



14 November 2023

Isabella Avelino Gianelli  
Byron Shire Council

Via email

Dear Bella

## THE ESPLANADE 6-SPACE PARKING OPTION PLANNING ADVICE

### Purpose of this Advice

The purpose of this advice is to:

- Advise on the planning pathway for this project based on the 6-space parking option in the draft plan set.
- Advise on specialist information required or other issues.

Council supplied a plan for the project dated 9 November 2023, but it inadvertently identified seven car spaces. The clear intention of the project is to construct six car spaces and an amended plan identifying the six car spaces is attached (Appendix 1). This advice is based on the 6-space parking option.

Mike Svikis inspected the subject land on 13 November 2023.

### General

There are three (3) 'approval pathways' available under the *Environmental Planning and Assessment Act 1979*:

- 1 Exempt development – no approvals required under the Act (may still require approvals/permits/licensing under other legislation). In Byron, this can still trigger a Conservation Risk Assessment (CRA);
- 2 Development with consent – consent required under Part 4 of the Act (ie the development application process – can require an EIS in some circumstances); and
- 3 Development without consent – no approval required, but Council will need to consider environmental implications of the works (under Part 5 of the Act) – a Review of Environmental Factors (REF) is the tool used for this. May still require approvals/permits/licensing under other legislation.

## The Project

The activity involves the following components:

### **6-space Parking Option (as amended)**

- Existing gravel road section to be sealed
- Existing sealed road to be resealed
- Proposed signage
- Proposed bollards or rocks as required
- Designated parallel parking areas (six spaces) and designated 'no parking' areas

The project arises because The Esplanade is in poor condition and has minimal drainage; it is a popular parking spot for beach users that is often full and congested; it is the sole road access for eight residential lots and parking in driveways is common; it is the only access for the garbage truck for weekly pick-ups from the eight lots.

## The Subject Land

The subject land is entirely within The Esplanade road reserve (Figure 1). It runs parallel to New Brighton beach.

Figure 1: The Esplanade road reserve



The subject land is zoned mostly 7f1 (Coastal Lands Zone) and partly 7f2 (Urban Coastal Lands Zone) under Byron LEP 1988 (Figure 2). It is a deferred matter under Byron LEP 2014.

Figure 2: Byron LEP 1988 – subject land is zoned 7f1 (Coastal Lands Zone) and 7f2 (Urban Coastal Lands Zone)



The subject land (road reserve) is mostly identified as being on the seaward side of the Immediate Hazard Line in the *Byron Shire Coastline Hazards Assessment Update* (2013) (Figure 3). The 'immediate' erosion hazard extent represents the zone that could be affected by erosion in the immediate near future (eg over the next few years) in the event of one or more major storm events, while the 2050 and 2100 extents incorporate a landward shift in the immediate hazard line in response to the shoreline recession.



Figure 3: Byron Shire Coastline Hazards Assessment map extract



The subject land is identified by Council as an area of High Environmental Value (Figure 4) with a vegetation community described as Littoral Rainforest (Figure 5).

Figure 4: BSC Area of High Environmental Value

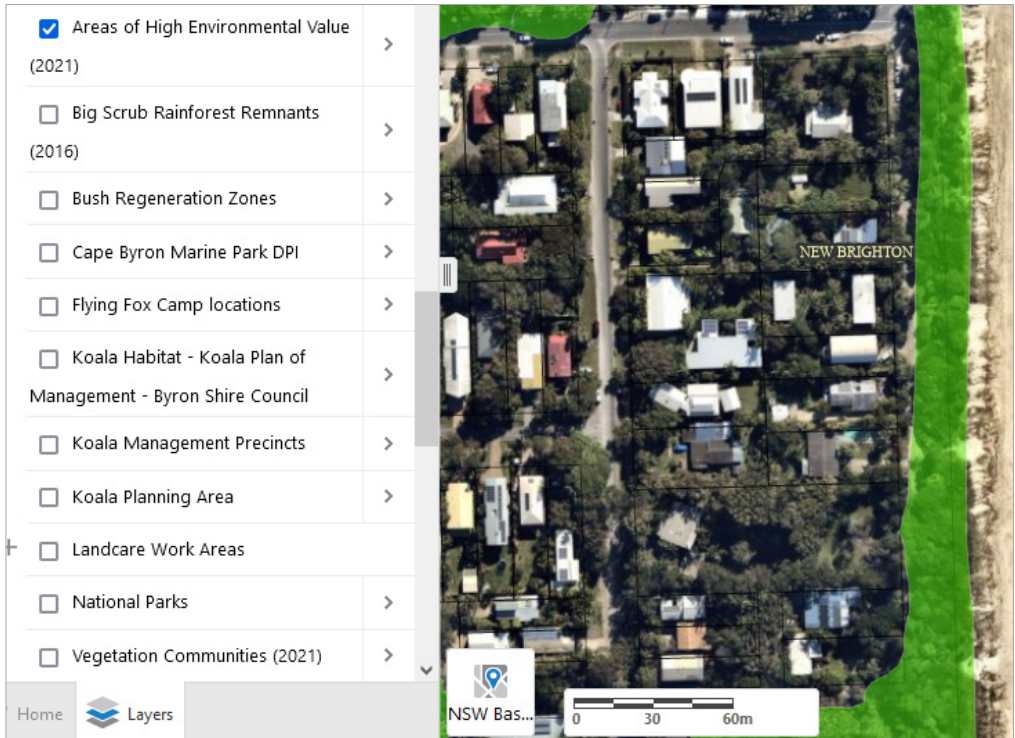
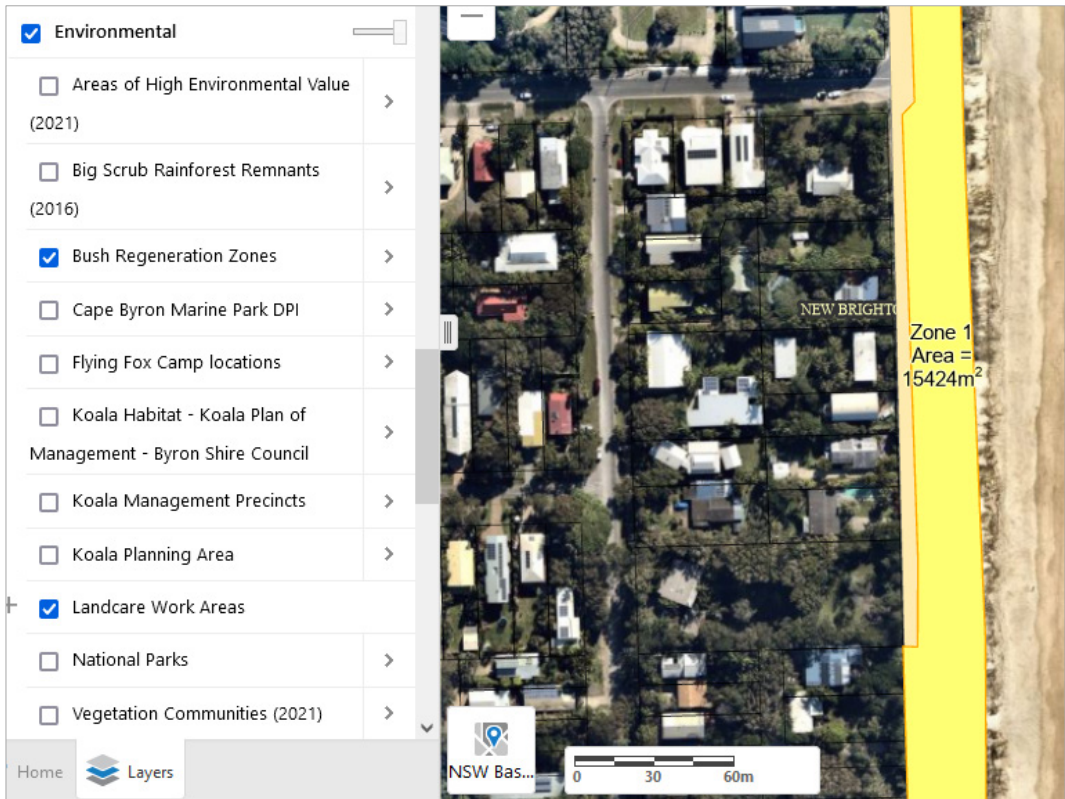


Figure 5: BSC Vegetation Community mapping



The subject land and adjacent dunes to the east are identified by Council as bush regeneration areas (Figure 6). Council has also been active in this location with beach scraping to promote dune height and stability.

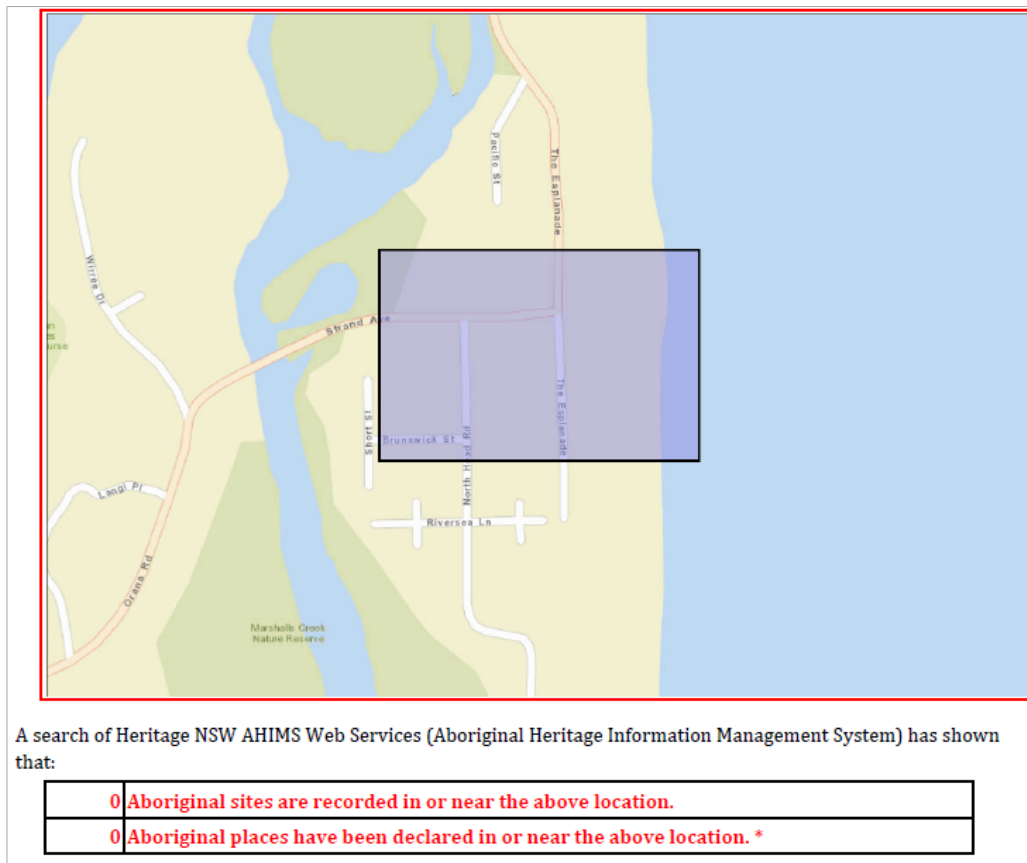
Figure 6: BSC bush regeneration and landcare areas



A search of the AHIMS register indicates that Aboriginal sites are not known to be located in the works area (Figure 7). However, the subject land is located between a beach and Marshalls Creek, which both provide a food source, so there is a high probability of the locality being associated with Aboriginal settlement. Consultation with the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and the Tweed Byron Local Aboriginal Land Council (TBLALC) would be appropriate if substantive works were to proceed.



Figure 7: AHIMS search result (November 2023)



## Planning Pathways

The 6-space parking option has the following planning pathway:

### Works that are exempt development (no assessment or CRA required)

#### 2.113 Exempt development

- (1) *Development for any of the following purposes is exempt development if it is carried out by or on behalf of a public authority or the Minister responsible for Crown roads (within the meaning of the Roads Act 1993) in connection with a road or road infrastructure facilities and complies with section 2.20—*
  - (a) *erection, installation, maintenance, reconstruction or replacement of any of the following, and any associated landscaping works—*
    - (i) *security fencing with a height above ground level (existing) of not more than 3.2m,*
    - (ii) **safety barriers or systems**, including Jersey barriers,
    - (iii) **directional, safety or other advisory signs relating to road works or the use of existing road infrastructure facilities,**
    - (iv) *pedestrian and cyclist facilities (such as footpaths, street lighting, kerb adjustments and ramps, pedestrian fences, refuges, holding rails, and bollards),*
    - (v) *slope stability works that are required for safety reasons and minor road safety improvements,*



- (vi) **minor road pavement or shoulder work (such as patching, grading, re-sheeting, sealing and re-sealing),**
- (vii) *street furniture (such as seats, bins and directional signs) and any associated kerb construction, access paths and ramps, lighting and signage that complies with AS:1428.2 and the Disability Standards,*
- (viii) *removal from or addition to existing traffic lights of items such as signal displays, loops or buttons,*
- (ix) *roadside facilities and rest areas, if the development does not involve the installation of toilets and involves no greater disturbance to the ground or vegetation than necessary,*
- (x) *street lighting, if any replacement involves the replacement of existing materials with similar materials only and if the lighting minimises light spill and artificial sky glow in accordance with the Lighting for Roads and Public Spaces Standard,*
- (xi) **pavement and road surface markings (such as bus lane markings), lane delineators, electric pavement lights, detection loops and traffic counters,**
- (xii) *kerb and guttering,*
- (xiii) **culverts, drains and other works to improve the quality or control of stormwater runoff,**
- (xiv) *public transport information display and ticketing systems,*
- (b) *repair or replacement of lighting, mechanical systems, electrical equipment or air monitoring equipment, replacement of screening of overhead bridges and removal of graffiti or debris,*
- (c) *emergency works to protect a road or road infrastructure facilities, the environment or the public, but only if they involve no greater disturbance to soil or vegetation than necessary,*
- (d) *upgrading or maintenance of landscaping, or vegetation management (such as weed spraying, slashing and pruning), that—*
  - (i) *does not involve construction works, and*
  - (ii) *involves the replacement (if any) of existing materials with similar materials only,*

All of the activities that make up the 6-space parking option can be undertaken in the road reserve as exempt development. For example:

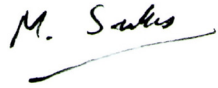
- signage;
- parking delineation;
- line marking;
- bollards,
- pot hole fixing; and
- sealing or resealing of existing road (not widening).

## Issues and Advice

The 6-space parking option is a relatively minor scope of works that has minimal opportunity to have a significant environmental impact. Although the location is environmentally sensitive, an REF is not required. A Conservation Risk Assessment (CRA) could be undertaken but this advice documents the basis for the works being exempt and provides sufficient assessment to cover what would be included in a CRA.

I am available to discuss this planning advice, if required.

Yours sincerely

A handwritten signature in black ink, appearing to read "M. Svikis", with a long horizontal flourish extending to the right.

Mike Svikis  
Principal Planner

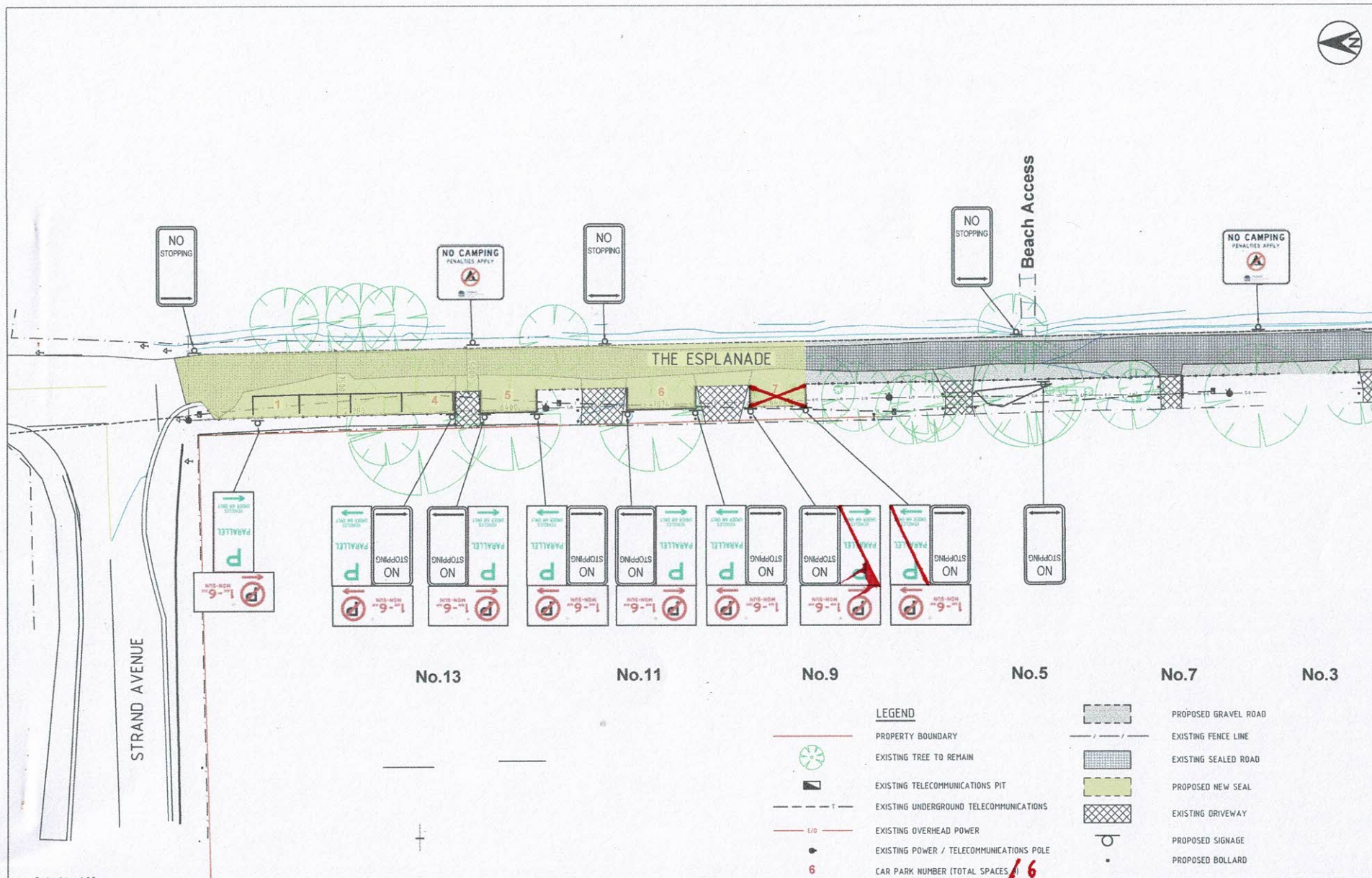
Enc: Plans for 6-space parking option (as amended) (Appendix 1)

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## APPENDIX 1

Plan for 6-space parking option (as amended)

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<div>PRELIMINARY NOT FOR CONSTRUCTION</div>			<div>SCALE: A1 SHEET 1:200, A3 SHEET 1:400</div> <div></div>			<div>INFRASTRUCTURE SERVICES</div> <div>COUNCIL OFFICES</div> <div>70-80 STATION STREET, MULLUMBIMBY NSW 2482.</div> <div>PHONE 02 66267000</div> <div>FAX 02 66845018</div> <div>WEBSITE <a href="http://www.byron.nsw.gov.au">www.byron.nsw.gov.au</a></div>			<div></div>			<div>APPROVED _____ DATE _____</div> <div><table><tr><td>DESIGNED _____</td><td></td></tr><tr><td>DRAWN _____</td><td></td></tr><tr><td>CHECKED _____</td><td></td></tr><tr><td>HORIZONTAL DATUM _____</td><td>ISO _____</td></tr><tr><td>VERTICAL DATUM _____</td><td>AND _____</td></tr></table></div>			DESIGNED _____		DRAWN _____		CHECKED _____		HORIZONTAL DATUM _____	ISO _____	VERTICAL DATUM _____	AND _____	<div>PROJECT: NEW BRIGHTON THE ESPLANADE</div>			<div>PROJECT NUMBER: _____</div>		
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<div>USE FIGURED DIMENSIONS ONLY. DO NOT SCALE.</div>																														

ACAD FILE NO: G:\Engineer\CAD\360-2699\2699 The Esplanade New Brighton Parking\Civil Design\DWG\2699 The Esplanade Main Upgrade.dwg

MS 14/11/23

6 Spaces  
option