

DOC17/038006

Chloe Dowsett
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Byron Shire Council
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By Email: chloe.dowsett@byron.nsw.gov.au

Dear Ms Dowsett

Coastal Zone Management Plan for the Brunswick Estuary (CZMP)

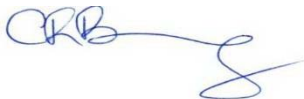
I refer to your email and letter dated 24 July 2017 seeking agency supporting for the revised Coastal Zone Management Plan for the Brunswick Estuary (CZMP), dated June 2017.

The Department of Industry – Crown Lands & Water (the Department) has reviewed the CZMP. As an outcome of the review, please find comments on the CZMP at Attachment 1.

In its current form, the Department is not in a position to agree to the relevant actions in the CZMP that affect Crown land or assets, which is a requirement under section 55C(2)(b) of the *Coastal Protection Act 1979*. Further consultation and amendments will need to occur prior to the Department being in a position to agree to the CZMP.

A meeting with Council to discuss the matters raised in Attachment 1 is proposed, to assist in working collaboratively to amend the CZMP. To arrange a meeting or if you wish to discuss our comments, please do not hesitate to contact Ms Catherine Knight, Coastal Management Specialist, on 02 6620 5511 or via email at catherine.knight@crowland.nsw.gov.au.

Yours sincerely



Glenn Bunny
Group Director Infrastructure and Land Management

13 November 2017

Attachment 1 DoI Crown Lands & Water comments on CZMP for the Brunswick Estuary

No.	Management Action(s)	DoI Lands comment	Suggested Actions
1.	General Comment Naming Conventions	<p>The Department's name has changed to:</p> <p><i>"NSW Department of Industry – Crown Lands & Water"</i></p>	<p>Update naming convention throughout document:</p> <p><i>"NSW Department of Industry – Crown Lands & Water"</i></p> <p><i>and thereafter</i></p> <p><i>"DoI Crown Lands & Water"</i></p>
2.	General Comment Aboriginal Land Rights Act 1983 and Native Title 1993.	<p>It is unclear if the CZMP has considered <i>Aboriginal Land Rights Act 1983</i> (NSW) or <i>Native Title Act 1993</i> considerations / obligations.</p> <p>For example, actions may affect parcels of land which are subject to a claim(s) under the <i>Aboriginal Land Rights Act 1983</i>.</p> <p>For indicative purposes, where claim(s) under the <i>Aboriginal Land Rights Act 1983</i> have been lodged on parcels affected by the implementation actions, they have been noted in the specific comments. Noting however that the status may change for each parcel, and will need to be confirmed through the Aboriginal Land Rights Register at the appropriate time as part of the planning and approvals process: http://www.oralra.nsw.gov.au/landclaimsregister.html.</p>	<p>As a minimum, suggested text to be included in an appropriate section of the CZMP and / or to accompany the Implementation Schedule:</p> <p><i>Where actions are proposed on Crown land, consideration of Aboriginal Land Claims lodged under the NSW Aboriginal Land Rights Act 1983 will need to occur. In addition, any works will need to be compliant with the Commonwealth Native Title Act 1993.</i></p>
3.	General Comment Crown land authorisations	<p>The Table at Appendix C notes that the <i>Crown Lands Act 1989</i> is relevant to the CZMP however it is unclear from the introductory text as to whether the role of the <i>Crown Lands Act 1989</i> is understood in relation to coastal zone management and the</p>	<p>The CZMP could include a section which provides more information on the role of the <i>Crown Lands Act 1989</i> in the coastal zone and the need for appropriate authorisations under this Act prior to implementing certain actions in the CZMP.</p>

		<p>implementation of actions.</p> <p>Where works are proposed on Crown land, not under Council Trust management, an appropriate authorisation from DoI Crown Lands & Water will be required prior to the works commencing.</p> <p>Authorisation may be provided by way of licence or potentially the appointment of Council as the reserve manager to streamline future management arrangements. This issue may be relevant to a number of actions in the CZMP, refer specific comments.</p> <p>Note that adequate lead time (at least six months) is required for the Department to assess and issue authorisation (licence) works on Crown land.</p> <p>For indicative purposes, where authorisations are likely to be required from the Department, this has been noted against specific implementation actions.</p> <p>Note the <i>Crown Land Management Act 2016</i> is expected to commence in early 2018. This may have implications that will need to be considered when the CZMP actions are implemented.</p>	<p>In addition or alternatively, the CZMP could acknowledge the need for authorisations under the <i>Crown Lands Act 1989</i> against each relevant action.</p>
4.	General Comment Land Ownership	<p>At section 2.5.1 the CZMP acknowledges that the Department has a role to play in implementing the CZMP but lacks more detailed information on public land ownership and management arrangements in the coastal zone (also refer above comment).</p> <p>This information would assist with the implementation of the CZMP as it underpins the management</p>	<p>Include relevant agencies and plans of management in section 2.5.</p> <p>Liaise with NSW Crown Holiday Parks Trust to ensure that the list of relevant PoMs is current in relation to the holiday parks.</p>

		<p>actions and enables the identification of the appropriate organisation / agency etc responsible for implementation of actions.</p> <p>At section 2.5.3 the 'Brunswick Heads Foreshore Reserves Strategic Plan 2008' and 'Brunswick Heads Foreshore Reserves Plan of Management 2014' are acknowledged in the document. It may be useful to also include the following plans:</p> <ul style="list-style-type: none"> • Ferry Reserve Holiday Park – Plan of Management 2014 (GF81R265, DOC14/065107) • Massy Greene Holiday Park - Plan of Management 2014 (09/19253, DOC14/065103) • Terrace Reserve Holiday Park - Plan of Management 2014 (10/05985, DOC14/065099). <p>Note that these Holiday Park PoMs are currently under review.</p> <p>Identification of relevant Plans of Management for public lands is recommended to promote a consistent, integrated and 'whole of government' approach to coastal zone management. (Coastal Management Principle 2).</p> <p>The role of the Cape Byron Marine Park should also be better acknowledged in this section as it is an important statutory planning and management authority for the estuary.</p>	
5.	General Comment	The implementation of actions by the Department will be dependent on government priorities and the availability of staff and other resources.	Comment only.
6.	General Comment	The Brunswick river entrance breakwalls and harbour	Comment only.

	Brunswick Heads break walls	<p>are a key feature of the study area. The breakwalls and harbour are owned and maintained by DoI Crown Lands & Water.</p> <p>The main body of the CZMP, including section 3 'Management Area' is silent on the river entrance breakwalls and harbour. In addition the implementation schedule is silent regarding any future activities that may be associated with the breakwalls and harbour, for example monitoring and maintenance of the break walls, and the development of the Brunswick Heads Boat Harbour Master Plan.</p>	
7.	General Comment Brunswick River dredging	<p>In 2015, maintenance dredging of the Brunswick River and harbour was undertaken by the DoI Crown Lands & Water. This was for the purpose of maintaining a safe navigation channel leading to the boat harbour and boat ramp. Earlier dredging activities were carried out in the 1970s and 1994. The CZMP is silent on the need for any future maintenance dredging activities.</p>	Comment only.
8.	General Comment On-ground works at site BR12	<p>There is no reference to the on-ground works at site BR12 (refer Figure 4-2) in the implementation table. If construction works are to occur at this site it is likely to occur on Crown land (including Crown land above the MHWM).</p>	Clarify status of site BR12 in implementation table. Noting actions on nearby Crown Land may require authorisation from DoI – Crown Lands & Water prior to the commencement of construction works.
9.	P3 "Incorporate any remaining vacant foreshore Crown Land into a formal public land management regime and	<p>There is no 'vacant' Crown land in the Byron LGA.</p> <p>The Byron Coast Regional Crown Reserve (R1012196), notified 1 September 2006 and the development of the 'Brunswick Heads Foreshore Reserves Strategic Plan 2008' were undertaken with</p>	<p>The objective to integrate and streamline the management of coastal Crown land is supported. However the action requires updating.</p> <p>Suggest re-word:</p>

	<p>prepare Plans of Management for all Crown Lands within an integrated estuary / foreshore reserve system</p> <p>Sub-tasks</p> <ol style="list-style-type: none"> 1. Liaise with the Department of Industry - Lands to identify all Crown Reserves adjacent the Brunswick Estuary that do not have a current Plan of Management. 2. Prepare draft Plans of Management. 3. Undertake community consultation to obtain community feedback on draft Plans of Management. 4. Finalise reports.” 	<p>the objective of integrating coastal Crown land management. These two activities largely supersede the intent of this action.</p> <p>Section 4.1.2 notes:</p> <p><i>‘It is also proposed that surplus funds generated from the Caravan Parks throughout the estuary be expended within the Crown Reserves and adjacent estuary.’</i></p> <p>The holiday parks contribute a levy to the Public Reserves Management Fund. Funds are available for public reserves, subject to a competitive grant application process. It is not the role of a CZMP to direct the levy system or pre-empt the outcome of grant application process for the PRMF.</p>	<p><i>Investigate options for further integration of coastal Crown land management within the Brunswick estuary foreshore reserves system.</i></p> <p>Sub actions may also need revising in line with action.</p> <p>Delete the sentence:</p> <p><i>‘It is also proposed that surplus funds generated from the Caravan Parks throughout the estuary be expended within the Crown Reserves and adjacent estuary.’</i></p>
10.	<p>R2</p> <p>“Investigate and enforce potential illegal rock armouring in all reaches of the Brunswick Estuary</p> <p>Sub-Tasks</p> <ol style="list-style-type: none"> 1. DPI - Fisheries to investigate and enforce sites of potential illegal rock armouring 2. DPI - 	<p>A collaborative approach towards investigating and enforcing compliance matters is supported.</p> <p>Illegal rock armouring is also a compliance issue for DoI Crown Lands & Water where construction works take place on and/or directly/indirectly impact upon Crown land.</p>	<p>Recommend re-word:</p> <p><i>“Investigate potential illegal rock armouring in all reaches of the Brunswick Estuary, and enforce compliance as appropriate.</i></p> <p>Include DoI Crown Lands & Water as a support agency.</p>

	<p><i>Fisheries to liaise with BSC and review development approvals documentation to determine whether rock armouring has appropriate BSC and DPI - Fisheries approval 3. Undertake enforcement action where appropriate 4. Encourage land owners to undertake recommended bank stabilisation options</i></p> <p>Lead agency Department of Primary Industries – Fisheries and Byron Shire Council”</p>		
11.	<p>R3 <i>“Investigate and enforce illegal camping at areas adjacent the Brunswick Estuary</i></p> <p>Sub-tasks 1. <i>BSC and Department of Industry - Lands to investigate illegal camping along all reaches of the Brunswick Estuary</i> 2. <i>Undertake enforcement action where appropriate</i> 3. <i>Encourage land owners to limit illegal camping by fencing off areas, or</i></p>	<p>A collaborative approach towards investigating and enforcing compliance matters is supported and this action is agreed to in principle.</p> <p>Council and DoI Crown Lands & Water should explore options to enhance regulatory compliance role within Byron coastal/estuary reserve system.</p>	Comment only.

	<p><i>advising regulatory authorities when illegal camping is observed</i></p> <p>Lead agency Department of Industry – Lands and Byron Shire Council”l</p>		
12.	<p>R4 <i>“Investigate and enforce encroachment of built structures and clearing of riparian vegetation at areas adjacent the Brunswick Estuary</i></p> <p>Sub-Tasks 1. BSC and DPI - Fisheries to investigate illegal landowner development (built structures) and riparian vegetation clearing along all reaches of the Brunswick Estuary 2. Undertake enforcement action (where appropriate) 3. Landowners to remove structures and restore riparian vegetation buffer (where appropriate)</p> <p>Lead agency Department of Primary Industries - Fisheries and</p>	<p>A collaborative approach towards investigating and enforcing compliance matters is supported.</p> <p>Council and DoI Crown Lands & Water should explore options to enhance regulatory compliance role within Byron coastal/estuary reserve system.</p> <p>Where construction works have occurred on Crown land, then DoI Crown Lands & Water will be the lead agency in effecting compliance where there is no appointed Trust manager.</p>	<p>Recommend re-word:</p> <p><i>“Investigate encroachment of built structures and clearing of riparian vegetation at areas adjacent the Brunswick Estuary, and enforce compliance as appropriate.</i></p> <p>Include DoI Crown Lands & Water as a support agency.</p>

	<i>Byron Shire Council”</i>		
13.	<p>B1 <i>“Undertake on-ground works (revegetation) at bank erosion sites SI03 and SI04, Simpsons Creek and BR17, Brunswick River</i> Sub-Tasks 1. <i>Engage landowner to determine willingness to participate</i> 2. <i>Formalise or restrict public access in consultation with landowner and key stakeholders</i> 3. <i>Compliance action on illegal camping (refer to Management Strategy R3).</i> 4. <i>Undertake revegetation works to increase riparian vegetation buffer.</i></p> <p>Lead agency <i>Byron Shire Council and Department of Industry – Lands”</i></p>	<p>Dol Crown Lands & Water are only responsible for works that occur on Crown land where there are no appointed Trust managers (including below the MHWL).</p> <p>There are different land ownership/management statuses between sites SI03, SI04 and BR17, as follows:</p> <ul style="list-style-type: none"> • Sites SI03 and SI04 are located on private property (above the MHWL; except for a small corridor that passes through site SI03 which is Crown land managed by Dol Crown Lands & Water). • Site BR17 is located on Crown Reserve. <p>As on-ground works at BR17 occur on Crown land (managed by Dol Crown Lands & Water), not under Council Trust management, an appropriate authorisation from Dol Crown Lands & Water will be required prior to the works commencing. Authorisation may be provided by way of licence or potentially the appointment of Council as the Trust Manager for the Reserve.</p> <p>Lead agency column implies Council and Dol Crown Lands & Water have an equivalent role in the implementation of revegetation works. Council have the overarching responsibility to implement this action with support / authorisations from Dol Crown Lands & Water</p>	<p>Remove Dol Crown Lands & Water as lead agency.</p> <p>Another column that acknowledges and identifies ‘Supporting’ agencies would assist with implementation; identifying Dol Crown Lands & Water where authorisations are required from the department.</p>

<p>14.</p>	<p>B2 <i>“Undertake on-ground works (structural bank stabilisation and revegetation) along Simpsons Creek at bank erosion sites SI05 and SI06</i></p> <p>Sub-Tasks 1. <i>Develop precinct plan, concept designs and costing’s</i> 2. <i>Prepare detailed designs</i> 3. <i>Undertake bank stabilisation works / formalise public access</i> 4. <i>Undertake revegetation works to increase riparian vegetation buffer.</i></p> <p>Lead Agency <i>Byron Shire Council, Department of Primary Industry - Lands and NSW Crown Holiday Parks Trust”</i></p>	<p>Site SI06 is located on land under the care control and management of the NSW Crown Holiday Parks Trust and the Brunswick Heads Reserve Trust, the latter of which is managed by Council (as the appointed trust manager).</p> <p>Therefore, NSW Crown Holiday Parks Trust would be responsible for the implementation of bank stabilisation and revegetation works above the MHW. Below the MHW, DoI Crown Lands & Water are responsible for authorising bank stabilisation and revegetation works.</p> <p>Site may be located on private property (Lot 314, DP 755692), the Brunswick Heads Reserve Trust. The land could be subject to Aboriginal Land Claim (ALC 7967).</p>	<p>Remove DoI Crown Lands & Water as lead agency.</p> <p>Another column that acknowledges and identifies ‘Supporting’ agencies would assist with implementation; identifying DoI Crown Lands & Water where authorisations are required from the department.</p> <p>Further discussions required with NSW Crown Holiday Park Trust as they are more likely to be the lead agency.</p>
<p>15.</p>	<p>B3 <i>“Repair bank stabilisation works along Simpsons Creek at bank erosion sites SI08 and SI09</i></p>	<p>Above the MHW, land relating to this action is managed by the NSW Crown Holiday Park Trust.</p> <p>Therefore, NSW Crown Holiday Parks Trust would be responsible for the care, control and management of the north-western side of Reserve 82780 on Lot</p>	<p>Remove DoI Crown Lands & Water as lead agency.</p> <p>Consider modifying Figure 4.4 to include all Simpsons Creek sample sites (i.e. include portrait map) for easy identification of separate project</p>

	<p>Sub-Tasks</p> <ol style="list-style-type: none"> 1. Develop concept designs and costing's 2. Prepare detailed designs 3. Undertake bank stabilisation works <p>Lead Agency DoI Lands"</p>	<p>423.</p> <p>NSW Crown Holiday Parks Trust is responsible for the care, control and management of Reserve 82999, relevant to site S108 and S109. Therefore, NSW Crown Holiday Park Trust need to be consulted and agree to this action.</p> <p>The land at S109 could be subject to Aboriginal Land Claim (ALC 25090).</p>	<p>areas and sample sites.</p> <p>Further discussions required with NSW Crown Holiday Park Trust as they are more likely to be the lead agency, with Land Owner's consent from DoI Crown Lands & Water if/where works are contained on Crown land, not under Council Trust management.</p>
16.	<p>B11</p> <p><i>"Undertake on-ground works (structural bank stabilisation / formalise public access / revegetation) along Simpsons Creek at bank erosion site S107.</i></p> <p>Sub-tasks</p> <ol style="list-style-type: none"> 1. Develop concept designs and costing's 2. Prepare detailed designs 3. Undertake bank stabilisation works 4. Formalise public access 5. Undertake revegetation works to increase riparian vegetation buffer. <p>Lead Agency Department of Industry –</p>	<p>Reserve 90908 is under the care, control and management of the Brunswick Heads Boy Scouts Reserve Trust (managed by The Scout Association of Australia, NSW Branch) and is responsible for the implementation of actions above the MHWM.</p> <p>DoI Crown Lands & Water are responsible for authorising works that occur below the MHWM where there are no appointed Trust managers.</p> <p>The land is subject to Aboriginal Land Claim (ALC 2332).</p>	<p>Remove DoI Crown Lands & Water as lead agency.</p> <p>Another column that acknowledges and identifies 'Supporting' agencies would assist with implementation; identifying DoI Crown Lands & Water where authorisations are required from the department.</p> <p>Further discussions required with the Scout Association of Australia as they are more likely to be the lead agency.</p>

	<i>Lands”</i>		
17.	<p><i>B14</i> <i>“Repair bank stabilisation works along Brunswick River training wall at site BR18</i></p> <p>Sub-tasks 1. <i>Develop concept designs and costing’s</i> 2. <i>Prepare detailed designs</i> 3. <i>Undertake bank stabilisation works</i></p> <p>Lead Agency <i>Department of Industry – Lands”</i></p>	<p>Above the MHWL, Site BR18 is located on land under the care control and management of the NSW Crown Holiday Parks Trust. Below the MHWL, DoI Crown Lands & Water are responsible for authorising proposed bank stabilisation works, where there is no appointed trust manager.</p>	<p>Remove DoI Crown Lands & Water as lead agency.</p> <p>NSW Crown Holiday Parks Trust should take the lead on this action. Further consultation may be required with the Trust..</p>
18.	<p><i>IR1</i> <i>“Determine current status of recreational and commercial activities and their impact estuary health and user values and develop a guidance document for the sustainable management of commercial activities</i></p> <p><i>Part A:</i> 1. <i>Determine environmental and social values of the estuary and establish baseline conditions of estuary</i></p>	<p>The intent of this action is unclear. The CZMP should have largely addressed these issues and made appropriate recommendations.</p> <p>The need for an MoU as an output to this action is not established.</p> <p>Council would need to take the lead on this action.</p>	<p>Remove DoI Crown Lands & Water as the lead agency.</p> <p>DoI Crown Lands & Water may play a support role for this action, subject to further clarification.</p>

<p>health (seagrass beds, mangroves saltmarsh etc)*</p> <ol style="list-style-type: none"> 2. Undertake a basic impact assessment of recreational and commercial activities on estuary health 3. Undertake a basic impact assessment of recreational and commercial activities on user values of the estuary 4. Determine current status of recreational and commercial activities and their impacts on estuary health and user values 5. Assess different scenarios based on increased activities 6. Establish management actions and measures to ensure the sustainable management of recreational and commercial activities on the health and user values of the Brunswick Estuary <p>Part B:</p> <ol style="list-style-type: none"> 1. Review outcomes of impact assessment (Part A) and establish assessment criteria for the sustainable management of licences 		
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	<p>2. Develop a specific Guidance Document for use by Public Agencies to assess the licencing of existing and future commercial activities</p> <p>3. Create an Memorandum of Understanding (MOU) between agencies involved in Commercial Activity Licences (Byron Shire Council, Department of industry – Marine Parks and Department of Industry - Lands).</p> <p>Lead Agency Byron Shire Council; Department of Primary Industries – Marine Parks; and Department of Industry – Lands”</p>		
19.	<p>Appendix D Conflicts of Estuary Use Foreshore Access</p>	<p><i>‘The three holiday parks, Ferry Reserve, Massey Greene and Terrace Reserve, are now the responsibility of, and managed by, the NSW Department of Industry – Lands (Crown Lands).’</i></p> <p>This is incorrect, the holiday parks are managed by the NSW Crown Holiday Parks Trust.</p>	<p>Amend text as follows:</p> <p><i>The three holiday parks, Ferry Reserve, Massey Greene and Terrace Reserve, are now the responsibility of, and managed by, the NSW Crown Holiday Parks Trust Department of Industry – Lands (Crown Lands).</i></p> <p>As previously stated, the NSW Crown Holiday Parks Trust should be consulted as part of developing the CZMP.</p>

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