Submission to NSW Dept of Planning and Environment

Re: State Environmental Planning Policy (Coastal Management) 2016

From: Duranbah Swamp Drainage Union (DSDU)

Date: 16 January, 2017

The Duranbah Swamp Drainage Union (DSDU) wishes to submit to the Honourable, Minister for Planning and Environment our serious concerns regarding the proposed classifications of the two coastal management areas contained within the boundaries of the DSDU.

1. Coastal Environment Area (blue shaded area on map)
2. Coastal Use Area (brown shaded area on map)

The area of land that the DSDU is responsible for managing is almost entirely intensive agriculture, ie Sugar cane, soy beans and other legumes, with some urban lifestyle properties around the DSDU perimeter.

Intensive agriculture is only viable in the Tweed Valley flood plain because of the extensive drainage infrastructure that has been developed over the last one hundred and twenty odd years. The very fertile alluvial and peat loam soils are highly productive. Tweed Valley sugar production is more than double the world average for non-irrigated cane land. However, an effective and well-maintained drainage system is essential to that production.

The Tweed flood plain is low lying and subject to frequent inundation from heavy rainfall and or flooding from the river system. The management of the drainage systems is the responsibility of several Private Drainage Boards (formally known as drainage unions), some private land owners and the Tweed Shire Council which maintains the flood gates (tidal gates) situated along the river.

It is apparent to us that much of the blue and brown shaded areas on the map are inappropriately placed and don't meet the criteria of the plan. The blue area, Coastal Environment Area, is to be mapped to one kilometre beyond the highest astronomical tide of the estuary. However, this one kilometre limit seems to have been exceeded in "McLeods Creek".

Even if the one kilometre limit has not been exceeded on the map, we question the logic of a one kilometre extension of the tidal limit. We ask, on what criteria was this decision based?

The brown shaded area, Coastal Use Area, covers a huge area of prime agricultural land. For what purpose? The three stated objectives of the Coastal Use Area are irrelevant in an agricultural area.

The drainage canal known as McLeods Creek is not a natural water course but is entirely a man-made canal. The original McLeods Creek was filled by the NSW Main Roads Department, many decades ago. (Refer to old Parish Map). It did not drain the area now known as McLeods Creek.

For the 30 plus years the DSDU has been the centre of acid sulphate soil (ASS) research in Australia and is the first area to be extensively studied in order to develop best practice protocols for the management of ASS in an agricultural area.

The land owners have been proactively engaged in this work, with the scientific community, various State Government Departments, Tweed Shire Council and the NSW Sugar Industry, throughout this thirty year period. Substantial outcomes from this work have benefited the sugar industry, the environment and the local community. Practices developed at McLeods Creek are accepted as world best practice for growing sugar cane in ASS landscape and the NSW Sugar Industry is now recognised as a world leader in ASS management. Tweed Shire Council has also been proactive in ASS management of land, water quality and including fish habitat, achieving outcomes that are recognised internationally.

DSDU questions the need for any of the river front land upstream from Chinderah to be zoned either Coastal Environment Area or Coastal Use Area. It is likely to significantly impact the highly effective systems in place that ensure sustainability of the environment and the agricultural industry.

The economic, social and environmental character of this upstream area is distinctly different from the truly coastal area of Chinderah and down-stream from Chinderah to the river mouth. Although the upstream area is estuarine it should not be considered coastal.

The proposed new Act is designed to manage coastal areas sustainably and to protect and enhance the natural environment, which is commendable. The agricultural industry is highly scrutinised by the public and media and extensively regulated by State and local government agencies. Further regulation as proposed in the Act is unnecessary and seems contrary to the NSW Government's commitment to reduce red and green tape for the rural sector.

Yours sincerely

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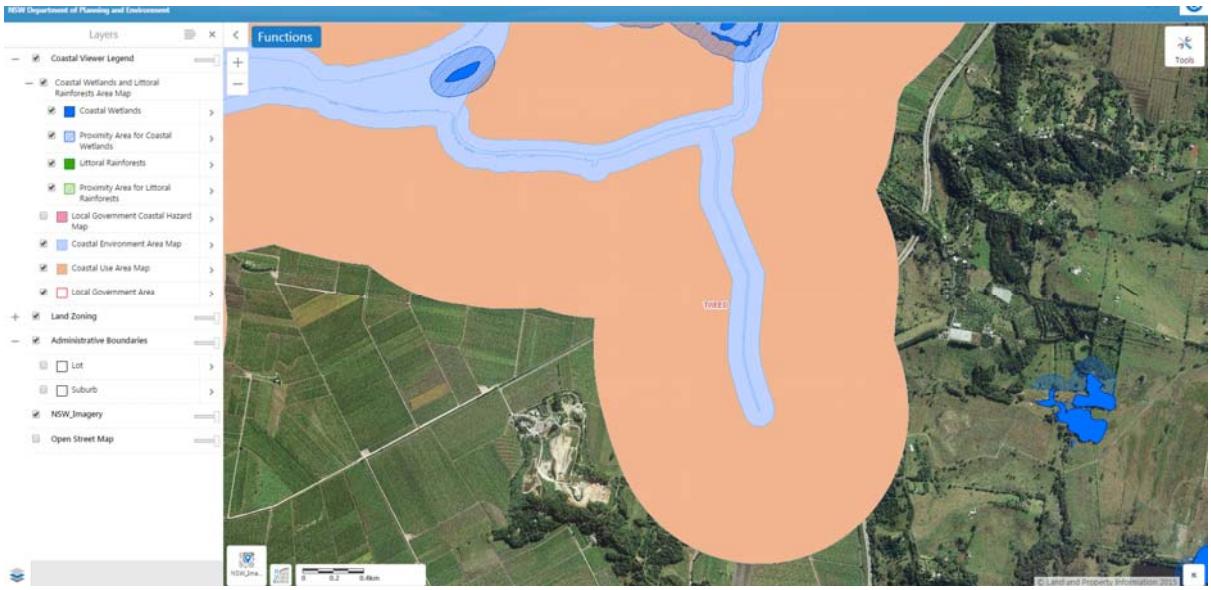
The land has been mapped in part on the exhibited map under Draft State Environmental Planning Policy (Coastal Management) 2016 as part Coastal Environmental Area and Coastal Use Area. This submission is in respect to the land mapped Coastal Environmental Area and Coastal Use Area of the predominantly privately owned man made drain known as McLeods Creek.

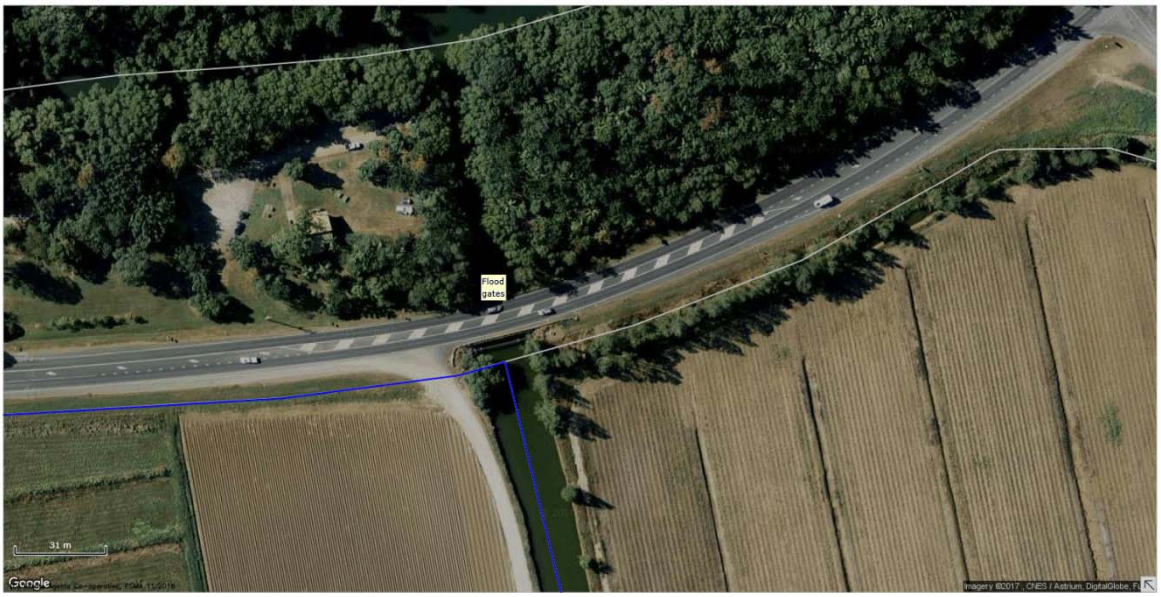
Coastal Environmental Area Map

Coastal Use Area Map



McLeods Creek is flood gated at Tweed Valley Way. These flood gates restrict/prevent tidal water movement. See aerial photo below of flood gate location and a photo of the flood gates.

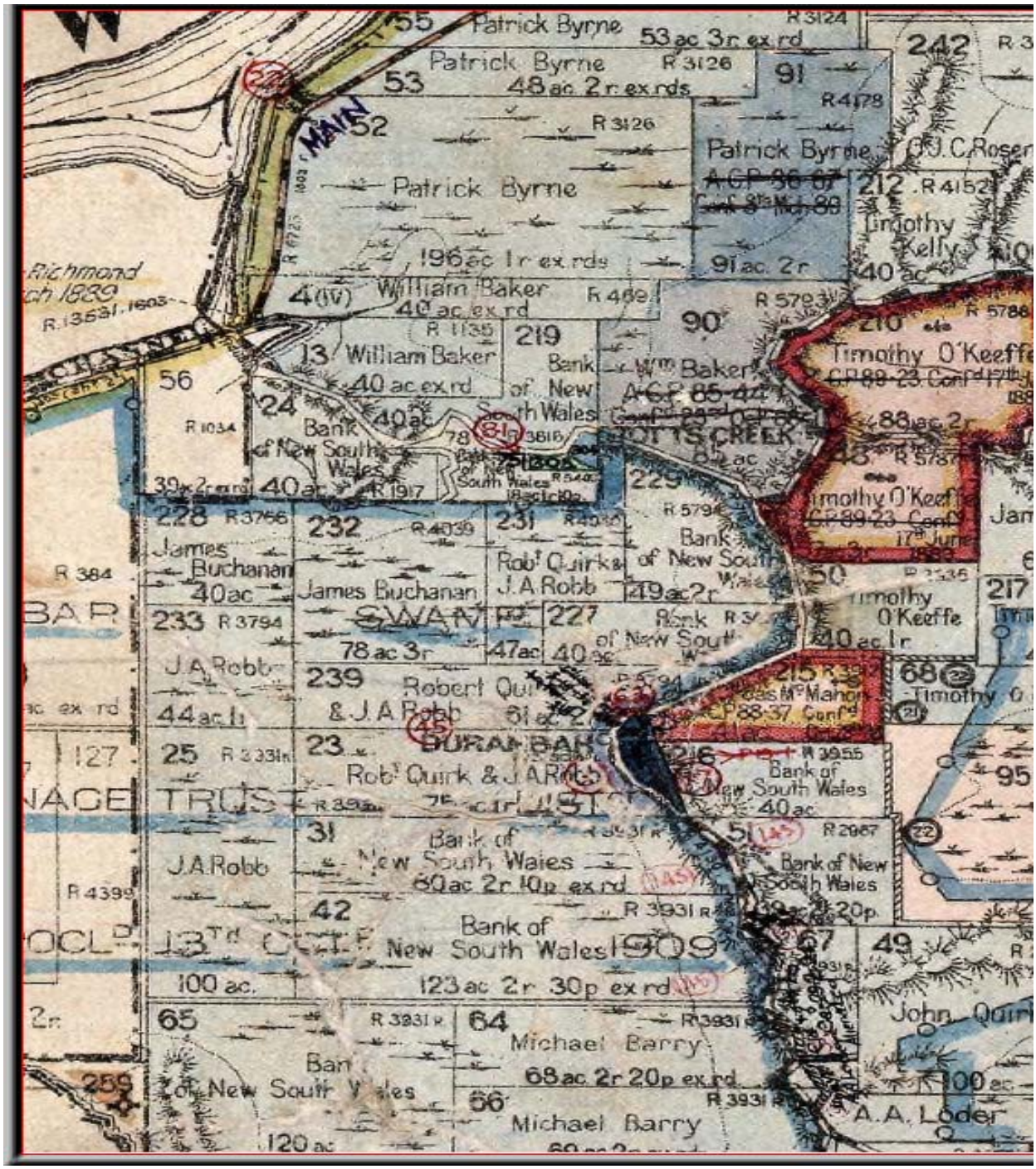
Flood gate location on Tweed Valley Way



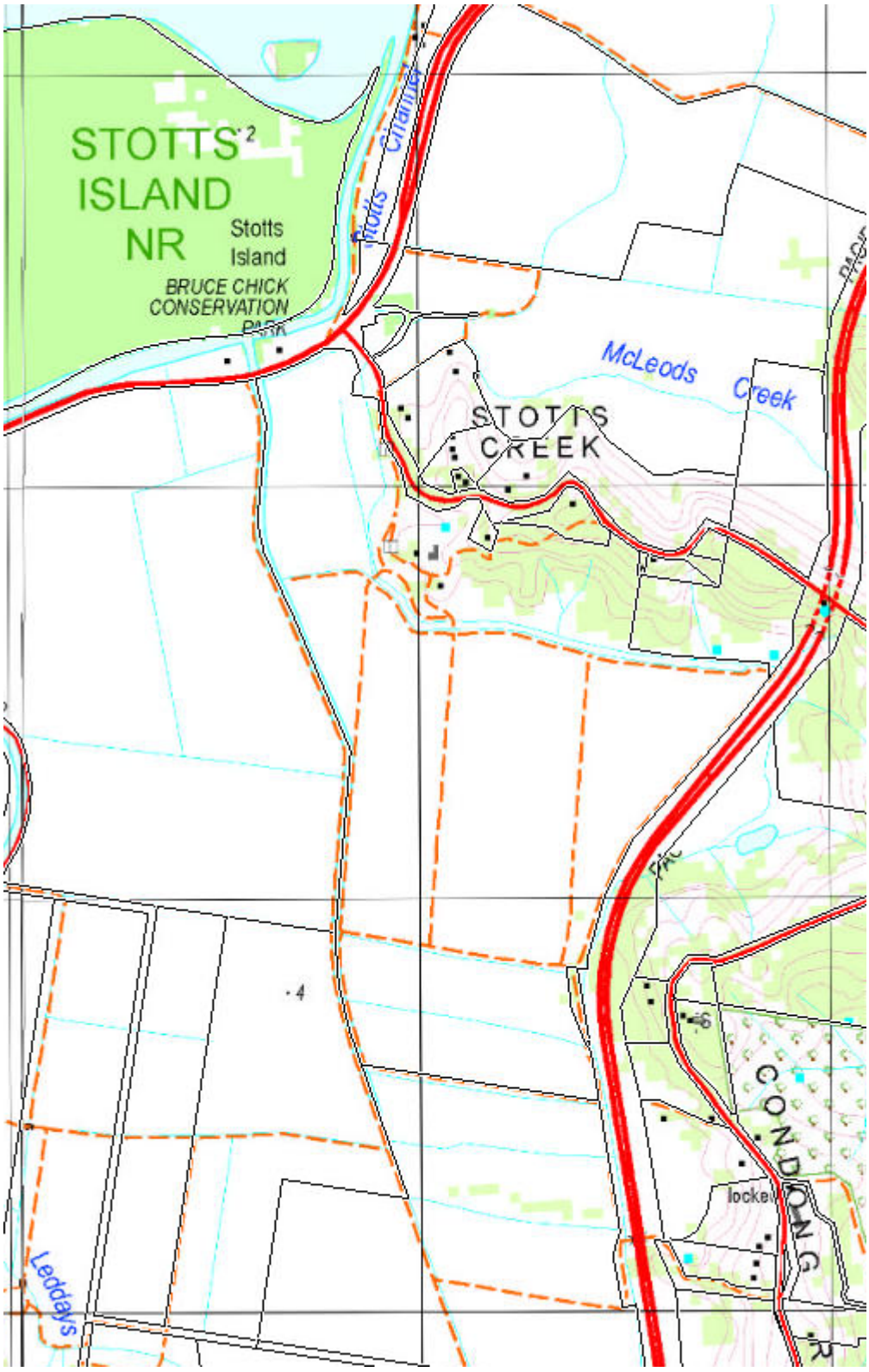
Flood gates at Tweed Valley Way

Flood gate locations on McLeods Creek

McLeods Creek was constructed in various parts through from about the 1930's to the 1960's. See part of the 1929 Parish of Cudgen plan that demonstrates that McLeods Creek was not mapped as a topographical feature.



The NSW Topographic Map below (Source : SIX MAPS) indicates that the cane drain is not McLeods Creek and is in fact not labelled at all.



The NSW Department of Natural Resources publication “Survey of Tidal Limits and Mangrove Limits in NSW estuaries 1996 to 2005” which is held on the Office of Environment & Heritage website under Coastal Management Toolkit Table 4.1 of the Tweed River is listed below. McLeods Creek is not listed in this table which further confirms that is not fully tidal.

Table 4.1 NSW Tidal Limits - North to South Listing

Estuary	Creek/River	Date	Map	Zone	Easting MGA	Northing MGA	Distance from Ocean (km)	Comment
Tweed River	Piggabeen Creek	20-22/6/97	Currumbin	56	544890	6882136	16.0	At rock pile in creek, 0.5km WNW of road bridge
	Cobaki Creek	20-21/6/97	Currumbin	56	545615	6880761	14.3	75m downstream from road bridge
	Bilambil Creek	19-20/6/97	Currumbin	56	545540	6877511	14.3	At Hogans Bridge on road to Upper Duroby
	Duroby Creek	19-21/6/97	Currumbin	56	547765	6876816	11.9	Downstream side of rock dam, 100m from Benevis Place on Naponyah Road
	Dulguigan Creek	1/6/00	Murwillumbah	56	-	-	-	Fully tidal as creek now joined to Rous River by flood channels
	Pipeclay Creek	1-2/6/00	Murwillumbah	56	537935	6871196	31.6	Constriction in creek at rear of first house on left in Braemar Place 780m upstream from Dungay Creek
	Dungay Creek	1-2/6/00	Murwillumbah	56	537380	6871231	32.1	Upstream side of right bend in creek, 760m NW from Pipeclay Creek junction
	Rous River	19-20/6/97	Murwillumbah	56	533345	6867977	42.0	Ford 1.7km upstream from Boat Harbour Bridge
	Mayal Creek	13/11/01	Murwillumbah	56	-	-	-	Fully tidal creek connected to Rous and Tweed Rivers
	Tweed River	19-20/6/97	Murwillumbah	56	536755	6864577	35.5	Tide gets to weir, 5.3km upstream from bridge at Murwillumbah
	Dunbible Creek	19-22/6/97	Murwillumbah	56	538945	6861422	32.6	May get a short way upstream from this vicinity
	Condong Creek	14/11/01	Murwillumbah	56	-	-	-	Fully tidal creek connected back to Tweed River via Johnsons Creek
	Bartlets Creek	25/6/02	Murwillumbah	56	-	-	-	Fully tidal creek connected to Main Trust Canal
	Main Trust Canal (South)	25/6/02	Murwillumbah	56	547980	6868756	27.0[1]	Tide would get 20m upstream from culvert under Hawkens Lane
	Main Trust Canal	25/6/02	Murwillumbah	56	-	-	-	Fully tidal canal connected to Bartlets Creek and Leddays Creek
	Leddays Creek	25/6/02	Murwillumbah	56	548780	6872086	16.8	No apparent leakage through floodgates at Pacific Highway
Cudgen Creek	Cudgen Creek	21/6/97	Cudgen	56	-	-	-	Fully tidal all the way to Cudgen Lake
	Cudgen Lake	21/6/97	Cudgen	56	-	-	-	Fully tidal lake
	Clothiers Creek	14/11/01	Cudgen	56	551605	6866811	13.7	Heavy reed growth starts at this point, 2.2km upstream from Cudgen Lake
	Reserve Creek	14/11/01	Cudgen	56	551755	6865686	13.9	Creek would be tidal all the way to Clothiers Creek Road
Cudgera Creek	Christies Creek	1-2/6/00	Cudgen	56	551980	6862356	5.8	200m upstream from Kanes Road
	Cudgera Creek (West)	1-2/6/00	Pottsville	56	553700	6860267	5.3	Rock barrage 10m downstream of old ford, 1.2km downstream from Cudgera Creek Road
	Cudgera Creek (South)	21-22/6/97	Pottsville	56	554614	6859432	5.0	200m upstream from Cudgera Creek Road, heavy reed growth
Mooball Creek	Burringbar Creek	1-2/6/00	Pottsville	56	550555	6853872	11.1	Large rise in creek near old fig tree, 500m downstream from *Cowell Park* farm
	Mooball Creek	25/4/02	Pottsville	56	551035	6852277	10.6	Tide stopped by thick reed growth just upstream from old timber bridge which is 1.8km upstream from Burringbar Creek
	Crabbes Creek (West)	1-2/6/00	Pottsville	56	552029	6852027	9.8	470m downstream from upstream bridge on Wooyung Road
	Crabbes Creek (South)	21-23/6/97	Pottsville	56	554029	6852047	8.5	Reed growth would stop tide at Wooyung Road
Brunswick River	Billinudgel Creek	1-2/6/00	Pottsville	56	552704	6848677	2.5	Disperses into wetland at least 800m upstream from Kallarroo Circuit culvert
	Marshalls Creek	22-23/6/97	Brunswick Heads	56	551629	6847112	9.0	120m upstream from Pacific Highway bridge
	Ocean Shores (West)	25/6/02	Brunswick Heads	56	552514	6846002	6.4	Small weir 6m upstream from culverts near end of Terrara Circuit

Draft State Environmental Planning Policy (Coastal Management) 2016 NSW defines

- Section 8(1)"The ***coastal environment area*** means the land identified by a State environmental planning policy to be the coastal environment area for the purposes of this Act, being land containing coastal features such as the coastal waters of the State, estuaries, coastal lakes, coastal lagoons and land adjoining those features, including headlands and rock platforms."

- Section 9(1) The ***coastal use area*** means the land identified by a State environmental planning policy to be the coastal use area for the purposes of this Act, being land adjacent to coastal waters, estuaries, coastal lakes and lagoons where development is or may be carried out (at present or in the future".

The Coastal Management Act 2016 No 20 defines

- ***"estuary*** means any part of a river, lake, lagoon or coastal creek whose level is periodically or intermittently affected by coastal tides, up to the highest astronomical tide."

Coastal Creek is not defined in the Coastal Management Act 2016 No 20 or Draft State Environmental Planning Policy (Coastal Management) 2016.

McLeods Creek is a privately owned man made drain that is flood gated. The mapping of McLeods Creek as Coastal Environmental Area and Costal Use Area is inconsistent with the treatment of other creeks and cane drains on the NSW North Coast that have similar flood gate structures.

We respectfully request that the land mapped Coastal Environmental Area and Coastal Use Area as it relates to the man made drain known as McLeods Creek be removed from the mapping.