

## Decision Statement for NPWS Proponents

REF CM10 file no. DOC23/1016416

**Title of proposal: Cutters Campground Redevelopment and Byrrill Creek Walking Track Extension**

**Park name: Mebbin National Park**

**Area/ NPWS Branch: Tweed Byron Area / North Coast Branch**

**Proponent: NPWS**

Based on the Review of Environmental Factors (REF) and any additional information obtained, and after having taken into account to the fullest extent possible all matters likely to affect the environment as a result of the proposed activity (in accordance with section 5.5 of the *Environmental Planning and Assessment Act 1979*), **I hereby determine that:**

### Activity to proceed

#### Further information/assessment is not required:

- an Environmental Impact Statement (EIS) is not required as the activity is not likely to significantly affect the environment
- a Species Impact Statement (SIS) is not required as the activity is not proposed to occur on land that is part of an area of outstanding biodiversity value or critical habitat, and is not likely to significantly affect threatened species or ecological communities, or their habitats
- consistent with NPWS Policy, the activity has adequately addressed the Director General's sustainability assessment criteria and the matters in s 151B, NPW Act where relevant, even though a lease or licence under s 151 of the NPW Act is not required.

**The activity may proceed, subject to the conditions** specified in the attached Schedule 1 and subject to any necessary approvals (if approval required under other legislation) being obtained first.

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**AND**

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### Related matters

Further, it is considered that the proposed activity:

- ☒ **is unlikely to\*** impact significantly on matters of **National Environmental Significance** under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- ☒ **is unlikely to\*** impact significantly on **local council infrastructure**, including roads, water, sewer and stormwater, **local heritage items** listed by the council, and **flood patterns on flood liable land**.

- ☒ a record of any required consultation with the appropriate council has been provided.
- ☒ **will not\*** require certification to Building Code of Australia or Australian Standards in accordance with the NPWS *Construction Assessment Procedures*

## Determination

### NPWS Area Manager recommendation:

Name: Jenny Atkins

Signature: 

Date: 5 January 2024

### Determination by Director Park Operations, North Coast Branch\*

I certify that I have reviewed and endorsed the contents of this REF document and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under section 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.

Name: Russell Madeley

Signature: 

Date: 22/01/2024

# Schedule 1: Conditions of Determination

**REF DOC No. from CM9: DOC23/1016416**

**Title of proposal: Cutters Campground Redevelopment and Byrrill Creek Walking Track Extension**

**Proponent: NPWS**

**Park name: Mebbin National Park**

**Area/ NPWS Branch: Tweed Byron Area / North Coast Branch**

## General information about this Determination

### *References to the REF*

All references to the REF are references to the following documents:

- Cutters Campground Redevelopment and Byrrill Creek Walking Track Extension V3, November 2023
- Mebbin National Park Cutters Campground Concept Design (Appendix B within REF)
- Aboriginal Heritage Impact Permit Application 2023 (to be issued post REF approval)
- ABORIGINAL CULTURAL HERITAGE ASSESSMENT 2023 - Byrrill Creek, Mebbin National Park, NSW Cutters Camp Campground and Byrrill Creek Walking Track

### *Responsibilities of the proponent*

The proponent is responsible for the manner in which the activity detailed in the REF and this determination is performed.

### *Explanatory notes to conditions in this determination*

Explanatory notes included with this determination do not form part of the conditions.

## Determination conditions

## CONDITIONS OF DETERMINATION

### GENERAL CONDITIONS

#### *Duration and scope of determination*

The proponent must have commenced the activity within 5 years from the date of determination<sup>1</sup>.

This determination only applies to those parts of the activity as identified in the Review of Environmental Factors (REF) that will be undertaken within Mebbin National Park at the locations indicated in Figure 2. The proponent must determine whether any other approvals are required for any associated works that are to occur outside this area, including any works in other parts of the Mebbin National Park or outside Mebbin National Park.

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<sup>1</sup> If the activity is not substantially commenced within this time, the proponent must seek direction from the NPWS Tweed Byron Area Manager as to whether a new REF must be submitted for determination before the activity may proceed.

*Reasons<sup>2</sup>: To ensure that the activity is commenced and is completed within an appropriate timeframe.*

*To ensure that the activity is consistent with the consideration of potential environmental impacts in the REF and in accordance with relevant statutory approvals issued for the activity as described in the REF.*

### **Emergency works**

Notwithstanding any other conditions of this determination, in the event that emergency works are required, the proponent must take all reasonable steps to ensure that these occur as expeditiously as possible. Emergency works are generally works of a temporary and reversible nature which are urgently required to arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.

In the event that emergency works are undertaken the proponent must notify the Environment Line on 131555 as soon as practicable. Once notification has been made, the proponent must contact the North Coast Branch Director or delegate to seek direction on any further procedures to be implemented.

*Reason: To arrest an imminent threat to life, safety, public liability, and/or threat to fabric or property.*

### **Undertaking the activity**

The 'activity' detailed in the REF must be undertaken:

- at the location identified in the REF
- ⊖ in accordance with the description of the activity and environmental safeguards or mitigation measures listed in the REF
- as required or amended by the conditions of this determination.

In the event of any inconsistency between the REF and the conditions of this determination, the conditions of the determination shall prevail.

This determination, and the conditions of this determination, do not relieve the proponent of any obligation to obtain other statutory approvals necessary to undertake the activity, including but not limited to any approvals required under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

The proponent must undertake the activity in accordance with the requirements of the *Work Health and Safety Act 2011*, including codes of practice adopted under the Act, and the *Work Health and Safety Regulation 2017*. Any contractors on the site are to have appropriate insurances, including public liability insurance.

The proponent must provide the following to the Tweed Byron Area Manager (or their delegate) prior to commencement of the activity:

- the contact details and qualifications of a person who will be present on site to supervise the activity.
- a list of tradespersons, contractors or subcontractors who will be involved in undertaking the activity. The list must include the trade licence number and information on the expertise and experience of the tradesperson or contractor.

*Reason: To ensure that the activity is undertaken in accordance with the REF as amended by the conditions of approval and that the activity is carried out by appropriately qualified individuals.*

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<sup>2</sup> 'Reasons' are included as a mechanism to explain the rationale of a condition to a proponent. The reason does not form a part of the condition but is included for clarity.

## PRIOR TO COMMENCEMENT OF ACTIVITY CONDITIONS

### ***Approvals and compliance***

Prior to the commencement of the activity, the proponent must obtain the following:

- a consent under the National Parks and Wildlife Regulation 2019 (NPW Regulation) which must incorporate the conditions of this determination.
- **an Aboriginal Heritage Impact Permit (AHIP) issued under s 90 of the NPW Act.**

Prior to the commencement of the activity, the proponent must comply with any other relevant requirements of this determination.

Prior to the commencement of the activity the proponent (including any employees, contractors, subcontractors and agents involved in undertaking the activity) must hold an on-site meeting and site induction with the Tweed Byron Area Manager (or their delegate).

*Reason: To ensure confirmation of any site-specific arrangements for the undertaking of the activity.*

### ***Aboriginal participation***

At least **14 days** prior to the activity commencing the proponent must invite representatives from the Tweed Byron Local Aboriginal Land Council as representatives of the local Aboriginal community to monitor works associated with the undertaking of the activity.

*Reason: To provide the Aboriginal community with an opportunity to monitor works in areas of cultural heritage significance.*

### ***Signage and public notification***

Before the activity commences, the proponent must erect signs in the park or in the immediate vicinity of the activity site, the size, location and content of which must be to the satisfaction of the NPWS Tweed Byron Area Manager (or their delegate). Signs must be visible and clearly identify the proponent and list:

- a description of the activity, reasons for undertaking the activity and duration of the activity
- the hours of operation
- a contact telephone number for public inquiries.

*Reason: To support the safe undertaking of the activity and provide appropriate information to the public.*

### ***Stormwater, erosion and sediment controls***

During the activity, erosion and sediment control must comply with the “Blue Book” (Soils and Construction, Managing Urban Stormwater Volume 1, 4th Edition March 2004) (Landcom, 2004) and other relevant guidelines<sup>3</sup>.

*Reason: To ensure appropriate management of stormwater and to minimise the risk of environmental harm associated with erosion and sedimentation.*

## OPERATIONAL CONDITIONS

### ***Availability of REF determination and conditions***

A copy of the REF, this determination and attached schedule of conditions must be kept at the site to which the REF applies.

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<sup>3</sup> for example, the Field Guide for erosion and sediment control on unsealed roads, [www.environment.nsw.gov.au/research-and-publications/publications-search/erosion-and-sediment-control-on-unsealed-roads](http://www.environment.nsw.gov.au/research-and-publications/publications-search/erosion-and-sediment-control-on-unsealed-roads)

The REF, this determination and attached schedule of conditions must be produced to any authorised officer of NPWS who asks to see it.

The REF, this determination and attached schedule of conditions must be available for inspection by any employee or agent of the proponent working at the site.

*Reason: To ensure that the activity is undertaken in accordance with the REF and in accordance with relevant statutory approvals.*

### **Discovery of unknown Aboriginal and historic heritage values**

If, during the course of the activity:

- any Aboriginal objects, as defined under the National Parks and Wildlife Act, are uncovered or discovered; and/or
- any relics, as defined under the *Heritage Act 1977*, are uncovered or discovered

the proponent must cease work immediately and notify the Environment Line on 131555, **unless the objects and/or relics are subject to the Aboriginal Heritage Impact Permit or a valid Heritage Permit**. Work must not recommence until written advice to do so has been provided by NPWS.

Unless explicitly covered by the REF, this determination does not authorise the disturbance or movement of any human skeletal remains. If, during the course of the activity, any human skeletal remains are located the proponent must:

- immediately cease the activity and not further harm these remains
- secure the area so as to avoid further harm to the remains
- notify the local police and Environment Line on 131555 as soon as practicable and at that time provide any available details about the nature and location of the remains
- notify the North Coast Branch Director or delegate, and
- recommence the activity only after receiving confirmation in writing from the local police or Heritage NSW that it is appropriate to do so.

*Reason: To protect cultural heritage values*

### **Discovery of unknown biodiversity values**

If, during the course of undertaking the activity, the proponent becomes aware of the presence of threatened species or endangered ecological communities, or their habitats, that were not identified and assessed in the REF and which are likely to be affected by the activity, the proponent must:

- immediately cease all work likely to affect the threatened species or endangered ecological communities, or their habitats.
- inform the North Coast Branch Director or delegate and/or the local NSW DPIE Fisheries office (for threatened fish or marine vegetation matters) as relevant. Notification must be made as soon as practicable by phone, electronically or in writing, and
- not recommence work likely to affect the threatened species or endangered ecological communities, or their habitats until receiving written advice from NPWS and/or DPIE Fisheries to do so.

*Reason: To minimise biodiversity impacts.*

### **Notification of environmental harm**

The proponent or its employees (including any contractors) must notify NPWS of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident.

Notifications must be made by telephoning the Environment Line on 131555.

Once notification has been made the proponent must also contact the North Coast Branch Director or delegate to seek direction on any further procedures to be implemented.

The proponent must provide written details of the notification to NPWS within 7 days of the date on which the incident occurred.

### ***Equipment and materials storage***

The proponent must store any machinery, equipment or materials required for the activity in existing cleared areas or areas determined to be cleared in accordance with the REF.

Machinery, vehicles and other construction equipment must be cleaned (e.g. washed down) by the proponent prior to entry into Mebbin National Park to remove any soil or plant matter.

*Reasons: To reduce the risk of weed invasion and to ensure that equipment is stored and secured in suitable locations.*

### ***Fire prevention and control***

Firefighting foams or gels are not to be used in firefighting operations in landscapes below 10 metres above mean sea level or within 50 metres of the edge of a creek, swamp or freshwater lake.

Machinery which may result in sparking or ignition must not be operated during a Park Fire Ban for Mebbin National Park or a declared Total Fire Ban for the zone which includes Mebbin National Park.

The proponent must store fuel and other similar flammable materials, such as gas cylinders and paint, in appropriate fire-resistant storage containers.

*Reasons: To establish adequate controls to manage the risk of the activity accidentally starting a fire.*

*To ensure that fire response is undertaken quickly and in such a way as to minimise environmental harm*

### ***Operational hours / Site access***

Work must only be conducted between the following hours: **7am to 6pm Mondays to Fridays** (except public holidays). Work may only occur on public holidays or weekends with prior approval of the Tweed Byron Area Manager.

The proponent must take reasonable steps to limit restrictions on public access during the activity. Where access restrictions are required, such as in areas where works are under way, temporary barriers (e.g. brightly coloured tape and/or moveable barriers) and appropriate signage must be erected by the proponent around the work area prior to commencement.

The proponent is to encourage staff and contractors involved in the activity to carpool to the site in light vehicles during the proposed activity.

*Reason: To minimise impacts on visitors to the park and park neighbours, and to support the safe undertaking of the activity.*

### ***Topsoil***

The proponent must ensure that during any excavation associated with the activity, contaminated soil will be managed as specified in the **REF** and **AHIP**. Uncontaminated topsoil will be removed and stockpiled in an area identified and agreed to in writing by the Tweed Byron Area Manager, and later re-spread across the disturbed area with the consent of the Tweed Byron Area Manager if the soil is deemed safe to re-use.

*Reason: To ensure topsoil is managed appropriately.*

### ***Use of rainforest timbers***

The proponent must not use rainforest timbers in undertaking the activity unless written approval is obtained from the North Coast Branch Director.

**Note:** *to gain approval to use rainforest timber the proponent must demonstrate:*

- i. that no feasible alternatives exist, or*
- ii. the rainforest timbers are to be obtained from a plantation source which has received appropriate industry and environmental certification.*

**Reason:** *To promote the use of sustainable construction materials in accordance with OEH policies.*

### ***Waste management***

Waste generated at the site from works undertaken as part of the activity must be managed in accordance with the *Protection of the Environment (Waste) Regulation 2014*.

Removal of any asbestos-containing material must be undertaken in accordance with *Working with Asbestos: Guide 2008* published by the WorkCover Authority and relevant codes of practice released by SafeWork NSW.

**Reason:** *To ensure the appropriate management of waste material.*

**Explanatory note:** *For further information on managing waste see the EPA website*

### ***Waterway protection***

Except as may be expressly provided in any other condition of this determination, the proponent must comply with s 120 of the *Protection of the Environment Operations Act 1997*.

**Explanatory note:** *Section 120 states that a person who pollutes any water is guilty of an offence. Sections 121 and 122 provide that a person is not guilty of an offence if they are acting in accordance with a regulation or licence applicable to the activity.*

## **POST ACTIVITY CONDITIONS**

### ***Site rehabilitation***

Within 7 days of any area being damaged by vehicular or other access to the site, the proponent must repair and rehabilitate such land to the satisfaction of the North Coast Branch Director or delegate.

The proponent must only use locally sourced indigenous plant species for site restoration works, unless otherwise agreed in writing by the Tweed Byron Area Manager.

**Reason:** *To ensure that works sites are suitably rehabilitated following the completion of the activity.*