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Ground Floor, Suite 01, 20 Chandos Street
St Leonards, NSW, 2065
PO Box 21
St Leonards, NSW, 1590

Director Regions
Department of Planning and Environment
Northern
Locked Bag 9022 - Grafton NSW 2460

T +61 2 9493 9500
F +61 2 9493 9599
E info@emmconsulting.com.au
www.emmconsulting.com.au

Re: Submission on the Draft North Coast Regional Plan

EMM Consulting Pty Limited (EMM) acts for Crisjoy Pty Limited the owner of Broken Head Quarry, Suffolk Park, in making this submission on the *Draft North Coast Regional Plan* (the draft Plan).

In summary, EMM supports the draft Plan's inclusion of the Broken Head quarry site (the site) as an urban growth area. This submission provides further justification as to why the site is suitable for future urban development and how this would be consistent with the aims of the draft Plan.

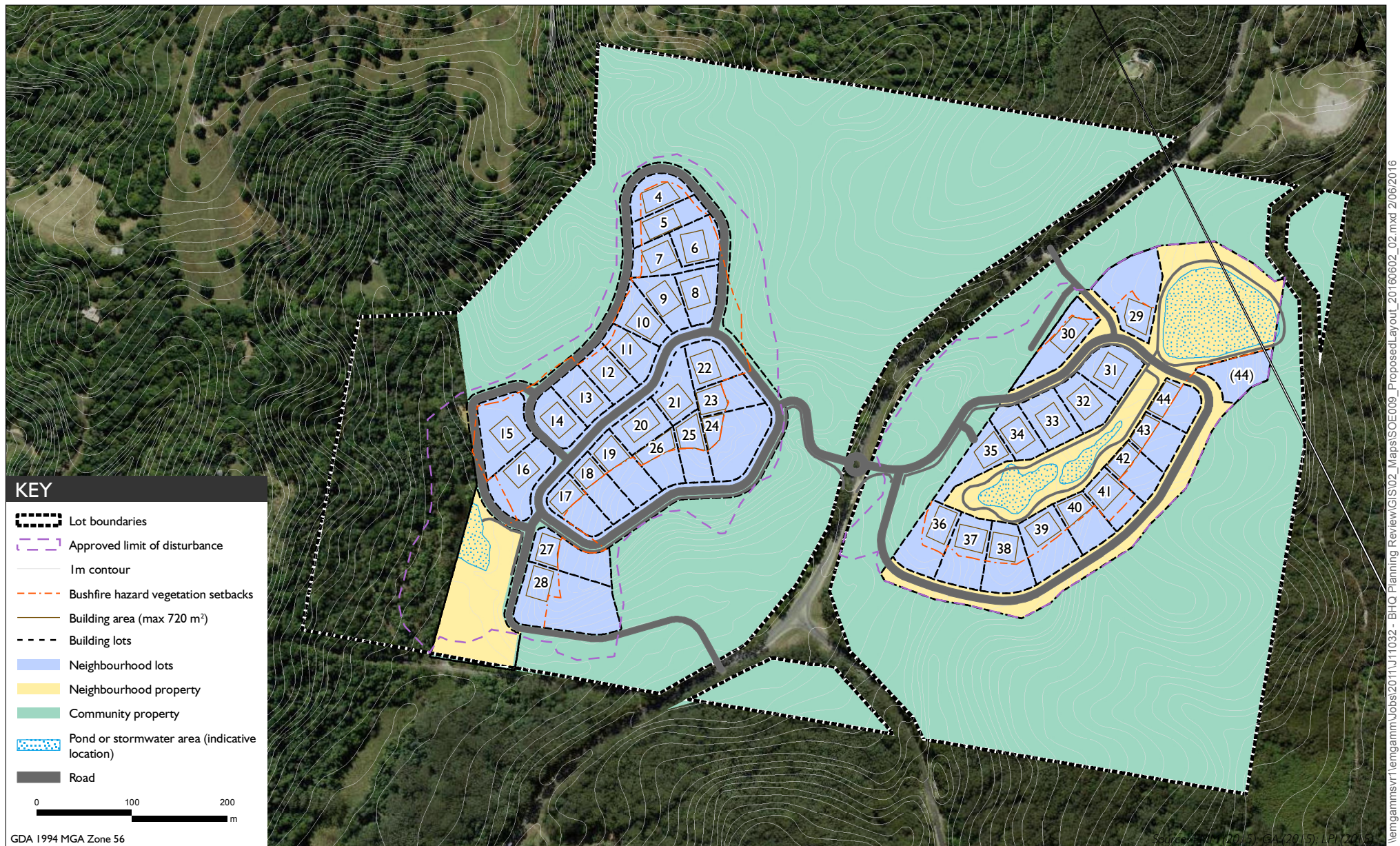
1 Background

The site is located approximately 5 km from central Byron Bay and 500 m from the residential boundary of Suffolk Park. Until recently the quarry exploited a regionally significant sand resource. The resource within the area approved for quarrying is now exhausted.

In June 2014 a development application (DA) for a 44 lot community title residential subdivision was lodged with Byron Shire Council. Of a total area of approximately 52 hectares (ha), approximately 12 ha was proposed for residential use, approximately 7 ha for local open space and approximately 33 ha as environmental conservation. Residential lots ranged in size from approximately 2,000 to 6,000 m². The development would have use of water and sewer infrastructure which already serves Suffolk Park and the Broken Head village. The majority of the site (approximately 63%) would have been conserved and managed for environmental conservation.

A concept plan for the proposed residential subdivision is shown in Figure 1.

The DA was refused by Byron Shire Council and a subsequent Land and Environment Court appeal also dismissed the application based on its inconsistency with the zone objectives, which primarily seek to maintain the primary production potential of land in the site's RU1 Primary Production zone. As the resource on the site has now been exhausted the zone objectives are no longer relevant. Consequently, the applicant has lodged a further appeal - a judicial review of the commissioner's decision which is currently being considered.



Concept plan
Broken Head Quarry

2 Suitability of the site for residential development and consistency with the draft Plan

The SEE accompanying the DA for subdivision addressed all relevant matters, including ecology, bushfire, traffic, contamination, civil engineering and bulk earthworks, Aboriginal and historic heritage, and groundwater.

The subdivision was designed to avoid adverse environmental impacts where possible, by locating residential development largely within the approved disturbance area of the quarry. The subdivision was engineered to address issues such as bushfire, stope stability and access to the local road network.

All potential environmental issues were fully addressed as part of the DA and subsequent appeal. In summary, the site is suitable for urban development. More detailed consideration of its suitability for urban development and compliance with the relevant provisions of the draft Plan is provided in Table 1.

Table 1 **Suitability of the site for urban development and consistency with the draft Plan**

Goal/direction/action	Relevant aims of the draft Plan	Suitability for development and consistency with the draft Plan
<i>Goal 1 – A natural environment, and Aboriginal and historic heritage that is protected, and landscapes that are productive</i>		
<i>Direction 1.1 – Protect the environment and Aboriginal and historic heritage</i>	<p>The draft Plan identifies the North Coast as one of the most biologically diverse regions in Australia and one which also has a rich and diverse Aboriginal and historic heritage. The draft Plan states that these environmental and heritage values define the distinctive character of the North Coast and underpin the tourism sector.</p> <p>The draft Plan aims to protect potentially high environmental value areas. These areas have been identified and mapped at the local scale in urban growth areas to inform future land releases.</p>	<p>The area of the site outside the approved disturbance areas of the quarry comprises mainly undisturbed bushland. The majority of this vegetation is Blackbutt Forest with some rainforest occurring on the western part of the site. This vegetation has high ecological value because of the diversity of habitats, species and rarity of vegetation species present, including a number of threatened species.</p> <p>As shown on the concept plan (Figure 1), future residential development could be designed to stay within the approved limit of disturbance and thus avoid disturbance of valuable vegetation. The ecology assessment undertaken for the proposed subdivision concluded that there would not be a significant impact to any threatened species or communities.</p> <p>There are no listed historic heritage items on the site and no Aboriginal sites on the area proposed for development. The assessment of cultural heritage impacts found that the proposed subdivision would almost certainly not harm any Aboriginal objects.</p> <p>It is noted that the nearby Taylors Lake has significance to Aboriginal people and is within an area covered by an Indigenous Land Use Agreement. However, the impact of any future development could be addressed by restricting access from the site to the lake.</p> <p>Restricting any future development on the site to within the approved disturbance area of the quarry would allow the balance of the site (approximately 63%), which comprises mainly high value vegetation, to be conserved. This would ensure the protection of the environment and Aboriginal and historic heritage.</p> <p>In summary, urban development restricted to disturbed areas combined with conservation of the balance of the site would be fully consistent with this direction.</p>
<i>Action 1.1.1 Identify and manage areas of high environmental value</i>	Locations within the region with high environmental values have been mapped (Figure 1 of the draft Plan) using criteria established by the NSW Office of Environment and Heritage (OEH).	The area surrounding the quarry is identified in the draft Plan as having potentially high environmental value. As described above, restricting development to the approved disturbance area of the quarry would allow these areas to be protected from future development. If development was restricted to disturbed areas and combined with appropriate management arrangements for the balance of the site, this action would be fully

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<i>Action 1.1.2 – Identify and map areas of potential high environmental value and Aboriginal and historic heritage in proposed urban and employment land</i>	OEH will review proposed urban growth area maps, to identify sites highly likely to have significant environmental, and Aboriginal and historic heritage values that may constrain development.	addressed. Ecological and Aboriginal and historic heritage assessments undertaken for the site could be made available to OEH to assist in its review of the potential urban growth area.
Goal 2 – Focus growth opportunities to create a great place to live and work		
<i>Direction 2.3 – Focus growth to the least sensitive and constrained areas to protect natural assets</i>	The draft Plan recognises that demand for urban development remains strongest in coastal locations; however, continued development along the coast could result in the underuse of infrastructure and services in major centres outside the coastal area and increase pressure on the fragile coastal environment. The NSW Government and councils will manage the growth of new land release in the coastal area by directing development to the mapped urban growth areas.	Due to its disturbed condition, close proximity to town boundaries and the availability of infrastructure, the site presents a unique opportunity to provide residential development in a coastal location with access to existing urban infrastructure and services without increasing pressure on the environment. Development on disturbed areas of the site would be fully consistent with this direction.
<i>Action 2.3.1 – Focus future urban growth into the mapped urban growth areas</i>	The identified urban growth areas accommodate development whilst also protecting important farmland, fragile and vulnerable ecosystems and heritage assets and reduce potential land use conflicts. The draft Plan identifies that land in the urban growth areas represent new land release development opportunities that will require rezoning. These urban release areas are to be used by councils to define the land available as they prepare their local growth management strategies The draft Plan aims to direct urban growth to the most suitable areas to preserve biodiversity – development in these areas will take account of the mapped areas of potentially high environmental value and regionally significant farmland.	A future residential development of the site will have no impact on important farmland. As described above, important environmental assets could be protected by restricting future development to the approved disturbance area of the quarry. With the quarry resource exhausted and with the access to existing infrastructure and services, the site offers an immediate opportunity for new land release in a mapped urban growth area. In order for the potential of the urban growth area to be realised and to ensure consistency with the draft Plan, the site requires inclusion in Byron Shire Council's local growth management strategies. This is discussed further in Section 4 below.
<i>Action 2.3.2 – Identify residential, commercial and industrial uses in urban growth areas by developing local growth management strategies</i>	The NSW Government will require that councils only zone land for residential, commercial or industrial use if it is consistent with a local growth management strategy agreed between council and the NSW Department of Planning and Environment (DP&E). Statewide land release criteria will be prepared to assess locations for these uses across regional NSW.	As described previously, residential is an appropriate use of the site, given that the quarry resource is now exhausted, the site does not contain environmental or heritage constraints and existing urban infrastructure and services are readily available. Any future local growth management strategy will need to identify residential as a suitable use in the urban growth area.
Goal 3 – Housing choice, with homes that meet the needs of changing communities		
<i>Direction 3.1 – Provide sufficient housing</i>	The draft Plan predicts that by 2036 the North Coast will need to	Development of the disturbed parts of the site would enable provision of

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<i>supply to meet the demands of the North Coast</i>	<p>accommodate an additional 97,000 people. It is anticipated that this growth, along with demographic change and changing household needs, will generate demand for an additional 72,200 dwellings, of which 15,200 will be required in the Byron LGA.</p> <p>The draft Plan requires local growth management strategies to identify an adequate supply of residential land to accommodate the predicted population growth and the demand for housing.</p> <p>Councils are required to consider providing surplus supply of housing to provide a range of development opportunities.</p> <p>Factoring in a modest housing surplus makes for a more robust housing policy that is able to deal with unforeseen constraints to development, including delays in the supply of housing, uneven rates of development, or unexpected population growth.</p>	<p>approximately 44 large residential lots close to the coastline. There is a very high demand for such lots and very limited opportunities to meet this demand in the Byron LGA. Thus, residential development would be fully consistent with this direction.</p>
<i>Action 3.1.1 – Review land supply to identify proposed urban land for extra dwellings</i>	<p>A review of land within the urban growth areas was completed to evaluate the prospects of meeting the need for the extra 72,200 dwellings by 2036. The review identified that not all land identified can be developed for urban uses and that the Byron and Bellingen LGAs specifically may not have sufficient capacity in their urban growth areas to achieve a 20 year supply of housing.</p>	<p>Residential redevelopment of the site will assist in meeting the housing shortage that is predicted in the Byron LGA, which is particularly acute in areas near the coast.</p>

3 Identified mineral resource

It is noted that the site is included as an 'identified mineral resource' on Figure 7 of the draft Plan.

As described previously, the regionally significant sand resource within the area approved for quarrying is now exhausted. This resource is also effectively sterilised in the area surrounding the quarry as a result of conservative zoning which aims to protect the area's ecological and other environmental values.

This is supported by the NSW Department of Trade and Investment (DTIRIS) - Mineral Resources Branch (MRB) in a submission on the residential subdivision, which stated that:

MRB is satisfied from statements provided by the Broken Head Quarry Director as well as those provided in the Statement of Environmental Effects that the remaining viable resource will be exhausted at the latest in early 2015.

MRB advised that the site was included in the Mineral Resource Audit (MRA) for the Byron LGA, conducted in accordance with Section 117(2) of the NSW *Environmental Planning and Assessment Act 1979 Act*, and that the site would be recommended for removal from the MRA Section 117 notification via the peer review process. From subsequent discussions with MRB it is understood that the site was removed from the Section 117 mapping in March 2015.

To ensure that the draft Plan reflects the current status of the site it is requested that Figure 7 of the draft Plan be amended to remove reference to the site as an identified mineral resource.

4 Local planning initiatives

It is understood that a Ministerial Direction will require all councils to implement the objectives and actions of the draft Plan in their planning strategies and local environmental plans.

Byron Shire Council is currently preparing separate rural and residential land use strategies. The draft Byron Rural Land Use Strategy has recently been exhibited and, according to the council website, a draft residential land use strategy is currently being prepared and will be exhibited shortly.

The draft Byron Land Use Strategy identifies several potential urban development areas, but does not include the quarry site as one of these.

To ensure a whole-of-government policy alignment, Bryon Shire Council's rural and residential land use strategies will need to be consistent with the draft Plan, the overarching strategic plan for the North Coast. In this regard, the DP&E should ensure that the existing draft Byron Rural Land Use Strategy and the imminent residential land use strategy identify the site as an urban growth area.

5 Conclusion and recommendations

In accordance with the relevant provisions of the draft Plan, the residential redevelopment of the site would provide additional housing in a highly sought after location, will make more effective use of existing infrastructure and provide for the future conservation of a substantial area of ecologically valuable bushland.

To allow for the future residential redevelopment of the site it is recommended that:

- the identification of the site as an urban growth area in the draft Plan remain;
- the draft Plan be amended to remove reference to the site as an identified mineral resource; and

- the DP&E ensures that the Byron Shire Council's rural and residential strategies are consistent with the draft Plan and identify the site as an urban growth area.

Should you require any further information or clarification in relation to any of the matters raised in this submission then please do not hesitate to contact the undersigned on (02) 9493 9500 or via the email below.

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Arnold', written over a faint horizontal line.

John Arnold
Associate | Manager of Planning, Sydney
jarnold@emmconsulting.com.au