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PROONENTS PLANNING PROPOSAL
Supporting Report

BILS Area 5 Gulgan North

PLANNERS NORTH & Balanced Advice
updated September 2024

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1. INTRODUCTION

This section of the report identifies the nature of client instructions, relevant background information and the structure of this Planning Proposal supporting report.

3.1 BACKGROUND

PLANNERS NORTH and *Balanced Advice* have been engaged by Gulgan Road Property Pty Ltd and instructed by Creative Capital Property Services ("Creative Capital") to provide Town Planning support concerning the preparation of a Planning Proposal for submission to Byron Shire Council concerning part of Lot 2 in DP 1159910. This Planning Proposal has been submitted in support of the Council's strategic planning for the site pursuant to its *Byron Industrial Land Strategy* ("BILS")¹ to rezone 6.5ha of the parcel for an employment land use. Creative Capital is the planning, design and development manager for this project.

Plan 1.1 illustrates a site locality plan identifying the subject land.

The Planning Proposal for the subject Gulgan Road site was originally crafted in December 2021. Council at its meeting of 26th October 2023, resolved to support the Planning Proposal and to seek a Gateway approval. On 3rd July 2024, the Gateway approval was issued² by the Department of Planning, Housing and Infrastructure.

3.2 STRUCTURE OF REPORT AND ITS SCOPE

Section 2 of this report describes the physical characteristics of the subject land and its planning context. The current statutory and policy planning status of the land is listed in Section 3. Section 4 provides a general description of the zoning concept, which underpins the Planning Proposal.

In support of the Planning Proposal, a number of Technical Reports and Plans are referenced in this report.



View of Area 5 looking north east.

3.3 SPECIALIST TECHNICAL ADVICE

Specialist technical advice has been sought for this project from:

- Travers Bushfire & Ecology – *bushfire planning and management*
- Bower Ecology – *biodiversity and ecological management*
- INGEN Consulting – *civil and traffic engineering advice*
- Simpson & Wilson – *architecture and urban design advice*
- Balanced Advice – *town planning advice*
- PLANNERS NORTH – *town planning advice*
- Across The Line Consulting – *environmental science and community consultation advice*
- Landscape Workshop – *landscape architectural advice*
- John Allen & Associates – *agricultural capability advice*
- Tim Fitzroy & Associates – *land use conflict risk assessment advice*
- Contaminated Site Investigation Australia – *preliminary site assessment*
- Everick – *cultural heritage advice.*

¹ [Byron Shire Council 2021 Byron Industrial Land Strategy](#)

² [BILS Area 5 Gateway approval](#)

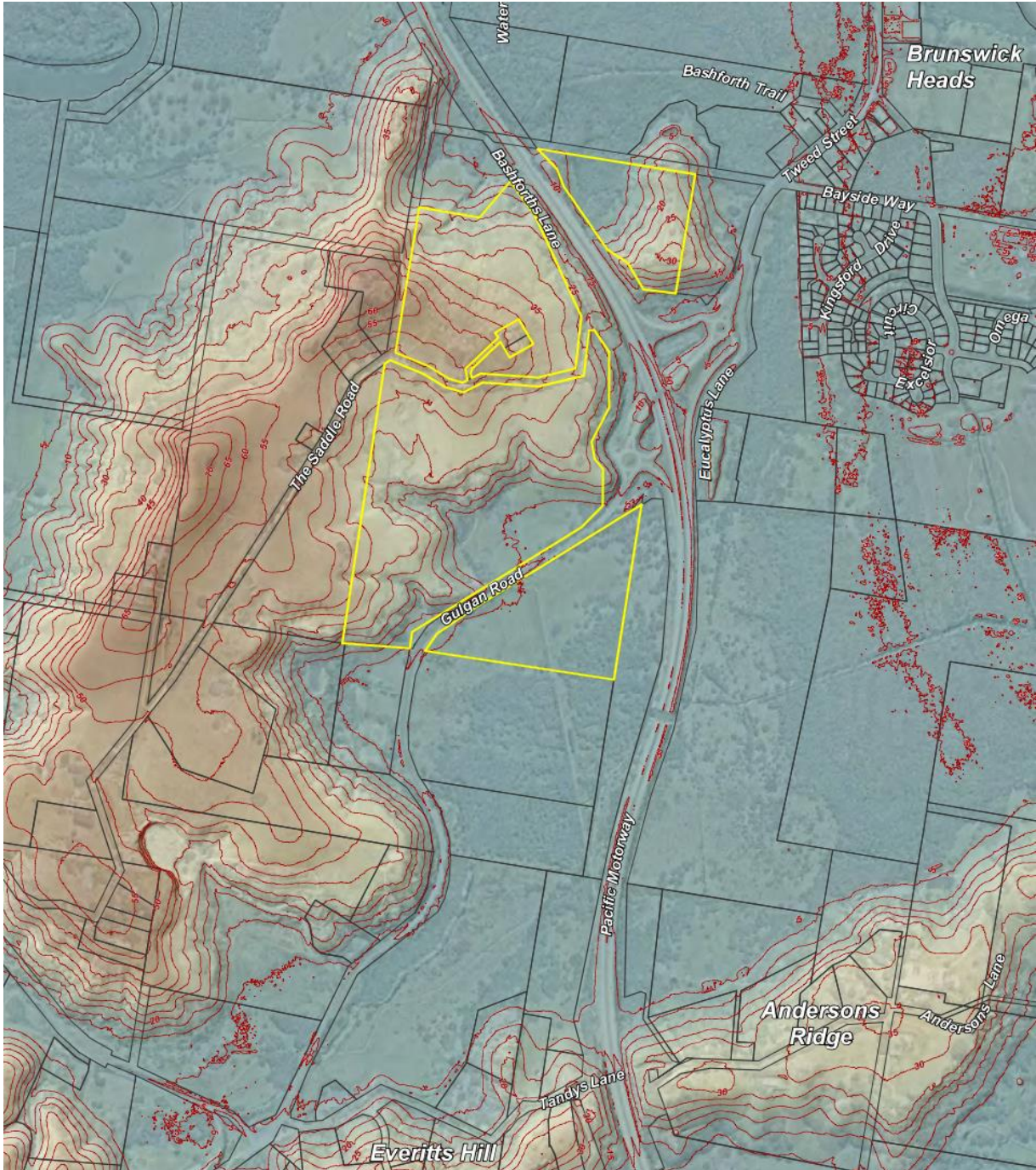


View of existing site paddock trees

3.4 FURTHER INFORMATION

Should Council require any additional information or wish to clarify any matter raised by this proposal or submissions made to same, Council is requested, in the first instance, to consult with **Steve Connelly**.

Plan 1.1 Site Locality Plan



2. THE SITE AND ITS ENVIRONMENTAL PLANNING CONTEXT

This section of the report identifies the subject site and describes its environmental planning context.

2.1 CADASTRAL DESCRIPTION

The subject site, as illustrated in the Deposited Plan extract at **Plan 2.1**, is described in Real Property terms as Lot 2 DP 1159910. The site has an overall area of 52.13ha and is irregular in shape and is in four (4) parts with frontages to The Saddle Road, Gulgan Road and Bashforths Lane on the west and the Pacific Motorway and an unnamed road access linking to Tweed Street on the east.

2.2 SITE CONTEXT

Plan 2.2 illustrates the subject site in terms of site planning considerations, including:

- climatic conditions;
- vegetation canopy cover;
- steep slopes;
- eroded slopes;
- drainage corridors and dams;
- rocky outcrops;
- dip site;
- the extent of flooding;
- views;
- traffic noise; and
- utility services corridor.

2.3 BILS STRATEGY CONSIDERATIONS

The BILS strategic planning identified certain matters requiring investigation for the purposes of this Planning Proposal. Those matters are canvassed in the below sub-sections.

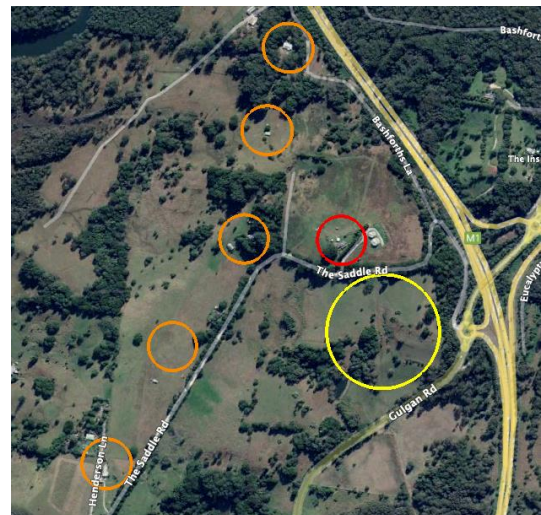
2.3.1 COMMUNITY VIEWS

The BILS strategic planning work was comprehensively exhibited by Council firstly through a range of Discussion Papers and later through a number of formal exhibitions of the draft strategy before it was finalised.

Further to the comprehensive BILS exhibitions, several immediate Saddle Road neighbours

were contacted to identify any issues or matters the BILS Area 5 proposal may raise for them.

In the early stages of contemplating the preparation of this Planning Proposal, five (5) neighbours were interviewed as indicated in the following graphic. The yellow circle approximately denotes the Planning Proposal site, while the orange circles broadly indicate the location of the interviewed neighbours. The red circle indicates a dwelling owned by the proponent.



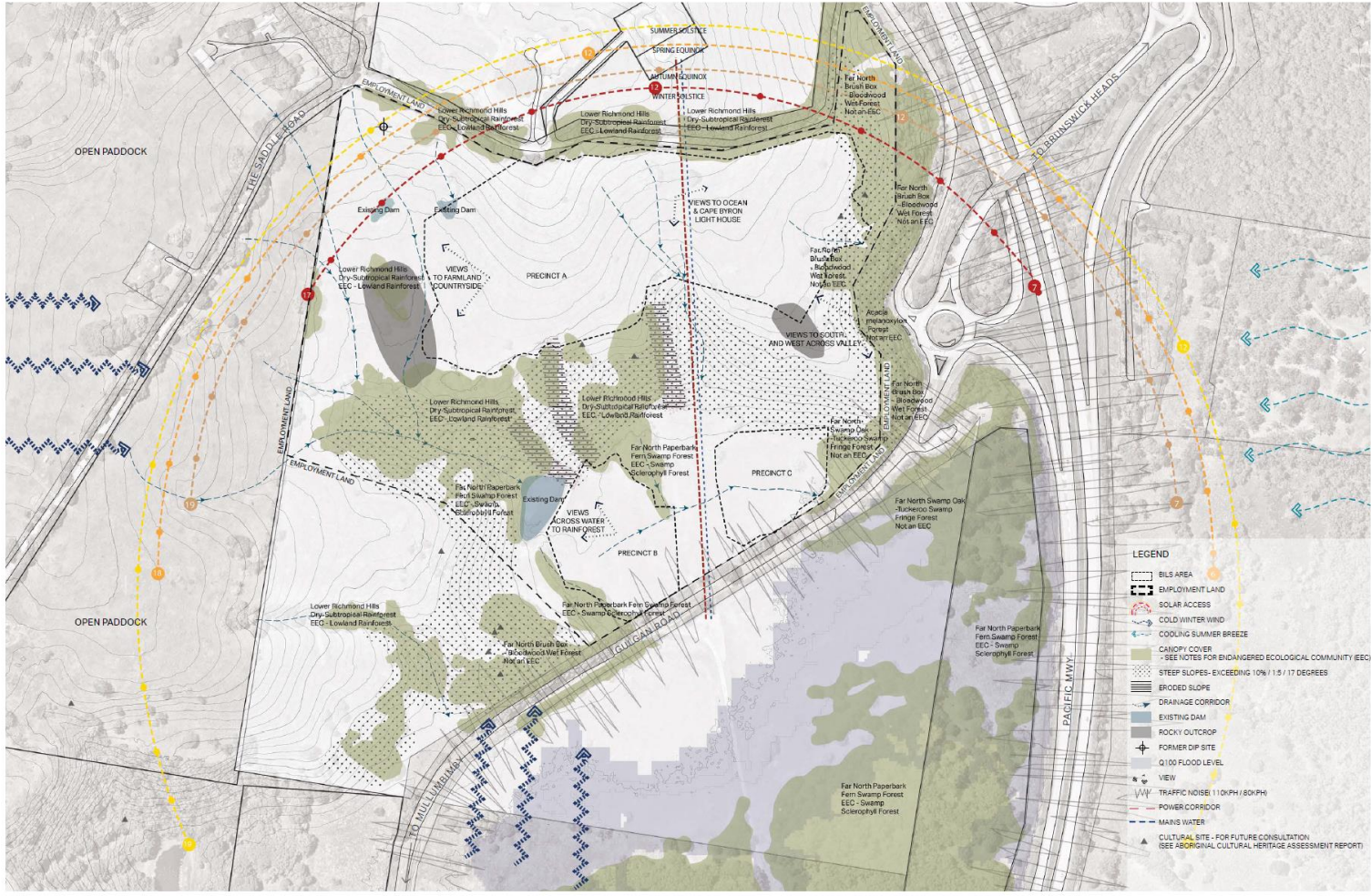
Consultation Locality

The community views, as ascertained from interviewing immediate neighbours concerning the proposed rezoning application, fell into two categories. The first being support for the rezoning and the second, being concerns about a change in land use.

Support

Generally, it was thought of as a good idea to set aside employment land in this location, particularly given the proximity to the highway and interchange. There was solid support from four (4) of the five (5) immediate neighbours consulted for the concept given it would generate many employment opportunities.

Plan 2.2 Site Planning Considerations



SITE ANALYSIS PLAN

SCALE 1: 3 000 @ A3



Some neighbours have always felt that the land would be used for something akin to what is being proposed in the BILS given its location next to the Pacific Highway and lack of existing business and industrial land in the Shire.

There was a comment that any development of the subject land in line with the approved BILS would be beneficial for their property (in terms of value). There was an understanding about the need for developing places for work and one neighbour felt that the Gulgan Road strip from the interchange to Uncle Toms was likely to be developed over time for commercial purposes. There was also a hope that the project could accommodate people of lesser advantage within the Shire, with the potential to prioritise helping single mums or vulnerable women, creating new opportunities for work in a location that provides broader and more economically viable options to live close by.



View of the site looking north.

Concerns

Some acknowledged the benefits of employment land activities but noted the proposal should not include heavy industry which would not be appropriate for the area. Neighbours did not want to see an increase in traffic along The Saddle Road because of any employment land and wanted to ensure that the interchange does not become overly congested.

One neighbour was concerned that the rezoning application would include residential development.

Another neighbour observed that it was also important to consider the environment in any Planning Proposal.

2.3.2 ABORIGINAL CULTURAL HERITAGE

Having regard to the protocol set out at Appendix A of the BILS, the project work for this Planning Proposal phase has focussed on two (2) important cultural heritage aspects, being:

- Aboriginal Cultural Heritage Assessment Report (ACHAR) findings and recommendations³⁴; and
- The potential synergies covering accommodation/space aspects, employment/vocation opportunities and strategic partnerships.

2019 Aboriginal Cultural Heritage Assessment Report

The 2019 ACHAR was originally undertaken with the assistance of Aboriginal community members, including from Arakwal, and the Tweed Byron LALC.

Five (5) recommendations were made as part of the 2019 ACHAR as follows.

1. *Additional Archaeological Investigations and Aboriginal Heritage Impact Permit (AHIP).*

Post Planning Proposal an additional round of excavation will be undertaken to better understand the nature and extent of archaeological sites as part of the urban design for a future Development Application.

2. *Additional investigation of Site 04-5-0041*

Whilst site 04-5-0041 falls outside of the Planning Proposal area it is agreed that additional investigation must be undertaken to determine whether the site should be gazetted as an Aboriginal Place.

3. *Manuport Sites*

Post Planning Proposal it is proposed that the three (3) manuport sites (Saddle Road 18, 19 and 20) will be the subject to further scientific

³ Earlier ACHAR: [Everick, 2019 The Saddle Road Rezoning, Brunswick Heads, NSW: Aboriginal Cultural Heritage Assessment Report](#)

⁴ [Everick 2024 Aboriginal Cultural Heritage Assessment Report](#)

investigation to deliver the best management for the long term protection of these items.

4. Protection of Springs

The 20m exclusion zone identified around the two (2) springs observed as having significant cultural heritage values during the survey of the slopes and gullies has been incorporated in The BILS Strategy and this Planning Proposal.

5. Aboriginal Human Remains

A stop work protocol will be developed in consultation with relevant Aboriginal stakeholders and implemented for the duration of any construction periods associated with the project.

2024 Aboriginal Cultural Heritage Assessment Report.

Further ACHAR work has been undertaken for the subject Planning Proposal involving Arakwal representatives and further on-site inspections.

The 2024 ACHAR contains seven recommendations. Those recommendations are:

1. Site avoidance

The overall guiding principle for cultural heritage management is that where possible, Aboriginal sites should be conserved. If conservation is not practicable, measures should be taken to mitigate against impacts to Aboriginal sites.

Currently, one Aboriginal site would be directly impacted with a further two Aboriginal sites potentially indirectly impacted. All of these sites comprise stone artefacts which have been previously assessed as being of low scientific significance. Avoidance can be achieved by ensuring that all three sites are located within the APZ and this is the preferred option.

2. Further archaeological assessment

Test Excavation

In consultation with the Arakwal and prior to development proceeding a small amount of further test excavation in accordance with the Code of Practice is to occur within PAD 5 extension and PAD 6 extension to determine whether subsurface artefacts are present. The PADs are of low archaeological potential and it

is likely that where present, subsurface deposit will comprise very low density artefact scatters. It is unlikely that test excavation will shed much further light on the nature of subsurface archaeological deposit in the Project Area, but may provide some further information on the extent of Aboriginal occupation of Project Area.

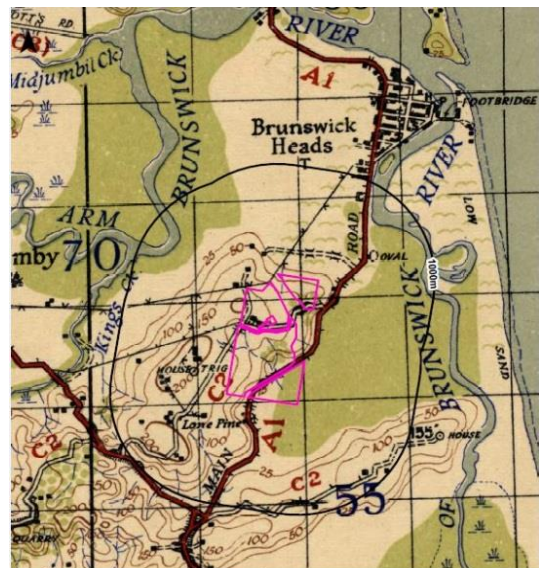
Detailed archaeological recording

A detailed archaeological recording of Saddle Road 21 (AHIMS ID 04-5-0384) is to be undertaken. Although this site is within the conservation zone, its detailed recording will fulfil the ESD principles and will provide vital information for past and future Aboriginal archaeological and cultural assessment in the region.

3. Aboriginal Heritage Impact Permit

While there is potential to avoid all Aboriginal sites by ensuring these are located within an APZ, currently, it is recommended that an area AHIP is applied for Precinct A prior to the proposed development proceeding, but including the following sites, which are either inside Precinct A or within the APZ of Precinct A:

- Saddle Road 18 (AHIMS ID 04-5-0336)
- Saddle Road 7 (AHIMS ID 04-5-0347)
- Saddle Road 6 (AHIMS ID 04-5-0348).



Mapping of the locality produced by the Australian section of the Imperial General Staff.

4. *Aboriginal Cultural Heritage Assessment Report*

Following test excavation of PAD 5 and PAD 6 extensions and detailed recording of Saddle Road 21 (AHIMS ID 04-5-0384) an updated ACHAR would need to be prepared to accompany the AHIP application. This will require a separate Archaeological Technical Report detailing the further archaeological survey undertaken for this ACHAR and any test excavation. This final ACHAR would provide any further detailed recommendations for sites within the Project Area in consultation with the Arakwal.

5. *Consultation Requirements*

Heritage NSW require that the Consultation Requirements are kept updated every six months to ensure continuation of process. Consequently, the Arakwal must be kept updated during the DA process which can take up to 12 months.

6. *Arborists Assessment*

That an arborist provides an assessment of The Saddle Road 22 and The Saddle Road 23 to ascertain the age of the trees and the origin of the scarring. This report would form an appendix to the final ACHAR. Should these trees be assessed as being cultural in original Aboriginal Site Recording Forms must be submitted to AHIMS. The arborist would provide measures to be followed for their protection and preservation. It is possible that a suitable NO GO barrier may need to be implemented to protect the trees from visitation.

7. *Aboriginal Cultural Heritage Management Plan*

Prior to construction proceeding an Aboriginal Heritage Management Plan is prepared for the Project Area in consultation with Arakwal to assist with the long term management of Aboriginal sites.

Potential Synergies

Creative Capital is seeking to develop a strong rapport with Arakwal representatives concerning possible future projects and activities relating to accommodation/space within the proposed employment land use. The briefing note also discussed employment and vocational opportunities as well as future strategic partnerships that met the goals and aspirations of the Arakwal, the BILS and the Gulgan Employment Lands project.

2.3.3 NON-INDIGENOUS CULTURAL HERITAGE

The site formed part of a dairy farm that operated while in the ownership of the Purnell family, who owned the land from circa 1948 to 2013. The farm infrastructure comprised a homestead, sheds, dairy bails, piggery buildings and windmill. None of this infrastructure was located on the BILS Area 5 portion of the site.

The Purnell Farm used The Saddle Road as its primary access. Surrounding land, in earlier times, was comprised of large rural holdings owned by other dairy farmers, including the adjoining Borrowdale and Bashforth families.

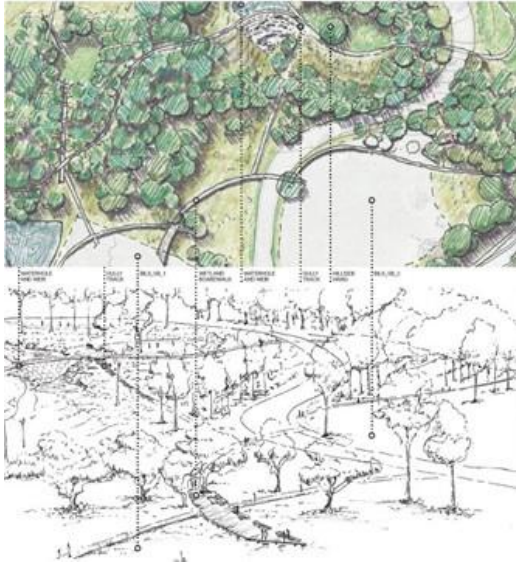
A review of historical documents in various archives and at the Brunswick Valley Historical Society has been undertaken as well as liaison with long term local landowners. This research has identified that the only non-indigenous cultural sensitivity appears to be The Saddle Road route itself. The below graphic shows the site (in pink line work) overlaying circa 1942 mapping of the locality. The graphic shows the importance of The Saddle Road in the local context.

The following extract from the Byron Shire Community-based Heritage Study⁵ identifies this road route played a part in local non-indigenous history. *'The earliest land transport routes to be established in the Shire were informal tracks used by the cedar-getters to draw their harvest to water for shipping. Some of these, such as The Saddle Road from Mullumbimby Grass to Brunswick Heads, were used later for more general*

⁵ [Byron Shire Community-based Heritage Study - Volume 2 Thematic History](#)

purposes and formed the basis of a rudimentary transport network.'

BILS Area 5 does not impinge on The Saddle Road and the employment land access will be from Gulgan Road.



Extract from the Site Landscaping Master Plan illustrating early concept ideas in relation to part of the precinct B area.

2.3.4 BIODIVERSITY AND ECOLOGICAL CONSIDERATIONS

Plant Community Types and associated Endangered Ecological Communities ("EECs") were mapped during the ecological survey of the site⁶. Four (4) native Plant Community types were recorded on the property, two (2) of which represent EECs. Vegetation on the property includes isolated patches of rainforest, small areas of swamp sclerophyll and floodplain forest, and freshwater wetlands (sedgelands/forblands). There is also a constructed farm dam as well as minor drainage lines on the property. Further species specific investigations have been completed. Further studies relate to Hairy Joint Grass surveys⁷ and surveys in relation to the stand of *E. tereticornis*⁸.

As part of the driving concept behind defining the employment land zoning precincts, the

native vegetation patches on the site have been buffered and are largely outside of the proposed footprint. To avoid ecological impacts, a majority of the proposed employment land zoning precincts intentionally overlay existing paddock areas, which are dominated by exotic grasses and forbs and have been subject to grazing.

During the survey, four (4) threatened species were observed on the property. The observed threatened flora was not within the employment land zoning precincts. It is not expected that a significant impact to threatened species will result if the site is developed. Given the presence of Biodiversity Values mapping in the south-east of the site, and the likely requirement for site access, a future Development Application may trigger the requirement for a Biodiversity Development Assessment Report under the *Biodiversity Conservation Act 2016*. This legislative process provides an opportunity for further assessment and mitigation whilst also formalising any future biodiversity offset requirements.



Extract from Ecological Assessment Report showing vegetation types.

The employment land zoning precincts largely avoid red flags, as defined within the Byron DCP 2014 and approval of the Planning Proposal will not result in unreasonable or significant impacts to ecological matters.

⁶ [Bower Ecology Pty Ltd 2023. Lot 2 DP1159910 Planning Proposal Ecological Assessment Report.](#)

⁷ [Bower Ecology Pty Ltd 2024 Hairy Joint Grass Survey](#)

⁸ [Bower Ecology Pty Ltd 2024 E. tereticornis advice](#)

Further, approval of the Planning Proposal will not enable development that is exempt from further ecological assessment and mitigation.

2.3.5 UTILITY SERVICES

A civil engineering assessment of the site and Planning Proposal has been completed⁹. That study gave particular consideration to:

- Flooding and Earthworks;
- Stormwater Management;
- Water supply; and
- Sewer reticulation.



Area 5 looking over interchange.



View from the eastern part of the site looking west.

Flooding and Earthworks

Flood hazard mapping has been undertaken using flood modelling data provided by Byron Shire Council. The following has been concluded from the flood modelling:

- The 100-year flood level is RL 4.06m AHD

- The 2050 FPL for this site is RL 4.57m AHD
- The 2100 FPL for this site is RL 4.63m AHD
- The development areas are flood free.

Using the Council's DCP 2014 Chapter C2 Flood Planning Matrix, all building floor levels to be equal to or greater than DCP "FPL3". Based on the flood modelling provided, FPL3 for this site at the location of Area 'B' is determined to be RL4.63m AHD.

In December 2022, the Department of Planning and Environment published updated guidelines titled *"Interim Response to Assessment Flood Affected Planning Proposals and State Land Rezoning"*.

The flood risk analysis work conducted in December 2021 has been updated having regard to the 2022 guidelines. That work shows the land is appropriately flood proofed¹⁰.

Riparian Zone Management

Riparian zone management work has been undertaken at the site¹¹. This work has guided the refinement of the zoning proposal and will assist in the future Development Control Plan work for the site.

Stormwater Management

Preliminary modelling shows that the post-development runoff peaks increase in flow rate compared to the pre-development due to the increased hardstand. Therefore, it is recommended that on-site stormwater detention ("OSD") is applied to the development to ensure post-development peak discharge does not exceed pre-development discharge flow rates. The details of the OSD strategy will likely involve a combination of rainwater tanks and bioretention basins.

The Byron Shire DCP 2014 Chapter B3 specifies water quality targets. There is a variety of treatment train options available for this site, including rain gardens integrated with the streetscape, bioretention basins integrated with the landscape design, proprietary treatment products, swales and stormwater pit gross

⁹ [Ingen Consulting December 2021 Gulgan North Brunswick Heads, Civil Engineering Report](#)

¹⁰ [Ingen Consulting July 2024 PMF flooding assessment](#)

¹¹ PLANNERS NORTH Riparian Zone Assessment September 2023

pollutant traps. The proponent's environmental engineering expert opines that the Council's water quality targets can be met by designing a treatment methodology that is integrated with the urban design and landscape design.

Water supply

Potable water supply is available from the operational reservoir on the northern side of The Saddle Road. Due to the limited elevation difference between the more elevated areas of the BILS Area 5, there may be pumps required to ensure adequate pressure. The reservoirs are fed by Rous water mains that traverse the site from south to north.

Demand calculations, carried out in line with Byron Shire Council's 2018 Water and Sewer Equivalent Tenements Policy, is estimated at 99 ET.

Sewer reticulation

Sewage from site development would be pumped to an existing pump station in Brunswick Heads. The proposed route uses the existing services corridor through the centre of the subject site, then travels along the eastern boundary until it enters the Bashforth's Lane reserve in the northeastern corner, after which it will cross the Pacific Motorway by underbore. The west-to-east alignment follows an existing Crown road. It then crosses the Old Pacific

Highway South to follow Bayside Way, thence travelling north across the sportsfields to the existing pump station.

Sewer demand calculations carried out in line with Byron Shire Council's 2018 Water and Sewer Equivalent Tenements Policy is estimated at 71 ET.

2.3.6 FARMLAND CLASSIFICATION CONSIDERATIONS

Two (2) considerations are relevant to this aspect: the classification and agricultural production potential of the subject land and any potential for land use conflict. Those two (2) aspects are addressed by way of expert reports summarised below.

Agricultural Land Classification

The agricultural assessment of the site¹² has determined that the land comprises approximately 80% Class 5 lands, with the remaining 20% being Class 3. The highest agriculture use appropriate to the site is low intensity grazing operations on native pastures. A higher agricultural land capacity is limited by a combination of localised steep slopes, shallow and poorly structured soils, significant rock outcrops and low lying areas. A higher agricultural land use for the identified Class 3 land is limited by the small area of land that is available (and therefore low economic viability).

Much of the land within the site has been identified as Significant Non-Contiguous Farmland under the Northern Rivers Farmland Protection Project¹³. However, site specific research confirms that the land does not have the same inherent characteristics of other Regionally Significant Farmlands of the wider region that are known to be good quality grazing lands and or that which are moderately well suited to horticultural production. Due to its shallow and highly erosive soils, localised steep slopes and significant rock outcrops, this land is neither good quality grazing land nor is it well suited to horticultural production.



Proposed pressure sewer route layout.

¹² [Allen and Associates November 2021, Agricultural Assessment on Lot 2 DP 1159910 66 The Saddle Road, Brunswick Heads](#)

¹³ [Department of Infrastructure, Planning and Natural Resources and Department of Primary Industries February 2005 Northern Rivers Farmland Protection Project Final Recommendations](#)

Given the lands very limited potential for agricultural production both now and into the future, the employment land use promoted by this Planning Proposal will not detract from the existing or future agricultural production of the wider region.

Potential for Land Use Conflict

A Land Use Conflict Risk Assessment ("LUCRA") has been undertaken for the site¹⁴. LUCRA's are¹⁵ a tool to better manage potential land use conflicts between residential development and rural activities and environmental attributes/assets on the NSW North Coast.

The nearest potentially affected offsite dwellings are:

1. To the west (Lot 21 DP740271) No 10 The Saddle Road- 230m;
2. To the north west (Lot 31 DP 1018929) No 84 The Saddle Road - 174m;
3. To the north (Lot 1 DP 583377) No 82 The Saddle Road - 234m;
4. To the south west (Lot 1 DP 555377) No 174 The Saddle Road- 697m; and
5. To the south west (Lot 1 DP 301709) No 285 Gulgan Road - 538m.

The following environmental guidelines have been considered in the assessment of potential land use conflicts:

- Noise Policy for Industry (NSW EPA 2017);
- National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended May 2013;
- Living and Working in Rural Areas Handbook (2007); and
- Byron Development Control Plan 2014.

Using the LUCRA methodology, for each land use risk, the appropriate 'probability' (i.e., a letter A to E) and 'consequence' (i.e., a number 1 to 5) is selected by the trained and experienced assessor. The consequences (environmental impacts) are combined with a 'probability' (of those outcomes) in the Risk Ranking Table to identify the risk rank of each

environmental impact (e.g., a 'consequence' 3 with 'probability' D yields a risk rank 9). The Risk Ranking Table yields a risk rank from 25 to 1 for each set of 'probabilities' and 'consequences'. A rank of 25 is the highest magnitude of risk that is a highly likely, very serious event. A rank of 1 represents the lowest magnitude or risk, an almost impossible, very low consequence event. LUCRA concerns are raised where the risk ranking is 10 or above.

The Key Outcomes of the LUCRA are as follows:

Noise Impacts from business park and light industrial on existing Rural Dwellings

Given the restriction to business park and light industrial uses; the benefits of existing distance attenuation between the proposed rezoning and existing farm dwellings; the resultant noise decay, the likelihood of conflicts are predicted to be minor. The risk was assessed as is D4=5 and deemed to be acceptable.

Buffers business park and light industrial zone to existing rural dwellings

The closest distance from the proposed business park and light industrial uses to an existing dwelling is 174m. There is no direct line of sight due to topographical shielding.

Neither Table 6 of the *Living and Working in Rural Areas Handbook* (2007) or Chapter 6B *Byron Development Control Plan 2014* nominate a default buffer between Industrial uses and rural dwellings. Given the distance attenuation and the light industrial uses, the likelihood of land use conflict is deemed to be minor Risk ranking is D4=5 Acceptable.

Site Location: Vehicular Access

Given the size of the property (50ha) and the orientation and positioning of the proposed employment land the surrounding land uses will not be significantly impacted by vehicle movements on the subject site as a result of a future light industrial development. The risk is D4=5 and deemed to be acceptable.

¹⁴ [Tim Fitzroy & Associates 20 December 2021 Land Use Conflict Risk Assessment Planning Proposal to rezone Part of Lot 2 DP1159910 No 66 The Saddle Road Brunswick Heads for Employment Land Services in accordance with Council's BILS Policy](#)

¹⁵ [Learmonth Whitehead Boyd and Fletcher, December 2007, Living and Working in Rural Areas Handbook](#)

Buffer Distances to Agriculture

Neither Table 6 of the Living and Working in Rural Areas Handbook (2007) or Chapter 6B Byron Development Control Plan 2014 nominate a default buffer between business park and light industrial uses and agriculture.

For the Saddle Road locality, the only potential for land use conflict between agriculture and settlement is to the west of the subject lands as no agriculture is currently occurring or is possible in the future in the directions to the north, east and south. The land to the west is utilised for sugar cane and cattle grazing with the current horizontal and vertical separation adequate to provide effective separation distances providing effective buffering. No future land use conflict with agriculture is anticipated. The risk is D4=5 and deemed to be acceptable.

Buffer to Cattle Dipsite

The closest distance from the proposed employment land zone to the cattle dipsite is about 34m. Neither Table 6 of the *Living and Working in Rural Areas Handbook (2007)* or Chapter 6B *Byron Development Control Plan 2014* nominate a default buffer between business park and light industrial uses and cattle dipsites.

Site Investigations conducted noted that the former cattle dipsite is capped and disused. The former cattle dipsite is not subject to any type of soil disturbance or use as part of the proposed rezoning. Adopting a precautionary approach, an exclusion perimeter has been recommended to be installed at approximately 15m from the dip infrastructure. The risk is D4=5 and deemed to be acceptable.

Water Pollution

Environmental engineering advice indicates that run-on or seepage from future development on the subject site on ongoing farm activities on the adjoining farmland will be consistent with best practice standards. The risk is D4=5 and deemed to be acceptable.

2.3.7 BUSHFIRE MANAGEMENT

The proposal is located on land identified as bushfire prone on the Byron Shire Council bushfire prone land map. A formal bushfire protection assessment has been undertaken for the proposed rezoning¹⁶

The potential for future rezoning of the property, from a bushfire context, needs to ensure that future land uses are in a suitable location to minimise the risk and impact of bush fire attacks. In addition, services and infrastructure to facilitate the effective suppression of a bush fire also need to be provided.

The broad principles which should be applied to strategic level development are as follows:

- not all land is suitable for development in the context of bush fire risk;
- any new development on bush fire prone land must comply with Planning for Bushfire Protection ("PBP");
- infrastructure associated with emergency evacuation and firefighting operations must be provided; and
- appropriate ongoing land management practices must be facilitated.

Strategic planning must provide for the exclusion of inappropriate development in bush fire prone areas.

The fire history does not suggest or nor should it be implied that a major fire will or could not impact the site or in the surrounding area and pose an elevated threat to development.

The assessment found that bushfires can potentially affect the site from a number of areas of remnant vegetation, and after considering fire history, climate and available mitigation options the overall fire risk from this vegetation is comparatively low. Further, the assessment found that the site can accommodate Asset Protection Zones ("APZ") within its boundaries with a minimum of environmental disturbance while still providing viable land use options. The assessment report

¹⁶ [Travers bushfire & ecology December 2021, Bushfire Protection Assessment Planning Proposal Lot 2 DP 1159910, 66 The Saddle Road, Brunswick Heads](#)

assumed broad worst case scenarios for each type of development in order to demonstrate that APZs can be achieved and located within the site. Future development of the site must be assessed on the basis of detailed layout plans and uses.

Overall, the assessment has concluded that future development facilitated by the proposed rezoning can comply with the planning principles of *PBP*.

2.3.8 TRAFFIC ASSESSMENT



Extract from Byron Shire Council Bike Plan.

Comprehensive research and analysis has been completed in relation to traffic aspects including liaison with Council and TfNSW¹⁷.

It is proposed to construct an intersection at the entry to the site that minimises impacts on vegetation and existing services, whilst being efficient and safe.

Trip generation has been estimated using traffic surveys of typical 'traditional industrial' estates, and at the Habitat development Byron Bay, to determine an appropriate 'business park' trip generation rate. The 7-day ADT generation

estimates for BILS Area 5 are 2875 north and 544 south.

Three (3) existing intersections near the subject site have been examined to determine the impact of the proposed rezoning. The results of the SIDRA analysis have been analysed and show that traffic impacts are acceptable. However, the existing capacity issues at Mullumbimby Road and Tandy's Lane are likely to be intensified due to a predicted traffic increase of approximately 2% to 5.5%. Byron Shire has scheduled concept development and design of conversion of the Mullumbimby Road T-junction to a roundabout for 2024/2025. With a combined arrangement to remove the right turn out of Tandy's Lane, the Level of Service issues at both intersections would be resolved.

The proponent has provided Council with a draft Voluntary Planning Agreement with respect to the implementation of the primary access.¹⁸

2.3.9 PEDESTRIAN AND CYCLEWAY LINKAGES

The Byron Shire Bike Plan¹⁹ shows a high-priority cycle path on both sides of Gulgan Road at the frontage of the site.

We understand that this will be an on-road path, constructed within the road shoulder with no physical separation between bicycles and cars. The roundabout design includes a pedestrian and bicycle refuge across all three (3) legs to cater for bicycle movements.

It is proposed to include a footpath along one side of the main access road. This will connect with the Gulgan Road infrastructure. The proposed development is not expected to have an impact on foot traffic on Gulgan Road as the pedestrian traffic volume on Gulgan Road is negligible. The majority of Gulgan Road has an 80 km/h posted speed limit with minimal sealed shoulders and obstructed verges, therefore currently, Gulgan Road would be unsafe for pedestrians.

¹⁷ [Ingen Consulting April 2023 Gulgan North Traffic Impact Study](#)

¹⁸ [Draft Voluntary Planning Agreement](#)

¹⁹ [Byron Shire Council December 2019, Byron Shire Bike Plan](#)

During the surveys no pedestrian traffic was recorded at the Brunswick Roundabout. Some pedestrian traffic was recorded during the AM peak at Tandy's Lane and Mullumbimby Road, most likely associated with the Uncle Tom's shop.

2.3.10 LANDSCAPING AND VISUAL AMENITY CHARACTERISTICS

Site landscape master planning draws inspiration from the rich geomorphological and ecological story of the region and the site. The steep, basaltic slopes between the upper and lower paddocks are literal and dramatic links back through time to the volcanic landforms of Woolumbin, Mt Warning, and the Gondwana rainforest ecosystems they support.

The site exists today as the legacy of a now mostly absent dairy industry which once cleared the forests and filled the region. A series of open pastures are divided by eroded slopes and fragmented and degraded patches of remnant and regrowth forest.

Site landscape planning seeks to build upon and within these identified endangered ecosystems by expanding and enhancing their presence across the site.



This graphic illustrates locations that have been the subject of design development with respect to the Site Landscape Architecture Master Planning.

The BILS precincts can be connected by a network of open landscape spaces, walking paths and stairways that traverse the terrain. These 'Snakes and Ladders' could provide direct access from upper to lower or a more casual meander, allowing a comfortable and convenient tailored experience for all users.

The user experience could be one of informal education and dramatic contrast, from the open fields and 'floating' timber boardwalk through lands below, around the existing rainforest pond. The forest tracks then weave across gullies and through the regenerating forest up to the open rocky bluffs above.

2.3.11 ASSESSMENT OF THE FORMER DIP SITE

Contaminated Site Investigations Australia Pty Ltd ("CSI Aus") has undertaken two (2) assessments concerning the cattle dip portion of the site.

The first was a Preliminary Site Investigation ("PSI") was conducted by CSI Aus in June 2021²⁰. The PSI report identified some impacted soil around the former cattle dip portion of the site.

The second assessment²¹ was conducted to assess how far from the former cattle dip that the contamination had spread to surface soils, and if future development could be proximate to the dip.

Sampling showed that there were no exceedances of the commercial / industrial criteria for metals or pesticides in the samples collected from >10 m away from the dip area. Some pesticides were identified in soil samples that were collected within 5 m of the dip. CSI Aus advises that given the non-detection of pesticides in the surface soils at a distance of 10 m from the dip, an exclusion zone of 15 m around the dip and holding pens would be appropriate.

It is proposed that a physical barrier/fence be erected around the former dip and associated holding pens to prevent access to the area. The remainder of the site, outside of this exclusion area is considered to be suitable for its intended employment land use.

²⁰ [Contaminated Site Investigations Australia Pty Ltd June 2021 - Preliminary site investigation report](#)

²¹ [Contaminated Site Investigations Pty Ltd November 2021- Dip Exclusion Zone Assessment](#)

3. STATUTORY AND POLICY PLANNING

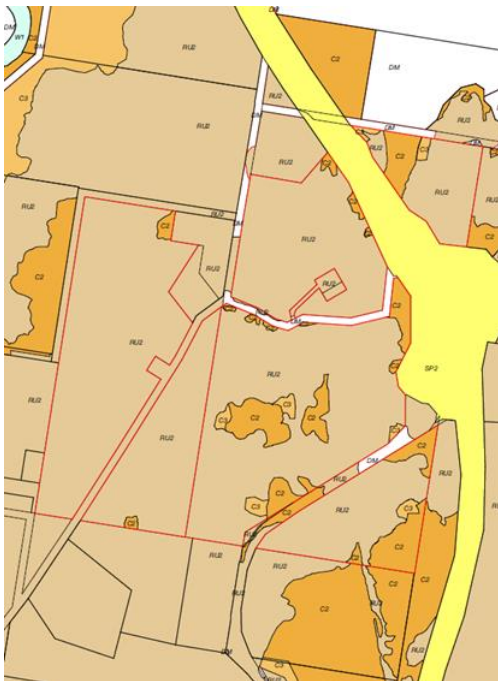
Pursuant to the Environmental Planning & Assessment Act, 1979, a number of statutes are potentially applicable to any single development proposal. This section reviews the range of instruments and notes their application in terms of the subject Planning Proposal.

3.1 LOCAL ENVIRONMENTAL PLANS





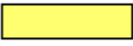

The land is largely zoned RU2 Rural Landscape under Byron Local Environmental Plan 2014, (BLEP14), with some parts of the site zoned C2 Environmental Conservation and C3 Environmental Management.

Below, we have published extracts from BLEP14 relevant to the Principal Planning Layers relevant to the subject land and land in the immediate vicinity.

Land Zoning Map



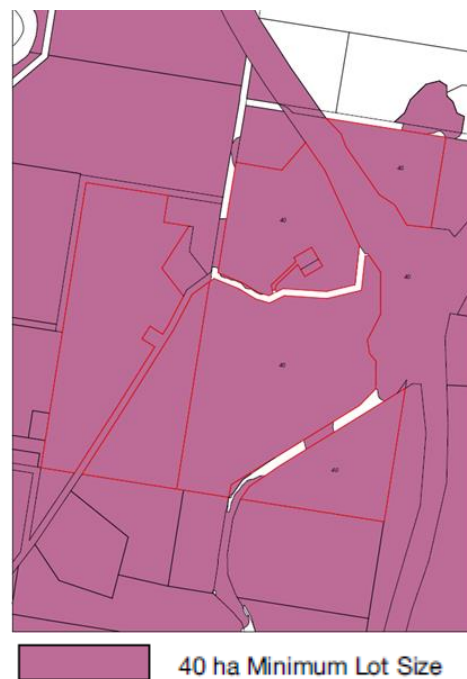
Legend:

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

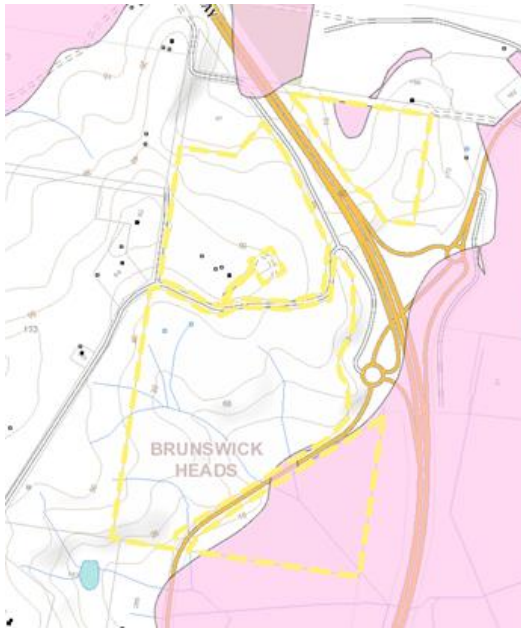
Height of Buildings Map



Lot Size Map



Acid Sulfate Soils Map



Legend: Class 3

3.2 STATE ENVIRONMENTAL PLANNING POLICIES

State Environmental Planning Policies ("SEPPs") which are likely to be of relevance to any future development of the land are listed below.

- 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 (Transport and Infrastructure) 2021

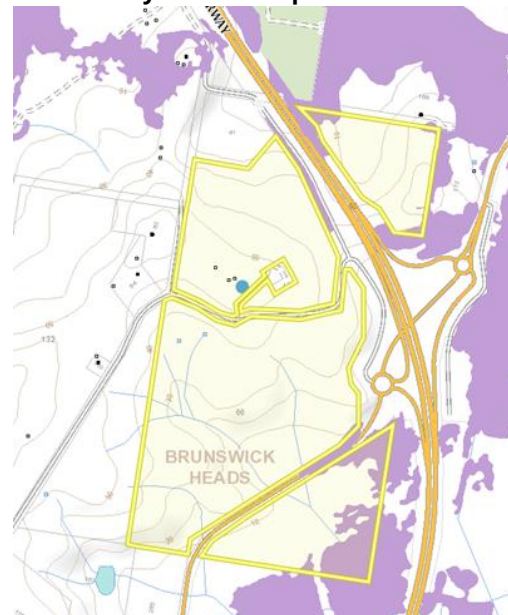
3.3 DEVELOPMENT CONTROL PLAN

A site specific Development Control Plan²² will provide detailed planning controls refining some of the general specifications contained in Council's DCP14.

3.4 BIODIVERSITY CONSERVATION ACT CONSIDERATIONS

The Biodiversity Values Mapping relevant to the site and locality is set out below.

Biodiversity Values Map



Legend: Biodiversity Values

3.5 CONTRIBUTION PLANS

The Byron Shire and Rous County Council Contribution Plans will apply to the future development of this land.

²² [Draft Site Specific Development Control Plan](#)

4. THE ZONING CONCEPT

This section of the report defines the site planning objectives adopted by the proponent based on the proposals described in the BILS strategic planning work.

4.1 CREATIVE CAPITAL AND DOUGHNUT ECONOMICS

Creative Capital seeks to identify scalable solutions that address Byron's big social and environmental challenges. It strives to achieve this through a focus on supporting innovative and effective models, convening and participating in impactful collaborations and working at the development "coalface" to take on these challenges.



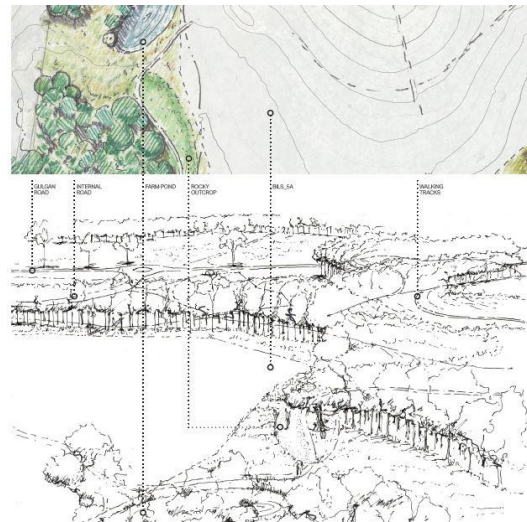
View from the northern part of the proposed B7 zone looking southward.

The people behind Creative Capital are not new to social, environmental and construction challenges being the driving force with respect to the building of HABITAT (the award-winning mixed use project to the north of the Byron Arts and Industry Estate); the proponent for the Fletcher Street Cottage project, a hub for Byron's most vulnerable; the prime mover for the establishment of a Byron Special Housing Trust and the stimulator of innovative projects to house women in distress in the Shire of Byron.

Creative Capital is a devotee of Kate Raworth's Doughnut Economics framework²³. This deceptively simple model, establishes an ecological ceiling based on the Stockholm²⁴ Resilience Centre's planetary boundaries and a social foundation based on the United Nations

Sustainable Development Goals (SDGs)²⁵, equipping practitioners with a 21st Century compass for meeting the needs of all within the means of the planet.

Ever since the Doughnut Economic Concept was first published in 2012, people in districts, towns and cities worldwide have asked 'What would it take for us to live in the Doughnut here?' Creative Capital takes inspiration from initiatives like *Regen Melbourne*²⁶ which provide a creative and inspiring opening response to that question.



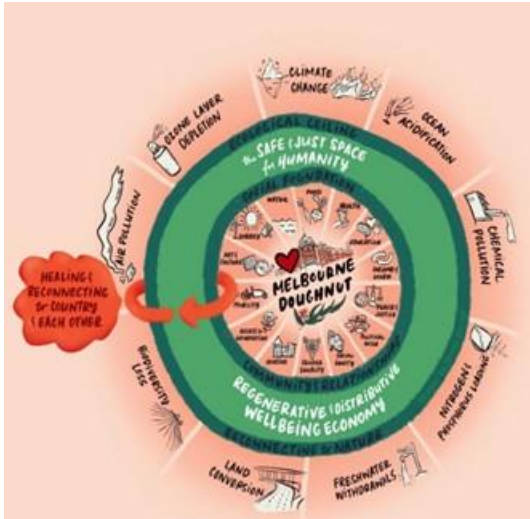
Extract from the design development in the Landscape Architecture Master Plan relating to the western part of precinct A.

²³ [The Doughnut \(economic model\) Kate Raworth](#)

²⁴ [Stockholm Resilience Centre Planetary Boundaries](#)

²⁵ [UN Sustainable Development Goals](#)

²⁶ [Regen Melbourne](#)



Extract from Regen Melbourne - graphic of the Raworth Doughnut.



Extract from the Regen Melbourne work defining how the Melbourne Doughnut provides for collaboration, affordability, thriving communities, knowledgeable and enabled communities.

Creative Capital observes that the world is currently experiencing the convergence of three (3) disruptive and interconnected forces:

- the social, economic and cultural changes brought about by COVID-19;

- rising social and economic inequality; and
- the climate and biodiversity emergency.

Creative Capital is concerned that our current economic paradigm does not adequately provide pathways for the transformative action urgently needed to overcome these complex and interconnected challenges, nor does it take advantage of the potential opportunities of this moment.

The BILS Gulgan North project can demonstrate the potential power of this new compass for Byron Shire.

4.2 THE VISION FOR THE SITE

The future for BILS Area 5 that we describe in this Planning Proposal is inspired by the goal of attaining economic security, creating purposeful jobs and supporting all aspects of the Shire of Byron to thrive, consistent with the principles of the doughnut economic theory. The site is considered an opportunity to respond to the modern evolution of the business and light industrial economy in a thoughtful, resilient, considered and articulated manner whilst maintaining a social and environmental conscience. It is hoped that this approach can form a model for future sites across the Shire.

4.3 SITE PLANNING OBJECTIVES

The primary objective of this Planning Proposal is to implement the BILS Strategy.

For the purposes of project design criteria, the following site planning objectives have been adopted:

- To identify and protect site flora and fauna of environmental planning significance.
- To implement the "doughnut economics" goal of embedding resilience, obtaining economic security, creating purposeful jobs and supporting all aspects of the Shire of Byron to thrive.
- To nestle the employment land within the rural landscape of the Gulgan Road/The Saddle Road locality.

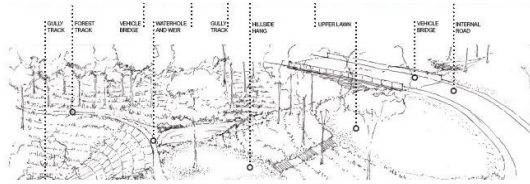
- To provide for public utilities to a level satisfactory for employment land purposes.
- To ensure that future site access conforms with the Byron Shire network hierarchy and that adequate carriageway and verge can be provided to allow the future street systems to safely perform.
- Ensure that the quality and quantity of stormwater exiting the site is not adversely affected by the future development of the land and that existing drainage patterns are not materially altered.
- Review potential site planning hazards to ensure that future development is not likely to present an unreasonable hazard.
- Ensure that future development can be carried out without impacting on the rural amenity and agricultural potential of the surrounding land.
- Ensure that development works synergistically with items of early European heritage and local Aboriginal communities to help foster First Nations Peoples economic and cultural enhancement.

4.4 GENERAL DESCRIPTION OF THE ZONING CONCEPT PROPOSED

In general terms, the implementation of this Planning Proposal will see part of the subject land rezoned to provide:

- 6.5 hectares of employment land zoned as prescribed in with the BILS Strategic Planning for Area 5;
- A Floor Space Ratio for the employment land area set at 0.9:1; 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.

Plan 4.1 shows the zoning and landscape architecture concept for the employment land precinct.



Extract from Landscape Architecture Design Development showing detailed design considerations towards the centroid of the site.



View from the northern part of the site looking south.

Plan 4.1 Zoning & Concept Landscape Architecture



SITE LANDSCAPE MASTER PLAN

SCALE 1: 3 000 @ A3



**4.5 GATEWAY APPROVAL
REQUIREMENTS**

Pursuant to the Gateway approval of the Department of Planning, Housing and Infrastructure, a number of requirements needed to be satisfied before public exhibition. Those matters have been addressed by:

- The draft work/live special provision has been deleted from the Planning Proposal document. Instead, a description of the intent of the clause has been provided;
- Amended Planning Proposal maps have been inserted in the Planning Proposal document to show Council's C Zone Stage 4 implementation plans;
- The current land zoning minimum lot size and height maps have been updated to reflect the current situation;
- A local clauses map has been inserted in the Planning Proposal document showing the portion of land that will be subject to the live/work precinct;
- The Planning Proposal document has been better crafted to refer to Precinct C shown on the Site Analysis plan;
- Further research has been completed in relation to the site's flood risk, including the level of the PMF have been provided; and
- The stand of E. tereticornis on the property is incorporated in an Environmental Protection zone area. Some individual trees external to the stand are not located within an Environmental Conservation zone but are notated for protection via the site-specific Development Control Plan.

