

Our Reference: J7148

Friday, 07 August 2026

The General Manager

Byron Shire Council

Attention: Greg Smith

Via email: gsmith@byron.nsw.gov.au

Dear Greg,

Modification Application 10.2017.201.5 Harvest Estate

We write in response to Council's Assessment Report and referral of the Modification Application to the Northern Regional Planning Panel.

We acknowledge Council has reached a recommendation on the application. However, given the longstanding and productive relationship that Planit and Tower Holdings have maintained with Byron Shire Council and the community through the realisation and delivery of Harvest, we consider there remains value in further discussion before the matter proceeds to determination.

We are concerned that the application has been recommended for refusal without any meaningful engagement with Tower Holdings or its consultant team and that Council reached its recommendation immediately following the exhibition period with no opportunity to respond to the submissions received or the issues ultimately relied upon in the Assessment Report. Furthermore, the recommendation appears to focus on compliance with the existing prescriptive control rather than whether the proposal achieves the environmental outcomes that control seeks to deliver. This approach is also difficult to reconcile with the ecological and strong legal advice submitted with the application, which supports the use of an alternative management-based framework to achieve those same outcomes.

We note that approximately 75% of submissions received supported the proposal. This level of support is relevant when considering whether the proposal is in the broader public interest and has been incorrectly referenced in the Assessment Report which somehow concludes the application is not in the public interest..

We also remain concerned that limited weight has been given to the management-based approach underpinning the proposal. Byron Shire Council is an active partner with the NSW Government and RSPCA NSW in promoting responsible pet ownership as a biodiversity protection measure. The proposed amendment is founded on those same principles, yet the assessment report appears to place little reliance on that approach.

Importantly, the proposal does not reduce ecological buffers, remove habitat, or alter conservation areas. Rather, it replaces a blanket prohibition with a management regime that ecological advice concludes can achieve equivalent biodiversity outcomes. While the Assessment Report asserts that the Solus Estate is not a comparable example, we respectfully disagree. Both projects present fundamentally similar questions regarding the management of ecological values and the reliance on operational controls to achieve acceptable environmental outcomes.

If there is an opportunity to defer or pause the matter to allow further engagement on these issues, we welcome that outcome. We consider there remains a genuine opportunity to address Council's concerns and potentially avoid the time and cost associated with an appeal process.

Attached is a detailed response to Council's Assessment Report and the issues raised in submissions. We trust this assists Council and the Panel in its consideration of the application and respectfully request that the matters raised be given further consideration prior to determination.

Please do not hesitate to contact me on 0419 785 423 or via email at lukeb@planitconsulting.com.au.

Yours sincerely



Luke Blandford
Planit Consulting

Response to Council Assessment Report

In direct response to Council's Assessment Report, we address the key issues and arguments below. While we respectfully disagree with the conclusions reached in the Assessment Report, each matter has been considered against the available ecological evidence, planning framework and public submissions.

The ecological impact, and therefore failure to meet key principles and objectives throughout the planning framework

The Assessment Report adopts a position that appears inconsistent with Council's own policy actions. Byron Shire Council is an active partner in the NSW Government and RSPCA NSW's *Keeping Cats Safe at Home* program, which acknowledges the value and importance of pets while promoting responsible ownership as a means of protecting native wildlife. The proposed amendment adopts that same philosophy. In that context, the Assessment Report gives no weight to the very management-based approach Council is publicly supporting and advocating elsewhere.

The proposed modification aligns to this Government initiative and Byron's participation in it. Despite the assertions in the Council Assessment Report, ecological advice submitted under the Modification Application concludes that the proposed management-based measures will not result in any additional ecological impact beyond that already assessed and approved.

Accordingly, the proposal does not create any additional ecological impact or undermine the biodiversity outcomes of the approved development. Rather, it retains the approved ecological framework whilst implementing a practical and enforceable management regime that is consistent with contemporary government policy and the environmental outcomes sought by the SEPP, LEP and DCP.

Inconsistency to the ecological reporting for the Harvest DA

The Assessment Report selectively relies on references from the original ecological reporting to suggest that the approved subdivision outcome was contingent upon the DCP's pet restrictions. However, those references merely acknowledged the DCP framework as one of several mechanisms contributing to positive ecological outcomes. Importantly, the ecological advice accompanying this Modification Application has been prepared by the same ecological team that assessed the original subdivision proposal. Having reviewed the proposed management measures in the context of contemporary policy settings and current knowledge, this same ecological team has concluded that the proposed amendment will achieve equivalent biodiversity outcomes to those accepted under the original approval. That conclusion is further supported by a second, highly regarded ecological consultancy that was not involved in the original subdivision assessment and has reached the same biodiversity outcome.

It is also important to note, that Harvest Estate has been deliberately designed to minimise interactions between native fauna and residential areas. Landscaping adopts a fauna neutral approach and avoids preferred habitat and food sources within residential lots and road corridors, reducing the likelihood of wildlife entering developed areas and interacting with residents, vehicles or companion animals.

Inconsistency to prescribed DCP and KPOM provisions

We acknowledge that the proposal departs from the prescriptive wording of the DCP. However, as recognised by section 3.42(1) of the EP&A Act, DCP provisions are not statutory requirements and are intended to guide planning judgement rather than mandate a particular outcome. This position was recently reinforced through and Land & Environment court decision *Conway v Leeroy Property Investments Pty Ltd* 2026, which reconfirmed that non-compliance with a DCP provision does not justify refusal where the underlying planning objectives continue to be achieved. In this instance, the proposal continues to achieve the biodiversity protection objectives of the DCP and Koala Plan of Management. The proposal should therefore be assessed on its merits rather than by reference to strict compliance alone.

We appreciate that Council may not support ad hoc departures from the DCP. However, the flexibility built into the EP&A Act exists for precisely these situations, where an alternative approach can achieve the same planning outcomes. Approval of this modification would not undermine the DCP or broader policy framework.

To the contrary, it would represent a merit-based application of judgement, consistent with the legislative framework and, as outlined below, judgement which Council itself has applied in comparable circumstances.

Not being comparable to Solus

Prescriptive Measure 9 of Clause E8.10.5.1 of the DCP applies to subdivision development. While the Assessment Report seeks to distinguish the Solus Estate on the basis of its industrial zoning, that distinction is not supported by the wording of the control itself. The control applies at the subdivision stage and Council has plainly adopted a different management-based approach within the adjoining Solus Estate.

Further, the suggestion that Solus is not a relevant comparison because people do not reside there overlooks the reality acknowledged by Council's own DCP, which recognises residential occupation within industrial areas under Clause D5.2.11 of the DCP. The practical outcome is that residents within the Solus Estate may keep cats and dogs subject to management measures, while residents within Harvest Estate are subject to a complete prohibition.

Council has therefore already accepted that responsible pet management can achieve acceptable environmental outcomes within the West Byron release area. Consistency in planning decision making requires a clear justification for why a different approach should apply to Harvest Estate. No such justification has been identified, particularly where comparable vegetation communities exist, and ecological evidence concludes that the proposed management framework will not result in any additional ecological impact beyond that already assessed and approved.

Community Concern

The Council Assessment Report places considerable weight on perceived community concern and concludes that the proposal is not in the public interest. However, the results of the public exhibition do not support that conclusion.

A total of 23 submissions were received, with 17 submissions (75%) supporting the proposal and only 6 objecting (25%). The majority of submitters considered that responsible pet ownership and biodiversity protection can coexist through appropriate management measures, while many also identified concerns regarding consistency with other developments in the West Byron release area and the impacts of the current restriction on housing choice and quality of life.

In these circumstances, it is difficult to reconcile the Assessment Report's reliance on community concern when a clear majority of submissions support the application. While public submissions are an important consideration, they should be weighed in a balanced manner. The Assessment Report appears to focus almost exclusively on the objections received, despite support for the proposal substantially outweighing opposition.

Given the level of community support, we consider there would have been merit in further discussion of the proposal before a recommendation for refusal was finalised. There remains an opportunity for Council to engage further on these issues and potentially avoid an unnecessary appeal process.

Response to Public Submissions

As discussed above, approximately 75% of submissions supported the proposed modification, indicating broad community support for the application. A number of common themes emerged from those submissions, including:

- Support for a management-based approach that recognises responsible pet ownership and environmental protection are not mutually exclusive, and that both outcomes can coexist through appropriate management measures.
- Concerns regarding perceived inconsistencies in the current restriction, particularly given the management-based approach adopted at Solus Estate and the ability for companion animals to access public areas of the estate while residents remain prohibited from keeping them on private property.
- Support from Harvest Estate property owners who emphasised their commitment to complying with management requirements and protecting the surrounding environmental values.
- Recognition of companion animals as an important aspect of home ownership, family life and personal wellbeing, with many submitters describing pets as integral members of their households.
- Concerns that the current restriction unnecessarily limits housing choice and discourages prospective purchasers seeking to live within the community.

Despite the clear and consistent themes emerging from the majority of submissions, these matters receive limited consideration in the Assessment Report. Instead, the report largely adopts an alternative position without clearly explaining why the views expressed by most of the submitters should be preferred less than those expressed in objection.

The following table responds to each objection in detail and considers those views in the context of the broader exhibition outcomes, including where the opinions expressed by individual objectors are inconsistent with the position advanced by most of the submissions received.

Table 1. Objection Summary and Responses

Submission No.	Key Submission Points	Response
SUB4493	1 <i>The original prohibition was a necessary and deliberate environmental safeguard</i> <i>The prohibition on cats and dogs was not incidental. It was a critical measure secured after years of community concern about the impacts of urban development within a wildlife corridor that connects the West Byron lands to the Belongil Estuary—one of the Shire's most important ecological assets. The applicant's own Statement of Environmental Effects acknowledges that surrounding habitat has already been "fragmented" and "reduced." This reinforces the need for strong protections, not their dilution.</i> <i>The Belongil Estuary supports:</i> <i>threatened shorebirds (including Beach Stone-curlew, Pied Oystercatcher),</i> <i>migratory species protected under international agreements,</i> <i>wetland fauna highly sensitive to disturbance, particularly by dogs.</i> <i>The prohibition was designed to protect not only fauna within the development footprint but also the surrounding ecological network that remains under pressure from cumulative impacts.</i> 2 <i>The applicant's ecological justification is incomplete and misrepresents the role of the original condition</i> <i>The modification relies heavily on the claim that the original ecological assessments "did not rely upon the cat and dog prohibition." This is misleading. The prohibition was required under Byron DCP 2014, Chapter E8, which states:</i>	1. It is appropriate to review consent conditions where contemporary management practices can achieve the same environmental outcomes. The proposed modification does not alter the approved development footprint, retained habitat, ecological corridors, or biodiversity protection measures. Instead, it replaces a blanket prohibition with a management-based approach that supports responsible pet ownership while maintaining appropriate safeguards to minimise impacts on native fauna and the surrounding ecological network. 2. The proposal recognises and responds to the ecological sensitivity of the site and does not undermine the intent of the original condition. Rather, it replaces the blanket prohibition with a robust and enforceable management framework that addresses potential environmental impacts while enabling responsible pet ownership. This approach is consistent with the treatment of the adjoining development, which is subject to comparable environmental constraints and ecological values. The proposed modification also reflects the contemporary planning and policy context that has evolved since the adoption of Chapter E8 of the Byron DCP 2014, including current NSW Government guidance promoting responsible pet ownership through management-based measures rather than blanket prohibitions. 3. Management-based controls have been successfully implemented in comparable environmentally sensitive developments, including Solus, which adjoins native vegetation and ecologically significant habitat. This demonstrates that environmental protection and responsible pet ownership can coexist. Further, compliance and enforcement issues are not unique to a management-based approach, as both a blanket prohibition and management-based controls ultimately rely on Council's regulatory and

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	<i>"The keeping of cats and dogs other than guide dogs is to be prohibited."</i> <i>This prescriptive measure was included precisely because of the ecological sensitivity of the WBURA and the known impacts of domestic predators on native fauna. The fact that the applicant now argues the prohibition was unnecessary does not negate the DCP requirement or the ecological rationale behind it.</i> 3 <i>A management-based condition is not equivalent to a prohibition</i> <i>The proposed condition mirrors the Solus industrial subdivision. However, Solus is not comparable:</i> <i>It is an industrial development, not a dense residential estate of 149 dwellings.</i> <i>It is located further from the Belongil Creek.</i> <i>It was approved after years of incremental weakening of environmental protections in the WBURA.</i> <i>A poor precedent should not be used to dismantle a stronger one. Management-based conditions rely on perfect compliance by every resident, every day, for the life of the development. Experience across the Shire shows this is unrealistic. Even fenced dogs escape. Cats routinely breach enclosures. Visitors bring pets. Enforcement is minimal. A prohibition, by contrast, is simple, clear, and enforceable.</i> 4 <i>The Belongil Estuary and surrounding habitats remain highly vulnerable</i> <i>The SEE does not address the specific risks to threatened shorebirds and migratory species using the Belongil Estuary. These species are extremely sensitive to disturbance, particularly from dogs. Even leashed dogs can</i>	enforcement functions. Accordingly, the potential for non-compliance is not, in itself, a planning justification for retaining a blanket prohibition. 4. The sensitivity of the Belongil Estuary is not disputed. However, the ecological evidence does not support a finding that the proposal would create unacceptable cumulative impacts. Having considered the existing context and proposed management measures, the project ecologists concluded that the biodiversity outcomes underpinning the original approval would be maintained. 5. Protecting wildlife corridors and biodiversity values remains important. However, the ecological evidence concludes that the proposed management measures will maintain the biodiversity outcomes underpinning the original approval. Consistent with this, 56% of supporting submissions considered that responsible pet ownership and biodiversity protection can coexist through appropriate management measures. The proposal therefore achieves an appropriate balance between environmental protection and the needs of an established residential community. 6. The NSW National Parks and Wildlife Service document <i>Developments Adjacent to NPWS Lands: A Guide for Councils</i> provides relevant policy context. However, its application must be informed by the circumstances of the site and the available ecological evidence. In this case, the ecological evidence specifically considers the proposed management regime and concludes that the modification will maintain the biodiversity outcomes accepted under the original approval. 7. The assertion that the proposal would introduce new and unnecessary risks is not supported by the ecological evidence. Dogs are already able to access public areas within and surrounding the estate, and the project ecologists have concluded that the proposed management regime will

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	<i>flush shorebirds, interrupt feeding, and reduce breeding success. The applicant's ecological letter states:</i> <i>"Cats and dogs are well established within the Byron locality... The keeping of cats and dogs confined within the allotments aren't likely to exacerbate predation threats compared to what is already existing." This argument is flawed. The presence of existing threats does not justify introducing additional ones. The cumulative impact of domestic animals is precisely what the original prohibition sought to prevent.</i> 5 <i>The public interest lies in protecting remaining wildlife corridors—not weakening them The SEE claims the modification is "in the public interest" because it supports housing supply. This is a narrow interpretation. The broader public interest includes:</i> <i>• safeguarding threatened species,</i> <i>• maintaining ecological connectivity,</i> <i>• protecting the Belongil Estuary,</i> <i>• upholding the intent of the DCP,</i> <i>• ensuring development does not further erode biodiversity values.</i> <i>Allowing cats and dogs into Harvest Estate would undermine all of these.</i> 6 <i>Additional policy direction: NPWS guidance and aural impacts on native fauna</i> <i>Council should formally recognise and apply the guidance contained in the NSW National Parks and Wildlife Service document "Developments adjacent to NPWS Lands: A Guide for Councils". This document clearly states that Councils should use their planning powers to prohibit domestic dogs in developments adjacent to NPWS-managed lands due to</i>	maintain the biodiversity outcomes accepted under the original approval. The proposal therefore represents a managed approach to pet ownership, rather than the introduction of a new ecological risk.

Submission No.	Key Submission Points	Response
	<i>the significant risks they pose to native wildlife. Given the immediate proximity of Harvest Estate to ecologically sensitive lands, this guidance is directly relevant. We request that Council quote and attach this NPWS document to the assessment report and apply its recommendations in full.</i> <i>In addition to predation risks, aural disturbance from domestic dogs is a significant ecological impact. Barking and territorial vocalisations disrupt species that rely on acoustic communication for survival, including birds, arboreal mammals, microbats, and frogs. This includes Koalas, which use vocalisations for breeding communication, social cohesion, and spatial awareness.</i> <i>The Harvest Estate site is covered by Byron Shire Council's Byron Coast Koala Plan of Management, which identifies noise disturbance—including domestic dog barking—as a recognised threat to Koala behaviour and habitat use. Introducing domestic dogs into this landscape would therefore create chronic disturbance affecting multiple species groups.</i> <i>Taken together, the NPWS guidance and the Byron Coast Koala Plan of Management provide clear, locally relevant policy direction: domestic dogs should not be permitted in developments adjacent to sensitive ecological lands, including the Harvest Estate site.</i> 7 Conclusion <i>[Name redacted] strongly opposes the proposed modification to Condition 91(o). The prohibition on cats and dogs at Harvest Estate was a critical environmental safeguard reflecting the ecological sensitivity of the site and the community's long-standing concerns. The proposed amendment would introduce new and unnecessary risks to native fauna, weaken established protections, and contradict the prescriptive requirements of Byron DCP 2014.</i>	

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SUB4486	<i>The original restriction was imposed to protect the significant environmental values of this highly sensitive area. Since the approval of Harvest Estate and surrounding developments, there has already been a substantial loss and fragmentation of native habitat. As neighbouring residents, we have observed increasing pressure on local wildlife as animals are displaced into the remaining wetlands and adjoining habitat.</i> <i>The area continues to support a diverse range of native fauna, including swamp wallabies, koalas, echidnas and a wide variety of native bird species, which are regularly sighted. These species are already under increasing pressure from habitat loss. Introducing additional domestic cats and dogs into this environment would further increase disturbance, predation risk and stress on native wildlife. We do not accept the conclusion reached by the ecological reports prepared in support of this application that removing the prohibition and relying instead on pet management measures would provide an improved environmental outcome. In my view, this conclusion appears to be directed towards facilitating the proposed modification rather than maintaining the level of environmental protection intended by the original consent.</i> <i>The suggestion that responsible pet ownership and compliance measures would be easier to manage than the existing restriction is not supported by what is already occurring in the area. There has been a noticeable increase in people walking dogs around the wetlands, and it is common to observe dogs off-leash despite the area's environmental sensitivity. There have also been ongoing issues with owners failing to clean up after their pets. This demonstrates that existing compliance issues are already</i>	- The ecological evidence before Council concludes that the proposed management measures will maintain the biodiversity outcomes underpinning the original approval. - The proposed modification does not authorise any additional clearing, alter ecological corridors, reduce buffers or modify conservation areas. Rather, it concerns the management of domestic pets within an already approved residential estate. - Concerns regarding pet ownership, compliance and enforcement are understood. However, no regulatory framework can eliminate the possibility of individual breaches. The relevant question is whether the proposed management regime is capable of maintaining acceptable environmental outcomes. Both the original project ecologists and a second ecological consultancy conclude that it is. - Many submitters also considered it unreasonable that residents are prohibited from keeping a dog securely on their own property while members of the public are permitted to access the estate with dogs. The proposal seeks to address that inconsistency through a managed approach that balances environmental protection with the expectations of an established residential community. - The assessment of this modification has been undertaken on its planning and environmental merits. The applicant's commercial interests do not alter the ecological conclusions reached by the expert evidence before Council.

Submission No.	Key Submission Points	Response
	<i>difficult to manage. Allowing more domestic pets into the estate would inevitably increase these pressures.</i> <i>Rather than weakening the existing protections, Council should be strengthening them. This could include improved signage advising that dogs must remain on a lead in environmentally sensitive areas, together with increased compliance and enforcement. These measures would better protect the surrounding wetlands and the native fauna that depend upon them.</i> <i>The restriction on keeping cats and dogs was imposed by Council and upheld through the original development approval process for sound environmental reasons. Those reasons remain valid today. Indeed, with the continuing loss of surrounding habitat, the need for this protection is arguably greater than when the consent was first granted.</i> <i>The proposed modification appears to be driven primarily by the developer's desire to make the remaining lots more attractive and marketable. While this may provide a commercial benefit to the developer, it should not come at the expense of biodiversity or the long-term environmental values of the Byron Shire.</i>	
SUB4494	<i>The land encompasses part of the major coastal wildlife corridor linking Tyagarah Nature Reserve and Cumbebin Swamp Nature Reserve, and thence through to Broken Head. The viability of many of the species inhabiting these areas depends upon ongoing dispersal between remnant habitat. The prohibition of cats and dogs on West Byron was a condition of consent proposed by the proponents in order to gain approval for these developments in an important wildlife link, which also encompasses important habitat patches for a variety of native species.</i> <i>The removal of the prohibition on cats and dogs in West Byron will increase the mortality of Threatened species, such</i>	- Our response considers the submitters cover letter and the matters raised in its Attachment. - The environmental significance of the coastal wildlife corridor and surrounding habitat is acknowledged and is not disputed. However, the proposed modification does not reduce the extent of protected habitat, alter ecological corridors, remove restoration areas or otherwise diminish the environmental protections established under the approved consent. - The assessment has specifically considered potential impacts on threatened species and ecological connectivity. The ecological evidence concludes that the proposed management

Submission No.	Key Submission Points	Response
	<i>as Koala, Wallum Sedge Frog and Wallum Froglet, resident on West Byron. It will also increase mortality of native species using this link and their aversion to using it. It thus threatens to further fragment coastal wildlife populations and their viability.</i> <i>In addition to the above SUB4493 above the submission included a more detailed attachment response located on pages 7-13 of Attachment 2.</i> <i>The submission has been addressed within the Response column.</i>	measures are capable of maintaining the biodiversity outcomes underpinning the original approval and would not result in a significant increase in risk to native fauna or the functioning of the wildlife corridor. - While the original approval incorporated a prohibition on companion animals, this does not mean that a prohibition is the only mechanism capable of achieving the desired environmental outcomes. Contemporary approaches increasingly rely on responsible pet ownership, education, containment and enforcement measures to manage potential impacts while balancing environmental and community outcomes. - The proposal does not permit unmanaged companion animals. Rather, it replaces a blanket prohibition with a management framework that retains the estate's existing biodiversity protections whilst enabling responsible pet ownership. - The Byron Coast Koala Habitat Study identifies a range of mitigation measures including dog management, fencing, vehicle controls and broader habitat protection initiatives. The proposed modification remains consistent with these objectives and does not remove or weaken the broader biodiversity management framework applying to the site. - The planning merits of the proposal have been assessed on the basis of environmental evidence and management outcomes. The relevant question is not whether pets can have ecological impacts, but whether those impacts can be appropriately managed whilst maintaining the biodiversity outcomes accepted under the original approval. The ecological evidence concludes that they can.
SUB4483	<i>I strongly object to the proposal to modify condition 90 of the consent relating to restriction on keeping of cats and dogs for the following reasons: The recent approved development on and around Harvest Estate has led to an</i>	The environmental significance of the area and the pressures on native fauna are acknowledged. However, the proposed modification does not involve any further clearing, habitat loss, fragmentation or reduction in ecological corridors. Those

Submission No.	Key Submission Points	Response
	<i>extreme reduction and degradation of surrounding fauna habitat values. As neighbours we can clearly witness the stress being put on native fauna by being pushed more into the diminishing wetlands.</i> <i>The reasoning by ecologists Tomy Rados (Planit) and David Havilah (Cedar Ecology) is clearly a reflection of the brief given by the developer rather than an expert opinion about the impact on the environment. The suggestion that the lifting of the restriction and implementation of a controlled pet management measures would be better and easier to police is ridiculous and a furphy. The few people walking their dogs in the area now clearly demonstrate that pet owners are not responsible (pets are off leash, uncontrolled, chasing wildlife) and that even now it cannot be policed. I have complained to rangers several times about the issue.</i> <i>To allow more pets in the area would clearly aggravate the problem.</i> <i>The restriction on cats and dogs as directed by council and the environment court in the original consent should firmly remain and measures to police those should be strengthened. The modification is merely an attempt by the developer to better market and sell their product and is detrimental to the biodiversity of the area.</i> <i>The proposal is not in the interest of the people of Byron Shire and should be firmly rejected.</i>	outcomes arise from the approved development, not from the keeping of companion animals under a managed framework. • Assertions that the ecological conclusions simply reflect the applicant's preferred outcome are not supported by the evidence. The proposal has been reviewed by both the original project ecologists and a second ecological consultancy, each concluding that the proposed management measures are capable of maintaining the biodiversity outcomes underpinning the original approval. • Concerns regarding irresponsible pet ownership and compliance are understood. However, isolated instances of non-compliance do not demonstrate that a managed approach is ineffective. No regulatory framework can guarantee absolute compliance. The relevant question is whether the proposed controls provide an appropriate framework for managing potential impacts, and the ecological evidence concludes that they do. • The proposal does not remove environmental protections. Rather, it replaces a blanket prohibition with a managed approach to pet ownership that retains the estate's biodiversity protections while recognising the role companion animals play in many households. • The planning merits of the proposal should be assessed on its environmental impacts and management outcomes rather than assumptions regarding the applicant's motivations. The substantial level of support received during public exhibition demonstrates that many residents and property owners consider the proposal to represent an appropriate balance between environmental protection and residential amenity.

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SUB4614	1) <i>The development borders The Cumbebin Nature Reserve, which is part of National Parks and Wildlife Service (NPWS) managed public estate. The developers proposal is in breach of the NSW Dept of the Environment "Guideline for Councils on Development adjacent to National Parks and Wildlife Service Lands" (attached), which states that Councils should use planning powers to prohibit dogs in new developments adjacent to NPWS lands.</i> 2) <i>The Applicant falsely reasons that the next door Industrial site (the Solus subdivision) is a planning precedent which allows dogs. The comparison is completely irrelevant due to the different nature of the two developments. An Industrial site often uses dogs for security, including permanently having dogs overnight when no workers or management are in attendance. And, the industrial site is likely to be have industrial and building material suppliers, which builders access in utes that commonly have dogs attached, used for the security of builders equipment when the builders ute is adjacent to work sites.</i> 3) <i>The Applicants reason that the DA Consent is inconsistent to prohibit dogs on private residential lots, but not on the public roads and reserves, is addressed by the stated commitment of Councils Sarah Nagle (then Manager of Public and Environmental Services, but who is now recently promoted to Planning Director) .. "that the West Byron subdivisions public roads and Reserves will be considered to be Adopted as a Wildlife Protection Area (under the Companion Animals Act), when the subdivision has occurred" (correspondence below). A Wildlife Protection Area prohibits dogs from entering or being on all of the subdivisions public roads and Reserves (dogs prohibited, and in breach of the Act, whether a person is in charge of the dogs, or the dogs are unaccompanied), which will be consistent with the prohibition of dogs on public roads and</i>	1. Relevant guidelines should be applied having regard to the specific circumstances of the proposal. As an established residential community, Harvest Estate can balance environmental protection and residential amenity through appropriate management measures supported by site specific ecological evidence. 2. The adjoining Solus development demonstrates Council's acceptance of a management based approach to companion animals in a comparable environmentally sensitive setting. While the developments differ in land use, both adjoin native vegetation and raise the same fundamental question of whether environmental outcomes can be maintained through management measures rather than an absolute prohibition. 3. Many submissions in support of the modification considered the current framework inconsistent, as it permits companion animals on public roads and reserves while prohibiting residents from keeping them on private property. Potential future actions under the Companion Animals Act 1998, including the declaration of a Wildlife Protection Area, are separate regulatory processes and are not determinative of this application. 4. The environmental significance of the wildlife corridor and surrounding habitat is acknowledged. However, the proposal does not alter the development footprint, remove habitat, reduce ecological corridors or modify biodiversity management measures established under the consent. The ecological evidence concludes that the proposed management measures can maintain the biodiversity outcomes underpinning the original approval. 5. Potential impacts on threatened species, including koalas, have been carefully considered. The proposed modification does not alter retained habitat, ecological corridors, restoration areas or broader biodiversity management requirements. The

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	<i>reserves with the DA Prohibition of dogs on private blocks. While the existing DA Consent Condition, prohibiting dogs on private blocks, commences on the DA Consent, a separate Adoption of a subdivisions Wildlife Protection Area Condition can only later commence subsequent to the roads and reserves being constructed, and the separate Wildlife Protection Area signage, that is lawfully required under the Companion Animals Act, is erected. Note the several Shire precedents for Council to Adopt a Wildlife Protection Area over similar subdivisions that have margins to environmentally protected land, including the Wildlife Protection Area for the Lilli Pilli subdivision that has margins to forest with unbroken forested connection to the same Cumbebin Nature Reserve that the West Byron Harvest Estate has. And note the recent Council Adoption of an overwhelmingly community supported Wildlife Protection Area, prohibiting dogs, for the recently constructed Wetland Reserve adjacent to the Byron Bay CBD</i> <i>The public areas of an estate cannot be declared a WPA until the subdivision has actually occurred. When Council's planning department advises it is appropriate, it will likely be considered at that time.</i> 4) <i>Due to the high biodiversity use of the site, identified both in the preceding State Govt enacted community/CI staff/developer planning panel meetings, and in the developers own proposed site wildlife refuges (including for Koalas traversing the site), and in the site's position as adjacent to the Nature Reserve, the Restriction on dogs is fundamental to the environmental outcomes and the biodiversity management framework established for the Estate in its DA Consent. The developers allegation that "the restriction was not fundamental to the environmental outcomes or biodiversity management framework</i>	landscaping design of the estate also minimises opportunities for interaction between wildlife and residential areas, reducing the likelihood of encounters between companion animals and native fauna. 6. Many submissions in support of the modification highlighted both a commitment to protecting native wildlife and a desire to keep companion animals as part of their household. Approximately 50% of supporting submissions specifically identified the ability to keep a dog as a key reason for support, while 56% considered that responsible pet ownership and environmental protection can coexist through appropriate management measures. These submissions demonstrate a strong level of community support for a balanced management based approach. 7. While these decisions provide useful context regarding the operation of community title restrictions, they do not determine the planning merits of the current application. Each matter must be considered on its own facts, the applicable statutory framework and the site specific ecological evidence before Council.

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	<i>established for the Estate" is incorrect. Below is the list of some of the wildlife accessing the Lilli Pilli Estate, that will be similar to the wildlife accessing the Harvest Estate as the Lilli Pilli Estate abuts the same extended forest that abuts the Harvest Estate. The Amendment would undermine the broader environmental protection objectives of the West Byron Urban Release Area, and of Council's commitment to protect, maintain, and restore wildlife habitat.</i> Lilli Pilli Wildlife List: Birds: Azure Face Kingfisher, Pied Butcher Bird, Grey Butcher Bird, Blue Face Honey Eater, Brush Turkey, Corella, Crested Pigeon, Crows, Pied Currawong, Black Currawong, Dollar Bird, Eastern Rosella, Eastern Spinebill, Fig Birds, Galah, Lewin's Honeyeater, King Parrot, Kookaburra, Magpies, Noisy Friarbird, Noisy Miner, Tawny Frog-mouthed Owls, Pacific Baza (Crested Hawk), Rainbow Lorikeets, Ravens, Scaly Breasted Lorikeets, Spangled Drongo, White-throated Grass Wren, Little Wattle Bird, Whip Bird, White Headed Pigeon, Willy Wagtail, Wonga Pigeon, Wood Ducks. Other fauna: Echidna, Bandicoot, Swamp Wallaby, Grey Kangaroo, Green Frog, Koala, Water Dragons, Bearded Dragon, Blue Tongued Lizard, Pink Tongued Lizard, Skink, Gecko, Carpet Python, Diamond Python, Green Tree Snake, Dwarf Crowned Snake, Whip Snake, Eastern Brown Snake, Yellow Bellied Snake, Red Bellied Snake, Micro Bat, Flying Fox, Marsupial "Mouse", Marsupial "Rat", Mitchells Rainforest Snail. <i>Plus a huge range of Insects, Moths, Butterflies and Frogs.</i> 5) <i>The Amendment is in direct Conflict with Byron Council's Adopted Byron Coast Koala Plan of Management.</i> <i>The site is a known Koala use site. Koalas climb fences, walk along the ground, travel between trees in adjacent residential lots (including dropping to the ground from</i>	

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	<i>hanging branches metres off the ground, which may be over fences), with instances in Byron of Koalas entering fully fenced residential lots (and ending up in backyard pools). Koalas are heading to local extinction unless we protect them from dogs, which are the second highest cause of direct koala deaths. (Photo attached of a Koala walking adjacent to my deck in Lilli Pilli, and attached List, up to 2020, of Koalas on, or adjacent to, my block in Lilli Pilli.)</i> 6) <i>The current restriction produces a supply of housing for many local residents who wish to protect. our wildlife and 'live lightly on the land' in connection with our local wildlife. The developers allegation that the restriction limiting the uptake and occupation of approved residential land is incorrect, people who have bought into the other, all sold out, subdivisions where dogs are prohibited, have done so specifically because dogs are prohibited and they love living close to the subsequent use of the subdivisions by wildlife. It is this developers Amendment that would undermine the broader objectives of DA Consents for the West Byron Urban Release Area, and be in conflict with owners who have already bought lots in the West Byron subdivision on the understanding that cats and dogs would be prohibited from being kept.</i> 7) <i>Legal opinion -</i> <i>The Applicant claims an old legal precedent from 2021, quoting the 2021 NCAT decision, Roden v The Owners – Strata Plan No. 55773 [2021] NSWCATCD 61. The most current Legal Precedent is the 2026 NCAT decision, (the same Court as the preceding 2021 NCAT decision, Roden v The Owners), with the current 2026 NCAT decision enforcing a dog ban on the local Woodlands Estate, (Excerpt below, and 2026 Woodlands NCAT decision attached)</i> <i>"NSW Civil & Administrative Tribunal</i>	

Submission No.	Key Submission Points	Response
	On 24 November 2025 the following orders (and/or directions) were made: 1 Pursuant to sections 190(a), 193(1)(a), and 200(1) of the Community Land Management Act 2021 NSW, the Tribunal orders that the respondents, Constance Fleur Murch, Sarah Margaret Lamore Kraaz, and Bruce Neville Connolly, must: (a) comply with By-Law 27 of the Neighbourhood Management Statement, and (b) within six (6) months of the date of this order, remove the dogs, Rubi and Rosie, from the Neighbourhood Association known as Woodlands Eco-Hamlet, and thereafter, keep the said dogs away from the Neighbourhood Association." The proposed Amendment would unavoidably incur a significant intensity of land use, and a significant change of the qualitative use of the land, unavoidably causing direct deaths and injuries from dog or cat attacks to wildlife that enter private blocks by climbing or burrowing under fences (lizards, snakes, frogs, koalas etc), and by birds and local Sugar Glider possums flying over fences. And incur further direct adverse impacts on wildlife use of private blocks and habitat in the vicinity, from pets faecal and urine territory marking, and dog barking. The proposal would incur a significant intensity of adverse impacts on wildlife, in breach of the DA Restrictions. There is a further issue of the erosion of the capability of maintaining the quality of storm water contaminated by pets faecal matter, flowing off the site into the adjacent Nature Reserve, and into the Belongil creek and the Byron Marine Park	
SUB4637	I believe introducing domestic pets into that bush land to be a risk to whatever wildlife remains in that area. The removal of bush land to create the Harvest/ West Byron subdivision has already displaced our dwindling wildlife population. Additionally more dogs Will inevitably end up on the	Concerns regarding impacts on native wildlife and the Belongil Estuary are acknowledged. However, the proposal does not permit unmanaged companion animals and the ecological evidence concludes that the proposed management measures

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	<i>Belongil estuary area which is a bird breeding area. Although Belongil estuary has signs stating no dogs, I see dogs on the beach off lead everyday with their 'couldn't care less' owners. The Council rangers rarely see this. Often after 4pm. We need firmer protection for wildlife not more dogs and cats. Cats are known to be the most dangerous threat to wildlife.</i>	can maintain the biodiversity outcomes underpinning the original approval. • The Harvest Estate was approved on the basis that ecological impacts had been appropriately assessed, avoided, minimised and offset. This modification does not involve additional clearing, habitat loss or changes to ecological corridors. • Many submissions in support of the modification expressed a strong commitment to protecting the estate's environmental values, while also supporting responsible pet ownership through appropriate management measures. • In relation to cats, the proposal is consistent with contemporary NSW Government initiatives promoting responsible cat ownership to reduce impacts on native wildlife while recognising the importance of companion animals.