

**Report No. 13.12 PLANNING - 26.2020.5.1 158 Jonson Street
Planning Proposal Submissions Report**

Directorate: Sustainable Environment and Economy

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5 **File No:** I2021/859

Summary:

This report presents the exhibition outcomes of the 158 Jonson Street planning proposal 26.2020.5.1.

The planning proposal seeks to rezone the site from SP2 (rail corridor) to SP2 (car park).

10 The planning proposal was placed on exhibition from 10 May to 7 June 2021. Nine (9) public submissions and three agency responses were received.

Most submissions had concerns regarding design and amenity impacts which will be addressed as part of the development application process.

15 It is recommended that the planning proposal (as exhibited) be sent to the Department of Planning, Industry and Environment for finalisation.

NOTE TO COUNCILLORS:

20 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:

25 **That Council forwards the planning proposal, as contained in Attachment 1 (E2021/9574), to Department of Planning, Industry and Environment for finalisation.Attachments:**

- 30 1 26.2020.5.1 Planning Proposal Jonson St car park (v2 Public exhibition version and final version for Council), E2021/9574
- 2 26.2020.5.1 Combined submissions for attachment to Council report - public version, E2021/85162
- 3 26.2020.5.1 Combined agency response, E2021/89363
- 35 4 Form of Special Disclosure of Pecuniary Interest, E2012/2815

Report

At the November planning meeting Council resolved to place the planning proposal to rezone 158 Jonson Street on public exhibition.

- 5 The planning proposal seeks to rezone the site from SP2 (rail corridor) to a mix of SP2 (car park), E2 Environmental Conservation and E3 Environmental Management.

The planning proposal was on exhibition from 10 May until 7 June 2021. Notification was sent to the adjoining landowners as well as several government agencies as per the Gateway determination.

- 10 Nine (9) public submissions were received and are attached to this report (Attachment 1). All submissions objected to the rezoning for the reasons summarised below.

The planning proposal governs the zoning and associated LEP maps only. Design considerations are assessed as part of the development application process, which is currently underway.

- 15 Submission issues applicable to the development application process have been recorded and relayed to the development assessment officer.

A development application has been submitted for this site and will be presented to Council in a separate report. The development application will not be determined until the site rezoning has been completed.

- 20 The public will also be given an additional opportunity to provide comment when the development application is placed on public exhibition.

Submission Issue(s)	Response
<p>Inappropriate location.</p> <p>The design goes beyond reasonable development standards and is in opposition of the precautionary principle.</p> <p>The proposal is at odds with the existing streetscape and the residential character to the east and will detract from the integrity of the protected wetlands to the west.</p> <p>This is a prime CBD location and should not be used for a car park.</p>	<p>Design of the car park is considered at the development application stage.</p> <p>The site is located adjacent to the business zone and part of the site is proposed to be zoned E2 and E3.</p> <p>Providing additional parking space on the peripherals of the town will enable people to park and walk into town which is consistent with the Byron town centre masterplan.</p>
<p>Two storey car park.</p> <p>The rezoning will enable a two-storey 200+</p>	<p>A 9m height limit already applies to the site. The directly adjacent B2 zoned land has a height limit of 11.5m. Specific design</p>

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Submission Issue(s)	Response
car park which is excessive for the site. The height will cause light spill and increase noise dispersal.	measures can be used to minimise noise and light impacts to adjoining residents, which will be considered as part of the DA process.
Light and noise pollution. A two-storey car park will cause significant light spill at night and have adverse impacts on the adjoining residents and wildlife in the adjacent wetland.	<p>Noted. Design considerations can be used to minimise noise and light impacts to adjoining residents as part of the associated development application.</p> <p>Conditions of consent can also be imposed to limit hours of operation and reduce associated impacts on adjoining residents.</p> <p>The environmental zoned part of the site will enable replanting and provide a buffer to the adjoining wetland.</p>
Increased traffic/roundabout. The addition of a 200+ cars coming onto the Browning St. roundabout will exacerbate traffic issues in addition to the new Jonson Lane development. There is no clear pedestrian crossing at the roundabout and this development will make pedestrian access dangerous.	<p>The submitted traffic study does account for the Byron Bypass and new roundabout. It acknowledges that this will generate additional traffic, noting that this will be within the roadway capacity and that acceptable access can be achieved.</p> <p>Measures to ensure suitable pedestrian access can be conditioned as part of the development application process.</p>
Carpark security. A fence should be required along the paper road to ensure the site cannot be accessed after hours.	Security and access issues will be considered as part of the development application process.
Jonson St. Paper Road. There is an emergency exit from the Seadrift Complex and emergency vehicle access for Fire/Police/Ambulance is via the Jonson St road reserve between the Proposed Carpark and Seadrift Complex. It is vital that this access and exit always remains clear and unobstructed, and that	<p>Noted. No changes to the paper road are proposed in this planning proposal.</p> <p>Formalisation of the access to/from the site will be required should the resulting development application be approved.</p>

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Submission Issue(s)	Response
<p>any proposed development is aware of this.</p> <p>The existing car park for mitre 10 should be upgraded.</p>	
<p>Not in keeping with Byron low scale development and character.</p> <p>The rezoning will enable a massive structure of up to 9 m high with no limit on FSR. It does not fit in the landscape and design of our town placed in a quiet undeveloped part and it should zoned MG market gardens.</p>	<p>The site is privately owned and directly adjacent to business zoned land. FSR is not relevant in the case of a car park. The application of environmental zones on part of the site reduces the footprint which can be used for a car park.</p> <p>A 9m height limit already applies to the site, which is the same height limit applicable to all residential areas of Byron. The business land directly adjacent has a height limit of 11.5m.</p>
<p>Loss of amenity.</p> <p>There should be restrictions on the hours the Proposed Carpark operates. If the Carpark were to operate 24/7, the impact of constant lighting, constant vehicle noise, constant vehicle emissions, security and safety issues, etc. would seriously disrupt the nature of this primarily residential neighbourhood, as well as affect the wildlife habitat around the Proposed Carpark.</p> <p>The design of the car park should minimise visual impact to Seadrift residents with a green or solid easterly facing wall and to mitigate light and noise spill.</p> <p>The entrance for the car park should remain at the northern end of the site and a gate installed for the paper road to prevent illegal camping and people accessing the site after hours.</p> <p>The associated retail redevelopment and car park should have limited hours of operation. If approved there should be adequate fencing/walls and tree planting for</p>	<p>The development application will consider design and amenity impacts. Conditions can be included to limit hours of operation.</p> <p>The site directly adjoins the business zone (B2 Local Centre) which has a height limit of 11.5m. A future car park on the site will be restricted to a 9m height limit.</p> <p>The Jonson Street paper road that separates the site from the residential area opposite will remain.</p>

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Submission Issue(s)	Response
screening.	
<p>Car Park will not increase walkability of the town.</p> <p>Since the carpark will be privately owned, is there a guarantee that parking will not be exorbitantly priced anyway? Or used for workers rather than people going into town?</p> <p>Secondly, it is very unlikely to affect the town centre as people will wish to park closer to town. They will not walk from such a distance (otherwise they could park in Woolworths carpark anyway).</p> <p>We do not need any more open space being used for cars.</p>	<p>The Byron Masterplan states that parking areas should be located out of the town centre. This will provide a parking space on the southern end of town enabling pedestrians to walk into town.</p> <p>In addition, the car park will enable the existing adjacent warehouse to be repurposed.</p>
<p>Inconsistent with the aims of Byron LEP.</p> <p>The proposal is inconsistent with the aims of Byron LEP in that it will totally and adversely detract from the amenity of the residential area to the east, particularly in relation to noise, traffic safety, streetscape, camping, tree removal, drainage and the environment.</p> <p>The proposal is also inconsistent with the DCP Chapter D4.</p>	<p>It is considered that this planning proposal is consistent with the aims of the Byron LEP 2014 — namely that it is responding to the site no longer being utilised for rail infrastructure.</p> <p>The DCP deals with development applications. This will be examined as part of any subsequent development applications.</p>
<p>Environmental</p> <p>The proposed E zones are supported, however the area should be replanted with indigenous trees and the E3 area managed so it does not become a fire danger.</p> <p>Trees should be planted along the paper road to soften the impact to the residential area.</p>	<p>Compensatory planting in the environmental zones with a vegetation management plan will be required as part of the development application (ie. using native vegetation).</p> <p>Screening of the car park will also be considered to minimise impacts on the adjoining residential apartments.</p>

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The planning proposal was sent to RFS, Transport for NSW, Heritage NSW, Biodiversity Conservation Division, Tweed Byron Local Aboriginal Land Council and Arakwal.

Transport for NSW, Heritage NSW and Biodiversity Conservation Division responded and had no objection to the planning proposal.

- 5 Biodiversity Conservation Division recommended that prior to finalisation of the planning proposal that Council enters into a Voluntary Planning Agreement (VPA) with the applicant that specifies the biodiversity offset requirements and that a vegetation management plan will be prepared for the E2 and E3 zoned areas of the site.

- 10 The accompanying ecologist report notes that the vegetation removal on site does not exceed the 'biodiversity offsets scheme' threshold. Notwithstanding this, Councils DCP chapter *B1 - Biodiversity* sets out a framework requiring development to achieve no net loss of biodiversity on-site. In this regard development must be designed to avoid and/or minimise impacts on biodiversity values such as the mapped high environmental value vegetation that occurs on the subject site. Where avoidance and minimisation measures
- 15 have been clearly considered and implemented, residual biodiversity impacts may be allowable. In these cases, Chapter B1 requires that offset measures must be implemented on-site via a vegetation management plan. The area subject to the vegetation management plan must then be protected from further impacts in perpetuity.

- 20 The environmental zones have been included on site so that ecological restoration based on the principles in Chapter B1 can be accommodated on site.

Based on the above information it is considered that a VPA is not necessary in this instance.

Conclusion

- 25 No changes to the exhibited planning proposal are recommended. Concerns regarding design, traffic and amenity impacts will be assessed as part of the development application process.

Options

Proceed with the planning proposal as attached noting that a thorough assessment of the design will occur as part of the development application process

- 30 Or

Not proceed with the planning proposal and provide reasons for this decision to the applicants.

Next steps

- 35 Should Council wish to proceed, the planning proposal will be sent to the Department of Planning, Industry and Environment for finalisation.

In this instance, Council does not have delegation to make this plan, therefore the role of finalising the proposal will remain with the Department of Planning, Industry and Environment.

Strategic Considerations

5 Community Strategic Plan and Operational Plan

CSP Objective	L2	CSP Strategy	L3	DP Action	L4	OP Activity
Community Objective 4: We manage growth and change responsibly	4.1	Support the visions and aspirations of local communities through place-based planning and management	4.1.3	Manage development through a transparent and efficient assessment process	4.1.3.11	Prepare and assess Planning Proposals and Development Control Plans, and amend Local Environmental Plan maps

Recent Resolutions

- Res 20-601: Proceed to public exhibition and consider a report post exhibition.

Legal/Statutory/Policy Considerations

10 Should Council proceed with this planning proposal, an amendment to Byron LEP 2014 will be made.

Financial Considerations

This is an applicant-initiated planning proposal with all costs borne by the landowners.

Consultation and Engagement

As outlined in the report.

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