

Comments and submissions received from agencies and the community on the draft CZMP for the Eastern Precincts of the BBE

#	CZMP Ref	Comment/s	BSC Response/Recommendation
Office of Environment and Heritage			
1.	Section 1 – General Information	Recommend moving CZMP Section 1.2 to follow on after Section 1.4 (i.e. Section 1.2 becomes Section 1.5). This would better set the context of the CZMP before presenting the process of its development.	Amend wording as per comment.
2.	Section 1.4, dot point 1	Add text – “Managing coastal hazard risk to public safety and built assets”.	Amend wording as per comment.
3.	Section 1.4.1, first paragraph	Recommend including date of councillor workshops.	Include dates of Councillor workshops.
4.	Section 1.4.2 – Legislative and Policy Framework	<p>Section 1.4.2 should be embellished with a little more information about the legislative and policy requirements for preparation of a CZMP in NSW. For example, the discussion should briefly and more clearly articulate exactly what is required by legislation by describing that a CZMP must be prepared in accordance with;</p> <ul style="list-style-type: none"> • the <i>Coastal Protection Act, 1979</i> which includes objects for coastal management, and matters to be dealt with in coastal zone management plans, and; • the Guidelines for Preparing CZMP’s which include Coastal Management Principles and Minimum Requirements that must be adhered to. <p>The discussion could further articulate that an analysis of coastal management issues and objectives, as they relate to the NSW Coastal Policy and the CZMP Guidelines is included in CZMP Appendix 1.</p>	Include further discussion and information on legislation.
5.	Section 1.5.1, first sentence	Recommend amending wording – “ <i>The Byron Shire coastline, including the beaches of the</i> eastern precincts have endured a long history of large coastal storms....”.	Amend wording as per comment.
6.	Section 1.5.1, second paragraph	Recommend amending wording – “Three main management strategies have historically been implemented by council in response to...”.	Amend wording as per comment.
7.	Section 1.7, second paragraph Guidelines for Preparing CZMP’s: Minimum Requirement – “proposed actions to monitor and report to the community on the plan’s implementation, and a review timetable”.	<p>The CZMP states “<i>It is intended that the implementation of the CZMP will be monitored and reported upon to the community, at least annually as part of Councils IP&R framework</i>”.</p> <p>This intention is supported, however, there is no corresponding action included in the CZMP Implementation Schedule.</p> <p>It is noted under section 1.7 of the CZMP, that the CZMP will need to be reviewed and updated to a CMP by the end of December 2021 at which time the CZMP will cease to have effect under the <i>Coastal Management Act, 2016</i>.</p>	Include a corresponding management action under Section 3.4 of the CZMP Implementation Schedule (Table 1).

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8.	Section 1.8.1	Recommend identifying the dates of councillor workshops to give some understanding of the frequency of involvement of councillors in the CZMP development process.	Include dates of Councillor workshops
9.	Section 2 and Appendix 1 Guidelines for Preparing CZMP's: Minimum Requirement - "how the proposed management options were identified, the process followed to evaluate management options, and the outcomes of the process".	CZMP Section 2 includes descriptions of the general process of how the CZMP management options were identified and considered. CZMP Appendix 1 describes the management objectives and how the CZMP addresses relevant legislative requirements. However, Appendix 1 fails to clearly correlate the management actions to the CZMP issues or objectives. To understand how the identified issues are being resolved and how each management objective is being met through the delivery of the CZMP actions, it is necessary that the management objectives are listed with corresponding management actions that seek to fulfil those objectives. The Tables in Appendix 1 should be embellished in this regard to list the relevant management action number against the relevant objective, and/or management issue.	Amend tables in Appendices as per comment.
10.	Section 2.1.1, Description of Task	Recommend amending wording - "... General preliminary cost estimates of each sub-action are provided, however, costs are not to be relied upon or considered definite indicative only subject to confirmation via tender processes. "	Amend wording as per comment.
11.	Section 2.1.1, Objective 2	Recommend amending wording - "To mitigate reduce the adverse impacts on coastal process (e.g. down-drift effects)".	Amend wording as per comment.
12.	Section 2.1.1 – Description of Task, 'Stage One – Pre- construction', sub-action 2	Objective #2 for upgrade of the Jonson Street Protection Works is "To mitigate adverse impacts on coastal <i>processes (e.g. down-drift effects)</i> ". This objective should be incorporated into the key concept design opportunities described under sub-action #2 on CZMP page 13.	Amend wording as per comment.
13.	Section 2.1.1 – Description of Task, 'Stage One – Pre- construction', sub-action 3	Recommend amending wording - "Undertake physical wave tank modelling testing on the detailed concept design(s) using design nearshore wave and water level scenarios to gain an understanding of the expected functioning of the structure to optimise and refine the detailed design. "	Amend wording as per comment.
14.	Section 2.1 – Description of Task, 'Stage One – Pre- construction', sub-action 5	The NSW Coastal Management Manual is no longer a draft. Please amend text.	Amend wording as per comment.

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15.	Section 2.1.3 – Background, ‘Note’	Recommend embellishing the statement as follows to provide more detail and prescription around the preliminary intentions of Arakwal and NPWS to mitigate erosion of the Clarkes Beach during low beach profile events (not storm events) – “These works may consist of structures such as very low crest cobble berm similar to the in-situ natural cobble outcrops and which would be of such small scale that no significant offsite impacts would be anticipated (refer Appendix 4 – ‘Coastal Hazards and Risk Management’).”	Amend wording as per comment.
16.	Section 2.1.3 - Objective	Recommend amending wording – “This action specifically applies to Council managed areas only from The Pass through to Main Beach, however <i>consistent</i> management principles measures will be encouraged on coastal land under other land ownership arrangements.”	Amend wording as per comment.
17.	Section 2.4 – Management Actions	Would Section 2.4 be better as a Heading 1 section, i.e. Section 3?	Amend wording as per comment.
18.	Section 3 – Funding and Financing	Section 3 describes ‘funding and financing’. However, the proposed funding arrangements for all ‘unbudgeted’ actions other than modification and upgrade of the Jonson Street Protection Works are not described. The proposed funding or unbudgeted management actions should be identified in the management action tables against each action (for example OEH Coastal and Estuary Grants Program, Environmental Trust, etc).	Amend wording as per comment.
19.	Section 3.2 – NSW Government Funding	The discussion in this section on NSW Government funding may be a little too prescriptive given the rules around funding may be subject to change in the future. It is recommended that the detail in paragraph 3 relating to possible funding for the upgrade of the Jonson Street protection works is reduced. It may be more appropriate to simply note that funding assistance is available for elements contributing to the preparation and implementation of CZMPs in accordance with grant funding guidelines, and subject to availability of funding and state-wide priorities at the time of application.	Amend wording as per comment.
20.	Appendix 4, 5 and 6	In the Appendices relating to Coastal Hazards, Community Uses, and Ecosystem Health (Appendix 4, 5 and 6), the CZMP includes tables which show identified ‘management issues’ as related to ‘management objectives’ and ‘locations’. This is important information. It would be beneficial to understanding the key issues for the CZMP if these tables (including their introductory text) were included in the main CZMP document under each respective chapter. This would provide a better introduction to the management action tables which include reference to the ‘issue number’ against each action (i.e. move section 1.4 of Appendix 4, to sit under CZMP section 2.1, etc).	Amend wording as per comment.

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21.	Appendix 4 – Coastal Hazards and Risk Management, Section 1.2 and Section 1.3	The Aboriginal Midden at The Pass is not recognised in this section of the CZMP. The boat ramp is also omitted from discussion or analysis. Recommend identifying these assets in discussion and any relevant analysis.	Identify and discuss the Boat Launch Facility (as another asset potentially impacted by coastal hazards). Identify and discuss The Pass midden as a significant cultural asset potential impacted by coastal hazards.
22.	CZMP Emergency Action Sub-plan, Section E1.4 Consultation	The consultation undertaken in 2018 with relevant agencies including the SES should be described under this section.	Describe 2018 consultation activities undertaken.
Arakwal Corporation			
23.	Section 2.1.3 Dune Revegetation and dune stabilisation	Second bottom Paragraph - last sentence under Note: that Arakwal agree to the wording change provided from OEH saying that 'the works may consist of structures such as very low crest cobble berm similar to the natural cobble rocks that currently exist.'	Amend wording as per OEH comment #15.
24.	Section 2.1.3 Dune Revegetation and dune stabilisation	Page 17 - top sentence - and note that Arakwal would support an added sentence saying 'noting an action for small scale structures under the cultural heritage values permissible with consent.'	Add more detail to the wording in the 'Note' section outlining consent and permissions.
25.	Implementation Schedule – Action 2.1.1	Arakwal should be added as a support agency.	Add Arakwal as a Support Agency
26.	Implementation Schedule – Action 2.1.3	Arakwal and NPWS should be support agencies in incorporating cultural heritage assessments etc.	Add Arakwal and NPWS as a Support Agency
27.	Implementation Schedule – Action 2.3.9	Arakwal would like BSC to clarify on 'joint management issues' - are you referring to 'joint management with NPWS and Arakwal'.....if so, Arakwal should be in as support agency.	Clarify inclusion of this point.
28.	Appendix 4, Section 1.2.2 'Other Assets at risk from coastal hazards'	Arakwal support NPWS in stating The Pass has a highly significant midden which is susceptible to impacts. Also, Arakwal support adding a separate heading for the 'Boat Launch Facility at The Pass' - which may require repair, maintenance, enhancement and/or protection from storms/coastal erosion.	Add as last sentence on the first paragraph: 'Another highly significant midden susceptible to impacts is located at The Pass.' Add new heading 'Boat Launch Facility at The Pass' under 1.2.2 and sentence 'may require repair, maintenance or augmented protection from storm event / coastal processes'.

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29.	Appendix 4 - Section 1.2.2 Other Assets at Risk from Coastal Hazards	Repair and maintenance works have not been identified to manage the Boat Launch Facility at The Pass. Arakwal support NPWS in adding 'small scale but adequate protection works to manage the boat launch facility at The Pass may be permissible with consent'. As per NPWS comment #47.	Add the following wording... 'small scale but adequate protection works to manage the boat launch facility at The Pass may be permissible with consent'.
30.	Appendix 4 - Section 1.3 Coastal Hazards Risk Management	The Pass midden is a significant cultural asset as well as Clarkes Beach midden and should be added to Response Category 'D' after 'Clarkes Beach midden'.	Add Under Key Response Categories 'D' - add 'The Pass Midden' after (e.g. Clarkes Beach Midden) in second sentence on 'D'.
Department of Industry – Crown Lands & Water			
31.	General Comment Naming Conventions	References to the Department of Industry – Lands & Water (Crown Lands Division) are out of date. Update naming convention throughout document, as follows: Department of Industry – Lands & Water (Crown Lands Division) Thereafter... DoI – Crown Lands	Update naming convention
32.	General Comment Land Ownership / Management	It is noted that the CZMP has been updated to reflect most of the suggested revisions to the 'Land ownership and management arrangements (Appendix 2) as per previous comment from the department on the CZMP Byron Bay Embayment (our letter dated 3 August 2016 # DOC16/109981). The map at Figure 1 of Appendix 2 does not accurately reflect the management arrangements for the reserve behind the Clarkes Beach Holiday Park, which is also managed by the NSW Crown Holiday Parks Trust (NSW CHPT). The following text appears under section 1.1.3 Crown Reserves – No Trust: <i>There is a Crown Reserve – no trust within the planning area which extends inland from Clarkes Beach. This reserve does not have a trust and therefore is managed by the NSW Department of Industry - Crown Lands and Water (DoI Crown Lands & Water) head office. There is no Plan of Management that applies to the reserve.</i> It is assumed this text is referring to the 'Sandhills Estate' which is lot 383/728202 and lot 457/1087879, part reserve 755695 for Future Public Requirements.	Amend Figure 1 where relevant to the reserve behind the Clarkes Beach Holiday Park, which is also managed by the NSW Crown Holiday Parks Trust (NSW CHPT). Amend the text in section 1.13 so that it includes reserve information for the Sandhills Estate.

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33.	General Comment Aboriginal Land Claims and Native Title	Section 1.1.4 has acknowledged Native Title claims but it is unclear if the CZMP has considered implications and obligations under the <i>Native Title Act 1993</i> (Cth) and the <i>Aboriginal Land Rights Act 1983</i> (NSW).	Add wording to section 1.1.5 of Appendix 2 'Arakwal People Native Title Claim' as per text below. <i>Where actions are proposed on Crown land, consideration of Aboriginal Land Claims lodged under the Aboriginal Land Rights Act 1983 (NSW) will need to be undertaken. Any works will need to be compliant with the Native Title Act 1993 (Cth).</i>
34.	Implementation Schedule - Action 1.1.1	Support Organisations have been defined as follows: <i>...Support Organisations which may be required and/or requested to assist in implementation of the action, either through their regulatory role or land management function or as a potential funding or information source.</i> The DoI Crown Lands' role is likely to be limited to assisting in implementation of this action through a regulatory capacity as opposed to a funding source. It may be prudent to also include the Office of Environment and Heritage (OEH) as a support organisation in terms of providing potential funding or information.	Clarify that the role of DoI Crown Lands is a regulatory / information function as opposed to a funding source. Additional text to be added to Section 2.4.1 - Responsibilities of CZMP main document " <i>For example, the role of DoI - Crown Lands is a regulatory / information function as opposed to a funding source</i> ".
35.	Section 2.1.1 Upgrade of the Jonson Street Protection Works Sub action 7:	It is noted that the CZMP has been updated to reflect suggested revisions to the action relating to the upgrade of the Jonson Street Protection Works as per previous comment from the department on the CZMP Byron Bay Embayment (our letter dated 3 August 2016 # DOC16/109981). The sub action would benefit from a clarification as to the purpose of the easement acquisition i.e. to formalise ownership and management arrangements for the upgraded Jonson Street Protection Works.	Add wording " <i>to formalise ownership and management arrangements for the works</i> ".
36.	Implementation Schedule - Action 2.2.2	Responsibility for compliance primarily rests with the land manager in question. This may be Council, the NSWCHPT, National Parks, DoI Crown Lands etc. Resolution of this complex issue requires a whole of government approach, including the involvement of NSW Police on occasion.	Add wording to the action " <i>Responsibility for compliance primarily rests with the land manager in question</i> ". Amend Lead Agency column to " <i>Dependent on land tenure and manager</i> ". Remove DoI Crown Lands from Support Agency.

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37.	Implementation Schedule - Action 2.2.5 (also 3.1.8)	Responsibility for beach access signage primarily rests with the land manager in question. Public land immediately adjacent the beach may be the responsibility of the Byron Coast Reserve Trust (a Council trust), the NSWCHPT, or National Parks, noting that DoI Crown Lands does not have management responsibility for coastal lands immediately adjacent the beach in the CZMP study area.	Remove DoI – Crown Lands as Support Agency Amend to “ <i>Dependent on land tenure and manager</i> ”.
38.	Implementation Schedule - Action 2.3.6	As per above.	Remove DoI – Crown Lands as Support Agency Amend to “ <i>Dependent on land tenure and manager</i> ”.
39.	Implementation Schedule - Action 3.1.1	As per above.	Remove DoI – Crown Lands as Support Agency Amend to “ <i>Dependent on land tenure and manager</i> ”.
40.	Implementation Schedule - Action 3.1.2	Responsibility for dune management primarily rests with the land manager in question. This may be the Byron Coast Reserve Trust (a Council trust), the NSWCHPT or National Parks. DoI Crown Lands do not have management responsibility for dunal lands in the CZMP study area.	Remove DoI – Crown Lands as Support Agency Amend to “ <i>Dependent on land tenure and manager</i> ”.
NSW National Parks and Wildlife Service			
41.	Section 2.2 Community Uses of the Coastal Zone	Boat Launch Facility at The Pass is not mentioned in the CZMP and is a significant beach access for vessels.	Add new wording on the Boat Launch Facility at The Pass to Appendix 4 – Section 1.2.2 ‘Other Assets at Risk from Coastal Hazards’.
42.	Implementation Schedule - Action 1.2.1	NPWS owns the land tenure at The Pass and should take a lead role in any investigations into coastal hazards within the area.	Add NPWS as Lead Agency with BSC
43.	Implementation Schedule - Action 2.3.9	Action 2.3.9 aims to investigate joint management issues between NPWS and BSC. The inclusion of this point requires clarification – i.e. why is BSC involved in NPWS joint management issues?	Delete this action from the Implementation Schedule.
44.	Implementation Schedule - Action 3.1.12	Whose tenure is the action referring to and will the study only be on BSC land?	Noted. No change. Study is not specific to any land tenure, but is focused on ecosystems.

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45.	Implementation Schedule - Action 3.1.12	Clarify NPWS roles as a Support Agency in the action.	Add new words to Section 2.4.1 regarding Support Agency role could be as an 'information source (data and/or literature)'. NPWS role as a Support Agency may simply be to provided data and /or literature reports.
46.	Appendix 4 - Section 1.2.2 Other Assets at Risk from Coastal Hazards	The Pass midden is significant and susceptible to coastal hazards.	Add as last sentence on the first paragraph: 'Another highly significant midden susceptible to impacts is located at The Pass.'
47.	Appendix 4 - Section 1.2.2 Other Assets at Risk from Coastal Hazards	The Boat Launch Facility is a significant beach access for vessels and may require repair and maintenance from storm events/coastal processes.	Add new heading 'Boat Launch Facility at The Pass' under 1.2.2 and sentence 'may require repair, maintenance or augmented protection from storm event / coastal processes'.
48.	Appendix 4 - Section 1.3 Coastal Hazards Risk Management	Repair and maintenance works have not been identified to manage the Boat Launch Facility at The Pass. The Pass midden is a significant cultural asset as well as Clarkes Beach midden and should be added to Response Category 'D' after 'Clarkes Beach midden'.	Add 'Small scale but adequate protection works to manage Boat Launch Facility at The Pass may be permissible with consent'. Add 'The Pass midden' after Clarkes Beach midden to Response Category 'D' in Table 7.
NSW Crown Holiday Parks Trust (Reflections Holiday)			
49.	Section 2.1.3 Dune revegetation and dune stabilisation	The Draft CZMP has a note stating "In essence the CZMP does not support or advocate any new 'hard' coastal protection works (seawalls)" however, it does include the option for small scale armouring works to protect significant Aboriginal middens should the Arakwal people and NPWS seek to do so, subject to adequate assessment and gaining consent. These works may consist of structures such as low crest cobble berm. The Trust seeks to recommend that it be clarified in the CZMP that: Crown Lands may also apply small scale armouring works for the purpose of stabilising the dune toe in areas alongside, east and west of the aboriginal middens, the caravan park and remaining large trees in the dunes. These works would meet the requirements of: - being unobtrusive (and generally buried with time); - being only able to withstand only smaller storms (generally in the order of 1:10 year events); and - not restricting access to the beach. Failure to provide this dune toe protection would result in: access problems to the beach, excessive dune erosion during this current period of narrow beach, and have safety risks for	Noted. No change. The CZMP does not support hard protection works within the planning area. The plan primarily advocates and includes the option for small scale armouring works to protect significant Aboriginal middens should the Arakwal people and NPWS seek to do so. This comment has come too late in the process of development of the CZMP to include, without discussion and feedback from other land managers and the community.

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		collapsing sand faces.	
50.	Implementation Schedule - Action 2.1.1	The Trust supports this action to investigate options to mitigate erosion and stormwater impact to gully and Aboriginal midden and its Lead Agency role.	Noted.
51.	Implementation Schedule - Action 2.2.8	This action to implement minor scraping works should allow the Trust to initiate and undertake 'soft' dune stabilisation works on its own land in front of the Holiday Park works on their own land. Hence, the Trust should have a 'Lead Agency' role in this action for works on their land.	Add the Trust (NSWCHPT) as a Lead Agency for this action.
52.	Implementation Schedule - Action 2.3.4	Confirmation that the Trust's responsibility under this action to monitor and maintain forma beach access is limited to viewing platforms within the park boundary.	Noted. No change. BSC can confirm that the Trusts responsibility under this action is indeed confined to infrastructure within land tenure/park boundaries.
53.	Appendix 2 'Land ownership and management arrangements'	The Draft CZMP (Section A.1.7.7) notes "There is no Plan of Management that applies to the North Coast Holiday Parks Clarkes Beach." Please refer to our website for the current Plan of Management for the Clarkes Beach Holiday Park: https://reflectionsolidayparks.com.au/about-us/park-development/	Add PoM to wording in Appendix 2.
NSW State Emergency Services (SES)			
54.	Emergency Action Sub Plan (EASP) Definitions	Legislation now repealed <i>due to enactment of</i> the Coastal Management Act 2016. Update legislation to reflect new <i>Coastal Management Act 2016</i> .	Noted. No change. The EASP is made under the previous <i>Coastal Protection Act 1979</i> (within the 6 month timeframe post repeal of the Act) and provides for the requirements under Section 55C(1)(b) of the Act. It is hoped the CZMP (and associated EASP) may be certified under the provisional arrangements of the new <i>Coastal Management Act 2016</i> .
55.	Emergency Action Sub Plan (EASP) Definitions	The NSW State Storm Emergency Sub Plan, September 2015 currently being updated and is likely to be endorsed by the State Emergency Management Committee in June or September 2018. The EASP should be reviewed and updated once the plan is endorsed to ensure any changes are consistent with the EASP.	Add wording to E1.3 noting that the EASP should be reviewed once the State Storm Plan is endorsed to ensure any changes are consistent with the plan.

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56.	Emergency Action Sub Plan (EASP) Section E2.1 - EMPLAN Event	The NSW SES is the combat agency for storms whether or not a severe weather warning has actually been issued.	Amend wording of Section E2 (E2.1 and Section E2.2). Clarify the role of the SES and LEOCON during an EMPLAN and NON-EMPLAN event and the issuing of BOM weather warnings.
57.	Emergency Action Sub Plan (EASP) Section E3	If coastal erosion occurs which in no way can be related to a storm event, it is our (SES) understanding that the Local Emergency Operations Controller (LEOCON) / Police would be responsible for the coordination of evacuations as a results of a risk to life from coastal erosion.	Clarify the role and responsibilities of the LEOCON in a NON-EMPLAN Emergency.
58.	Emergency Action Sub Plan (EASP) Table 6; Phase Actions	EASP wording in the document should be consistent with wording used in the Australian Inter-service Incident management system) AIIMS to ensure accuracy in terminology. Control: The NSW SES is the combat agency for storms and as such will control the overall direction of emergency management activities. The NSW SES will appoint an Incident Controller/s. Coordination: The NSW SES will coordinate organisations/agencies and other resources to support an emergency management response.	Amend wording in the tables from "Direction" to "under the control and coordination of the combat agency".
Wategos Beach Protection Association			
59.	All	The CZMP should attach more weight to the conclusions of the 2016 survey which defined the most important features of Byron Bay and the top 6 all focus on the beach and foreshore reserves.	Noted. No change. Section 1.4.1 – CZMP Vision outlines Council's goals and aspirations of the future sustainable management of this highly valued coastline (beach and foreshore) and management issues to protect and preserve the beach/foreshore are outlined in the Implementation Schedule.

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60.	Section 1.4 – Vision Statement	<p>We support and endorse the CZMP vision to “manage Main beach to Wategos Beach (including Little Wategos) to maintain a natural, undisturbed beach and dune system, minimise impacts to natural coastal processes, and retain a high standard of beach amenity and access”.</p> <p>However, beach erosion appears to be considered an emergency only when it threatens property or people. The beach itself doesn’t seem to be prioritized when it comes to nominating specific high-risk beach erosion areas.</p>	<p>Noted. No change.</p> <p>As per the EASP ‘Emergency’ is defined as a “situation in which beach Erosion is imminent, occurring or has occurred, and the Beach Erosion endangers, or threatens to endanger the safety or health of people or destroys or damages, or threatens to destroy of damage any property and which requires a significant and coordinated response”.</p>
61.	Appendix 4 – Section 1.2.2 Other Assets at Risk from Coastal Hazards	<p>There are only a couple of hazards and actions referred to in the document specific to Wategos Beach. The report acknowledges that it did not audit the assets at risk in the Wategos precinct and noted that further investigation is warranted, particularly to determine bedrock levels, as this will determine the degree of risk face. We know that in most cases the beach access points do not go to bedrock and therefore work is needed. Council should provide relevant information on sub-surface conditions to NPWS which is responsible for the beach access structures so that risks can be assessed and works designed.</p>	<p>Noted. No change.</p> <p>NPWS is a Support Agency in implementing action 1.2.2 (Coastal Hazard Investigation) and outcomes/data from the investigation will be provided to the agency. Should NPWS request any previous studies and/or reports completed by Council to assist in managing beach accesses at Wategos, these may be provided.</p>
62.	Appendix 6 – Section 1.1 Intertidal Rocky Shores	<p>This section fails to mention the extensive areas of beach at Wategos that are also intermittently eroded, often down to bedrock. The CZMP should clearly identify the intermittent erosion of the inter-tidal sections of Wategos Beach, so that when authorities come to grapple with the problems at Belongil, they will not again overlook the fragility of the beach at Wategos and the extensive loss of public use caused by erosion that would be exacerbated by human intervention.</p>	<p>Add sentence “<i>These sandy embayments are intermittently eroded, often down to bedrock depending on the volume of sand within the embayments at the time. Storms or a series off storms are known to affect the volume of sand in the embayments and/or when there has been no suitable swell bringing sand around the Cape to replenish the beaches</i>”.</p>
63.	Appendix 7 – Section 1.3.2 Audit of Public Beach Access and Walkways of the Eastern Precincts of the BBE	<p>There are a number of unofficial beach access points at Wategos and this need to be either reinstated or formalised.</p>	<p>Noted. No change.</p> <p>Management action 2.3.7 is to “<i>Rationalise the informal beach accesses and formalise identified beach accesses. This may involve closing off the informal accesses and revegetation works, and erecting signs outlining that it is a revegetation site</i>”. This action relates to all beaches within the planning area.</p>

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64.	General Comment	A related issue is the potential enhanced risk of beach erosion due to extreme runoff events and associated back-up around the vicinity of the stormwater easement and pump station, draining across Marine Parade to the beachside retaining wall. The pump station is believed to be below sea level so inundation would raise the risk of raw sewage being released at the surface.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
Byron Preservation Association			
65.	General Comment	Council has come once again to the longstanding problem of the failure to implement a viable, lawful Coastal Zone Management Plan for the Byron Bay Embayment. Council has been engaged on this task literally for about 20 years. It is in breach of many Ministerial Directions to prepare a coastal zone management plan.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.

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66.	General Comment	<p>Existing presently in the Embayment as protective structures are: (a) Jonson Street Structure This structure has the following features:</p> <ul style="list-style-type: none"> • It was built by the Council notwithstanding it had advice that it would cause erosion. • The structure extends artificially by about 90 metres into the active surf zone and interferes with natural coastal processes. <p>Council has decades of reports advising that the structure has caused erosion extending beyond Belongil Creek.</p> <ul style="list-style-type: none"> • Council has endorsed, by binding resolution, that advice for the purpose of preparing this Coastal Zone Management Plan and Council is bound by that. • Byron Township does require some sort of protection to deal with extreme events which occur from time to time – as does the rest of the embayment – but does it need to be protected by a structure which extends into the ocean and interferes with natural coastal sand movements for the sake of some extra car parks? <p>Northwest and downstream of the impact of the Jonson Street Structure is a series of rockwalls which have been built by the Council and/or the community to protect the community from the effects of the erosion caused by the Jonson Street Structure. These walls have the following features:</p> <ul style="list-style-type: none"> • They play an important role in extreme storm events. • During such events these walls protect this part of the Byron community as well as valuable infrastructure including roads, railways and service trunk supply lines. • They also play an important role in protecting the freshwater environment of the wetlands behind Belongil Spit and the Belongil Estuary. • These walls are not in touch with the ocean on a day to day basis and therefore are not part of coastal processes and do not cause erosion. • This has been confirmed to Council in the reports which it has accepted by binding resolution. 	<p>Noted.</p> <p>Given the issues raised, Council's legal services team is obtaining further legal advice.</p>
67.	General Comment	<p>By every reasonable parameter, it seems obvious that Council should approach the management of the Byron Bay Embayment in a holistic way providing a plan for the whole of the embayment – not just one part to the detriment of the other.</p>	<p>Noted.</p> <p>Given the issues raised, Council's legal services team is obtaining further legal advice.</p>

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68.	General Comment	Nevertheless, Council is now going forward with a proposal to deal only with the protection of the town and that part of the embayment – and not at all with the rest of the embayment which Council knows and accepts is adversely affected by the Jonson Street Structure.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
69.	General Comment	Many of the present Councillors have indicated that they are against rock walls and have a preference for no rock walls at all.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
70.	General Comment (JSPW Upgrade)	However, the Councillors are now proceeding with a plan to spend Seven (\$7,000,000) million dollar enlarging the Jonson Street Structure both lengthways and seaward by the addition of many tonnes of new rocks onto the beach.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
71.	General Comment (JSPW Upgrade)	Councillors do not need any legal, political or governance advice to see immediately that there is an incongruity about this Council: <ul style="list-style-type: none"> • proposing to spend millions of dollars and bring many tonnes of new rocks to enlarge the Jonson Street Structure and move parts of it seaward; • at the same time ignoring, rather than dealing with the erosion impacts that the Jonson Street Structure causes and will continue to cause, • doing nothing about the rest of the embayment except expressing a wish to take down the rock walls there and impose planned retreat (notwithstanding the Supreme Court Injunction). 	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
72.	General Comment	The irrationality and inconsistency of that position is obvious. It is not defensible in any forum. It is important to recognise that the powers of the Council are not private powers to be used as Councillors feel fit. The powers of the Council are public powers which must be exercised by each Councillor in accordance with the law and legal standards and the exercise of which is subject to oversight by the Courts.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
73.	General Comment	We submit that the appropriate course for this Council is to try and achieve what no Council has yet achieved and that is to come up with an acceptable whole of bay solution for the entire Byron Bay Embayment.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
74.	General Comment	The solution in the last draft Coastal Zone Management Plan submitted to the Minister did attempt to provide a whole of embayment solution. The proposal of a new public walkway along Belongil Beach had many benefits for the public including the provision of disabled and recreational access along a pathway which could extend for more than one kilometre and become a wonderful recreational facility for the whole community.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.

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75.	General Comment	The Minister wrote to Council in August 2017 advising that she would certify the last draft Coastal Zone Management Plan if Council addressed two minor requisitions.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
76.	General Comment	We submit that Council should return to that plan and address the two minor requisitions to formalise a whole of embayment solution and achieve compliance with the Ministers Direction. It appears to have made no attempt to do so – notwithstanding that both matters are easily resolved, including: (a) the walls along Belongil Beach above the high tide mark would have no downstream impacts; (b) the draft CZMP previously submitted had a series of steps to monitor impacts and deal with any impacts if they occurred; (c) correspondence from the Department of Industry indicated they would co-operate in facilitating implementation of the whole plan.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
77.	General Comment (JSPW Upgrade)	The attempt to produce a Coastal Zone Management Plan only for the Jonson Street Structure, expanding it and adding more rocks, without dealing with its downstream impacts at all is obviously flawed for many reasons. We have set these out in detail in this Submission. The size of what is proposed to be added to the Jonson Street Structure is enormous.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
78.	General Comment	The decision about what to do at Jonson Street is not a policy or a political decision. Council's decision-making powers here are constrained by many legal obligations including: • the provisions of the Coastal Protection Act and manual; • other environmental legislation; • private law including the law of nuisance and the law of tort; • the effect of the Supreme Court injunction; • past advices to the Council about the impact of the Jonson Street Structure; and • the resolutions which the Council has passed already recognising the impact of the Jonson Street Structure.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
79.	General Comment	Councillors are not in a situation where they can merely decide what their preference is for the Jonson Street Structure without regard to this body of mandatory considerations summarised in the previous paragraph.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
80.	General Comment	This part of the coastline has already seen an extended period of litigation. The Coastal Zone Management Plan of the Mid-Coast Council is now subject to challenge by residents in the Land & Environment Court. There is nothing objectionable about residents litigating these matters. The courts exist to enforce the rule of law and to supervise the decision-making processes of Councillors to ensure that they act within the legal constraints that apply to them.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.

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81.	General Comment	We urge the Councillors to look very carefully at the obligations of the Council and the personal legal obligations of each Councillor.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
82.	General Comment	We have set out these obligations in detail in the attached submission. Councillors are under an obligation to use their powers for proper purposes, having regard to relevant considerations and in compliance with all legal obligations. Councillors cannot act in disregard of all of those obligations without the risk of incurring liability, both for the Council, its insurers and personal liability for themselves.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
83.	General Comment	We urge this Council to be proactive in finding a solution for the whole of the Byron Bay Embayment which: • recognises the history of what has occurred in the embayment; • pays heed to the decades of reports which the Council has received about the impact of the Jonson Street Structure; • recognises the duties operating on the Council as a result of its creation and maintenance of the Jonson St Structure • pays regard to and complies with the Council's past resolutions; • is compliant with all aspects of the law applying to this situation- both statutory, regulatory and the common law.	Noted. No change. Given the issues raised, Council's legal services team is obtaining further legal advice.
84.	General Comment (JSPW Upgrade)	The Minister has provided Council with an opportunity to perfect a whole of embayment solution. In our submission it should turn to doing that. This effort to try and extend and enlarge the Jonson Street Structure by bringing many more tonnes of rock to that structure, without doing anything for any other part of the embayment, is legally flawed and should not be considered further.	Noted.. Given the issues raised, Council's legal services team is obtaining further legal advice.
85.	General Comment	As representative of the Belongil community, we urge Councillors to pursue an equitable and legal solution for the whole of the embayment. Residents are willing to work with the Councillors on such a solution. In the meantime, all legal rights are reserved.	Noted. Given the issues raised, Council's legal services team is obtaining further legal advice.
Community Member#1			
86.	Section 2.1.1 – Upgrade of the Jonson Street Protection Works, Masterplanning	I agree upgrade to Main Beach works and amenities required. Although Masterplan and other documents cited as if discussions have come to an end, I feel the discussion is still largely unresolved about the car park, boardwalk, pool etc. I would rather these are not presented as if discussion concluded and the plans are shovel ready. These topics are still unresolved. I am surprised to see statements such as 'car park retained' 'pool history acknowledged' and 'surf club upgraded' when as part of the MasterPlan group, I know these are topics still unresolved.	Amend wording in the Masterplan section to better describe the outcomes of the masterplanning process. Outline that any future proposed developments will be discussed and resolved with the community through further consultation. Outline the role of the Masterplan Guidance Group.

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87.		<p>I am concerned that whole of catchment goals and targets cannot be referenced: we need catchment management plans. In relation to the beachfronts, we need these goals that say 'eliminate or greatly minimise stormwater drainage to beach, ensure stormwater cleansed, no armouring (large scale or small scale) of any private/commercial accesses to beachfronts' so we can set the standards for how new works relate to all the sites of interest on this stretch of the coast.</p> <p>Another goal we need is to reduce impermeable solutions – couldn't ramps be designed to be water sensitive? Permeable? Integrated better within beach and beach works? The Clarke's beach works at Cowper and at Holiday Park need to be referenced to whole of catchment goals – can't some interim whole of catchment plans and goals be compiled or some reference made to the development of whole of catchment /MasterPlan for water.</p>	<p>Noted. No change.</p> <p>This is a Coastal Zone Management Plan and addresses risks to public safety, pressures on coastal ecosystems and community uses of the coastal zone. It assists in implementing integrated management of the coastal zone, being generally 1km landward from coastal waters. Hence, a whole of catchment approach has not been undertaken to develop the CZMP.</p> <p>Management objectives have been defined based on the priority management issues identified during the consultation undertaken during the development of the preceding plan for the entire BBE and this newly developed plan.</p>
88.		<p>I am glad that DuneCare are mentioned as a support agency. I feel the MasterPlan group could also be mentioned as a support agency and proof of ongoing engagement with community that has some stability and continuity. The principles of the MasterPlan group should be included.</p>	<p>Add wording to the plan outlining the role the Masterplan group may play in delivery of actions within the plan.</p>
89.		<p>I am alarmed that there is no reference to coastal and marine biodiversity issues and goals. For instance Main Beach works could aim for ecological engineering that creates coastal hard shore/sandy shore habitat niches. Yes, the wildlife friendly lighting reference is good, but must be stronger. I applaud the special mention of the needs of turtles and hatchlings. I also note tree lighting is another issue which is a night-light pollution issue. I am concerned that sharks and other large marine fauna are not more specifically mentioned.</p>	<p>Noted. No change.</p> <p>The design of the Main Beach works (upgrade of the JSPW) will be undertaken in close consultation with the community and innovative ideas such as ecological engineering can be canvassed once the project commences.</p> <p>Coastal and marine biodiversity issues and goals are included to a level that does not completely overlap or replicate Marine Park management plans, such as specific plans for large mega fauna.</p>

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90.		<p>Dunes: the recycle water use is not mentioned. I understand there is dune irrigation planned. Is this with the support and involvement of DuneCare groups.</p> <p>I read that the New Brighton and other sites' beach scraping is mentioned. I am uneasy about beach scraping and wonder if a review and consideration of some ecological updates may be included rather than 'business as per usual'.</p>	<p>Noted. No change.</p> <p>Any proposed works for beach scraping would require the appropriate approvals and conditions/measures to reduce any impact on flora and fauna communities.</p>
91.		<p>I was puzzled by the LEP comparisons and then realised that perhaps this is the reference to planned retreat policy. I wonder about that and the broader issues with global warming and wondering where longer term provisions come in: given ongoing erosion, the Holiday Park at upper Clarke's beach may need to move in part back across the Lighthouse road, perhaps visitors access to beach must be restricted to the one by Beach Cafe, the swimming pool changed/decommissioned, main beach access altered.</p>	<p>Noted.</p>
92.		<p>Yes, I support more varied and more useful disability and elderly access. Though I don't agree with constructing walls around the access points.</p>	<p>Noted.</p>
<p>Positive Change for Marine Life (PCfML)</p>			

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93.		<p>Concern: Concerns regarding the impact of proposed dune reformation/beach scraping works on flora and fauna communities. Beach scraping is a short term solution to the long-term, on-going issue of coastal erosion and recession, which is expected to increase in on-coming years due to anthropogenic activity and the increasing threat of climate change. Impacts: Beach scraping can also modify and disturb flora and fauna habitats, particularly if beach scraping is an on-going process.</p> <p>Recommendations: The proposed area of refurbishment is listed as a 'habitat protected zone' under federal legislation and is consists of the Cape Byron Marine Park, so maintaining the rich and unique biodiversity of fauna at the site is suggested to be a priority. Beach scraping impacts on ecological communities:</p> <ul style="list-style-type: none"> - To mitigate the ecological impacts of beach scraping at proposed refurbishment areas. A qualified ecologist should be present during the procedure to prevent the disturbance of beach scraping to nesting shorebirds and seabirds. - Prior to beach scraping, an ecological assessment should be undertaken to determine the presence of any nesting seabirds, shorebirds and sea turtles. - If cost and time allows, undertaking a Multiple Before-After, Control-Impact (MBACI) study design could assist to determine the impacts of beach scraping on ecological communities in the Byron Shire which would assist for future management over a long-term spatial and temporal scale. - Conduct a 'trial scraping', as Parsons Brinckenhoff (PB, 2009) did at New Brighton Beach. They identified that sea turtles will typically nest between November to January, therefore a trial scraping was not conducted beyond the 30th of September. Identifying whether species of turtles are the using the proposed area for nesting. <p>Concluding statement: Studies have shown that beach scraping is a suitable method of mitigating shoreline recession with minimal impact to fauna as possible. If proper management techniques are applied, then there will be minimal impact on the community, otherwise there is potential for damage to the existing ecological community.</p>	<p>Noted. No change.</p> <p>Any proposed works for beach scraping would require the appropriate approvals and conditions/measures to reduce any impact on flora and fauna communities.</p>
Community Member #2			

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94.		<ul style="list-style-type: none"> - I support maintaining the Jonson Street artificial headland in its current form but not the costly enhancements proposed in the Draft Plan. - I don't support re-armouring the headland as proposed. The Plan could consider minor changes including removal of the three finger groynes, which are dilapidated and whose materials could be strewn around the Bay in storms. But the main thrust of the Plan should be to relinquish this artificial structure. Such an approach is known as "Planned Retreat". - Philosophically, this would also indicate to parties seeking to retain or enhance other artificial coastal structures on Byron's coastline that this community does not accept that approach to our future. - To rebuild the Jonson Street headland commits public money in the structure and private money behind it. Such investment entrenches views and supports the cycle we are in now at Belongil, where landholders have over-invested and prefer to fight court cases rather than retreat when nature tries to win back its losses at the coast. - The model to aim for is one where nature sets the location of the water frontage, as it does on undisturbed coasts like Tyagarah Nature Reserve. - At the Jonson Street headland, let's allow the next big storm to set a new coast line. Each subsequent storm will do the same. These erosion outcomes are predictable. The timing of storm events is unpredictable but their impacts are predictable. If money is to be spent, it should be to get ready for that change. This includes not allowing expenditure beyond maintenance. There should be no enhancements of armouring and no major rebuilding, like a new Surf Club or Beach Hotel. Such facilities should be located at strategic distances from the erosion zone. - The CZMP and Master Plan should espouse a wholesome philosophy of retreat from the Jonson Street headland: "enjoy it while it's here; spend a bit on tarding it up (for people not cars); have a new plan ready for when nature takes it away". - While I don't agree with keeping the whole headland, I do acknowledge that the MasterPlanning process (which cost us \$250,000) came to that conclusion. Slow retreat (based on natural attrition as I describe) allows for that. I don't think community would accept active removal. - I also submit that resolution of the shocking erosion from the caravan park at Clarkes Beach should be included in the Draft Plan. 	<p>Noted. No change.</p> <p>Refer CZMP Vision (Section 1.4.1):</p> <p><i>2) To retain the Jonson Street Protection Works for the future security of the Byron Bay Township, critical public infrastructure and assets, whilst seeking to modify the design of the structure to mitigate coastal hazard risks, improve public safe and amenity, and remove spur groynes.</i></p> <p>Council has committed recently and over the years (Res 14-66; 16-169; 17-641; 18-104) to protecting the coastal protection works at the Town Centre with the first step in delivery of the project, to refine a concept design in close consultation with the community.</p> <p>The preferred concept design will be based on considering various alternatives and options for the Main Beach foreshore precinct.</p>