



DOC20/002097

General Manager
FAO: Chloe Dowsett
Coastal and Biodiversity Coordinator
Byron Shire Council
Mullumbimby NSW 2482

By email: chloe.dowsett@byron.nsw.gov.au
cc: Ben.Fitzgibbon@environment.nsw.gov.au

Dear Chloe

Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach (Revised draft - October 2019)

The Department of Planning, Industry and Environment - Crown Lands has reviewed the Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach (Revised draft - October 2019), herein referred to as the draft scoping study.

The review has considered the technical, planning and financial aspects of the draft scoping study, where relevant to Crown land management. The review has not considered the adequacy of the draft scoping study in relation to other legislation or the NSW Coastal Management Manual (NSW Office of Environment & Heritage, 2018).

In summary, there are parts of the draft scoping study that require clarification or amendment with respect to the role of the department in administering or managing Crown land or assets within the project area. There are also actions proposed in the study that require further consideration in terms of the role of the department in leading or supporting further investigations. Specific comments and suggested amendments to the draft scoping study as relevant to the administration and management of Crown land, are detailed in the **Attachment**.

The department would welcome an opportunity to discuss the comments and suggested amendments. Please do not hesitate to contact Ms Catherine Knight, A/ Manager Coastal Unit, on 0428 967 997 or by email at catherine.knight@crowland.nsw.gov.au.

Yours sincerely

Grant Marsden
A/ Director Regional Operations East
10 February 2020

**Table Comments on Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach
(Revised draft - October 2019)**

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
1.	General Comment Naming Conventions	<p>If Crown Lands is to be referenced. Our name is as follows:</p> <p>Department of Planning, Industry and Environment – Crown Lands</p> <p>Thereafter...</p> <p>DPIE – Crown Lands</p>	Check document throughout for consistency.
2.	General Comment Maritime Infrastructure Delivery Office (MIDO)	<p>A number of potentially relevant DPIE – Crown Lands' programs are currently managed through the Maritime Infrastructure Delivery Office (MIDO). The MIDO is a joint initiative between DPIE – Crown Lands and Transport for NSW (formerly RMS). These programs include the:</p> <ul style="list-style-type: none"> • Coastal Infrastructure Program (i.e. management of the Brunswick River breakwaters) and • Rescuing our Waterways dredging program. 	<p>Note the role of MIDO in managing infrastructure such as the Brunswick River breakwaters.</p> <p>Whilst the Crown Lands Coastal Infrastructure Program has been consulted in reviewing the draft scoping study, it will be important to ensure that MIDO, which includes Transport for NSW, are consulted as part of preparing the CMP.</p>
3.	Section 2.3 Limitations on Coastal Management in the Byron Shire	<p>Typo:</p> <p><i>While the lower population has helped to preserve the natural beauty and environmental richness of this region, the funding for coastal management must be weighed against the many other competing demands on Council as a service provider to its community.</i></p>	Correct typo.

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
4.	<p>Section 3.3.4 Local Level Plans</p> <p>Reflections Holiday</p>	<p>Sub-title should be amended to 'NSW Crown Holiday Parks Land Manager t/a Reflections Holiday Parks'.</p> <p>It is recommended that this section includes a paragraph on each of the Plans of Management that apply to Reflections Holiday Parks within the study area. It is recommended that the Crown land management arrangements for Reflections Holiday Parks is clarified in this section.</p> <p>The incorrect legislation title / date has been referenced, noting that the <i>Crown Lands Act 1989</i> was repealed 30 June 2018, and the <i>Crown Land Management Act 2016</i> commenced 1 July 2018.</p> <p>Reflections Holiday <i>A Plan of Management exists for the Clarkes Beach Holiday Park. It has been prepared in accordance with the provisions of the Crown Lands Management Act 1989 to provide a framework for the future management, use and development of the reserved Crown land site. This site has been subject to recent severe coastal erosion and remedial actions are currently being considered.</i></p>	<p>Seek feedback from the NSW Crown Holiday Parks Land Manager regarding this section, and others in the draft scoping study of relevance to the land they manage.</p> <p>As a minimum, the following text is recommended for inclusion in this section (to replace existing text):</p> <p>NSW Crown Holiday Parks Land Manager t/a Reflections Holiday Parks</p> <p>There is one 'Reflections Holiday Park' located within the study area:</p> <ul style="list-style-type: none"> • Clarkes Beach (Byron Bay) <p>This park is located on Crown land and is managed under the <i>Crown Land Management Act 2016</i> by 'NSW Crown Holiday Parks Land Manager' – a 'non-Council' Crown land manager.</p> <p>A Plan of Management (PoMs) has been prepared for this park:</p> <ul style="list-style-type: none"> • Plan of management for the Clarkes Beach Holiday Park (July, 2009)
5.	<p>Section 3.3.4 Local Level Plans</p>	<p>Text states:</p> <p>Crown Lands <i>Crown Land is owned by the State and is managed under the Crown Lands Act 1989.</i></p>	<p>Acknowledge that by 30 June 2020, Council will need to prepare Plans of Management (PoMs), under the <i>Local Government Act 1979</i>, for those Crown reserves where Council is the appointed Crown land manager. There should be consistency and alignment</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p><i>Most of the beach areas of the study area (not within National Parks or Reserves) are Crown Land managed by Byron Shire Council. There are a variety of other crown land parcels within the study area.</i></p> <p>The incorrect legislation title / date has been referenced, noting that the <i>Crown Lands Act 1989</i> was repealed 30 June 2018, and the <i>Crown Land Management Act 2016</i> commenced 1 July 2018.</p> <p>It is unclear as to whether this part of the draft scoping study is the best place to discuss the extent and significance of Crown land within the study area, i.e. under 'Local Level Plans', especially considering that the section on 'Crown Lands' does not discuss any Plans of Management that may apply to Crown land in the study area.</p> <p>The language used is confusing / lacking clarity. For example there are significant parts of the 'beach areas of the study area' that are national parks or where Council is not the appointed Crown land manager i.e. portions of Belongil Beach and Clarkes Beach, all of New Brighton Beach, the Pass and Wategos. Further, the caveat 'not within national parks or reserves' is confusing as Council does manage and is the appointed manager of a number of Crown 'reserves'.</p> <p>This section should note that by 30 June 2020,</p>	<p>between PoMs relevant to the CMP study area and the CMP.</p> <p>Text in this section requires clarification / further consideration.</p> <p>Refer also comments on Section 3.6 Governance Context.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		Council will need to have prepared Plans of Management, under the <i>Local Government Act 1979</i> , for those Crown reserves where Council is the appointed Crown land manager.	
6.	Section 3.4 Legislative and Policy Context	Table 3-1 notes that the <i>Crown Land Management Act 2016</i> is 'Additional Key legislation Supporting Coastal Management', however it may also be prudent to list the following legislation: <ul style="list-style-type: none"> • <i>Aboriginal Land Rights Act 1983</i> • <i>Native Title Act 1993</i> 	Add in legislation as recommended.
7.	Section 3.5.2.3 Coastal Management Strategies	It is stated that six main coastal management strategies have been implemented in the study area, including coastal protection works, described as follows: <p style="text-align: center;"><i>'(1) The retention and implementation of coastal protection works at Main Beach (Jonson Street) and Wategos Beach;'</i></p> Under the heading 'Coastal Protection Works at Jonson Street, Main Beach, Byron Bay', the text notes that in addition to works at Jonson Street... <p style="text-align: center;"><i>'A variety of other coastal management works have been constructed in the study area primarily on Main and Belongil Beaches. These include a variety of interim coastal protection work, rock protection works (i.e. revetment, containers) and geotextile structures.'</i></p>	Text and analysis in this section requires clarification/further consideration.

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p>The title of this category, being ‘...coastal protection works at Main Beach (Jonson Street) and Wategos Beach’, is at odds with the reality of numerous, albeit ad hoc and/or interim coastal protection works at Belongil Beach – a number of which were constructed by, and are maintained by, Council. The works at Wategos, whilst emphasised in the title of the category, are not discussed in the text.</p> <p>The section notes that in relation to the WorleyParsons report:</p> <p style="text-align: center;"><i>‘This study, however, does not consider any works outside the Byron Bay Embayment such as the Brunswick River breakwaters and the groyne at New Brighton Beach.’</i></p> <p>This sentence appears to be the only mention of the Brunswick River breakwaters and the groyne at New Brighton Beach in this section. The Brunswick River breakwater is a significant structure in terms of coastal processes and warrants further discussion.</p> <p>It is noted that the temporary coastal protection works at Clarkes Beach are discussed further in section 3.5.2.4 ‘Recent Coastal Events’. Perhaps the temporary works at Clarkes Beach also deserve mention in this section 3.5.2.3?</p> <p>Given that the discussion regarding Clarkes Beach</p>	

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		notes the planning pathway and temporary nature of the works at Clarkes Beach, it may also be prudent to note that the geofabric works at Elements were constructed as 'temporary coastal protection works' under Part 4C of the <i>Coastal Protection Act 1979</i> (now repealed).	
8.	Section 3.5.2.4 Recent Coastal Events	<p>In relation to the Clarkes Beach erosion issue, the text states:</p> <p><i>Reflections, as the Crown Lands Holiday Park Trust Manager, manage the Clarkes Beach Holiday Park including the beach frontage of the park. Reflections has undertaken a number of actions to respond to the erosion impacts. Reflections, as part of DPIE- Crown Lands, enacted the coastal protection works provisions available to public authorities under section 19 (2)(iii) of the CM SEPP...</i></p> <p>Reflections are not a 'part of' Crown Lands, they are a 'non-Council Crown land manager'.</p>	<p>Amend text as follows:</p> <p><i>The 'NSW Crown Holiday Parks Land Manager', trading as 'Reflections Holiday Parks', NSW Crown Lands Reflections, as the Crown Lands Holiday Park Trust Manager, manage the holiday park at Clarkes Beach, Holiday Park including the beach frontage of the park. Reflections have undertaken a number of actions to respond to the erosion impacts, Reflections, as part of DPIE- Crown Lands, enacted the coastal protection works provisions available to public authorities under section 19 (2)(iii) of the CM SEPP...</i></p> <p>Seek feedback from the NSW Crown Holiday Parks Land Manager regarding this section, and others in the draft scoping study of relevance to the land they manage.</p>
9.	Section 3.6 Governance Context	<p>In relation to governance, the text states that:</p> <p><i>Figure 3-3 to Figure 3-5 illustrates the current land tenure arrangements for the study area. It can be seen from these figures that the study</i></p>	<p>Revise the text and mapping titles / categories in consultation with DPIE – Crown Lands.</p> <p>Refer also comments on Section 3.3.4 Local Level Plans.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p><i>area is comprised of a mixture of private freehold land, Council land (community lands), Crown land licenced to Council, State Conservation Areas /Nature Reserves, Crown land reserves, road reserve, marine park and railway lands. Most of the beaches and some foreshore areas of the study are comprised of Crown Land managed by Byron Shire Council.</i></p> <p>Figure 3-3 to 3-5 are titles ' Land ownership in the Study Area...' however the introductory text and legends to the map indicate that land status, management and tenure arrangements are also depicted.</p> <p>With the commencement of the Crown Land Management Act 2016, 'Trusts' were abolished. The legend includes the category 'Byron Shire Council Trust Manager' – this should be changed to Byron Shire Council Crown Land Manager.</p> <p>The category 'Crown Land – Licence' is confusing / incorrect and appears to be identifying those Crown reserves that are under the management of Council (although this is inconsistent). The category title is confusing land management status with Crown land tenure. The categories 'Crown Land – Reserve' and 'Crown Land – Licence' and 'Byron Shire Council Trust Manager' are not mutually exclusive, i.e. most of this land is Crown reserve (exceptions include The Esplanade Crown road). These Crown reserves are</p>	<p>Consider noting that successful development and implementation of the CMP would be facilitated by recognition of the complex Crown land management arrangements that apply to the study area, and adopting a collaborative approach towards streamlining and simplifying these management arrangements, where considered appropriate.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p><i>owned</i> by DPIE-Crown Lands, but generally are <i>managed</i> by either Council, DPIE-Crown Lands or NSW Crown Holiday Parks Land Manager.</p>	
10.	<p>Section 5.1.2 Governance Basis</p>	<p>Text states that:</p> <p><i>Current land ownership within the study area is presented in Figure 3-3 to Figure 3-5, illustrating the study area is comprised of a complex mixture of private freehold land, Crown land licences, Crown land reserves, conservation areas, nature reserves, marine parks, road and rail reserves.</i></p> <p>Consistent with the comment on Section 3.6, the text and categories used to denote land ownership are confusing and inconsistent.</p>	As above.
11.	<p>Section 5.3.1 Key Risks of Not Preparing the CMP</p>	<p>The risks outlined in this section focus on managing future risks, and do not reflect on current risks. Within the category 'Reduced values and cost implications', the analysis would be improved if the risks of continuing with the status quo were incorporated. For example, there are risks associated with the current ad hoc approach towards coastal protection works in the embayment, as documented by WorleyParsons (2013) in the 'Byron Bay Erosion Protection Structures – Risk Assessment'. These risks are current day risks that are not confined to the future as a result of increased impacts from climate change and shoreline recession – acknowledging these risks are expected to increase over time as a result of these factors.</p>	Consider revising this section and reflecting on current as well as future risks.

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p>These risks should be incorporated into this section as they are a key driver for taking a strategic approach, as opposed to an ad hoc approach, to managing coastal hazards in the Byron Bay Embayment through the development and implementation of a CMP.</p>	
12.	<p>Section 5.4.3 Funding Opportunities</p>	<p>The text states that:</p> <p style="text-align: center;"><i>The NSW state government is committed to managing the coastal environment and marine estate of NSW.</i></p> <p>This is a very broad statement and it may oversimplify the management of the coastal and marine environment in NSW, for example it does not reflect on the role of local councils in managing certain Crown reserves on the coast or their lead role in preparing and implementing CMPs.</p>	<p>Consider clarifying this statement.</p>
13.	<p>Section 6.4.1 CMP Structure and Project Governance</p>	<p>Table 6-1 refers to DPIE – Crown Lands as ‘Department of Industry– Crown Land and Water’, refer comment #1.</p>	<p>Make amendment as per comment #1.</p>
14.	<p>Table 4-3 First Pass Risk Assessment</p>	<p>Following text is noted against T4 Coastal entrance instability:</p> <p style="text-align: center;"><i>Key references/Gaps:</i></p> <p style="text-align: center;"><i>Dept. of Lands have previously assessed entrance breakwaters along the coast. It is</i></p>	<p>Suggest incorporating the following information into the discussion:</p> <p style="text-align: center;"><i>When major upgrades are proposed for breakwaters, sea level rise projections are considered and incorporated into the design process by DPIE-Crown Lands (for example</i></p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p><i>unknown if level of detail in this study provides a full picture of understanding risks to Brunswick particularly with respect to future change.</i></p> <p>As per the comment against Table 6-3, when major upgrades are proposed for breakwaters, sea level rise projections are considered and incorporated into the design process (for example as part of a major upgrade, the crest height of the Coffs Harbour breakwaters were increased in consideration of sea level rise projections).</p>	<p><i>as part of a major upgrade, the crest height of the Coffs Harbour breakwaters were increased in consideration of sea level rise projections).</i></p>
15.	<p>Table 4-3 First Pass Risk Assessment</p> <p>Item S2.05</p> <p>Recommended Studies (Stage 2)/Name: Condition assessment of Brunswick Entrance Breakwaters, considering current and future performance.</p> <p>Priority: Medium</p> <p>Type of study/Level of</p>	<p>In 2015/16 DPIE – Crown Lands undertook a condition assessment of the Brunswick Entrance Breakwaters (north and south) – this was prior to maintenance works in 2015/16.</p> <p>The breakwaters are currently considered in 'good condition' and are visually inspected on an annual basis. If the visual inspection indicates there is an underlying issue, then more detailed investigations are triggered. In this context, it is unclear as to why an assessment of the current condition/performance of the Brunswick Entrance breakwaters is being proposed.</p> <p>The detailed assessment as proposed is not considered a high or medium priority in terms of DPIE – Crown Lands' current budget allocations.</p>	<p>Subject to further clarification, it is recommended that this action be amended to a study on the impact of future climate change projections on the performance of the Brunswick Entrance Breakwaters. The action should be afforded a low priority (long term action).</p> <p>Refer also comment on Table 6-3.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
	<p>detail/Comments: Condition assessment to consider performance under erosion and wave overtopping scenarios, and in providing ongoing entrance stability with future sea level rise and shoreline recession.</p>		
16.	<p>Table 6-2 Forward Plan, Indicative Costs, Timeline and Responsibility for Preparation of the CMP</p> <p>Item S2.01 Annexure to hazard update</p> <p>Responsible Council, DPIE, Crown Lands, NPWS</p> <p>Item S2.02 Probabilistic analysis of erosion and recession hazards</p> <p>Responsible Council, DPIE, Crown Lands, NPWS</p>	<p>DPIE - Crown Lands is listed as 'Responsible' for each of these items however the reason for this is unclear. DPIE – Crown Lands would be unlikely to play a lead or supporting role for these actions.</p>	<p>Remove DPIE – Crown Lands from the 'Responsibility' column.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
	<p>Item S2.03 Mapping of coastal vulnerability area</p> <p>Responsible Council, DPIE, Crown Lands, NPWS</p>		
17.	<p>Table 6-3 Additional Recommended Studies for Consideration in the CMP(s)</p> <p>Recommended Studies/Components: Belongil Creek Entrance Stability Assessment...</p> <p>Responsible Council, Crown Lands, DPIE (NPWS with Belongil Creek)</p> <p>Recommended Studies/Components: Economic valuation of the coastal zone...</p> <p>Responsible</p>	<p>Crown Lands is listed as 'Responsible' for each of these items however the reason for this is unclear. DPIE – Crown Lands would be unlikely to play a lead or supporting role for these actions.</p>	<p>Remove DPIE – Crown Lands from the 'Responsibility' column for these studies.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
	Council, NPWS (DPIE), Lands		
18.	<p>Table 6-3 Additional Recommended Studies for Consideration in the CMP(s)</p> <p>Recommended Studies/Components: Condition assessment of Brunswick Entrance Breakwaters considering current and future performance</p> <p>Responsible DPIE, Crown Lands, NPWS</p>	<p>DPIE-Crown Lands has a process in place for monitoring the condition of entrance breakwaters. In this context, it is unclear as to why an assessment of the current condition/performance of the Brunswick Entrance breakwaters is proposed in the CMP.</p> <p>DPIE – Crown Lands undertook a condition assessment of the Brunswick Entrance Breakwaters (north and south) prior to maintenance works in 2015/16. The breakwaters are inspected (visually) on an annual basis and are currently considered in 'good condition'. In the event that an annual inspection indicates there is an underlying issue, then further, more detailed investigations would be triggered for the breakwaters. Where major upgrades are proposed for breakwaters, sea level rise projections are considered and incorporated into the design process (for example as part of a major upgrade, the crest height of the Coffs Harbour breakwaters were increased in consideration of sea level rise projections).</p> <p>As currently described, the cost for the assessment is estimated to be in the order of \$50,000.</p> <p>The detailed assessment as proposed is not considered a medium or high priority in terms of DPIE – Crown Lands' current budget allocations.</p>	<p>Subject to further clarification, it is recommended that this action be removed from the CMP. If the action were to remain, then it is recommended that it be amended to the following:</p> <ul style="list-style-type: none"> • a study on the impact of future climate change projections (sea level rise) on the performance of the Brunswick Entrance Breakwaters • a low priority (long term action), • an estimated cost of \$40,000 (low) to \$50,000 (high). <p>DPIE-Crown Lands (MIDO) would be responsible for leading this action.</p>

No.	Comments / Feedback on specific Management Action(s)	DPIE - Crown Lands' comment	Suggested Action
		<p>It is unclear as to the role of NPWS in either leading or supporting this action. It is unclear as to what agency is being referred to under the acronym 'DPIE' – noting that Crown Lands is within the DPIE cluster, as are other agencies such as Environment, Energy and Science.</p>	



OUR REF: C19/688

30 January 2020

Chloe Dowsett
Coastal and Biodiversity Coordinator
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482
Via email: chloe.dowsett@byron.nsw.gov.au

Dear Chloe

**Re: Comments on Byron Shire Council - (Draft) Coastal Management Program
(Stage 1) Cape Byron to South Golden Beach – Scoping Study**

Thank you for providing DPI Fisheries with the opportunity to comment on the Byron Shire Council (Draft) Coastal Management Program (Stage 1) Cape Byron to South Golden Beach – Scoping Study (the draft scoping study) being developed by Byron Shire Council under the *Coastal Management Act 2016*.

DPI Fisheries supports the development and implementation of planning instruments that are in the public interest and benefit the wise management and use of the NSW Marine Estate. Reference within the draft scoping study to Marine Estate Management (MEM) legislation, the MEM Strategy and the associated Threat and Risk Assessment is acknowledged. A finalised CMP should have the capacity to align with implementing relevant management actions and initiatives from the MEM Strategy in accordance with the objects of the *Coastal Management Act 2016*. Coastal Councils are recognised as key partners in the implementation of the MEM Strategy and providing links to local communities. The following information has been prepared by the MEM Authority specifically to provide information on the MEM Strategy to Local Government: https://www.marine.nsw.gov.au/_data/assets/pdf_file/0003/1139565/FAQ-local-government.pdf.

It is considered that the draft scoping study should include discussion of preferred options for the management of priority issues (e.g. failing rock walls, interim coastal protection works, beach scraping) and the necessary approval pathways could be identified in the final CMP.

The following specific comments are provided with reference to areas within the draft scoping study that are within the boundaries of Cape Byron Marine Park (CBMP) as well as other coastal waters outside of CBMP. Areas within CBMP are administered by DPI Fisheries in accordance with the provisions of the *Marine Estate Management Act 2014* (MEM Act). DPI Fisheries is also responsible for ensuring that fish stocks are conserved and that there is “no net loss” of key fish habitats upon which they depend, and this relates to all areas below highest astronomical tide within the area of the Scoping Study. To achieve this, DPI Fisheries assesses activities, planning proposals and management programs in accordance with the objectives of the *Fisheries Management Act 1994* (FM Act).

Table 1: Comments on specific section of the draft scoping study

Section of Scoping Study	Comment
Executive Summary – Adopted values and threats (p.ii)	Many stakeholders would consider CBMP as a key value of the study area and any impacts to the Marine Park as a threat.
2. Overarching Strategy for Byron’s Coastal Management (p.14)	The development of an overarching strategy for coastal management in Byron Shire is supported, especially with regard to Belongil and Tallow creeks.
3.3.2 State Level Plans and Strategies (p.23)	<p>CBMP is managed in accordance with an operational plan (see attached) and the provisions of legislated management rules: <i>Marine Estate Management (Management Rules) Regulation 1999 — Part 5 Cape Byron Marine Park Management Rules</i>.</p> <p>There is a mistake in the second paragraph which states that ‘<i>The CBMP extends 3 nautical miles into the Tasman Sea ...</i>’</p> <p>It is suggested that the paragraph should state “The CBMP extends <u>for</u> 3 nautical miles <u>offshore</u>.....”</p>
3.6 Governance Context Figures 3-3 — 3-5	The text ‘Cape Byron Marine Park’ and the white box beside the text should be deleted from the Figures because the marine park is not a tenure or ‘Land ownership’ and the white box doesn’t refer to anything on the map anyway.
3.9 Economic Context	The importance of the study area as a ‘destination driver’ is acknowledged as is the need to protect the coastal zone from overuse. Consequently, consideration should be given for the CMP to identify ‘carrying capacities’ for some events such as festivals and for commercial operations in some areas such as the Brunswick River and at Main Beach and in the Bay. Such carrying capacities would need to take into account the economic values and social consequences of setting limits and incorporate this information into approvals so that cost/benefits are balanced and economic values recognised. This would assist with managing some of the social pressures that are currently on areas within the study area as well as the expectations of proponents.
Table 6.3 ‘Evidence based research on the potential effects of various recreational uses on wildlife and habitats in coastal areas, and how to manage the impacts sympathetically (in alignment with BSC Act and MEM Act objectives)’	<p>DPI Fisheries’ involvement and partial funding of this study would be reliant upon the extent of fishing/fishery-related activities forming part of the study as well as DPI Fisheries successfully accessing additional external funding.</p> <p>It is noted that MEMA is also identified as being responsible for this action. It should be noted that MEMA (the Authority) is the Authority that brings together the heads of the NSW Government agencies with key marine estate responsibilities and its role includes implementation of the Marine Estate Management Strategy and ensuring that policies and programs address priority issues, are well coordinated, efficient, evidence based and result in positive outcomes. It is suggested that a specific agency should be listed here, where relevant, instead of the Authority.</p>



Department of Primary Industries

DPI Fisheries looks forward to continuing to work with Council on the development of Byron Shire Council's Coastal Management Programs, including where linkages can be made with actions being undertaken under the Marine Estate Management Strategy.

If you have any queries regarding comments made with reference to MEM legislation please contact Andrew Page, Manager CBMP on Ph 6620 9305 or at andrew.page@dpi.nsw.gov.au. If you have any queries regarding comments made with reference to the FM Act please contact Peter Henwood, Fisheries Manager, Coastal Systems (North Coast) on 02 6626 1353 or peter.henwood@dpi.nsw.gov.au.

Yours sincerely

Jonathan Yantsch
**Senior Fisheries Manager,
Coastal Systems (North Coast)**
Authorised delegate of the Minister for
Primary Industries

Andrew Page
**Manager
Cape Byron Marine Park**
Delegate of the Department of Primary
Industries - Marine Parks

From: Josh Chivers
To: council
Cc: Dowsett, Chloe
Subject: RE: Byron Shire Council - (Draft) Coastal Management Stage 1 Cape Byron to South Golden Beach - Scoping Study - out for public comment
Date: Wednesday, 29 January 2020 5:12:15 PM
Attachments: Attachment 1 NPWS review of the Coastal Management Program Scoping Study Cape Byron to South Golden Beach.docx

Mark Arnold
General Manager
Byron Shire Council
Attn.: Cloe Dowsett

RE: Coastal Management Program Scoping Study Cape Byron to South Golden Beach (revised draft) – Byron Shire Council LGA

Thank you for the opportunity to provide comments on the Coastal Management Program Scoping Study Cape Byron to South Golden Beach (revised draft) – Byron Shire Council LGA
NPWS manages the following coastal reserves within the study area. These reserves and their values are described in attachment 1.

- Billinudgel nature Reserve (NR)
- Marshalls Creek NR.
- Brunswick Heads NR and Tyagarah NR.
- Cumbebin Swamp NR
- Arakwal National Park (NP).
- Cape Byron State Conservation Area (SCA)

Reserve Plans of Management (POM) can be accessed here:

<https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-management/plans-of-management>

NPWS areas of interest

- NPWS is particularly interested in:
 - Ensuring that NPWS and Council management of coastal issues and values is complementary.
 - Understanding the issues including current and future hazards impacting natural, cultural and heritage values and built assets within reserves.
 - Understanding and assessing the impacts of any proposed coastal management works on reserve including beach nourishment schemes and coastal protection works.
 - Management of:
 - Vegetation including endangered ecological communities.
 - Riparian zones, bank erosion, floodplain and estuarine wetlands.
 - Flora and fauna species including threatened species and their habitats.
 - Beach nesting birds, shore birds and marine wildlife including turtles and minimising threats and disturbance to these.
 - Street and other lighting that may impact wildlife including turtle fledging.
 - Marine mammal strandings including carcass removal.
 - Threat management including weeds, pests, fire erosion and inundation.
 - Reserve infrastructure and built assets, including day use, camping and hard roof accommodation and fire trails.
 - Marine and estuarine water quality.
 - Access to reserves and beach and estuarine areas.
 - Heritage including the protection and management of Aboriginal cultural Heritage.
 - Community engagement including involvement of traditional owners – Bundjalung of Byron Bay (Arakwal) Aboriginal Community - and active participation in implementing coastal management initiatives.
- NPWS may also be able to assist with:
 - Information on specific natural values and threats.
 - Specific advice on matters such as the management of species and ecological communities and guidelines for marine mammal strandings and carcass removal.

Specific comments

Funding

NPWS has limited resources and is not able to fund additional hazard work and other work as suggested in the scoping study. NPWS is concerned that the budget for the project is limited and that NPWS is being asked to fund work that is usually considered to be part of the CMP project. NPWS will however be very keen on engaging in the development of the CMP and potentially being a support agency on any proposed actions relating to flora, fauna, access, cultural heritage, asset management etc.

Coastal hazard mapping and the need to fill gaps in mapping for reserves.

NPWS is supportive of Council including hazard mapping for reserves. Following our meeting (21-10-19), NPWS made enquiries with DPIE EES Coast and Estuaries - coastal program staff (Michelle Fletcher) and Scientific Services Coast and Estuaries (Dave Hanslow). The advice received was that there is state level data (prepared by SSD) and that will be adequate for coastal beaches in NPWS reserves on the Byron Bay coast. In terms of the probabilistic methodology being applied to hazard map generation for use in planning, risk assessment and cost benefit analysis associated with the next stages of CMP preparation, NPWS was also advised that the state level hazard data capture used probabilistic methodology and that this would be adequate for the purposes of CMP development in relation to reserves.

Coastal vulnerability

NPWS was unaware that there was an option regarding CM SEPP mapping – excluding or including coverage of reserves subject to hazards. Where there is a choice relating to the application of CM SEPP coastal vulnerability mapping to reserve, NPWS would like further information on the implications of inclusion and or exclusion of reserves prior to making a final decision on this matter.

NPWS primary response is to align with NSW government leadership to flag sections of coast subject to coastal hazards so that current and potential future risks can be minimised and avoided. NPWS fully supports the objectives of the Coastal Management Act 2018 relating to coastal vulnerability.

NPWS is of the understanding that coastal vulnerability mapping is funded in CMP preparation by the NSW coastal program?

Forward plan - Tables 6.2 & 6.3

As requested, NPWS has indicated where it is interested in a partner role, a supporting role or no role.

Table 6.2

- **S2.01 Provide an Annexure to 2013 Hazard Update.**
Please include NPWS in a supporting role. As per the previous comments NPWS preference is to utilise state wide data to fill the gaps in hazard mapping.
- **S2.02 Probabilistic analysis of erosion and recession hazards for high risk locations.**
Please include NPWS in a supporting role. NPWS supports the establishment of probabilistic mapping and the use of the state-wide data in reserves. Where state funding is available or where mapping was to be upgraded in the future NPWS would encourage this work to be completed for the whole of the coastal compartment.
- **S2.03 Mapping of a coastal vulnerability area identifying all applicable coastal hazards.**
Please include NPWS in a supporting role. As per the above comment. NPWS supports the preparation of coastal vulnerability mapping but would like to clarify the role of this mapping (pros and cons) in relation to reserves.
- **S2.04 Localised cliff stability and risk assessment.**
Please include NPWS in a supporting role.

Table 6.3

- **Stage 2 - Belongil Creek Entrance Stability Assessment.**
Please include NPWS in a supporting role. Please also consider the availability of shorebird habitat including roosting, foraging and nesting areas in managing the entrance.
- **Review and update Part C of the CZMP (Community Uses of the Coastal Zone).**
No role envisaged for NPWS.
- **Economic valuation of the coastal zone.**
No role envisaged for NPWS.
- **Evidence based research on the potential effects of various recreation uses**
Please include NPWS in a supporting role.
- **Shire-wide policy for beach use, access, crowding, congestion etc.**
No role envisaged for NPWS.

Josh Chivers
Senior Project Officer, Coastal Landscapes

Landforms and Rehabilitation Unit
Conservation Branch
NSW National Parks and Wildlife Service.
T 02 6650 7110
M 0423 688 156

From: Dowsett, Chloe <cdowsett@byron.nsw.gov.au>
Sent: Wednesday, 4 December 2019 4:21 PM
To: 'Chloe Dowsett' <chloegraceville@gmail.com>
Cc: Rogers, Kimberley <kr Rogers@byron.nsw.gov.au>; Rogers, Allison <arogers@byron.nsw.gov.au>
Subject: Byron Shire Council - (Draft) Coastal Management Stage 1 Cape Byron to South Golden Beach - Scoping Study - out for public comment

Dear Community Member,

Coastal Management Program (Stage 1) Cape Byron to South Golden Beach – Scoping Study

I am contacting you because you have been identified as a key stakeholder/community group member or subscribed to our coastal project updates list. Please let me know if you'd prefer not to receive these emails at any time.

The first stage of developing a CMP is a scoping study. The [draft CMP Stage 1 Scoping Study for Cape Byron to South Golden Beach](#) is (attached to this email) now available for public comment. **Council welcomes feedback for a period of six weeks, until 17 January 2020.**

Please forward this update to any other members of the community who you think may be interested in this project, and don't forget to view our Council webpage for more information: <https://www.byron.nsw.gov.au/Services/Environment/Coast-and-waterways/Coastal-planning>

Wishing everyone a safe and relaxing Christmas break.

Warm regards,

Chloe Dowsett | Coastal and Biodiversity Coordinator | BYRON SHIRE COUNCIL

P: 02 6626 7128 | F: 02 6684 3018 | E: chloe.dowsett@byron.nsw.gov.au
PO Box 219, Mullumbimby NSW 2482 | www.byron.nsw.gov.au
Find us on Facebook www.facebook.com/byronshire.council

This email is intended for the addressee(s) named and may contain confidential and/or privileged information.
If you are not the intended recipient, please notify the sender and then delete it immediately.
Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment and Heritage.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

Attachment 1: Summary of NPWS reserves in the Byron Bay CMP study area.

Billinudgel Nature Reserve (NR)

Coastal Landscapes including barrier dunes and floodplain. There has been historical draining of floodplain wetlands. The reserve POM seeks to address this issue and improve water regimes for wetlands.

There are over 170 species of fauna recorded in the reserve. There are over 30 species of threatened fauna associated with the reserve including the following; Wallum froglet, Loggerhead turtle, Green turtle, Magpie goose, Flesh footed shearwater, Black-necked stork, Black bittern, White-bellied sea eagle, Square tailed kite, Eastern osprey, Sooty oystercatcher, Pied oystercatcher, Comb-crested Jacana, Little Tern, Mangrove Honey eater, White eared monarch, Spotted-tailed quoll, Common planigale, Koala, numerous species of bat.

There are approximately 450 flora species recorded in the reserve and several endangered ecological communities are present including Floodplain swamp communities and Littoral rainforest.

There are numerous Aboriginal sites in the Reserve including a ceremonial double bora ring and numerous middens occur in local sand dunes. The "Old Dune" is understood to be a central point to Aboriginal use and occupation of the area.

Significant areas of CM SEPP wetland and small but significant Littoral rainforest areas.

There are few built assets within the reserve. The main assets are tracks/roads including the Billinudgel Coast Track that runs parallel to the beach.

Marshalls Creek NR

Over 25 threatened fauna occur in proximity to the reserve including: Loggerhead turtle, Green turtle, Magpie Goose, Black-necked Stork, Black bittern, White-bellied sea-eagle, Eastern osprey, Beach stone-curlew, Pied oystercatcher, Sooty oystercatcher, Black-winged petrel, Greater sand-plover, Great knot, White tern, Sooty tern, Little tern, Collared kingfisher, Mangrove honeyeater, White-eared monarch, Koala, numerous bat and flying-fox species.

There are over 15 threatened flora in proximity to the reserve including: Davidson's plum, White lace Flower, Stinking cryptocarya, Green-leaved rose Walnut, Scrub turpentine, Native guava, Red lilly pilli, Durobby, Hairy jointgrass, White yiel yiel, Rough-shelled bush nut, Spiny gardenia, Scented Acronychia, Yellow satinheart, Harnieria hygrophiloides, Slender marsdenia, Marblewood.

Significant areas of CM SEPP wetland and small but significant Littoral rainforest areas.

There are few built assets in this reserve.

Brunswick Heads NR & Tyagarah NR

These two reserves are included in the Byron Coast Group of Nature Reserves plan of management along with Broken Head NR (out of scope).

These reserves incorporate Littoral rainforest, wet and dry heath, eucalypt forest and woodlands and freshwater and estuarine wetlands including mangroves and salt marsh.

Weeds, pests and fire threats are management concerns as are the provision and management of access and the protection of cultural heritage.

There are significant Aboriginal sites within these reserves including middens, ceremonial and mythical sites

There are over 25 threatened species found in and in proximity to the eastern section of Brunswick NR including Loggerhead turtle, Green turtle, Magpie goose, Flesh-footed shearwater, Black-winged petrel, Black-necked stork, White-bellied sea-eagle, Eastern osprey, Bush stone-curlew, Beach stone-curlew, Sooty oystercatcher, Pied oystercatcher, Greater sand-plover, Great knot, White tern, Sooty tern, Little tern, Collared kingfisher, Mangrove honeyeater, White-eared monarch, Koala, Grey-headed flying-fox, Common blossom-bat, Eastern long-eared bat and Little bent-winged bat.

There are 13 threatened flora species in the eastern section of Brunswick NR including Harnieria hygrophiloides, Marblewood, White lace flower, Queensland xylosma, Stinking cryptocarya, Green-leaved rose walnut, Red lilly pilly, Durobby, Brown fairy-chain orchid, White yiel yiel, Rough-shelled bush nut, Spiny gardenia, Scented acronychia

There are over 25 threatened fauna associated with Tyagarah NR including: Wallum froglet, Green and golden bell frog, Olongburra frog, Black-necked Stork, Black bittern, White-bellied sea-eagle, Eastern osprey, Pale-vented bush-hen, Bush stone-curlew, Sooty oystercatcher, Pied oystercatcher, Comb-crested jacana, Curlew sandpiper, Glossy black-cockatoo, Little tern, Collared kingfisher, Koala, Long-nosed potoroo, Mitchell's rainforest snail and several species of bat.

There are 6 threatened flora species recorded in Tyagarah NR reserve including: Corokia, Marblewood, Stinking cryptocarya, Green-leaved rose walnut, Arrow-head vine, Red lilly pilly.

There are extensive CM SEPP wetlands and coastal heath.

Cumbebin Swamp NR

A small area of beach and adjoining vegetation in the reserve is included in the study area at Belongil Beach. Vegetation within the study area includes banksia woodlands, regenerating Littoral rainforest and grasslands.

Threatened fauna in and in proximity to the study area within the reserve include: White-bellied sea eagle, Eastern osprey, Sooty oystercatcher, Pied oystercatcher, Little tern, Beach-stone curlew, bush stone-curlew, , Grey-headed flying-fox, Common blossom-bat, Little bent-winged bat. Birds protected under international migratory bird agreements also occur.

The Reserve is crucial habitat for the Mitchell Rainforest Snail, found in remnant vegetation on the coastal plain between the Richmond River and Tweed River on the NSW north coast.

The reserve's beaches are popular with tourists.

There are no built assets in the reserve.

Arakwal National Park (NP)

Arakwal NP (the Park) is the first national park in Australia to be created under an Indigenous Land Use Agreement (ILUA) with the traditional owners, the Byron Bay Arakwal people in joint management with the NPWS. The Arakwal people have been engaged in coastal management for approximately 22,000 years. The park is an important part of country to the Aboriginal community.

The reserve protects extensive areas of coastal heath and woodlands and includes CM SEPP wetlands.

The Wallum banksia heath – Byron Bay dwarf graminoid clay heath is an endangered ecological community in the reserve.

Threatened fauna in and in proximity to the reserve include: Wallum froglet, Olongburra frog, Loggerhead turtle, Green turtle, Red-tailed tropicbird, Wompoo fruit-dove, White-bellied sea eagle, Eastern osprey, Pale-vented bush-hen, Sooty oystercatcher, Pied oystercatcher, Comb-crested Jacana, White tern, Sooty tern, Spotted-tailed quoll, Koala, Grey-headed flying-fox, Common blossom-bat, Eastern long-eared bat, New Zealand fur-seal, Australian Fur-seal, Humpback whale, Little bent-winged bat.

Threatened flora in and in proximity to the reserve include: Dwarf heath casuarina, White lace flower, Queensland xylosma, Stinking cryptocarya, Native guava, Byron Bay diuris, Pink nodding orchid, Dark greenhood, Basket fern, Scented acronychia.

The reserve provides walking tracks, a lookout and beach accesses for visitors.

Cape Byron State Conservation Area

The study area for the scoping study incorporates all the reserve's beaches (excluding Tallow Beach) and a band of adjoining land and vegetation. The reserve is very popular with tourists and the study area incorporates tourist accommodation, a boat ramp, a lookout, day use areas, beach access tracks and parts of the Cape Byron walking track. The Cape Byron Lighthouse occurs within the reserve, outside of the study area.

Vegetation of the study area includes grasslands, shrublands, dry and wet sclerophyll woodlands and forests and littoral rainforest. Threatened flora in and in proximity to the study area includes: Dwarf heath casuarina, Queensland xylosma, Stinking cryptocarya, Native guava, Pink nodding orchid and Scented acronychia.

Threatened fauna in and in proximity to the study area within the reserve includes: Loggerhead turtle, Green turtle, White-eared monarch, Wompoo fruit-dove, White-bellied sea eagle, Eastern osprey, Sooty oystercatcher, Pied oystercatcher, Koala, Grey-headed flying-fox, Common blossom-bat, New Zealand fur-seal, Australian Fur-seal, Humpback whale, Little bent-winged bat.

Small but significant CM Littoral rainforest areas.

The reserve includes places of cultural significance to the Aboriginal community, including middens.

Reserve Plans of Management (POM) can be accessed here: <https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-management/plans-of-management>



General Manager
C/O: Chloe Dowsett
Coastal and Biodiversity Coordinator
Byron Shire Council
Mullumbimby NSW 2482

Dear Chloe,

Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach (Revised draft - October 2019).

NSW Crown Holiday Parks Land Manager, trading as Reflections Holiday Parks, has reviewed the Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach (Revised draft - October 2019), here after referred to as the Draft Scoping Study.

Our review was focused on our role as a Non-Council Category One Land Manager [established under the Crown Lands Management Act (2016)] and our responsibilities in relation to the management of Crown Land within the Scoping study Area. Detailed commentary is included in Attachment A to this Letter. But our overall comment is regarding the Objectives of the CMP as defined in the Draft Scoping Study.

We believe the Objectives of CMP don't focus on the protection of current government and privately owned land, and the infrastructure on it, from loss to the sea. We believe it should be an objective of the CMP to find a way to protect current land from being lost to the sea, whilst maintaining amenity of the coastal zone. The CMP objectives read like all stakeholders have agreed to surrender to ongoing erosion to the hazard lines. We don't believe that is actually the position of all stakeholders. In our scenario, we do not wish to lose prime tourist land that can be used by the whole NSW community and provides an important economic benefit to the region. Not correctly including objectives like protection of land is likely to take options away from analysis such as offshore sand mining or sand pumping which can possibly protect land whilst maintaining coastal amenity.

We look forward to further detailed consultation in subsequent stages of the CMP. If all correspondence could be addressed to myself in the first instance for direction to our team, that would assist us in meeting our responsibilities.

Kind regards

Executive Manager Capital Works

06 Apr 2020

Attachment A to
Letter - Coastal Management Program - Scoping Study for Cape Byron to South Golden Beach
Consolidated comments.

No	Section	Comment
1.	Throughout	Please refer to Reflections as NSW Crown Holiday Parks Land Manager (NSWCHPLM), trading as Reflections Holiday Parks. We agree with Crown Lands comments regarding proposed wording for Section 3.3.4. See letter from Grant Marsden of 10 Feb.
2.	2.4.3 Objectives	As discussed in letter, we believe an objective of the CMP should be protecting current government and private land, and corresponding infrastructure, from loss to sea, whilst maintaining coastal amenity. (or similar).
	Table 3.3. Wave Run Up	Include details on Clarkes Beach as different to performance of Main Beach.
	3.3 Local Level Plans	NSWCHPLM also manages Torakina Reserve, at Brunswick Heads, which appears to be within the Study Area. A plan of management exists for this reserve. See https://reflectionsholidayparks.com.au/wp-content/uploads/2018/01/Brunswick_Heads_Foreshore_Reserves_Plan_of_Management_April_2014.pdf
	3.5.4 Commentary on Reflections response at Clarkes Beach	Update to state relocation of <u>six</u> cabins, not three. Amend last two sentences to state: <i>NSWCHPLM are required to remove the sandbags within 90 days of their placement, and have no planning pathway available to them to allow them to stay. The removal of the sandbags will damage an aboriginal midden that was identified by dune erosion. The sandbag removal therefore requires approval of DPIE through provision of an Aboriginal Heritage Impact Permit (AHIP). Upon receipt of AHIP, NSWCHPLM will be required to remove the sandbags. Following</i>

		<i>removal, NSWCHPLM will reinstate beach access stairs and commence dune rehabilitation works, both of which are dependent on issuing of the AHIP.</i>
	3.5.2.5 Commentary on Clarkes Beach Stormwater Gully	Following paragraph about proposal for works on eastern boundary of Reflections Holiday Park, following text should be added. <i>The upgrade works to the Stormwater Gully also requires Byron Shire Council to redirect stormwater currently entering Reflections Holiday Park from Lighthouse Road and divert it to the south west away from Clarkes Beach.</i>
	3.6 Governance Context	Mapping shows Crown Land Reserve or Crown Land License. Mapping should identify Non Council Crown Land Manager. Mapping colors incorrect for Crown Land at Clarkes Beach and four locations in Brunswick Heads which are managed by NSWCHPLM.
	3.7.2 Tourism and visitation	This section is missing commentary on the contribution of Holiday Parks to the tourism economy. This section of report states that financial contribution unclear. We can provide information from Caravan and Camping Association of Australia that has done detailed modelling of economic value add. We know that for every \$1 spent in overnight stays at our parks, there is a corresponding \$1.38 direct local spend from guests. There is a further \$1.96 value add to economy through employment or staff and services at the Park. Holiday Parks are also a large part of solution to illegal camping issues which are large in Byron Bay area. This is not identified in report. These benefits, and others, should be included to support the inclusion a CMP objective of protecting socially and economically important land being lost to the sea. Further details and references can be provided if required.
	Section 4 Risk Assessment	No identified mention of studies into Sand Transfer / Pumping solution between Tallows Beach and Clarkes Beach which has been discussed between DPIE stakeholders as a possible medium to long term solution to erosion.
	Table 6.1	Include NSWCHPLM within Governance and Management Responsibilities matrix.



	Table 3 of attached Stakeholder and Community Engagement Strategy	Table does not list NSWCHPLM. Include NSWCHPLM within stakeholder analysis.
	Appendix C to Draft Scoping Study	Update. North Coast Accommodation Trust no longer exists. List as: NSW Crown Holiday Parks Land Manager (NSWCHPLM). A non-council Category 1 Land Manager formed under the Crown Lands Management Act (2016)