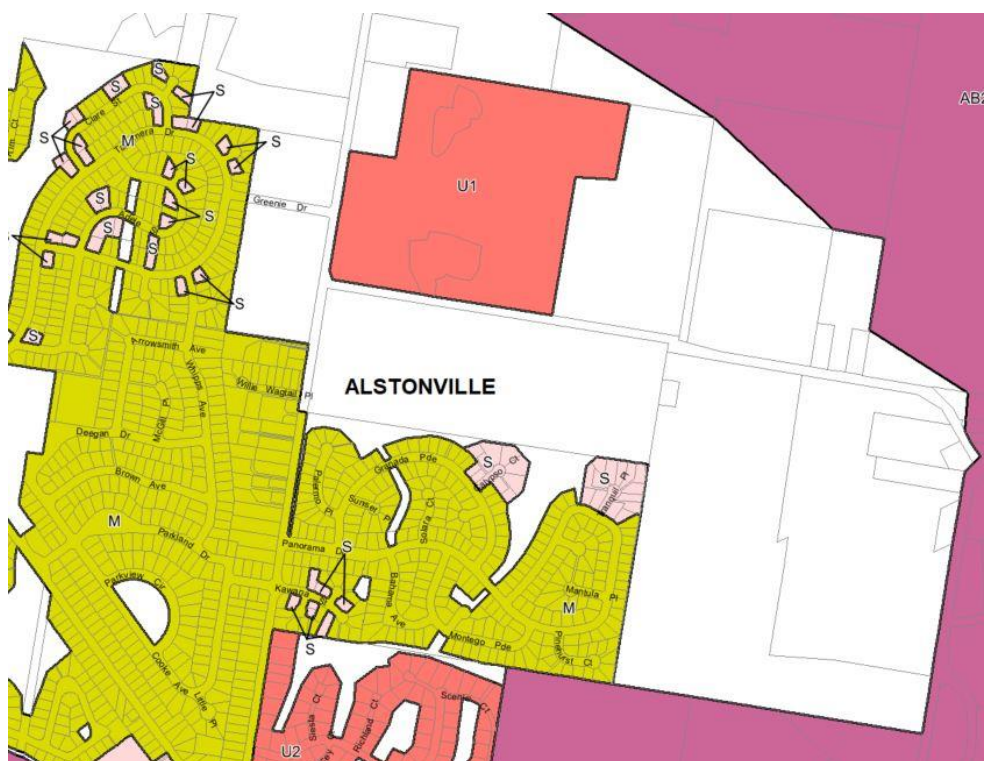


Figure 6: Proposed Height of Buildings



Part 5 – Community Consultation

This planning proposal will be publicly exhibited, in accordance with the Gateway determination and the terms of the *Environmental Planning and Assessment Act 1979*.

Part 6 – Timeline

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

Plan Making Step	Estimated Completion (Before)
Gateway Determination	August 2023
Completion of Technical Information	Completed
Government Agency Consultation	September 2023
Public Exhibition Period	September 2023
Public Hearing	N/A
Submissions Assessment	October 2023
Local Plan Making Authority (LPMA) Assessment of Planning Proposal and Exhibition Outcomes	October 2023
LPMA Decision to Make the LEP Amendment (if delegated)	November 2023
Submission of Endorsed LEP to DPI&E for Finalisation	December 2023

Appendices

Appendix 1 – Council Report

Appendix 2 – Scoping Meeting Notes

Appendix 3 – Traffic Assessment

Appendix 4 – Biodiversity Assessment

Appendix 5 – LUCRA

Appendix 6 – Contamination Assessment

Appendix 7 – Noise Assessment

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.

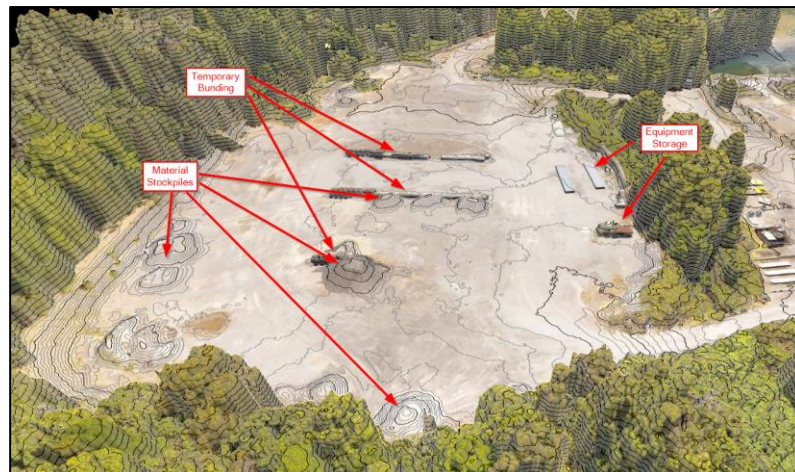
Due to residents' concerns about the quarry operations, the long-term use of the site for the purpose of increased quarrying remains unlikely. As such, Council is looking for viable opportunities for the Site for future planning, with alternate options being more complementary to its close location to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

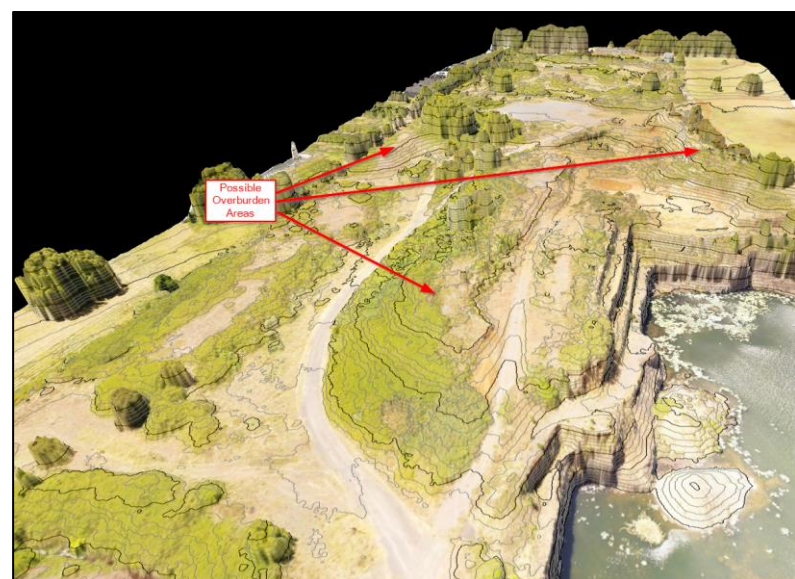
Site Overview



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.

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

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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
<p>Access arrangements and haulage along public roads</p> <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
<p>Important farmland consideration</p> <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
<p>Ongoing operation of quarry and value of extractive resource</p> <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
<p>Biodiversity considerations</p> <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

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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

Appendix 3 – Traffic Assessment

Provided under separate cover

Appendix 4 – Biodiversity Assessment

Provided under separate cover

Appendix 5 - LUCRA

Provided under separate cover

Appendix 6 – Contamination Assessment

Provided under separate cover

Appendix 7 – Noise Assessment

Provided under separate cover