



Byron Shire Council

## **Planning Proposal**

**Amendment of Byron Local Environmental Plan 2014**

**BILS Area 5: Gulgan North**

**Date: September 2024**

**Document History**

<b>Doc No.</b>	<b>Date</b>	<b>Details Comments eg Resolution No.</b>
E2024/66977	June 2024	Draft Planning Proposal (Gateway Version)
E2024/116338	September 2024	Draft Planning Proposal (Exhibition Version)

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# Part 1 Introduction

## 1.1 Preamble

Gulgan Road Property Pty Ltd ABN 22 649 167 555 is the registered proprietor of the land known in Byron Industrial Land Strategy ("BILS") as "Area 5: Gulgan North". **Figure 1.1** shows the subject site in the context of Brunswick Heads and Mullumbimby. Gulgan Road Property Pty Ltd purchased the subject land in July 2021, having identified the strategic importance of the property with respect to the Council's long term employment land release program.

Council at its meeting of 26<sup>th</sup> October 2023 considered the Draft Planning Proposal and resolved to forward the matter to the Department of Planning, Housing and Infrastructure ("the Department") seeking gateway approval. On 3<sup>rd</sup> July 2024 the Department's acting Director Hunter and Northern Region issued the Gateway Determination. A copy of that determination is attached as **Appendix F** to this Planning Proposal document. The gateway determination required a number of matters to be updated prior to exhibition. At **Appendix F** details in relation to how those matters have been acquitted are provided.


## 1.2 Structure of Planning Proposal Report

This part of the Planning Proposal provides a description of the objectives and intended outcomes of the project and explains the context of the Planning Proposal. Part 2 explains the zoning provisions sought by this Planning Proposal. A justification for the Planning Proposal in terms of strategic planning framework, environmental, social and economic impact is set out in Part 3. As well, that part looks at State and Commonwealth interests. Mapping associated with the statutory planning aspects is provided at Part 4. Details in relation to the proposed community consultation program are described in Part 5. Part 6 outlines the Planning Proposal timeline.

Attachments to the Planning Proposal provide details in relation to mapping; a plain english version of the proposed Work Live clause; a review of Ministerial Directions consistency; supplementary BILS

assessment information; a concept structure plan for the site; the Gateway Approval letter and notes in relation to the acquittal of the Gateway approval conditions.

Area 5: Gulgan North

Area Number	5.
Description	Part of Lot 2 DP 1159910 66 The Saddle Road, Brunswick Heads
Image of investigation area	
	

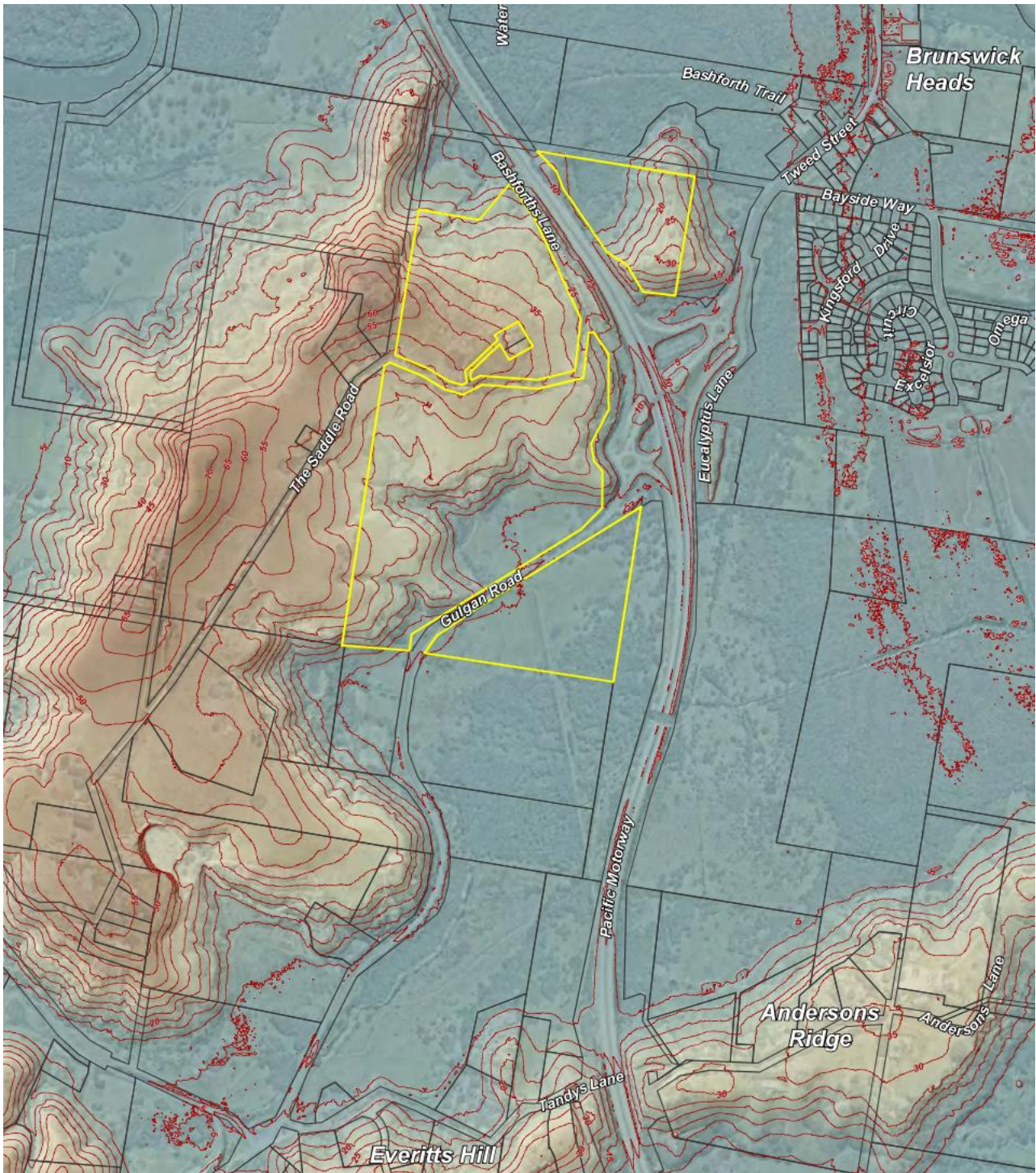
Extract from the BILS strategy illustrating Area 5 Gulgan North

## 1.3 Reports and plans supporting the proposal

Reports and plans supporting the Planning Proposal are as follows:

- Planning Proposal – BILS Area 5, Gulgan North prepared by Planners North & Balanced Advice, September 2023, updated June 2024 and further updated September 2024.
- Byron Shire Council Staff Report No. 13.9, 26<sup>th</sup> October 2023 – Gulgan North Planning Proposal – BILS Area 5
- Byron Shire Council Resolution 23-490, 26<sup>th</sup> October 2023

Figure 1.1 Site and Locality Plan



Legend

-  Lot 2 DP1159910
-  Contour (5m)
- Elevation (AHD)**
  - High : 74m
  - Low : 0m

- Ecological Assessment Report prepared by Bower Ecology Pty Ltd, Version 1 dated 28<sup>th</sup> September 2023
- Hairy-joint Grass Survey prepared by Bower Ecology Pty Ltd dated 6<sup>th</sup> March 2024
- Traffic Impact Study prepared by Ingen Consulting, Revision I dated 14<sup>th</sup> December 2023
- Civil engineering report prepared by Ingen Consulting, Revision B dated 23<sup>rd</sup> December 2021
- Preliminary Site Investigation prepared by Contaminated Site Investigation Australia Pty Ltd, dated 15<sup>th</sup> July 2021
- Cattle Dip Exclusion Zone Assessment prepared by Contaminated Site Investigation Australia Pty Ltd, dated 18<sup>th</sup> November 2021
- Agricultural Assessment prepared by Allen and Associates, published on 27<sup>th</sup> December 2021
- Land Use Conflict Risk Assessment prepared by Tim Fitzroy & Associates, dated 20<sup>th</sup> December 2021
- Bushfire Protection Assessment prepared by Travers Bushfire & Ecology, dated 22<sup>nd</sup> December 2021
- Aboriginal Cultural Heritage Assessment Report prepared by Everick Heritage, dated 21<sup>st</sup> January 2024 and letter from Everick Heritage dated 30<sup>th</sup> January 2024, confirming ACHAR consultation
- Draft site-specific Development Control Plan, September 2024
- Draft Voluntary Planning Agreement, September 2024
- E. tereticornis Survey prepared by Bower Ecological Pty Ltd, 26<sup>th</sup> August 2024
- PMF Flooding response prepared by Ingen Consulting, dated 22<sup>nd</sup> July 2024

## 1.4 Objective and intended outcomes

The objective of this Planning Proposal is to amend the relevant Local Environmental Plans to implement the Byron Shire Business and Industrial Lands Strategy as it relates to Area 5: Gulgan North being zoning of 6.5 hectares partly for a "business park" type development (Precinct A) and partly for a "traditional industrial estate" type development (Precinct B and C).

## 1.5 Subject land

This Planning Proposal relates to "BILS Area 5:Gulgan North". This parcel is described in Real Property terms as Part of Lot 2 DP 1159900. **Figure 1.2** shows the land, which is the subject of the BILS. **Figure 1.3** illustrates the Principal Planning Layers currently applicable to the site and land in the vicinity<sup>1</sup>. For the ease of the reader, the proposed BILS precincts are shown in light line work over the existing Principal Planning layers.

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<sup>1</sup> The cadastral base utilised for the Department of Planning and Environment LEP Mapping is slightly in error. The graphics in **Figures 1.3** and **1.4** show the departmental cadastral boundaries in black and the accurately surveyed boundaries in red line work.

Figure 1.2 Site Plan



Figure 1.3 Current Principal Planning Layers





## 1.6 The Background to the Proposal

Byron Shire Council commenced its Business and Industrial Land Strategy development work in 2015. Having completed comprehensive background studies, Council exhibited a draft Strategy in August 2018. That strategy was revised and as a consequence of community consultation and liaison with the Department. A final version of the Strategy was adopted by the Council in October 2020 has been formally approved by the Department.

In adopting the BILS Council was of the view that the "...*Business and Industrial Land Strategy is part of a new way of thinking to facilitate and accommodate future business and industrial zoned land. It is designed to take us up to – and into – the second half of the 21<sup>st</sup> Century. The aim of this Strategy is to ensure that Byron Shire has business centres and industrial areas that work for people, commerce and the environment.*"

Since the making of the BILS Policy, the North Coast Regional Environmental Plan has been updated. The North Coast Regional Environmental Plan 2041 was published in December 2022. Below is an extract from the Figure 14, being the Urban Growth Area Map for Byron LGA. This extract relates to the northern part of the site and shows the subject Area 5 Gulgan North.



Figure 14: Urban growth area map for Byron LGA

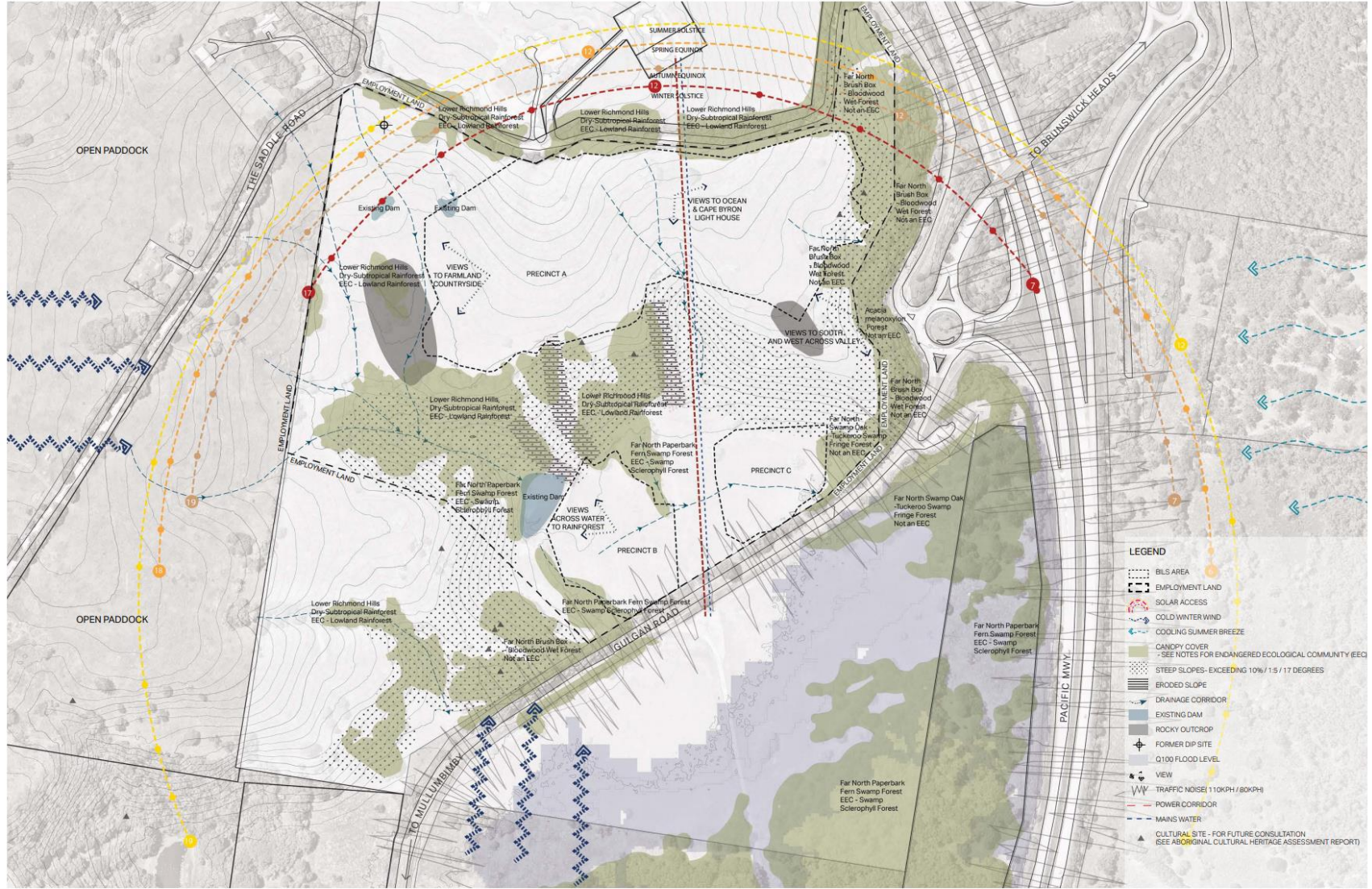


## 1.7 Zone Delineation

The BILS Strategy Precinct Diagram was prepared based on a Shire wide level of physiographic information. For the purposes of this Planning Proposal, the proponent has completed a detailed land capability assessment and based on that assessment, the precinct boundaries of the required 6.5 hectares of industrial land have been adjusted.

**Figure 1.4** shows the adjusted precinct boundaries to have regard to a detailed analysis of the site constraints.

Figure 1.4 Detailed illustration of the proposed Employment Land Precincts



SITE ANALYSIS PLAN

SCALE 1: 3 000 @ A3

Figure 1.4 Detailed illustration of the proposed Employment Land Precincts

## Part 2 Explanation of provisions

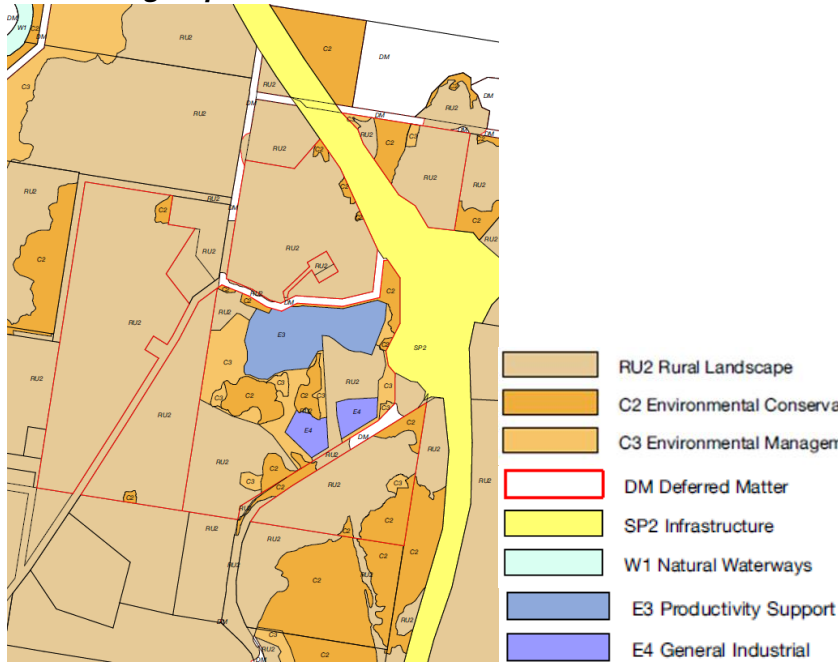
The objectives of this Planning Proposal will be achieved by carrying out the amendments described in **Table 2.1** and mapped in **Figure 2.1**.

**Table 2.1 Proposed LEP amendments**

Amendment Applies to:	Explanation of Provision
Zoning Plan	<p>Zoning the BILS Area 5 - Precinct A to Zone E3 Productivity Support and zoning the BILS Area 5 - Precinct B and C to E4 General Industrial Zone.</p> <p>Increasing (by some 215%) the extent of land zoned C2 Environmental Conservation and C3 Environmental Management in the proposed BILS Community Title precinct.</p>
Floor Space Ratio Map	Amending the Floor Space Ratio Map to provide a 0.9:1 Floor Space Ratio specific to BILS Precincts consistent with the typical Floor Space Ratios applying in the Byron Arts and Industry Estate locality.
Height of Buildings Map	Amending the maximum building height to 11.5m to support the land use optimisation of the BILS precincts.
Lot Size Map	<p>Amending the Lot Size Map to 5ha in relation to the land on the eastern side of the Pacific Motorway and various sizes concerning land on the western side of the Pacific Motorway to facilitate the creation of a Community Title precinct for the BILS land and environs.</p> <p>Define the Minimum area of Torrens Title subdivision for the E3 and E4 zoned land to be 2000m<sup>2</sup>.</p>
Work/Live Clause & Local Clauses Map	Providing for work/live accommodation in the E3 precinct to support the employment land use (see Appendix B).

Figure 2.1 Proposed Principal Planning Layers

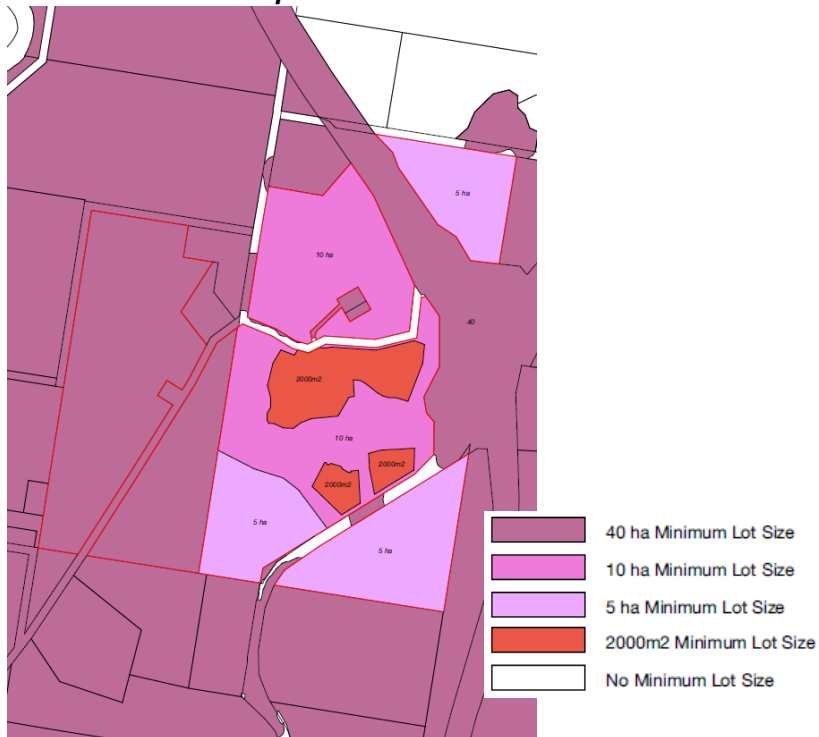
Land Zoning Map



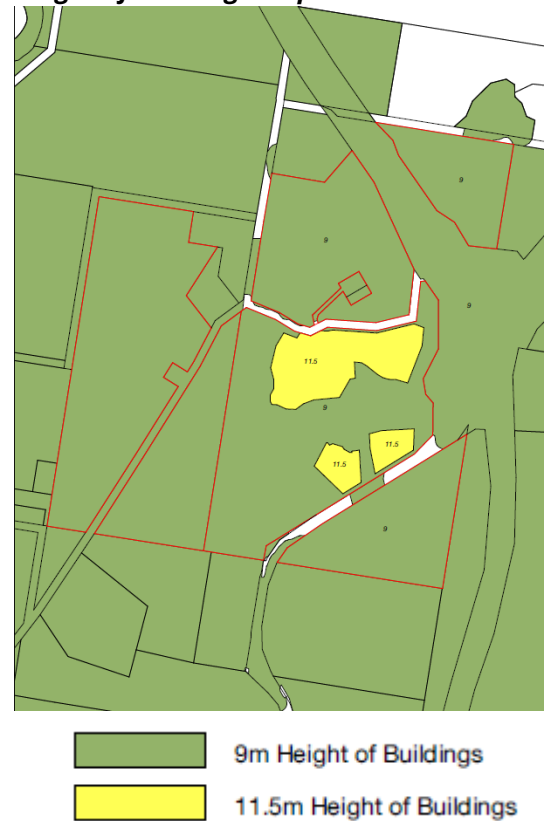
Floor Space Ratio Map



Minimum Lot Size Map



Height of Buildings Map



**Live Work Precinct Map**



## 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?**

Yes. This Planning Proposal is the result of the comprehensive strategic planning work carried out by Byron Shire Council in the development of its Byron Industrial Lands Strategy. This strategic planning work has been adopted by Council and endorsed by the NSW State Government. The Planning Proposal submitted herewith is consistent with the specifications set out in the BILS.

**Q2. Is the Planning Proposal the best means of achieving the objective or intended outcomes, or is there a better way?**

Yes. The Planning Proposal amendment to the Principal Planning Layer maps is considered the best means of achieving the objectives of the Planning Proposal, although it is acknowledged that there are alternative pathways.

One alternative option relies on the utilisation of Byron Local Environmental Plan 2014 Schedule 1 by mapping specific parts of the rural zoned land at the site and specifying a range of permissible uses appropriate for each of the Precincts mapped or the preparation of precinct specific land use controls provided potentially through an additional LEP Schedule. This is the technique that is used with the Activation Precincts SEPP and the State Significant Precincts SEPP.

Changes to Byron Local Environmental Plan 2014 Mapping as described in **Table 2.1** above are considered a common or typical mechanism to implement the objectives and desired outcomes for a site such as this.

### Section B Relationship to strategic planning framework

**Q3. Will the Planning Proposal give effect to the objectives and actions of the North Coast Regional Plan 2041?**

Yes. The Planning Proposal is consistent with the North Coast Regional Plan 2041, which is the 20-year blueprint for the future of the North Coast. Set out below are the goals, directions and actions relevant to the subject Planning Proposal:

**GOAL 1 – LIVEABLE, SUSTAINABLE AND RESILIENT**

- ***Objective 1 - Provide well located homes to meet demand***

Strategy 1.1 - A 10 year supply of zoned and developable residential land is to be provided and maintained in Local Council Plans endorsed by the Department of Planning and Environment.

*This strategy is not overly applicable in the subject circumstances. Some ancillary work-live provisions are proposed, but the nature of that supply is minor and not of consequence for Councils 10 year supply program.*

- Action 1 - Establish the North Coast urban housing monitoring program.  
The planning proposal is consistent with this action.
- Strategy 1.2 - Local Council plans are to encourage and facilitate a range of housing options in well located areas.  
The planning proposal is consistent with this strategy 1.2.
- Strategy 1.3 - Undertake infrastructure service planning to establish land can be feasibly serviced prior to rezoning.  
The planning proposal is consistent with this strategy 1.3.
- Strategy 1.4 - Councils in developing their future housing strategies must prioritise new infill development to assist in meeting the region's overall 40% multi-dwelling / small lot housing target and are encouraged to work collaboratively at a subregional level to achieve the target.  
Not applicable.
- Strategy 1.5 - New rural residential housing is to be located on land which has been approved in a strategy endorsed by the Department of Planning and Environment and is to be directed away from the coastal strip.  
Not applicable.
- Strategy 1.6 - Councils and LALCs can partner to identify areas which may be appropriate for culturally responsive housing on Country.  
The proponent is seeking to actively engage with appropriate first nations stakeholders.
- Action 2 - Provide guidance to help councils plan for and manage accommodation options for seasonal and itinerant workers.  
Not applicable to this planning proposal.
- **Objective 2 - Provide for more affordable and low cost housing**
- Action 3 - Establish Housing Affordability Roundtables for the Mid North Coast and Northern Rivers subregions with councils, community housing providers, State agencies and the housing development industry to collaborate, build knowledge and identify measures to improve affordability and increase housing diversity.  
Not applicable to this planning proposal.
- **Objective 3 - : Protect regional biodiversity and areas of high environmental value**
- Strategy 3.1 - Strategic planning and local plans must consider opportunities to protect biodiversity values by:
- focusing land-use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and planning proposals
  - ensuring any impacts from proposed land use intensification on adjoining reserved lands or land that is subject to a conservation agreement are assessed and avoided
  - encouraging and facilitating biodiversity certification by Councils at the precinct scale for high growth areas and by individual land holders at the site scale, where appropriate
  - updating existing biodiversity mapping with new mapping in LEPs where appropriate
  - identifying HEV assets within the planning area at planning proposal stage through site investigations
  - applying appropriate mechanisms such as conservation zones and

Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets

- developing or updating koala habitat maps to strategically conserve koala habitat to help protect, maintain and enhance koala habitat
- considering marine environments, water catchment areas and groundwater sources to avoid potential development impacts.

This planning proposal is founded on ensuring the comprehensive implementation of the avoid, minimise and offset protocols.

Strategy 3.2 - In preparing local and strategic plans Councils should:

- embed climate change knowledge and adaptation actions
- consider the needs of climate refugia for threatened species and other key species.

This planning proposal is consistent with climate change and climate adaptation aspects.

- **Objective 4 Understand, celebrate and integrate Aboriginal culture**

Strategy 4.1 - Councils prepare cultural heritage mapping with an accompanying Aboriginal cultural management plan in collaboration with Aboriginal communities to protect culturally important sites.

This planning proposal is consistent with the continuing collaboration with local aboriginal communities.

Strategy 4.2 - Prioritise applying dual names in local Aboriginal language to important places, features or infrastructure in collaboration with the local Aboriginal community.

This planning proposal is consistent with the continuing collaboration with local aboriginal communities.

- **Objective 5 - Manage and improve resilience to shocks and stresses, natural hazards and climate change**

Strategy 5.1 - When preparing local strategic plans, councils should be consistent with and adopt the principles outlined in *the Strategic Guide to Planning for Natural Hazards*.

This planning proposal is consistent with principles outlined in the Planning for Natural Hazards Strategic Advice.

Strategy 5.2 - Where significant risk from natural hazard is known or presumed, updated hazard strategies are to inform new land use strategies and be prepared in consultation with emergency service providers and Local Emergency Management Committees (LEMCs). Hazard strategies should investigate options to minimise risk such as voluntary housing buy back schemes.

This strategy is not overly applicable to the planning proposal.

Strategy 5.3 - Use local strategic planning and local plans to adapt to climate change and reduce exposure to natural hazards by:

- identifying and assessing the impacts of place-based shocks and stresses
- taking a risk-based-approach that uses the best available science in consultation with the NSW Government, emergency service providers,



local emergency management committees and bush fire risk management committees

- locating development (including urban release areas and critical infrastructure) away from areas of known high bushfire risk, flood and coastal hazard areas to reduce the community's exposure to natural hazards
- identifying vulnerable infrastructure assets and considering how they can be protected or adapted
- building resilience of transport networks in regard to evacuation routes, access for emergencies and, maintaining freight connections
- identifying industries and locations that would be negatively impacted by climate change and natural hazards and preparing strategies to mitigate negative impacts and identify new paths for growth
- preparing, reviewing and implementing updated natural hazard management plans and Coastal Management Programs to improve community and environmental resilience which can be incorporated into planning processes early for future development
- identifying any coastal vulnerability areas
- updating flood studies and flood risk management plans after a major flood event incorporating new data and lessons learnt
- communicating natural hazard risk through updated flood studies and strategic plans.

This planning proposal is consistent with best practice in terms of management for climate change.

Action 4 - Continue to provide guidance and tools for councils to use for evidence- based risk-management approaches to build resilience to shocks and stresses, plan for natural hazards and transition to net zero emissions.

This planning proposal is consistent with best practice in terms of transition to zero emissions.

Strategy 5.4 - Resilience and adaptation plans should consider opportunities to:

- encourage sustainable and resilient building design and materials (such as forest products) including the use of renewable energy to displace carbon intensive or fossil fuel intensive options
- promote sustainable land management including Ecologically Sustainable Forest Management (ESFM)
- address urban heat through building and street design at precinct scale that considers climate change and future climatic conditions to ensure that buildings and public spaces are designed to protect occupants in the event of heatwaves and extreme heat events
- integrate emergency management and recovery needs into new and existing urban areas including evacuation planning, safe access and egress for emergency services personnel, buffer areas, building back better, whole-of-life cycle maintenance and operation costs for critical infrastructure for emergency management
- adopt coastal vulnerability area mapping for areas subject to coastal hazards to inform the community of current and emerging risks
- promote economic diversity, improved environmental, health and well-being outcomes and opportunities for cultural and social connections to build more resilient places and communities.

This planning proposal is consistent with best practice in terms of management for climate change.

Strategy 5.5 - Partner with local Aboriginal communities to develop land management agreements and policies to support cultural management practices.

This planning proposal is founded on a keen objective to partner with local aboriginal stakeholders.

- **Objective 6 - Create a circular economy**

Strategy 6.1 - Support the development of circular economy, hubs, infrastructure and activities and consider employment opportunities that may arise from circular economies and industries that harness or develop renewable energy technologies and will aspire towards an employment profile that displays a level of economic self-reliance, and resilience to external forces.

The implementation of the circular economy planning principles is a foundation for this planning proposal.

Strategy 6.2 - Use strategic planning and waste management strategies to support a circular economy, including dealing with waste from natural disasters and opportunities for new industry specialisations.

The planning proposal is not inconsistent with Strategy 6.2.

- **Objective 7 - Promote renewable energy opportunities**

Strategy 7.1 - When reviewing LEPs and local strategic planning statements:

- ensure current land use zones encourage and promote new renewable energy infrastructure
- identify and mitigate impacts on views, local character and heritage where appropriate
- undertake detailed hazard studies.

This planning proposal is consistent with Strategy 7.1.

- **Objective 8 - Support the productivity of agricultural land**

Strategy 8.1 - Local planning should protect and maintain agricultural productive capacity in the region by directing urban, rural residential and other incompatible development away from important farmland.

The agricultural character of the subject land is being carefully assessed, and development in the manner anticipated by this planning proposal will not adversely affect the agricultural capacity of the region.

- **Objective 9 - Sustainably manage and conserve water resources**

Strategy 9.1 - Strategic planning and local plans should consider:

- opportunities to encourage riparian and coastal floodplain restoration works
- impacts to water quality, freshwater flows and ecological function from land use change
- water supply availability and issues, constraints and opportunities early in the planning process
- partnering with local Aboriginal communities to care for Country and waterways
- locating, designing, constructing and managing new developments to minimise impacts on water catchments, including downstream waterways and groundwater resources
- possible future diversification of town water sources, including groundwater, stormwater harvesting and recycling

- promoting an integrated water cycle management approach to development
- encouraging the reuse of water in new developments for urban greening and for irrigation purposes
- improving stormwater management and water sensitive urban design
- ensuring sustainable development of higher-water use industries by considering water availability and constraints, supporting more efficient water use and reuse, and locating development where water can be accessed without significantly impacting on other water users or the environment
- identifying and protecting drinking water catchments and storages in strategic planning and local plans
- opportunities to align local plans with any certified Coastal Management Programs.

This planning proposal is consistent with the conservation of water resources.

Strategy 9.2 - Protect marine parks, coastal lakes and estuaries by implementing the NSW Government's Risk- Based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions, with sensitive marine parks, coastal lakes and estuaries prioritised.

This subject planning proposal is not inconsistent with the provisions of Strategy 9.2.

Strategy 9.3 - Encourage a whole of catchment approach to land use and water management across the region that considers climate change, water security, sustainable demand and growth, the natural environment and investigate options for water management through innovation.

This subject planning proposal is not inconsistent with the provisions of Strategy 9.3.

- **Objective 10 - Sustainably manage the productivity of our natural resources**

Strategy 10.1-Enable the development of the region's natural, mineral and forestry resources by avoiding interfaces with land uses that are sensitive to impacts from noise, dust and light interference.

This subject planning proposal is not inconsistent with the provisions of Strategy 10.14.

Strategy 10.2-Plan for the ongoing productive use of lands with regionally significant construction material resources in locations with established infrastructure and resource accessibility.

This subject planning proposal is not inconsistent with the provisions of Strategy 10.2.

## GOAL 2 – PRODUCTIVE AND CONNECTED

- **Objective 11 - Support cities and centres and coordinate the supply of well-located employment land**

Strategy 11.1 - Local council plans will support and reinforce cities and centres as a focal point for economic growth and activity.

The BILS Strategy forms part of the Council's general strategic planning for the Shire as a whole.

Strategy 11.2 - Utilise strategic planning and land use plans to maintain and enhance the function of established commercial centres by:

- simplifying planning controls
- developing active city streets that retain local character
- facilitating a broad range of uses within centres in response to the changing retail environment
- maximising the transport and community facilities commensurate with the scale of development proposals.

The BILS Strategy forms part of Council's general strategic planning for the Shire as a whole.

Strategy 11.3 - Support existing and new economic activities by ensuring council strategic planning and local plans:

- retain, manage and safeguard significant employment lands
- respond to characteristics of the resident workforce and those working in the LGA and neighbouring LGAs
- identify local and subregional specialisations
- address freight, service and delivery considerations
- identify future employment lands and align infrastructure to support these lands
- provide flexibility in local planning controls
- are responsive to future changes in industry to allow a transition to new opportunities
- provide flexibility and facilitate a broad range of commercial, business and retail uses within centres
- 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
- are supported by infrastructure servicing plans for new employment lands to demonstrate feasibility prior to rezoning.

The BILS Strategy forms part of councils general strategic planning for the Shire as a whole.

Strategy 11.4 - New employment areas are in accordance with an employment land strategy endorsed by the Department of Planning and Environment.

The Gulgan area is part of the employment strategy endorsed by the Department by letter of the 11<sup>th</sup> November 2020.

- **Objective 12 - Create a diverse visitor economy**

Strategy 12.1 - Council strategic planning and local plans should consider opportunities to:

- enhance the amenity, vibrancy and safety of centres and township precincts
- create green and open spaces that are accessible and well connected and enhance existing green infrastructure in tourist and recreation facilities
- support the development of places for artistic and cultural activities
- identify appropriate areas for tourist accommodation and tourism development
- protect heritage, biodiversity and agriculture to enhance cultural tourism, agri-tourism and eco-tourism
- partner with local Aboriginal communities to support cultural tourism and connect ventures across the region

- support appropriate growth of the night-time economy
- provide flexibility in planning controls to allow sustainable agritourism and ecotourism
- improve public access and connection to heritage through innovative interpretation
- incorporate transport planning with a focus on active transport modes to connect visitors to key destinations.

This planning proposal mainly focuses on the progression of conventional employment practices and is not overly related to the visitor economy.

- **Objective 13 - Champion Aboriginal self-determination**

Strategy 13.1 - Provide opportunities for the region's LALCs, Native Title holders and community recognised Aboriginal organisations to utilise the NSW planning system to achieve development aspirations, maximising the flow of benefits generated by land rights to Aboriginal communities through strategic led planning.

This planning proposal is consistent with Strategy 13.1.

Strategy 13.2 - Prioritise the resolution of unresolved Aboriginal land claims on Crown land.

Not applicable.

Strategy 13.3 - Partner with community recognised Aboriginal organisations to align strategic planning and community aspirations including enhanced Aboriginal economic participation, enterprise and land, sea and water management.

This planning proposal is consistent with Strategy 13.3.

Strategy 13.4 - Councils consider engaging Aboriginal identified staff within their planning teams to facilitate strong relationship building between councils, Aboriginal communities and key stakeholders such as Local Aboriginal Land Councils and local Native Title holders.

This planning proposal is consistent with Strategy 13.4.

Strategy 13.5 - Councils should establish a formal and transparent relationship with local recognised Aboriginal organisations and community, such as an advisory committee.

This planning proposal is consistent with Strategy 13.5.

Action 5 - The Department of Planning and Environment will work with LALCs, Native Title holders and councils by:

- meaningfully engaging with LALCs and Native Title holders in the development and review of strategic plans to ensure aspirations are reflected in plans
- building capacity for Aboriginal communities, LALCs and Native Title holders to utilise the planning system
- incorporating Aboriginal knowledge of the region into planning considerations and decisions.

This planning proposal is consistent with Action 5.

- **Objective 14 - Deliver new industries of the future**

Strategy 14.1 - Facilitate agribusiness employment and income-generating opportunities through the regular review of council planning and development controls, including suitable locations for intensive agriculture and agribusiness.

The subject planning proposal relates particularly to industrial-type employment opportunities rather than agribusiness.

Strategy 14.2 - Protect established agriculture clusters and identify expansion opportunities in local plans that avoid land use conflicts, particularly with residential and rural residential land uses.

The subject planning proposal relates particularly to industrial type employment opportunities other than agribusiness.

- **Objective 15 - Improve state and regional connectivity**

Strategy 15.1 - Protect proposed and existing transport infrastructure and corridors to ensure network opportunities are not sterilised by incompatible land uses or land fragmentation.

This planning proposal is founded on a comprehensive assessment of the existing and proposed transport infrastructure.

- **Objective 16 - : Increase active and public transport usage**

Strategy 16.1 - Encourage active and public transport use by:

- prioritising pedestrian amenity within centres for short everyday trips
- providing a legible, connected and accessible network of pedestrian and cycling facilities
- delivering accessible transit stops and increasing convenience at interchanges to serve an ageing customer
- incorporating emerging anchors and commuting catchments in bus contract renewals
- ensuring new buildings and development include end of trip facilities
- integrating the active transport network with public transport facilities
- prioritising increased infill housing in appropriate locations to support local walkability and the feasibility of public transport stops.

The planning proposal is consistent with Strategy 16.1.

Strategy 16.2 - Local plans should encourage the integration of land use and transport and provide for environments that are highly accessible and conducive to walking, cycling and the use of public transport and encourage active travel infrastructure around key trip generators.

The planning proposal is consistent with Strategy 16.2.

- **Objective 17 - Utilise new transport technology**

Strategy 17.1 - Councils should consider how new transport technology can be supported in local strategic plans, where appropriate.

The planning proposal is consistent with Strategy 17.1.

### GOAL 3 – GROWTH CHANGE AND OPPORTUNITY

- **Objective 18 - Plan for sustainable communities e**

Action 6- Undertake housing and employment land reviews for the Northern Rivers and Mid North Coast subregions to assess future supply needs and locations.

This planning proposal relates particularly to employment land is not overly relevant to housing needs.

- **Objective 19 - Public spaces and green infrastructure support connected and healthy communities**

Strategy 19.1 - Councils should aim to undertake public space needs analysis and develop public space infrastructure strategies for improving access and quality of all public space to meet community need for public spaces. This could include:

- drawing on community feedback to identify the quantity, quality and the type of public space required
- prioritising the delivery of new and improved quality public space to areas of most need
- considering the needs of future and changing populations
- identifying walkable and cycleable connectivity improvements and quality and access requirements that would improve use and enjoyment of existing infrastructure
- consolidating, linking and enhancing high quality open spaces and recreational areas
- working in partnership with local Aboriginal communities to develop bespoke cultural infrastructure which responds to the needs of Aboriginal communities and facilitates continued cultural practices.

The planning proposal is consistent with Strategy 19.1.

Strategy 19.2 - Public space improvements and new development should consider the local conditions, including embracing opportunities for greening and applying water sensitive urban design principles.

The planning proposal is consistent with Strategy 19.2.

Strategy 19.3 - Encourage the use of council owned land for temporary community events and creative practices where appropriate by reviewing development controls.

Temporary community events are not a planning focus for the subject planning proposal.

Strategy 19.4 - Local environmental plan amendments that propose to reclassify public open space must consider the following:

- the role or potential role of the land within the open space network
- how the reclassification is strategically supported by local strategies such as open space or asset rationalisation strategies
- where land sales are proposed, details of how sale of land proceeds will be managed
- the net benefit or net gain to open space.

Not applicable.

- **Objective 20 - Celebrate local character**

Strategy 20.1 - Ensure strategic planning and local plans recognise and enhance local character through use of local character statements in local plans and in accordance with the NSW Government's *Local Character and Place Guideline*.

The future control plan for the BILS Gulgan precinct will ensure compliance with the character statements and the Character and Place Guidelines published by the NSW Government.

Strategy 20.2 - Celebrate buildings of local heritage significance by:

- retaining the existing use where possible
- establishing a common understanding of appropriate reuses
- exploring history and significance
- considering temporary uses
- designing for future change of use options.

No existing structure of the local heritage significance are impacted by this planning proposal.

**Q4. Will the Planning Proposal give effect to Council's endorsed local strategic planning statement, or other local strategic plan?**

Yes, the Planning Proposal is consistent with the Council endorsed Local Strategic Planning Statement. Set out below is a Consistency Assessment against the Strategic Planning Statement.

**Land Use Priorities and Actions for Environment: A Sustainable Shire**

- ***Sustainable Shire Planning Priorities 1 – Protect and enhance our biodiversity, ecosystems and ecology***

**Sustainable Priority Actions SA1**

- Review and update LEP and DCP to reflect High Environmental Value vegetation mapping and implement Environmental Zones in accordance with State Government requirements. [RLUS Action 9].

The proposed LEP amendment is consistent with Actions SA1 having regard to the recently completed work by Council defining E zones at the subject site. Further, the exact zoning precinct boundaries initiated by this Planning Proposal have been refined by site specific ecological assessment.

**Sustainable Priority Actions SA2**

- Review and update Byron Shire Biodiversity Conservation Strategy, and implement priority actions. [DP/OP Action 3.1.1].

The proposed LEP amendment is not inconsistent with this Action.

**Sustainable Priority Actions SA3**

- Finalise Shire wide Integrated Pest Management Strategy, and implement priority actions. [DP/OP Action 3.1.1]

The proposed LEP amendment is not inconsistent with this Action.

**Sustainable Priority Actions SA4**

- Implement Koala Plan of Management (KpoM) and Flying Fox Camp Management Plan. [DP/OP Action 3.1.1]

The proposed LEP amendment is consistent with Actions SA4 having regard to the recently completed work by Council defining E zones at the subject site. Further, the exact zoning precinct boundaries have been refined by site-specific ecological assessment.

- ***Sustainable Shire Planning Priorities 2 – Strive to become a sustainable community.***

**Sustainable Priority Actions SA5**

- Work towards Council's zero emissions target. [DP/OP Action 3.2.1]

The proposed LEP amendment is not inconsistent with this Action.

**Sustainable Priority Actions SA6**

- Support community environmental and sustainability projects. [DP/OP Action 3.1.2]

The proposed LEP amendment is not inconsistent with this Action.

- ***Sustainable Shire Planning Priorities 3. – Adapt to climate change and build resilience***

**Sustainable Priority Actions SA7**

- Develop a Climate Emergency Plan. [DP/OP Action 3.2.1]

The proposed LEP amendment is not inconsistent with this Action.



**Sustainable Priority Actions SA8**

- Work in collaboration with local community, non-government organisations, NRJO and State Government to deliver priority adaption actions in the Shire.

The proposed LEP amendment is not inconsistent with this Action.

**Land Use Priorities and Actions for a Liveable Shire**

- ***Liveable Shire Planning Priorities 1 – Support and celebrate our heritage, vibrant culture and diverse lifestyles***

**Liveability Priority Actions LA1**

- Prepare a new Arts and Culture Policy to provide a strategic framework for arts and culture in Byron Shire and opportunities for people to be involved in the design and development of public art, space design and cultural interpretation. [DP/OP Action 2.1.3].

The proposed LEP amendment is not inconsistent with this Action.

**Liveability Priority Actions LA2**

- Prepare Cultural Heritage predictive mapping for integration into business activities, planning policies and related provisions to protect Aboriginal heritage. [DP/OP Action 2.5.1].

The proposed LEP amendment is not inconsistent with this Action.

**Liveability Priority Actions LA3**

- Update Council's Community Participation Plan (Strategic Planning Section) to include specific engagement strategies with local Aboriginal communities.

The proposed LEP amendment is not inconsistent with this Action.

**Liveability Priority Actions LA4**

- Develop local heritage studies in consultation with the local Aboriginal community, and adopt appropriate measures in planning strategies and local plans to identify, protect and conserve Aboriginal heritage.

The proposed LEP amendment is not inconsistent with this Action LA4 given that strategic planning for this site has been founded on site specific research conducted with the assistance of local Aboriginal community members.

- ***Liveable Shire Planning Priorities 2 – Create great places that support and encourage an active, healthy and connected community***

**Liveability Priority Actions LA5**

- Deliver Open Space and Recreational services in line with Community Solutions Panel values. [DP/OP Action 2.3.7].

Not Applicable.

**Liveability Priority Actions LA6**

- Investigate opportunities in the local planning framework (LEP and DCP provisions) to support liveable neighbourhood principles when assessing new subdivision and infill development proposals. [draft Residential Strategy Action 5].

Not Applicable.

- ***Liveable Shire Planning Priorities 3 – Support housing diversity and affordability with housing growth in the right locations***

**Liveability Priority Actions LA7**

- Finalise draft Byron Shire Residential Strategy and implement relevant priority actions.

Not Applicable.

**Liveability Priority Actions LA8**

- Prepare and implement planning controls to define and regulate Short Term Rental Accommodation in the Byron Shire. [DP/OP Action 4.1.3]

Not Applicable.

#### **Liveability Priority Actions LA9**

- Investigate and implement planning controls to encourage an increase in the supply of affordable and inclusive housing stock [DP/OP Action 4.2.1]

Not Applicable.

### **Land Use Priorities and Actions for Economy: A Thriving Shire**

- ***Thriving Shire Planning Priorities 1 – Support a strong diversified and sustainable economy based on Byron Shire's unique character, landscapes and important farmland***

#### **Economic Priority Actions TA1**

- Facilitate and support sustainable development of our business community. [DP/OP Action 4.3.1]

The proposed LEP amendment is consistent with Action TA1 because it will provide for an enhanced business community focused around the "doughnut economics" ethic of the proponent.

#### **Economic Priority Actions TA2**

- Finalise and Implement Sustainable Visitation Strategy to guide tourism over the next 10 years [DP/OP Action 4.4.1.1]

Not Applicable.

- ***Thriving Shire Planning Priorities 2 – Develop and implement strategies to support agriculture, agri business and farmers***

#### **Economic Priority Actions TA3**

- Finalise and Implement Agriculture and Agribusiness Action Plan (Medium term) [DP/OP Action 3.4.1.1]

The proposed LEP amendment is not inconsistent with this Action.

- ***Thriving Shire Planning Priorities 3 – Promote and support local business development, education and employment opportunities***

#### **Economic Priority Actions TA4**

- Develop principles/criteria for assessing appropriate locations for knowledge and creative industries

The proposed LEP amendment is not inconsistent with this Action.

#### **Economic Priority Actions TA5**

- Develop principles/criteria for assessing appropriate locations for industry anchors, such as health and education

The proposed LEP amendment is not inconsistent with this Action.

- ***Thriving Shire Planning Priorities 4 – Deliver an adequate supply of employment land through local growth management strategies and local environmental plans to support jobs growth***

#### **Economic Priority Actions TA6**

- Finalise Business & Industrial Lands Strategy and implement priority actions [DP/OP Action 4.5.1]

The proposed LEP amendment is consistent with Actions TA6 because this Planning Proposal is formulated on the basis of the Council's finalised and adopted BILS.

**Land Use Priorities and Actions for Infrastructure: A Connected Shire**

- ***Connected Shire Planning Priorities 1 – Ensure infrastructure delivery is aligned with planned growth***

**Infrastructure Priority Actions CA1**

- Prepare infrastructure new works program in line with Community Solutions Panel values [DP/OP Action 1.2.3]

The proposed LEP amendment is not inconsistent with this Action.

**Infrastructure Priority Actions CA2**

- Finalise Towards Zero Byron Shire Integrated Waste Management and Resource Recovery Strategy and implement priority actions. [DP/OP Action 1.4.1]

The proposed LEP amendment is not inconsistent with this Action.

**Infrastructure Priority Actions CA3**

- Finalise North Byron Catchment Flood Risk Management Strategy and implement priority actions. *GAP*

The proposed LEP amendment is not inconsistent with this Action.

- ***Connected Shire Planning Priorities 2 – Lead partnerships to develop a network of sustainable transport***

**Infrastructure Priority Actions CA4**

- Prepare an Integrated Transport and Movement Plan for the Shire. [DP/OP Action 1.3.1].

The proposed LEP amendment is not inconsistent with this Action.

**Infrastructure Priority Actions CA5**

- Investigate, in association with key stakeholders, opportunities to activate a Multi- use Rail Corridor, including potential funding sources and other activation mechanisms. *GAP*

The proposed LEP amendment is not inconsistent with this Action.

- ***Connected Shire Planning Priorities 3 – Support community well being with appropriate community infrastructure***

**Infrastructure Priority Actions CA6**

- Ensure ongoing maintenance and upgrade of inclusive community infrastructure in line with Community Solutions Panel values. [DP/OP Actions 1.2.1, 1.2.5]

The proposed LEP amendment is not inconsistent with this Action.

- ***Connected Shire Planning Priorities 4 – Provide essential services and reliable infrastructure which meet an acceptable community standard***

**Infrastructure Priority Actions CA7**

- Review and update Section 7.11 Contributions Plan for our Shire's towns, villages and rural localities. *GAP*

The proposed LEP amendment is not inconsistent with this Action.

- Q5. Will the proposal give effect to Council's endorsed Business and Industrial Land Strategy?**

Yes, the Planning Proposal is consistent with Council's adopted BILS strategy (See Appendix D).

- Q6. Is the Planning Proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

Yes, the Planning Proposal is consistent with applicable State Environmental Planning Policies. Current State Environmental Planning Policies applicable to the land<sup>23</sup> are listed

below with a short commentary in relation to the relevance and consistency of each State Planning Policy with this Planning Proposal:

- SEPP (Biodiversity and Conservation) 2021
- SEPP (Sustainable Buildings) 2022
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing) 2021
- SEPP (Industry and Employment) 2021
- SEPP (Planning Systems) 2021
- SEPP (Primary Production) 2021
- SEPP (Resilience and Hazards) 2021
- SEPP (Resources and Energy) 2021
- SEPP (Transport and Infrastructure) 2021
- SEPP No 65—Design Quality of Residential Apartment Development

**Q7. Is the Planning Proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?**

Yes, the Planning Proposal is generally consistent with the Local Planning Directions. An examination of consistency is provided in **Appendix C**.

## Section C Environmental, social and economic impact

The BILS Strategic Planning Work identified a number of matters that required further investigation for the purposes of the Planning Proposal. Those issues include:

- Community views
- Aboriginal cultural heritage
- Non indigenous cultural heritage
- Biodiversity and ecological considerations
- Utility services
- Farmland classification considerations
- Bushfire management
- Traffic assessment
- Pedestrian and cycleway linkages
- Landscaping and visual amenity characteristics
- Assessment of the former dip site

Those matters have been addressed in the accompanying technical reports.

**Q8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

There is no likelihood that critical habitats or the like will be adversely affected as a consequence of the development envisaged by the Planning Proposal. The Council, in its Strategic Planning, carefully sited potential employment land areas in locations from its Shire wide planning perspective, which was identified as being suitable and appropriate. The detailed level of appropriateness of the land has been carefully analysed by the proponent's experts through onsite investigations, and the research has confirmed the suitability of the site.

**Q9. Are there any other likely environmental effects as a result of the Planning Proposal and how are they proposed to be managed?**

Virtually all development will bring some potential for environmental impact. However,

this Planning Proposal is founded on robust site research in terms of ecology and environmental engineering considerations to ensure that impacts are able to be managed using contemporary management techniques.

**Q10. Has the Planning Proposal adequately addressed any social and economic effects?**

The Planning Proposal will have no adverse impact in terms of any social and economic effects. The site has been specifically located by the Council to enhance the social and economic employment opportunities available to the Shire generally. The proponents "doughnut economics" land use ethic will ensure positive social and economic impacts flow from the future development of this site.

## Section D State and Commonwealth interests

**Q11. Is there adequate public infrastructure for the Planning Proposal?**

The relevant utility supply authorities have been consulted in the preparation of this Planning Proposal and it is evident that adequate public infrastructure will be available to meet the needs of the development envisaged by the Planning Proposal.

**Q12. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?**

The relevant State and Commonwealth authorities will be consulted in accordance with the Gateway determination.

## Part 4 Mapping and Special provisions

Amendments will be required to the Byron LEP 2014 maps shown as thumbnail style graphic type plans at **Figure 2.1**. Detailed illustrations of the existing and proposed planning maps are provided at **Appendix A**. The plans in this section also show zonings proposed under a parallel Planning Proposal applicable to Council's Stage 4 - C Zone Implementation program.

**Appendix B** contains a proposed plain English explanation of the Work/Live provision.

## Part 5 Community consultation

Comprehensive community consultation was undertaken by Council in the development and adoption of its BILS strategic planning work.

Further community consultation will be conducted in accordance with the terms of the Gateway determination. At a minimum, notification of the exhibited Planning Proposal will include:

- notification on Council's website;
- referral to relevant State agencies; and
- notification in writing to affected landowners.

## Part 6 Project timeline

The proposed timeline for the completion of the Planning Proposal is as follows:

<b>Plan making step</b>	<b>Estimated completion</b>
Gateway Determination	July 2024
Agency Consultation	September 2024
Public Exhibition Period	September 2024
Submissions Assessment	December 2024
Submission of endorsed LEP amendment to Parliamentary Counsel for drafting (delegated authority)	December 2024
Council to make the LEP amendment (delegated authority)	February 2025
LEP amendment notification	February 2025



## Conclusion

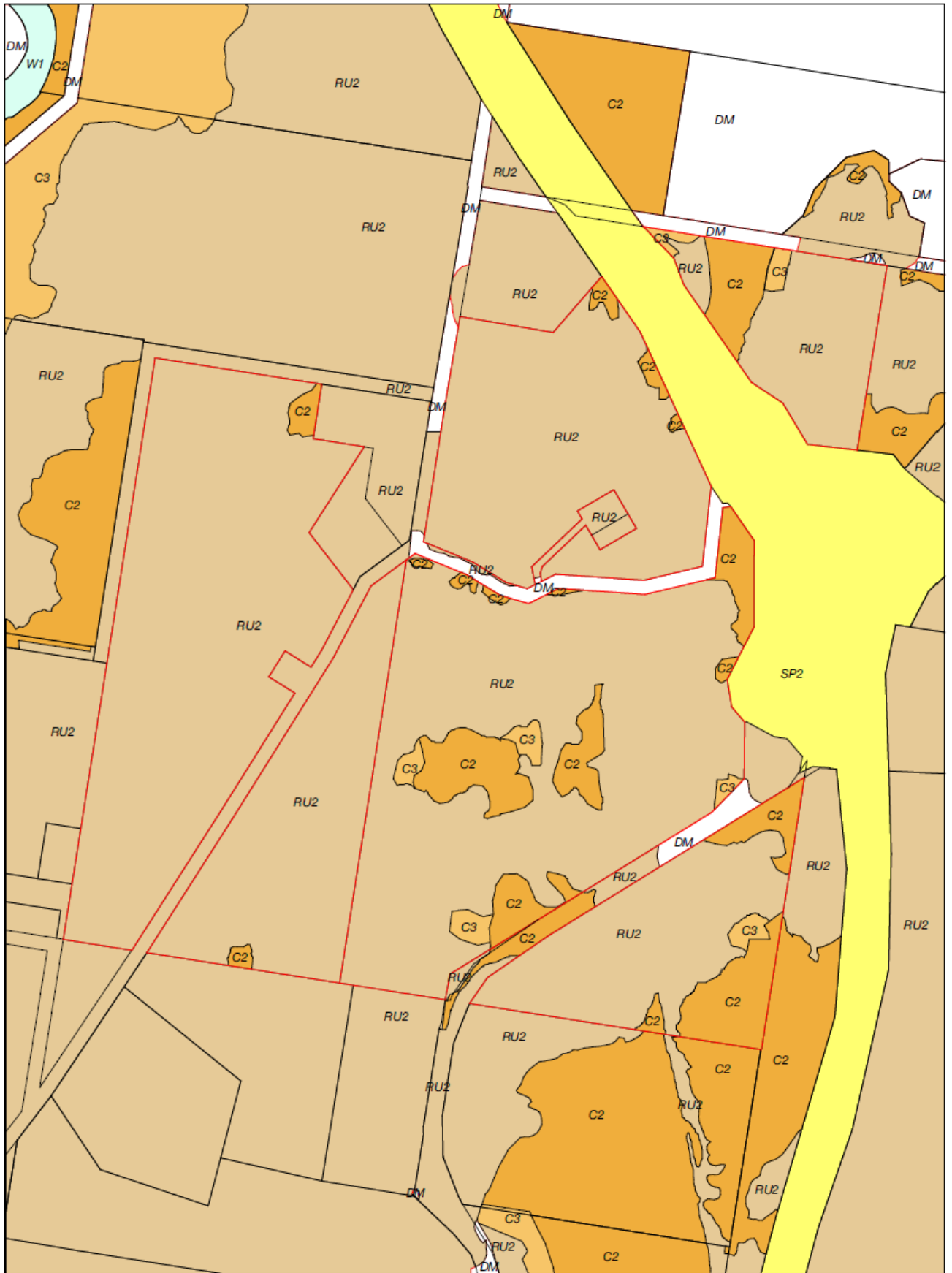
This Planning Proposal seeks to amend Byron Local Environmental Plan 2014 to:

- 6.5 hectares of employment land zoned as prescribed in the BILS Strategic Planning for Area 5;
- A Floor Space Ratio for the employment land area set at 0.9:1 (being the Floor Space Ratio that typically applies in the Byron Arts and Industry Estate); and
- An amendment to the lot size map to provide for the orderly use of the severed part of the parcel east of the motorway and allowing for the excision of the employment land precinct from the residual rural zoned land on the western side of the motorway.
- Optimisation of the development potential of the BILS precincts by providing a maximum building height of 11.5m; and
- Providing for work/live accommodation in the E3 precinct to support the employment land uses.

The Planning Proposal is founded on comprehensive strategic planning work undertaken by Byron Shire Council and endorsed by the Department of Planning Industry and Environment. The Planning Proposal is generally consistent with the provisions of the Council's Strategic Planning, State Environmental Planning Instruments and the Directions issued by the Minister for Planning.

## **Appendix A – Maps**

## ***A1 Amendment - Land Zoning Maps***

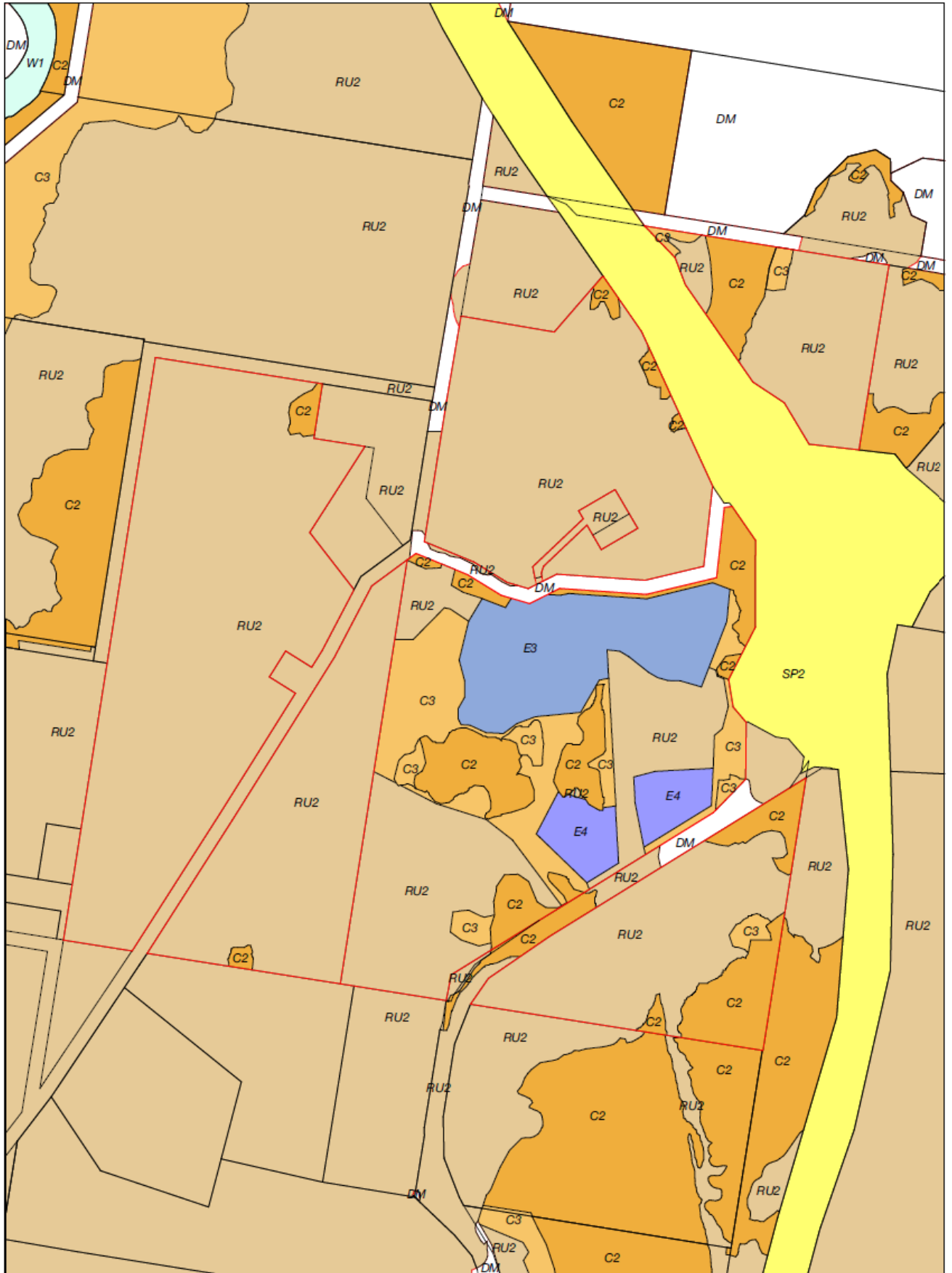


BILS Area 5, Gulgan North  
Existing Zoning



- RU2 Rural Landscape
- C2 Environmental Conservation
- C3 Environmental Management
- DM Deferred Matter
- SP2 Infrastructure
- W1 Natural Waterways

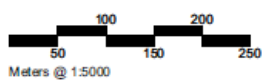
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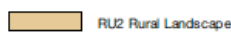
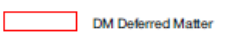

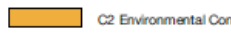
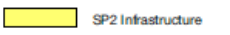
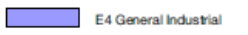
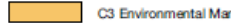
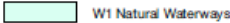


BILS Area 5, Gulgan North

Proposed Zoning

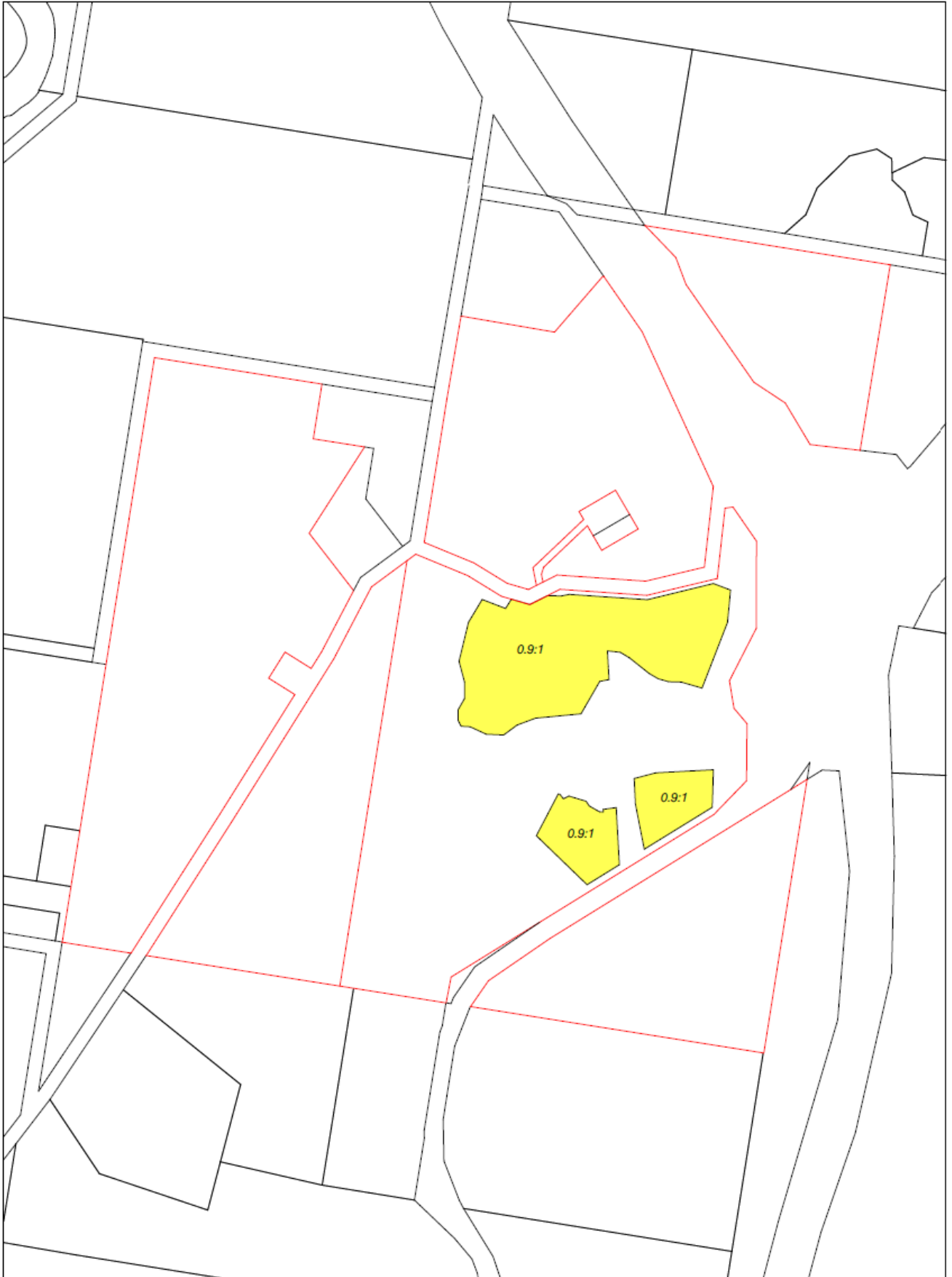
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- |   |   |   |
|---|---|---|
|  RU2 Rural Landscape           |  DM Deferred Matter   |  E3 Productivity Support |
|  C2 Environmental Conservation |  SP2 Infrastructure   |  E4 General Industrial   |
|  C3 Environmental Management   |  W1 Natural Waterways |   |

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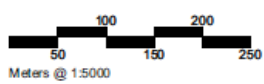
## A2 Amendment - Floor Space Ratio Map



BILS Area 5, Gulgan North

Proposed Floor Space Ratio

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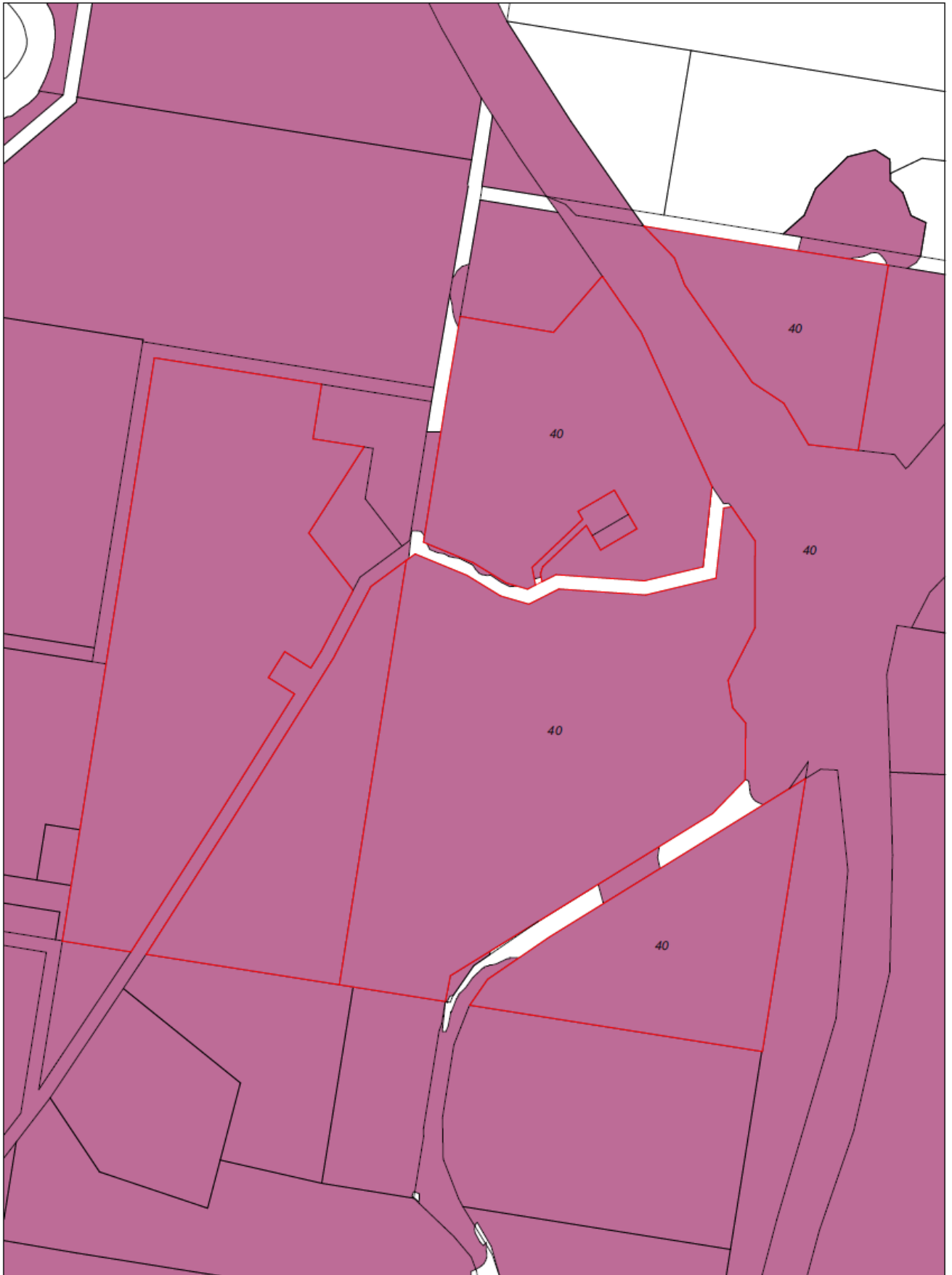


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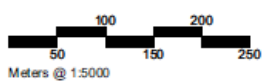
## ***A3 Amendment – Lot Size Maps***



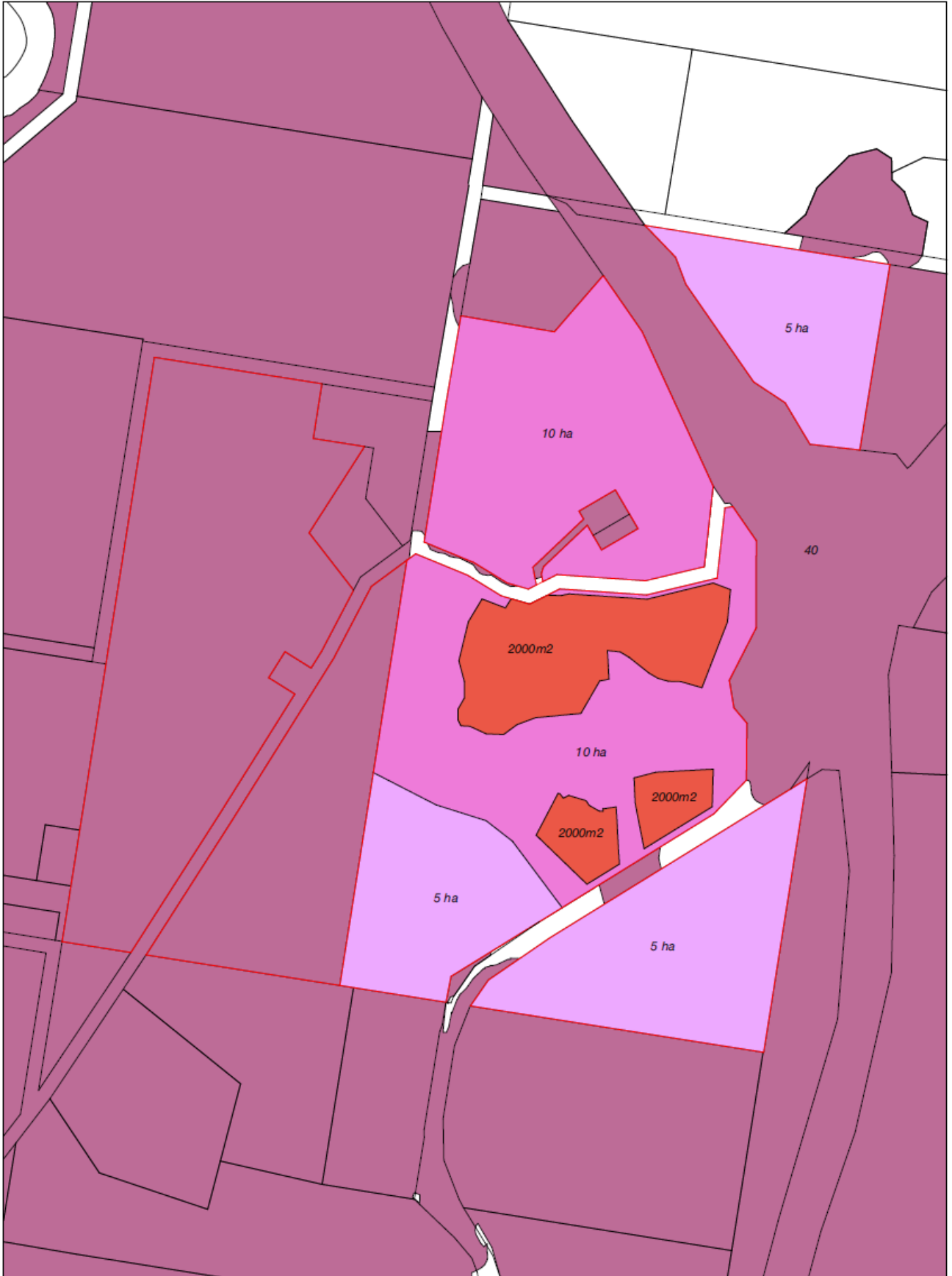


BILS Area 5, Gulgan North  
Existing Minimum Lot Size

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40 ha Minimum Lot Size



BILS Area 5, Gulgan North

Proposed Minimum Lot Size

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40 ha Minimum Lot Size

10 ha Minimum Lot Size

5 ha Minimum Lot Size

2000m2 Minimum Lot Size

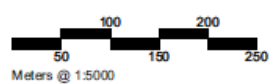
No Minimum Lot Size

## ***A4 Amendment - Height of Buildings Maps***

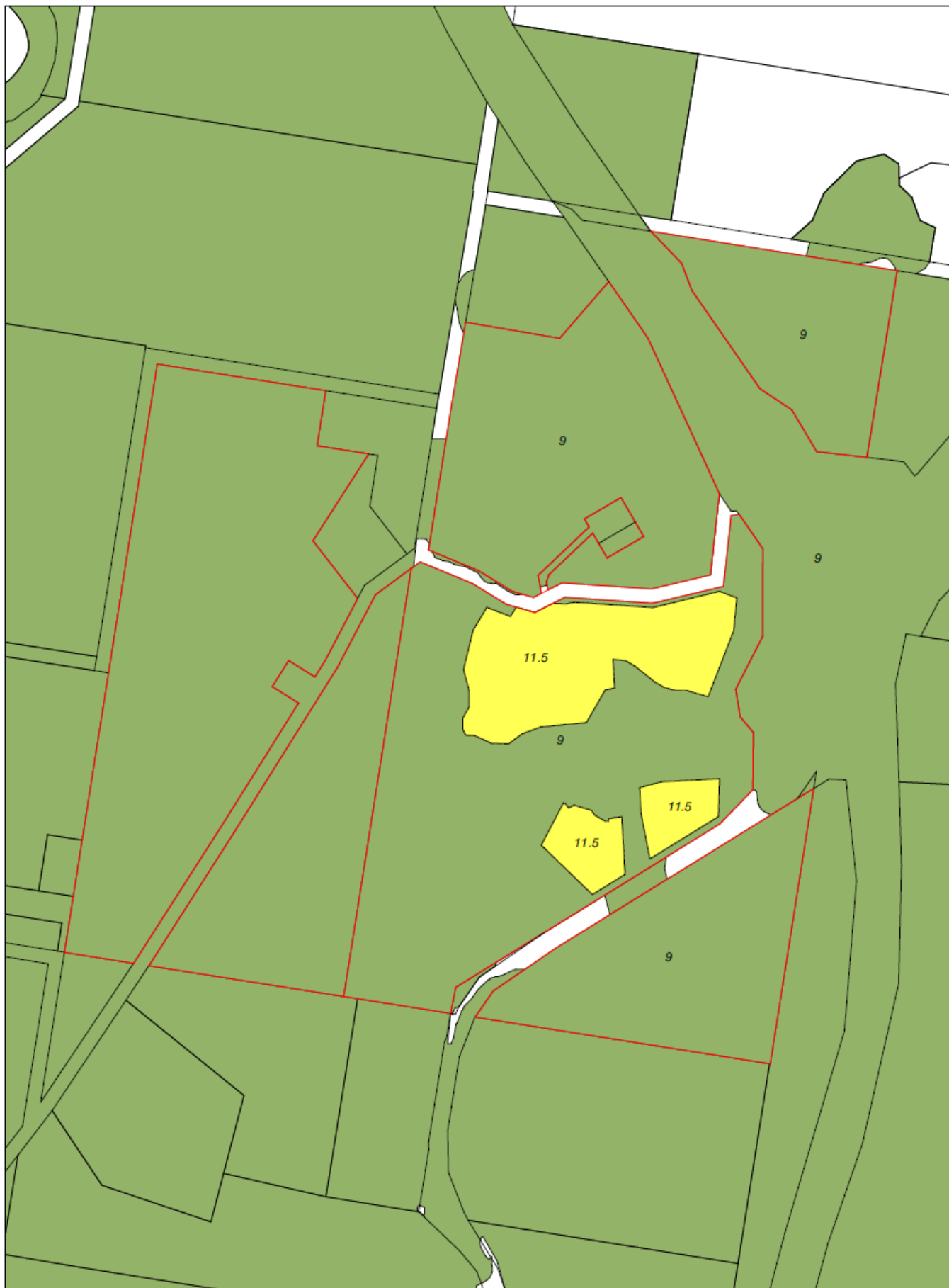


BILS Area 5, Gulgan North  
Existing Building Height

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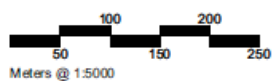




9m Height of Buildings



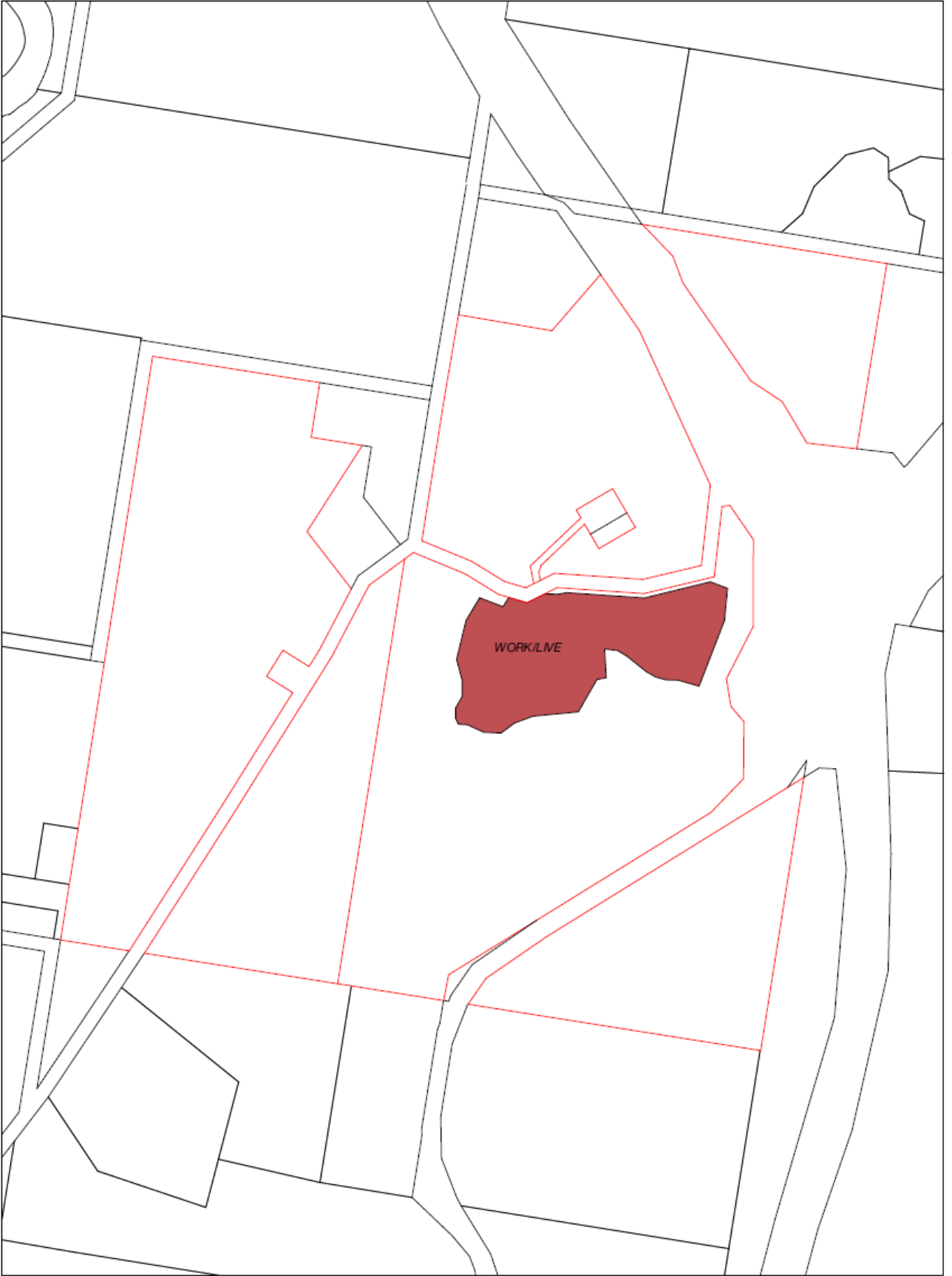
BILS Area 5, Gulgan North  
Proposed Height of Buildings

1:5000  
@A3



-  9m Height of Buildings
-  11.5m Height of Buildings

## A5 Amendment – Work / Live Precinct Map

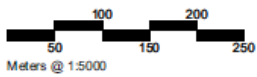


BILS Area 5, Gulgan North

Proposed Work / Live Precinct Clause

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 Work / Live Precinct Clause

# Appendix B – Plain English version of proposed Work Live clause

## The nature and objective of the proposed Work-Live clause

Work-live units are among the oldest forms of housing. Historically, our cities, towns, and villages included shophouses, where work, commerce, and housing all took place on the same property. However, with the advent of the Industrial Revolution advances in transportation technology, new settlement patterns, and the fact that most planning instruments required separate and single-use zoning all contributed in some fashion to the slow erosion of this type. By the mid-1950s, Work-live essentially became highly discouraged in most places.

The rise of the internet, telecommuting, and teleconferencing have created unprecedented opportunities for a more work-driven type of space in which employees and walk-in trade are permitted and more intense kinds of work are performed. This land use can also play an important part in The Incubator Cycle where small businesses often progress through different workspaces, from a spare room at home to the garage (of Apple Computer and Hewlett Packard fable and fame), and often next to a Work-live space.

There are three overarching types of live-work conditions within our contemporary built environment:

1. Home occupation/business: where most planning instruments, with minimal requirements, allow up to 25 per cent of a home to be dedicated to a workspace.
2. Live-work units: typically take the form of "shop top housing" above employment premises. This "Live-Above Type" has the workplace below the residential quarters.
3. Work-live: a unit that typically contains a business, office or light industrial component. The work component generally exceeds 50 per cent of the dwelling area, resulting in stricter building code requirements for health and safety reasons.

The objective of the proposed WORK-LIVE clause is to facilitate the above-described item (3) "Work-live" model. In addition, the clause also ensures that subdivision of the subject land can only occur if the consent authority is satisfied that vehicular access to and from the site will not unreasonably impact pedestrian, cyclist or vehicular traffic movements on Gulgan Rd, Brunswick Heads.

A plain English version of the proposed Work-Live clause is set out below.

*The clause applies to land at 66 The Saddle Road, Brunswick Heads, being Lot 2 DP 1159910, identified on the Local Clauses map.*

*In the E3 Productivity Zone, development consent can be granted to residential development directly associated with and directly connected to permissible employment land uses. However, the total residential floor space cannot be more than the total employment land use floor space and must always be subservient to the employment land use. Further, the residential area must be used by the proprietor, a lessee, the proprietor or lessee's employees, or that person's household.*

*Subdivision of the land can only occur if the consent authority is satisfied that vehicular access to and from the site will not unreasonably impact pedestrian, cyclist or vehicular traffic movements on Gulgan Road, Brunswick Heads.*



## Appendix C - Ministerial Directions

### Q7. Is the Planning Proposal consistent with the applicable Ministerial Directions (s.9.1 directions)?

Yes, the Planning Proposal is generally consistent with the Local Planning Directions. The following analysis examines consistency:

#### Focus Area 1: Planning Systems

- **Direction 9.1**

##### 1.1 Implementation of Regional Strategies

This direction applies to a relevant planning authority when preparing a planning proposal for land to which a Regional Plan has been released by the Minister for Planning.

The proposed LEP is consistent with this Direction, as documented within Section B Q3 above.

##### 1.2 Development of Aboriginal Land Council Land

This direction applies when a Planning Proposal authority prepares a Planning Proposal for land shown on the Land Application Map of State Environmental Planning Policy (Aboriginal Land) 2019.

Not applicable.

##### 1.3 Approval and Referral Requirements

A Planning Proposal must:

- minimise the inclusion of provisions that require the concurrence, consultation or referral of Planning Proposals to a Minister or public authority, and
- not contain provisions requiring concurrence, consultation or referral of a Minister or public authority unless the relevant planning authority has obtained the approval of:
  - the appropriate Minister or public authority, and
  - the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General)

The proposed LEP is not inconsistent with this Direction.

##### 1.4 Site Specific Provisions

This direction applies when a relevant planning authority prepares a Planning Proposal that will allow a particular development to be carried out.

A Planning Proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:

- allow that land use to be carried out in the zone the land is situated on, or
- rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or
- allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

A Planning Proposal must not contain or refer to drawings that show details of the development proposal.

The proposed LEP is not inconsistent with this Direction.

### Focus Area 3: Biodiversity and Conservation

- **Direction 9.1**

#### **3.1 Environmental Protection Zones**

The objective of this direction is to protect and conserve environmentally sensitive areas.

A Planning Proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.

A Planning Proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with Direction 9.2 (2) "Rural Lands".

The proposed LEP is consistent with this Direction as no reduction in environmental protection standards will occur as a consequence of rezoning in the manner proposed.

#### **3.2 Heritage Conservation**

A Planning Proposal must contain provisions that facilitate the conservation of:

- a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area,
- b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and
- c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.

The proposed LEP is consistent with this Direction as the delineation of the employment land zoning precincts is being founded on comprehensive site research and analysis overseen by expert archaeologists.

#### **3.4 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs**

This direction applies when a relevant planning authority prepares a Planning Proposal:

- a) that introduces or alters an E2 Environmental Conservation or E3 Environmental Management zone;
- b) that introduces or alters an overlay and associated clause.

The proposed LEP is consistent with this Direction as no further environmental protection zoning is proposed by this rezoning beyond what has already been settled by Council in its recent EZoning Strategic Planning in the subject locality.

#### **3.5 Recreation Vehicle Areas**

- 1) A planning proposal must not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the Recreation Vehicles Act 1983):

(a) where the land is within a conservation zone,  
 (b) where the land comprises a beach or a dune adjacent to or adjoining a beach,  
 (c) where the land is not within an area or zone referred to in paragraphs (a) or (b)  
 unless the relevant planning authority has taken into consideration:

- i. the provisions of the guidelines entitled Guidelines for Selection, Establishment and Maintenance of Recreation Vehicle Areas, Soil Conservation Service of New South Wales, September, 1985, and
- ii. the provisions of the guidelines entitled Recreation Vehicles Act 1983, Guidelines for Selection, Design, and Operation of Recreation Vehicle Areas, State Pollution Control Commission, September 1985.

The proposed LEP is not inconsistent with this Direction.

#### Focus Area 4: Resilience and Hazards

- **Direction 9.1**

##### **4.1 Flooding**

This direction applies when a relevant planning authority prepares a Planning Proposal that creates, removes or alters a zone or a provision that affects flood prone land.

A Planning Proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005 and the publication Considering Flooding in Land Use Planning Guidelines 2021 as well as any adopted flood strategy made in accordance with the principals of the Floodplain Development Manual.

A Planning Proposal must not rezone land within the flood planning areas from Special Use, Special Purpose, Recreation, Rural or Environmental Protection Zones to a Residential, Business, Industrial, Special Use or Special Purpose Zone.

The proposed LEP is not inconsistent with this Direction as the land subject of the Planning Proposal does not require floodproofing.

Using the 2020 PMF Hazard layer, the Department has sought advice to confirm whether the proposed access into the site, or any part of the proposed E4 zone, is affected by Intermediate/High flood Hazard. If not, the applicant has been requested to confirm how long any flash flooding across Gulgan Road lasts during high rainfall events.

##### *Flood modelling in the December 2021 Civil Engineering Report (CER)*

The December CER included a reference to flood mapping undertaken based on the flood data acquired from the Council for this purpose.

##### *Probable Maximum Flood (PMF)*

The flood modelling in the December CER was based on the 1% ('1 in 100 year event') AEP storm, as per Council's DCP. The flood matrix in the current DCP does not make the PMF applicable to this development. In reference to the NSW State Government guideline relating to PMF, this only relates to residential planning proposals. The BILS does not include residential land within the flood plain therefore, it does not apply.

##### *2020 PMF mapping*

Based on the 2020 PMF mapping supplied by Council, the majority of the lower BILS is in low or intermediate hazard.

*Site access is the intermediate PMF hazard zone.*

Under the 1% AEP event (which is the design event under Council's current policies), all of the lower BILS land is in the 'no hazard' zone i.e. the pink area in the map below.



This area is not inundated under Council's 1% AEP modelling, being above the physical flood, but below the Flood Planning Level, which is why it's mapped pink. It is proposed to fill to the FPL. This will have no material flood impact for the 1% AEP storm as it does not displace any water.

#### *Flood Planning Level*

Pursuant Council's DCP, the 2100 Flood Planning Level applies to 'new release areas'. Section 2.1 of the Civil Engineering Report by Ingen Consulting reports that the 2100 Flood Planning Level for this site is RL4.63m AHD, as described in section 2.2 of the Civil Engineering Report. This 2100 Flood Planning Level includes allowances for adopted climate change assumptions. It is proposed to fill the lower lying area of the BILS precinct to RL4.63m AHD to ensure the 2100 FPL is met for all habitable floors of all buildings.

#### *Site evacuation*

In the collector road design, the proposed intersection with Gulgan Road is at the lowest point on the corridor. It then gradually rises from the intersection with Gulgan Road and then traverses up to higher ground. Accordingly, the evacuation opportunities onto Gulgan Road are limited to the flood characteristics of Gulgan Road itself. However, the obvious evacuation collection point is on top of the hill.

#### *Flash flooding*

Data on the duration of flash flooding of Gulgan Road for events less frequent than the 1% AEP event is not available. At Development Application stage, the question of the potential for flood overtopping of Gulgan Road can be considered. This will require additional modelling and will involve a 3+ month lead time.

## **4.2 Coastal Management**

This direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021

The proposed LEP is not inconsistent with this Direction.

#### **4.3 Planning for Bushfire Protection**

This direction applies when a relevant planning authority prepares a Planning Proposal that will affect, or is in proximity to land mapped as bushfire prone land.

In the preparation of a Planning Proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of Schedule 1, clause 4 of the Act, and take into account any comments so made.

The proposed LEP is consistent with this Direction as expert advice has been obtained in the preparation of this Planning Proposal to define appropriate Asset Protection Zone buffers in the delineation of employment land zoning boundaries.

#### **4.4 Remediation of Contaminated Land**

This direction applies to:

- a) land that is within an investigation area within the meaning of the Contaminated Land Management Act 1997;
- b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out;
- c) the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:
  - (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and
  - (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).

The proposed LEP is consistent with this Direction as the definition of the employment land has been carefully mapped having regard to on-site research in relation to land potentially contaminated by former dip site.

#### **4.5 Acid Sulfate Soils**

This direction applies when a relevant planning authority prepares a Planning Proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps.

The proposed LEP is not inconsistent with this Direction given that any material alterations to Acid Sulfate Soils as a consequence of zoning in the manner proposed will be readily managed using contemporary techniques.

#### **4.6 Mine Subsidence and Unstable Land**

This direction applies to land that:

- a) is within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, or
- b) has been identified as unstable land.

This direction applies when a relevant planning authority prepares a Planning Proposal that permits development on land that:

- a) is within a mine subsidence district, or
- b) has been identified as unstable in a study, strategy or other assessment.

The proposed LEP is not inconsistent with this Direction.

## Focus Area 5: Transport and Infrastructure

- **Direction 9.1**

### **5.1 Integrating Land Use and Transport**

This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. A Planning Proposal must locate zones for urban purposes and include provisions that give effect to and are consistent with the aims, objectives and principles of:

- a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and
- b) The Right *Place for Business and Services – Planning Policy* (DUAP 2001).

The proposed LEP is not inconsistent with this Direction given Council's strategic planning for the locality has been founded on general consistencies with the guidelines specified in this Direction.

### **5.2 Reserving Land for Public Purposes**

A Planning Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning and Environment (or an officer of the Department nominated by the Director-General).

The proposed LEP is not inconsistent with this Direction.

### **5.3 Development Near Regulated Airports and Defence Airfields**

This direction applies when a relevant planning authority prepares a Planning Proposal that will create, alter or remove a zone or a provision relating to land near a regulated airport which includes a defence airfield.

The proposed LEP is not inconsistent with this Direction.

### **5.4 Shooting Ranges**

This direction applies when a relevant planning authority prepares a Planning Proposal that will affect, create, alter or remove a zone or a provision relating to land adjacent to and/ or adjoining an existing shooting range.

The proposed LEP is not inconsistent with this Direction.

## Focus Area 6: Housing

- **Direction 9.1**

### **6.1 Residential Zones**

This direction applies when a relevant planning authority prepares a Planning Proposal that will affect land within:

- a) an existing or proposed residential zone (including the alteration of any existing residential zone boundary),
- b) any other zone in which significant residential development is permitted or proposed to be permitted.

The proposed LEP is not inconsistent with this Direction.

### **6.2 Caravan Parks and Manufactured Home Estates**

In identifying suitable zones, locations and provisions for caravan parks in a Planning Proposal, the relevant planning authority must:

- a) retain provisions that permit development for the purposes of a caravan park to be carried out on land, and
- b) retain the zonings of existing caravan parks, or in the case of a new principal LEP zone the land in accordance with an appropriate zone under the Standard Instrument (Local Environmental Plans) Order 2006 that would facilitate the retention of the existing caravan park.

In identifying suitable zones, locations and provisions for manufactured home estates

(MHEs) in a Planning Proposal, the relevant planning authority must:

- a) take into account the categories of land set out in Schedule 2 of SEPP 36 as to where MHEs should not be located,
- b) take into account the principles listed in clause 9 of SEPP 36 (which relevant planning authorities are required to consider when assessing and determining the development and subdivision proposals), and
- c) include provisions that the subdivision of MHEs by long term lease of up to 20 years or under the Community Land Development Act 1989 be permissible with consent.

The proposed LEP is not inconsistent with this Direction.

## Focus Area 7: Industry and Employment

- **Direction 9.1**

### **7.1 Employment Zones**

This direction applies to all relevant planning authorities when preparing a planning proposal that will affect land within an existing or proposed Employment zone (including the alteration of any existing Employment zone boundary).

The proposed LEP is not inconsistent with this Direction given that it seeks to implement a strategic planning arrangement for employment land, which has been prepared and adopted by Byron Shire Council and endorsed by the Department.

### **7.2 Reduction in non-hosted short term rental accommodation period**

This direction applies to Byron Shire Council. This direction applies when the council prepares a planning proposal to identify or reduce the number of days that non-hosted short-term rental accommodation may be carried out in parts of its local government area.

The proposed LEP is not inconsistent with this Direction.

### **7.3 Commercial and Retail Development along the Pacific Highway, North Coast**

This Direction applies when a relevant planning authority prepares a Planning Proposal for land in the vicinity of the existing and/or proposed alignment of the Pacific Highway.

The proposed LEP is not inconsistent with this Direction.

## Focus Area 8: Resources and Energy

- **Direction 9.1**

### **8.1 Mining, Petroleum Production and Extractive Industries**

Applies when a relevant planning authority prepares a Planning Proposal that would have the effect of:

- a) prohibiting the mining of coal or other minerals, production of petroleum, or winning or obtaining of extractive materials, or
- b) restricting the potential development of resources of coal, other minerals, petroleum or extractive materials which are of State or regional significance by permitting a land use that is likely to be incompatible with such development.

The proposed LEP is not inconsistent with this Direction.

## Focus Area 9: Primary Production

- **Direction 9.**

### 9.1 Rural Zones

Applies when a relevant planning authority prepares a Planning Proposal that will affect land within an existing or proposed rural zone (including the alteration of any existing rural zone boundary).

The proposed LEP is not inconsistent with Direction as the changes to the rural land zone proposed are in accordance with the adopted strategy for employment land.

### 9.2 Rural Lands

This direction applies when a relevant planning authority prepares a planning proposal for land outside the local government areas of lake Macquarie, Newcastle, Wollongong and LGAs in the Greater Sydney Region (as defined in the Greater Sydney Commission Act 2015) other than Wollondilly and Hawkesbury, that:

- (a) will affect land within an existing or proposed rural or conservation zone (including the alteration of any existing rural or conservation zone boundary) or
- (b) changes the existing minimum lot size on land within a rural or conservation zone.

The proposed LEP is inconsistent with this Direction. Council has recently completed a tranche of strategic planning which settles the rural and environmental protection zonings generally relevant in the locality and at the subject site.

Specific discussion is provided below in relation to consistency under 9.2(2):

*9.2(2) A planning proposal that changes the existing minimum lot size on land within a rural or conservation zone must demonstrate that it:*

- a) is consistent with the priority of minimising rural land fragmentation and land use conflict, particularly between residential and other rural land uses*

The subject site has an overall area of 52.1ha. The area of the proposed BILS precinct is 18.9ha in size. The initial stage will require the excision of the BILS parcel from the farm's residual area to implement the BILS development. That will not be possible unless the minimum area of subdivision relevant to the residue is adjusted.

The severed part of the subject land east of the Motorway has an area of 5.8ha. It is identified in the Council's Draft Residential Strategy for future residential consideration in association with properties adjoining it. For practical purposes, it is appropriate that land be separated from the western component of the property to allow for the orderly amalgamation of the eastern component with lands that will be the subject of further urbanisation in the future.

Concerning the residual rural land on the western side of the Motorway, two options are feasible, i.e.

1. Keep the minimum lot size at about 25ha and connect the three separate parcels by "vinculum"; or
2. Because the residual rural parcels north of Gulgan Road are identified in Councils Draft Residential Strategy, it was thought best to size those fractions in a manner that allowed for their ready conversion for urban purposes.



The Planning Proposal maps adopt the option 2 approach.

The minimum lot areas proposed are practical and give priority to orderly rural land management. Because of the special strategic circumstances of the subject land, the proposed lot sizes do not represent fragmentation rather, they provide for the orderly future use of the land. Further, the lot sizes as proposed will not add to land use conflict - refer to the LUCRA submitted with the Planning Proposal.

*(b) will not adversely affect the operation and viability of existing and future rural land uses and related enterprises, including supporting infrastructure and facilities that are essential to rural industries or supply chains*

The property is not a viable rural land operation – Refer to the Agricultural assessment report submitted with the Planning Proposal. The existing uses of the site will not be disadvantaged by the subdivision pattern proposed. Further, the future use of the land for potentially urban purposes will be facilitated by the proposed subdivision minimum lot sizes.

### **9.3 Oyster Aquaculture**

Applies when a relevant planning authority prepares any Planning Proposal that proposes a change in land use which could result in:

- a) adverse impacts on a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate", or
- b) incompatible use of land between oyster aquaculture in a Priority Oyster Aquaculture Area or a "current oyster aquaculture lease in the national parks estate" and other land uses.

The proposed LEP is not inconsistent with this Direction.

### **9.4 Farmland of State and Regional Significance on the NSW Far North Coast**

This applies to Byron Shire Council except within areas contained within the "urban growth area" mapped in the North Coast Regional Plan 2036.

A Planning Proposal must not:

- a) rezone land identified as "State Significant Farmland" for urban or rural residential purposes.
- b) rezone land identified as "Regionally Significant Farmland" for urban or rural residential purposes.
- c) rezone land identified as "significant non-contiguous farmland" for urban or rural residential purposes.

The proposed LEP is consistent with the intent of this Direction as despite being mapped as part important farmland, careful onsite analysis indicates that the land is largely "Class 5" and the components that are Class 3 are small in size and not contiguous.

## Appendix D - Supplementary BILS Assessment

The Planning Proposal is consistent with Council's adopted BILS strategy.

Specific matters to note:

### BILS Direction 3

- *Investigations to address the 'Business and industrial land principles' under Direction 4, an assessment to evaluate the potential impact of business park development on existing business centres for any proposal incorporating a business park and to incorporate a structure and staging plan for new release.*

The proposal is consistent with BILS Design Principle 1, which provides a range of zones and the intention to have a diverse lot tenancy make-up. Each of the parcels has been designed to be consistent with the better working principle by providing interconnectivity with road dimensions suitable for the vehicle movements required as well as for public transport and a permeable and walkable environment.

The BILS better performance Principles 2 and 3 is not overly applicable to the rezoning phase and is more relevant to the Development Application phase.

With respect to the potential for commercial centre competition, it is noted that Byron Shire currently provides a total of around 54 hectares of land within its business centres. Of this, 10.9 hectares is undeveloped and 4,503sqm is vacant gross floor area (GFA). Future capacity and demand for business centre land in the Shire have been forecasted in the BILS strategic planning work regarding available land.

The additional land requirement, as summarised in the following extract from the BILS strategy below, being the amount of land needed to accommodate future growth,

Business centre trade area	Current retail/commercial floor space (sqm)	Current over/under supply (-) (sqm)	2041 over/under supply (-) (sqm)	Additional land requirements (ha)
Bangalow	8,615	-1,335	-8,000	0.1-.04
Byron Bay1.	45,700	5,000	-30,970	0.5-1.4
Suffolk Park	1,275	-35	-330	0
Mullumbimby	31,600	5,700	-11,460	0.4-1.4
Northern2.	25,525	9,900	2,475	0

For the BILS Gulgan North site, Mullumbimby and Brunswick Heads are the most relevant.

Currently, Mullumbimby town centre provides around 31,600 sqm of retail and commercial floor space. The town centre catchment generates an estimated demand for around 25,435 sqm of floor space. This results in an existing oversupply of around 6,165 sqm of floor space

in the centre. Anticipated growth in the surrounding resident, worker and visitor population and expenditure will likely convert this oversupply to an undersupply by 2026 (~3,000 sqm).

An additional 0.4 to 1.4 hectares of land would be required by 2041 to accommodate demand. This could either be through an expansion of the centre to the north (the BILS strategy suggests between the existing business zone and Tincogan Street) or rationalisation and densification of land uses within the centre through alterations to planning controls (particularly along Dalley Street between Whian and Burringbar Streets, and near Woolworths).

Under the existing planning controls, Brunswick Heads has the capacity to accommodate an additional 5,611 sqm of gross floor area. The likelihood of this floor space absorbing demand would be dependent on the capacity to increase the surrounding residential population to enhance the attractiveness of the centre for investment. The current planning controls limit redevelopment opportunities, and the BILS Gulgan North will not aggravate this situation.

A staging plan is not considered necessary for the site as infrastructure/services can be delivered. Any staging requirement necessitated by the carrying capacity of the wider Gulgan Rd network (assessment of traffic impacts is required under the proposed local clause) is to be considered at the Development Application stage.

#### BILS Aboriginal Cultural Heritage Considerations

Under the BILS Area 5 '*Site Profile – Key Issues and Further Investigations*', it is noted that:

- *Aboriginal cultural heritage sensitivities – sites and a 100m buffer to a site (requested by Arakwal) to be excluded from a business or industrial zone.*

The BILS strategy for the subject site noted a 100m buffer to a site to be excluded from a business or industrial zone, as requested by Arakwal. This 100m buffer as a "rule of thumb" to be used for initial site planning design development. The finalised zoning proposal is a refined envelope influenced by, inter alia, slope, access considerations, utility services and biodiversity as well as archaeological considerations. This finalised zoning footprint has been tested via the ACHAR process. Arakwal representatives who have been involved in the ACHAR process.

More recently, onsite "Connecting with Country" work was completed by Arakwal personnel in association with the project Urban Designer. This onsite work has reaffirmed the appropriateness of the current BILS zoning footprint with Arakwal.

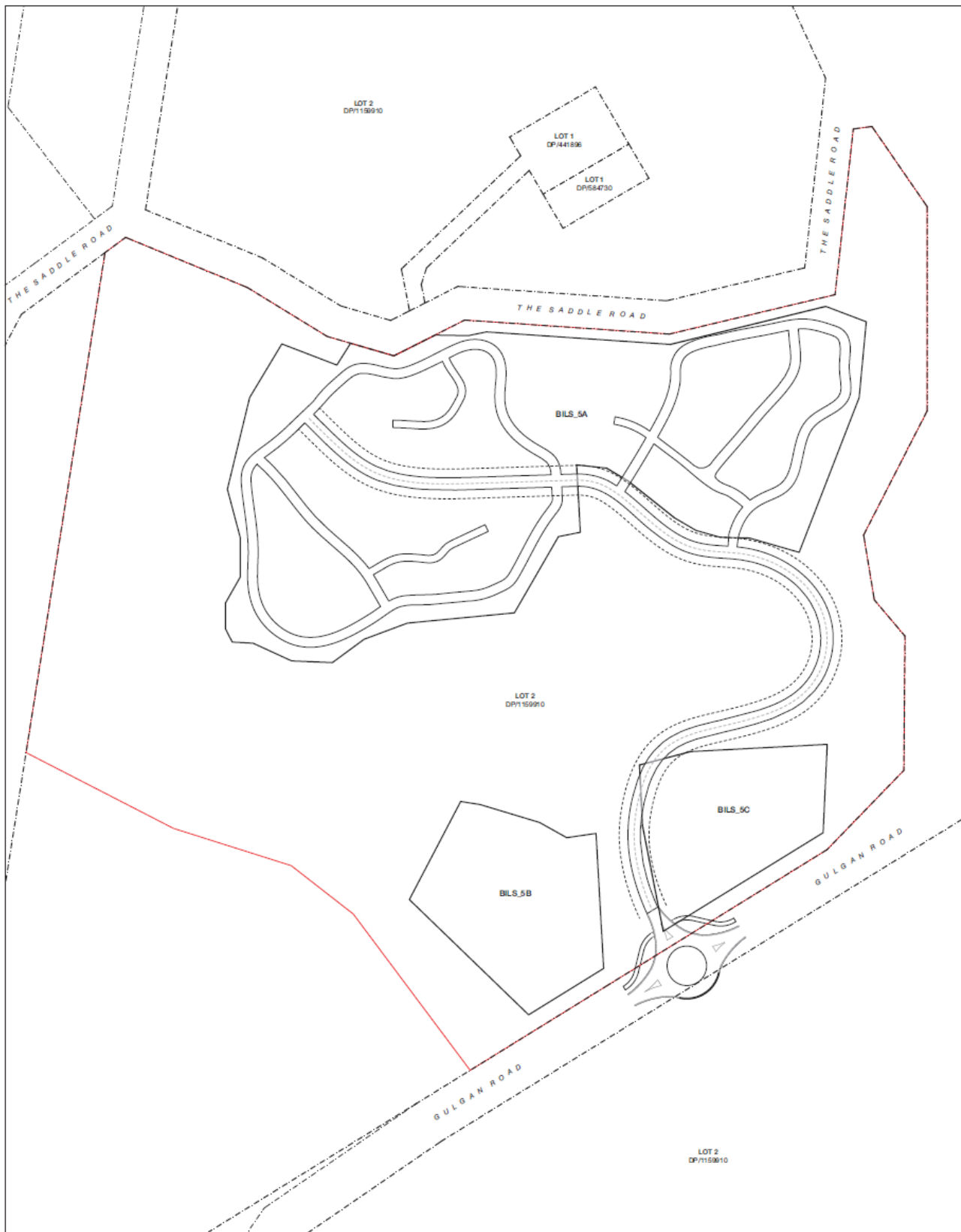
## Appendix E - Structure Plan

### Indicative Internal Road Network Plan

The structure plan provided below shows the potential collector road alignment and internal alignments proposed. The whole of the BILS precinct is intended to be subdivided pursuant to a Community Title (CT) arrangement.

The southern light industrial lots are likely to be developed as individual strata plans within that CT framework. The northern parcel will likely be initially developed as precinct plan lots and later fractionalised with strata plans within each CT precinct lot.

- BILS - STRUCTURE PLAN



9050 | - BILS - STRUCTURE PLAN | 1:1000 | Area subject to site specific DCP | [Scale bar: 0, 2, 4, 6, 8, 10, 12, 14, 16]

<b>Creative Capital</b> 44-2-1 PARKER STREET, WINDSOR VIC 3181 PHONE: 03 9593 1000 WWW.CREATIVECAPITAL.COM.AU	<b>NOTE</b> 1. This plan is a preliminary plan and is subject to change without notice. It is not to be used for any other purpose than that for which it is intended. It is not to be used for any other purpose than that for which it is intended. It is not to be used for any other purpose than that for which it is intended.	<b>Project Partners</b> [List of project partners and their roles]	DATE: [ ] [ ] [ ] DRAWN BY: [ ] CHECKED BY: [ ] APPROVED BY: [ ]	Drawn: [ ] Project: [ ] Projective: [ ]	DRAWING TITLE: - BILS - STRUCTURE PLAN PLANNING PROPOSAL	PROJECT NO: 9050
			[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]	[ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]		

## **Appendix F - Gateway Approval Letter & Acquittal notes**

**Department of Planning, Housing and Infrastructure**

Mr Mark Arnold  
General Manager  
Byron Shire Council  
70 Station Street  
MULLUMBIMBY NSW 2482

Our ref: PP-2021-7471 (IRF 24/1359)

Via email: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)  
[sdaniels@byron.nsw.gov.au](mailto:sdaniels@byron.nsw.gov.au)

Dear Mr Arnold

**Planning proposal PP-2021-7471 to amend Byron Local Environmental Plan 2014**

I am writing in response to the planning proposal you have forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to rezone land at 66 The Saddle Road, Brunswick Heads (part of Lot 2 DP 1159910), amend associated development standards and introduce a local provision to facilitate a work / live precinct.

As delegate of the Minister for Planning and Public Spaces, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

I have also agreed, as delegate of the Secretary, the inconsistency of the planning proposal with applicable directions of the Minister under section 9.1 of the Act 1.4 Site Specific Provisions, 4.5 Acid Sulfate Soils and 9.1 Rural Zones is justified in accordance with the terms of the Direction. No further approval is required in relation to the Directions.

Council may still need to obtain the agreement of the Secretary to comply with the requirements of relevant applicable directions of the Minister under section 9.1 of the Act 1.1 Implementation of Regional Plans, 3.2 Heritage Conservation, 4.1 Flooding, 4.3 Planning for Bushfire Protection, 5.1 Integrating Land Use and Transport, and 9.2 Rural Lands. Council should ensure this occurs prior to the LEP being made.

Consistent with the former Secretary's letter to Byron Shire Council of 1 March 2016, an authorisation to act as the local plan-making authority is not to be issued where a planning proposal seeks to apply a C zone to land to which the Northern Councils E Zone Review applies.


The amending local environmental plan (LEP) is to be finalised on or before 9 months from the date of Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning, Housing and Infrastructure to draft and finalise the LEP should be made eight weeks in advance of the date the LEP is projected to be made.

The NSW Government has committed to reduce the time taken to complete LEPs. To meet these commitments, the Minister may appoint an alternate planning proposal authority if Council does not meet the timeframes outlined in the gateway determination.

The Department's categorisation of planning proposals in the *Local Environmental Plan Making Guideline* (Department of Planning, Housing and Infrastructure, August 2023) is supported by category specific timeframes for satisfaction of conditions and authority and Government agency referrals, consultation, and responses. Compliance with milestones will be monitored by the Department to ensure planning proposals are progressing as required.

Should you have any enquiries about this matter, I have arranged for Ms Kate Campbell to assist you. Ms Campbell can be contacted on 5778 1401.

Yours sincerely



3/7/24

**Craig Diss**  
**Acting Director, Hunter and Northern Region**  
**Local Planning and Council Support**

Encl: Gateway determination





Department of Planning, Housing and Infrastructure

## Gateway Determination

**Planning proposal (Department Ref: PP-2021-7471):** *rezone land at 66 The Saddle Road, Brunswick Heads (part of Lot 2 DP 1159910), amend associated development standards and introduce a local provision to facilitate a work / live precinct.*

I, the Acting Director, Hunter and Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Byron Local Environmental Plan 2014 to rezone land at 66 The Saddle Road, Brunswick Heads (part of Lot 2 DP 1159910), amend associated development standards and introduce a local provision to facilitate a work / live precinct should proceed subject to the following Gateway conditions.

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

### Gateway Conditions

1. Prior to community and agency consultation the planning proposal is to be updated to:
  - remove the draft work / live special provision detailed in Appendix B;
  - amend planning proposal maps to apply proposed controls along Gulgan Road and The Saddle Road as specified by Byron Shire Council's C Zone Stage 4 implementation (PP-2024-1194), to the extent that it applies to the planning area of the planning proposal;
  - update land zoning, minimum lot size and height of buildings maps to reflect existing provisions;
  - include a Local Clauses Map, with that portion of the subject land proposed to be zoned E3 Productivity Support identified as a work / live precinct;
  - update the explanation of provisions to also detail the proposed changes to Precinct C as shown on the site analysis plan;
  - include an appropriate level of investigation of the site's flood risk and management options including the level of the PMF event, the level of hazard, potential flood evacuation routes, the time of isolation and compliance with the Department's draft shelter-in-place guideline; and
  - confirm that the small stand of *E. tereticornis* on the property, considered potential koala habitat, is to be incorporated in the C2 Environmental Conservation or C3 Environmental Management zone.
2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 20 working days; and

- (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).
3. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
- Department of Climate Change, Energy, the Environment and Water – Biodiversity, Conservation and Science Group
  - Department of Primary Industries – Agriculture
  - Heritage NSW
  - NSW Reconstruction Authority
  - NSW Rural Fire Service
  - Rous County Council
  - Transport for NSW

Consultation is also required with the following organisation:

- Arakwal Corporation

Each public authority / organisation is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

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

Dated 3 July 2024



**Craig Diss**  
**Acting Director, Hunter and Northern**  
**Region**  
**Local Planning and Council Support**  
**Department of Planning, Housing and**  
**Infrastructure**

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

**Prior to community and agency consultation, the Planning Proposal has been updated to:**

- remove the draft work / live special provision detailed in Appendix B and only publish a “plan english” version of the clause;
- amend planning proposal maps to apply proposed controls along Gulgan Road and The Saddle Road as specified by Byron Shire Council’s C Zone Stage 4 implementation (PP-2024-1194);
- update land zoning, minimum lot size and height of buildings maps to reflect existing provisions;
- include a Local Clauses Map, with that portion of the subject land proposed to be zoned E3 Productivity Support identified as a work / live precinct;
- update the explanation of provisions to also detail the proposed changes to Precinct C as shown on the site analysis plan;
- include an appropriate level of investigation of the site’s flood risk and management options including the level of the PMF event, the level of hazard, potential flood evacuation routes, the time of isolation and compliance with the Department’s draft shelter-in-place guideline. See the *PMF Flooding response* prepared by Ingen Consulting, dated 22nd July 2024; and
- confirm that the small stand of *E. tereticornis* on the property, considered potential koala habitat, is to be incorporated in the C2 Environmental Conservation or C3 Environmental Management zone. See the *E. tereticornis Survey* prepared by Bower Ecological Pty Ltd, 26th August 2024.