

Submissions DCP 2014 Chapter E5 North Beach Belongil

Submission number: DCPE53

Name: Jack Dods

Feedback:

See attached.

DCPE53\3177652\Submission on Changes to Development Controls for Land at North Belongil Beach_Jack Dods_Jan 2024.pdf

22.01.2024

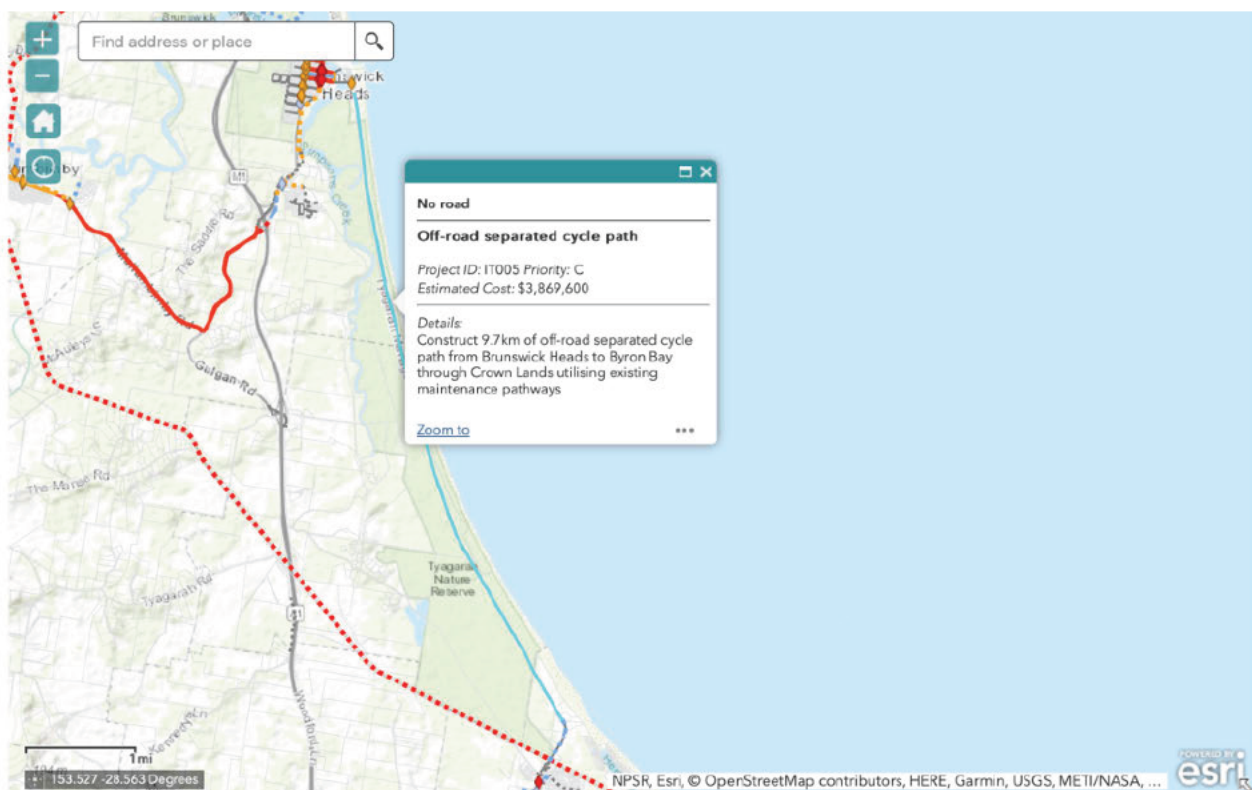
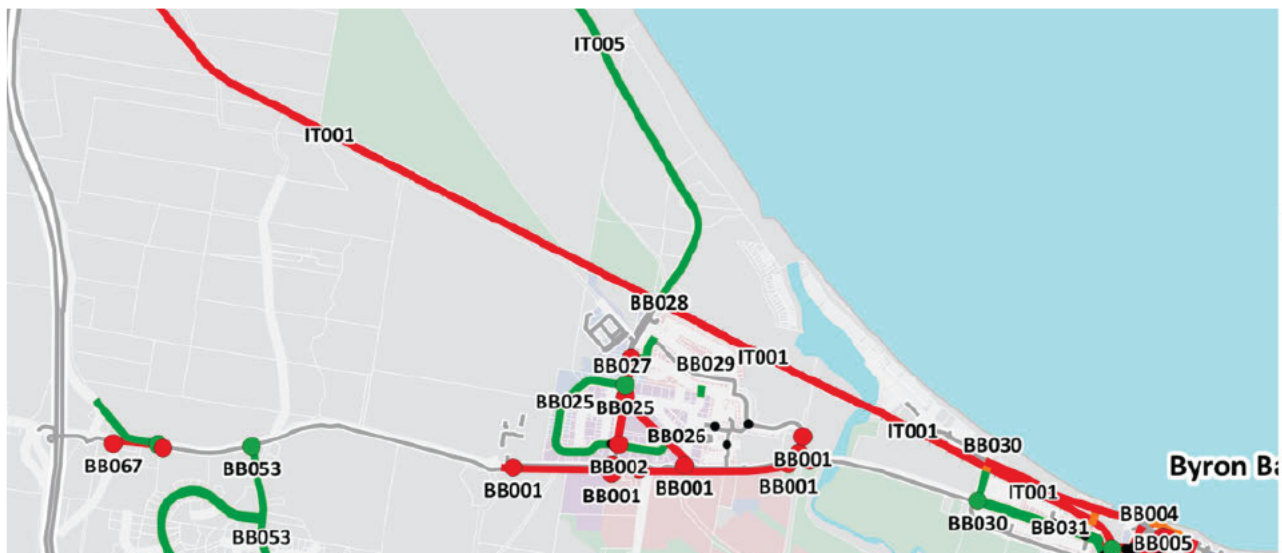
Submission on Changes to development controls for land at North Belongil Beach:

To whom it may concern,

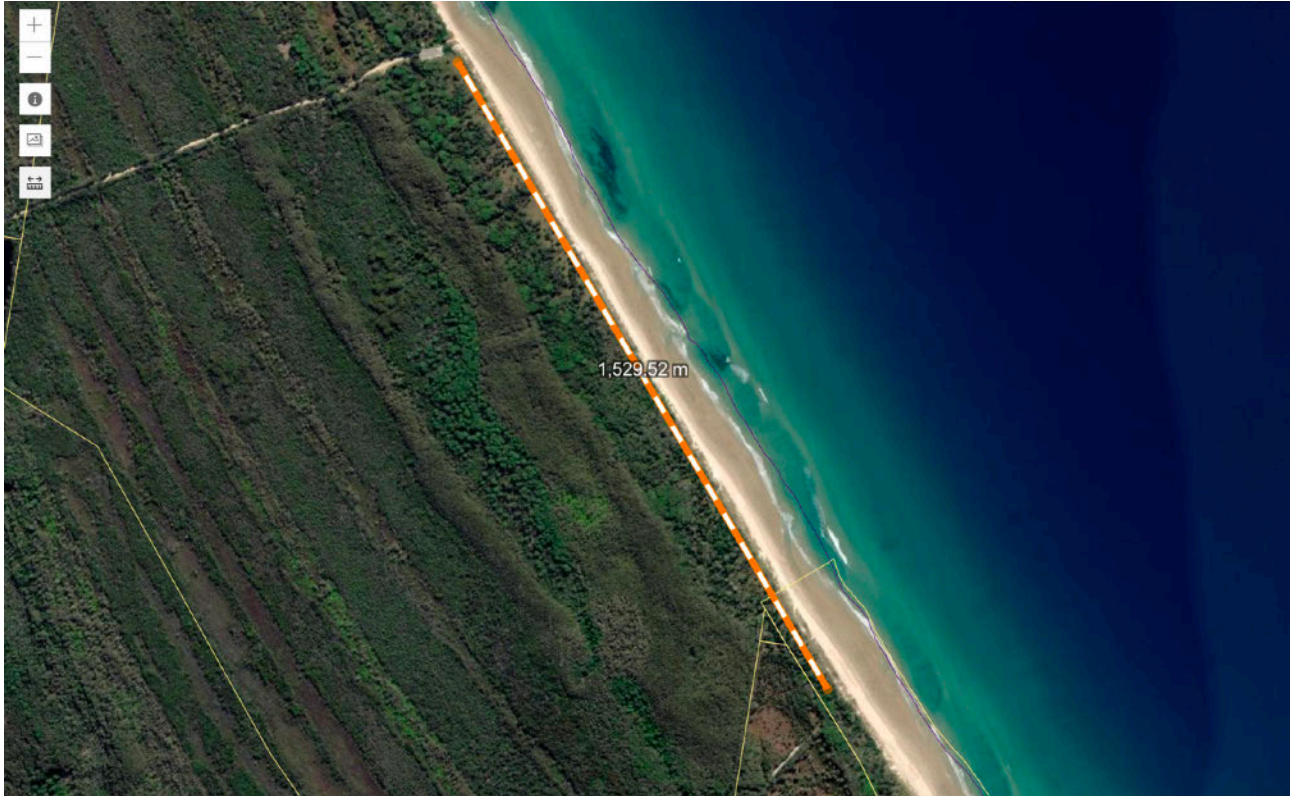
I write to comment on the exhibited Changes to development controls for land at North Belongil Beach.

While generally in support of the proposed DCP amendments, I encourage Council to include a clause in the revised DCP stipulating that future development and subdivision must allow for a shared path/cycleway connection from the northern termination of Bayshore Dr, through the proposed 'Precinct 3' area, to the northern corner of the site.

This will allow for alignment with the aims of the Byron Shire Bike Plan, specifically IT005 which aims to connect Byron Bay and Brunswick Heads via a coastal path. This route is a crucial link and future proofing it should be enshrined in the DCP for this development. Bike Plan excerpts below



Around 80% of the IT005 route from Brunswick Heads to Byron already exists via a fire trail that runs parallel to the beach from Brunswick Heads to the end of Grays Ln/Black Rock Rd. There is only a remaining 1.5km stretch from Greys Ln to the northern corner of the proposed development site. See below



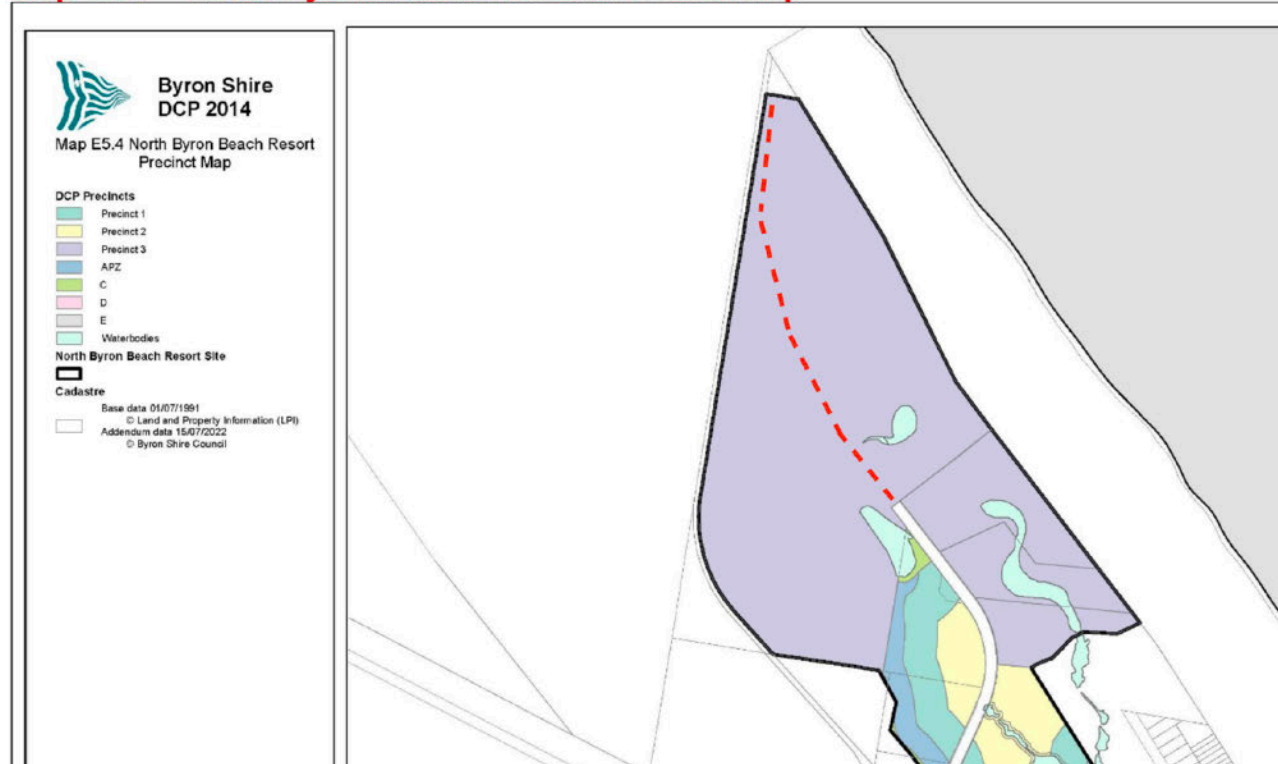
Within the subject site, there is an existing track that runs from the end of Bayshore Dr, roughly in alignment with the IT005 location on the Bike Plan, to the northern corner of 'Precinct 3'. See below



As such, Council should ensure this DCP prescribes that this path be retained in a reserve as part of any future subdivision plan.

See below a simple update to the proposed DCP precinct map that could ensure this item is given consideration in any future development.

Map E5.4 – North Byron Beach Resort Precinct Map



Please don't hesitate to contact me if you require any further information.

Regards,
Jack Dods

Member of Byron Shire Council's Moving Byron Committee

Submissions DCP 2014 Chapter E5 North Beach Belongil

Submission number: DCPE54

Name: Margaret Robertson

Feedback:

See attached

DCPE54\3177652\Submission on Changes to development controls for land at North Belongil Beach.docx

Submission on Changes to development controls for land at North Belongil Beach:

To Whom It May Concern

I noted in the currently exhibited changes to development controls for land at North Belongil Beach there is no provision for a shared bike path/cycleway connection from the northern termination of Bayshore Dr, through the proposed 'Precinct 3' area, to the northern corner of the site.

It is crucial approval of this development includes allocation of land and carriageway to allow for alignment with the aims of the Byron Shire Bike Plan, specifically IT005 which aims to connect Byron Bay and Brunswick Heads via a coastal path.

In 2024 it is expected provision for bikeways and pathways be included in all requests for Development in Byron Shire.

This DA should be no exception, indeed it is council's responsibility to ensure provision for bikeways and pathways are enshrined in the DCP for this development.

This will be the last opportunity for council to apply to their intention and sincerity regarding provision of public access paths.

I encourage BSC to protect public access through this proposed DA thereby permanently securing a continuous pathway across the shire.

Kind regards,

Margaret Robertson

Member of Byron Shire Council's Moving Byron Committee

Submission number: DCPE55

Name: Jan Rae

Feedback:

As a long term resident of Byron Shire (50 years) I would like to comment on the rampant development that this Council is allowing. The beachside land north and northwest of Elements must be protected as a Nature Reserve. It is full of birds and other wild life (incl. wallabies) This land is precious. This land is beautiful. It is why we love Byron..it is why people come here. NATURE , PEACE, BEAUTY. This is beach side land CANNOT be given over to the multimillionaires who are flocking here. The bird buddies are doing an admiral job. I live at _____ and have been walking this stretch of beach to Tyagarah almost on a daily basis (for 40 years) Don't allow the big money to build here. It is BSC 's job to protect what we've got. Dont allow it to be an extension of the Byron housing developments. Calling it 'Environmental Housing' without pets is an excuse. I make this submission with great concern for our special and very beautiful Byron Shire

Submission number: DCPE56

Name: Annie Villeseche

Feedback:

Thank you for this opportunity to comment on the draft Changes to Development Controls for Land at North Belongil Beach

RE Control to prohibit the keeping of cats and dogs within the area

I commend Council for including a control on the keeping of cats and dogs in this environmentally sensitive area.

I look forward to the implementation and enforcement of this control, which, I have been advised by a Council Officer, will “set the framework for Council to be able to apply conditions on future development consents within the proposed environmental living precinct area to restrict the keeping of both cats and dogs. As an example, this may take the form of legal restriction on the property title.”

Additional clause suggested

I urge Council to include a clause in the revised DCP, stipulating that future development and subdivision must allow for a shared path/cycleway connection from the northern end of Bayshore Dr, through the proposed ‘Precinct 3’ area, to the northern corner of the site. This will ensure that no obstacles can arise when implementing the cycleway between Brunswick Heads and Byron Bay (asper Byron Shire Bike Plan item IT005).

Around 80% of the IT005 route from Brunswick Heads to Byron already exists via a fire trail that runs parallel to the beach from Brunswick Heads to the end of Greys Ln/Black Rock Rd.

There is only a remaining 1.5km stretch from Greys Ln to the northern corner of the proposed development site. Within this site, there is an existing track that runs from the end of Bayshore Dr, roughly in alignment with the IT005 location on the Bike Plan, to the northern corner of ‘Precinct 3’.

Preserving access to this track is critical to the development of the long awaited Brunswick to Byron Cycle route.

Thank you and kind regards

Submission number: DCPE57

Name: Nicolas Pougnet

Feedback:

Nine houses over 40 hectares is a great outcome. The DCP information appears to contain design guidelines that would deliver a mini eco village.

I love it.

Submission number: DCPE58

Name: Dion Mcphee

Feedback:

In my opinion this light utilisation of the old golf course land will be of low impact to the surrounding communities.

It's not difficult to see that high wealth individuals will ultimately dwell here. These people that will reside across the nine dwellings will be welcomed and appreciated by the quirky and entrepreneurial businesses that make their home in the Byron Arts Estate.

Not only that, but to meet the standards that are being set for design and construction they require either a commitment to ecologically sensitive design.

Submission number: DCPE59

Name: Jay

Feedback:

Being a local resident myself, I'm fully supportive of these proposed amendments. The documentation describes this as a "low scale residential subdivision for single dwelling houses," which fits perfectly with our neighborhood. The interpretation of the C4 objectives for Precinct 3 feels like a step in the right direction, providing clear guidance while still leaving space for personal expression and choice. I can definitely see this new precinct becoming a standout example of sustainable development.

Submission number: DCPE510

Name: Abel

Feedback:

Section E5.7.9.4 Environmental Living (Precinct 3) includes a detailed guide for the nine lots that are planned for the site. It not only provides some comfort, this section of the DCP provides inspiration. I imagine it might influence other developments into the future. Also, I like the mix of uses that are now part of the "North Byron Beach Resort" land. Land set aside for nature, land for low impact residential living, land for tourism uses. And of course the treatment of the beach access is appreciated. I am very supportive, thank you.

Submission number: DCPE511

Name: Deborah Jorgensen

Feedback:

As a resident of having bought property abiding by and appreciating the amount of wildlife we used to enjoy- and still do in ever reducing numbers, and having followed the numerous correspondences with council re enforcing the "No cat or dog covenant" I can attest to the toothlessness of both the covenant and councils ability to address the ever growing number of domestic cats and dogs. If any further decisions , in favour of the environment, involving exclusion of cats and dogs is to be considered I believe council MUST be listed as a party with the landowners to the restrictions in order that meaningful enforcement is possible.

I wholeheartedly agree that the area concerned should be cat and dog free and I

Support for this. I believe the area should be extended and a Wildlife protection zone be created there was this is a very fragile area- and has

sites with ponds supporting birdlife

is adjacent to creek mouth bird nesting area

is situated between protected creek side forest in the south and Nature Reserve in the North, of which both support wildlife, and the proposed DCP site acts as a wildlife corridor linking these two areas of the site.

I thank you for my opportunity to express my support

Submission number: DCPE512

Name: Rohan Anderson

Feedback:

1. Any development should have zero impact on the foreshore environment.
2. Any development should support rather than inhibit the nude bathing community who come from all over the shire, the northern rivers, Gold Coast and Brisbane. They have been significant stakeholders for many years and the impact of projects on them is often played down, not taken seriously or or discredited because of their desire to be discreet.

Submission number: DCPE513

Name: Shari

Feedback:

There are some serious criteria here! Maybe not so great to attract buyers but great for locals. It sounds like the experience of walking to the beach will remain pleasant with the landscape buffer. I've got no issues with this. It's been talked about for a long time and we've all had a good run on their land. Thanks Peggy!

Submission number: DCPE514

Name: Haki

Feedback:

Pleased to see the beach access will be 20m wide as you go over the hill to the beach. That will give space for people to sit and relax still. The land should be better protected under this proposal than everybody having access 24/7.

For someone like me who lives in Byron, that is a great outcome!!

Submission number: DCPE515

Name: Emma

Feedback:

Such a thorough investigation into the use of this land near Elements. I congratulate Council on the draft DCP changes. I would like to see standards such as these applied further afield. Thank you

Submission number: DCPE516

Name: Graham Dunn

Feedback:

I was involved with this land purchased it.

Their purchase turned out to be a good thing for Byron.

They have invested a lot of money into regeneration and ecological studies and they have proven to be responsible guardians of the property.

I had a brief look at the DCP amendments. They go over and above in terms of ESD and ensuring a light footprint.

This has my support. Thank you.

Submission number: DCPE517

Name: Jade

Feedback:

I am happy to give my support here. There has been a lot of information shared over many years.

I like the way the views from the beach are being preserved. The way you won't see the houses. I like the restrictions on fencing. I think that will make a difference to the feel of the new neighborhood from the outside.

I will look forward to seeing the treatment of the public beach access.

Byron is always moving and in my mind this is a sensitive move forward for this precious land.

Submission number: DCPE518

Name: Jessica Newton

Feedback:

The proposed amendments in E5.7.9.4 Environmental Living (Precinct 3) represent, to me, responsible development. The guidelines will certainly be restrictive for the people who end up owning the lots. However from a community perspective this is a great step forward for Byron. And I imagine the future residents will be welcomed by the numerous businesses in the Arts and Industry Estate. I think it's a win win.

Submission number: DCPE519

Name: Rebecca Mason

Feedback:

Yes to the changes to development controls for land at North Belongil Beach. This is wonderful to see. The proposed amendments will provide protection for the land and amenity for both residents of the land there and residents in the surrounding locality.

The changes have been sensitively thought out and I congratulate Council on this.

Submission number: DCPE520

Name: Leila Stephenson

Feedback:

Yes to the changes to development controls for land at North Belongil Beach. This is wonderful to see. The proposed amendments will provide protection for the land and amenity for both residents of the land there and residents in the surrounding locality.

The changes have been sensitively thought out and I congratulate Council on this.

Submission number: DCPE521

Name: Michael Skinner

Feedback:

The proposed amendments in E5.7.9.4 Environmental Living (Precinct 3) represent, to me, responsible development. The guidelines will certainly be restrictive for the people who end up owning the lots. However from a community perspective this is a great step forward for Byron. And I imagine the future residents will be welcomed by the numerous businesses in the Arts and Industry Estate. I think it's a win win.

Submission number: DCPE522

Name: Monique Rutene

Feedback:

I can't see any reason not to support this. Apart from the fact that I wish I could own one of the lots and live there.. so here is my submission.

They have put a lot of work into this. The Design Guide is exceptional - these will be very high quality and sustainable homes.

I know it's hard for people to accept that the old golf course will be out of bounds but it wasn't ever public land anyway.

Submission number: DCPE523

Name: Nathan Littleford

Feedback:

I have known of this plan to create environmental living housing on the former golf course land for many years, and I have watched as all the planning stages were undertaken.

This still has my full support.

I found the criteria set out in the DCP to be very strict for any development, setting out reasonable restrictions on development in that site. It should be lovely when it's all completed.

Submission number: DCPE524

Name: Brad Cranfield

Feedback:

The changes to development controls for the land at “North Belongil Beach” the Byron Shire Council has placed on public exhibition could become the standard to which other residential developments (of a more exclusive nature) must adhere. There is certainly a lot of expense reflected in the standards.

We believe the use of this old golf course land for only nine houses is the best possible outcome. For the land itself, for the users of the resort and the local community.

Submission number: DCPE525

Name: Christian Sergiacomi

Feedback:

Once I found the actual detail for the DCP changes I was surprised by the amount of information put forward. There are no stones left unturned here.

Anybody that purchases land will need to commit, upfront, to a sensitive and thoughtful build.

This is impressive.

Submission number: DCPE526

Name: Jason Dunn

Feedback:

I'm supportive of this

The DCP standards being set here are very high.

This is a comprehensive and robust guide to planning on the C4 land and it continues the meticulous process that has brought the project to this stage.

Dogs should be able to live in the area, they are excellent companions and provide people with PTSD a way to heal. they are easily controlled relative to cats.

I can understand why cats would be excluded. However we have come a long way in our ability to manage dogs in sensitive areas.

Thank you.

Submission number: DCPE527

Name: Tim Keenan

Feedback:

The changes to development controls which Byron Shire Council has drafted reflect a high level of environmental sensitivity and design excellence. This is a rare low impact treatment for prime beachfront land.

Submission number: DCPE528

Name: Fraser Byrne

Feedback:

I cannot fault the draft DCP changes and I feel confident that these will result in a beachfront environment that Byron locals are happy with. The guidelines for bulk and scale, the guidelines for the siting of housing and the soft landscaped boundaries will make the transition from quasi public to private land easier.

Submission number: DCPE529

Name: Ed Thomas

Feedback:

The changes to development controls for land at North Belongil Beach have my support. Even though they are specifically for this site I expect that standards such as these will ultimately be applied to other land developments in the future. So much work has gone into this project over many years. I congratulate Council for steadfastly seeing this through.

Submission number: DCPE530

Name: Bryan Ebstyne

Feedback:

The proposed DCP amendments for the old nine-hole golf course, now poised for transformation into nine spacious allotments, represent a thoughtful balance between development and environmental stewardship. With a history stretching back to the 1980s and recent rezoning approvals, this project sets a benchmark for low-impact residential development that respects the site's ecological, scientific, and aesthetic values.

The decision to limit the building footprint to less than 3% on the 10.3 hectare cleared section, ensuring minimal disturbance to the land, aligns perfectly with the C4 Environmental Living zoning objectives. It's commendable that the project plans for single dwellings on each lot, preserving the area's tranquility and natural beauty, while dedicating a significant portion of the land to C2 and C3 conservation zonings.

This careful planning and commitment to conservation, especially preserving public beach access and safeguarding land with high environmental value, highlight the project's potential to serve as a model for responsible development in Byron and beyond.

I fully support the DCP amendments for this project, recognizing its potential to enhance our community while prioritizing environmental integrity.

Submission number: DCPE531

Name: Heather Devlin

Feedback:

Looks to me like a good proposal and ethically protects the area plus giving people a chance to live in a wonderful position.

Submission number: DCPE532

Name: Dave

Feedback:

The North Belongil DCP looks like it creates a framework to carry on the care of the old golf course land. I am in support.

Submission number: DCPE533

Name: Wayne John

Feedback:

The renewable energy performance criteria alone is impressive:

1. Ensure sufficient provision of solar panels and batteries and consider curating their location into the overall design.
2. Use of integrated rainwater tanks with the design of the dwelling.
3. Use of passive heating and cooling practices using screens and roof overhangs.

The proposed changes cover the scale of the housing to be built. They cover the style of housing – going into detail in many areas. There has clearly been high level architectural, landscaping and ESD input.

I cannot see any areas of contention here. Only an impressive guideline for development over this land. I give this my full support.

Submission number: DCPE534

Name: Gary Musty

Feedback:

I hope that any proposed changes will not affect the small 800m stretch of Clothing optional beach at Tyagarah, north of Byron.

Submission number: DCPE535

Name: Tara

Feedback:

I cannot see any problem with having only nine houses across all of that land.

The DCP covers off on all of the important factors to protect the land and to make sure that from a public perspective it continues to look appealing and natural.

You won't be able to see the houses from the beach and the beach access is going to be improved.

I am happy to support this.

Submission number: DCPE536

Name: John Lazarus

Feedback:

Chapter E5 Certain Locations in Byron Bay and Ewingsdale

Submission in opposition

Documents attached:

1) Byron Shire Council CONSTRUCTION CERTIFICATE REFUSAL

2) Notice of Determination: DA-10-2-2006-i

3) Developments adjacent to National Parks and Wildlife Service lands. Guidelines for consent and planning authorities

I support:

A) That the DCP process not proceed. And

B) That the previous Adoption of development over this part of the site proposed for this DCP Amendment, be Rescinded. And

C) That Council provides to the State Government Planning Minister, the documents attached to this Submission, with an assessment on the works done or Commenced in compliance with the Becton Consent. And seeks advice from the State Government Planning Minister on whether the 2006 State Government Planning Minister Frank Sartors Becton Consent is considered to be Commenced, and as such, seek advice on the lawful validity of all Council development Consents post 2006 that have not been referenced to, and based on Amending, the Becton Consent. And

D) Subject to that advice asserting that the Becton Consent has Commenced, that Council assess, and acts on, compliance of the Becton Consent Conditions, including the Condition that 57 hectares is required to be given to "an Agency" (being the forested area subject, in part, to this proposed DCP). And that Council support that "Agency" to be the National Parks and Wildlife Service)

I am Opposed to this proposal for a change to Development Controls to create a new development capacity for dwellings, and allege that all development since the Becton DA Consent appear to have been made in error and are invalid, for the following reason

1) Becton Consent Commenced - all of the post Becton Consents, and this DCP proposal, are invalid

I allege that the 7 September 2006 State Govt Planning Ministers Becton Consent , DA-10-2-2006-i, was Commenced, and that all development since then, that does not comply with the Becton Consent, and that has not referred to Amending the Becton Consent, is invalid, and has been falsely made by an invalid excess of Councils power to do so.

I further allege that the land subject to this proposed DCP Amendment, is land subject to the Commenced Becton DA Consent Condition, being the 57 hectares required to be given by Becton to "an Agency" as compensation for the increased development of the Becton DA Consent. The land subject to this proposed DCP is substantially forest connected to the adjacent Nature Reserve, and thus the land is likely to be added to the Nature Reserve under the Agency of the National Parks and Wildlife Service.

While Becton applied for a Construction Certificate, to confirm that the built construction plans are consistent with the DA, Becton commenced prior site works which identifies that the DA was Commenced - Noting Court precedents of just removing a bush, and just pegging out development sites equates as DA Commencement

2) Development of this site fails to completely comply with 2020 State Govt. directive for Councils to use Planning Powers to prohibit dogs in new developments adjacent to a Nature Reserve.

Councillors Amended the Staff Report that was attached to the DCP Amendment Motion, to include the prohibition on dogs as well as cats on private land, but the sites public road, which bisects the site, and the sites public reserves, should be Adopted as a Wildlife Protection Area as this site is adjacent to a Nature Reserve, and forms a wildlife corridor between the sites southern forest and the northern Nature Reserve

Re 1) Becton Consent Commenced - I allege that all of the additional post Becton Planning Consents, and this DCP proposal, appear to have been incorrectly made by an invalid excess of Councils power to lawfully do so.

Please find attached docs:

BSC's Becton CONSTRUCTION CERTIFICATE REFUSAL File No: SKM/93730D x C11.2006/776#1237563,

and

The NSW Govt Notice of Determination: Becton DA-10-2-2006-i , BSC Ref. #62-36-7 , NSW Dept of Planning Ref. 9037302 - "granted staged and deferred commencement consent for the abovementioned development, subject to conditions, on 28 August 2006. - The reasons for imposition of conditions is to:

protect biodiversity in terms of threatened species and endangered ecological communities that occurs within and adjacent to the site;

protect coastal process and the character of the NSW coastline."

Council declined to Pass the Becton CONSTRUCTION CERTIFICATE, and required a further identified number of items to be addressed to fulfil the Becton Consent. While unfulfilled Consent Conditions were identified in the Council rejected application for the CONSTRUCTION CERTIFICATE , conversely the NSW Govt Notice of Determination: document identifies the site developments that were completed.

Site works were completed (or commenced) prior to the Becton Application for the Council rejected Construction Certificate. The completion, or commencement, of these site developments evidences Commencement of the Becton DA Consent.

Some of the Becton DA's site and off site works completed, which appear to evidence that the DA Commenced, are:

a) '1.1. Stage I - the construction, ongoing operation and maintenance of 117 unit tourist resort facility (with floor space not exceeding 22,762 m²)' - There are over 200 units constructed

b) '1.3. Future Stages of the development shall be the subject of a separate development application and development consent. This development consent shall not operate until the Applicant has constructed: Only those roads associated with Stage 1 of the development shall be built including the upgrade of Bayshore Drive and internal access roads for buildings associated with Stage 1 of the development' - The upgrade of Bayshore Drive and internal roads were constructed, (Becton purchased from Council the part of Bayshore Drive that is within the site, redeveloped it, and gave it back to Council.).

c) "2.1. i) the deletion of the fire trail to the north east of the Village Centre and water bodies located on Lots 11-13 DP 243218." - the fire trail appears to have been deleted

d) "iv) the removal of all existing units/structures on Lot 6 DP 243218, with the area to be revegetated and rehabilitated to form an effective wildlife corridor in order to satisfactorily address objective 1.4.5 of Byron DCP 18 — Becton Site and Adjoining Lands Byron Bay." - Units/structures on Lot 6 DP 243218 appear to have been removed and works done to provide the wildlife corridor

e) "v) The demolition of the Bayshore Building." - The Bayshore Building was demolished

f) "b) That part of Lots 11-13 in DP 243218 north eastern part of the waterbodies shall be consolidated with Lot 9 and the balance shall be consolidated and become a new Lot 8, retaining an easement for public access to the beach and an easement for conservation." - An easement for public access to the beach has been retained and constructed

g) " Environmental Management Requirements Dune Management. 4.26. Prior to the issue of a construction certificate for the development, and prior to any works occurring on the foredune,... shall address the following requirements: a) Demolition of the Bayshore Building and prohibition on the replacement of the Building with any other structure." The Bayshore Building was demolished prior to the Application for the Construction Certificate

h) " f) A thorough assessment of the manner of management of the Belongil estuary track to ensure its use for emergency access only, future management of new unauthorised tracks and vandalised areas" - Belongil and unauthorised tracks closed by construction of fencing along rail track

i) " g) Provision for the design and construction of the new beach access track to be undertaken in consultation with Department of Lands, Department of Natural Resources and Byron Shire Council"- New beach access track constructed

j) " 4.27 The Applicant shall ensure that existing beach access tracks scattered across the site are closed and rehabilitated and that access to the beach is limited to one controlled access point and a single emergency access point. Tracks to be closed include those tracks through the littoral rainforest In the southern section of the site and the track through the Swamp Box and Wallum Banksia woodland vegetation in the north-west section of the site." - All scattered existing beach access tracks, and tracks through the littoral rainforest in the southern section of the site, and the track through the Swamp Box and Wallum Banksia woodland vegetation in the north-west section of the site, were deconstructed, rehabilitated, and closed, and one controlled beach access point constructed.

k) " Landscaping and Revegetation of Lands."

"4.30 The Applicant shall ensure that all revegetation/rehabilitation works are undertaken in accordance with the approved Ecological Restoration and Revegetation Plan referred to in condition 2.1." - Revegetation/rehabilitation works were undertaken. And

"4.33 On completion of revegetation works, no less than 57 hectares of vegetated and rehabilitated land in the north and west of the site is to be formally transferred to an appropriate public authority, or other appropriate party agreed by the Director-General." - The 57 hectares has not been transferred, and this 57 hectares of dominantly forest is now subject to Councils DCP Amendment to create a new capacity of housing development

l) " Traffic, Parking and Transport Infrastructure Requirements Works within the Road Reserve "

"4.39 9 Consent from Council shall be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans shall accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Specification for Engineering Works and are to provide the following works:

a) Road Reserve Widening: The road reserve for Bayshore Drive and the dedicated road reserve, formerly Lot 100, shall be widened and dedicated as Road Reserve to Council, for at least 1.0 metre wider than the constructed road formation including the roundabout and indented car parking bays." - Widened road and indented car parking bays Constructed

b) Kerb and Gutter and Road Pavement, Bayshore Drive (Ewingsdale Road to Railway Line): Kerb and gutter, road pavement and associated drainage construction, footpath formation including any necessary relocation of services shall be undertaken by the Applicant as follows: i) Sunrise Boulevard to the Railway Line — an 11.0 metre pavement with vertical face kerb and gutter, AC road seal, concrete cycleway along the eastern side, pram ramps, linemarking and signage." - Construction completed of 11.0 metre pavement etc, with vertical face kerb and gutter, AC road seal, concrete cycleway along the eastern side, pram ramps, linemarking and signage from Sunrise Boulevard to the Railway Line.

m) " Railway Crossing Works: The existing North Coast Railway line is still operational and is only controlled by flashing signals for vehicular traffic. The Applicant shall arrange for this crossing to be upgraded to manage the increased vehicle, pedestrian and cycle traffic expected in and out of the resort. The design of the upgraded rail crossing shall be provided in accordance with relevant rail

standards. The design of the upgrade shall be undertaken in consultation with the relevant rail authority that manages the Byron railway line. Approval is required for the upgrading works at the railway crossing from the Australian Rail Track Corporation (ARTC)/State Rail, including access crossing for cyclists and pedestrians" - Railway crossing has been upgraded.

n) " 4.40 The Applicant shall meet 50% of the cost of the upgrade to the intersection of Ewingsdale Road and Bayshore Drive to a roundabout designed in accordance with AUSTROADS design standards for roundabouts. Plans for the roundabout are to be submitted to Council for approval and must be prepared in accordance with the current Australian Standards and Council's current AusSpec Design and Construction Manuals and be accompanied by AusSpec's Design Checklist in accordance with Specification DOS. Unless otherwise agreed by the Director-General, implementation of these road works is not required until such time as traffic generated by the development exceeds the traffic generated by the existing development on the site, or within two years of the issue of the first Subdivision Certificate, whichever is the sooner." - Roundabout at the intersection of Ewingsdale Road and Bayshore Drive constructed, and 50% of cost paid (BSC paid the other 50% of cost).

o) " 4.48 The Applicant shall provide a total of 45 car parking spaces along Bayshore Drive in indented parking bays and a total of 30 bike racks equally divided between Bayshore Drive and the Village Centre. This allowance for vehicle parking is in addition to the overflow carpark areas to be provided on the south-western side of the site and in addition to carparking provided as part of the tourist accommodation units." - 45 car parking spaces along Bayshore Drive in indented parking bays Constructed. Overflow carpark areas on the south-western side of the site Constructed

2) Development of this site fails to comply with the 2020 Guidelines for Consent and Planning authorities, issued by the State of NSW and Department of Planning, Industry and Environment, for Developments adjacent to National Parks and Wildlife Service lands - " These guidelines have been prepared for use by councils and other planning authorities when they assess development applications that may impact on land and water bodies managed by the National Parks and Wildlife Service (NPWS)." "Councils and other consent authorities need to consider the following issues when assessing proposals adjacent to NPWS land and, in particular, their impacts on the park, its values and NPWS management of the park: in terms of management implications relating to pests, weeds and edge effects" "Aim - Adjoining or nearby development does not: • lead to increased impacts from domestic pets. Risks to NPWS land - disturbance and predation by domestic pets. The management of companion animals, such as cats and dogs, is a particular challenge for developments close to NPWS land. NPWS recommends that planning authorities investigate all available options for minimising the risks from domestic pets that may arise from new development. This includes restrictive covenants where legally possible."

The site is between a Nature Reserve in the north and environmentally protected forest and riparian land in the south. I submit that "all available options' include BSC Adopting that all of the sites public roads and reserves should be Adopted as Wildlife Protection Areas, in addition to prohibiting cats and dogs from entering and being kept on the sites private lands

DCPE536\3177652\developments-adjacent-npws-lands-200362.pdf

DCPE536\3177652\11.2006.776 construction certificate refusal-1.pdf



Environmental Planning and Assessment Amendment Regulation 2001

Byron Shire Council

CONSTRUCTION CERTIFICATE REFUSAL

(Issued Under Section 109C(1)(b), 81A(2) and 81A(4) of the EP & A Act 1979)

Cardno Qld Pty Ltd
ATTN: Mr S Colloty
PO Box 391
NERANG QLD 4211

FILE COPY

Construction Certificate No. 11.2006.776

Property Description: LOT: 1 DP: 190757
Bayshore Drive BYRON BAY 2481

Development Application No. 10.2006.776

Description of Development: Civil Works, Roads, Sewer, Water Main, Utility , Conduits & Drainage

Plans and Specifications: In accordance with the enclosed Schedule 1
Reason/s for Refusal:

- 1. The attached Conditions of Development Approval DA-10-2-2006-i, required to be complied with prior to the issue of the Construction Certificate have not been satisfied. Please refer to enclosed Schedule 2.***
- 2. Information as requested on Council correspondence dated 26 June 2008 has not been provided, as follows:***

a) Provide the following outstanding items:

Required	Condition No applying
Copy of documents approved by Dept of Planning including required amendments as per their letter of 23/5/08	2
Licence required under Part 5 of the Water Act (Dept of Natural Resources)	3.5
Documentary evidence that requirements of relevant utility provider(s) have been met	4.21
Delapidation report for adjoining roads	4.22
\$10,000 Bond	4.25

ALL COMMUNICATIONS TO BE ADDRESSED TO THE GENERAL MANAGER

PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)
Tel: (02) 6626 7000 DX 20007 Mullumbimby
Fax: (02) 6684 3018 Email: council@byron.nsw.gov.au
Web: www.byron.nsw.gov.au ABN:14 472 131 473

Documentary evidence that road widening required has been dedicated as road reserve	4.39 a)
Roadside furniture relevant to road to be shown on design drawings	4.39 j)
Roundabout – signs, line marking, night time visibility to be shown on design drawings	4.39 m)
Bus Shelter – infrastructure eg pad, electricals etc to be shown on design drawings	4.39 n)
Traffic counts at time of DA submission	4.39 j)
Details of street lighting to be shown on design drawings	4.42
Bollards to be shown on design drawings	4.49
Traffic Management Plan	4.52
Contributions – full amount to be paid	4.60

Right of Appeal:

Under Section 109K of the Environmental Planning and Assessment Act, an applicant may appeal to the Land and Environment Court against the refusal to issue a Construction Certificate within 12 months from the date of the decision.



31 May 2012

Date of Endorsement

Wayne Bertram
Manager Development Assessment & Certification

Building Professionals Board No: 1569 (A1)



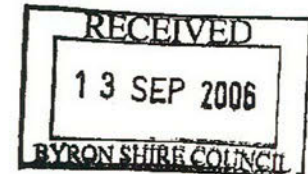
NSW GOVERNMENT
Department of Planning

7 September 2006

Contact: Ingrid Ilias
Phone: 02 9228 6411
Fax: 02 9228 6366
Email: ingrid.ilias@planning.nsw.gov.au

Our ref: 9037302

Ms Pamela Westing
The General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482



Dear Ms Westing

Notice of Determination: DA-10-2-2006-I

Proposal by Becton to Demolish Existing Structures, Erect a Tourist Facility and Carry out Environmental Repair to Create a Conservation Area at North Beach, Byron Local Government Area

The Minister for Planning, the Hon Frank Sartor MP, granted staged and deferred commencement consent for the abovementioned development, subject to conditions, on 28 August 2006.

I have attached two copies of the consent and would appreciate it if you would place one copy on exhibition at your offices.

If the Applicant, S J Connelly Pty Limited, is dissatisfied with this decision, it may appeal the decision within 12 months from the notice of determination under section 97 of the *Environmental Planning and Assessment Act 1979* with respect to the development application.

If you have any further enquiries about the development, please do not hesitate to contact Ingrid Ilias on (02) 9228 6411 or via email at ingrid.ilias@planning.nsw.gov.au or the undersigned on (02) 9228 6426.

Yours sincerely

Scott Jeffries
Manager, Critical Infrastructure and Special Projects



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Title and reference number of the development.	Proposal by Becton to Demolish Existing Structures, Erect a Tourist Facility and Carry out Environmental Repair to Create a Conservation Area at North Beach, Byron Local Government Area Reference Number: DA-10-2-2006-i
Name of Applicant	S J Connelly Pty Limited
Has consent been granted or refused?	Staged and Deferred Commencement Consent has been granted.
Was consent subject to conditions?	Yes
Reasons for the imposition of conditions	<p>The reasons for imposition of conditions is to:</p> <ul style="list-style-type: none">• encourage good urban design and a high standard of architecture;• protect biodiversity in terms of threatened species and endangered ecological communities that occurs within and adjacent to the site;• maintain the amenity of the local area;• provide asset protection zones in relation to bushfire management;• protect coastal process and the character of the NSW coastline.
The date on which consent was granted.	28 August 2006
The date that this consent operates.	The deferred commencement consent operates when the Applicant has satisfied certain conditions in accordance with section 80 (3) of the <i>Environmental Planning and Assessment Act 1979</i> .
The date on which this consent would lapse.	Pursuant to section 95(1) of the <i>Environmental Planning and Assessment Act 1979</i> , the development consent is liable to lapse five years after the date from which it initially operates.
Was a public inquiry under section 119 of the EP&A Act held?	No
Does the EP&A Act give rights of appeal to the Applicant?	Yes. Under section 97 of the <i>Environmental Planning and Assessment Act 1979</i> the Applicant may appeal the Minister's determination to the Land and Environment Court within 12 months of being given notice of the determination.
Does the EP&A Act give rights of appeal to an objector?	There are no appeal rights for an objector under section 98 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act).
Can I inspect the instrument of consent?	<p>Yes, at the following locations:</p> <ul style="list-style-type: none">• the Department's Information Centre, 23-33 Bridge Street Sydney; or• the Department's website, www.planning.nsw.gov.au (go to major project assessment/ notices of determination); or• Byron Shire Council, 70-90 Station Street, Mullumbimby.

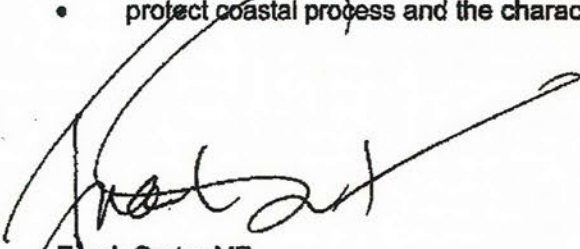
Staged and Deferred Development Consent

Sections 80(3), 80(4) and 80(5) of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, pursuant to sections 80(3), 80(4) and 80(5) of the *Environmental Planning and Assessment Act 1979*, grant **staged** and **deferred commencement** consent to the development referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- encourage good urban design and a high standard of architecture;
- protect biodiversity in terms of threatened species and endangered ecological communities that occurs within and adjacent to the site;
- maintain the amenity of the local area;
- provide asset protection zones in relation to bushfire management;
- protect coastal process and the character of the NSW coastline.



Frank Sartor MP
Minister for Planning

28 AUG 2006

Sydney

2006

File No: 9037302

SCHEDULE 1

Development Application: DA-10-2-2006-1

Application made by: S J Connelly Pty Limited

To: Minister for Planning

In respect of: Lots 2-35 and 44 Section 7, DP 1623; Lots 16-23 Section 6, DP 1623; Lots 1 and 2 and 6-10 DP 243218; Lots 447, 449 and 450, DP 812102; Lot 1, DP 780243; Lot 2 DP 620642; Lot 1 DP 190757; Lots 11-13 in DP 243218 and that part of Bayshore Drive formerly referred to as Lot 100 DP 849102, Bayshore Drive, Byron Bay.

For the following: The staged construction and operation of a tourist resort facility with total floor space of 33,420 m², comprising:
Stage 1 - the construction, ongoing operation and maintenance of 117 unit tourist resort facility (with floor space not exceeding 22,762 m²) and the provision of environmental repair and habitat conservation measures over the site, Community Title subdivision and Strata Title subdivision.
Future Stages - the construction, ongoing operation and maintenance of tourist resort facility with an additional 10,658 m² of floor space.

KEY TO CONDITIONS

1. STAGED DEVELOPMENT REQUIREMENTS	4
2. DEFERRED COMMENCEMENT REQUIREMENTS	4
3. ADMINISTRATIVE CONDITIONS	6
Terms of Approval	6
Limits of Approval	6
Statutory Requirements	6
Prescribed Conditions	6
Surrender of Development Consents	6
Dispute Resolution	7
Compliance	7
4. CONDITIONS PRECEDENT TO CONSTRUCTION CERTIFICATION	7
Building Design and Performance Requirements	7
Infrastructure and Utilities	10
Environmental Management Requirements	10
Traffic, Parking and Transport Infrastructure Requirements	12
Stormwater and Drainage Works	16
Contributions to Public Infrastructure and Services	17
5. CONDITIONS PRECEDENT TO THE COMMENCEMENT OF WORKS	18
Demolition Works	18
Excavation Works	18
Construction Works	18
Construction Management	18
6. CONDITIONS DURING CONSTRUCTION AND DEMOLITION WORKS	20
Building Design and Performance Requirements	20
Environmental Management Requirements	20
7. CONDITIONS PRECEDENT TO SUBDIVISION OR STRATA SUBDIVISION	24
Access	24
Services	24
Common Areas and Facilities	24
Part 4A Certification	24
Community Management Statement	24
8. CONDITIONS PRECEDENT TO OCCUPATION CERTIFICATION	27
Building Design and Performance Requirements	27
Fire Safety	28
Structural Inspection Certificate	28
Registration of Easements	28
Environmental Education Signage	28
Voluntary Conservation Agreement	29
9. CONDITIONS DURING OCCUPATION	30
Use as a Tourist Resort	30
Traffic and Parking	30
Wastewater Management	30

SCHEDULE 2

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
Applicant, the	S J Connelly Pty Limited or any party acting upon this consent
BCA, the	Building Code of Australia
Conditions of Consent	The Minister's conditions of consent for the development
Council	Byron Shire Council
DEC	Department of Environment and Conservation
Department, the	Department of Planning.
Director-General, the	Director-General of the Department of Planning (or delegate).
Director-General's Approval	<p>A written approval from the Director-General (or delegate).</p> <p>Where the Director-General's Approval is required under a condition the Director-General will endeavour to provide a response within one month of receiving an approval request. The Director-General may ask for additional information if the approval request is considered incomplete. When further information is requested the time taken for the Applicant to respond in writing will be added to the one month period.</p>
EPA	Environment Protection Authority as part of the Department of Environment and Conservation
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act 1997</i>
Minister, the	Minister for Planning.
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
Site	Land to which development application DA-10-2-2006-I applies.

1. STAGED DEVELOPMENT REQUIREMENTS

- 1.1 In accordance with sections 80(4) and 80(5), and Division 2A of Part 4 of the *Environmental Planning and Assessment Act 1979*, the development shall be undertaken in stages, as follows:
- a) **Stage 1** - the construction, ongoing operation and maintenance of 117 unit tourist resort facility (with floor space not exceeding 22,762 m²) and the provision of environmental repair and habitat conservation measures over the site, Community Title subdivision and Strata Title subdivision; and
 - b) **Future Stages** - the construction, ongoing operation and maintenance of tourist resort facility with an additional 10,658 m² of floor space.
- 1.2 Stage 1 of the development may commence immediately upon satisfaction of the conditions of this consent.
- 1.3 Future Stages of the development shall be the subject of a separate development application and development consent, in accordance with the *Environmental Planning and Assessment Act 1979*.

2. DEFERRED COMMENCEMENT REQUIREMENTS

- 2.1 In accordance with section 80(3) of the *Environmental Planning and Assessment Act 1979*, this development consent shall not operate until the Applicant has:
- a) submitted to the satisfaction of the Director-General, amended plans at an appropriate scale, with larger scale detail plans provided as necessary, incorporating the following changes:
 - i) All roads solely associated with the Future Stages land are not permitted to be constructed as part of this consent. Only those roads associated with Stage 1 of the development shall be built including the upgrade of Bayshore Drive and internal access roads for buildings associated with Stage 1 of the development. The internal road network shall ensure that access to all buildings is possible with the minimum amount of road construction, subject to compliance with the requirements of *Planning for Bushfire Protection 2001* with regard to perimeter access roads and road construction requirements for access by emergency vehicle in the event of a bushfire. This will involve truncation of Road MCC1 and the deletion of the fire trail to the north east of the Village Centre and water bodies located on Lots 11-13 DP 243218.
 - ii) Due to potential privacy impacts between villas in the far eastern part of Precinct 1 and the far western part of Precinct 1, four buildings are to be deleted, or otherwise re-oriented/ modified to the satisfaction of the Director-General to remove potential privacy impacts. One building (comprising Building Type B1) is to be deleted, or re-oriented/ modified, from the western part of Precinct 1 and three buildings (comprising Building Type B1, Building Type C and Building Type E) are to be deleted, or re-oriented/ modified, from the eastern part of Precinct 1. The buildings to be deleted, or re-oriented/ modified include Units 9, 10 and 17 (refer Hotel Villa Landscape Plan Lot 4 Plan No. 10), Units 26 and 27 (refer Hotel Villa Landscape Plan Lot 5 Plan No. 11) and Unit 2 (refer Hotel Villa Landscape Plan Lot 7 Plan No. 14).
 - iii) Three Type S buildings located to the east of Waterbody No.4 shall be re-oriented so that the living areas of each unit face north. The buildings to be re-oriented are identified as comprising Units 3 through to 9 inclusive on Hotel Villa Landscape Plan Lot 5 Plan No 12.
 - iv) Reflecting the removal of all existing units/structures on Lot 6 DP 243218, with the area to be revegetated and rehabilitated to form an effective wildlife corridor in order to satisfactorily address objective 1.4.5 of Byron DCP 18 - Becton Site and Adjoining Lands Byron Bay.
 - v) The demolition of the Bayshore Building.
- The amended plans shall be accompanied by evidence that the Rural Fire Service raises no objection to the amendments, consistent with the requirements of condition 4.17 of this consent.

- b) submitted to the satisfaction of the Director-General, amended subdivision plans for the community title subdivision at an appropriate scale, with larger scale detail plans provided as necessary, incorporating the following changes:
 - i) Lot 6 in DP 243218 is to be consolidated with Lot 9.
 - ii) Part Lots 8 shall be consolidated with Part Lots 7.
 - iii) That part of Lots 11-13 in DP 243218 north eastern part of the waterbodies shall be consolidated with Lot 9 and the balance shall be consolidated and become a new Lot 8, retaining an easement for public access to the beach and an easement for conservation.
- c) submitted to the satisfaction of the Director-General, a draft strata title subdivision plan for each lot contained within the community title subdivision at an appropriate scale, with larger scale detail plans provided as necessary.
- d) submitted to the satisfaction of the Director-General, an Ecological Restoration and Vegetation Management Plan for the site prepared by a suitably qualified and experienced ecologist and a suitably qualified and experienced landscape architect. The Plan shall include the following:
 - i) mapping at a scale of 1:500 or larger to accurately show the boundaries of the endangered ecological communities (as listed under the Threatened Species Conservation Act, 1995) that occur on the site.
 - ii) a detailed tree removal and retention plan, including a schedule of trees to be removed, at a scale of 1: 500 or larger to reflect the amended lot layout plan and APZs for bushfire protection, with all trees to be removed identified to species and clearly shown on the plan;
 - iii) a plan at 1: 500 scale or larger showing the locations of protective fencing where necessary to be erected prior to the commencement of any works, to protect the EECs described in i) above, and all other vegetation, individual stands of retained trees and individual retained trees;
 - iv) details of protective fencing to be employed to protect the EECs, vegetation, stands of trees and individual trees as described in iii) above;
 - v) a revised plan for vegetation restoration on the site, including a plan at 1:500 scale or larger showing all areas within the site and specifically in the Conservation Lot (Lot 9) where weed removal is to be undertaken and where vegetation is to be rehabilitated and/or replanted. The revised plan is to incorporate an action plan with timetable indicating how the restoration will be staged, weed control methods to be used, a vegetation monitoring program and contingency measures to deal with any unsatisfactory issues revealed through monitoring.
 - vi) schedules of locally occurring native tree, shrub and groundcover species to be planted as part of the vegetation restoration and in the landscaping proposed for the development area. Information is to include the designated locations for each species, the number and density of plants involved.
- e) submitted to the satisfaction of the Director-General, an Ecological Restoration and Vegetation Management Plan for the revegetation and rehabilitation of Lot 6 in DP243218 as an effective wildlife corridor. The Plan shall incorporate the following:
 - i) the removal of all existing cabins and other structures in Lot 6 DP 243218;
 - ii) the restoration of vegetation with dense planting of swamp mahogany species in accordance with (d) above;
 - iii) the reconstruction of that section of Bayshore Drive that passes through the corridor to incorporate three 1.5 x 1.5 m box culverts to allow for the movement of wildlife under and across the road;
- f) received written and dated confirmation from the Director-General that the requirements of this condition have been met to the satisfaction of the Director-General. The date of endorsement of the written confirmation shall be the date from which this consent becomes active and from which all conditions of this consent apply.

3. ADMINISTRATIVE CONDITIONS

Terms of Approval

- 3.1 The Applicant shall carry out the development generally in accordance with:
- Development Application DA-10-2-2006-i;
 - Statement of Environmental Effects: North Beach Byron dated July 2005 and amended January 2006 and prepared by S J Connelly Pty Limited;
 - Technical Appendix Volumes accompanying DA-10-2-2006-i;
 - North Beach Byron Plan Set dated July 2005 and amended January 2006 and prepared by S J Connelly Pty Limited;
 - Species Impact Statement (Volumes 1, 2 and 3) dated January 2006 and prepared by Peter Parker Environmental Consultants Pty Ltd;
 - additional information provided in relation to the Species Impact Statement and dated 22 June 2006;
 - the plans and drawings submitted to the Director-General in accordance with condition 2.1; and
 - the conditions of this consent.
- 3.2 If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.
- 3.3 The Applicant shall comply with any reasonable requirement(s) of the Director-General arising from the Department's assessment of:
- any reports, plans or correspondence that are submitted in accordance with this consent; and
 - the implementation of any actions or measures contained in these reports, plans or correspondence

Limits of Approval

- 3.4 The Applicant is required to demolish existing timber cabins on Lot 6 DP 243218, known as "Belongil Wood". Demolition of the cabins shall commence when 70% of the units the subject of this consent have been constructed or within three years of the commencement of construction, whichever is the sooner. All cabins shall be demolished prior to commencement of construction of the final 30% of units the subject of this development consent.

Statutory Requirements

- 3.5 ¹The Applicant shall ensure that all licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the project. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

Prescribed Conditions

- 3.6 The Applicant shall comply with the prescribed conditions under clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

Surrender of Development Consents

- 3.7 In order for the development of land to proceed in a coordinated and orderly manner and to avoid potential conflicts with this consent, the Applicant shall, with the registration of the first Community Titled Subdivision for the site and in the manner prescribed by clause 97 of the *Environmental Planning and Assessment Regulation 2000*, surrender all previous development consents related to the site, with the exception of the following consents as indicated on Plan 4.3.1 (page 184) of the SEE (July 2005 and amended January 2006):
- DA 95/197 – erection of restaurant, bar and kitchen; and
 - DA 2002.423.1 – change of use, restaurant to hotel
- The surrender of the development consents shall not affect the Council sewage entitlement for the site at the date of issue of this consent.

¹ Incorporates a Department of Natural Resources General Term of Approval
NSW Government
Department of Planning

Dispute Resolution

- 3.8 In the event that a dispute arises between the Applicant and Council or the Applicant and a public authority other than the Department, in relation to a specification or requirement applicable under this consent, the matter may be referred by either party to the Director-General, or if not resolved, to the Minister, whose determination of the dispute shall be final and binding on all parties. For the purpose of this condition, "public authority" has the same meaning as provided under section 4 of the *Environmental Planning and Assessment Act 1979*.

Compliance

- 3.9 The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- 3.10 The Applicant shall be responsible for environmental impacts resulting from the actions of all persons on the site, including contractors, subcontractors and visitors.
- 3.11 Prior to each of the following listed events, or within such period otherwise agreed by the Director-General, the Applicant shall certify in writing to the satisfaction of the Director-General that it has complied with all conditions of this consent applicable prior to that event. Where an event is to be undertaken in stages, the Applicant may, subject to the agreement of the Director-General, stage the submission of compliance certification consistent with the staging of activities relating to that event.
- a) commencement of construction of development; and
 - b) commencement of operation of the development.
- 3.12 Notwithstanding condition 3.11 of this consent, the Director-General may require an update report on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the requirements of the Director-General and be submitted within such period as the Director-General may agree.
- 3.13 The Applicant shall meet the requirements of the Director-General in respect of the implementation of any measure necessary to ensure compliance with the conditions of this consent, and general consistency with the documents listed under condition 3.1 of this consent. The Director-General may direct that such a measure be implemented in response to the information contained within any report, plan, correspondence or other document submitted in accordance with the conditions of this consent, within such time as the Director-General may agree.

4. CONDITIONS PRECEDENT TO CONSTRUCTION CERTIFICATION

Building Design and Performance Requirements

Accessibility

- 4.1 A percentage of accommodation units need to conform to the accessibility standards set out in Australian Standard 1428, Parts 1 and 2. The Applicant shall submit amended plans with an application for the construction certificate showing the following accessibility requirements for the development:
- a) one of the ground floor hotel suites, one of the units within a "C" type building, one of the "Unit 2" units within the "D" type building and one of the units within a "E" type building are to be made accessible (a total of 4 units);
 - b) the units are to comply with the requirements of AS1428 and the use of a chair lift for access into the ground level is acceptable if an appropriate ramp would be too long. Access is not required to the upper level of the units within building types "C", "D" or "E";
 - c) an accessible parking space is to be provided adjacent to each accessible unit;
 - d) an accessible path of travel is to be provided from each accessible unit to the parking space and from the unit to each of the facilities (identified below in condition B1(e)) available within the site; and

- e) the resort management, conference rooms, health spa, café/store, juice bar, reception, change rooms and pool are to be made accessible in accordance with the requirements of AS1428 by use of appropriate ramps and one parking space opposite the bus stop is to be a designated accessible parking space.

Height

- 4.2 The Applicant shall submit amended plans with the application for a construction certificate showing the following changes in order to meet height controls associated with Byron LEP 1988:
 - a) hotel villa 1 on Lot 7 is to have its ground floor to ceiling height reduced to no more than 2.84m and its first floor to ceiling height increased to no more than 2.87m;
 - b) hotel villa 2 on Lot 7 is to have its ground floor to ceiling height reduced to no more than 2.59m and its first floor to ceiling height increased to no more than 3.12m;
 - c) hotel villas 5/6 on Lot 7 are to have their ground floor to ceiling height reduced to no more than 2.59m; and
 - d) hotel villas 7/8 on Lot 7 are to have the topmost part of the ridge reduced by a minimum of 190mm, to a maximum height of RL10.75 AHD.

Outdoor Lighting

- 4.3 All outdoor lighting shall comply with, where relevant, *AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting* and *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*. The Applicant shall demonstrate compliance with these standards to the satisfaction of the Principal Certifying Authority prior to the issue of a construction certificate.

Water Ratings, Supply and Disposal

- 4.4 All water fixtures installed within the premises are to have an AAA water rating or more. The Applicant shall submit to the Principal Certifying Authority a statement demonstrating compliance with the requirements of this condition.
- 4.5 The Applicant shall obtain an approval under section 68 of the *Local Government Act 1993* to carry out water supply work and sewerage work, as relevant.
- 4.6 The Applicant shall make satisfactory arrangements for the provision of water and sewer services to the land. A copy of the Certificate of Compliance under s305 of the *Water Management Act 2000* is to be obtained prior to the issue of a construction certificate.

Clotheslines

- 4.7 The Applicant shall submit to the Principal Certifying Authority a plan and written statement identifying the location of clothes drying lines installed such that they are not visible from the public domain.

Sauna/Steam Room Construction

- 4.8 All saunas/steam rooms provided for the use of the public shall be:
 - a) located, constructed, equipped and finished so that they can be maintained in a safe and sanitary condition;
 - b) designed and constructed such that any metal parts within three metres of the bath, tub or sauna, heating units, lighting units, electrical fixtures, motors, conduits and outlets are installed in a safe manner that protects the bather from injury;
 - c) designed and constructed so that entry can be prevented when the facility is not open for use;
 - d) equipped with hose connections installed in a convenient and safe location for the sanitary operation of the facility;
 - e) constructed so that water and air temperature can be thermostatically controlled;
 - f) steam rooms shall be constructed so that:
 - i) a thermometer with an appropriate and clearly visible Celsius scale is located in a prominent place within the room;

- ii) a clock is available and easily read either, in the room or, from the door or window;
- iii) the door can be opened easily without resistance;
- iv) full view of the inside of the sauna/steam room is provided by either, a full length transparent panel in the door, or a window providing an unobstructed view of the interior floor area, from the outside;
- g) shower facilities shall be provided for the use of all patrons before entering any sauna/steam room and shall be located, constructed and equipped so that:
 - i) the shower access is close to the area of the sauna/steam room.
 - ii) the floors, walls and ceiling are made of materials that permit easy and thorough cleaning.
 - iii) there is hot and cold running water with either, a tempering or mixing device on the hot water system designed to prevent scalding, or a maximum hot water temperature not exceeding 43°C at any time.
- h) Where a sauna/steam room is used by both sexes together, and the shower provided is in the same room as the change room, locker room or toilet facility, then separate showers shall be provided for each sex; and
- i) Adequate lighting that complies with Australian Standard AS1680.1 "Interior lighting" must be provided throughout the area of sauna/steam room facility and any pertinent showers, corridors, hallways and change rooms.

Design of Food Premises

- 4.9 The fitout of the food premises shall be carried out in accordance with The National Code for the Construction and Fitout of Food Premises. Details of compliance with the relevant provisions of the Code shall be prepared by a suitably qualified person and submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate.
- 4.10 All drainage fixtures from the food storage and preparation areas shall discharge into an approved trade waste pre-treatment device prior to entry into the Council sewer.

Storage and Handling of Waste

- 4.11 The design and management of facilities for the storage and handling of waste must comply with the reasonable requirements of Council. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a construction certificate.

Bush Fire Protection

- 4.12 ²The Applicant shall ensure that perimeter access roads shall comply with section 4.3.1 *Planning for Bushfire Protection 2001* (excluding dot point 13 of s 4.3.1 (b)).
- 4.13 ³Locations of fire hydrants, where available, are to be delineated by blue pavement markers offset 100 mm from the centre of the road. The direction of offset should indicate on which side of the road the hydrant is located.
- 4.14 ⁴The Applicant shall ensure that construction of the development complies with AS 3959-1999 level 1: *Construction of Buildings in Bushfire Prone Areas*.
- 4.15 ⁵The Applicant shall ensure that structures incorporate gutterless roofing or leafless guttering and valleys are to be screened to prevent the build-up of flammable material.
- 4.16 ⁶Trees, with a potential to grow higher than the level of guttering, that are within the Inner Protection Area shall have a separation of 2 metres between mature canopies and not overhang within 5 metres of the roof.

² Incorporates a Rural Fire Service General Term of Approval

³ Incorporates a Rural Fire Service General Term of Approval

⁴ Incorporates a Rural Fire Service General Term of Approval

⁵ Incorporates a Rural Fire Service General Term of Approval

⁶ Incorporates a Rural Fire Service General Term of Approval

- 4.17 ⁷Asset protection zones shall be provided as described on the Hotel Villa Illustrative Landscape Plan (Plan 2) by Tract Consultants, dated 21 June 2006, and maintained to the requirements of *Planning for Bushfire Protection 2001*.
- 4.18 ⁸Section 88B restrictions as to user shall be placed on the area identified as Rainforest(1) on the Vegetation Plan on page 124 of the North Beach Byron Species Impact Statement to manage the surface fuel to meet the rainforest structure as described in *Planning for Bushfire Protection 2001*. New trees shall be planted to ensure a closed canopy within the rainforest area

Infrastructure and Utilities

Utilities and Services

- 4.19 Prior to the issue of a construction certificate, the Applicant shall identify (including, but not limited to the position and level of service) all public utility services on the site, roadway, footpath, public reserve or any public areas that are associated with, and/or adjacent to the site, and/or likely to be affected by the construction and operation of the development.
- 4.20 The Applicant shall consult with the relevant utility provider(s) for those services identified under condition 4.19 and make arrangements to adjust and/or relocate services as required. The Applicant shall bear the full cost associated with providing utilities and services to the site, and restoring any public infrastructure that may be damaged during the proposed works.
- 4.21 Prior to the issue of a construction certificate for works that may affect services/utilities, the Applicant shall provide documentary evidence to the Principal Certifying Authority that the requirements of the relevant utility provider(s) have been met.

Dilapidation Reports

- 4.22 A Dilapidation Report detailing the current structural condition of the adjoining infrastructure and roads shall be prepared and endorsed by a qualified structural engineer. The report shall be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of the construction certificate. A copy of the report shall also be submitted to Council.
- 4.23 A second Dilapidation Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining infrastructure and roads. The report shall also be submitted to the satisfaction of the Principal Certifying Authority and shall be compared with the earlier report to ascertain if any change has occurred. A copy of the second report shall also be submitted to Council.
- 4.24 The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development is to be met in full by the Applicant/developer prior to the issue of any occupation certificate.

- 4.25 Prior to the issue of a construction certificate, the Applicant shall pay a bond of \$10,000 to be Council as guarantee against damage to surrounding public land and infrastructure during construction of the development.

Environmental Management Requirements

Dune Management

- 4.26 Prior to the issue of a construction certificate for the development, and prior to any works occurring on the foredune, the Applicant shall submit to the satisfaction of the Director-General, an detailed Dune Management Plan. The Plan shall be amended in consultation with the Department of Lands, Department of Natural Resources and Byron Shire Council and shall address the following requirements:

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Department of Planning

- a) Demolition of the Bayshore Building and prohibition on the replacement of the Building with any other structure.
- b) Rehabilitation of the foredune in accordance with best management practices.
- c) Reflection of the current administration body (Department of Lands) and the development the subject of this consent.
- d) Inclusion of rehabilitation measures in Zone 5 that fully accord with the natural environment and prevailing natural processes occurring in the area.
- e) Cessation of vegetation dumping onto the eroding scarp of the foredune and measures to enforce prohibition of dumping in that area.
- f) A thorough assessment of the manner of management of the Belongil estuary track to ensure its use for emergency access only, future management of new unauthorised tracks and vandalised areas, performance indicators, schedules of work and community education.
- g) Provision for the design and construction of the new beach access track to be undertaken in consultation with Department of Lands, Department of Natural Resources and Byron Shire Council

4.27 The Applicant shall ensure that existing beach access tracks scattered across the site are closed and rehabilitated and that access to the beach is limited to one controlled access point and a single emergency access point. Tracks to be closed include those tracks through the littoral rainforest in the southern section of the site and the track through the Swamp Box and Wallum Banksia woodland vegetation in the north-west section of the site.

4.28 The developer/applicant shall ensure that public access to the car parking and public access to the beach shall be provided at all times.

Erosion and Sedimentation Control

4.29 Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater-Soils & Construction Volume 1* (2004) by Landcom. A Soil and Water Management Plan is to be prepared in accordance with the abovementioned guideline for the construction phase of the development. The Plan is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a construction certificate.

Landscaping and Revegetation of Lands

4.30 The Applicant shall ensure that all revegetation/rehabilitation works are undertaken in accordance with the approved Ecological Restoration and Revegetation Plan referred to in condition 2.1.

4.31 The Applicant shall ensure that any revegetation or bush regeneration works only use local native species of local provenance which naturally occur in the adjoining vegetation communities.

4.32 Any bush regeneration or revegetation works shall only be undertaken by suitably qualified personnel to ensure best practice methods are used.

4.33 On completion of revegetation works, no less than 57 hectares of vegetated and rehabilitated land in the north and west of the site is to be formally transferred to an appropriate public authority, or other appropriate party agreed by the Director-General.

4.34 Landscape design for the tourist accommodation facilities shall seek to achieve a suitable microclimate on the site by use of windbreaks, shade planting to the western side of buildings and planting to allow solar access in winter. The development is to be designed to provide for the retention of native vegetation. The use of palms is to be integrated into other landscaping and not used as the dominant landscape planting. Specified minimum sizes at planting shall be 45L for street trees and feature trees, 300mm for trees, 200mm for tall shrubs and 140mm for others. Plant density is to achieve 5m centres for trees, 2m for taller shrubs and 0.5-1m for ground covers.

Establishment of Wildlife Corridor

- 4.35 The Applicant shall ensure that an eastern wildlife corridor is provided as part of Stage 1 of the development on the eastern side of Lots 11, 12 and 13 DP 243218 to achieve a continuous corridor of dense vegetation cover between the proposed community/conservation lot to be established to the south and south of the site. The revegetation of the corridor is required to meet the eastern edge of Waterbody No. 3 as an uninterrupted vegetation stand that does not contain tracks or fire trails with the exception of the new beach access track.

Seabird and Shorebird Management

- 4.36 The Applicant shall prepare a comprehensive Seabird and Shorebird Management Plan for the mouth and lower reaches of Belongil Creek prepared by a suitably qualified and experienced ornithologist in consultation with the DEC, Council and the Belongil Bird Buddies Organisation.

Feral Pests

- 4.37 In order to protect the biodiversity of the site, the Applicant shall prepare and implement a Feral Pest Management Plan to address the ongoing management of feral pests (including feral cats, the Cane Toad, Noisy Miner and Red Fox) on the site. The Plan is to be prepared by a suitably qualified and experienced ecologist and incorporate the following:
- a) dense five-metre wide plantings of native sedges and rushes around all water-bodies to reduce Cane Toad breeding opportunities, as described in the SIS with respect to waterbodies;
 - b) location of bright lighting away from open grassed areas to reduce Cane Toad foraging opportunities;
 - c) avoidance of creating open woodland vegetation in landscaping adjacent to stands of native vegetation to reduce colonisation and dominance by the Noisy Miner; and
 - d) effective methods for reducing the risk of Red Fox predation on nesting seabirds and shore birds at the mouth of Belongil Creek and on the local Long-nosed Potoroo population.

Remediation of Land

- 4.38 The Applicant shall engage an EPA-accredited site auditor and arrange further soil sampling and testing in the area of the existing washroom identified as containing elevated concentrations of heavy metals. The results of the site audit are to be submitted to the Principal Certifying Authority prior to the issue of a construction certificate. Depending on the results of the audit, a remediation action plan may be required to be completed.

Traffic, Parking and Transport Infrastructure Requirements

Works within the Road Reserve

- 4.39 ^aConsent from Council shall be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans shall accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Specification for Engineering Works and are to provide the following works:
- a) **Road Reserve Widening:** The road reserve for Bayshore Drive and the dedicated road reserve, formerly Lot 100, shall be widened and dedicated as Road Reserve to Council, for at least 1.0 metre wider than the constructed road formation including the roundabout and indented car parking bays.
 - b) **Kerb and Gutter and Road Pavement, Bayshore Drive (Ewingsdale Road to Railway Line):** Kerb and gutter, road pavement and associated drainage construction, footpath formation including any necessary relocation of services shall be undertaken by the Applicant as follows:

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NSW Government
Department of Planning

- i) Sunrise Boulevard to the Railway Line – an 11.0 metre pavement with vertical face kerb and gutter, AC road seal, concrete cycleway along the eastern side, pram ramps, linemarking and signage;
- ii) Ewingsdale Road to Sunrise Boulevard – an 11.0 metre pavement with vertical face kerb and gutter, AC road seal, concrete cycleway along the eastern side, pram ramps, linemarking and signage;
- c) **Kerb and Gutter and Road Pavement Bayshore Drive and Dedicated Road Reserve (North of Railway Line to First Road Intersection on the Eastern Side):**
The Applicant shall undertake the following works:
 - iii) Road pavement and associated drainage construction, footpath formation including any necessary relocation of services for the road formation across the railway and immediately north of the railway line. The road pavement is to be 11.0 metres wide with vertical face kerb and gutter, AC road seal, concrete cycleway along the eastern side, pram ramps, drainage infrastructure, linemarking and signage;
 - iv) Road pavement, grassed drainage swales and associated drainage construction, footpath formation including any necessary relocation of services for the road formation north of the railway line through to the first road intersection on the east side. A road pavement 11.0 metre wide is to be provided with vertical face kerb and gutter transitioning to a nominal 7.3m AC seal with concrete edge strips and a nominal 8.3 m pavement, AC road seal, concrete cycleway along the eastern side, pram ramps, grassed drainage swales, drainage infrastructure, linemarking and signage.
- d) **Road Pavement Bayshore Drive/Dedicated Road Reserve (North of First Road Intersection on the Eastern Side through to the Round-a-bout at Ch. 970 m Approximately):** Road pavement and associated drainage construction, footpath formation including any necessary relocation of services for the road formation across the railway and immediately north of the railway line. A nominal 7.3 metre AC seal is to be provided with concrete edge strips and a nominal 8.0 metre pavement width, AC road seal, concrete cycleway along the eastern side, pram ramps, grassed drainage swales, drainage infrastructure, linemarking and signage.
- e) **Road Pavement Bayshore Drive/Dedicated Road Reserve (North of Round-a-bout from Ch. 970 m to end):** Road pavement and associated drainage construction, footpath formation including any necessary relocation of services for the road formation across the railway and immediately north of the railway line. A nominal 5.8 metre AC seal is to be provided with concrete edge strips and a nominal 8.0 metre pavement width, AC road seal, concrete cycleway along the eastern side, pram ramps, grassed drainage swales, drainage infrastructure, linemarking and signage.
- f) **Railway Crossing Works:** The existing North Coast Railway line is still operational and is only controlled by flashing signals for vehicular traffic. The Applicant shall arrange for this crossing to be upgraded to manage the increased vehicle, pedestrian and cycle traffic expected in and out of the resort. The design of the upgraded rail crossing shall be provided in accordance with relevant rail standards. The design of the upgrade shall be undertaken in consultation with the relevant rail authority that manages the Byron railway line. Approval is required for the upgrading works at the railway crossing from the Australian Rail Track Corporation (ARTC)/State Rail, including access crossing for cyclists and pedestrians.
- g) **Road Formation Inclusive of Indented Car Parking Bays:** The road design of Bayshore Drive/Dedicated Road Reserve (formerly Lot 100) shall be such to allow for further indented car parking bays for the use by the public between Ch 800 m and Ch 1060m (approximately) should this be required in the future.
- h) **Shared Footpath/Cycleway 2.5metre Wide:** A 2.5 metre wide concrete footpath/cycleway for the full length of Bayshore Drive shall be provided along its eastern side, inclusive of linemarking, signage and furniture. The design and construction of the footpath/cycleway is to be undertaken in accordance with the current Australian Standards, and AustRoads Design Standards.
- i) **Footpath Embellishment:** Grading, trimming, topsoiling and turfing of the unpaved footpath area shall be provided by the Applicant.

- j) **Roadside Furniture:** All road furniture is to be designed and installed so it does not create a safety hazard for road users.
- k) **Adjustment of Services:** Footpath works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.
- l) **Ramped Pedestrian Crossing:** A ramped pedestrian crossing is to be provided by the Applicant in accordance with Council's standard plan – No. 941.
- m) **Roundabout:** A roundabout in Bayshore Drive/Dedicated Road Reserve (formerly Lot 100) in the vicinity of Ch 860, in accordance with AustRoads Part 6 – Roundabouts. The design is to address siting, signs, linemarking, parking restrictions and night-time visibility.
- n) **Bus Shelter:** A tapered bus bay adjacent to the roundabout and village centre and shelter. The bus shelter must be to a standard approved by Council. The shelter must be provided at no cost to Council.

Unless otherwise agreed by the Director-General, implementation of road works within the railway reserve and south of the railway line are not required until such time as traffic generated by the development exceeds the traffic generated by the existing development on the site, or within two years of the issue of the first Subdivision Certificate, whichever is the sooner.

Note: The plans required under condition 4.39 shall be in compliance with the current Australian Standards and Council's current AusSpec Design and Construction Manuals and be accompanied by AusSpec's Design Checklist in accordance with Specification DQS.

Variable and narrower road widths are acceptable in principle subject to detailed design assessment. The road design is to prevent vehicles accessing the drainage swales, pedestrian/cycleway paths and landscaped areas

- 4.40 The Applicant shall meet 50% of the cost of the upgrade the intersection of Ewingsdale Road and Bayshore Drive to a roundabout designed in accordance with AUSTROADS design standards for roundabouts. Plans for the roundabout are to be submitted to Council for approval and must be prepared in accordance with the current Australian Standards and Council's current AusSpec Design and Construction Manuals and be accompanied by AusSpec's Design Checklist in accordance with Specification DQS. Unless otherwise agreed by the Director-General, implementation of these road works is not required until such time as traffic generated by the development exceeds the traffic generated by the existing development on the site, or within two years of the issue of the first Subdivision Certificate, whichever is the sooner.

Internal Roads, Street Lighting and Parking

- 4.41 The internal road connections to Bayshore Drive shall be designed to operate as driveways, with a gutter crossing provided at Bayshore Drive to give a visual signal that the roads are private roads.
- 4.42 Appropriate street lighting shall be provided in accordance with Council's specifications and any relevant Australian Standards.
- 4.43 One loading bay is to be provided for the development capable of servicing a large rigid truck. Details of the loading arrangements shall be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a construction certificate.
- 4.44 The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All permanent parking spaces are to be linemarked.
- 4.45 The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.

- 4.46 Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Principal Certifying Authority prior the issue of a construction certificate.
- 4.47 The Applicant is to erect appropriate signage to ensure that cars on site only park in designated car parking areas/spaces. Vehicles are not permitted to park within the road reserve, grassed drainage swales or on cycleway/footpaths.
- 4.48 The Applicant shall provide a total of 45 car parking spaces along Bayshore Drive in indented parking bays and a total of 30 bike racks equally divided between Bayshore Drive and the Village Centre. This allowance for vehicle parking is in addition to the overflow carpark areas to be provided on the south-western side of the site and in addition to carparking provided as part of the tourist accommodation units. Designated parking bays are not to be constructed over the open central drainage channel that runs through the site.
- 4.49 Bollards and other roadside shall be provided along the trafficable edge of all roads to prevent vehicles parking within the road reserve, landscaped areas or cycleway/footpaths.
- 4.50 The application for a construction certificate is to include plans and specification that indicate the road and associated drainage designs for all the internal private access roads. Plans are to include, but not necessarily limited to, the following items:
- pavement description;
 - site conditions affecting the access;
 - existing and design levels;
 - longitudinal sections;
 - cross sections every 20 metres;
 - drainage (open drains, pipes, etc.), including calculations and catchment details.

Note: The plans required under condition 4.50 shall be in compliance with Council's current AusSpec Design and Construction Manuals and be accompanied by AusSpec's Design Checklist in accordance with Specification DQS. Variable and narrower road widths are acceptable in principle subject to detailed design assessment. The road design is to prevent vehicles accessing onto the drainage swales, pedestrian/cycleway paths and landscaped areas.

Local Area Traffic Management Concept Plan and Bond – Sunrise Boulevard.

- 4.51 ¹⁰The Applicant shall prepare and submit to Council a Local Area Traffic Management (L.A.T.M.) Plan for Sunrise Boulevard. The Plan shall be developed to manage and prevent traffic "rat runs" for vehicles avoiding/ bypassing the Ewingsdale Road/ Bayshore Drive Intersection and route. The Plan shall include a cost estimate and Bill of Quantities for any works. The Applicant shall provide Council a Bond in accordance with Council's policy and requirements, based on the Council agreed extent and costs of any such works. The Bond shall apply for all stages of this consent and shall be reviewed at yearly intervals, or at times agreed to between Council and the Applicant.

Traffic Management Plan

- 4.52 ¹¹Consent from Council shall be obtained for a traffic management plan pursuant to section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the RTA's Manual Traffic Control at Work Sites Version 2 and Australian Standard AS1742.3 – 1985 Manual of Uniform Traffic Control Devices Part 3 – Traffic Control Devices for Works on Roads. The plan shall incorporate measures to ensure that motorists using the road adjacent to the development, and residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent

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NSW Government
Department of Planning

to the site. The traffic control plan shall be prepared by a suitably qualified and RTA-accredited Work Site Traffic Controller.

Stormwater and Drainage Works

- 4.53 The central open drainage channel that runs through the site in a north south direction shall not be filled as part of the development. This drain currently drains the SEPP 14 wetland upstream and is to remain in its current state. This condition does not preclude the Applicant from seeking consent to fill the drain as part of the Future Stages of the development, subject to the assessment requirements of the *Environmental Planning and Assessment Act 1979*.
- 4.54 Final design plans of the stormwater drainage systems within the proposed subdivision, prepared by a qualified practicing civil engineer and in accordance with the requirements of Council shall be submitted to and approved by the Principal Certifying Authority prior to issue of a construction certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff. Easements as required are to be created over the inter-allotment drainage system.
- 4.55 The application for a construction certificate is to include plans and specifications that indicate stormwater management for the site, in accordance with *AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage*. The point of disposal for stormwater is to be via an infiltration pit located on the subject property. The infiltration areas are to be designed:
- a) by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.
 - b) with a safety factor of 2 to allow for any long-term deterioration in infiltration rate.
 - c) to ensure that the stormwater run-off entering the infiltration area is pre-treated to remove sediment and gross pollutants.
 - d) to ensure that the stormwater run-off from the site is restricted to a pre-development discharge rate for all storm events up to and including the 1 in 20 year storm.
 - e) in accordance with the requirements of Section 9.4 of the NSW Department of Housing manual, *Managing Urban Stormwater - Soils and Construction*.
 - f) via percolation tests on the site in accordance with Appendix 4.1F of A.S. 1547:2000, *On-site Domestic-wastewater management*.

Note: The plans required under condition 4.55 shall be in compliance with Council's DCP 2002 Part N and Council's current AusSpec Design and Construction Manuals and be accompanied by AusSpec's Design Checklist in Specification DQS. The design plans must also be in general accordance with the Drainage Management Report/designs by Maunsell Australia Pty Ltd and GeoLink.

- 4.56 The flood planning level for this development is R.L. 3.1 metres A.H.D. The 1% Flood Level at the date of this consent is RL 2.6m. A.H.D.. Notwithstanding this, a freeboard of 500mm. is required above the nominated 1% Flood Level determined up to the date of issuing a Construction Certificate.
- 4.57 The plans and specifications to accompany the construction certificate application are to indicate a minimum floor level that is at or above the flood planning level.
- 4.58 The flood management and design is to be in general accordance with the "Flood and Drainage Report" by Maunsell Australia Pty Ltd.
- 4.59 The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level. The flood compatible materials, fixtures and power outlets must be those components listed as "suitable" in Table 10 - Flood Proofing Code of Part K - Flood Liable Lands of Development Control Plan 2002.

Contributions to Public Infrastructure and Services

4.60 In accordance with Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979*, the Applicant shall pay the following monetary contributions to Byron Shire Council:

Contribution Category	Amount
Community facilities	\$201,759.03
Civic and urban improvements	\$207,119.60
Lifesaving facilities	\$3,366.85
TOTAL	\$412,245.48

5. CONDITIONS PRECEDENT TO THE COMMENCEMENT OF WORKS

Demolition Works

- 5.1 All demolition work shall comply with the provisions of Australian Standard AS2601: 2001 The Demolition of Structures. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the Principal Certifying Authority prior to the commencement of works.

Excavation Works

- 5.2 The Principal Certifying Authority and Byron Shire Council shall be given written notice, at least 48 hours prior to the commencement of any excavation works on the site.

Construction Works

- 5.3 Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

Construction Management

Construction Management Plan

- 5.4 Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Director-General. The Plan shall address, but not necessarily be limited to, the following matters:
- a) hours of work;
 - b) contact details of site manager;
 - c) traffic management (refer to condition 5.5);
 - d) noise and vibration management (refer to condition 5.6);
 - e) waste management (refer to condition 5.7);
 - f) erosion and sediment control (refer to condition 4.29); and
 - g) flora and fauna management.

The Applicant shall submit a copy of the approved plan to Council.

- 5.5 Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Director-General. The Plan shall address, but not necessarily be limited to, the following matters:
- a) ingress and egress of vehicles to the site;
 - b) loading and unloading, including construction zones;
 - c) predicted traffic volumes, types and routes;
 - d) pedestrian and traffic management methods;
- 5.6 Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Director-General. The Plan shall address, but not necessarily be limited to, the following matters:
- a) identification of the specific activities that will be carried out and associated noise sources;
 - b) identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment;
 - c) the construction noise objective specified in the conditions of this consent;
 - d) the construction vibration criteria specified in the conditions of this consent;
 - e) determination of appropriate noise and vibration objectives for each identified sensitive receiver;
 - f) noise and vibration monitoring, reporting and response procedures;

- g) assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions;
- h) description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction;
- i) justification of any proposed activities outside the construction hours specified in the conditions of this consent;
- j) construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency;
- k) procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration; and
- l) contingency plans to be implemented in the event of non-compliances and/or noise complaints.

5.7 Prior to the commencement of works, the Applicant shall submit to the satisfaction of the Principal Certifying Authority a Waste Management Plan prepared by a suitably qualified person in accordance with Council's specifications. The Plan is to include the following:

- a) estimates of waste generation rates, volumes and types;
- b) identification of the locations of garbage containers, waste collection points, signage, collection times and frequencies;
- c) measures to encourage best practice waste minimisation, including avoidance, reuse and recycling;
- d) measures for the ongoing education and training of staff, occupants and visitors;
- e) measures for the ongoing maintenance of waste facilities;
- f) measures for the safe storage and handling of fuel and chemicals, including details of spill bunding, security, fire protection, signage, fencing, access and drainage;
- g) measures for the protection of public health and the environment with regards to pollution, litter, odours, vermin, noise, pollutant discharge/runoff and environmentally sensitive areas; and
- h) measures for the management of demolition and construction wastes.

6. CONDITIONS DURING CONSTRUCTION AND DEMOLITION WORKS

- 6.1 A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Byron Shire Council or the Principal Certifying Authority.
- 6.2 A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Principal Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:
- a) minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
 - b) the notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
 - d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

Building Design and Performance Requirements

- 6.3 The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Principal Certifying Authority certifying that structural works are in accordance with the approved development application.

Environmental Management Requirements

Flora and Fauna

- 6.4 In accordance with the supplementary information provided to the Department dated 22 June 2006 and prepared by Peter Parker Environmental Consultants, all Koala food trees at the site shall be preserved regardless of their height.
- 6.5 Existing native trees and shrubs located outside the proposed village area shall be preserved and protected from disturbance during construction works.
- 6.6 All trees on the site that are not approved for removal are to be suitably protected by way of a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:
- a) with a minimum height of 1.2 metres;
 - b) outside the dripline of the tree;
 - c) of steel star pickets at a maximum distance of 2metres between pickets;
 - d) using a minimum of 3 strands of steel wire;
 - e) to enclose the tree; and
 - f) with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

Soil and Water Quality

- 6.7 The Applicant shall comply with section 120 of the *Protection of the Environment Operations Act 1997* which prohibits the pollution of waters.
- 6.8 The Applicant shall take all reasonable measures to minimise soil erosion and the discharge of sediments and pollutants from the site during construction of the project.

- 6.9 ¹²Erosion and sediment control measures are required to be implemented by the Applicant prior to any works adjacent to the drainage lines commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the drainage line.
- 6.10 The Applicant shall install erosion, sediment and pollution controls prior to the commencement of construction works. The Applicant shall maintain all erosion, sediment and pollution control infrastructure at or above design capacity for the duration of construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- 6.11 All materials stockpiled shall be adequately stabilised and covered to prevent erosion or dispersal of the materials.
- 6.12 The Applicant shall undertake water quality monitoring of all waterbodies within the site and the adjacent Belongil Estuary during construction works. Water quality monitoring shall be undertaken once per month and by suitably qualified personnel and results compared against the relevant ANZECC guidelines. The implementation of further water quality control measures are required if the results show the exceedance of any of the criteria. Every six months a report detailing the water quality monitoring program and results shall be submitted to the Director-General. A copy of the report shall also be submitted to Council.
- 6.13 Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.
- 6.14 ¹³Proposed stormwater outlets to the drainage lines are to be designed and constructed to minimise any erosion or scour of the beds or banks of any watercourse.

Acid Sulfate Soils

- 6.15 The Applicant shall ensure that a suitably qualified Environmental Scientist be employed to supervise all disturbance of acid sulfate or potential acid sulfate soils on the site.
- 6.16 ¹⁴Prior to the commencement of any soil-disturbing works on the site, the Proponent shall prepare and submit for the approval of the Department of Natural Resources an Acid Sulfate Soil Management Plan to detail measures to be implemented in relation to the management and handling of any potential or actual acid sulfate soils on the site. The Plan shall be prepared in accordance with guidance provided in *Acid Sulfate Soil Manual* (Acid Sulfate Soil Management Advisory Committee, 1998).

Air Quality

- 6.17 The Applicant shall construct the development in a manner that minimises or prevents the emission of dust from the site including wind blown and traffic generated dust. This shall include all trafficable areas and vehicle manoeuvring areas.
- 6.18 All activities on the site shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the Applicant shall identify and implement all practicable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease.
- 6.19 Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:
- a) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions.

¹² Incorporates a Department of Natural Resources General Term of Approval

¹³ Incorporates a Department of Natural Resources General Term of Approval

¹⁴ Incorporates a Department of Natural Resources General Term of Approval
NSW Government

- b) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed.
- c) All materials shall be stored or stockpiled at the best locations.
- d) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs.
- e) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material.
- f) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays.
- g) Gates shall be closed between vehicle movements and shall be fitted with shade cloth.
- h) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

6.20 Except as may be provided by an approved Noise and Vibration Management Plan under condition 5.6, the hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- b) between 8:00 am and 1:00 pm, Saturdays;
- c) no work on Sundays and public holidays.

Works may be undertaken outside these hours where the delivery of materials is required outside these hours by the Police or other authorities or where works are required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm.

6.21 The Applicant is to ensure that construction noise is limited to the following:

- a) for construction periods of four weeks or less, the L_{A10} (15 minute) noise level when the construction site is in operation must not exceed the background level by more than 20 dB(A);
- b) for construction periods greater than four weeks and not exceeding 26 weeks, the L_{A10} (15 minute) noise level when the construction site is in operation must not exceed the background level by more than 10 dB(A); and
- c) for construction periods greater than 26 weeks, the L_{A10} (15 minute) noise level when the construction site is in operation must not exceed the background level by more than 5 dB(A).

6.22 Vibration caused by construction at any residence or structure outside the subject site shall be limited to:

- a) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- b) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6842- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

Waste Management

6.23 Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the Principal Certifying Authority.

6.24 Any asbestos wastes associated with the removal of existing buildings must be handled, stored and disposed of in accordance with the requirements of the NSW WorkCover Authority. The Applicant is to provide documentary evidence that this condition has been met to the Principal Certifying Authority.

Aboriginal Heritage

6.25 The recommendations for limited additional archaeological subsurface testing, on-going consultation with the Arakwal Corporation and regular inspection by a suitably qualified

person of land surface disturbance areas during construction contained within the *Aboriginal Archaeological Assessment and Review* prepared by Navin Officer Heritage Consultants are to be carried out during the construction phase of the project. A permit under the *National Parks and Wildlife Act 1974* shall be sought and obtained prior to the commencement of excavation works.

- 6.26 If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the DEC and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the DEC to cease work for the purposes of archaeological recording.

7. CONDITIONS PRECEDENT TO SUBDIVISION OR STRATA SUBDIVISION

Access

- 7.1 A maintenance bond of 5% of the value of the works constructed for the Public Road is to be lodged with Council. A copy of the contract construction cost of the subdivision works is to be submitted with the bond. The maintenance period is six months in accordance with Council's *Specification For Engineering Works* and will commence from the date of issue of the final compliance certificate. The security may be provided, at the Applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

Services

- 7.2 Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

Common Areas and Facilities

- 7.3 No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant Council. These requirements are to be made, at no cost to Council, and to the satisfaction of Council and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act 1919*.

Part 4A Certification

- 7.4 Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979*.

Community Management Statement

- 7.5 The Community Management Statement is to be amended as follows and a copy submitted to the Director-General for approval prior to the issue of an Occupation Certificate or Subdivision Certificate:
- a) a clause is to be inserted requiring the management of the accommodation units through one agent.
 - b) a clause is to be inserted allowing each unit to be occupied by an owner or a resort guest for no more than 90 days in each calendar year.
 - c) a clause is to be inserted requiring the agent to keep a record of usage and length of stay for each unit (a copy of a summary of use for each unit is to be provided to Council and the Community Association on a yearly basis at the end of each financial year).
 - d) a clause is to be inserted requiring the agent to notify the Community Association of any breach by any owner of the Community Management Statement requirements for length of stay as soon as practicable after the breach occurs.
 - e) a clause is to be inserted requiring the Community Association take action against any owner breaching the Community Management Statement requirements for length of stay as soon as practicable after the breach occurs.
 - f) a clause is to be inserted requiring that should the Community Association fail to be able to rectify a breach of the Community Management Statement requirements for length of stay within a 6 month period of notifying the breaching owner, that Council is to be notified in writing of the breach.
 - g) a clause is to be inserted requiring that the ongoing cost of maintenance of Lot 9 for conservation purposes, including ongoing weed removal and replacement with appropriate endemic species as necessary, is to be funded by the Community Association.

- h) a clause is to be inserted requiring that dogs and cats are prevented from entering or being kept on the site, with the exception of dogs used to assist disabled persons.
- i) a clause is to be inserted requiring that the ongoing cost of carrying out the Dune Management Plan is to be funded by the Community Association until the specified revegetation works within the plan have been established for a period of 12 months.
- j) a clause is to be inserted requiring the Community Association to take action against any owner breaching the Community Management Statement requirements for length of stay as soon as possible after it is notified of such a breach by the leasing agent. Should the owner still be breaching the requirements after a three-month period the Community Association is to be required to notify Council in writing of the breach.
- k) a clause is to be inserted requiring that written consent from Council is required to amend any of the above provisions within the Statement, the definition of "permitted use" or the contents of any of the following Plans.
- l) the Community Management Statement is to include the following Plans:
 - i) An Emergency Evacuation Plan prepared by a suitably qualified person in the event of flooding and bushfire to include:
 - delineation of the method of advising guests/staff of approaching danger;
 - identifying indicators for requiring the evacuation of the site and detailing how this need is to be communicated to guests/staff;
 - identifying alternative measures to evacuation of the site in specified lower risk events;
 - identifying evacuation routes and places for assembly off site;
 - requiring the plan to be prepared in consultation with the appropriate authorities, including but not limited to the State Emergency Service, Rural Fire Service and Police.
 - ii) A Maintenance of Asset Protection Zone Plan prepared by a suitably qualified bushfire assessment expert to include:
 - identification of the necessary works required to maintain the Asset Protection Zone;
 - identification of the frequency and timing of the maintenance works;
 - identifying that the Community Association is responsible for the cost of the works;
 - identifying the protection measures required, if any, such as clearing of gutters and storage of materials within proximity of buildings, within each strata lot and indicating that individual owners are responsible for these works; and
 - identifying a list of suitable species of replacement vegetation and separation distances for planting within the Asset Protection Zone.
 - iii) An Inspection and Maintenance Plan for Roads and Footpaths, to be prepared by a suitably qualified Civil Engineer, to include:
 - identification of the frequency of inspection of the roads, footpaths and cycle paths within the land covered by the Community Management Statement;
 - identification of categories of damage to roads and footpaths, specifying timeframes for repair based on the level of danger;
 - identifying specifications for suitable repairs; and
 - identifying that the Community Association or the Owners Corporation is responsible for the cost of the works, dependent upon their location.
 - iv) An Inspection and Maintenance Plan for Stormwater Devices, to be prepared by a suitably qualified Engineer, to include:
 - identification of the frequency of inspection of the stormwater devices within the land covered by the Community Management Statement;
 - identification of the frequency and type of water quality monitoring, to specify suitable water quality outcomes and amelioration works to be carried out in the event of unsuitable outcomes;
 - identification of categories of damage to each type of device and specifying timeframes for repair based on the level impact upon the efficiency of the system;

- identifying specific timeframes for maintenance of each type of structure, such as mowing of swales or removal of siltation;
 - identifying specifications for suitable repairs, including identifying suitable species for replacement planting; and
 - identifying that the Community Association is responsible for the cost of the works.
- v) A Festival Management Plan, to include:
- identification of frequency of community festivals that may occur onsite;
 - identifying the required level of insurance to be carried by festival organisers;
 - identification of areas of community land that may be used for community festivals, including for parking; and
 - specifying the condition land is to be left in after use for a festival.
- vi) A Mosquito Management Plan, to be prepared by a suitably qualified expert, to include:
- identification of the method of management of mosquito populations (eg. the use of carbon dioxide gas generation methods or similar technology for mosquito control rather than toxic sprays);
 - identification of the frequency of carrying out treatments;
 - confirmation that ephemeral waterbodies would not be modified as part of mosquito management as these areas may represent breeding habitat for frogs and other aquatic fauna;
 - identifying that the Community Association is responsible for the cost of the works.
- vii) an Environmental Education Program, to be prepared by a suitably qualified expert, to include:
- a Shorebird Management Plan in accordance with condition 4.36;
 - information to be provided to guests staying within the resort;
 - details of educational signage to be erected within the resort; and
 - identifying that the Community Association is responsible for the cost of the works.

8. CONDITIONS PRECEDENT TO OCCUPATION CERTIFICATION

Building Design and Performance Requirements

Mechanical Ventilation

- 8.1 Following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the Principal Certifying Authority, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:
- a) the Building Code of Australia;
 - b) Australian Standard AS1668 and other relevant codes;
 - c) this development consent and any relevant modifications; and
 - d) any dispensation granted by the New South Wales Fire Brigade.

Clotheslines and Clothes Dryers

- 8.2 The Applicant shall submit to the Principal Certifying Authority a plan demonstrating that units are compliant with the requirements of condition 4.7.
- 8.3 The Principal Certifying Authority shall not issue an occupation certificate for any unit within the development that does not have a clothes line installed.

Child Play Area

- 8.4 A child play area is to be provided near the village centre to allow children to use the equipment whilst their parents are shopping or at the café. The child play area is to be located away from internal roads. The child play area is to be provided with child play equipment, shade structures and shade trees, seating for parent and is to be visible from the café.

Water Supply

- 8.5 The Applicant is to ensure that a safe water supply is provided for the development in accordance with AS 3500 Plumbing Code of Australia.

Swimming Pool and Spa Operation and Safety

- 8.6 The Applicant shall ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool/s'. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.
- 8.7 The discharge of wastewater from any swimming pool on the site is to be in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.
- 8.8 The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.
- 8.9 The swimming pool water is to be re-circulated, filtered and disinfected as part of a regular maintenance program in accordance with the requirements of NSW Health. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times.
- 8.10 Swimming and spa pools must be constructed, operated and maintained in conformance with NSW Department of Health *Public Swimming Pool and Spa Pool Guidelines, June 1996* and *Protocol for Minimising the Risk of Cryptosporidium in Public Swimming Pools and Spa Pools, 1999*.

Sauna/Steam Room Operation and Safety

- 8.11 The temperature within any sauna/steam room shall not exceed either 95°C (185°F) in dry air conditions (sauna) or 60°C (140°F) in humid air conditions (steam room).
- 8.12 The operator shall check, determine and record:
- The operating temperature of the facility daily;
 - The condition of floors, walls, handrails and benches/seats daily for sanitation, deterioration or safety hazards.
- 8.13 A temperature control device shall be provided that can only be increased above 90°C by an authorised member of staff.
- 8.14 The heater must be provided with an external casing that is not capable of becoming hot, i.e. the surface remains below 40°C; or is surrounded completely by a barrier or shield to prevent accidental contact with the hot surface.
- 8.15 The heating unit is to be fitted with a thermal cut-out device, which is activated if the temperature within the sauna rises above 95°C.

Fire Safety

- 8.16 A fire safety certificate shall be furnished to the Principal Certifying Authority for all the essential fire or other safety measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the fire safety certificate must be submitted to the Department and Council by the Principal Certifying Authority.
- 8.17 An annual fire safety statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the consent authority initial fire safety certificate is received.

Structural Inspection Certificate

- 8.18 A structural inspection certificate or a compliance certificate shall be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any occupation certificate and/or use of the premises. A copy of the certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the Department and the Council after:
- the site has been periodically inspected and the Principal Certifying Authority is satisfied that the structural works is deemed to comply with the final design drawings; and
 - the drawings listed on the inspection certificate have been checked with those listed on the final design certificate(s).

Registration of Easements

- 8.19 Prior to the issue of any occupation certificate, the Applicant shall provide to the Principal Certifying Authority evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

Environmental Education Signage

- 8.20 Signage is to be provided to give people information related to avoiding shorebird nesting areas and turtle nesting sites and advising of the location of the Tyagarah Nature Reserve and Cape Byron Marine Park with details provided of restrictions on activities. Detail of the signage is to be approved by Director-General and the signage erected prior to the occupation of any accommodation unit.

Voluntary Conservation Agreement

- 8.21 The voluntary conservation agreement identified in the statement of environmental effects for proposed Lot 9 within the Community Title Subdivision is to be entered into with a suitable body to the satisfaction of the Director-General prior to the occupation of the development.

9. CONDITIONS DURING OCCUPATION

Use as a Tourist Resort

- 9.1 The accommodation units shall only be occupied for the purpose of tourist accommodation and shall not be occupied as a dwelling.
- 9.2 The tourist accommodation units shall not be occupied by an owner or a resort guest for more than 90 days in a calendar year.
- 9.3 A maximum of two accommodation units can be occupied on a permanent basis by full time staff (and their families) of the tourist resort. Such accommodation units shall be identified as being for such purpose prior to the release of any occupation certificate for those units.
- 9.4 The management of all accommodation units is to occur through one agent. The agent is to keep a record of usage and length of stay for each unit. A copy of a summary of use for each unit is to be provided to Council and the Community Association on a yearly basis at the end of each financial year.
- 9.5 The operation of trail bike or horse riding activities from the site is prohibited to protect the sensitive areas surrounding the site.

Traffic and Parking

- 9.6 All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

Wastewater Management

- 9.7 The volume of sewage discharged from the site to the Byron Shire Council sewage system from the development shall not exceed the current Council sewage entitlement of 154.4 ET for the premises, as confirmed in Council's correspondence to the Applicant dated 18 November 2004.
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NSW NATIONAL PARKS & WILDLIFE SERVICE

Developments adjacent to National Parks and Wildlife Service lands

**Guidelines for consent and planning
authorities**



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Cover photo: Urban development adjacent to William Howe Regional Park. John Yurasek/DPIE

Authorship and feedback

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Contents

1.	Introduction	1
1.1	Background	1
1.2	Values of NPWS parks	2
1.3	Applying the guidelines	2
2.	Issues to be considered when assessing proposals adjacent to NPWS parks	4
2.1	Erosion and sediment control	4
2.2	Stormwater runoff	5
2.3	Wastewater	8
2.4	Pests, weeds and edge effects	8
2.5	Fire and the location of asset protection zones	10
2.6	Boundary encroachments and access through NPWS land	11
2.7	Visual, odour, noise, vibration, air quality and amenity impacts	12
2.8	Threats to ecological connectivity and groundwater-dependent ecosystems	13
2.9	Cultural heritage	14
2.10	Access to parks	15

1. Introduction

1.1 Background

These guidelines have been prepared for use by councils and other planning authorities when they assess development applications that may impact on land and water bodies managed by the National Parks and Wildlife Service (NPWS).

NPWS is directly or jointly responsible for managing a wide range of lands acquired or reserved under the *National Parks and Wildlife Act 1974* (NPW Act). Lands acquired under the NPW Act include those that are pending formal reservation under a formal category of reserve or can remain unreserved for operational reasons. Lands reserved under the NPW Act fall within one of the following categories of reserve:

- national parks
- historic sites
- nature reserves
- Aboriginal areas
- karst conservation areas
- regional parks
- state conservation areas.

These areas of land are commonly referred to as the conservation reserve system or protected areas. They fall within the definition of 'environmentally sensitive areas' under NSW planning legislation.

In this document, the terms 'NPWS park', 'NPWS lands' or 'land managed by NPWS' are used as abbreviated references to the full spectrum of parks and reserves, including acquired lands. Spatial data for reserved areas of NPWS land are available online and can assist in identifying areas of park near a proposed development, as well as the specific features and values of that particular park.¹

NPWS recognises the benefits of working in partnership with planning authorities to ensure that developments adjoining or in the vicinity of NPWS parks are sympathetic to the values of those lands and NPWS ongoing capacity to manage its parks in the public interest. The issues and approaches outlined in these guidelines are provided to assist planning authorities in their decision-making.

Planning authorities can contact NPWS Communication Coordination² or the nominated contact for the relevant NPWS park³ if they have further queries about the potential for developments that may impact lands managed by NPWS.

For developments in proximity to, or that may impact on marine parks or aquatic reserves, guidance and advice should be sought from the Department of Primary Industries⁴.

¹ datasets.seed.nsw.gov.au/dataset/nsw-national-parks-and-wildlife-service-npws-estate3f9e7

² npws.commscoordination@environment.nsw.gov.au

³ www.nationalparks.nsw.gov.au/visit-a-park

⁴ www.dpi.nsw.gov.au/fishing/marine-protected-areas

1.2 Values of NPWS parks

Lands managed by NPWS include some of the most biologically diverse, culturally significant and scenic areas in Australia. Some of these parks contain wetlands of international significance (Ramsar wetlands), are in world heritage areas, or are on the National Heritage List or State Heritage Register. Approximately 30% of NPWS parks are declared wilderness areas under the *Wilderness Act 1987*.

These parks play an important role in protecting native plants and animals (including threatened species, migratory birds and endangered ecological communities) and natural features such as rainforests, old-growth forests, wetlands, estuaries and caves. They also protect natural and cultural landscapes that support Aboriginal sites and cultural heritage, and also sites of shared and historic heritage.

NPWS parks provide direct benefits to the community through opportunities for recreation, tourism, education and scientific research, and services in the form of clean water and amenity.

1.3 Applying the guidelines

The goal of these guidelines is to guide consent and planning authorities in their assessment of development applications that are adjacent to land managed by NPWS. This advice aims to avoid any direct or indirect adverse impacts on NPWS parks.

The guidelines will also be of assistance to planning authorities in the development of environmental planning instruments (such as local environmental plans) applying to land adjoining, or in the vicinity of, land managed by NPWS.

Councils and other consent authorities need to consider the following issues when assessing proposals adjacent to NPWS land and, in particular, their impacts on the park, its values and NPWS management of the park:

- erosion and sediment control
- stormwater runoff
- wastewater
- management implications relating to pests, weeds and edge effects
- fire and the location of asset protection zones
- boundary encroachments and access through NPWS lands
- visual, odour, noise, vibration, air quality and amenity impacts
- threats to ecological connectivity and groundwater-dependent ecosystems
- cultural heritage
- road network design and its implications for continued access to the park.

For each of these issues, the guidelines identify the key risks to NPWS land and a recommended approach for consideration by planning authorities. The potential for cumulative impacts from developments proximate or immediately adjoining NPWS land should be considered as part of case-by-case assessments.

There are also specific legislative requirements for development in the locality of wild rivers declared under the NPW Act. These requirements, which may include consultation with the Minister for Energy and Environment, are discussed below.

While every effort has been made to ensure that these guidelines are as comprehensive as possible, it is acknowledged that they cannot foresee every possible circumstance or proposed development that may potentially impact NPWS land. Nevertheless, where unique

or unusual circumstances arise, the main priority should still be to avoid and then minimise any direct or indirect adverse impacts on land managed by NPWS.

Special requirements for wild rivers

Wild rivers⁵ are declared under s.61 of the NPW Act and can only be declared over areas in NPWS land. The purpose of declaration is to identify, protect and conserve any water course of natural origin and exhibiting substantially natural flow. Wild rivers are managed to restore or maintain natural processes, and to identify, conserve and protect Aboriginal objects and places associated with wild rivers.

Under s.61A of the NPW Act, a statutory authority **cannot** carry out development in relation to a wild river unless it has consulted with, and considered any advice given by, the Minister for Energy and Environment in relation to the development. This requirement could potentially apply to upstream developments that may affect a wild river.

⁵ www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/types-of-protected-areas/wild-rivers

2. Issues to be considered when assessing proposals adjacent to NPWS parks

2.1 Erosion and sediment control

Aim

To prevent erosion and the movement of sediment onto NPWS land.

Risks to NPWS land

Removal of vegetation and disturbance of groundcover from construction activities will expose the soil and increase the risk of erosion. Eroded sediments, including those from soil stockpiles, may be transported downstream or down slope, and deposited on vegetation and in creeks, rivers, wetlands and other aquatic habitats.

Works on development sites may increase the intensity and frequency of stream flows due to vegetation clearing and increasing the area of impermeable surfaces. Even if the development is occurring on lands that may not immediately adjoin parks, these changes can impact land managed by NPWS.

These changes can result in damage (sometimes permanent) to downstream aquatic habitats by scouring the bed and banks of watercourses, altering water quality and smothering sensitive areas (such as seagrass beds). Coastal lakes, which may intermittently be closed, are particularly susceptible to increased sedimentation. Several NPWS coastal parks, such as Cudgen Nature Reserve and Jervis Bay National Park, include important coastal lake systems. Consideration should be given increased sedimentation levels entering parks containing Ramsar wetlands, given the potential that such increases could have on the ecological character and international significance of these wetlands. The coastal lake system in Myall Lakes National Park is a wetland of international significance (Ramsar wetland).

Developments may also direct flows to a single discharge point thereby increasing erosion potential downstream.

Erosion can affect the landscape values assigned to a location by Aboriginal people and impact on any Aboriginal objects present through the removal and subsequent displacement of sediments. Changes to an Aboriginal site caused by erosion will affect the site's setting in the landscape which is important to Aboriginal people. The setting of a place is often as important as the objects the place may contain.

Furthermore, erosion can directly affect Aboriginal objects, including stone objects, shells and rock art, that may be present. It can expose objects to increased weathering and other impacts, resulting in a greater chance of displacement from the original location. Sediment accumulation over Aboriginal objects can also result in further damage if the objects are in contact with acidic soils.

Many parks also support significant historic heritage, including archaeological relics, convict-built roads, cemeteries, buildings and bridges, which is vulnerable to the impacts of erosion.

Recommended approach

Appropriate erosion and sedimentation control measures should be implemented before works commence, and maintained for the duration of construction and until soil is stabilised

after construction. In some cases, it will be necessary to prepare detailed sediment and erosion control plans (soil and water management plans) for the proposed development.

As general erosion and sediment control measures, NPWS recommends that:

- clearance of native vegetation is kept to a minimum
- areas of retained vegetation are fenced off during construction
- areas of bare soil and stockpiles are managed to prevent erosion during the construction process
- disturbed areas are rehabilitated and appropriately stabilised as soon as possible following construction (this includes removal of control measures, such as sediment fences, when they are no longer required).

To prevent sediment moving from an adjacent property onto NPWS land, and to avoid and minimise erosion risks, NPWS also recommends that appropriate controls should be applied in accordance with the following guidance documents:

- *Erosion and sediment control on unsealed roads* (OEH 2012)⁶
- *Managing Urban Stormwater – Soils and Construction, Volume I* (Landcom 2004)⁷
- *Managing Urban Stormwater – Soils and Construction, Volume II* (DECC 2008)⁸
- *A Resource Guide for Local Councils: Erosion and Sediment Control* (DEC 2006).⁹

Erosion and sediment control is an appropriate response for smaller scale developments with short term disturbance. Land and water management (such as sediment basins and flocculation) may be required where longer periods of disturbance or larger or steeper areas of land will be disturbed.

2.2 Stormwater runoff

Aim

Nutrient levels are minimised, and stormwater flow regimes and patterns mimic natural levels before reaching NPWS land, to ensure no detrimental change to hydrological regimes.

Risks to NPWS land

The discharge of stormwater to NPWS land poses a threat to the values of land and downstream environments by:

- dispersing litter and pest species (especially weeds)
- altering nutrient composition and pollutant levels, which can damage native vegetation and aquatic ecosystems, reduce water recreation safety and promote weed growth
- causing potential erosion and sedimentation in watercourses, particularly where new developments have led to an increased volume and concentration of flow

⁶ www.environment.nsw.gov.au/Stormwater/ESCtrlUnsealedRds.htm

⁷ www.environment.nsw.gov.au/research-and-publications/publications-search/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition

⁸ www.environment.nsw.gov.au/topics/water/water-quality/all-publications

⁹ www.environment.nsw.gov.au/research-and-publications/publications-search/resource-guide-for-local-councils-erosion-and-sediment-control

- impacting on Aboriginal sites, which are frequently located close to watercourses, and historic heritage.

These potential impacts, which are also cumulative, have a range of implications for the management of NPWS land. They pose serious risks to the protection of park values and assets, and catchment ecological health.

These risks are recognised in provisions in the National Parks and Wildlife Regulation 2019 which requires the consent of NPWS to discharge stormwater into a park (for example, where a development proposes new infrastructure that alters stormwater flows and directs them into a park).

Developments which increase or interrupt natural flows can significantly impact the habitat for threatened species which use downstream riparian or wetland areas. Under the State Environmental Planning Policy (Coastal Management) 2018 development proximate coastal wetlands and littoral rainforest must not significantly impact the hydrological integrity of these areas, or the quantity and quality of surface and groundwater flows entering or leaving such sites.

Potential stormwater impacts of development should also be considered closely where development sites are proximate Ramsar wetlands. Ramsar wetlands are identified as having international importance due to various factors, including their hydrology. Impacts to this hydrological functioning, such as through changes to nutrient levels or stormwater flow patterns, has the potential to affect the ecological character of these internationally significant wetlands.

Recommended approach

- Development proposals for areas adjacent to NPWS land should incorporate stormwater detention and water quality systems (with appropriately managed buffer areas) **within** the development site.
- Water sensitive urban design (WSUD) principles should be applied to developments in catchments upstream from wetlands.¹⁰
- Stormwater should be diverted to council stormwater systems or to infiltration and subsurface discharge systems **within** the development site.
- The discharge of stormwater to NPWS land, where the quantity and quality of stormwater differs from natural levels, must be avoided.

Infrastructure associated with stormwater treatment must **not** be located on NPWS land and any stormwater outlets should disperse the flow at pre-development levels. Landowners and development proponents are responsible for ensuring that all tanks, storage areas and associated infrastructure are appropriately sized and maintained to ensure that there is no unauthorised overflow onto NPWS land.

MUSIC software modelling is commonly used to estimate pollutant loads resulting from developments and different treatment options. Online tools such as the eWater Toolkit¹¹, employ MUSIC software to project runoff quantity and quality post development. Such tools allow assessing authorities to ensure WSUD principles are applied and potential impacts resulting from changes to stormwater discharge to park are avoided. It is recognised that councils commonly require a percentage decrease of pollutant levels immediately downstream of a development relative to the 'no treatment' (post development) option. However, given the potential for pollutants to significantly impact park values, NPWS

¹⁰ <https://www.hccrems.com.au/wp-content/uploads/2016/02/wsud-for-catchments-above-wetlands-final.pdf>

¹¹ <https://toolkit.ewater.org.au/>

recommends that developments proximate to parks should not result in any net increase in pollutant levels discharged to NPWS land.

NPWS acknowledges that in some limited and exceptional cases it may not be possible to avoid the discharge of stormwater from development sites onto NPWS land. In these cases, NPWS may be willing to grant an approval to allow the discharge of stormwater onto NPWS land. Such an approval will only be granted where it can be clearly shown to be in the best overall interests of the environment (for example, by addressing existing impacts from unmanaged stormwater). The final decision rests solely with NPWS.

Any person seeking approval to discharge stormwater onto NPWS land should provide a written request to the relevant NPWS Area Manager containing detailed information on the proposal which should include:

- current stormwater flows (volume and quality) emanating from the nearby property into NPWS land, including existing undeveloped and developed areas
- current stormwater management arrangements (if any)
- identification of any existing impacts on the land as a result of stormwater from the property (including erosion, sedimentation, weeds and tree dieback)
- proposed changes to stormwater related to the development where the following stormwater management standards should be met:
 - for subdivisions, multi-unit dwellings, commercial and industrial development:
 - no increase in pre-development peak flows from rainfall events with a 1 in 5 year and 1 in 100 year recurrence interval
 - no increase in the natural annual average load of nutrients and sediments
 - no increase in the natural average annual runoff volume.
 - for single residential dwellings or small developments on highly constrained lots:
 - standard local council discharge requirements and best practice stormwater treatment to reduce nutrient and sediment loads and average annual runoff volumes to pre-development levels.
- likely impacts from those changes to NPWS land
- clear explanation of the reasons why stormwater discharge is considered unavoidable
- an explanation of the overall environmental benefits to NPWS land from the proposed stormwater management system.

In considering any requests to allow stormwater discharge, NPWS may also require the proponent to submit an environmental impact assessment to meet relevant requirements of Part 5 of the *Environmental Planning and Assessment Act 1979*.

Councils and other planning authorities should **not** grant approvals that involve the discharge of stormwater to NPWS land or include conditions requiring such an outcome from NPWS.

The Environmental Protection Authority has developed a *Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions*.¹² The framework assists in assessing land-use decisions that have the potential to change the health of a waterway and the principles can also be applied to waterways that flow through park and are likely to be impacted by upstream development.

¹² <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Water-quality/risk-based-framework-waterway-health-strategic-land-use-planning-170205.pdf>

Where new stormwater infrastructure may discharge into marine parks or aquatic reserves, planning authorities should consult with the Department of Primary Industries.

2.3 Wastewater

Aim

There are no adverse impacts on NPWS land due to wastewater from nearby development.

Risks to NPWS land

Some new developments, particularly in remote or rural areas, do not have access to mains sewerage systems. In these cases, other options for sewage disposal are required, including septic tanks and composting toilets. Some developments (such as horticultural or turf industries) may propose to undertake effluent irrigation or the discharge of other types of wastewater into the environment.

If wastewater disposal systems are not designed, installed, operated and maintained correctly they can pose significant risks to NPWS land. These risks are similar to the risks from stormwater runoff, although the degree of risk is relatively greater given the nature of waste products involved and the potential impacts to the ecosystem and human health.

Recommended approach

In considering proposals involving wastewater disposal, including sewage management, consent authorities should ensure that disposal systems will be designed and operated to the highest standards. This will require consideration of compliance measures that will be used to ensure ongoing satisfactory operation of the systems.

Except for facilities that are directly related to the provision of park visitor or management facilities, wastewater management infrastructure must **not** be located on NPWS land. Also (with the same exception), there must be no discharge of wastewater to NPWS land, including nutrient or pathogen export from effluent disposal areas.

- As well as any current Office of Local Government guidelines, planning authorities should refer to the Environmental Protection Authority's water quality¹³ guidelines when considering wastewater management.

2.4 Pests, weeds and edge effects

Aim

Adjoining or nearby development does not:

- lead to increased impacts from invasive species (weeds and pests), domestic pets and stock
- facilitate unmanaged visitation, including informal tracks, resulting in negative impacts on cultural or natural heritage values
- lead to impacts associated with changes to the nature of the vegetation surrounding the park

¹³ www.environment.nsw.gov.au/topics/water/water-quality

- impede NPWS access for management purposes, including inappropriate fencing (refer also to section 2.10).

Risks to NPWS land

Development adjoining or in the vicinity of NPWS land has the potential to significantly affect the management of NPWS land, resulting in damage to conservation values and cost implications for future management. Development may result in:

- inappropriate and unauthorised access and uses (such as by trail-bike riders)
- increase in invasive species and decline in biodiversity and ecosystem health (such as dieback)
- impacts on areas of particular environmental sensitivity, including Aboriginal and historic heritage sites, watercourses, threatened ecological communities and threatened species habitat
- disturbance and predation by domestic pets or ingress by stock animals.

Clearing of vegetation (including aquatic vegetation) along or near the boundary of NPWS land can lead to edge effects such as:

- increased drying of soils and consequent changes to vegetation at the land boundary
- decline in fauna species that are sensitive to changes in vegetation along newly created edges
- increased predation in the vicinity of the NPWS land boundary associated with aggressive species in open situations (such as nest predation by ravens and currawongs).

NPWS encourages and supports the sustainable management and development of nearby land, particularly where it is sympathetic to the protection of conservation values in NPWS parks and reserves. The Biodiversity Conservation Trust provides support for landowners interested in voluntarily protecting the conservation values of their land through the Conservation Partners Program.¹⁴

NPWS also works with adjoining neighbours and other authorities to undertake strategic pest management programs. Regional Pest Management Strategies focus efforts on the highest priority pest species across NPWS lands.¹⁵

Recommended approach

In assessing proposals, consent authorities should consider the types of impacts associated with development close to land managed by NPWS. NPWS considers that site layout and design should seek to avoid (and then minimise and mitigate) any adverse environmental impacts.

NPWS encourages consideration of an appropriate buffer, vegetated where possible, or set-back between any development and NPWS land. Where managed effectively, a buffer may minimise the impact to the natural and cultural values of NPWS parks, and increase the resilience of the area to counter potential impacts of climate change. Given the differences between sites and development types, it is not possible to specify a standard buffer; each development will need to be assessed on its merits. Developments that are designed to be

¹⁴ www.bct.nsw.gov.au/conservation-partners-program

¹⁵ www.environment.nsw.gov.au/topics/animals-and-plants/pest-animals-and-weeds/regional-pest-management-strategies

sympathetic to adjoining lands, and to integrate with the landscape, are likely to require less need for buffers or set-backs.

Where there is no buffer, consideration should be given to developing appropriate conditions or land management practices that minimise the potential edge effects from development. This might mean requiring the retention of areas of vegetation or siting a building back from a NPWS boundary.

During construction works adjoining parks, the boundary of the NPWS park and any buffer will require demarcation using a visually obvious barrier such as temporary fencing or flicker tape to reduce the risk of accidental encroachments.

The management of companion animals, such as cats and dogs, and stock is a particular challenge for developments close to NPWS land. NPWS recommends that planning authorities investigate all available options for minimising the risks from domestic pets and stock that may arise from new development. This includes educational tools (such as signage), compliance (such as regular council patrols), physical controls (such as fencing), and other options (such as restrictive covenants where legally possible). For proposals involving boundary fencing, NPWS has established policies and procedures to guide the choice of suitable fencing and cost-sharing arrangements. Consent authorities should refer development proponents to the *Boundary Fencing Policy*.¹⁶

NPWS acknowledges that in some situations clearing of vegetation on neighbouring land is required to manage risks associated with bushfire (see section 2.5). NPWS nevertheless recommends the retention of existing native vegetation where appropriate. This will assist in reducing edge effects, as well as retaining wildlife corridors and minimising the isolation of NPWS parks (see section 2.8).

2.5 Fire and the location of asset protection zones

Aim

All asset protection measures are within the development area, and there is no expectation for NPWS to change its fire management regime for the land it manages.

Risks to NPWS land

NPWS recognises fire as a natural and recurring factor which shapes the environment. However, it also acknowledges that fire poses a significant threat to life and property, and that altered fire regimes may degrade park values including biodiversity, cultural heritage and tourism. The onset of climate change is likely to exacerbate these risks.

NPWS lands are mapped as bushfire prone lands. The majority of fires on NPWS parks, however, originate from sources outside the park and from human-caused ignitions.

Fire management is one of the most important tasks in managing NPWS lands¹⁷. Adjacent land uses have implications for fire management in parks and so fire management in parks needs to be integrated with bushfire management on adjacent lands.

¹⁶ www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-policies/boundary-fencing

¹⁷ www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/fire/managing-fire

Recommended approach

Councils and other planning authorities should not grant approvals that involve the undertaking of bush fire hazard reduction works within NPWS land, including the establishment of asset protection zones, or include conditions requiring such an outcome.

For any proposals adjacent to NPWS land, consent authorities need to consider an assessment of the fire risk in accordance with the bushfire guidelines.¹⁸ The assessment should address appropriate fire management practices for the area. Councils should also ensure that the provisions of the *Rural Fires Act 1997* and section 4.14 of the *Environmental Planning and Assessment Act 1979* are implemented in the area proposed for development. Further consultation with the NSW Rural Fire Service may be required.

While the bushfire guidelines note that asset protection zones are possible but not encouraged, they also state that easements for bushfire protection should not be considered where the adjoining land is used for a public purpose and where vegetation management is not likely or is unable to be granted, such as in a national park. This means that asset protection zones should be provided in the development site and not extend into NPWS land or rely on actions being undertaken by NPWS. Appropriately designed fire protection zones and firefighting access should be located on the land where development is proposed.

Fencing to be erected between the boundary of the property and NPWS land should be of non-combustible material and designed for the intended purpose (for example, stock exclusion). Factors such as disruption to wildlife movements and impacts on fire suppression activities (including the ability of firefighting personnel to safely evacuate an area) should always be considered.

2.6 Boundary encroachments and access through NPWS land

Aim

No pre-construction, construction or post-construction activity occurs on land managed by NPWS. Any access that does occur must be legally authorised and comply with park management objectives.

Risks to NPWS land

Unauthorised access to NPWS land can have direct physical impacts on the conservation values of parks, such as those due to the removal of vegetation, erosion and soil disturbance. If such access continues or other encroachments occur (such as the construction of buildings, car parks or roads) this can have long-term implications affecting park management (for example fire protection), and public use and enjoyment of the park.

Recommended approach

Spatial data for NPWS land is available online and can assist in identifying park locations and boundaries in relation to development sites.¹⁹ Consent authorities should ensure that

¹⁸ NSW Rural Fire Service 2019, *Planning for Bushfire Protection*, www.rfs.nsw.gov.au/plan-and-prepare/building-in-a-bush-fire-area/planning-for-bush-fire-protection

¹⁹ datasets.seed.nsw.gov.au/dataset/nsw-national-parks-and-wildlife-service-npws-estate3f9e7 (requires GIS software)

where land involved in a proposal shares a common boundary with NPWS land the boundary has been accurately surveyed to ensure there is no encroachment on NPWS land as a result of the proposed development.

NPWS land is **not** to be used:

- to access development sites
- to store materials, equipment, workers' vehicles or machinery
- for maintenance access after development.

Measures, such as temporary fencing of 'no-go' areas during construction or installation of permanent, wildlife-compatible fencing should be considered, and will require NPWS approval if they are proposed to be located along the site boundary.

In addition, where ongoing access to the development site requires access through NPWS land, the consent authority should ensure that there is a legal basis for such access before granting approval. Consent authorities should specifically consider whether:

- access will be via an existing public access road
- access has been, or will be, granted by NPWS including any conditions or limitations on such access (such as road widths) if there is no existing public access road
- there are any statutory limits on the rights for continued use of access roads through parks recognised by national park reservations acts since 1996
- councils and other planning authorities should not grant approvals that involve access through or across NPWS land, or include conditions requiring such access, without clear written evidence of an agreement from NPWS.

2.7 Visual, odour, noise, vibration, air quality and amenity impacts

Aim

There is no reduction of amenity on NPWS land due to adjacent development.

Risks to NPWS land

Certain developments may significantly intrude on the environment of NPWS lands, affecting the senses of wildlife and park visitors. For example, noise, vibration and lighting may disrupt foraging and breeding habits of native animal species. These impacts and any degradation of air quality (including odours) may adversely affect the use and public enjoyment of walking tracks, campgrounds and picnic areas in the park.

Recommended approach

Planning authorities should take into account the visual (including lighting), noise, odour and air quality impacts of development adjacent to NPWS land to ensure that they do not affect the amenity or public enjoyment of the land. NPWS land should never be considered as a buffer zone between a development and other surrounding uses (such as residential areas).

Planning authorities should consider whether it is appropriate to apply control measures so that the development is sympathetic with the park's natural and cultural heritage values. Such controls may include landscaping with local native plant species, implementing buffer areas and set-backs, limiting hours of operation, and use of appropriate colours, building

materials, lighting and height controls. Light trespass into parks from street or security lighting should be minimised.

Some types of developments, such as quarries and road works, can result in particularly significant impacts (for example noise and dust). Large-scale developments of this type are likely to need detailed site-specific management plans.

2.8 Threats to ecological connectivity and groundwater-dependent ecosystems

Aim

Native vegetation and other flora and fauna habitats that provide a linkage, buffer, home range or refuge role on land that is adjacent to parks are maintained and enhanced, where possible.

Groundwater-dependent ecosystems in NPWS land are protected.

Risks to NPWS land

Naturally vegetated areas adjoining NPWS land provide essential linkages for the maintenance of biodiversity and also minimise potential edge effects. These areas have a role in maintaining the viability of local populations and form an important component of home ranges of mobile species, as well as providing valuable wildlife refuge areas (including during periods of stress). Streams, rivers and other water bodies close to NPWS land may play similar roles.

Avoiding native vegetation clearing and fragmentation and retaining landscape connectivity will also assist in mitigating some of the impacts of climate change on biodiversity. Native vegetation in good condition and with a minimal edge to area ratio will be better able to resist weed invasion, wind damage, desiccation and other edge effects.

Development in areas of native vegetation or along water bodies that adjoin NPWS land can result in fragmentation of habitat corridors and isolation from other areas of habitat in the locality. Landowners are encouraged to protect and manage the conservation values of their properties, such as through the Conservation Partners Program noted in section 2.4.

Recommended approach

NPWS recommends that vegetation, waterways and water bodies close to NPWS land that exhibit ecological connectivity should be retained, protected and, where necessary, rehabilitated. Consent authorities should consider the corridor values, or connective importance, of any vegetation (not only trees) and waterways or water bodies and possible impacts from the proposed development.

For proposals involving the extraction of groundwater, NPWS recommends that consent authorities obtain and consider a comprehensive assessment of any potential impacts that may occur to groundwater-dependent ecosystems in NPWS lands. This can include wetlands, vegetation, mound springs, river base flows, cave ecosystems, playa lakes and saline discharges, springs, mangroves, river pools, billabongs and hanging swamps. The groundwater dependence of ecosystems can range from complete reliance to a partial reliance on groundwater, such as might occur during droughts.

Ecological processes in groundwater-dependent ecosystems are threatened by the regular extraction of groundwater and changes in land use or management.

The protection of groundwater-dependent ecosystems is a key principle of the NSW State Groundwater Protection Policy.²⁰ Further information on groundwater, including groundwater vulnerability maps, is available from the Department of Planning, Industry and Environment.²¹

2.9 Cultural heritage

Aim

Areas and sites of heritage value on NPWS land, including Aboriginal cultural heritage, are protected.

Risks to NPWS land

NPWS land contains some of the most significant and intact areas of Aboriginal²² and historic cultural heritage values in NSW. This includes physical objects, items and places, as well as areas that are significant with respect to cultural traditions, customs, beliefs and history. It can include values that pre-date the arrival of settlers to Australia (for example, Aboriginal objects), as well as more contemporary associations (such as cemeteries). Some NPWS parks or sites in parks are world heritage or national heritage listed or on the State Heritage Register.

Cultural heritage values can, and often do, extend across the landscape, spanning multiple land tenures and properties. Ensuring that these values endure and can be interpreted and appreciated by future generations requires protective action across boundaries.

As noted above, there are a number of NPWS parks that are world heritage listed (such as Blue Mountains National Park) and/or on the National Heritage List (such as Ku-ring-gai Chase National Park)²³. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* requires that approval be obtained from the Australian Government before undertaking any action that could have a significant impact on the world heritage or national heritage values of a listed place. Such impacts are not limited to those from adjoining properties, and could occur due to developments some distance away.

There are also many NPWS lands (or areas, items or features in parks) that are listed on the State Heritage Register²⁴ and protected under the *NSW Heritage Act 1977*. Many heritage items in NPWS parks are listed under local environmental plans.

Impacts on these values may be related to the issues discussed in previous sections (for example, there may be impacts on Aboriginal objects resulting from erosion, sediment and stormwater from nearby developments). The cultural context or significance of a site may be dramatically affected by unsympathetic nearby development.

²⁰ www.water.nsw.gov.au/ArticleDocuments/34/nsw_state_groundwater_quality_policy.pdf.aspx

²¹ www.industry.nsw.gov.au/water/science/groundwater

²² www.nationalparks.nsw.gov.au/conservation-and-heritage/aboriginal-culture

²³ www.environment.gov.au/heritage/index.html

²⁴ www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx

Recommended approach

Consent and planning authorities should ensure that they give adequate consideration to potential impacts of nearby development on the heritage values of NPWS land. In particular, this includes:

- Aboriginal heritage values on NPWS land which can, but do not always, include areas declared as an Aboriginal Place
- historic heritage values, especially any areas or specific places listed on the State Heritage Register
- world heritage or national heritage values.

2.10 Access to parks

Aim

Adjacent developments do not compromise public and NPWS access to parks.

Risks to NPWS land

Maintaining legal and viable access to NPWS land is important in ensuring park values are conserved and that NPWS can undertake its functions as the manager of the land. Where proposals include changes to local access, such as road closures, new master planned areas or subdivision, any potential impacts to park access should be assessed.

Planning authorities should recognise NPWS has a responsibility to establish, maintain and protect a sustainable network of fire trails to prevent and control bushfires. Ensuring ongoing access to this network of trails aids in the protection of neighbouring lands as well as the park.

Proposals that remove, destroy, obstruct or limit access to a strategic or tactical fire trail have the potential to impede NPWS's ability to undertake preventative bushfire hazard reduction and to respond in the event of a bushfire. Even temporary closures of or obstruction to fire trails can cause significant risk to life, property and park values. Subdivision proposals or developments involving landform modifications may block park access through new retaining walls, and the exclusion of trail entry points from new road networks, or through new guttering or other infrastructure at trail heads that hinders or blocks vehicular access.

Access to existing visitor sites in NPWS parks (including lookouts, picnic areas, campgrounds and tourist drives) may also be blocked by poorly planned road networks on lands adjacent to parks. This may impact on the recreational values of the park to the broader community and opportunities for tourist operators.

Recommended approach

Consent and planning authorities should ensure that they consider any potential impacts on the accessibility to NPWS parks due to a proposed development in both the long- and short-term.

Road networks and landform modifications in new subdivisions should be designed to ensure that they accommodate current access points to parks. Conditions may need to specify that the storage of materials, equipment, workers' vehicles or machinery should not block or impede access to park roads and fire trails. The location of temporary fencing should also be considered with regard to the access to park roads and fire trails.

Consideration should also be given to the planning for strategic or tactical fire trails proximate to the development. The Fire Access and Fire Trail (FAFT) plan and the NPWS reserve fire management strategy for the park should be consulted as to the location of such trails.

Once designated under the relevant FAFT plan, strategic fire trails cannot be closed under Section 62ZI of the *Rural Fires Act 1997*, with closure encompassing obstruction or impacts that do not allow for the proper use of the fire trail.

While not necessarily designated or registered, tactical fire trails play an important role in supporting the prevention and suppression of fire. Consent authorities should ensure that development does not block or in any way impede tactical fire trails.

Submission number: DCPE537

Name: Susan Wood

Feedback:

We protested Club Med destroying this beachside property and won! Please protect this property and don't allow this destructive activity by changing our Byron Shire laws!

Submission number: DCPE538

Name: laurent S

Feedback:

They are allowing this parkland @ 144 Bayshore DR in Byron to be used to build 9 large residential lots. Clearing trees used by endangered black cockatoos and other native birds and wallabies .

This land is directly behind the beach , and as such is subject to coastal erosion.

This land should be left as parkland , and left for the nature and animals that use it , such as swamp wallabies ,

The traffic on Bayshore drive will also increase to levels not suitable for this local road

DCPE538\3177652\belongil beach trach.jpg



Submission number: DCPE539

Name: Kim komesarook

Feedback:

Its a tidy change to the proposal and with a strong purpose. What children and adults need close by is a learn to ride traffic safety school because it becomes a life and safety skill for example at this link please

<https://www.melbourneplaygrounds.com.au/bike-tracks-and-traffic-schools-for-younger-riders-in-melbourne>

Submission number: DCPE541

Name: steve lucas

Feedback:

Its such a shame to see the inevitable destructive repercussions of bad decision making. The zoning here should/ could have gone the other way in protecting and enhancing the natural environment - golf course to exemplary revitalized regen.

A vista of housing potentially now to dominate the serene space we've only ever known.

Quite a bit of Club Med / Becton / docs I have demonstrated a lack of desire to develop the land in question. Some believed it to be secure.

If housing (in a Byron vernacular) is inevitable stringent design, planning and environmental guidelines need to be in place. The area is flood affected and flood retention , Becton's architects recommended dwellings on piers for abutting, similarly flood affected land.

Adjoins sensitive wildlife habitat on most sides which need to be enhanced and strengthened. Restriction on domestic cats and dogs, referred to in proposal docs need to be enforceable.

pesticide and herbicide use and runoff should be taken into account and addressed.

Continued beach access is stated and assured with parking plus environmental signage etc. Good.

Thanks for this opportunity to comment.



Changes to DCP for Land at North Belongil, Byron Bay,

Submission by Kathryn McConnochie

I object to the changes to the current DCP Chapter E5 to create “Precinct 3 Environmental Living..... for future dwellings” at the North Byron Beach site, north–west of Elements of Byron Resort at Belongil.

I oppose the development of this site for housing. It is too close to the foredunes & will become inundated by sea level rise in the future. Scientists have already proven that the world has passed 1.5 degrees of warming & will reach 2 degrees by 2030. The sea level rise that ensues from increased global warming will make this area unsafe for dwellings & uninhabitable. If this doesn’t happen in the next 10 years it will occur in the next 30 -50 years & it is highly negligent & irresponsible to allow housing in a future coastal erosion zone.

The site is also the habitat of the internationally near threatened bird, the Latham’s Snipe. This migratory bird is listed as vulnerable under the Australian EPBC Act, following assessment in 2020. It spends its entire non breeding season in Eastern Australia. It has been sited at the proposed development site at North Belongil. Its habitat must be preserved as a priority.

Apart from the overriding constraint of sea level rise, it appears that the site is under a cloud of confusion as to whether the development of housing at this location is lawful. The legality of developing this site must be investigated by the State Government’s Planning Minister. There was a consent given to a DA submitted for Becton, the previous owner. This DA was commenced by Becton, therefore the consent conditions for the previous DA should be enforced by Council, as they stay with the land when it is transferred to a new owner.

One of the important consent conditions was for 57 ha of the site’s forested area be given to the NPWS to add to the Tyagarah Nature Reserve. The site is mainly covered with native vegetation that should be retained as part of this Reserve. It should not be cleared & turned into a subdivision for luxury housing.

Council must firstly refer any development of this site to the NSW Planning Minister to determine whether this subdivision on a dune front area, is still subject to the previous DA conditions. This must be done before any changes are made to the DCP.

If the prior DA consent conditions for this land are no longer lawful, than I approve of the controls proposed to prohibit the keeping of dogs & cats in this subdivision, which must be prohibited both in private & public areas.

Under the same circumstances for consent conditions, I would approve of the controls for limiting the building footprint for each dwelling and controls for the design & sustainability of future dwellings.

Submission concerning Proposed Changes to Byron DCP 2014 - Chapter E5 Certain Locations in Byron Bay and Ewingsdale.

This is my submission concerning proposed changes to DCP 2014 relating to Chapter E5, specifically to the new controls for Precinct 3, North Byron Beach Resort Precinct.

I note that neither the map E5.4 nor the text of the DCP make any mention of the Byron Shire Bike Plan's Byron to Brunswick Heads Coastal bikeway / pathway, which is Bike Route IT005 in Council's Bike Plan. This coastal pathway / bikeway is a crucial link, albeit with some implementation hurdles, in the future movement system. Much of this link exists already as a coastal fire trail, and a rough track running north from the northern end of Bayshore Drive.

It is vital that development precinct plans reflect a 'whole of Council' approach and include a clause and map citation in the DCP requiring future subdivision and development in Precinct 3 to include a shared pathway / bikeway connection from the northern end of Bayshore Drive through this precinct.

Kind Regards

ian Pickles