

11.2 **Coastal Recreational Path Project - 4WD Access at Angels Beach**

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Delivery Program Engineering Works

Objective To respond to a Council resolution dealing with retaining public 4WD access at Angels Beach, being contrary to the consent for the Coastal Recreational Path currently under construction.

Background

At the 28 July 2016 Ordinary meeting there was a Notice of Motion dealing with the design and approval for the Coastal Recreational Path (CRP) which sought to reintroduce public 4WD access to Angels Beach.

The purpose of the motion was to address the approved consent condition for the construction of the CRP which states as follows:

- existing 4WD access at Angels Beach will continue to only provide emergency and maintenance access along the CRP, from the new Angels Beach carpark, described as follows: "...restricted access onto the CRP for emergency vehicles via a removable bollard".
- existing 4WD access at Sharpes Beach carpark remains unaltered, and will continue to provide emergency and public 4WD beach access.

A copy of the Notice of Motion and the staff comment is provided as attachment one.

The Council resolution in response to this debate was as follows:

"That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway, as per the Ballina Coastal Reserve Plan of Management 2003."

A subsequent Councillor briefing was held on the 15 August 2016 where a number of matters dealing with the CRP were discussed, including advice from Council's insurers regarding the above 4WD access decision. A copy of this advice is provided as attachment two.

Due to issues arising from the July 2016 resolution a further report was then presented to the 25 August 2016 Ordinary meeting.

The report discussed a number of matters and the content related to the 4WD discussion is reproduced below.

Notice of Motion - Access for 4WD Vehicles at Angels Beach

The section of CRP subject to this 4WD access is shown on Drawing Numbers 2165/101 and 2165/102 and is approximately 170m of path immediately north of the proposed Angels Beach car park.

The design of the proposed Angels Beach car park currently describes, and requires under the existing consent:

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"...restricted access onto the CRP for emergency vehicles via a removable bollard".

Under this consent condition only emergency and service 4WD vehicles, with appropriate markings and warning lights and/or sirens, would use the CRP for public safety and maintenance purposes.

Advice has been sought from Council's insurer regarding Council's decision to change this condition and that advice is provided in Attachment Four.

The insurer's advice supports the existing consent conditions, which aim to reduce Council's exposure to a foreseeable risk.

The insurer also notes that the Coastal Reserve Plan of Management 2003 (CRPoM 2003) provides for regular review and reconsideration of 4WD beach access where feasible, environmentally acceptable, and in consideration of amenity and safety.

The insurer recommends it is now time to reconsider 4WD beach access at Angels Beach, being a popular urban beach with increasing usage associated with the CRP.

If Council wishes to proceed with the existing resolution to allow continued 4WD access, the insurer recommends a separate 4WD access be provided as a parallel road.

A new planning variation would be needed to comply with this recommendation. This would require a new REF with ecological assessment and cultural heritage assessment.

The cultural heritage assessment would comprise a new round of consultation with the project's RAP and as noted earlier this will be a lengthy process.

The resolution of Council specifically refers to the 4WD access to be implemented as per the CRPoM 2003.

There are a number of relevant sections of the document which relate to Off Road Vehicle Management.

The overarching CRPoM 2003 is clear regarding the assessment of 4WD beach access and encourages ongoing review as circumstances change.

The accompanying precinct plans to the CRPoM 2003, which were developed to provide a next level of detail, are more specific and documented input from the community, at that time.

Notwithstanding this, the CRPoM 2003 and the associated precinct plans relate to circumstances as at 2003, and as per the earlier information, it is suggested that Council reassess access as circumstances change.

On this basis, the construction of the CRP should be the trigger for a review of 4WD beach access at Angels Beach.

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The staff response to the notice of motion agenda item of 28 July 2016 remains the advice from staff and a copy of this is provided in Attachment Five.

The relevant sections of the CRPoM 2003 are reproduced below:

“OFF ROAD VEHICLE MANAGEMENT ON BEACHES MANAGEMENT OBJECTIVES:

- *Consideration be given to providing off-road vehicle access to beaches where feasible / environmentally acceptable, retaining beach amenity and safety for other users*
- *Provide adequate emergency vehicle (and licensed commercial vehicles) access, within environmental constraints.”*

“STRATEGY / ACTION:

Develop a beach vehicle access policy for the Ballina Coastal Reserve, incorporating a vehicle permit system, allowing limited access to specified beaches, and including provision for:

- *designated 4WD access areas*
- *a permit system, regular patrols*
- *total restriction in specific areas*
- *periodic review of management and safety of 4WD use.”*

“STRATEGY / ACTION:

Review current emergency vehicle access points with regard to their current efficiency, safety, condition, and impacts on other beach users and the environment, and upgrade and maintain as required.”

And the relevant sections of the CRPoM 2003 Precinct Plans are reproduced below:

“Precinct 3 Beach Off Road Vehicles

- *Sharpes Beach and Angels Beach – vehicles permitted only during night time, by prior arrangement with Council. Vehicle access only via the designated 4WD access track at Angels Beach: vehicles not permitted on dunes, vehicles to be driven only below High Water Level. No vehicles across the recognised shorebird resting and roosting site shoreward of Flat Rock reef/rock platform.”*

“Precinct 4 Off Road Vehicles

- *Vehicles permitted on Angels Beach and Sharpes Beach, by arrangement with the Reserve Trust Manager, only between sunset and sunrise.*
- *Access only via the designated vehicle access at Angels Beach.*
- *Maximum speed 30 km/hr, reduced to 10 km/hr within 50 metres of walkers.*
- *No vehicles permitted on dune and hind dune areas OR on dune swale area behind Flat Rock rock shelf (which is proposed for future wildlife refuge area status).”*

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Legal / Resource / Financial Implications

Access for 4WD Vehicles at Angels Beach

The current design and consent conditions provide for emergency 4WD beach access immediately north of the proposed Angels Beach car park design.

This is a reduced level of service only for general 4WD access onto Angels Beach, as beach access still remains at Sharpes Beach car park.

This approach is consistent with the CRPoM 2003, which supports the ongoing review of feasibility of 4WD beach access.

Council's insurer has also provided advice regarding this matter and supports the current approach to minimise risk and avoid conflict with CRP users and 4WD vehicles, along and adjacent a popular urban beach.

Should the decision be made to continue with the status quo and retain general 4WD access then the insurer's advice is to isolate the risk and separate the general 4WD vehicles with provision of a separate road. This this would require an amended planning approval and associated documentation including cultural heritage consultation. Staff resources and consulting team resources would be required and the cost of this has not been assessed.

Options

Access for 4WD Vehicles at Angels Beach

The body of this report provides information which leads to the following options for considering 4WD access at Angels Beach:

- 1. Support the current CRP design and associated consent conditions, providing for emergency and service 4WD access only at Angels Beach, however maintaining general 4WD access at Sharpes Beach. This being consistent with the Coastal Reserve Plan of Management 2003, requiring reviews of feasibility of 4WD beach access as circumstances change.*
- 2. Proceed with the resolution to maintain the status quo and retain 4WD beach access at Angels Beach. This would require an amendment to the consent and retention of the access should only be provided once the request from Council's insurers was complied with.*

While option two represents the adopted position of Council, it is not recommended based on insurance advice that the Council may be exposed to litigation liabilities in the event of an accident on the path.

If Council continues with option two, it is recommended that a further report be presented that examines the development of policy arrangements, as suggested in the CRPoM 2003, to manage 4WD access to the beaches in the Coastal Reserve.

Importantly Council needs to recognise that the existing arrangements cannot remain once the path is completed, unless Council decides to specifically ignore the insurance advice.

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If Council does take that course of action it increases our risk exposure and possibly leaves Council open for an increased damages claim in the case of an accident.

There is also the risk that our insurance coverage may be restricted if we do not follow the recommended insurance advice.

The Council resolution (250816/6) then arising from the Ordinary meeting of 25 August 2016 reads as follows:

“That Council proceed with the resolution to maintain the status quo and retain 4WD beach access at Angels Beach”

This report presents options to address this latest resolution.

Key Issues

- Reassess 4WD access arrangements for Angels Beach
- Balancing environmental, cultural and social benefits

Information

The purpose of this report is to provide advice in respect of the preliminary investigations to implement Council's resolution and meet the insurance and risk management advice.

Council's insurers have indicated that should Council wish to proceed with the resolution, and continue with public 4WD access onto Angels Beach, risk minimisation measures such as separating 4WD access from users of the recreational path would be required.

A number of access options would likely satisfy the requirement of separating 4WD vehicles from recreational path users. These options are briefly described as follows. The options are shown on attachment three, and photo images as per attachment four.

Option One

Do not proceed with rehabilitation of the existing gravel road north of the Angels Beach carpark, and use the remnant gravel road for 4WD access up to the Cultural Ways entry node.

Clear and construct a new 4WD access track around the entry node to connect to the existing 4WD access track north of the entry node.

Option Two

Clear and construct a new 4WD access track to the beach at the location of the proposed Angels Beach carpark.

Option Three

Clear and construct a new 4WD access track off The Coast Road (with associated roadworks) at the location of the existing 4WD access track.

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All of the above options would require investigation, design and reporting for a new Part 5 approval, with the following scope of work likely:

- Survey and design
- Ecological assessment
- Cultural Heritage Assessment including archaeological reporting and consultation with Registered Aboriginal Parties
- Preparation of Review of Environmental Factors
- Part 5 submission and likely public exhibition
- Aboriginal Heritage Impact Permit due to works being within the declared East Ballina Aboriginal Place

The above scope of work is likely to cost in excess of \$50,000 and may take up to two years for completion due to the reporting and consultation, and in particular the mandatory timeframes and consultation with the project's Registered Aboriginal Parties.

The above estimates are indicative only, however the approval process undertaken for the adjustment to the route at the Flat Rock Tent Park, is an example of the cost and time frames that can be involved.

The consent conditions for the construction of the CRP currently underway do not allow for the 4WD access, meaning there will be a lengthy period of time between the opening of the path and the approval and construction of a 4WD access, where public 4WD access at Angels Beach is not available.

To advance the formal investigation of these options Council will need to confirm a funding allocation.

Sustainability Considerations

- **Environment**
The CRP project has received project consent with significant consideration for environmental outcomes, and implementation will provide for the enhanced long term and sustainable dunal system. The Cultural Ways project provides education dealing with traditional environmental matters.
- **Social**
The CRP project provides excellent recreational, health and wellbeing outcomes. The path connects to existing path networks and coastal destinations. The Cultural Ways project provides important education dealing with the significance of the East Ballina Aboriginal Place.
- **Economic**
The CRP project provides tourism marketing opportunities as well as providing infrastructure that will encourage people to live and invest in the Shire.

Legal / Resource / Financial Implications

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Should the decision be made to continue with the status quo and retain general 4WD access then the insurer's advice is to isolate the risk and separate the general 4WD vehicles with provision of a separate road.

These options have been reported in the information section of this report.

At this stage early estimates for a consulting team to proceed with planning approval documentation would be in excess of \$50,000 with allowance for up to two years to obtain that consent, if it is obtained at all, based on recent project experiences.

Construction expenses and environmental offset, or mitigation cost, for the alternative options outlined in this report are yet to be prepared.

The Council has \$850,000 in its current budget program for the CRP which could fund this investigation, albeit these funds are currently allocated to the construction of parts of the Coastal Walk from Sharpes Beach to Pat Morton.

Council also as an opportunity to use the \$80,000 to match a grant from the NSW Government to enable the construction of the CRP - Shared Path East (Skennars Road – Pat Morton Lookout) if that grant is forthcoming.

Consultation

The development of the CRP project has seen extensive consultation over many years.

The culmination of this work has seen the lodgement of project planning documentation which has resulted in planning approval with associated consent conditions. The planning assessment process also included further public exhibition and consultation.

The reporting of this project has comprised advertising and media releases, which has also included the full public exhibition of documentation associated with seeking planning consent.

Further preparation of Part 5 documentation for 4WD access purposes would comprise public exhibition in line with other Part 5 elements of the project.

An underlying risk is likely to remain with the Aboriginal community expressing concerns in respect of further development of vehicular access over and above the current agreed approvals.

Options

The information section report presents options for further investigation.

The recommendation to this report follows the current position of Council and creates a budget allocation to enable the investigation work to commence now.

The alternative is for Council to return to its original position, being the approved consent, which only allows access to the path for emergency and maintenance vehicles. The reasons for the original advice to Council are set out in the attachments to this report.

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A third option is to defer a decision on this matter until the community has the opportunity to use the new path. This way Council can assess the response to the project, including usage patterns and further consider the merits and options for 4WD access to Angels Beach, prior to incurring considerable expense seeking approval to amend the consent.

The recommendation provided is consistent with previous Council resolutions to investigate an alternative 4WD access.

This recommendation is not the preferred staff recommendation as it is considered to be an extremely poor use of limited public monies and resources, when there is already an alternative 4WD access at Sharpes Beach, albeit that occasionally you may not be able to reach Angels Beach due to high tides, and the overall level of 4WD users using the existing 4WD access is limited. The creation of any alternative 4WD access will also most likely have negative environmental impacts in this location and there are also significant cultural concerns.

Also the \$50,000 does not include any further costs that may be incurred in providing the new 4WD access, if a planning consent is eventually obtained.

RECOMMENDATIONS

1. That Council authorises a re-allocation of \$50,000 from the Coastal Recreational Path budget for the purpose of preparing the necessary documentation to seek to amend the approval for the Coastal Recreational Path to enable the implementation of Council's resolution in respect to the access for 4WD vehicles to Angels Beach to proceed.
2. That Council receive a further report providing a detailed analysis, including expected construction costs, of the options to provide 4WD access to Angels Beach.
3. That Council note the confirmation in this report that 4WD access to Angels Beach will not be available, except for emergency and maintenance vehicles, in accordance with the development consent for this project, until such time as the consent is amended.

Attachment(s)

1. Notice of Motion - 4WD Access
2. Advice from Statewide Mutual
3. 4WD Options Plan
4. Images

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13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

Councillor Cr Ken Johnston

I move

That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway. This is as per the Ballina Coastal Reserve Plan of Management (April 2003) for Angels Beach.

Councillor Comment

Access is only via the designated vehicle access for:

- Emergency vehicles
- Council vehicles
- Professional fisherman
- Emergency situations only for private vehicles
- Amateur fisherman only between sunset and sunrise

Staff Comment

The design of the Coastal Recreational Path (CRP) is a balance in respect of a range of competing demands including the need to provide the path, protect the environment, recognise and respect Aboriginal history and culture, provide emergency and other access to public land, ensure safety, and promote security.

The CRP is expected to attract a lot of interest and generate high use and appropriate management is required for the safety of path users. Attached to this notice of motion is a plan of the CRP for this area.

The changes at this location are quite significant with the relocation of vehicular access and parking to a site adjacent to the Coast Road. The reason for this is to enable rehabilitation of the dunal areas and increase security for car parking.

The current Angels Beach 4WD access is located some 170 metres north of the proposed carpark, and future vehicular access onto the CRP is proposed to be restricted at the new carpark to avoid the risks associated with contact for pedestrians and cyclists with 4WD vehicles.

If allowed, 4WD vehicles would need to traverse 170 metres of the CRP to reach the beach access point. The path is not considered wide enough for this purpose as its objective is to convey pedestrians and cyclists only.

This arrangement is in accordance with approved development consent. The approved plan reads, in part, "...restricted access onto the CRP for emergency vehicles via a removable bollard."

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13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach

A removable bollard for maintenance and emergency access is an arrangement we have installed at many locations in the Shire where circumstances require this type of management response.

Access for recreational 4WD users to Angels Beach has not been stopped as the existing 4WD arrangements at Sharpes Beach are not affected by the CRP, albeit it is acknowledged that in certain tidal conditions the access to Angels Beach is reduced when compared to the current arrangements.

Council cannot support this notice of motion without breaching the conditions of consent. Therefore if Council wishes to amend the consent the appropriate approach would be to lodge a planning application to seek amendment of the consent.

This assessment will require consideration of whether the path design should be altered to ensure appropriate safety measures are incorporated to manage the interaction of vehicles with pedestrians and cyclists.

COUNCILLOR RECOMMENDATION

That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway, as per the Ballina Coastal Reserve Plan of Management 2003.

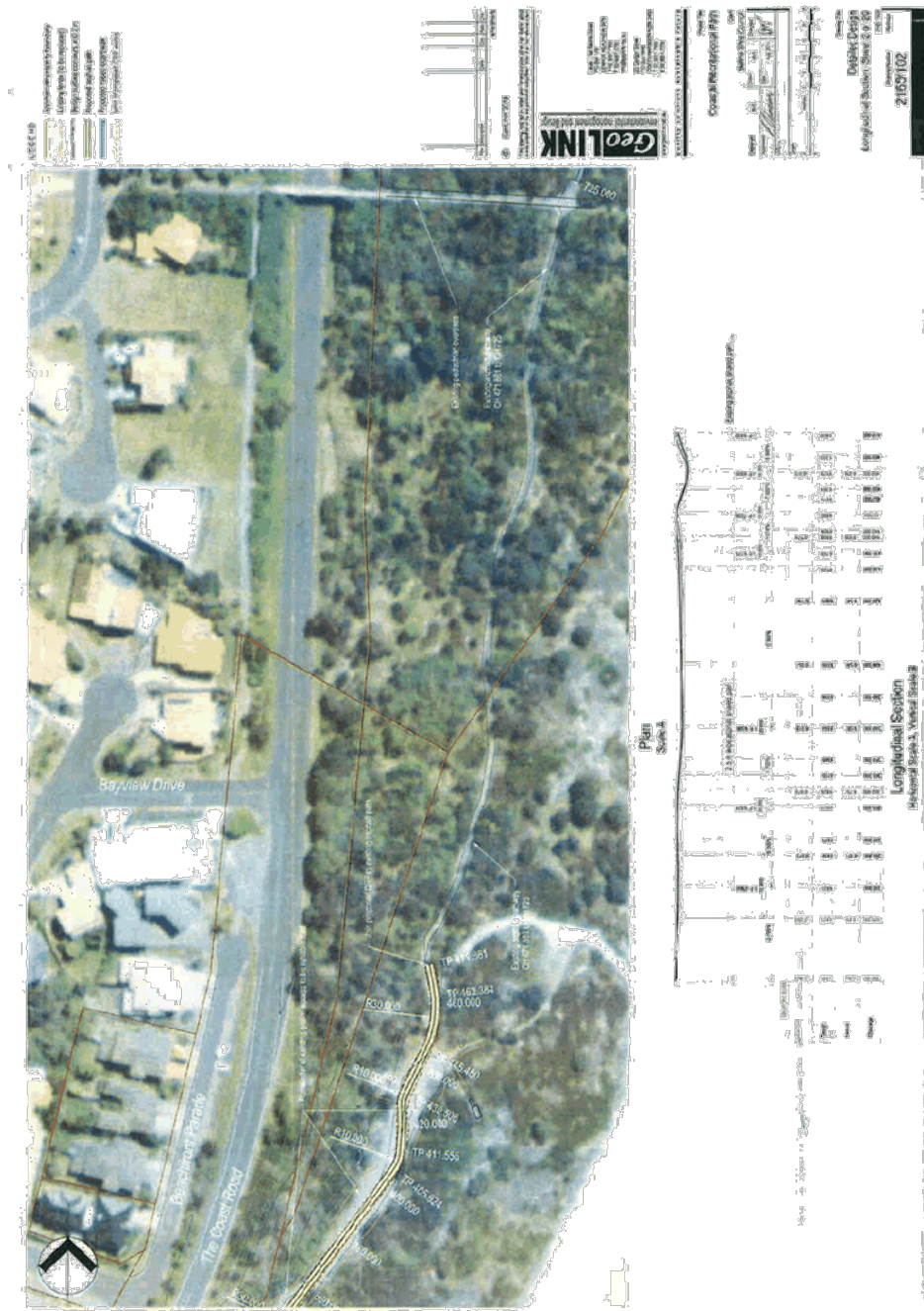
Attachment(s)

1. Plan of CRP



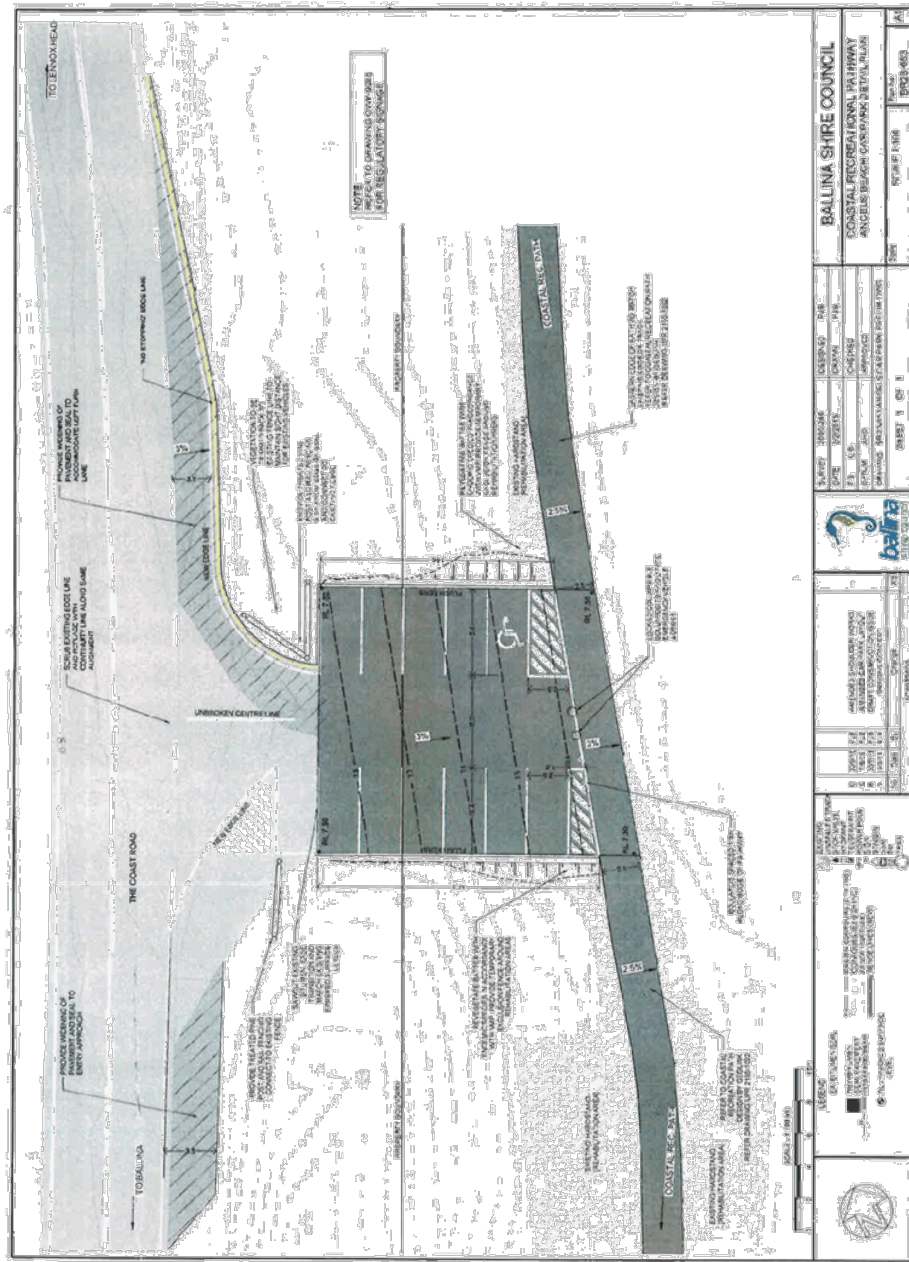
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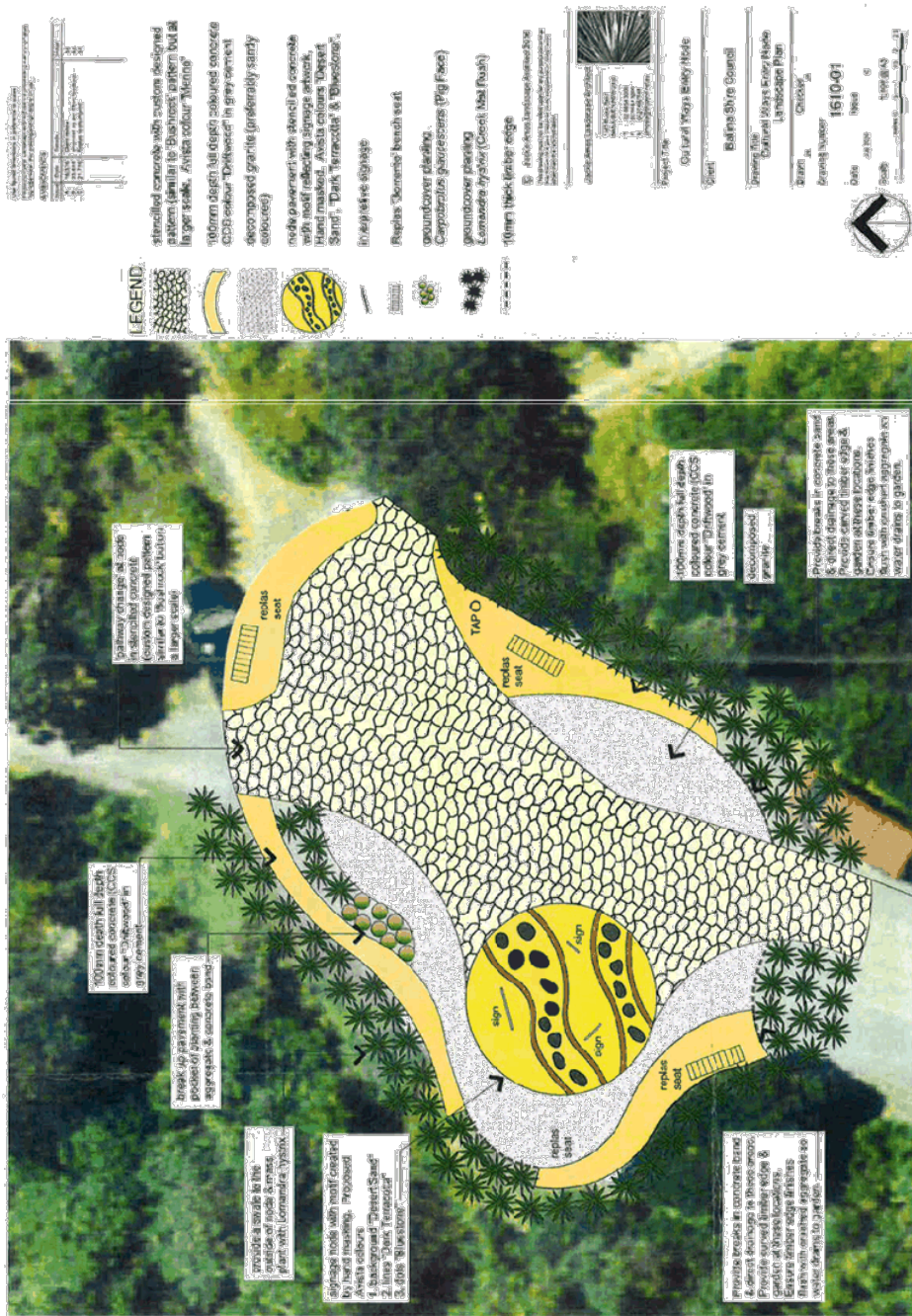
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11.2 **Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC**

Thank you for inviting Statewide to comment on the issue of 4wd and pedestrian interaction on the proposed Ballina to Lennox Head Coastal Recreation Path at Angels Beach. I refer to our meeting Wednesday 3 August 2016 and Council's recent Notice of Motion:

**13.6 Notice of Motion - Access for 4WD Vehicles at Angels Beach
280716/17 RESOLVED**

(Cr Ken Johnston/Cr Keith Williams)

That the status quo be maintained for four wheel drive access to Angels Beach after the construction of the Coastal Recreational Pathway, as per the Ballina Coastal Reserve Plan of Management 2003.

FOR VOTE - Cr Sharon Cadwallader, Cr Keith Williams, Cr Keith Johnson, Cr Ken Johnston, Cr Paul Worth and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Robyn Hordern

I have spent a considerable amount of time over the past 30 years in Ballina and its surrounding areas and continue to stay at Ballina almost monthly. My use of the beaches and interaction with Council and many local friends provides me with an understanding of local issues such as these.

It is difficult for Council to manage increasing population and changes to facility usage whilst maintaining amenity, access, the environment and safety. As indicated by Council staff and my own observations Angels Beach is becoming more popular with beach goers especially in warmer months and holiday periods when there are many people including numerous family groups with small children using the beach. Angels Beach is now referred to as an urban beach.

As indicated in Ballina Council's July 2004 Draft Precinct Plan 4 Ballina Coastal Reserve – Flat Rock, Angel Beach & Black Head, "seasonal congestion" already occurs and "The planned cycleway / walkway will provide increased access to and is likely to increase visitation and place pressure on sensitive areas of high conservation value along Angels Beach hind-dunes"

With increased local and tourist populations and the construction of the shared pathway, interaction between pedestrians and motor vehicles will increase.

General design philosophies and principals utilised by urban designers and engineers aim to segregate and minimise pedestrian and vehicle interaction through a range of controls. It is generally unacceptable for vehicles and pedestrians to share the same path.

In this situation 4wd vehicles would share a 2.5 metre wide asphalt path designed for and utilised by pedestrians for approximately 150 metres. This interaction would result in pedestrians being forced off the path on to an unformed walkway. These interactions should only occur between sun set and sun rise and via prior arrangement with the Reserve Trust Manager when fishers in their 4wds would be accessing the beach. It has been noted though that 4wds access the beach outside of these hours and often during twilight hours when the majority of pedestrians would be using the path before and after work.

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Interactions at these times of reduced visibility and high use, with many pedestrians and cyclists already often distracted by the environment, talking with friends, not familiar with the path or wearing headphones is not recommended. Further, interaction would be extremely problematic and potentially dangerous for parents with prams, people in wheel chairs and motorised scooters.

Ballina's Coastal Reserve Plan of Management Volume 1 2003 states as a Shared Cycleway / Walkway, Management Objective: "Provide a continuous cycleway / walkway from Ballina to Lennox Head". It also states Off-Road Vehicle Management on Beaches, Management Objective:

- *"Consideration be given to providing off-road vehicle access to beaches where feasible / environmentally acceptable, retaining beach amenity and safety for other users"*
- *"Provide adequate emergency vehicle (and licensed commercial vehicles) access, within environmental constraints"*.

Considering environmental acceptability, retaining beach amenity and safety for other users in line with general population increases, usage changes and increases, and the proposed interaction of pedestrians and vehicles it may be time to reconsider the feasibility.

It is recommended that emergency vehicle access still be maintained.

This situation is not unique to Ballina. All up and down the coast, beach usage continues to be reviewed and change as population increases and demographics change.

If Council intend to proceed with the notice of motion then it is recommended that separation of pedestrian and vehicle movement be achieved through the construction of a separate road alongside the pathway.

I do not recommend four wheel drives and pedestrians share the proposed shared pathway. I believe the safety of those pedestrians using the pathway would be compromised.

Regards

[Mark Spry | Regional Risk Manager](#)

[Statewide Mutual](#)

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11.1 **Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC**

11.2 **Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC**

Attachment 4



Option 1 and Option 3: Existing 4WD access Angels Beach



Option 2: 4WD access at proposed Angels Beach carpark location

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11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC



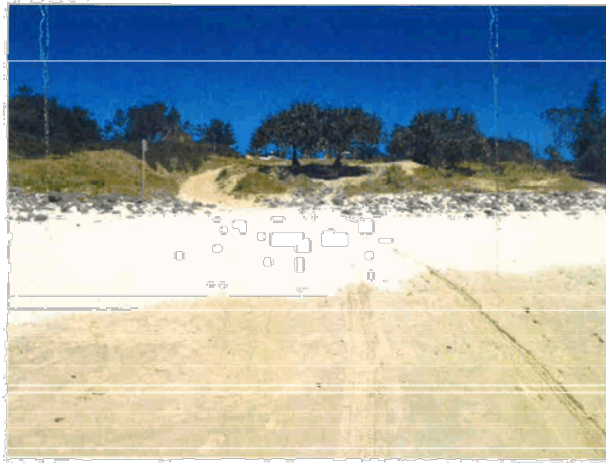
Option 1 and 3: 4WD access crossing location at CRP (view to west towards The Coast Road)



Existing: Sharpes Beach 4WD access

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11.2 Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC



Existing: Sharpes Beach 4WD access

11.1 Coastal Recreational Path Project - 4WD Access at Angels Beach.DOC



Black Head - 2015



Black Head - 2004



North of Black Head – low tide



North of Black Head – low tide



North of Black Head – high tide



North of Black Head – high tide