

Planning and Assessment

IRF20/5652

Gateway determination report

LGA	Byron Shire
PPA	Byron Shire Council
NAME	To change the permissible land use for part Zone SP2 Infrastructure to permit a car park, rezone for environmental purposes and introduce a minimum lot size on Lot 51 DP 844054 and part Lot 4729 DP 1228104, 158 Jonson Street Byron Bay
NUMBER	PP_2020_BYRON_007_00
LEP TO BE AMENDED	Byron Local Environmental Plan (LEP) 2014
ADDRESS	158 Jonson Street, Byron Bay
DESCRIPTION	Lot 51 DP 844054 and part Lot 4729 DP 1228104
RECEIVED	23/11/2020
FILE NO.	IRF20/5652 / EF20/31580
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to amend the Byron Local Environmental Plan (LEP) 2014 as it relates to Lot 51 DP 844054 and Part Lot 4729 DP 1228104, 158 Jonson Street, Byron Bay.

It is proposed to change the permissible land use in part Zone SP2 Infrastructure from rail corridor to carpark and rezone part E2 Environmental Conservation and part E3 Environmental Management. The proposed zones will permit a car park, protect coastal wetlands and allow an area to be rehabilitated to offset vegetation removal from other parts of the site.

The planning proposal also seeks to introduce a minimum lot size of 40 hectares for that part of the land proposed to be zoned E2 Environmental Conservation and E3 Environmental Management.

1.2 Site description

The planning proposal applies to Lot 51 DP 844054 and part Lot 4729 DP 1228104, 158 Jonson Street, Byron Bay. The land is located at the southern end of Jonson Street. It is a triangle-shaped parcel with a combined area of approximately 0.619 hectares (Figures 1 and 2). It contains a small patch of native vegetation that the proponent's ecologist has identified as a degraded Paper Bark Swamp Forest Endangered Ecological Community (EEC). The southern part of the site is mapped as coastal wetlands.



Figure 1: Local Government Area



Figure: Site Map (Source: Near Maps 2020)

The site has frontage to an unformed section of Jonson Street along the eastern boundary and the now disused North Coast Railway Line to the west. The northern boundary fronts a range of businesses and sheds located on the fringe of the Byron Bay town centre.

1.3 Existing planning controls

Pursuant to the Byron LEP 2014, that part of the land subject to the planning proposal:

- is zoned SP2 Infrastructure (Rail corridor) (Figure 3);
- has a building height of 9 metres (Figure 4); and
- contains class 2 and class 3 acid sulfate soils (Figure 5).

The land is also:

- bushfire prone (Figure 6);
- mapped as proximity area to coastal wetlands and as containing coastal wetlands pursuant to State Environmental Planning Policy (Coastal Management) 2018 (Figure 7);
- potential High Environmental Value (HEV) (Figure 8); and
- flood prone (Figure 8).

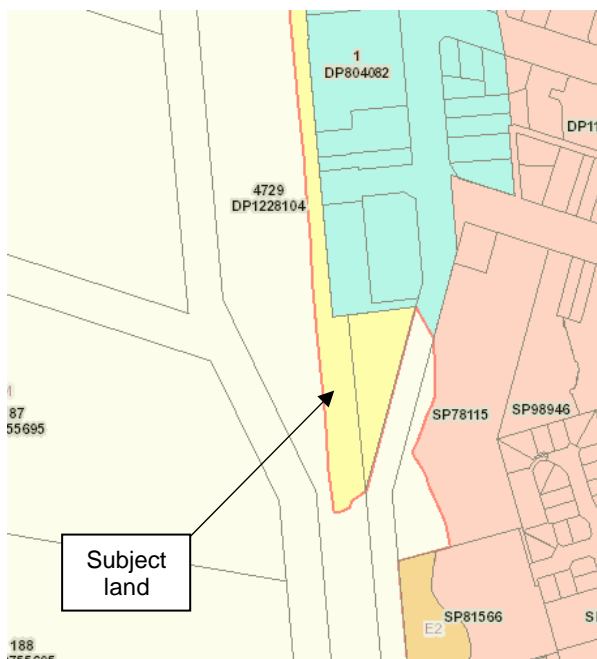


Figure 2: Extract of Existing Land Zoning Map

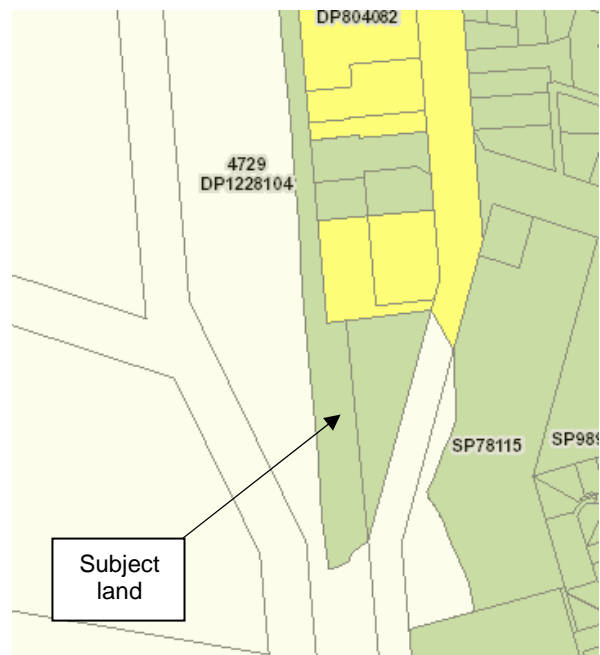
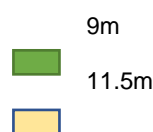
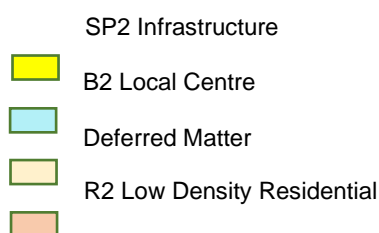


Figure 3: Extract of Existing Height of Buildings Map



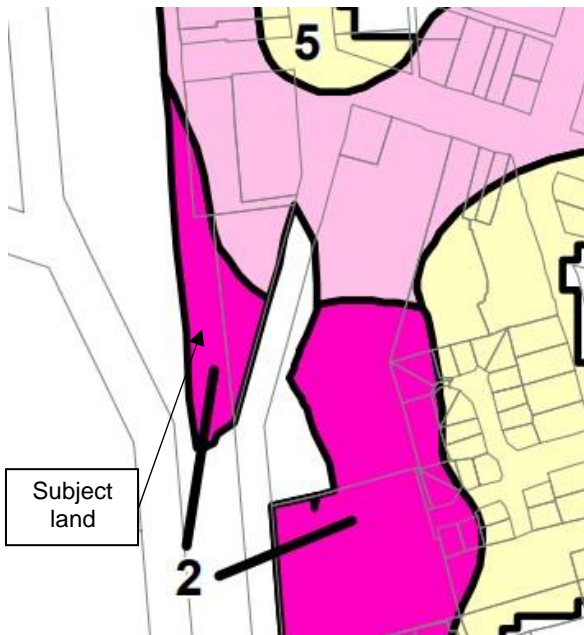


Figure 4: Extract from Acid Sulfate Soils Map

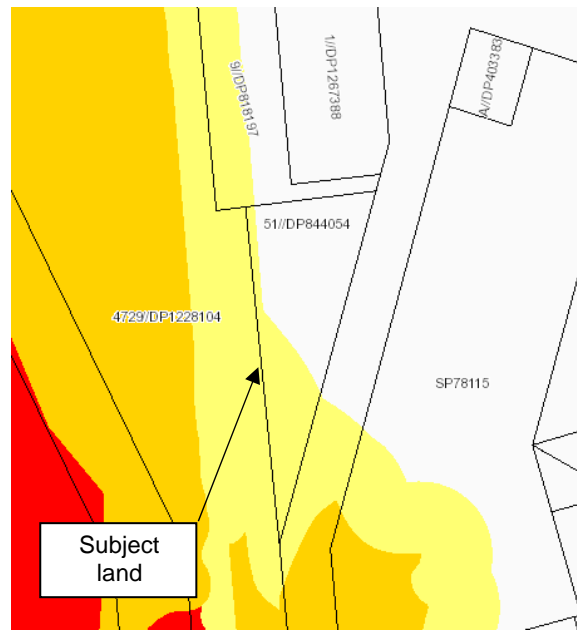


Figure 5: Extract of Bushfire Prone Land Map

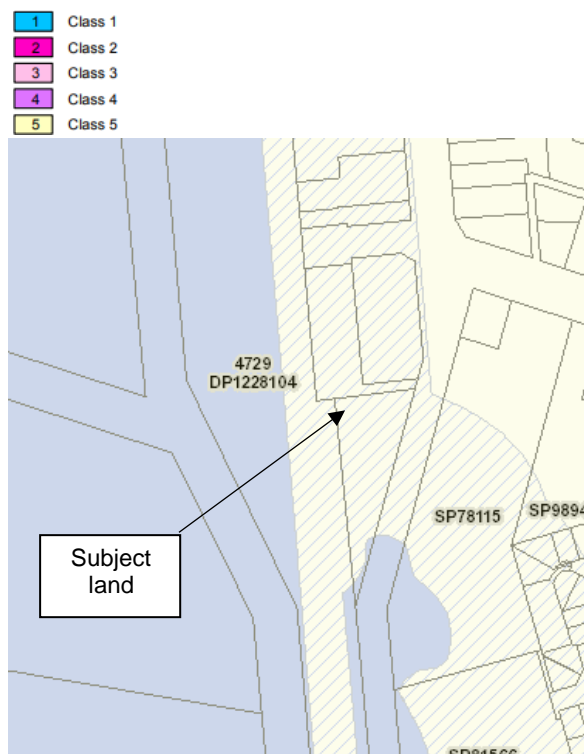


Figure 6: Extract of Coastal Wetlands Map

Bushfire prone land

Coastal wetlands

 Proximity to coastal wetlands

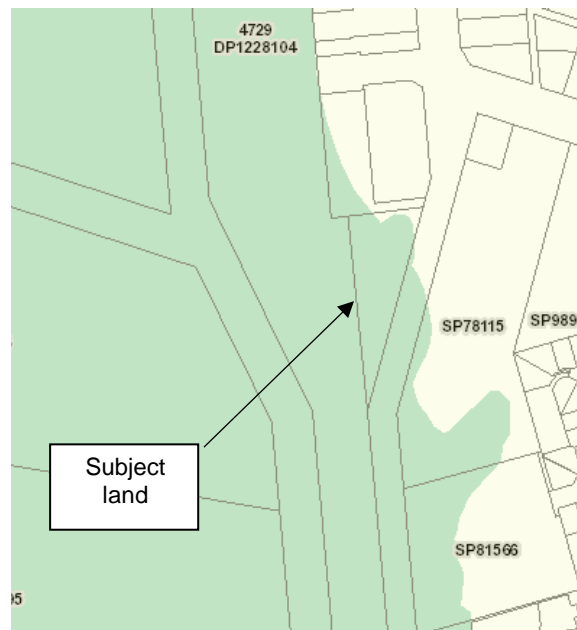


Figure 7: Potential High Environmental Value

Potential High Environmental Value

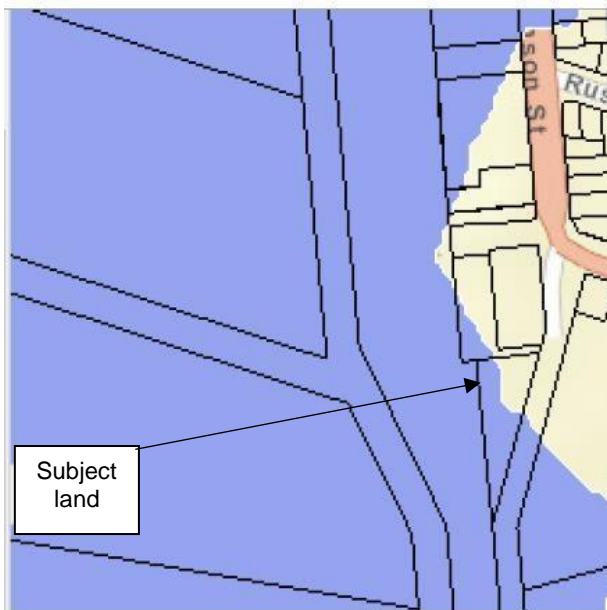


Figure 8: Flood Prone Land (Source: Planning Proposal)

Flood 1 in 100yr

1.4 Surrounding area

The planning proposal relates to land adjoining the North Coast Railway line, and Jonson Street, Byron Bay. Jonson Street is located at the southern end of the rail corridor adjoining the Byron Bay town centre which comprises a variety of commercial, residential and tourist land uses. On the opposite side of Jonson Street is an established residential area within Zone R2 Low Density Residential.

The Byron Bay railway station is located to the north and the rail corridor in this location is within Zone SP2 Infrastructure (Rail corridor). Schedule 1 of the Byron LEP 2014 permits the use of this land for a range of community uses.

To the south there is a Paperback Swamp Forest EEC and coastal wetlands mapped by State Environmental Planning Policy (Coastal Management) 2018 (SEPP Coastal Management). This land is a Deferred Matter under the Byron LEP 2014 and zoned 7(a) Wetland Zone pursuant to the Byron LEP 1988.

The western side includes the rail corridor and the land is also a Deferred Matter under the Byron LEP 2014. It is zoned 7(a) Wetland Zone by Byron LEP 1988. The railway line in this location is not in operation.

1.5 Summary of recommendation

It is considered that the planning proposal has merit to proceed to Gateway for the following reasons

- the planning proposal does not undermine the vision, land use strategy, goals, directions or actions of the North Coast Regional Plan 2036;
- the planning proposal is not inconsistent with the Byron Shire Local Strategic Planning Statement March 2020;

- the planning proposal responds to the actions and objectives of the Byron Shire Community Strategic Plan 2028;
- the planning proposal is not contrary to the E Zone Review Final Recommendations Report; and
- the planning proposal supports the recommendations of the Byron Bay Town Centre Masterplan.

It is recommended that this planning proposal be supported with conditions.

2. PROPOSAL

2.1 Objectives or intended outcomes

The objectives of this planning proposal are to amend the Byron LEP 2014 as it applies to Lot 51 DP 844054 and Part Lot 4729 DP 1228104, 158 Jonson Street, Byron Bay to:

- change the permissible land use for part of the land in Zone SP2 Infrastructure to facilitate construction of a carpark;
- rezone part of the land to E2 Environmental Conservation to protect coastal wetlands; and
- rezone part of the land to E3 Environmental Management to provide a buffer and vegetation offset area.

It is also proposed to apply a minimum lot size of 40 hectares to that part of the land proposed to be zoned E2 Environmental Conservation and E3 Environmental Management, which is consistent with other locations where these zones are used.

The objectives and intended outcomes of the planning proposal are adequately described and do not require amendment prior to community consultation.

2.2 Explanation of provisions

The amendments proposed to the Byron LEP 2014 are adequately expressed and the intended outcomes are to:

- amend the Land Zoning Map (Sheet LZN_003CC) to:
 - change the permissible land use for part Zone SP2 Infrastructure (Rail corridor) to part SP2 Infrastructure (Carpark) to permit a carpark (Figure 9);
 - rezone part to E2 Environmental Conservation (Figure 9);
 - rezone part to E3 Environmental Management (Figure 9); and
- amend the Lot Size Map (LSZ_003CC) to introduce a minimum lot size of 40ha to that part of the land proposed to be zoned E2 Environmental Conservation and E3 Environmental Management.

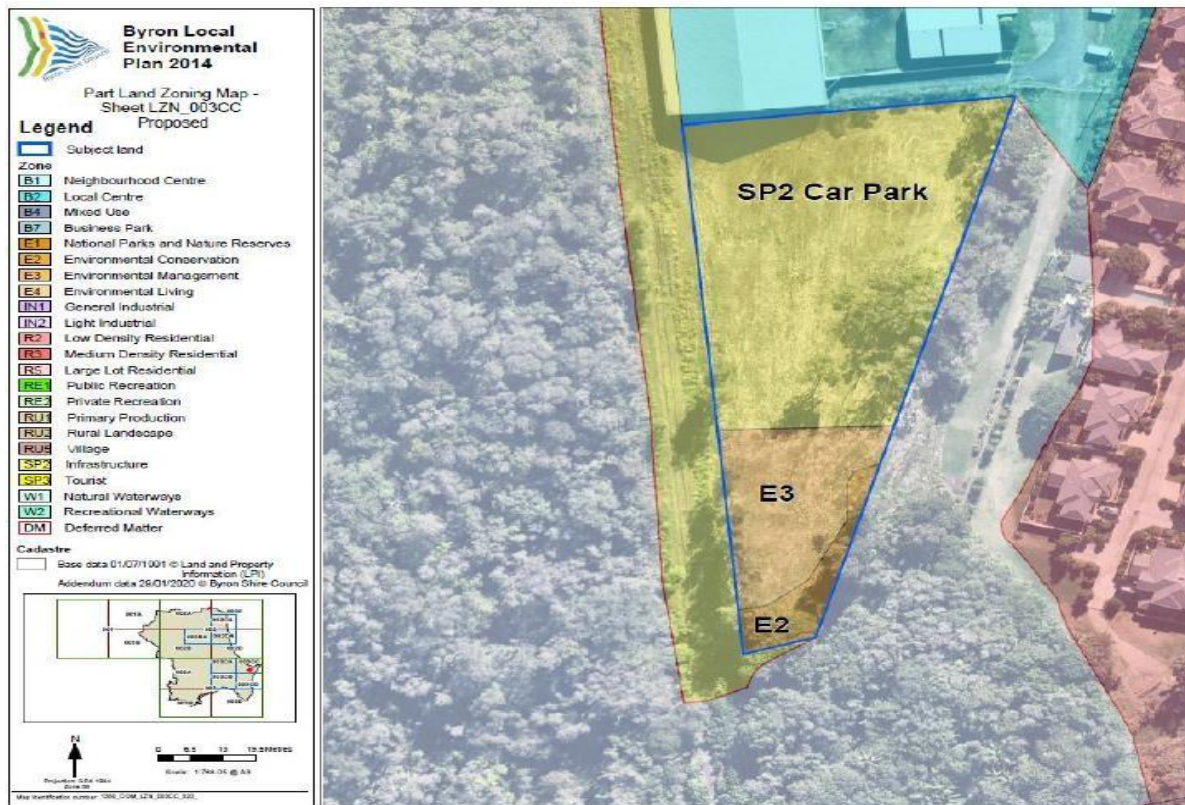


Figure 9: Proposed Land Zoning Map

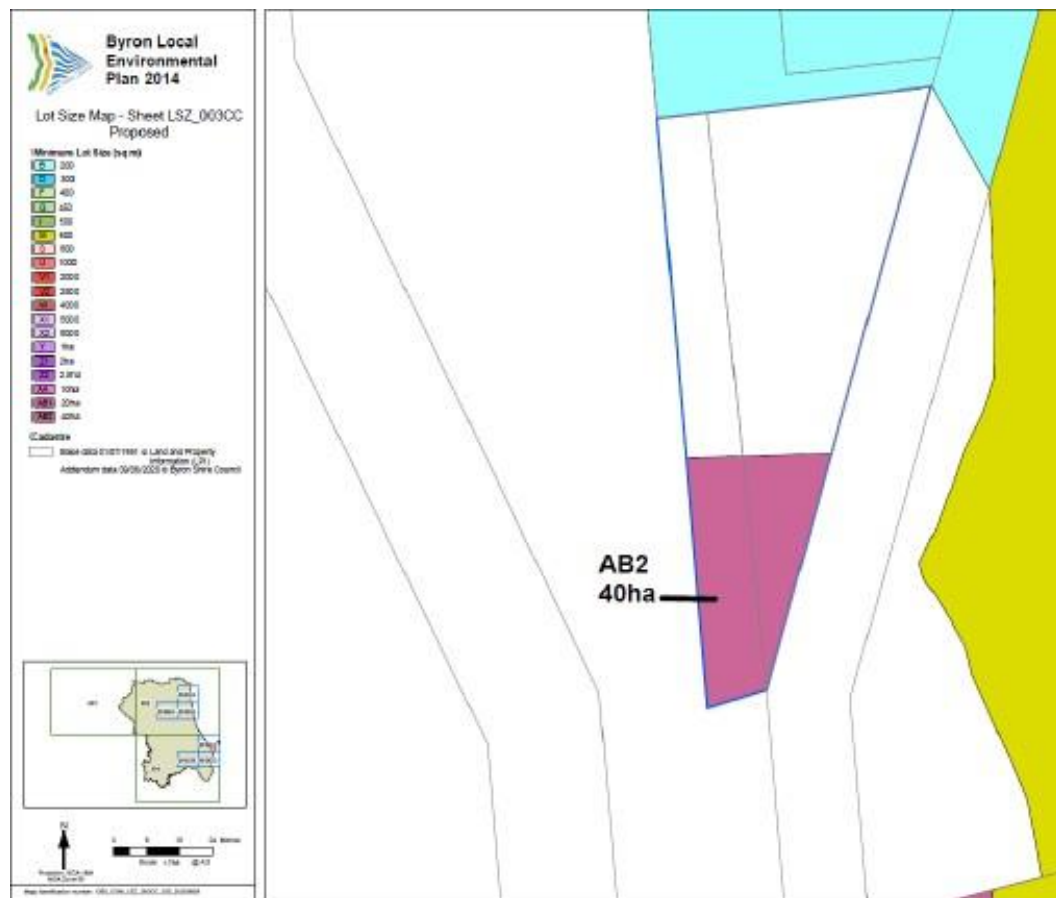


Figure 10: Proposed Lot Size Map (Source: Planning Proposal)

2.3 Mapping

The planning proposal includes maps that show the existing and proposed controls. However, the proposed Land Zoning Map (Figures 9) and proposed Lot Size Map do not align with one another, or the explanation of provisions contained within the written text of the planning proposal.

As such, it is recommended that a condition is imposed on the Gateway determination to require that the proposed maps are updated to ensure consistency, prior to agency and community consultation.

The final maps will need to be prepared to the Department's Standard Technical Requirements prior to the plan being made

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal is neither the result of a strategy nor a study. The planning proposal is the result of a site-specific request initiated by the landowners and is supported by Council.

Council recognise as the site is no longer required for rail related uses the zone should be amended to reflect the change of use and ownership. They support the use of the site as a car park because it will allow more efficient use of other land already zoned for business use nearby.

Council identify that the current owners suggested expansion of the business zone, but as this is not supported by the adopted Byron Shire Business and Industrial Lands Strategy 2020, Council's preference is to maintain the existing SP2 Infrastructure zone and change the permissible land use to permit a carpark.

4. STRATEGIC ASSESSMENT

4.1 State

Northern Councils E Zone Review Final Recommendations Report

The final recommendations report sets out clear criteria and methodologies for the application of E zones. This was further supported by a section 9.1 Direction requiring councils to be consistent with the adopted recommendations and the directive from the Secretary on 1 March 2016 providing further guidance on how to apply the final recommendations.

It is noted that the landowner has agreed to apply E zones to this land.

An assessment of the planning proposal against the final recommendations report is attached (**Attachment D**).

4.2 Regional

The North Coast Regional Plan 2036 is relevant as follows:

Direction 1: Deliver environmentally sustainable growth

This Direction aims to manage growth by directing development to mapped urban growth areas in order to better distribute growth and to avoid pressure on the sensitive coastal environment.

The land subject to the planning proposal is located outside the urban growth area boundary (Figure 11).

The Direction provides that only minor and contiguous variations to urban growth areas in the coastal strip will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.

The Direction requires that Appendix A Urban Growth Area Variation Principles be considered and justified. In this regard:

1. Policy:

The planning proposal is not inconsistent with the objectives and outcomes of the North Coast Regional Plan 2036. However, there are minor inconsistencies with a number of section 9.1 Directions and some that are unresolved and will require the Secretary's approval prior to the plan being made. These are discussed in section 4.4 of this report.

2. Infrastructure:

There will be no impact on the wider State or regional infrastructure or the requirement for additional funding. To confirm there is no impact on existing railway land, it is recommended that as a condition of the Gateway determination consultation is undertaken with Transport for NSW. Local infrastructure is available to the land and the specific servicing requirements will be considered at the development application stage.

3. Environmental and farmland protection:

The land is mapped as containing HEV (Figure 8). Part of the land is proposed to be zoned E2 Environmental Conservation and E3 Environmental Management. No part of the land is mapped as important farmland.

4. Land use conflict

The land is appropriately separated from incompatible land uses and it is considered that the combination of proposed zone and development controls will limit the future development to a complementary scale allowing potential impacts to be considered at the development application stage.

5. Avoiding risk:

The land is mapped as bushfire prone, flood prone and containing acid sulfate soils. The constraints associated with acid sulfate soils can be considered at the development application stage and it is recommended that as a condition of the Gateway determination that consultation is undertaken in relation to bushfire with the NSW Rural Fire Service (RFS) and flooding with the Division of Biodiversity and Conservation (BCD).

6. Heritage:

The planning proposal will not impact known Aboriginal or non-Aboriginal heritage. However, it is recommended that as a condition of the Gateway determination that a cultural heritage assessment is prepared, and that consultation is undertaken with Heritage NSW, the Tweed Byron Local Aboriginal Land Council (LALC) and Arakwal Corporation.

7. Coastal area:

The planning proposal seeks to apply zones which will permit a car park, protect coastal wetlands and allow an area to be rehabilitated to offset vegetation removal from other parts of the site. As the land is not required for its original railway purpose, it is considered that the proposal to change the permissible land use to a carpark will complement the Byron CBD and facilitate an infill development, which represents a minor and contiguous variation to the urban growth area boundary.



Figure 11: Urban Growth Area Boundary

Direction 2: Enhance biodiversity, coastal and aquatic habitats, and water catchments

This Direction requires that new development should be appropriately located to limit any adverse impact on the region's biodiversity, coastal and aquatic habitats and water catchments. The land is identified as containing potential HEV (Figure 7).

The proponent has undertaken a flora and fauna assessment that indicates the land contains a degraded Paperbark Swamp Forest EEC (Figure 12). The assessment identifies that the proposed development will result in the removal/modification of 997m² of Community 1 (Paperbark Swamp Forest of the Coastal Lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion (PCT 1064)) and 8103m² of Community 2 (Modified / Cleared Areas with Garden Beds, Ornamental Species and Weeds).

To offset impacts associated with the proposal, compensatory plantings are proposed in the area proposed to be zoned E3 Environmental Management. Additionally, weed removal is proposed within areas of the site which will allow for natural regeneration to occur.

The report concludes that that the proposed development is unlikely to have an unacceptable environmental impact.

The land also contains mapped coastal wetlands (Figure 6). This area is proposed to be zoned E2 Environmental Conservation.

The proposal is not contrary to Action 2.1 which is to focus development to areas of least biodiversity sensitivity in the region and implement the 'avoid, minimise, offset' hierarchy to biodiversity, including areas of HEV.



Figure 12: Degraded Paperbark Swamp Forest EEC mapped by proponent on or near the site (Source: Planning Proposal)

Direction 3: Manage natural hazards and climate change

This Direction identifies that the North Coast is prone to natural hazards. As identified in section 2.2 of this report, the land is flood prone, bushfire prone and contains acid sulfate soils. The planning proposal is consistent with Action 3.1 which aims to reduce the risk of natural hazards by identifying and managing areas vulnerable to hazard.

It is recommended that as a condition of the Gateway determination that consultation be undertaken with the RFS in relation to bushfire and BCD in relation to flooding.

Additionally, Council has nominated that a bushfire hazard report should be prepared. It is recommended that the preparation of this report is imposed as a condition of the Gateway determination.

Direction 6: Develop successful centres of employment

The planning proposal is consistent with Action 6.4, which focuses retail and commercial uses to existing centres. Providing a car park on the edge of the CBD with access from the Byron Bay bypass reduces the space needed for car parking within the CBD, thereby increasing space for more retail or commercial enterprises.

Local Narrative – Byron Local Government Area

The proposal is consistent with the applicable Byron Local Government Narratives as a carpark supports growth in Byron Bay.

Local

Byron Shire Local Strategic Planning Statement March 2020 (LSPS)

The proposal aligns with the following planning priorities:

- SP1: Protect and enhance our biodiversity, ecosystems and ecology. Priority Action SA1 is to be review and update LEP and DCP to reflect High Environmental Value vegetation mapping and implement Environmental Zones in accordance with State Government requirements.
- CP2: Lead partnerships to develop a network of sustainable transport. Priority Action CA5 is to investigate, in association with key stakeholders, opportunities to activate a Multiuse Rail Corridor, including potential funding sources and other activation mechanisms.

It is noted that the planning proposal does not address the LSPS. As such, it is recommended as a condition of the Gateway determination that the planning proposal is updated prior to agency and community consultation to refer to the LSPS.

Byron Shire Community Strategic Plan 2028 (CSP)

The planning proposal is consistent with the following objectives of the Community Strategic Plan 2028:

- “Community Objective 1: We have infrastructure, transport and services which meet our expectations”
- “Community Objective 3: We protect and enhance our natural environment”

Byron Bay Town Centre Masterplan

The use of the subject land as an edge of town centre car park is consistent with the Byron Bay Town Centre Masterplan. The masterplan was adopted by Council in June 2016 but has not been endorsed by the Department.

The masterplan includes an access and movement strategy that addresses parking. The subject land is immediately south of the masterplan study area and is not specifically identified. However, the access and movement strategy states that a key goal is to encourage people movement in the town centre and redirect traffic and parking away from the town centre. Large portions of existing parking need to be removed to the outer fringes. The goal is to relocate 60% of on-street parking to the edge of the town centre in the long term.

4.4 Section 9.1 Ministerial Directions

The planning proposal is consistent with the relevant Ministerial Directions, except for those discussed below:

Direction 2.2 Coastal Management

The planning proposal is inconsistent with this Direction as it includes land mapped in the State Environmental Planning Policy (Coastal Management) 2018 and does not include provisions which give effect to the objectives of the Coastal Management Act 2016, the NSW Coastal Management Manual, the NSW Coastal Design Guidelines 2003 and any coastal management program or coastal zone management plan. The inconsistency is considered to be of minor significance as the inclusion of provisions that give effect to these documents is beyond the scope of this planning proposal which seeks to permit a carpark in a disused rail corridor, protect coastal wetlands and allow an area to be rehabilitated to offset vegetation removal from other parts of the site.

Direction 2.3 Heritage Conservation

The planning proposal is potentially inconsistent with this Direction as an assessment to determine whether the planning proposal must contain provisions to protect Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes has not been undertaken. Until a cultural heritage assessment has been prepared and consultation has been undertaken with Heritage NSW, the Tweed Byron LALC and Tweed Byron LALC / Arakwal Corporation, this Direction remains unresolved.

Direction 2.6 Remediation of Contaminated Land

This Direction is relevant as the land has been previously used for rail related purposes which has the potential for contamination. In order for Council to satisfy itself in relation to the matters contained in paragraph (4)(c) of the Direction, it is recommended that as a condition of the Gateway determination, a preliminary contamination investigation of the land is carried out in accordance with the contaminated land planning guidelines. Until this report has been prepared, this Direction remains unresolved.

Direction 4.3 Flood Prone Land

The planning proposal is inconsistent with this Direction as it does not 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 (including the Guideline on Development Controls on Low Flood Risk Areas). The inconsistency is considered to be of minor significance as the proposal will not significantly increase the flood hazard or risk as most of the flood affected land will be included in an environmental zone. Further, Council has indicated that there is flood-free access to, and around the site for vehicles to escape flood water if required. It is also recommended that consultation be undertaken with BCD to confirm the suitability of the proposal having regard to flooding.

Direction 4.4 Planning for Bushfire Protection

The planning proposal is potentially inconsistent with this Direction as it applies to land that is bush fire prone. The Direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service (RFS). Consultation with the RFS is required after a Gateway Determination is issued. Additionally, Council has nominated that a bushfire hazard report should be prepared. Until the report has been prepared and consultation with the RFS has occurred the consistency of the proposal with the Direction remains unresolved.

Direction 6.2 Reserving Land for Public Purposes

The planning proposal is inconsistent with this Direction because it alters existing zonings and reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General). It is considered that the inconsistency is minor because the land is no longer an operational rail corridor or owned by Transport for NSW for this purpose.

In this regard, Council has advised that Transport for NSW disposed of Lot 51 DP 844054 when the land was no longer required for use as a rail corridor and the same landowners are in the process of finalising the purchase of part Lot 4729 DP 1228104.

4.5 State environmental planning policies (SEPPs)

The proposal is consistent with all relevant SEPPs.

As noted previously in the report, the southern end of the planning proposal area is mapped as containing coastal wetlands (Figure 7) in accordance with State Environmental Planning Policy (Coastal Management) 2018. The boundary of the

proposed E2 Environmental Conservation zone aligns with the mapped coastal wetlands area. The planning proposal is considered consistent with the aims and objectives of SEPP.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The site is on the southern edge of Byron Bay CBD and is walking distance to shops, offices, employment and services. Public transport runs past the site along Jonson Street and Browning Street. The car park may be used to allow freight to access adjacent business zoned land. Overall, the proposal will have a positive social impact as locating a car park on the southern edge of the CBD will allow Council to make the CBD more pedestrian friendly.

A search of the Aboriginal Heritage Information System was undertaken in October 2020 which did not identify any registered Aboriginal sites on the subject land or within 200 metres. However, Council has committed to undertake an assessment should a Gateway determination be issued.

It is recommended that as a condition of the Gateway determination that a cultural heritage assessment is undertaken, and that consultation occurs with Heritage NSW and the Tweed Byron LALC / Arakwal Corporation to confirm there are no negative impacts on Aboriginal cultural heritage.

5.2 Environmental

As discussed previously in the report, the planning proposal seeks to apply appropriate zones to permit a car park, protect coastal wetlands and allow an area to be rehabilitated to offset vegetation removal from other parts of the site.

Council has indicated that the agreement of the landowner has been provided to apply the environmental zones to the land. This approach complies with the E Zone Review Final Recommendations Report.

The majority of the planning proposal area contains potential HEV (Figure 7). It is proposed to apply the environmental zones to the southern part of the land which has been identified to contain a degraded EEC and mapped as coastal wetlands (Figure 6). It is recommended that consultation is undertaken with BCD as a condition of the Gateway determination to confirm the suitability of the proposal.

Council has identified that the land is partly flood affected at its southern extent and that a stormwater assessment supplied with the planning proposal indicates that the land is affected in 1:100-year flood event (Figure 8). Council has formed the view that there is flood-free access to, and around the site and there is sufficient flood-free land for vehicles to escape flood water if required. It is recommended as a condition of the Gateway determination that consultation is undertaken with BCD to ensure there are no negative environmental impacts associated with flooding.

The land contains class 2 and class 3 acid sulfate soils (Figure 4). The applicant has prepared an acid sulfate soils study which includes soil tests and a recommended treatment regime for any soil disturbed. Further, the geotechnical report prepared for the proposal recommends that the car park be a slab on deep piers so minimal disturbance of natural ground is likely. The Byron LEP 2014 contains provisions to ensure that this matter can be adequately considered and addressed at development application stage.

5.3 Economic

The proposed change to SP2 Infrastructure (Carpark) supports and complements the adjoining land uses and provides a commercial outcome for the site. There will also be an economic benefit to the community as a consequence of the jobs created by construction of the carpark.

5.4 Infrastructure

There will be no impact on the wider State or regional infrastructure or the requirement for additional funding. However, as discussed in section 4.2 of the report it is recommended that consultation is undertaken with Transport for NSW as the previous and adjoining landowner in relation to potential impacts on the rail corridor.

Council has advised that there is adequate public infrastructure to accommodate the proposed car park development. The specific servicing requirements will be considered at the development application stage.

With regard to traffic, the planning proposal will allow the car park to be located south of the Jonson Street/Browning Street intersection, which is a roundabout intersection with the new Byron Bay bypass. This means that traffic can access the car park via the bypass or from south of town without entering the CBD.

6. CONSULTATION

6.1 Community

Council has indicated that the planning proposal will be exhibited for a period of 28-days. This is consistent with the requirements of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).

Council has also advised that notification of the exhibited planning proposal will include the websites of Byron Shire Council and the Department and that supporting studies and information supplied with the planning proposal will be included in the exhibition material.

Consistent with the Secretary's directive of 1 March 2016, it is recommended that conditions are imposed on the Gateway determination to require that all landowners whose land is proposed to have an E zone applied are notified in writing of the proposal and the public exhibition arrangements and notified in writing when Council has considered any submissions and resolved to send the proposal to the Minister's delegate for finalisation.

6.2 Agencies

Council has nominated that consultation will be undertaken with the RFS as a requirement of section 9.1 Direction 4.4 Planning for Bushfire Protection, BCD in relation to ecology and flooding, Transport for NSW as the previous and adjoining landowners and Heritage NSW, Tweed Byron LALC and Arakwal Corporation in relation to Aboriginal cultural heritage.

It is considered appropriate that consultation is undertaken with the agencies nominated and it is recommended that this is confirmed as a condition of the Gateway determination.

7. TIME FRAME

Council has nominated a timeframe of nine months to complete the planning proposal. It is considered that a period of nine months is an adequate period to finalise the planning proposal.

8. LOCAL PLAN-MAKING AUTHORITY

Council has sought delegation from the Department of Planning, Industry and Environment to be the local plan-making authority for the planning proposal. However, consistent with the Secretary's directive of 1 March 2016, an authorisation to act as the local plan-making authority is not issued to Northern councils where a planning proposal seeks to apply an E zone to land. This is to ensure a consistent approach to the finalisation of zoning decisions consistent with the E zone review final recommendations report. It is recommended that Council not be authorised to act as the local plan-making authority.

9. CONCLUSION

It is considered that the planning proposal has merit to proceed to Gateway for the following reasons:

- the planning proposal does not undermine the vision, land use strategy, goals, directions or actions of the North Coast Regional Plan 2036;
- the planning proposal is not inconsistent with the Byron Shire Local Strategic Planning Statement March 2020;
- the planning proposal responds to the actions and objectives of the Byron Shire Community Strategic Plan 2028;
- the planning proposal is not contrary to the E Zone Review Final Recommendations Report; and
- the planning proposal supports the recommendations of the Byron Bay Town Centre Masterplan.

It is recommended that this planning proposal be supported with conditions.

10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 2.2 Coastal Management, 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes are minor or justified; and
2. note that the consistency with section 9.1 Directions 2.3 Heritage Conservation, 2.6 Remediation of Contaminated Land and 4.4 Planning for Bushfire Protection are unresolved and will require justification.

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

1. Prior to agency consultation and public exhibition, Council must:
 - (a) alter the planning proposal to amend:
 - (i) Part 3 to address the Local Strategic Planning Statement; and
 - (ii) Part 2 to ensure that the maps align with one another and the written explanation of provisions
 - (b) prepare a cultural heritage assessment;
 - (c) undertake a preliminary contamination investigation; and
 - (d) prepare a bushfire hazard report.

2. Council must ensure that any landowner whose land is proposed to have an E zone applied is notified in writing of the planning proposal and consultation arrangements.
3. The planning proposal should be made available for community consultation for a minimum of 28 days. Council is to write to the landowners subject to the planning proposal and advising of the proposed community consultation arrangements.
4. Consultation is required with the following public authorities:
 - Department of Planning, Industry and Environment (Biodiversity and Conservation Division)
 - Transport for NSW
 - NSW Rural Fire Service
 - Heritage NSW
 - Tweed Byron LALC / Arakwal Corporation
5. When Council has considered the submissions received during public exhibition and has endorsed the final planning proposal, the landowners whose land will be subject to an E zone is to be notified in writing of Council's decision and advised that they have 28 days to notify the Department if they would like the Chief Planner to review the proposed zoning of their property.
6. The time frame for completing the LEP is to be 9 months from the date of the Gateway determination.
7. Given the nature of the planning proposal, Council should not be authorised to be the local plan-making authority to make this plan.



18/12/2020

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