



Ocean Shores
COMMUNITY ASSOCIATION

To The General Manager,

Byron Shire Council.

SUBMISSION NORTH BYRON FLOODPLAIN RISK MANAGEMENT STUDY AND DRAFT PLAN

OBJECTIONS TO SECTIONS OF THE NORTH BYRON RISK MANAGEMENT RISK STRATEGY AND PLAN.

"The Plan"

On behalf of the Ocean Shores Community Association Inc. (OSCA) and many concerned residents and business owners of our local area, we forward objections to sections of the Plan dealing with the flood basin of the Ocean Shores and Billinudgel district. The objections are in the attached document produced by the OSCA Flood committee.

In addition to the attached submission are the following comments:

- A. An additional objection to the Plan is that the study stops at the Capricornia Canal. It leaves out two significant northern creek systems. It was not realised by coastal north residents accessing the draft Plan that the creeks systems of Yelgun and Wooyung have been excluded. It was only when OSCA representatives met with the consultants on February 7 that they learned of this limitation. OSCA contacted Council staff to ask for an extension of time to make comment. They were denied and told an extension would probably have to go to a Council meeting.

OSCA was told Council staff made the decision to truncate the Ocean Shores area because the total study area of the flood Plan "was huge" that it would be "impossible and that the model would be too big."

The removal of the two northern creek systems we believe have placed restrictions on the consultants. It affects a true understanding of the actual flood situation in the coastal north of the shire.

OSCA is concerned that a true picture of the Ocean Shores flood bowl cannot be obtained by leaving out two of the creek systems and more than one third of the area that sends flood waters from these creeks into Ocean Shores, Billinudgel, South Golden Beach, New Brighton and rural areas of the coastal north. That these flood waters cannot escape to the ocean as happened for millenia because of the construction of the sand mining road from Pottsville to

Byron Bay in the 1950's which blocked off ocean access to the four creeks of the coastal north.. Council staff claim "those creek systems do not have a mouth". This is historically incorrect.

The elimination from the Plan of the flooding history and data from Yelgun and Wooyung demonstrates a lack of understanding of the "flood bowl" status of the coastal north. We were told by Council staff that a study relating to Yelgun and Wooyung is a matter for Tweed Shire and the study is not restricted by shire boundaries. However, as Shire representatives should know, Yelgun Creek flows through the district from within the town boundaries of Ocean Shores and Wooyung Creek is south of the Tweed Byron border. They are two of the four creeks that for more than 60 years have been artificially blocked off from natural entry to the ocean causing swamp formation.

Flood waters from these creeks flow through the whole district . They are very limited in their ability to find escape to the ocean.

The OSCA flood website

http://www.brunswickvalley.com.au/flood:history/current_updates.htm provides documentation and a timeline to demonstrate this. All data is derived from readily available public domain documentation.

In the Flood Plan committee minutes of 28 November 2018 members of the Plan committee were advised they should be "familiar" with the OSCA website.

- B. A further OSCA objection to the Plan is the claim that the question of Council's liability for causing flooding cannot be taken seriously because of the extremely complex nature of the history and the old documentation system which few of the staff can use!

This claim is ridiculous and met with disbelief on the part of the general public.

It is demonstrated in the OSCA website that the Council received numerous public warnings in the past of their liability. That is easily discovered by examining the OSCA flood website, particularly the Timeline below. Those warnings are:

- a. 1976 From the Council to itself in their own Minutes of June and September. Council minutes provided for OSCA by the Ombudsman.
- b. 1982 Deputy Premier warns Council of its liability.
- c. 1984 Dept Public Works warns Council of its liability.
- d. 1985 Council acknowledges those warnings to developer.
- e. 1986 Council Consultant Civil Engineer Frank Cranston warns Council of its liability. This warning was censored by felt pen black lines in the publicly released Cranston report. OSCA has a copy of the uncensored report.
- f. 1987 Mother's Day Flood May TV News statement. See video. Council engineer confirms if it could be proven, with the Capricornia Canal outlet open, that the flood could have been prevented, the Council could be held liable.
- g. Council admits levees will raise flood heights outside levees.

- h. 1991 Council Engineer Greg Alderson states both he, the Public works Representative and the Consultant Steve Webb of Webb McEwan, (the then Council Flood consultants now called WMWater), stated the flood level can be lowered "significantly" by reopening the Capricornia Canal outlet ordered closed by the Council, dredging Marshalls Creek and removing the internal rock wall in Readings Bay.
- i. 1997 Council adopted the Marshall's Creek Flood Plain Management Plan saying they cannot lower flood levels. This is despite knowing that the 1991 reply from Alderson states to the contrary.

The matter of human interference to the Ocean Shores Billinudgel flood bowl has been debated for thirty years and more. The community has strongly demonstrated its anger at the lack of recognition by Council of the situation and the lack of action to correct it. This was obvious in the strong response to the 2018 Council Flood Survey. It is appalling that the Flood Plan has chosen to ignore the community input and dismiss it as "hearsay".

OSCA believes it is time for serious consultation with Council, and local community organisations that want action taken to bring about the mitigation of reversible flood .

However people will not come if they are shouted down by those opposed to considering removing the flood bowl.

OSCA requests Council to consider the ordinary resident who no longer wants to be unnecessarily impacted by flooding.

Yours faithfully

Executive Board

OCEAN SHORES COMMUNITY ASSOCIATION. INC.

P.O. Box 83 Ocean Shores. 2483.

SUBMISSION NORTH BYRON FLOODPLAIN RISK MANAGEMENT STUDY AND DRAFT PLAN

We, the Ocean shores Community Association Inc. (OSCA) strenuously reject the findings of the Draft North Byron Floodplain Risk Management Plan as not being an accurate study of the true historical facts pertaining to flooding in the North of the Shire.

The conclusions are not sustainable and unfortunately there is a provable history of false information being accepted as fact by this Committee as well past and present Consultants.

We note that information given to members of the Byron Shire Floodplain Risk Management Committee Meeting on Thursday, 29th November 2018 contain many errors of fact.

Item 5 Page 9 of that meeting is significant in it's emphasis on the part of the statement by Greg Alderson made in 1991 that "the outlet on it's own did not make anywhere near the difference'

The reason for this is that the early consultants Webb McEwan refused to model the outlet with a connecting channel for almost two years despite many requests from the Community Members of that Committee and ran all the models with the sand in place behind the internal rock wall in Readings Bay and did not model dredging of the accumulated sand from Marshall's Creek in their first model.

It was only after they produced a similar false result to this latest effort that they were compelled to do their job correctly which produced their famous "significant reduction" result.

We, and most normal flood prone residents do not accept item 5 Page 10 of this Plan as being a truthful excuse for not holding the Council liable for causing the flooding with the overwhelming proof of liability and false conclusions.

le: "Matters relating to past Council decisions and issues of responsibility are an extremely complex area that require considerable staff resources to investigate substantially. For example, most of the relevant documents are stored in an old document management system which few staff can use and most documents are on microfiche."

Well hello? All of the documents are online on our website and we have copies or originals of most of the relevant documentation if required.

One of the Councillors involved in those past decisions is still alive, Frank Mills OAM and admits in writing the Council made a serious mistake in ordering the flood outlet to be closed in 1976.

in item 25 of that meeting the Committee members are advised to make themselves familiar with our website [http://www.brunswickvalley.com.au/flood -history/current updates.htm](http://www.brunswickvalley.com.au/flood-history/current%20updates.htm) *particularly the history timeline.*" (Emphasis OSCA)

The pathetic Item 30 of the meeting below that paragraph is full of extraordinary excuses questioning the veracity of our documentation which is all public domain and indeed is Council's own documentation in most cases.

The excuse that "staff did not live in the area when these events occurred" and they haven't reviewed the documents is a pathetic cop out. It is also noted that this paragraph "staff don't have access to all the documents or the resources to review all of the documents pertaining to the issue."

Why not?

The most damning document is a copy of Council minutes in 1976 where the Council ordered the developers to close the outlet to the ocean, which was a condition of development consent for the Ocean Shores Estate, where the Council accepted the liability for the increase in flooding caused by that ordered closure.

See Time line 1976.

We suggest that Council and the consultants "familiarise" themselves with that document as well as the numerous warnings on our website from Government and Councils own consultants alerting themselves of the danger of flood increase caused by that closure and their liability for that increase in flooding.

Item 35 of the meeting is a classic, where the consultants "have admitted they would be accepting personal liability if they were to recommend the *creation* of ocean outlets without the idea going through a scientific and environmental investigative approvals process" and, "This is the main reason why the community requests have not resulted in the outlets being *created*. *Council cannot simply undertake this type of outlet in the dunes purely on a request.* "

We do not want an outlet to be **created**, we want the existing outlet to be **reopened** which Council has accepted the liability for closing without going through any scientific and investigative approvals process before ordering it's closure.

You would be aware by now that your original Draft 1.1 Study Area was wrong in that Mullumbimby is not the largest township in the Study Area and that Ocean Shores is not a residential village, it is a gazetted town.

It is the largest residential town in the Shire.

Item 5.1 of the Study is incorrect.

The top three structural options the community supported were: 1. Dredging, 2: the re-establishment of the Ocean Outlet ordered closed by Council in 1976 and 3: the removal of the internal rock wall in Readings Bay.

Begrudgingly noted 5 bullets below that statement. WHY?

Again, this is reversed in 11.3 Community input.

We also note that the Council and the Consultants has used photos from the OSCA website without acknowledgement in their Community survey.

Option CBOI of the Study is incorrect as previous studies in 1991 show that significant reductions would have occurred in 1987 had they been in place before the Bund was erected across the floor of the Capricornia Canal and the floor was raised another metre higher when the pipes were enlarged in the bund.

The Statement by the previous Shire Engineer Greg Alderson, Steve Webb of Webb McEwan (Timeline1991) and the Public Works Representative flies in the face of the conclusions of this fallacious Plan.

As it did with the previously adopted Plan in 1997 by Council.

We note that no restrictions are being placed on reopening natural outlets in Byron Bay and that this Committee is comprised of no representative members of the largest flood affected area of residents of the town of Ocean Shores.

The areas of Yelgun and Wooyung were included in the original Marshalls Creek Flood Plain Management Plan but have been eliminated from this Plan despite being an integral part of the flood plain.

Why?

The domination of this committee by Councillors and Environmental representatives publicly opposed to lowering flood heights at all is disgraceful.

We are also alarmed that WMA and Council have modelled Option GCW in the wrong location and were given the correct details by OSCA of the location of an illegally raised weir on the Ocean Shores golf course.

We have emails advising both WMA and the Council of acknowledgement of the right weir location which was artificially raised by two concrete blocks many years ago depriving the adjoining residents of substantial flood storage retention.

The Existing Flood Environment in the Draft Plan is incorrect.

Historically, the flooding has been exacerbated not by elevated ocean conditions as claimed by the consultants without any reliable documentation.

In fact, the documentation confirms that both the Department of Public Works and both Tweed and Byron Council/s have been responsible for the majority of flooding by the illegal closures of many natural outlets to the Ocean acknowledged in this Report and identified by photographic and Government survey maps.

We shall strenuously oppose any further levees on the floodplain without compensatory flood reduction measures caused by the displacement of floodwaters by any new levees.

We are astounded that the floods noted in this study do not include 1974 and 1976 which are the benchmark for the illegal actions of Council and scant regard is given to the 1987 Mothers Day flood which was visually recorded on National Television as well as extensive newspaper documentation.

See 1987 Timeline.

The inclusion of a minor flood somewhere in the hills in 2012 is questionable as are comments from persons not living in the flood area close to the closed natural flood outlets.

It is noted however that many vocal members of the committee are publicly opposed to all the community recommendations from the 2018 Flood Survey to re-establish flood outlets, dredge the river and remove the restrictions of the internal rock wall in Readings Bay.

We shall be calling on all residents and the Government to reject this fallacious Report out of hand as another complete waste of resources in a vain attempt to cover up Council's liability.

Jim Mangleson

Flood Representative

OCEAN SHORES COMMUNITY ASSOCIATION Inc. (OSCA).