



AGENDA

Ordinary Meeting of Council

25 August 2015

**ORDINARY MEETING OF COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS, MORUYA**

ON TUESDAY 25 AUGUST 2015

COMMENCING AT 10.00AM

AGENDA

(Proceedings of this meeting will be recorded as per Eurobodalla Shire Council's Code of Meeting Practice)

- | | | |
|-----------|--|-----------------|
| 1. | WELCOME, ACKNOWLEDGEMENT OF COUNTRY & EVACUATION MESSAGE | |
| 2. | APOLOGIES
Nil | |
| 3. | PUBLIC FORUM (AGENDA ITEMS ONLY) | |
| 4. | CONFIRMATION OF MINUTES OF PREVIOUS MEETING | |
| 4.1 | Ordinary Meeting held on 11 August 2015 | |
| 5. | DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA
(Declarations also to be made prior to discussions on each item) | |
| | | Page No. |
| 6. | MAYORAL REPORTS | |
| 7. | NOTICES OF MOTION | |
| NOM15/005 | Paid Parking in Batemans Bay CBD | 3 |
| NOM15/006 | Joint Meeting - Disability, Tourism and Business Development Advisory Committees..... | 4 |
| 8. | QUESTIONS ON NOTICE FROM COUNCILLORS | |
| QON15/001 | Delegate's Reports following attendance at seminars and conferences | 5 |
| 9. | PETITIONS
Nil | |

10.	GENERAL MANAGER'S REPORTS	
GMR15/024	Memorandum of Understanding with Bega Valley Shire Council.....	7
GMR15/025	Proposed Dargues Gold Mine Project Modification 3.....	10
11.	PLANNING AND SUSTAINABILITY REPORTS	
PSR15/034	Development Application 577/15 Shop Top Housing and Kiosk - Orient Street, Batemans Bay	23
PSR15/035	Broulee Surfers Surf Life Savings Club - Waiving of Waste Disposal Charges ..	47
12.	INFRASTRUCTURE REPORTS	
IR15/034	Local Traffic Committee Meeting No 1 for 2015-16.....	49
IR15/035	Tender for Establishment of Concrete Supply Panel - Tender No 2015- ISD056.....	54
IR15/036	Tender for Establishment of Bulk Materials Supply Panel - Tender No 2015- ISD057.....	57
IR15/037	Tender for Crushing of Road Base Materials at Rifle Range Quarry - Tender No 2015-ISD062	60
13.	FINANCE AND BUSINESS DEVELOPMENT REPORTS	
FBD15/062	Investments made as at 31 July 2015.....	63
FBD15/063	Licence for Caravan and Camping Expo - Mackay Park.....	66
FBD15/064	Extinguishment of Easement - Wray Street, Batemans Bay	70
FBD15/065	Dedication of Cors Parade as Public Road.....	73
14.	COMMUNITY, ARTS AND RECREATION REPORTS	
	Nil	
15.	DELEGATE REPORT	
DR15/033	Australian Coastal Conference - Ballina	77
DR15/034	Australian Coastal Conference 2015	86
16.	URGENT BUSINESS	
17.	DEALING WITH MATTERS IN CLOSED SESSION	89
18.	CONFIDENTIAL MATTERS	
CON15/013	Property Matter <i>Item CON15/013 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.</i>	

DR CATHERINE DALE
GENERAL MANAGER

NOM15/005 PAID PARKING IN BATEMANS BAY CBD

E00.4623; E00.4089

Responsible Officer: Liz Innes - Councillor

Attachments: Nil

Councillor Liz Innes has given notice that at the Ordinary Meeting of Council on 25 August 2015, she will move the following motion.

MOTION

THAT a report be prepared for Council consideration that examines the impacts, both positive and negative, of removing paid parking in the Batemans Bay CBD.

BACKGROUND

Batemans Bay CBD currently has a number of parking areas that are paid parking for the majority of the time. Batemans Bay is the only area in Eurobodalla where paid parking has been implemented.

It is considered that paid parking is a deterrent to customers potentially shopping in Batemans Bay, with the result that people choose to shop in other areas. This is affecting the vitality of the centre. Developer contributions are also collected for parking facilities and paid parking is in effect charging customers twice for parking.

Council should review the current arrangements including the option of removing paid parking and seek feedback on such a proposal, once a report has been presented and approved by Council.

**NOM15/006 JOINT MEETING - DISABILITY, TOURISM AND BUSINESS DEVELOPMENT
ADVISORY COMMITTEES**

E00.4623; E14.8206; E80.1470; E12.6216

Responsible Officer: Liz Innes - Councillor

Attachments: Nil

Councillor Liz Innes has given notice that at the Ordinary Meeting of Council on 25 August 2015, she will move the following motion.

MOTION

THAT three representatives from Council's Disability, Business Development and Tourism Advisory Committees be nominated by those Committees, to attend a joint meeting three times a year, to discuss and workshop items and topics of common interest.

BACKGROUND

Council's Disability, Tourism and Business Development Advisory Committees at times deal with issues that are of common interest. In order to coordinate and harness the feedback and advice from these committees, it is recommended that a joint meeting with representatives from the three committees be held three times a year. These meetings will also provide the opportunity to workshop common issues. Notes from the joint meetings will be provided to the Disability, Tourism and Business Development Advisory committees.

**QON15/001 DELEGATE'S REPORTS FOLLOWING ATTENDANCE AT SEMINARS AND
CONFERENCES**

E15.9041; E08.2108; E91.3255

Responsible Officer: Peter Schwarz - Councillor

Attachments: Nil

The following question on notice was received from Councillor Peter Schwarz:

Question

The current Councillor Expenses and Facilities policy provides at clause 2.5.1.5 that:

Councillors attending training, seminars and conferences are to provide a detailed report to Council on the outcome and issues. Councillors not meeting these criteria without reasonable explanation may not receive priority or opportunities for future events.

In addition, reports to Council seeking nominations for attendance at conferences and seminars, state that *Councillors attending training, seminars and conferences are to provide a brief report to Council on the outcome and issues following the conference.*

At the Council meeting held on 11 August 2015, an additional clause was inserted into the Policy, strengthening the above clause, stating:

Councillors must provide a written delegate's report to Council following each conference attended to be eligible to attend any further conference.

The amended policy will go on exhibition for 28 day commencing on 19 August 2015.

Could the General Manager please provide a list of any outstanding delegates' reports for this term of Council, including the names of the Councillors who have not provided a report and the seminars, conferences etc they have attended.

Response

A review of all Conference/Seminars attended by Councillors since September 2012 has indicated that Delegate's reports are required from the following:

Conference	Date	Report required by Delegate
Australian LG Women's Association (NSW) Conference - Gosford	14-16 March 2013	Clr Brice, Clr Innes
NSW Coastal Conference - Port Macquarie	12-15 November 2013	Clr Innes, Clr Leslight
Australian Coastal Councils Conference - Ballina	24-26 March 2014	Clr Innes, Clr Pollock
NSW Coastal Conference - Ulladulla	11-14 November 2014	Clr Innes, Clr Leslight
Australian Coastal Councils Conference - Mornington Peninsula	11-13 March 2015	Clr Leslight

QON15/001	DELEGATE'S REPORTS FOLLOWING ATTENDANCE AT SEMINARS AND CONFERENCES	E15.9041; E08.2108; E91.3255
------------------	--	---

RECOMMENDATION

THAT the response to the question regarding Delegate's reports raised by Councillor Schwarz be received and noted.

GMR15/024 MEMORANDUM OF UNDERSTANDING WITH BEGA VALLEY SHIRE COUNCIL E12.6443

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Focus Area: Collaborative Communities

Delivery Program Link: C1.2 Manage the organisation to effectively and efficiently meet our statutory obligations

Operational Plan Link: C1.2.1 Respond to legislative and policy requirements set by the Office of Local Government

EXECUTIVE SUMMARY

One of Council's Fit for the Future actions is to be an active and effective member of the South East Joint Organisation (SEJO). While the model and boundaries of Joint Organisations have not been finalised by IPART and the NSW Government, it is considered that there is an opportunity for Eurobodalla and Bega Valley councils to work closely together in preparation for this outcome. Both councils already work collaboratively in a number of areas and a more formal level of cooperation through a Memorandum of Understanding (MOU) would strengthen the current relationship and put in place a framework to deliver greater efficiencies for both councils.

This proposal has been discussed with the Mayors and General Managers from both Eurobodalla and Bega Valley councils and is supported.

RECOMMENDATION

THAT a Memorandum of Understanding be developed by the General Managers of Eurobodalla and Bega Valley and that a report be presented to Council at its meeting on 22 September 2015 outlining the areas for cooperation and joint initiatives.

BACKGROUND

At its meeting on 23 June 2015, Council adopted its Fit for the Future Improvement Proposal. One of the key actions in the plan was that Council be an active and effective member of the proposed South East Joint Organisation (SEJO) as recommended by the Independent Panel. While the model and boundaries of the proposed Joint Organisations (JO) are not yet confirmed by IPART and the NSW Government, it is considered that there would be benefits in Eurobodalla and Bega Valley councils working more closely together in anticipation of the boundaries and the roles of the JO being finalised.

Local governments across NSW are focusing on their long term sustainability, maintaining their community assets and infrastructure and delivering a range of community services. Fit for the Future has provided an increased focus on delivering these services more efficiently as councils face increasing costs, community expectations and other challenges.

One of Eurobodalla's key Fit for the Future strategies is to continue to review and develop opportunities to reduce expenditure and operate more efficiently. Council is currently implementing a range of initiatives including organisation service reviews, streamlined procurement measures, improved fleet

GMR15/024 MEMORANDUM OF UNDERSTANDING WITH BEGA VALLEY SHIRE COUNCIL E12.6443

management and joint policy projects through effective regional collaboration (SERO/CBRJO) to optimise opportunities and improve outcomes for the community.

In addition to these initiatives, it is considered that working cooperatively in partnership with another council that shares similar geographical, economic and infrastructure characteristics provides a sound basis for strategic collaboration and effective resource sharing.

Both Eurobodalla and Bega Valley councils already work together on a number of levels by sharing policies and other documentation, joint tendering and program delivery, regular management meetings and economic planning for key facilities such as the Moruya and Merimbula airports.

Following recent discussions between the Mayors and General Managers from both councils, it is considered beneficial to develop a MOU to further strengthen this strategic partnership and develop cooperative arrangements. Areas that could be further strengthened and developed include procurement, policy development, resource sharing, regional planning, corporate training, tourism and economic development, advocacy and asset management.

It is recommended that an MOU be developed between the two councils and be presented for Council consideration in September.

CONSIDERATIONS

Legal

An MOU would establish the general areas for cooperation between the two councils. As this is further implemented, legal and governance arrangements would be developed as appropriate. Detailed schedules for each area for action would then be developed, agreed and appended to the MOU. Reports on progress and outcomes on areas of action would be presented annually to Council.

Policy

Council's Fit for the Future plan establishes clear actions for pursuing opportunities for greater efficiencies as an active and effective member of the SEJO.

Social Impact

Research on resource sharing in terms of community services indicate that there can be a number of both financial and non-financial benefits. In some cases the development of a shared service arrangement can deliver improved service quality, stimulate innovation and enhance community outcomes.

Economic Development Employment Potential

An outcome of the MOU could examine areas for economic growth in the areas of tourism, business development and related infrastructure. It will also provide an opportunity for joint advocacy for regional projects and facilities.

Financial

The MOU will provide opportunities for financial savings in terms of improved opportunities, increased efficiency and reduced costs in service delivery through improved procurement practices and increased resource sharing.

GMR15/024 MEMORANDUM OF UNDERSTANDING WITH BEGA VALLEY SHIRE E12.6443
COUNCIL

CONCLUSION

One of Council's Fit for the Future actions is to be an active and effective member of the South East Joint Organisation. While the model and boundaries of Joint Organisations have not been finalised, it is considered that there is an opportunity for Eurobodalla and Bega Valley councils to work closely together in preparation for this outcome. Both councils already work collaboratively in a number of areas and a more formal level of cooperation through a Memorandum of Understanding (MOU) would strengthen the current relationship and put in place a framework to deliver greater efficiencies for both councils.

GMR15/025 PROPOSED DARGUES GOLD MINE PROJECT MODIFICATION 3

E10.4422

Responsible Officer: Lindsay Usher - Acting Director Infrastructure Services

Attachments: 1. Council's submission to Department of Planning and Environment
2. Under Separate Cover

Focus Area: Sustainable Communities

Delivery Program Link: S2.3 Plan to meet our community's future water needs

Operational Plan Link: S2.3.2 Integrated Water Cycle Management Strategy Review

EXECUTIVE SUMMARY

Big Island Mining Pty Ltd has submitted an application to amend the Dargues Gold Mine Project Approval to:

- extend the completion date of mining operations by four years until 2022
- increase the total ore extraction from 1.2 million to 1.6 million tonnes
- undertake final gold processing on-site using cyanide
- expand the approved on-site storage facility for the additional process waste
- construct an area for waste rock.

The Modification Application and Environmental Assessment are currently on exhibition and submissions are invited until Wednesday 26 August 2015.

Eurobodalla and Palerang Councils have engaged Dr Peter Beck of GHD to carry out a technical review of the Proposed Modification 3 Environmental Assessment and to provide comment on the risks the proposed modifications may pose to the Deua River, and subsequently the community's drinking water supply. A copy of the GHD Report is attached to this report.

A draft submission has been prepared which includes the GHD review report as an attachment to the submission.

As a result of the review, it is recommended that Council oppose the proposed amendment to the Dargues Gold Mine project.

RECOMMENDATION

THAT Council:

1. not support the proposed Modification 3 for the Dargues Gold Mine project
2. lodge the attached submission recommending that the Department of Planning and Environment refuse the application.

GMR15/025 PROPOSED DARGUES GOLD MINE PROJECT MODIFICATION 3

E10.4422

BACKGROUND

Project Approval under Part 3A of the *Environmental Planning and Assessment Act 1979* was granted for the Dargues Gold Mine by the Planning and Assessment Commission under delegation from the Minister for Planning and Infrastructure in September 2011.

Throughout the approval process Council lodged submissions and expressed its concerns about the impacts of the proposal on the quality of water flowing from the mine site into the Deua River.

Council was not satisfied that its concerns had been properly addressed in the assessment of the proposed development or in the conditions of the project approval, and in October 2011 Council resolved to commence an appeal to the Land and Environment Court as an objector to the proposal.

As part of that appeal process, Council entered into a conciliation conference with relevant parties in November 2011. Council subsequently agreed to discontinue its Land and Environment Court proceedings when the mining company agreed to not use cyanide at the project site.

The mining company has now submitted an application to modify the Project Approval to permit gold processing on-site using cyanide which is a clear breach of its previous commitment to the Eurobodalla community.

A draft submission has been prepared for Council's consideration, recommending that the proposed amendment to the Dargues Gold Mine project be refused.

Our Ref: E10.4422

26 August 2015

The Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention Planning Services

Dear Sir/Madam

Proposed Dargues Gold Mine Project Modification 3

We refer to the Environmental Assessment Report for the Dargues Gold Mine dated July 2015 in which the Proponent is seeking a modification to amend the Project Approval to:

- extend the completion date of mining operations by four years until 2022
- increase the total ore extraction from 1.2 million to 1.6 million tonnes
- **undertake final gold processing on-site using cyanide**
- expand the approved on-site storage facility for the additional process waste
- construct an area for waste rock.

The proposed Dargues Gold Mine is located within the Majors Creek and Deua River catchment which supplies approximately 85% of Eurobodalla's water supply, and which supports a permanent population of approximately 38,000 local residents and a seasonal population in excess of 100,000. Majors Creek and the Deua River are also the primary water source of many established rural properties for domestic, stock and agricultural consumption.

Council strongly objects to the use of cyanide at the project site

Project Approval under Part 3A of the *Environmental Planning and Assessment Act 1979* was granted by the Planning and Assessment Commission under delegation from the Minister for Planning and Infrastructure in September 2011.

Throughout the approval process Council lodged submissions and expressed its concerns about the impacts of the proposal on the quality of water flowing from the mine site into the Deua River. Council was not satisfied that its concerns had been properly addressed in the assessment of the proposed development or in the conditions of the project approval, and in October 2011 Council resolved to commence an appeal to the Land and Environment Court as an objector to the proposal.

As part of that appeal process council entered into a conciliation conference with relevant parties in November 2011.

A major issue was a perceived lack of clarity by the community of the details of the project and the potential for this type of mining to use cyanide in the processing of mined material. In Council's opinion neither the conditions of consent, nor the statement of commitments adequately ensured the safety of the community's water supply. Integral to the outcome of the process was an agreement by the mining company to not use cyanide at the project site. It was only after securing this commitment that Council agreed to discontinue its Land and Environment Court proceedings.

The Proponent's proposal to modify the Project Approval to permit gold processing on-site using cyanide is a clear breach of its previous commitment to the Eurobodalla community. The Proponent acknowledges its indifference to fulfilling its obligations in Section 2.5 of the Environmental Assessment:

"The proponent recognises that the proposed modification is not consistent with a commitment previously given to the community not to use cyanide within the project site. However, in order to secure the long-term future of the Project... the Proponent contends that on-site leaching is necessary".

As this is the third modification proposed, and since the proponent has identified a range of other deposits in the area, Council is concerned about project creep.

The Proponent has identified a range of associated prospects in the vicinity of the Dargues Gold deposit, including Chinamans, Ruby Lode, Copper Ridge, Excalibur and the Carmine Prospects. These and other mineralised zones are the focus of current and future mineral exploration activities. However, these prospects do not form a component of the mine or the Proposed Modification.

Council is concerned that, if final gold processing on-site using cyanide is approved, the Proponent will seek further modifications, not only to significantly increase the scale of operations from additional gold deposits in the Majors Creek area, but to process ore from other mines.

Council is also concerned about the potential for operator error, accidents or sabotage resulting in discharge of toxic cyanide compounds from the site. Indeed, since 2000 there has been a number of notable incidents involving cyanide processing at gold mines including:

- 29 spill and leak incidents that have affected the environment, including two in Australia
- four transport incidents, including one in Australia
- three terrorism incidents, including one alert of potential attack, one unconfirmed and one confirmed thefts of cyanide shipments from mine sites for potential use in terrorist attacks.



August 2015 - Gold Mine pollutes Animas River in Colorado, USA

The Proponent has already breached environmental standards causing pollution of Majors Creek during the mine construction phase, resulting in the Land and Environment Court and the NSW Environment Protection Authority issuing fines of almost \$200,000 for:

- discharging sediment laden run-off from the site on several occasions
- the use of a chemical flocculent without having appropriate controls and testing procedures in place.

These actions, poor management and prosecutions, illustrate the complete lack of care, commitment and control that the proponent has for basic environmental management controls and legal requirements.



Silt running from the Dargues Gold Mine site into the clear-running Majors Creek

Yet the Proponent now asks the community to trust it with the handling, storage, use and on-site disposal of toxic chemicals and poisonous process by-products.

However, rather than striving to achieve best practice, the Proponent proposes a design that fails to even achieve recognised standards. For example:

Bunding

Despite Sodium Cyanide solution being classified a Packaging Group 1 substance (refer Orica Chemicals MSDS – Sodium Cyanide Solution), the Proponent intends providing containment bunding around the Sodium Cyanide solution storage of a capacity large enough to contain just 110% of the largest storage tank only, rather than at least 100% of the total capacity of all containers, contravening the requirements of *AS/NZS 4452:1997 The Storage and Handling of Toxic Substances*.

5.7 BUNDS AND COMPOUNDS

5.7.1 General

All bulk containers for liquid toxic substances shall be provided with a compound complying with the requirements of this Clause (5.7).

5.7.2 Capacity of compounds

The net capacity of a compound shall be –

(a) for toxic substances of Packing Group I, at least 100% of the total storage capacity of all containers located within the compound;

NOTES:

- 1 In order to facilitate the management of emergencies, it is recommended that compound capacities be about 10% greater than the minimum values specified above.

Further, the Proponent intends providing containment bunding of the cyanide slurry tanks with a capacity large enough to hold just 110% of the largest slurry tank only, and argues that this minimum requirement is satisfactory because the slurry tanks would not be interconnected, and because the leach solution is not classified as Packaging Group 1 as the solution is not intended to be transported.

5.7 BUNDS AND COMPOUNDS

5.7.2 Capacity of compounds

The net capacity of a compound shall be –

(b) for toxic substances of other Packing Groups, at least 100% of the capacity of the largest container located within the compound.

NOTES:

- 2 If tanks are interconnected, and leakage from one can lead to the emptying of others, their entire contents shall be safely contained.

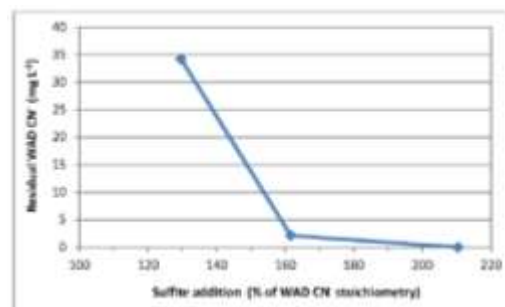
However, the tanks will be interconnected by pumping machinery, and the Proponent has not identified the need for monitoring and control systems to shut down the process in the event of a leak. Council also contends that, due to the toxicity of the slurry (200-500mg/L Sodium Cyanide), if it were classified it would be classified as a Packaging Group 1 substance, and Clause 5.7.2(a) of AS/NZS 4452:1997 would apply.

Given the significance of Majors Creek and the Deua River to downstream communities, it is not unreasonable that bunding would be provided to contain the volume of all tanks and not just 110% of the largest tank.

Cyanide Destruction

Despite current technologies being able to reduce Weak Acid Dissociable (WAD) Cyanide in the tailings stream to less than 10mg/L, which is the level mandated by the European Union's Mining Waste Directive, the Proponent proposes to only achieve less than 20mg/L 90% of the time and 30mg/L at all times.

In fact, Appendix 5 of the Environmental Assessment contains a report by the CSIRO which demonstrates that the proposed cyanide destruction process could reduce the WAD Cyanide at the Dargues Gold Mine to less than 2mg/L with a marginal increase in sulphite addition.



Despite the site not being located within a drinking water catchment, the Proponent's Henty Gold Mine has permit limits set by the Tasmanian Environment Protection Authority of 2mg/L maximum and 1mg/L annual average concentration, and achieves tailings cyanide concentrations of 0.2–0.5 mg/L. It is therefore a lack of financial commitment that is preventing the Proponent from proposing more appropriate standards, not the lack of technology.

Tailings Management

The Proponent proposes co-disposal of the flotation and concentrated waste tailings, resulting in a contaminated waste volume of 1,222,000 tonnes instead of 180,000 tonnes. This is contrary to the NSW Environment Protection Authority policy that dilution is not an acceptable solution to pollution. Further, the concentrate tailings may mobilise heavy metals from the flotation tailings due to acidic conditions, significantly increasing the total mass of toxic substances stored in the Tailings Storage Facility.

Management of Supernatant Water

The Proponent proposes dilution within the Tailings Storage Facility as a risk management measure. The NSW Environment Protection Authority does not normally accept dilution as the primary risk management approach, as dilution does not reduce the mass discharged into the catchment.

Tailings Storage Facility

The Proponent proposes lining the Tailings Storage Facility with a combination low permeability soil and HDPE Liner:

The basin of the facility would be reshaped to achieve a relatively smooth base with slopes of 1:3 (V:H) or less. The remaining in situ clay materials would be conditioned and compacted to achieve a target permeability of 3×10^{-8} m/s. This liner would then be overlain with a 1.5mm HDPE liner to form a composite liner system.

However, the requirements for a municipal solid waste landfill are:

- A compacted clay or modified soil liner at least 90 centimetres thick with an in situ co-efficient of permeability of less than 10^{-9} m/s.
- If the landfill poses a significant potential threat to ground waters or surface waters, the clay or modified soil liner should be overlaid with a flexible membrane liner (FML) of minimum co-efficient of permeability of 10^{-14} m/s (minimum 1.5mm thick).
- The FML should have material properties that will ensure that it maintains this permeability for a period at least equivalent to the reactive life of the waste contained by the FML.

The Proponent proposes decommissioning the Tailings Storage Facility by capping it with waste rock. This would also not meet the requirements of a municipal solid waste landfill, which includes:

- A seal-bearing surface consisting of a properly designed and engineered layer of material.
- A sealing layer at least 50 centimetres thick consisting of a clay layer with a permeability of less than 10^{-8} m/s.
- A drainage layer not less than 30 centimetres deep of permeability not less than 10^{-5} m/s over the sealing layer.
- A revegetation layer of depth of not less than 100 centimetres over the drainage layer.

The proposed barrier system does not meet the standard required of a municipal solid waste landfill, despite the Tailings Storage Facility containing toxic heavy metals with a reactive life of centuries compared with decades for municipal solid waste. A tailings reactive life of centuries is exemplified by the recent pollution event in the Animes River where mine water was discharged almost a century after the gold mine ceased operations.

Process Alternatives

The Proponent has failed to present alternative less toxic processes that would reduce the risk to the environment and allow the Proponent to meet their commitment of no cyanide processing on site.

The proponent advises that it became a signatory to *the International Cyanide Management Code for the Manufacture, Transport and Use of Cyanide in the Production of Gold* (the Cyanide Code) in January 2015. The Cyanide Code (implemented in 2005) is a voluntary program for gold mining companies which deals with the safe management of cyanide during its production, transport, gold mining operations, and decommissioning of cyanide facilities.

Unity Mining Limited, Australia

Name of Mine, Production Facility or Transport Operation	Signatory Ownership Position	Name of Operating Company	Operation Address/Location	Certification Intention	Additional Information or Comments	Date of Certification	Audit Documents	Date of Initial Certification	Archived Audit Documents	Signatory Date*
Dargues Gold Mine	100%	Big Island Mining Pty Ltd	Level 10, 350 Collins Street Melbourne, VIC 3000 Australia 35° 33' 0" S, 148° 45' 0" E	Yes						January 14, 2015
Henty Gold Mine	100%	Henty Gold Ltd	Level 10, 350 Collins Street Melbourne, VIC 3000 Australia 36° 47' 0" S, 144° 15' 0" E	No	Closure planned in 2015.					
Kangaroo Flat	100%	Unity Mining Limited	Level 10, 350 Collins Street Melbourne, VIC 3000 Australia 41° 52' 0" S, 145° 33' 0" E	No	Production ceased - in care and maintenance.					

Unity Mining Signatory to the International Cyanide Management Code

It should be noted that the Proponent has previously and currently operates mines at Kangaroo Flat (since 2006) and Henty (since 2009) without being signatories to the Code, and in Council's opinion, has simply joined the Cyanide Code fraternity to improve its prospects of gaining approval to introduce cyanide processing at the Dargues Gold Mine site.

Further, the Proponent is not yet certified as there is currently no mechanism to audit a mine during the design and construction phase. The first audit is only due within 12 months of the commencement of operation.

A gold mining operation that is not active (eg under construction, idle for economic reasons, etc) when designated for certification (including those that have been pre-operationally certified) must notify ICMI within 90 days of the date of its first receipt of cyanide, and must have the site inspection portion of its certification audit completed within one year of that date.

There is no statutory requirement to comply with the requirements of the Cyanide Code. It is therefore conceivable that the Proponent will cease being a signatory to the Cyanide Code following approval of Modification 3, consistent with its breach of commitment to the Eurobodalla community that there would be no on site processing of gold using cyanide.

The Environmental Assessment Report places a significant burden on inspections and observations of critical elements of the mine's operational and waste storage infrastructure on staff at the site. Cyanide release incidents from mining activities almost invariably involve some element of human error, and the proposed plant does not appear to have sufficient redundancy to deal with foreseeable incidents. The Environmental Assessment Report does not provide any detail on the minimum level of operator training or operator experience required to manage cyanide operations and respond to incidents.

Of greatest concern is the containment of cyanide in the Tailings Storage Facility, which will lead to mass accumulation as not all cyanide will degrade. Cyanide in the tailings stream will also liberate and mobilise other toxic metals from tailings deposits, which will also be stored in the Tailings Storage Facility. The ongoing containment of cyanide and other toxic substances is reliant on the long term integrity and stability of the Tailings Storage Facility.

The proponent proposes to use a High Density Polyethylene (HDPE) liner over compacted clay to manage risk of leakage from the Tailings Storage Facility. As previously noted, the proposed barrier system does not even meet the standard required of a municipal solid waste landfill, despite the Tailings Storage Facility containing toxic heavy metals that have a significantly greater reactive life than municipal solid waste.

The durability of the HDPE liner in maintaining its integrity varies depending on the quality of the installation, the level of protection applied and the geochemical conditions in the zone adjoining the liner (which is potentially chemically aggressive due to the range of toxic compounds in the tailings). Research suggests that HDPE when installed and protected correctly maintains its integrity for between 30 and 300 years. So even under ideal conditions the HDPE liner is likely to fail while toxic heavy metals remain in the Tailings Storage Facility.

The Tailings Storage Facility will also receive around 5000 tonnes of excess sodium from the processing facility. Sodium can substitute into the clay minerals and lead to erosion of the clay liner integrity, ie, once the HDPE liner is breached, the clay liner will begin to deteriorate.

Therefore, it is not a matter of if the Tailings Storage Facility will leak, but when.

The Environmental Assessment Report acknowledges that leakage of leachate from the Tailings Storage Facility would occur. With all engineering systems perfectly installed and all seepage collection systems operating under ideal conditions, the proposed Tailings Storage Facility would discharge 0.9 million litres of leachate each year. This rate would increase to 6 million litres per year once the seepage management systems are no longer operational. This leakage rate will increase further as the liner deteriorates over time.

The Proponent has only considered the risk posed by discharge from the Tailings Storage Facility via the emergency spillway during a storm event, and not the potential impacts that leachate discharge would have on the downstream catchment.

Preliminary assessment indicates that the ANZECC 99% and 95% protection criteria would be exceeded for cyanide, arsenic, cadmium, chromium, copper, and mercury for mean daily flow conditions at Council's Deua River pumping station.

By far the most significant consequence would result from a catastrophic failure of the Tailings Storage Facility. As the proposed mine life is just eight years and the reactive life of the tailings is centuries, catastrophic failure would more than likely occur as a result of erosion of the embankment long after the mine operations have ceased. The consequence of such a failure is that tens of thousands of tonnes of waste tailings are released into the drinking water catchment.

Council contends that the proposed valley fill Tailings Storage Facility poses a significant risk due to:

- erosive runoff velocities due to the slope of the embankment (18°)
- instability due to geological faults in the vicinity of the TSF
- subsidence due to previous mining activity at the site.

Council therefore insists that the proposed Tailings Storage facility is inappropriately located.

In its submission, the NSW Environment Protection Authority (EPA) asserts that a risk assessment that addresses the most appropriate location of the Tailings Storage Facility within the mine site should have been included.

The Proponent responded by advising that two locations at the site had previously been assessed, and that:

Construction of the Tailings Storage Facility within the Shoalhaven River catchment was not considered because that catchment forms a component of the Sydney drinking water catchment and any Proposal in that catchment would have imposed additional regulatory requirements.

The Proponent's response suggests that the site for the gold processing and tailings storage facilities was selected based on ease of approval in preference to least impact or lowest risk.

As the gold processing facility and tailings storage facility are proposed to be located within the Eurobodalla drinking water catchment, Council contends that the same regulatory requirements should apply, including requirements of the *Drinking Water Catchments Regional Environmental Plan No 1* such as:

A Consent Authority must not grant consent to the carrying out of a development unless it is satisfied that the carrying out of the proposed development would have a neutral or beneficial effect on water quality.

Since the Tailings Storage Facility will leak and eventually fail, the Project cannot achieve this requirement unless Project Approval condition 2(6)(d) "the proponent shall not use any cyanide or mercury on site" is retained and enforced.

Council engaged Dr Peter Beck of GHD Pty Ltd to carry out a technical review of the Proposed Modification 3 Environmental Assessment and to provide comment on the risks the proposed modifications may pose to the Deua River, and subsequently the water supply of the Eurobodalla. A copy of the GHD report is attached, which should be considered an integral part of this submission.

GHD advises that the Proponent has failed to adequately address all of the additional risks associated with the proposed modification, such as:

- The Environmental Assessment Report focuses on cyanide as the only contaminant of concern associated with the disposal of waste tailings to the Tailings Storage Facility. However, the waste tailings will contain a range of other contaminants that need to be considered such as arsenic, mercury, cadmium, hexavalent chromium, lead, and others.
- Long-term leaching from the Tailings Storage Facility. The Environmental Assessment Report acknowledges that the Tailings Storage Facility will leak, even if the assumption of perfect design, installation and performance assumed by the Proponent would hold. The risk assessment did not include an assessment of the impact of the leachate that leaks from the Tailings Storage Facility into the environment.

GHD's advice also includes that:

- the Proponent's analysis is limited and focuses mainly on the potentially positive economic and social outcomes of the Project and underestimates the potential environmental impacts
- there is insufficient information to adequately assess the risks associated with the proposed modification.

Council believes that a reasonable person would come to the conclusion that the processing of gold on site using cyanide presents an unacceptable risk to the Community's water supply.

Council maintains that Project Approval Condition 2(6)(d) "the proponent shall not use any cyanide or mercury on site to process or extract gold from the project" is an essential condition for the protection of the Deua River and its tributaries, being the primary source of the Eurobodalla shire's water supply, and strongly objects to the use of cyanide at the Project site.

Council therefore recommends that the proposal be refused for reasons highlighted in this submission.

Yours sincerely

Dr Catherine Dale
General Manager

Attach

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Responsible Officer: Lindsay Usher - Acting Director Infrastructure Services

Attachments: Nil

Focus Area: Productive Communities

Delivery Program Link: P1.1 Facilitate growth and development of our business community

Operational Plan Link: P1.1.4 Promote Eurobodalla as the place to invest and do business

Applicant: Architects North
Land: Lot 2 (No.13A) DP1166711 Orient Street, Batemans Bay
Area: 702.1m²
Setbacks: Zero
Height: 15m
Zone: B4 - Mixed Use
Current Use: Vacant
Proposed Use: Shop top housing and kiosk
Description: Kiosk, car parking and ten residential apartments
Permitted in Zone: Permitted with consent
DA Registered: 11 June 2015
Reason to Council: Variation to a development standard
Recommendation: Approval subject to conditions

EXECUTIVE SUMMARY

Council has received an application for shop top housing and a kiosk to be located at Orient Street, Batemans Bay. The proposal is located in the central business district (CBD) and has vehicular access to Orient Street and pedestrian access to the Murra Murra Mia Walkway.

The application requires a variation to the building height limit (12 metres) set by Eurobodalla Local Environmental Plan (LEP) 2012 as the proposal seeks a roof top height of 14.4 metres. In accordance with Clause 4.6 Exceptions to Development Standards Eurobodalla LEP and NSW Department of Planning guidelines, all development applications that seek a variation greater than 10% must be determined by Council.

The proposal is consistent with the requirements of the Environmental Planning and Assessment Act (EP&AA) 1979, State Environmental Planning Policy 65 (SEPP) – Design Quality of Residential Flat Development (amended 17 July 2015) and the Batemans Bay Regional Centre Development Control Plan (DCP).

Three submissions were received during the advertising period, two objecting to the proposal and the other was advice from the Department of Primary Industries, Marine Parks.

This report recommends approval of the development application subject to conditions.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

RECOMMENDATION

THAT pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979, Development Application No. 577/15 in relation to Lot 2 DP 1166711, No.13A Orient Street, Batemans Bay be **APPROVED** subject to the conditions set out below.

- Ensure that the proposed development:
 - (a) achieves the objectives of the Environmental Planning and Assessment Act, 1979;
 - (b) complies with the provisions of all relevant Environmental Planning Instruments;
 - (c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
- To ensure that the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities.
- To meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Local Government Act 1993.
- To ensure the protection of the amenity and character of land adjoining, and in the locality of the proposed development.
- To minimise any potential adverse environmental, social or economic impacts of the proposed development.
- To ensure that all traffic, carparking and access requirements arising from the development are addressed.
- To ensure the development does not conflict with the public interest.

GENERAL CONDITIONS

1. ***Approved plans***

The development must be carried out in accordance with the plans stamped and numbered 15/577 and 15/577 A1 and supporting specifications and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

Council Plans	Applicant's Plans	Date of Plan	Prepared by
Stamped and received 21.7.15 Plan No. 15/577 A1	A01, A04, A08, A016 Rev B - Job 0706	22.3.15	Architects North
Stamped and received 11.6.15 Plan No. 15/577	A02, A03, A05, A06, A07, A09, A10, A18 Rev A - Job 0706	22.3.15	Architects North
Stamped and received 11.6.15 Plan No. 15/577	Sewer Concept Drawing No. 267-01 Sheet 2 of 3; Sheet 3 of 3	21.5.15	Southeast Engineering and Environment

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Council Plans	Document Title	Date of Document	Prepared By
Stamped and received 11.6.15 - Plan No. 15/577	BASIX Certificate No. 629213M Multi Dwelling	11.5.15	Don Edgar Pty Ltd
Stamped and received 11.6.15 - Plan No. 15/577	Site Waste and Waste Minimization Plan (SWMMP)	11.6.15	Architects North

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under S96 of the Environmental Planning and Assessment Act (EP&AA) 1979, or a fresh development application. Your Principal Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.

Building Code of Australia

2. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

Vehicle Direction

All vehicles to enter and exit the development in a forward direction to avoid possible conflict with through traffic on Orient Street.

Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

Water & Sewer Inspections

All plumbing and drainage works (water supply, sanitary plumbing and drainage, and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of Interim or Occupation Certificate.

The following inspections are required to be carried out by Council for the installation of plumbing and drainage works. Inspections may be arranged by contacting Council's Plumbing and Drainage Certifier on 4474 1231:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering
- (b) Hot and cold water plumbing under pressure test prior to covering
- (c) Internal stackwork under hydrostatic test prior to covering and
- (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering
- (e) Issue of final satisfactory inspection

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

6. *Protection of Adjoining Areas*

If site or building works will:

- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
 - involve the enclosure of a public place; or
 - have the potential to damage adjoining private land by way of falling objects
- then a temporary hoarding, fence or awning must be erected between the work site and the adjoining area before the works begin. Any such hoarding, fence or awning must be removed when the work has been completed.

7. *Colours and Materials*

The external roof cladding shall have a solar absorbance rating of 0.421 or greater. Zinalume, galvanised iron, Colorbond Surfmist, Classic Cream and Whitehaven do not qualify.

8. *Safer by Design in Business Areas*

Windows fronting the pedestrian walkways on each elevation shall use and maintain transparent clear glass and not be covered with any medium that prevents surveillance and visibility.

9. *Sewerage Manhole*

Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the applicants cost.

10. *Waste Management*

Removal of excess waste from the site shall be in accordance with the Site Waste and Waste Minimization Plan by Architects North, stamped and received by Council on 11 June 2015.

11. *Kiosk Requirement - Discharge of Liquid Trade and Factory Waste*

Liquid trade and factory waste or chemicals or other impurities from any business, trade or manufacturing process other than domestic sewage is not permitted to be discharged into Council's sewerage system without application and approval by Council. The application for approval must be in accordance with Council's Liquid Trade Waste Regulation.

12. *Kiosk Requirement - Floor Level*

The minimum floor level of the kiosk shall be at or above 2.64m AHD. This level is to be certified by a registered surveyor at pouring of concrete for the slab/footings.

13. *Kiosk Requirement - Power Outlets*

All power outlets are to be constructed as high as practical or at a minimum height of 900mm above the floor level.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

14. *Stormwater Disposal*

Stormwater from the development is to be connected directly into Council's existing stormwater infrastructure under the Murra Murra Mia Walkway. Contact for an inspection is to be made with Council's Plumbing and Drainage Certifier on telephone 02 4474 1231, two (2) working days prior to the expected time of backfilling.

15. *Fire Hydrant.*

Access to the fire hydrant must be maintained in accordance AS2419.1-2005. Access is not to be obstructed or obscured by obstacles, stored goods, vehicles, vegetation, etc.

16. *Water Meter/s*

Written advice shall be obtained from a suitably qualified hydraulic engineer/consultant on the recommended water main connection and water meter sizes required for the development, in accordance with AS3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose Reels, where required.

Each unit is to be individually metered. Council fees are applicable for water meters to suit the development.

Note: All fire hose reels must be supplied through the metered supply.

Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken by Eurobodalla Shire Council (as the Water Supply Authority) at full cost to the applicant.

17. *Outdoor Furniture and Dining Areas*

Separate approval is required from Council for any use of any area on the Murra Murra Mia Walkway in accordance with Council's Footpath Trading Code. Please contact Council's Property Section on 02 4474 1217.

18. *Vehicle Access*

To avoid possible conflict with vehicles entering and existing the development, convex mirrors are to be provided at both ends of the driveway in accordance with the recommendations of the Parking and Traffic Impact Assessment Report.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

19. Section 94 Contributions

Payment to Council pursuant to Section 94 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Roadworks	\$8,271.60
Open Space and Recreation	\$4,156.80
Community Cultural	\$542.25
Shared Pathways	\$770.20
Administration	\$406.60
Waste	\$364.48

The above contributions are to be paid prior to the release of the Construction Certificate and will be payable at the rate applicable at the time of payment.

Note: The above contributions are reviewed annually and may be subject to increases as a result of CPI.

20. Water/Sewer Developer Contributions - Development

Prior to the issue of a Construction Certificate, for compliance under the Water Management Act 2000. The developer/consent holder will have to contribute:

- (a) \$25,621.50 (2.17 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$11,780.00
- (b) \$38,693.75 (3.77 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10,250.00

The contribution shall be paid to Council. Evidence of the payment shall be submitted to PCA Authority prior to the issue of the Construction Certificate.

Note: Contributions have taken into account 4.225 ET water and 4.225 ET sewer headworks site credits. The above contributions are reviewed at least annually and may be subject to increase as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.

21. Kiosk Requirement - Design of Food Premises

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Food Standards Australia New Zealand Act 1991 and AS4674-2004 Design, Construction and Fit-Out of Food Premises.

Prior to the issue of the Construction Certificate, plans and specifications showing compliance with the above, which include details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, coolroom and storage areas, shall be submitted to and approved by the Principal Certifying Authority (PCA).

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

22. *Requirements for Telecommunications and Electrical Provision*

The development is to be provided with adequate access to telecommunications and electricity in accordance with the requirements of Telstra and Essential Energy. Demonstration of suitable arrangements shall be submitted to the PCA prior to the issue of the Construction Certificate.

23. *Acid Sulfate Soil*

The development site is within an area classified as Class Three on maps marked "Acid Sulphate Soil Planning Map" in accordance with the Eurobodalla LEP 2012 (available on the Legislation website (www.legislation.nsw.gov.au)). If excavation is proposed below one metres of natural ground level, soil samples are to be assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Principal Certifying Authority prior to the release of the Construction Certificate.

If acid sulphate materials are identified no excavation shall take place until an Acid Sulphate Soils Management Plan has been prepared by a suitably qualified person in accordance with the NSW Acid Sulphate Soils Manual. The Plan is to be submitted to the Principal Certifying Authority for approval and the development carried out in accordance with the recommendations of the Plan.

24. *Sealed Traffic Areas*

Prior to the issue of the Construction Certificate submission to and approval by the PCA of plans for sealed car parking spaces, manoeuvring areas and access driveways all conforming to AS2890.1 and 2. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements.

Disabled parking is to be designed in accordance with AS2890.6:2009 and constructed prior to release of the Occupation Certificate.

25. *Long Service Levy*

Long Service Levy is to be paid to the NSW Long Service Corporation prior to the issue of the Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more.

26. *Surrender of Consent*

The applicant/owner of the land is required to surrender Development Consent No: 695/03 prior to the issue of the Construction Certificate. In accordance with Clause 97 of the Environmental Planning and Assessment Regulations, the consent of all land owners is required before the surrender can be authorised by Council.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

27. *Structural (Dilapidation) Reports*

A Structural Report detailing the existing condition of the adjoining buildings, infrastructure and roads in the vicinity shall be prepared and endorsed by a qualified Structural Engineer. The Report shall be submitted to Council prior to the issue of the Construction Certificate.

A second Structural Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads in the vicinity. The report shall compare its findings to the original report and be submitted to Council.^[23.07]

28. *Construction Management Plan*

A Construction Management Plan shall be submitted to and approved by the PCA prior to the issue of the Construction Certificate. The Plan shall address, but not be limited to, the following matters:

- (a) hours of work
- (b) contact details of site manager
- (c) arrangements for site deliveries and removal of material from site
- (d) details of hoardings
- (e) details of demolition works and the presence of any asbestos or other hazardous waste
- (f) traffic and/or pedestrian control measures
- (g) dust control measures
- (h) noise control measures
- (i) screening from adjoining properties
- (j) site rubbish enclosure

29. *Adaptable Housing*

Access and facilities for persons with disabilities are to be provided in accordance with the Batemans Bay Regional Centres DCP that requires a minimum of 25% of the dwellings able to demonstrate that it can satisfy the requirements of Australian Standard AS4299-Adaptable Housing. Complete details of compliance with these instruments for three units is to be provided to the PCA prior to the issue of the Construction Certificate.

30. *Flood*

All building materials used below the 5% (AEP) minimum habitable floor level, including the floor, are to be of flood compatible materials, ie. the structural integrity of the materials must not be adversely be affected by repeated immersion in flood water. These materials are to be consistent with Council's Guidelines for Flood-Compatible Materials. The flood planning level for the site is 2.64m AHD.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

31. *Ocean/Flood - Footings*

A report and design by a professional engineer experienced in soil mechanics is to be provided to the PCA prior to the issue of the Construction Certificate that demonstrates the footings can sustain the building load as the foundations transform with subsurface water inundation and the bearing capacity of the foundations diminish with projected sea level rise.

The report shall also assess the effect of rising salinity to account for the degradation of concrete quality if this type of footing is selected.

32. *Ocean/Flood*

Prior to issue of the Construction Certificate, submission to and approval by the PCA of designs by a suitably qualified and experienced structural/civil engineer that the development will be capable of withstanding the impact of the flood hazard applicable to the location. The designs shall consider coastal inundation to 3.14m AHD and wave run up to 3.79m AHD. The designs shall include flood doors and window shutters to cater for the design inundation and wave run up.

33. *Soil and Water Management Plan*

Prior to issue of the Construction Certificate the applicant shall prepare a Soil and Water Management Plan (SWMP) to be incorporated in engineering design plans. The SWMP is to be prepared in accordance with Managing Urban Stormwater: Soils and Construction – Volume 1, Landcom 2004.

34. *Stormwater Management and Water Quality*

Prior to the issue of the Construction Certificate, a Stormwater Management Plan (SMP) shall be submitted to the PCA. Plans are to be certified by a qualified drainage consultant or a suitably qualified engineer for compliance with AS/NZ3500.3 2003. The Plans are to be consistent with the Stormwater Management Plan by Southeast Engineering and Environmental, Drawing Number 267-01, including a 225mm diameter overland flow outlet. Plans are to include provision for water quality devices for the discharge to meet the ANZECC 2000 Guidelines on water quality. All stormwater works required by the SMP are to be carried out prior to the issue of the Occupation Certificate.

35. *Easement Creation*

Construction of drainage or sewerage works over intervening private property for this development is dependent on the applicant negotiating a permit to enter that land and acquiring an easement or right to use the land under the surface for construction, and for future maintenance of works by Council. Proof of registration of legal access is to be submitted to Council prior to the issue of the Construction Certificate.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

36. *Relocate Sewer Main and Build Over Sewer*

The development requires a sewer main to be relocated as part of the project and building over an existing sewer main. A Construction Certificate and associated plans are to be lodged and approved by Council as the Water Supply Authority, prior to the works commencing.

The plans are to incorporate the proposed footing design, traversing the new and redundant mains, designed in accordance with Build in the Vicinity of Sewer Mains Policy. The location of the proposed and existing sewer main, and proposed building, are to be verified by a registered surveyor. All levels are to be shown in Australian Height Datum (AHD) and are to include the top of sewer main and bottom of footings along the alignment of the sewer mains.

37. *Promenade Reconstruction*

To ensure the streetscape is maintained, the removal of street trees is limited to two trees in accordance Plan No. A01 Rev B stamped and received by Council on 21.7.2015. All additional trees shall be protected at all times during construction.

Prior to the issue of the Construction Certificate, Council must receive and approve a detailed plan for reconstruction of Murra Murra Mia Walkway for the full frontage of the property and the disturbed area. The reconstruction is to be at or above the standard of the existing construction and where possible, trees replaced to the satisfaction of Council. All promenade reconstruction works are to be carried out prior to the issue of the Occupation Certificate

Clear directional signage and protective barricades shall be installed in accordance with Australian Standard AS1742-3.

PRIOR TO COMMENCEMENT OF WORKS

38. *Construction Certificate*

The construction works subject of this development consent **MUST NOT** be commenced until:

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by:
 - (i) Council, or
 - (ii) an accredited certifier, and
- (b) The person having the benefit of the development consent:
 - (i) has appointed a PCA, and
 - (ii) has notified Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two days' notice to Council of the person's intention to commence the erection of the building; and
- (d) Builders name and licence number has been supplied to Council or the PCA; and

PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND 85.2226.D
KIOSK - ORIENT STREET, BATEMANS BAY

- (f) Home Building Compensation Fund has been paid and a copy of the Certificate supplied to Council or the PCA; and
- (g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the Environmental Planning and Assessment Regulations being the name, address and telephone number of the PCA for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed.

39. *Boundary and Height Check*

The building shall be set out by a registered surveyor to verify the correct position in relation to property boundaries and the height shown on the approved plans. A plan prepared by a registered surveyor shall be submitted to the PCA certifying that the works have been located in accordance with the approved development application prior to proceeding past the relevant stage of construction.

DURING CONSTRUCTION

40. *Shoring and Adequacy of Adjoining Property*

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

41. *Approved Plans to be On-Site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the PCA.

42. *Hours of Operation – NOISE*

Construction work on the site shall only be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays if audible at any residential premise or other sensitive noise receptor.

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

43. *Kiosk Requirement - Food Premises*

The food premises shall be registered with the NSW Food Authority. A copy of the shop registration shall be supplied to Council prior to occupation. [0232.1]

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

44. *Road Damage*

The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, as identified in the Structural (Dilapidation) Report condition, is to be met in full by the applicant/developer prior to issue of the Occupation Certificate.

45. *Landscape Plan*

Completion of landscaping in accordance with the approved Landscape Plan prior to issue of an Interim or Final Occupation Certificate and such landscaping is to be continuously maintained in accordance with the approved Plan. Maintenance is the landowner's responsibility.

46. *Occupation Certificate*

The development shall not be used or occupied until an Occupation Certificate has been issued by the PCA.

47. *Building Over Sewer Mains*

Construction of the footings over Council's sewer main are to be supervised by an engineer and certified as being constructed in accordance with the approved design prior to issue of the Interim or Final Occupation Certificate for the building, whichever is the earliest.

48. *Fire Safety Certificate*

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to the issue of the Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the PCA prior to issue of an Interim or Final Occupation Certificate.

49. *Annual Fire Safety Statement*

- (a) A final Fire Safety Certificate shall state that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the Certificate relates:
 - (i) has been assessed by a properly qualified person; and
 - (ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current Fire Safety Schedule for the building for which the Certificate is issued.
- (b) The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.
- (c) The choice of person to carry out the assessment is up to the owner of the building.
- (d) The person who carries out the assessment:
 - (i) must inspect and verify the performance of each fire safety measure being assessed; and

PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND KIOSK - ORIENT STREET, BATEMANS BAY 85.2226.D

- (ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.
 - (e) As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates:
 - (i) must provide a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to the Commissioner of Fire and Rescue NSW; and
- must prominently display a further copy of the Certificate (together with a copy of the current fire safety schedule) in the building. [8.02]50.

51. *Maintenance Bond*

Prior to issue of any Occupation Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price and applicable for six months from the date of issue of the Occupation Certificate.

ADVISORY NOTES

52. *Disclaimer – s88B Restrictions on the Use of Land*

The applicant should note that there may be covenants/easements in favour of persons, other than Council, restricting what may be built or done upon the subject land. The applicant is advised to confirm whether the development affects any of these covenants/easements before commencing any work.

53. *Disability Discrimination Act 1992*

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia, which references AS1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 and 4.

54. *Kiosk Awning*

A lease shall be obtained from the NSW Department of Lands for any structure over Crown land.

55. *Discovery of Historical Relics*

Should any historical relics be discovered during excavation processes then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the Heritage Act 1977.

56. *Discovery of Archaeological Relics*

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environment Protection and Regulation Group of the Office of Environment and Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

required before further works can continue in that area. [13.07]

57. *Sea Level Rise Liability*

This land may be subject to sea level rise and flooding. This development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (eg., sewer, water, stormwater and roads) may also be subject to sea level rise or flooding. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise or flooding in the future.

If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent.

58. *Use of Mobile Cranes*

The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works.

For special operations including the delivery of materials, hoisting of plant and equipment, and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council:

- (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions; and
- (b) at least four (4) weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.
[0243]

59. *Underground Utility Services Check*

The applicant shall contact the Dial Before You Dig service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development.

60. *Ocean Location*

The land is located within a corrosive environment, being within 100m of salt water. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia.[10.06]

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

61. Section 94 Payments

The applicant should contact Council prior to the payment to determine the rate of contribution as such rates are revised at least annually. Staging of payments is permitted if staging of development is approved by the terms of this consent.

Section 94 plans are available for inspection at Council's offices, Vulcan Street, Moruya. Council will hold the money payable under this condition in trust and utilise these funds to upgrade amenities or services.

62. Fire Protection

The development must provide fire protection in accordance with requirements of the BCA. Any modifications to Council's water supply infrastructure and hydrant requires prior approval by Council. All modification works to be at full cost to the applicant. Council can provide a water pressure enquiry for a fee as set by Council's Fees and Charges.

BACKGROUND

On 11 June 2015, Council received a development application for a mixed use development which comprised of a kiosk and car parking on the ground level followed by eight two-bedroom apartments and two three-bedroom apartments on levels one to four. A lift is provided to allow persons with disabilities to access to the each level.

Prior to lodgment of the development application the applicant attended a pre-lodgment meeting with Council staff on 20 February 2015.

The subject site was created by way of an approved two lot subdivision determined 3 November 2009. The site is a battle-axe allotment with vehicular access from Orient Street via a 3.1m wide easement (driveway). Its eastern boundary of 23m fronts the Murra Murra Mia Walkway (the promenade). Adjoining development comprises of a single and two storey retail and commercial premises to the north and the Zorbas Motel to the south. The building contains zero setbacks in accordance with Council's development standards except for the western boundary where the building has been setback to accommodate easements and provide landscaping to screen services and bin storage areas.

Council has previously issued a development consent (695/03) for six residential units, car park and café on the subject site on 6 August 2003. In accordance with Section 95(4) of the EPA&A 1979, the development has physically commenced and therefore consent 695/03 will require surrender as a condition of the current consent.

The application was advertised in accordance with Council's Advertisement and Notification Code on 12 June 2015 with three submissions being received.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

POLICY

The application has been assessed in accordance with the provisions of the EP&AA 1979, and the following relevant legislation, planning instruments and policies. A detailed assessment in accordance with Section 79C of the Act is contained on the file.

NSW Coastal Policy

Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the consideration of the NSW Coastal Policy. The proposed development does not affect public access to the foreshore and has demonstrated that shadow cast by the building is acceptable. The building has been designed according to projected sea level rise and frequency of ocean inundation. The development consent will be conditioned to ensure any ground water disturbance or drainage from the site does not impact on the terrestrial or marine environment. The development is considered to comply with the requirements of the Policy.

State Environmental Planning Policy (SEPP) 71 – Coastal Protection

The proposal has been assessed against the aims and considerations of SEPP 71 and is considered to be consistent with these requirements. Public access will be improved through utilization of the promenade to access the residential accommodation and the kiosk. The proposal will contribute to the scenic qualities of the commercial precinct and adjoining estuary. Any potential adverse effects regarding the environment will be managed through conditions of the consent.

State Environmental Planning Policy (SEPP) 55 – Remediation of Land

The subject site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the construction. The proposal is considered to be consistent with the provisions of SEPP 55 as the development will not create any new risk and the site will be completely sealed.

State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Flat Development

SEPP 65 contains ten design principles that apply to residential flat buildings. The SEPP refers to the *Residential Flat Design Code*. The policy requires that an application for residential development under SEPP 65 be supported by a design verification statement prepared by a registered architect against the ten design principles. This statement is supported by a detailed assessment and compliance table that was provided with the application.

The Department of Planning has recently reviewed SEPP 65 and the Residential Flat Design Code. This has resulted in amendments to the SEPP and a new Apartment Design Guide, which replaces the Residential Flat Design Code. The development application was submitted five days prior to the inception of the new Guidelines and although not required to be assessed under the new guidelines, does provide justification for the car parking provided. The Apartment Design Guide requires compliance with the RMS publication “Guide to Traffic Generating” or the Council standard, whichever is the lesser. The application has proposed a car parking requirement which complies with the RMS publication. This is not consistent with the Council standard but is considered acceptable because Council’s Parking and Access Code refers to the RMS publication as a foundation document and if the application had been lodged several days

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

later would have been required to be assessed under the RMS publication. It is therefore considered that the car parking provided is consistent with recognised standards.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The applicant has provided a compliant BASIX Certificate for a Multi Dwelling and Nationwide House Energy Rating Scheme Certificate. The development consent will be conditioned requiring such commitments to be fulfilled.

Australian Standard AS4299 – Adaptable Housing

Access and facilities for persons with disabilities are to be provided in accordance with Council's Batemans Bay Regional Centre DCP Clause 4.6 which requires that a minimum of 25% of dwellings are able to satisfy the requirements of Australian Standard AS4299-Adaptable Housing. Therefore three dwellings must be capable of compliance with this Standard.

Access to the car park is flat with a lift provided to all four residential levels. It is proposed that units 3, 4 and 5 are fitted and finished with adaptable kitchens, laundries and bathrooms.

Details of compliance with AS4299 are required prior to release of the Construction Certificate.

South Coast Regional Strategy

The site is located within the Batemans Bay CBD which is designated by the NSW Government as a major regional centre in the South Coast Regional Strategy. The strategy encourages mixed use and higher density living to strengthen the CBD as the major residential, commercial and tourism centre for the middle part of the region. The proposal introduces both a residential and commercial component that activates the town centre increasing aesthetic and functional interaction with the promenade.

Eurobodalla Local Environmental Plan 2012(LEP)

The subject site is zoned B4 - Mixed Use under the Eurobodalla LEP. The proposed development is permissible in this zone with consent as *shop top housing* and a *kiosk*.

The LEP defines shop top housing as follows:

"shop top housing means one or more dwellings located above ground floor retail premises or business premises".

Note. Shop top housing is a type of residential accommodation

There is a lot of case law regarding the definition of shop top housing and it is worth reviewing some of the findings.

The proposed development is considered to be consistent with the definition of shop top housing as it provides for retail activities at ground floor level and residential accommodation above this.

The objectives of the B4 zone are met through the provision of a mix of residential and commercial uses compatible with the CBD. The site location is in close proximity to a bus stop, major road network and with access to areas of employment, entertainment and open space. This is consistent with the role and function of a major regional centre and adds to the vitality of the CBD.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Clause 4.3 Height of Buildings

The LEP maximum building height allows for split height on the subject site with 12m to the east and 15m to south west corner of the site. The proposed development seeks a variation to this development standard with a building roof height of 14.4m above natural ground level (NGL) and a maximum height of 15m including service infrastructure.

The proposal is stepped back at the upper levels from the Promenade and presents as a recessed facade. The variation to the 12m height control is considered acceptable from this vantage as the recessing of the façade significantly reduces the perception of height from the Promenade. The western half of the building is adjacent the 15 metre building height control and is therefore considered consistent with those controls. Furthermore, the stepped profile reduces the extent of overshadowing of the Murra Murra Mia Walkway and neighbouring properties and is a significant reduction in the building envelope compared with a building that was constructed to the 12m height envelope.

Clause 4.6 Exceptions to Development Standards

The objectives of Clause 4.6 provides for an appropriate degree of flexibility in applying certain development standards to achieve better outcomes for and from development.

Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the development will be in the public interest and is consistent with the objectives of the standard and the zone.

A variation to the development standard is sought based on the proposal's ability to adhere to the LEP (2012) and precinct statement of both the South Coast Regional Strategy and the Batemans Bay Regional Centre Development Control Plan (DCP).

Additional justification provided in the written request can be summarized as follows:

- The CBD precinct is in transition from inconsistent design of existing buildings to a vibrant built environment of higher density with larger buildings
- Assists in activating the foreshore
- Encourages redevelopment of surrounding under-utilized properties
- Adjoining lots including Lot 1 have a maximum building height 15m
- The height encroachment is located towards the Orient Street end of the site adjoining the 15m building height
- Height encroachment containing Level 4 extends for 21m of the 36m length of the building at the southern boundary and 18.5m of the 23.3m length of the northern boundary
- The building has been designed to step back from the Murra Murra Mia Walkway. This will ensure the privacy of occupants of the residential units and reduce the bulk and scale when viewed from waterway and Murra Murra Mia Walkway
- Building design provides adequate separation from Murra Murra Mia Walkway so the impact of private activities will not intrude into public space

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

- The building will be compatible with the height, bulk and scale of the existing and desired future character of the immediate area, which is an area that is likely to undergo substantial transformation as under-utilized sites are redeveloped to the development standards and controls that apply to the major regional centre.

It is considered that compliance with the development standard is unreasonable given the justifications for an exception and that the development would not be contrary to the public interest.

Interim Coastal Hazard Adaptation Code 2015

The applicant provided a Coastal Hazard Assessment to support the proposal in accordance with Council's Interim Coastal Hazard Adaptation Code 2015. The current commercial floor level for the site is to satisfy the 1% AEP flood event of 3.14m AHD (WRL Preliminary Draft Report, 2012). This includes 300mm freeboard and 340mm of sea level rise to 2065.

However, it is noted that Council have been discussing adopting a 5% AEP flood (2.64m AHD – WMA Adopted Report 2006) as the Flood Planning Level for commercial development in Batemans Bay CBD and Narooma Flat (see Draft Eurobodalla Floodplain Code).

The 5% AEP level would be consistent with the adopted approach in Moruya where commercial and industrial floor space is only required to achieve compliance with a 5% Flood event.

The proposed kiosk floor level at 2.64m AHD will provide adequate flood protection and flexibility in the future management of the promenade should works to raise the promenade be required. This level will provide immunity in the 5% AEP event with 300mm freeboard and allowance for 50 years of sea level rise to 2065.

It is considered that it is reasonable to apply the 5% AEP flood event as the Flood Planning Level for the kiosk and together with the proposed mitigation measures will provide sufficient protection from storm and flood events.

Parking and Access Code

Access to the site is via a 3.1m wide shared driveway from Orient Street. The driveway is the subject of a right of carriageway benefiting Lots 1 and 2 DP1166711. A small portion of the proposed building overhangs the right of carriageway and easement for services. The development provides for 15 car spaces at ground level adjacent to the kiosk and below the residential accommodation.

A Parking and Traffic Impact Assessment Report was provided by the applicant to support the development. The access design and parking layout largely meets AS2890.1 and is acceptable for an infill development. The Report recommends the installation of convex mirrors to help manage the one way length of the handle and will be conditioned on the consent. Any services required to be relocated will be at the applicant's expense and this has been conditioned appropriately. Council is satisfied with the access and parking arrangement.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

The Apartment Design Guide requires compliance with the RMS publication Guide to Traffic Generating or the Council standard, whichever is the lesser. The application has proposed a car parking requirement which complies with the RMS publication.

The RTA Guide requires 16 spaces to be required as compared to Council's Code which requires 21 spaces to be provided. Council has assessed the proposal against the RTA Guide which is consistent with the provisions of the amended SEPP 65.

Council's Parking and Access Code requires the provision of 21 spaces which is more than what has been proposed. The car parking provided can be justified because Council's Parking and Access Code refers to the RMS publication as a foundation document and if the application had been lodged several days later would have been required to be assessed under the RMS publication.

The previous development approval for the site required the payment Section 94 contributions for 20 car spaces. Through the subdivision process creating the subject lot, 19 credits were applied to Lot 1 with 1 credit applied to the subject site. Accordingly, there will be no requirement for car parking contributions in lieu of the credit and provision of 15 spaces on site.

ENVIRONMENTAL

The subject site is cleared and disturbed. Consequently, there are not likely to be land-based threatened species, populations or ecological communities, or their habitats occurring on the site.

The subject site adjoins the Batemans Bay estuary which is mapped as key fish habitat by the NSW Department of Primary Industries, Fisheries. The site is separated from the estuary by the foreshore reserve and the promenade. A referral from the Department of Primary Industries, Marine Parks has provided Council with suggested mitigation measures that are proposed as conditions of consent.

Cultural/Heritage

An assessment has determined that there are no Aboriginal sites previously recorded within or close to the subject site. The consent is conditioned accordingly such that if aboriginal relics or objects uncovered during works they must be reported to Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately.

The subject site is not listed as a heritage item in Schedule 5 Environmental Heritage of the LEP (2012). The Bay View Hotel (Item No.110) is located on the opposite side of Orient Street at No.20 Orient Street. The battle-axe design of the subject site and the buildings being situated 66m from the Bay View Hotel would prevent any significant impact on the heritage significance of the item.

CONSULTATION

The application was publicly advertised in accordance with Council's Advertisement and Notification Code.

The advertising period commenced on 12 June 2015 and concluded 1 July 2015. A late submission was received on 8 July 2015.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Advertising involved the following:

1. Landowners adjoining the subject site were notified in writing and provided with a notification plan which included a site plan, elevations and photomontage.
2. A public notice appeared in the Bay Post, Moruya Examiner and the Narooma News on 17 June 2015.
3. Two signs were placed on site on 17 June 2015, one at the entrance to Orient Street, the other facing the Murra Murra Mia Walkway.
4. The proposal was publicly displayed at Council's customer service office in Moruya and the Batemans Bay library.

Three submissions were received during the advertising period, two objecting to the proposal and one advice was received from the Department of Primary Industries, Marine Parks. Listed below is a summary of the concerns by the objectors and relevant responses.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Insufficient information provided during the notification period

Plans provided during the advertising period were consistent with Council's Advertisement and Notification Code and included the information submitted as part of the application.

Inadequate car parking

Adequate car parking spaces for the residential component have been provided to comply with SEPP 65 and the RTA Guide to Traffic Generating Development. A dedicated kiosk employee space and one loading dock space has been provided in accordance with Council's Parking and Access Code. All parking spaces comply with Australian Standards (AS/NZS 2890.1:2004).

Access unsafe

Access is provided to the site by a 3.1m wide driveway which is considered to be adequate and supported by the Parking and Traffic Impact Assessment (UDP) provided by the applicant. Recommendations provided in this assessment are contained in the conditions of consent.

Disruption to business during construction

Dust mitigation, soil and erosion management, noise and traffic management are conditioned to be addressed in a Construction Management Plan.

Loss of Landscaping

Whilst it is acknowledged that there will be loss of promenade seating and two street trees to accommodate the zero boundary setback permissible under the DCP, the promenade will be reconstructed to be at or above the existing standard for the full frontage of the property and any disturbed area. The requirement of a reinstatement plan for the promenade is contained in the conditions of consent. The proposal complies with the provisions of SEPP 65 demonstrating landscaping integrated into the overall design. Additionally, garden beds are used as screening on the ground level and a larger communal space of 89m² is provided on level one with a total landscaped area of 20%.

Promenade used for seating

A separate application for Outdoor Eating Area on Public Land is required to be submitted to Council. Any application that seeks variation from Council's Footpath Trading Code will be determined by Council. This is outside of the current development application process.

Streetscape/Blank wall prominent feature

The proposed building form when viewed from the foreshore is to be extensively articulated by a series of setbacks, each expressing individual terraces with green hedge planting and complementary softening of the adjoining building to the north by existing mature trees condition to be retained on the consent. The ground level is built to boundary allowing a level of visual and acoustic separation between retail and residential components while defining the dominant retail character of the Promenade. The proposed stepped articulation provides a logical transition between the adjoining heights with lesser visual and solar impact to what would be created by a 12m high building built to boundary.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

Development should maximize contact with the promenade and increase business exposure for foot traffic.

The development provides for an active street frontage and a retail component at ground level. This is consistent with the planning controls in the DCP and LEP and is considered a suitable outcome for the site given the constraints of the site. The development will also revitalize interest in the area and help transition into a vibrant, mixed use precinct. The residential component brings activity and business to the CBD consistent with the zone objectives.

Over height/Shadow cast by building/Shadow to building to the north

Overshadowing by the new development is reduced by the articulation demonstrated on each building level in comparison to the expected height and density of the designated zoning and DCP controls and preserves solar access to the adjoining building and promenade until late afternoon. Shadow does not fall on the building to the north.

The proposed building height is consistent with the two significant redevelopments in recent times, being the retirement village adjoining the Village Centre (17m) on Perry Street and the Centrelink building (19.5m) on Flora Crescent and is in harmony with the bulk and scale of these developments.

Loss of views

The view in contention are views across the side boundaries of several properties to the south and therefore are more difficult to protect. The view in question is partial, interrupted by existing promenade trees and existing service units on the roof of the lower level. Further the view loss is not severe and is reliant on adjoining lots not to develop to the setbacks and height controls permitted under the relevant planning instruments. The proposal is deemed as acceptable in this regard having regard to case law and the NSW Land and Environment Court Planning Principles for view sharing (*Tenacity Consulting V Warringah* [2004] NSWLEC 140).

Building foot print too large

Building setbacks are consistent with the planning controls in the Batemans Bay Regional Centre DCP.

Damage to adjoining building/ventilation to adjoining building covered

A Structural (Dilapidation) Report based on standard building regulations will be provided prior to the building construction with any damage covered by the applicant should the damage be caused by the construction. A condition has been placed on the consent to this affect.

The proposal and adjoining buildings are to comply with the Building Code of Australia with any buildings requiring fire separation to boundaries. Ventilation services are not permitted on boundaries and will be dealt with at the Construction Certificate stage.

Disruption during construction

It is acknowledged that during construction immediately adjoining sites will experience some adverse but unavoidable amenity impacts. Owners in the B4 zone must accept that a higher density and larger scale development can happen in the adjoining site and whilst impacts must be within reason they can nevertheless occur (*Seaside Property Developments Pty Ltd v Wyong Shire Council* [2004] NSWLEC 117). Management of construction times are contained in the conditions of consent.

**PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND
KIOSK - ORIENT STREET, BATEMANS BAY**

85.2226.D

CONCLUSION

It is considered that the proposal is consistent with the requirements of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy 65 (SEPP) – Design Quality of Residential Flat Development, and the Batemans Bay Regional Centre Development Control Plan.

The proposal will deliver a high urban standard and architectural outcome that will supplement and promote the function of the local centre and provide greater diversity close to the existing retail and recreational facilities. The CBD is currently in transition and the building has been designed with a focus on modern urban planning and architectural principles that provide a building that gives interest and activation in the precinct and promenade. The mix of apartment types provides a range of affordable accommodation that will benefit local residents, visitors and local businesses.

Having regard to the above assessment, the proposal is considered acceptable and approval is recommended subject to conditions of consent.

PSR15/035 BROULEE SURFERS SURF LIFE SAVINGS CLUB - WAIVING OF WASTE E07.1091
DISPOSAL CHARGES

Responsible Officer: Gary Bruce - Acting Director, Planning and Sustainability Services

Attachments: Nil

Focus Area: Sustainable Communities

Delivery Program Link: S3.2 Operate and maintain Council's waste management and collection service

Operational Plan Link: S3.2.2 Manage kerbside collection

EXECUTIVE SUMMARY

Council has been requested by Broulee Surfers Surf Life Savings Club (SLSC) to waive the waste disposal charges in relation to the demolition and reconstruction of the existing gear shed facility at Heath Street, Broulee. Broulee Surfers SLSC is a not for profit community group which oversees beach safety and training of surf life savers. It is estimated these charges would not be in excess of \$1,500 excluding GST. The waste will be sorted prior to delivery to the Surf Beach Waste Management Facility and it is planned that materials are reused or recycled where possible.

RECOMMENDATION

THAT Council waive waste disposal charges for waste and separated timbers up to \$1,500 excluding GST for the demolition and rebuild of the Broulee Surfers Surf Life Savings Club gear shed.

BACKGROUND

Broulee Surfers SLSC has indicated they have received a grant for this stage of the project of \$60,000 to demolish and rebuild the gear shed.

CONSIDERATIONS

There will be four to five truck-loads of separated steel (free to the waste facility), three loads of separated timber and one load of mixed waste. No concrete is required to be disposed of in the project.

The materials from the demolition will be sorted at the site and delivered to Surf Beach Waste Management Facility to ensure recycling and recovery of any materials is maximized.

All applications for waiving of fees or donations are critically assessed on their own merits and reported to Council for their determination.

Environmental

Ensuring waste is sorted to provide opportunities for recycling protects our environment.

Asset

Separating waste assists in prolonging the life of the landfill asset.

PSR15/035	BROULEE SURFERS SURF LIFE SAVINGS CLUB - WAIVING OF WASTE DISPOSAL CHARGES	E07.1091
------------------	---	-----------------

Social Impact

Providing support to Broulee Surfers SLSC as it is a not for profit community group which oversees beach safety and training of surf life savers.

Financial

The waiving of charges for waste disposal forgoes revenue of up to \$1,500 excluding GST for Surf Beach Waste Management Facility to provide this donation to Broulee Surfers SLSC.

CONCLUSION

This request provides Council with an opportunity to provide support to Broulee Surfers Surf Life Saving Club and recognises the positive actions they are taking in managing the waste generated by the demolition through sorting recyclable and recoverable materials on site.

Each application is critically assessed on its own merits and is reported to Council for their determination.

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

E15.9002

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: Nil

Strategic Objective: Productive Communities

Delivery Program Link: P2.1 Undertake advocacy activities to further the development of transport infrastructure and support future growth

Operational Plan Link: P2.1.2 Coordinate the Local Traffic & Development Committees

EXECUTIVE SUMMARY

The Local Traffic Committee is primarily a technical review committee. It advises Council on traffic control matters that relates to prescribed traffic control devices or traffic control facilities for which Council has delegated authority.

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report for the Councillors' review. The main issues covered at the Eurobodalla Local Traffic Committee meeting of 16 July 2015 were:

- Parking – River Street, Moruya
- Signage – Princes Highway Bus Zone, Bodalla
- Signage – Beach Road Bus Zone, Batehaven
- Signage and Linemarking – Corrigan Crescent Accessible Parking, Batehaven
- Special Event Application – Capital to Coast Foot Race

RECOMMENDATION

THAT

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 1 of 2015-16 held on 16 July 2015 be received and noted.
2. Council Plan No 5156 Set E Sheet 01 detailing the signage for the bus zone extension on the Princes Highway, Bodalla be approved.
3. Council Plan No 5156 Set W Sheet 03 detailing the signage for the bus zone relocation on Beach Road, Batehaven be approved.
4. Council Plan No 5156 Set W Sheet 01 detailing the signage and linemarking associated with the relocation of on-street accessible parking spaces in Corrigan Crescent, Batehaven to a new location within the nearby off-street car park be approved.

BACKGROUND

The Eurobodalla Local Traffic Committee Meeting No 1 for 2015-16 was held on 16 July 2015 in Council's Glass Meeting Room. It was attended by Councillor Neil Burnside (Chairperson), Mrs Danielle Brice (representative for the Hon Andrew Constance MP), Karl Brough (Roads and

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

E15.9002

Maritime Services), Heidi Hanes (Road Safety Officer) Dave Hunter (Traffic Officer) and Annette Thomas (Minute Secretary).

Apologies were received from Councillor Milton Leslight and Constable Scott Britt (NSW Police Force).

MINUTES OF PREVIOUS MEETING

The Minutes of the Eurobodalla Local Traffic Committee Meeting No 8 for 2014-15 held on Thursday 14 May 2015 were confirmed and accepted.

OUTSTANDING ITEMS FROM PREVIOUS MEETING

The Action Sheet outlining all of the committee's outstanding items was distributed to members. The following outstanding items were discussed:

2014.RT.027 School Bus Stop - Raymond Street, Narooma

In 2014, concerns were raised about the school bus stop at the intersection of Raymond Street and the Princes Highway. As an alternative to service the school children in this area, consideration was given to altering the school bus route through Hillcrest Avenue. Given the geometry of the road, with some corners being too tight for a 14 metre bus, it could not be achieved.

Council's Infrastructure Services Directorate is undertaking a further review of the layout and suitability of the Hillcrest Avenue and Raymond Street road network as a school bus route. A desktop assessment of the route has now been completed and improvement works have been identified. These will be estimated for future consideration.

In 2014, the committee discussed that once the stairs leading south down to Riverview Road are built, then the bus stop 100 metres to the west of the stairs could be used as an alternate school bus stop. The stairs have now been completed.

To improve the safety for school students, the bus stop at the Princes Highway and Raymond Street intersection, Narooma should not be used. An alternate location is on Riverview Road which can be accessed via the recently completed stairs.

At the next Local Traffic Committee meeting consideration will be given to removing the bus stop.

2014.RT.0010 Parking – River Street, Moruya

In 2013, several residents expressed their concerns on the adverse impact on River Street on-street parking due to the adjoining hospital generating a high demand for parking spaces in the street. At that time, a major redevelopment at the hospital had commenced and the committee agreed to undertake a parking study when the development had finished. There is limited off-street parking provided on the hospital site.

Redevelopment is still continuing to accommodate oncology, sub-acute and renal facilities. It is expected that this will be finished in the next 12 months. The Development Approval indicates off-street car parking proposed as part of this work is six spaces with four of those spaces being accessible parking.

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

E15.9002

Additional correspondence was received in 2015 from one of the residents expressing their concerns with parked vehicles obstructing access to residential driveways.

An inspection of the site was carried out by the committee at 8.45am on 16 July 2015. As well as the committee members, a resident of River Road was in attendance.

The resident presented a letter relaying their concerns and also attached a summary of feedback they had sought from the adjoining residents on River Street.

The main issues discussed were the impact of on-street parallel parking to properties, the safety risk where 90 degree parking is near the sharp crest, poor accessibility from the footpaths to the main hospital entry and the high percentage of vehicles parking on the street. The committee was also told that a local bus from Batemans Bay also double parks near the crest as a drop off and pick up point.

The committee agreed that there appears to be inadequate off-street parking for visitors and staff attending the hospital.

The traffic officer has commenced gathering data for a parking study which involved monitoring vehicle parking. Vehicle tyres were marked at the on and off-street parking areas at 9.00am, 12 noon and 3.00pm. Data collected includes overstay in the 2 hour timed areas and use of accessible parking spaces.

Further research will include car parking spaces proposed as part of the current redevelopment. Data on the number of beds, services and staff numbers at the hospital will be sought. Comparisons on the number of car spaces required if a similar sized new hospital were built will also be researched.

The committee agreed to initiate discussions with the NSW Government to find out if additional onsite parking is proposed on the Moruya Hospital property.

Recommendation:

That Council write to the local member, the Hon Andrew Constance MP, to advise the additional need for an increase in onsite parking at Moruya Hospital.

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT ITEMS FOR DETERMINATION

2016.RT.001 Signage – Princes Highway Bus Zone, Bodalla

Marshall's Bus and Coach Pty Limited has made a request to extend the north bound bus zone on the Princes Highway at Bodalla.

This bus zone has been operational for three months and acts as an interchange for school buses. Up to five buses can be parked at any one time. The existing zone that adjoins the Rural Fire Service building is 48 metres long and caters for three large buses.

The bus company has observed that parent's cars park behind the bus zone. This means that the other buses then have to park behind the cars. Having a space between the buses, where cars pull in and out, presents a potential road safety risk. There is an adequate area for vehicle drop offs and pick up behind the bus zone near the Rural Fire Services building.

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

E15.9002

It is proposed to extend the bus zone 40 metres south along the Princes Highway. The new zone will only be on school days between the hours of 7.30am to 8.30am and 3.30pm to 4.30pm.

A letter was posted to the adjoining property owner at number 111, and the tenant was also provided with a copy of the letter. No feedback was received.

Recommendation:

That Council Plan No 5156 Set E Sheet 01 showing the proposed signage for the bus zone extension on the Princes Highway, Bodalla be approved.

2016.RT.002 Bus Zone - Beach Road, Batehaven

Council's Infrastructure Services Director attended a Batehaven Business Operators meeting on 27 May 2015. At the meeting discussions included a bus zone on Beach Road. It is located opposite, Corrigan's Beach Reserve. This north/west bound bus zone adjoins a real estate agent and a café business.

A request was made to move the bus zone 13 metres to the south east and subsequently create three parking spaces to the north/west of the bus zone. Currently the bus zone is preceded by a single 6.3 metre long half hour timed parking space. The move will mean a net gain of two parking spaces.

The Traffic Officer has consulted with the local bus company and adjoining landowners and businesses. There are no objections to the proposal.

Recommendation:

That Council Plan No 5156 Set W Sheet 03 showing the proposed signage for the bus zone relocation on Beach Road, Batehaven be approved.

2015.RT.004 Signage and Linemarking – Corrigan Crescent Accessible Parking, Batehaven

A length of on-street accessible parking is currently located along Corrigan Crescent in Batehaven. This accessible parking does not currently meet the requirements of the Australian Standards and is not safe. People in wheelchairs and others such as the elderly have to walk onto the travel lane of Corrigan Crescent before accessing the footpath.

To resolve this situation it is proposed that this length of on-street parking be converted to '2 hour' parking to match the rest of the street. To replace this accessible parking it is proposed to install two accessible parking spaces at a location 20 metres away within the nearby off-street parking area.

At the committee meeting on 2 October 2014, it was agreed to consult the local business community. The property owners were posted a letter which included a plan of the proposal and were invited to provide feedback by Wednesday 8 July 2015. The Traffic Officer also hand delivered over 30 of the documents to the local shops.

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

E15.9002

On the day letters were hand delivered, many business owners discussed the proposal with the Traffic Officer and nearly all were in favour of moving the accessible parking, particularly when it was pointed out the potential risk of the current situation. An issue raised by several people was the concern at the excessive speed that vehicles travel out of the car park, and that this may present a safety issue with the proposed nearby accessible parking location, when people have to cross the exit driveway.

The Traffic Officer discussed the proposal with some of the staff (including a doctor) at the Batehaven Medical Centre which adjoins the existing accessible parking spots. Most were not in favour of the proposal as they felt it would be an inconvenience to some of their customers.

One feedback letter has been received supporting the proposal. There has not been any written correspondence or phone calls objecting to the proposal.

Recommendation:

That Council Plan No 5156 Set W Sheet 01 showing the signage and linemarking associated with the relocation of on-street accessible parking spaces in Corrigan Crescent, Batehaven to a new location within the nearby off-street car park be approved.

INFORMAL ITEMS FOR DISCUSSION

2016.IN.001 Special Event Application – Capital to Coast Foot Race

The Capital to Coast Foot Race is to begin in Canberra and end in Nowra. It consists of nine separate stages, each approximately 15km long and will be held from 14-16 August 2015.

Stage 4 is the only section to be conducted within the Eurobodalla. This stage is to be run on Saturday 15 August and begins in Kettle Road, Long Beach and heads northwards into the Murramarang National Park. It then enters the village of South Durras, heading along Banyandah Street and onto the beach before finishing near Murramarang Resort.

A traffic management plan was reviewed by the committee. This traffic management plan and associated traffic control plans are the same as last year and that event was conducted successfully.

Recommendation:

That the Capital to Coast Foot Race to be conducted within the Eurobodalla on Saturday 15 August 2015 be approved in accordance with the submitted traffic management plan.

NEXT MEETING

The next meeting of the Eurobodalla Local Traffic Committee is to be held on Thursday 13 August 2015 in the Council's Committee Room commencing at 9.30am.

**IR15/035 TENDER FOR ESTABLISHMENT OF CONCRETE SUPPLY PANEL -
TENDER NO 2015-ISD056**

E00.4061

Responsible Officer: Lindsay Usher - Acting Director Infrastructure Services

Attachments: 1. Confidential - Tender Assessment

Focus Area: Liveable Communities

Delivery Program Link: L5.1 Implement Council's recreation and open space strategy, priority plans of management and master plans

Operational Plan Link: L5.1.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

Council establishes a Concrete Supply Panel each year to establish a pre-negotiated set of terms and pricing for which to issue orders against, so as to reduce administrative burden, achieve economies of scale, provide certainty to local industry and comply with Local Government Tendering Regulations.

To achieve greater efficiency and industry certainty for the current exercise and future, the term of the panel has been increased from one to two years with the inclusion of 'rise and fall' of pricing based on CPI (all groups).

Request for Tender No 2015-ISD056 for the establishment of a Concrete Supply Panel during the period 1 September 2015 until 31 August 2017 was advertised on 30 June 2015 and closed on 22 July 2015.

RECOMMENDATION

THAT:

1. Council establish a Concrete Supply Panel for a period of two years as recommended in the confidential attachment.
2. Council enter into Deeds of Standing Offer with the Panel Suppliers under which materials shall be ordered for the duration of the agreement.

BACKGROUND

Tenders have been invited for the Establishment of a Concrete Supply Panel for a two year period from 1 September 2015 until 31 August 2017.

A total of four tenders were received as follows:

1. Boral Country Concrete
2. Cadgee Quarry Concrete
3. Coastal Concrete & Quarry
4. Eurobodalla Quarry & Concrete

**IR15/035 TENDER FOR ESTABLISHMENT OF CONCRETE SUPPLY PANEL -
TENDER NO 2015-ISD056**

E00.4061

A summary of the evaluation including each tenderer's scoring against the evaluation criteria and pricing is provided in the confidential attachment.

Legal

Request for Tender (RFT) No 2015-ISD056 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertising on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla).

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms have been completed and signed by the TEB.

The proposed Supply Panel has been divided into two categories for concrete volumes over and under three cubic metres.

The rise and fall provision for the variation of concrete pricing at the anniversary of the Deed has been carefully considered and deemed the most fair and appropriate measure. Consultation with prospective tenderers on this provision occurred at the Industry Brief for the RFT held on 9 July 2015 and the proposal was broadly accepted.

Policy

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

Environmental

The requirement for tenderers to have a written environmental management policy has been made an essential criteria within the Statement of Requirement for the current RFT.

Economic Development Employment Potential

The change to a two year supply panel from the previous annual arrangements will provide greater certainty for panelled suppliers. With greater business certainty suppliers will be able to undertake business and workforce planning with more confidence.

Financial

All orders raised against the proposed Supply Panel will be funded individually by the relevant works or maintenance program. The Supply Panel will be available for use across all applicable Council programs. This will allow programs to avoid unnecessary procurement administration associated with seeking offers separately for projects.

The transition to a two year supply panel will provide efficiencies for Council.

**IR15/035 TENDER FOR ESTABLISHMENT OF CONCRETE SUPPLY PANEL -
TENDER NO 2015-ISD056**

E00.4061

Community Engagement

An Industry Brief was held on 9 July 2015 to advise prospective bidders on changes from the previous Supply Panel Request for Tender.

The community will be informed of the tender outcome via Council's Contract Register on Council's website as follows:

<http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information>

CONCLUSION

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the proposed Supply Panels have been developed, through an extensive evaluation as representing best value for money.

The report recommends the proposed panel makeup.

IR15/036 TENDER FOR ESTABLISHMENT OF BULK MATERIALS SUPPLY PANEL - E99.3060
TENDER NO 2015-ISD057

Responsible Officer: Lindsay Usher - Acting Director Infrastructure Services

Attachments: 1. Confidential - Tender Assessment

Focus Area: Productive Communities

Delivery Program Link: P2.2 Develop, renew and maintain the road network

Operational Plan Link: P2.2.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

Council establishes a Bulk Materials Supply Panel each year for bulk materials (aggregate, pavement materials, sand and soil) to establish a pre-negotiated set of terms and pricing for which to issue orders against, so as to reduce administrative burden, achieve economies of scale, provide certainty to local industry and comply with Local Government Tendering Regulations.

To achieve greater efficiency and industry certainty for the current exercise and future, the term of the panel has been increased from one to two years with the inclusion of 'rise and fall' of pricing based on CPI (all groups).

Request for Tender No 2015-ISD057 for the Establishment of a Bulk Materials Supply Panel during the period 1 September 2015 until 31 August 2017 was advertised on 7 July 2015 and closed on 29 July 2015.

RECOMMENDATION

THAT:

1. Council establish a Bulk Materials Supply Panel for a period of two years as recommended in the confidential attachment.
2. Council enter into Deeds of Standing Offer with the Panel Suppliers under which materials shall be ordered for the duration of the agreement.

BACKGROUND

Tenders have been invited for the Establishment of a Bulk Materials Supply Panel for a two year period from 1 September 2015 until 31 August 2017.

A total of nine tenders were received as follows:

1. Batemans Bay Sand and Gravel
2. Cadgee Quarry & Concrete
3. Coastal Concrete & Quarry
4. Eurobodalla Quarry & Concrete
5. J M Beashel

**IR15/036 TENDER FOR ESTABLISHMENT OF BULK MATERIALS SUPPLY PANEL -
TENDER NO 2015-ISD057**

E99.3060

6. Narooma Sand Soil & Gravel
7. Shepherd Quarry
8. Schmidt Quarries
9. Soilco

A summary of the evaluation including each tenderer's scoring against the evaluation criteria and pricing is provided in the confidential attachment.

Legal

Request for Tender (RFT) No 2015-ISD057 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertising on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla).

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms have been completed and signed by the TEB.

The proposed Supply Panel has been ranked in order of price and, where two companies are priced evenly, a secondary evaluation of compliance criteria as listed within the TEP has determined a split in rankings.

The rise and fall provision for the variation of materials pricing at the anniversary of the Deed has been carefully considered and deemed the most fair and appropriate measure.

Consultation with prospective tenderers on this provision occurred at the Industry Brief for the RFT held on 14 July 2015 and the proposal was broadly accepted.

Policy

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

Environmental

The requirement for tenderers to have a written environmental management policy has been made an essential criteria within the Statement of Requirement for the current RFT.

Economic Development Employment Potential

The change to a two year Supply Panel from the previous annual arrangements will provide greater certainty for panelled suppliers. With greater business certainty suppliers will be able to undertake business and workforce planning with more confidence.

**IR15/036 TENDER FOR ESTABLISHMENT OF BULK MATERIALS SUPPLY PANEL -
TENDER NO 2015-ISD057**

E99.3060

Financial

All orders raised against the proposed Supply Panel will be funded individually by the relevant works or maintenance program. The Supply Panel will be available for use across all applicable Council programs. This will allow programs to avoid unnecessary procurement administration associated with seeking offers separately for projects.

The transition to a two year supply panel will provide efficiencies for Council.

Community Engagement

An Industry Brief was held on 14 July 2015 to advise prospective bidders on changes from the previous Supply Panel Request for Tender.

The community will be informed of the tender outcome via Council's Contract Register on Council's website as follows:

<http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information>

CONCLUSION

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the proposed Supply Panel has been developed, through an extensive evaluation, as representing best value for money.

The report recommends the proposed panel makeup.

IR15/037 TENDER FOR CRUSHING OF ROAD BASE MATERIALS AT RIFLE RANGE QUARRY - TENDER NO 2015-ISD062 E08.2462

Responsible Officer: Lindsay Usher - Acting Director Infrastructure Services

Attachments: 1. Confidential - Tender Assessment

Focus Area: Productive Communities

Delivery Program Link: P2.2 Develop, renew and maintain the road network

Operational Plan Link: P2.2.1 Deliver capital and renewal works program

EXECUTIVE SUMMARY

A requirement exists for the provision of services to crush road base material at the Rifle Range Quarry in Narooma. This material is used for the construction of roads within the Eurobodalla. The generation of this material in-house represents a significant efficiency as compared to purchasing material from other sources. This tender is for the crushing of up to 30,000 cubic metres of material over the next two years. This quantity will ensure that adequate material will be available for Council's requirements for this timeframe.

Request for Tender No 2015-ISD062 was advertised on 7 July 2015 with a closing date of 28 July 2015.

RECOMMENDATION

THAT:

1. The tenderer ranked 1 in the confidential attachment to this report be accepted for Crushing of Road Base Materials at Rifle Range Quarry.
2. Council approves the entering into a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender, unless otherwise varied in accordance with this report.

BACKGROUND

Tenders have been invited for the Crushing of Road Base Materials at Rifle Range Quarry.

A total of three tenders were received as follows:

1. Divall's Earthmoving & Bulk Haulage – Goulburn, NSW
2. Milbrae Quarries Pty Ltd – Leeton, NSW
3. Starlight Excavations – Rosebud, Victoria

A summary of the evaluation including each tenderer's scoring against the evaluation criteria and pricing is provided in the confidential attachment.

IR15/037 TENDER FOR CRUSHING OF ROAD BASE MATERIALS AT RIFLE RANGE QUARRY - TENDER NO 2015-ISD062 E08.2462

Legal

Request for Tender (RFT) No 2015-ISD062 was advertised in accordance with Local Government (General) Regulation 2005 REG 167 and Local Government Act 1993.

The tender was advertising on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal (www.tenderlink.com/eurobodalla).

Upon release of the RFT a Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council due to the fact that they had the highest aggregate score.

The rise and fall provision for the variation of crushing of road base materials pricing at the anniversary of the Deed has been carefully considered and deemed the most fair and appropriate measure. Consultation with prospective tenderers on this provision occurred at the Industry Brief for the RFT held on 21 July 2015 and the proposal was broadly accepted.

Policy

The procurement activity for which this report applies has been conducted in accordance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2005 and the Local Government Act 1993.

IR15/037 TENDER FOR CRUSHING OF ROAD BASE MATERIALS AT RIFLE RANGE QUARRY - TENDER NO 2015-ISD062 E08.2462

Environmental

The delivery of the contract will be in accordance with the Rifle Range Quarry Management Plan which details the environmental controls that minimise the impact of activity on the environment. Controls include (but not limited to):

- silt fence directing water flow from the quarry to a sediment retention pond
- defined limits of work

Asset

The delivery of the contract will be in accordance with the Rifle Range Quarry Management Plan which defines how this asset is managed. The crushed base material produced will be used in the construction and rehabilitation of Council roads and other assets, providing a cost effective option for the delivery of projects in this and future financial years.

Social Impact

The material produced will be used in a number of infrastructure projects, including roads, bridges, footpaths and car parks, with the associated social benefit to the community.

Economic Development Employment Potential

This work supports the infrastructure networks within the shire, providing a cost effective material for projects which has the flow on effect of improved infrastructure for business, tourism and residents alike.

Financial

The operation of the Rifle Range Quarry is on a cost neutral basis, with the costs of works in the quarry offset by the use of gravel on works projects.

Community Engagement

The community will be informed of the tender outcome via Council's Contract Register on Council's website as follows:

<http://www.esc.nsw.gov.au/inside-council/council/public-access-to-information>

CONCLUSION

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the preferred tenderer has been assessed, through an extensive evaluation as representing best value for money.

The report recommends the preferred tenderer list.

FBD15/062 INVESTMENTS MADE AS AT 31 JULY 2015

E99.3517

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Strategic Objective: Support Services

Delivery Plan Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

- certify that Council's investments in financial instruments have been made in accordance with the legal and policy requirements
- provide information and details of investments
- raise other matters relevant to investing

RECOMMENDATION

THAT the certification that the investments as at 31 July 2015 made in accordance with the Act, Council's investment policy and the provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, be received.

CONSIDERATIONS

Legal

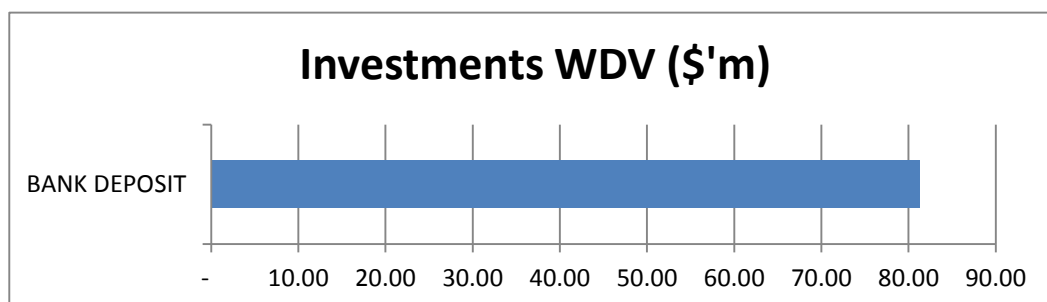
Budgeted legal fees for 2015-2016 are \$0.03m with nil expenditure incurred this year to date. Credit crisis related legal costs for the financial years 2008-2015 were \$0.37m.

Policy

Investments comply with Council's Investment policy.

Financial

Council Investing Overall



FBD15/062 INVESTMENTS MADE AS AT 31 JULY 2015

E99.3517

Council has 100% (\$81.25m) invested in bank deposits. The bank deposits are in banks rated A or greater or covered by the AAA rated Government Guarantee (except \$1.75m with IMB (Rated BBB+)). Investment in Government Guaranteed Deposits is \$2.5M and represents 3.09% of the portfolio.

The weighted average return for all investments for the month is 2.94% which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (2.40%).

Collateralised Debt Obligation (CDO)

A Proof of Claim has been lodged on behalf of Council in respect of the scheme of arrangement (Scheme) between Lehman Brothers Australia Limited (in liquidation) and its Scheme Creditors. This matter should be substantially finalised by the end of the first quarter of the 2015-2016 financial year. Legal action against the Commonwealth Bank and Standard and Poors is proceeding and any developments will be advised when information is received.

Summary Investment Information

The following tables summarises investment categories and balances at month end.

CATEGORY	WDV (\$)
At Call Deposit Government Guaranteed	250,000
At Call Deposit	3,502,885
Term Deposits	75,250,000
Term Deposits Government Guaranteed	2,250,000
	\$81,252,885
<i>Weighted Average Interest %:</i>	<i>2.94%</i>
<i>Average 90 day BBSW + 25%:</i>	<i>2.40%</i>

FBD15/062 INVESTMENTS MADE AS AT 31 JULY 2015

E99.3517

Policy and Liquidity Risk

The investment policy is divided into two risk categories of credit risk (risk of ultimately not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term). Our investments comply with the risk policy as shown in the following table.

Policy Risk	Low Liquidity Risk %	Medium Liquidity Risk %	High Liquidity Risk %	Total % WDV
Remote Risk	3.09	0.00	0.00	3.09
<i>Policy Limit</i>	<i>100.00</i>	<i>70.00</i>	<i>50.00</i>	
Near Risk Free	94.76	0.00	0.00	94.76
<i>Policy Limit</i>	<i>100.00</i>	<i>50.00</i>	<i>30.00</i>	
Some Limited Risk	2.15	0.00	0.00	2.15
<i>Policy Limit</i>	<i>30.00</i>	<i>20.00</i>	<i>10.00</i>	
At Risk	0.00	0.00	0.00	0.00
<i>Policy Limit</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>	
Grand Total:	100.00	0.00	0.00	100.00

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1 and the audited unrestricted current ratio as at 30 June 2014 is 2.85:1. Council therefore has approximately \$2.85 of current assets for each \$1 of current liabilities.

CONCLUSION

Certification

Pursuant to provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, I hereby certify that these investments have been made in accordance with the Act and related Regulations.

FBD15/063 LICENCE FOR CARAVAN AND CAMPING EXPO - MACKAY PARK

E05.9612

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

The South Coast Caravan, Camping and Holiday Expo has been successfully conducted by the Caravan and Camping Industry Association NSW (CCIA) on the Mackay Park Reserve at Batemans Bay since 2002. To secure tenure for continuing occupation of Mackay Park the CCIA have sought a further five-year licence.

Mackay Park is a Crown Reserve under the Trusteeship of the Eurobodalla (North) Reserve Trust for which Council is Trust Manager. As Trust Manager, Council can grant a temporary licence for use of the reserve for a period of less than twelve months without the consent of the Minister administering the Crown Lands Act. A licence over twelve months requires consent from the Minister.

Due to Crown Land's new administrative and approvals procedure for consenting to licences for terms over twelve months including the need to show fairness and transparency in dealing with prospective licensees, there is insufficient time to obtain the Minister's consent for a five-year licence to commence in time for this year's event.

Accordingly, this report recommends a temporary licence be granted to the CCIA to conduct this year's event.

A procedure to satisfy the Crown Lands Division's requirements regarding fairness and transparency in consenting to licences for terms in excess of twelve months is currently being developed.

RECOMMENDATION

THAT:

1. Council as Trust Manager for the Eurobodalla (North) Reserve Trust grant a temporary licence to the Caravan and Camping Industry Association NSW to stage the South Coast Caravan, Camping and Holiday Expo on the Mackay Park Reserve at Batemans Bay subject to terms and conditions in the previous licence excepting:
 - (a) The licence period be from 1 to 12 November 2015 inclusive.
 - (b) The fee be the greater of:
 - (i) Three thousand five hundred dollars (\$3,500) plus GST; or
 - (ii) Eight percent (8%) of gross ticket sales for the event plus GST.

FBD15/063 LICENCE FOR CARAVAN AND CAMPING EXPO - MACKAY PARK

E05.9612

BACKGROUND

At its Ordinary meeting held on 14 October 2014 Council considered a report regarding the granting of a licence for the South Coast Caravan, Camping and Holiday Expo on the Mackay Park Reserve at Batemans Bay and resolved:

THAT:

1. *Council as Trust Manager for the Eurobodalla (North) Reserve Trust grant a temporary licence to the Caravan and Camping Industry Association NSW to stage the South Coast Caravan, Camping and Holiday Expo on the Mackay Park Reserve at Batemans Bay subject to the following terms and conditions:*
 - (a) *The licence period be from 1 to 12 November 2014 inclusive.*
 - (b) *The fee be the greater of:*
 - i. *three thousand dollars (\$3,000) plus GST; or*
 - ii. *eight percent (8%) of gross ticket sales for the event plus GST.*
 - (c) *Lodgement of a Security Deposit of \$3,000 refundable subject to making good of any damage.*
 - (d) *The provision of public liability insurance in accordance with Council policy.*
 - (e) *The provision of a traffic management plan acceptable to Council for the event.*
 - (f) *The provision of suitably qualified persons to render first aid during the event.*
 - (g) *The provision of suitably qualified persons to ensure security during the event.*
 - (h) *The disposal of all waste brought onto or generated on-site.*
 - (i) *No glass receptacles are to be brought onto the reserve.*
 - (j) *The erection of any temporary structure is to comply with Part H102 "Temporary Structures" of the Building Code of Australia.*
 - (k) *Electricity usage will be based on meter readings before and after the event in accordance with Council's adopted fees and charges and all electrical leads and equipment should be tagged in accordance with relevant Australian Standards.*
 - (l) *Damage to the reserve resulting from the event is to be made good.*
2. *A procedure be developed to satisfy the Crown Lands Division's requirements regarding fairness and transparency in consenting to licences for terms in excess of twelve months.*

CONSIDERATIONS

This event has been held successfully since 2002. To secure tenure for continuing occupation of Mackay Park the CCIA have sought a further five-year licence.

Legal

Mackay Park is a Crown Reserve for Public Recreation R580022 under the control of the Eurobodalla (North) Reserve Trust for which Council is Trust Manager.

FBD15/063 LICENCE FOR CARAVAN AND CAMPING EXPO - MACKAY PARK

E05.9612

As Trust Manager, Council can grant a temporary licence for use of the reserve for a period of less than twelve months without the consent of the Minister administering the Crown Lands Act. A licence over twelve months requires consent from the Minister.

Due to Crown Land's administrative and approvals procedure for consenting to licences for terms over twelve months including the need to show fairness and transparency in dealing with prospective licensees, there is insufficient time to obtain the Minister's consent for a five-year licence to commence in time for this year's event.

A procedure to satisfy the Crown Lands Division's requirements regarding fairness and transparency in consenting to this and any other licences for terms in excess of twelve months is currently being developed and is expected to be presented to Council for consideration within the next few months.

Licence Conditions

Conditions of the previous licences include:

- The provision of public liability insurance in accordance with Council policy.
- The provision of a traffic management plan acceptable to Council for the event.
- The Licensee to provide suitably qualified persons to render first aid and to provide security.
- The Licensee to be responsible for the disposal of all waste brought onto or generated on the site and the reserve should be left in a clean and tidy state.
- No glass receptacles are to be brought onto the reserve. This is to ensure the safety of sporting users of the oval.
- Any temporary structures erected on the reserve should comply with the requirements of the Building Code of Australia.
- All electrical leads and equipment should be tagged in accordance with relevant Australian Standards.
- The Licensee to be responsible for making good any damage to the oval and other facilities used at Mackay Park during the event.

These should also be conditions in the proposed licence.

Policy

This event is in line with Council's Events Policy.

Social Impact

The Expo is a very popular event with an average of approximately 8,000 attendees per event. This event attracts local residents and visitors from outside the Shire.

Economic Development Employment Potential

Whilst not specifically measured by the event organisers, it is estimated that the Expo delivers an economic benefit well in excess of \$1 million to the local economy.

FBD15/063 LICENCE FOR CARAVAN AND CAMPING EXPO - MACKAY PARK

E05.9612

Financial

The licence fee for the previous licence was the greater of \$3,000 plus GST increasing annually in line with the CPI, or 8% of the gross ticket sales for the event plus GST. The recommended licence fee for the proposed temporary licence is the greater of \$3,500 plus GST or 8% of the gross ticket sales for the event.

A security bond of \$3,000 is considered appropriate.

Community Engagement

A procedure to satisfy the Crown Lands Division's requirements regarding fairness and transparency in consenting to licences for terms in excess of twelve months is currently being developed.

CONCLUSION

The South Coast Caravan, Camping and Holiday Expo at Mackay Park is a popular event and it is recommended Council support this event.

FBD15/064 EXTINGUISHMENT OF EASEMENT - WRAY STREET, BATEMANS BAY 81.2097.B

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development
Attachments: 1. Confidential - Registered Proprietor
Focus Area: Support Services
Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services
Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

An easement to drain water currently exists within Lot 15 DP 26299 in Wray Street, Batemans Bay. There are no pipes within the easement and approved and unapproved building works, a carport and decking, extend over the easement.

The matter has been considered previously by Council in 2004 when it resolved to consent to the extinguishment of an existing drainage easement and creation of a new easement subject to conditions.

The matter did not proceed because the then owner did not accept Council's conditions.

A new owner of Lot 15 has advised he is prepared to action the previous proposal but requested the alternate easement width be reduced from 3 metres to 1.5 metres.

This report recommends consent be given as previously resolved but reducing the width of the new easement to 1.5 metres and variable width.

RECOMMENDATION

THAT Consent be given to the extinguishment of the existing drainage easement 3.05 metres wide within Lot 15 DP 26299 in Wray Street, Batemans Bay subject to:

1. The creation and dedication of an alternate easement to drain water 1.5 metres wide and variable width as shown on the plan within report.
2. All costs associated with the extinguishment of the existing easement and dedication of an alternate easement including Council's administrative costs in the amount of \$1,100 including GST be borne by the registered proprietor of Lot 15 DP 26299.
3. The registered proprietor constructing a suitably sized sump and drainage line within part of the proposed easement at his cost.

BACKGROUND

An easement to drain water currently exists within lot 15 DP 26299 in Wray Street, Batemans Bay. There are no pipes within the easement and approved and unapproved building works, a carport and decking extend over the easement.

The matter has been considered previously by Council and at its Ordinary meeting held on 19 October 2004 resolved:

THAT:

FBD15/064 EXTINGUISHMENT OF EASEMENT - WRAY STREET, BATEMANS BAY 81.2097.B

1. *Consent be given to the registered proprietors of Lot 15 DP26299 to the extinguishment of an existing drainage easement and creation of a new easement 3 metres wide and variable within Lot 15 DP26299 subject to:*

- (a) the construction of a stormwater line within the proposed easement in accordance with engineering plans approved by Council;*
- (b) all costs associated with the relocation of the easement, including the design and construction and Council's legal costs, be borne by the registered proprietor.*

The matter did not proceed because the then owner did not accept Council's conditions.

A new owner of Lot 15 has advised he is prepared to action the previous proposal but requested the alternate easement width be reduced from 3 metres to 1.5 metres.

The name of the registered proprietor is set out in the Confidential Attachment.

A plan showing the proposal is below.



CONSIDERATIONS

Asset

Council has inspected the site and considers the reduction in width of the proposed easement to 1.5 metres to be acceptable given the nature of the terrain which would inhibit the use of large machinery. Once pipes were laid any required maintenance work would be carried out by small machinery or manual labour.

Legal

The proposal to relocate the existing easement will require a plan of survey and 88B Instrument to be registered at the Land and Property Information Office.

FBD15/064 EXTINGUISHMENT OF EASEMENT - WRAY STREET, BATEMANS BAY 81.2097.B

The plan and 88B Instrument will have to be executed on behalf of Council.

Policy

Council's policy on the extinguishment of easements calls for a valuation to be undertaken and compensation paid to Council for the betterment of the property. However in this case, as previously considered by Council, the creation of a new easement and the construction of infrastructure within it at the registered proprietor's cost negates the need for payment of compensation.

Environmental

The piping of the proposed new easement will improve the current drainage situation.

Financial

All costs associated with the relocation of the existing easement and construction of the required drainage infrastructure, including Council's administrative costs estimated at \$1,100 including GST should be borne by the registered proprietor.

CONCLUSION

Council has previously resolved to consent to the relocation of the existing easement. The reduction in width of the proposed new easement is considered acceptable.

FBD15/065 DEDICATION OF CORS PARADE AS PUBLIC ROAD

96.0536.B

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Dedication of Cors Parade as Public Road - Owner's Names

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

EXECUTIVE SUMMARY

Cors Parade is a private road being a right of carriageway in a rural residential subdivision just north of Batemans Bay.

The right of way provides access to 31 properties. A condition of the original subdivision approval required the dedication of Cors Parade as a public road, however, due to a legal technicality it was instead dedicated as a right of way.

The right of carriageway is within three properties and the registered proprietors have requested Council to accept dedication of the right of carriageway as a public road in accordance with the Council resolution made in August 2001.

Accordingly this report recommends that, in accordance with the Council resolution of August 2001 and subject to the registered proprietors of the properties involved completing a schedule of works, accepting all associated costs and dedicating the land free of land costs, Council accept the dedication of the public road.

RECOMMENDATION

THAT

1. Council enter into a Deed of Agreement with the Registered Proprietors of Lot 3 DP 873309, Lot 2 DP 1130746 and Lot 1 DP 1130746 providing for Council to accept the dedication of the rights of carriageway with the aforementioned lots as public road subject to the Registered Proprietors:
 - (a) Completing an agreed schedule of works at the Registered Proprietors' cost with certification by a Council Engineer,
 - (b) Meeting all costs associated with:
 - (i) the preparation of a survey plan,
 - (ii) registration of the plan, and
 - (iii) Council's legal and administrative costs with respect of the plan of subdivision and dedication of right of carriageway being \$1,100.
 - (c) Dedicating the right of carriageway free of land costs.
2. Consent be given to affix the Common Seal of Council to the Deed of Agreement for the

FBD15/065 DEDICATION OF CORS PARADE AS PUBLIC ROAD

96.0536.B

dedication of the rights of carriageway within Lot 3 DP 873309, Lot 2 DP 1130746 and Lot 1 DP 1130746.

BACKGROUND

Cors Parade is a private road being a right of carriageway in a rural residential subdivision just north of Batemans Bay. A plan showing the right of carriageway is below.



The subdivision was approved in 1992 with a condition that any land required for roads was to be dedicated as public road.

However, due to the fact that the land required for the access into the subdivision immediately off the highway was not owned by the developer and the owner of that land was only prepared to grant a right of way over that land, the road within the actual subdivision could not be dedicated as public road.

The road was however constructed in accordance with Council's standards at that time.

When the subdivision was registered in 1996 the right of carriageway was contained within one property retained by the developer. Conditions of the 88B Instrument, the legal dealing that created the right of carriageway, required the maintenance of the right of carriageway to be the responsibility of the registered proprietor of the lot burdened, i.e. the lot retained by the developer and further that the right of carriageway would be extinguished when the land burdened was dedicated as public road.

In 2001 the developer purchased the land burdened by the right of carriageway from the highway to the subdivision and requested Council accept dedication of the right of carriageway as public road.

In August 2001 Council resolved:

FBD15/065 DEDICATION OF CORS PARADE AS PUBLIC ROAD

96.0536.B

THAT:

- 1. An inspection be carried out of Cor's Parade, North Batemans Bay to determine if there are any outstanding maintenance issues.*
- 2. The applicant be requested to rectify any matters arising from that inspection.*
- 3. After any maintenance issues are resolved Council accept the dedication of Part Lot 1 Deposited Plan 857047 burdened by a right of carriageway as public road.*
- 4. Costs associated with the transfer of the land be borne by the applicant.*
- 5. Authority be given to affix the Common Seal of Council to all necessary documents.*

The developer was advised of Council's resolution. The inspection was carried out and the developer advised of the outstanding maintenance issues but did not proceed with the dedication at that time.

Subsequent subdivisions resulted in the right of carriageway burdening three separate properties and devolving the developer of maintenance responsibility to the three new property owners.

The Registered Proprietors of those properties have now requested Council accept dedication of the right of carriageway in accordance with the Council resolution of August 2001.

CONSIDERATIONS

Legal

The original condition of consent for the subdivision was not complied with and remains outstanding. The process required to dedicate the right of carriageway as a public road is for a plan of subdivision of the properties involved dedicating the necessary parts as public road to be prepared and registered at the Land and Property Information Office.

In order to give all parties surety of the proposal a Deed of Agreement should be entered into by Council and the landowners with Council agreeing to accept dedication of Cors Parade as a public road and the land owners agreeing to:

- (a) Completing agreed works at the Registered Proprietors' cost with certification by a Council Engineer,
- (b) All costs associated with the preparation of a survey plan, registration of the plan, Council's legal and administrative costs with respect of the plan of subdivision and dedication of right of carriageway being met by the Registered Proprietors, and
- (c) Dedication of the right of carriageway free of land costs.

Asset

If Cors Parade is dedicated as public road, Council will become responsible for ongoing maintenance. Therefore if Council was prepared to do so it should be subject to the physical road being brought up or constructed to Council's standard prior to dedication.

FBD15/065 DEDICATION OF CORS PARADE AS PUBLIC ROAD

96.0536.B

Accordingly, Council has prepared a schedule of works required for Cors Parade to be brought up to Council's standard and the landowners have agreed to carry out the necessary works at their cost.

Financial

The estimated ongoing maintenance costs is \$3000 p.a. with an annual depreciation of \$6,800.

If dedication is to be accepted, all costs associated with dedication of the right of carriageway as a public road including Council's legal and administrative costs estimated at \$1,100 including GST should be borne by the landowners and the road should be dedicated free of land costs.

Community Engagement

The landowners involved have agreed to the proposal and are willing to enter into a Deed of Agreement.

CONCLUSION

Due to a legal complication at the time of subdivision Cors Parade was not dedicated as a public road as conditioned in the original subdivision approval but created as a right of carriageway.

Consequently the maintenance of a road that was built to Council's standards and, but for the legal complication would have become a public road, has been maintained by private landowners for almost 20 years.

The right of carriageway services over 30 properties who are dependent on a few landowners to maintain their access in a satisfactory condition.

Subject to the satisfactory completion of the schedule of works determined by Council, in accordance with the original condition of development consent and in accordance with the Council resolution of August 2001, it is considered appropriate for Council to accept dedication of the private road, Cors Parade, as public road.

DR15/033 AUSTRALIAN COASTAL CONFERENCE - BALLINA

E91.3255

Responsible Officer: Neil Burnside - Councillor

Attachments: 1. 2014 Aust Coastal Councils Conference Communique
2. 2014 Aust Coastal Councils Conference Program

Focus Area: Collaborative Communities

Delivery Program Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives

EXECUTIVE SUMMARY

Councillor Burnside represented Council at the Australian Coastal Councils Conference held in Ballina and now presents his delegate's report on that Conference.

RECOMMENDATION

THAT Councillor Burnside's delegate's report on the Australian Coastal Councils Conference held in Ballina in March 2014 be received and noted.

BACKGROUND

I represented Eurobodalla Council at the Coastal Conference held in Ballina in March 2014.

The conference was convened to provide a focus on the challenges facing Australian Coastal Councils. Particularly, the Conference concentrated on population growth and variations, climate change adaptation, legal and insurance risks with coastal planning and the desire to maintain coastal character while accommodating growth.

Highlights included:

- A presentation by Denise Carlton, a demographer with ABS, who updated delegates on population trends.
- Karl Sullivan from the Insurance Council of Australia, speaking on managing coastal risks and modelling of the effects of Climate Change from an insurance perspective.
- The Principal of Beatty Legal presenting the findings of the Climate Change Legal Risks report (commissioned by the Climate Change Taskforce)

COMMUNIQUE

Representatives and other stakeholders considered current arrangements for determining Financial Assistance (FAG) grants. In the Communique issued following the conference, and consequently, the Coastal Councils called on the Abbott Government to amend the formula for

DR15/033 AUSTRALIAN COASTAL CONFERENCE - BALLINA

E91.3255

measuring populations when determining grants to take into account the impact of 'peak populations' in Australia's coastal local government areas. This is particularly relevant to our Shire. The Communique particularly made reference to the fact that census data is, historically, collected in August when coastal populations are at their lowest and that grants from other tiers of government are based on this data.

The Conference was a valuable insight into the work being done by Coastal Councils in areas of significant importance to Councils similar to our own.

Attached is the full Communiqué issued by the conference and the program for the conference.

**AUSTRALIAN COASTAL COUNCILS CONFERENCE
BALLINA – 24-26 March 2014
COMMUNIQUE**

Preamble

Representatives of Australian coastal councils and other coastal stakeholders attending the Australian Coastal Councils Conference at Ballina from 24 to 26 March, 2014, considered the current arrangements for determining Financial Assistance Grants. The representatives noted that the Report of the NSW Legislative Council General Purpose Standing Committee No. 3 titled *Tourism in local communities* recommended: *'That the NSW Government request the Federal Government to investigate a more effective method of measuring populations when determining Financial Assistance Grants, that takes into account peak population figures¹.'*

The delegates attending the conference subsequently issued the following communiqué in respect of the inquiry recommendations:

Communiqué - Recommendations of Parliamentary Coastal Inquiry

We call on the Abbott Government to amend the formula for measuring populations when determining Financial Assistance Grants to take into account the impact of peak populations in Australia's coastal local government areas and communities.

For many years coastal communities have experienced population growth at levels well above the national average. Between 1997 and 2010 the population of coastal areas outside the nation's metropolitan areas increased substantially – from 4.9 million to 6.9 million. These communities therefore represent a major portion of Australia's regional population. But while significant numbers of people have moved to the coast over recent decades, resources have not moved with them. As a result, coastal councils are struggling to meet increasing demands for infrastructure and services in their communities. This situation is compounded by the current methodology for collecting population data in the Census, which understates the number of people who depend on basic infrastructure and services in coastal communities. The census is conducted at five yearly intervals in the middle of the week in winter. As a result it does not capture data on the large number of people who would otherwise be in these communities at weekends or at other times of the year. A study of populations in coastal communities, which was conducted for the National Sea Change Taskforce by Professor Graeme Hugo, one of Australia's leading demographers, has found that a large number of people were 'missing' from the data gathered in these communities for the 2011 Census.²

The study found that once people such as tourists, absentee property owners and visitors are taken into account the population numbers in coastal communities increases substantially compared to the official permanent population figures. The population of the Mornington Peninsula Shire in Victoria, for example, would increase by more than 30,000, the Cairns Regional Council population would increase by almost 29,000, Shoalhaven City Council (NSW) by more than 22,000 and the City of Mandurah (WA) by nearly 12,000. This

¹ Recommendation 11, General Purpose Standing Committee No. 3 Report *'Tourism in local communities'*

² Hugo G and Harris K, (2013) *'Time and tide: moving towards an understanding of temporal population changes in coastal Australia'*, Adelaide

matter is of considerable concern to councils attempting to meet the needs of local communities in these areas.

This matter was recently considered by a NSW Legislative Council inquiry into funding arrangements for regional tourism promotion. The report of the General Purpose Standing Committee No.3 inquiry was tabled in the NSW Legislative Council on Thursday 6 March 2014. It recognised the impact of visitation on community infrastructure, such as parking, water, sewerage, public toilets and parks, and identified the need for improved transport infrastructure for visitors.

A submission by the National Sea Change Taskforce to the inquiry called for a more accurate method of measuring non-resident populations, stating: *'There is a clear need to establish an accurate and consistent method of measuring the impact of tourists and other non-resident population groups in Australian coastal areas to enable planners and decision-makers to better match resources with demand associated with peak population levels.'*

Having considered this matter the Committee recommended the following in the inquiry report: *'That the NSW Government request the Federal Government to investigate a more effective method of measuring populations when determining Financial Assistance Grants, that takes into account peak population figures.'*

The delegates attending the 2014 Australian Coastal Councils Conference call upon the Abbott Government, in the national interest, to adopt and implement the recommendation of the General Purpose Standing Committee in order to partly address the shortfall in funding for infrastructure and services in coastal communities. The current formula for distributing Financial Assistance Grants to councils in these areas is inequitable and is in urgent need of reform.

Program

Monday 24 March 2014

- 09:00 WELCOME TO COUNTRY – Lois Cook, a Traditional Owner of the *Nyangbul* country
 INTRODUCTION – Mayor **Barry Sammels**, Chair, National Sea Change Taskforce and Mayor of the City of Rockingham (WA)
- 09:10 SESSION AND DISCUSSION: **Coastal Issues - A Snapshot of issues facing Coastal Councils in Australia**
 Presentations and panel discussion with representatives of coastal councils from around Australia who discussed key issues facing coastal communities:
- Managing Coastal Risks – an Insurance Perspective*
Karl Sullivan, General Manager Policy, Risk and Disaster Planning, Insurance Council of Australia
Coastline Management and Planning in Ballina Shire
Matthew Wood, Manager Strategic Planning, Ballina Shire Council (NSW)
90 Mile Beach Plan
Kim Phillips, Major Land Use Planning Projects Coordinator, Wellington Shire Council (VIC)
Organisational Benchmarking
Steve Piasente, Director Corporate Services, Bass Coast Shire Council (VIC)
- 10:30 *Morning tea*
- 11:00 KEYNOTE ADDRESS AND DISCUSSION: **Population Trends in Coastal Australia** Keynote address and discussion with **Denise Carlton**, Head of Demography, Australian Bureau of Statistics
 Population trends in non-metro coastal areas over the past decade have been amongst the highest in Australia. But what are the current population trends in coastal Australia?
- 11:30 RESEARCH FORUM AND DISCUSSION:
Update on Current Climate Adaptation Research
 Dr **David Rissik**, Deputy Director and General Manager, National Climate Change Adaptation Research Facility
Coastal Carbon Matters: opportunities for local councils
 Prof **Peter Ralph**, CSIRO Coastal Carbon Cluster Leader and Professor of Marine Biology, University of Technology, Sydney
Jellyfish bloom and sting impacts and Australian coastal management
 Dr **Lisa-ann Gershwin**, Research Scientist, CSIRO Wealth from Oceans
Catchment to coast water quality information and integration
Toni Cannard, Coastal Ecologist, CSIRO Wealth from Oceans
- 12:30 *Lunch*
- 13:30 CONCURRENT SESSIONS
 SESSION MON A ORGANISATIONAL BENCHMARKING
Steve Piasente, Director Corporate Services, Bass Coast Shire Council (VIC)

	SESSION MON B	OPPORTUNITIES AND PRIORITIES FOR RESEARCH PARTNERING WITH COASTAL COUNCILS – Toni Cannard and Dr Chris Wilcox , CSIRO Wealth from Oceans
15:00	<i>Afternoon tea</i>	
15.30	CONCURRENT SESSIONS	
	SESSION MON C	COASTAL PLANNING AND MANAGEMENT <i>Assessing and managing sulfidic dredge spoil</i> Prof Richard Bush , Southern Cross University <i>Noosa Main Beach Sand Recycling</i> Russell Green , RG Strategic
	SESSION MON D	CSIRO COASTAL COLLABORATION CLUSTER UPDATE Assoc Prof Laura Stocker , Curtin University and Prof Richard Kenchington , Leader Integration Theme, CSIRO Coastal Cluster, University of Wollongong and Professorial Fellow, Australian National Centre for Ocean Resources and Security The CSIRO Coastal Collaboration Cluster presented a variety of outputs from their research project and also sought input from Councils on their recent activities relevant to coastal adaptation to climate change
17:00	CONFERENCE DAY ONE CONCLUDES	
19:00	WELCOME RECEPTION	Northern Rivers Community Gallery Hosted by Ballina Shire Council.

Tuesday 25 March 2014

- 09:00 SESSION AND DISCUSSION: **Planning for Uncertainty**
Findings of Climate Change Legal Risks Project
Andrew Beatty, Beatty Legal, on the legal implications of planning for climate change impacts
- 09:25 SESSION AND DISCUSSION: **Managing Coastal Hazards – the US Experience**
Allan Young, Manager Coastal and Natural Resource Policy, NSW Department of Planning and Infrastructure
- 09:50 SESSION AND DISCUSSION: **Coastal Planning in Victoria**
Engaging the Victorian Community on the draft Victorian Coastal Strategy 2013
Jon Hickman, Chair, Victorian Coastal Council
Providing guidance while maintaining flexibility – the importance of regional coastal planning
Jane Ryan, Project Manager, Regional Coastal Plans and **Rebecca Price**, Principal Project Officer, Coastal Services Improvement Team Regional Services, VIC Department of Environment and Primary Industries
- 10:30 *Morning tea*
- 11:00 SESSION AND DISCUSSION
Climate Adaptation Case Studies
Ms Carole Macmillan, Program Manager Strategy and Integration, VIC Department of Environment and Primary Industries and **Ms Kate Nelson**, Director of Planning and Community, East Gippsland Shire Council (VIC)
Dr Imogen Fullagar, Coordinator D'Entrecasteaux and Huon Collaboration, Kingborough Council (TAS)
- 11:35 RESEARCH FORUM AND DISCUSSION: Presentations and panel discussion on research on coastal Australia.
All at sea? The current conundrum of how to fund coastal adaptation to coastal change
Assoc Prof Geoff Wescott, School of Life and Environmental Sciences, Deakin University
Response of estuaries to climate change: investigating their role as sediment sinks
Dr Kerrylee Rogers, Research Fellow, School of Earth and Environmental Science, University of Wollongong
Coastal wetlands and mosquito hazard: can we have one without the other?
Patrick Dwyer, Fisheries Conservation Manager (North), Fisheries Ecosystems Branch, Fisheries NSW, Department of Primary Industries
- 12:30 *Lunch*
- 13:30 CONCURRENT SESSIONS
 SESSION TUE A CLIMATE ADAPTATION: COMMUNITY ENGAGEMENT
Developing the Capacity to Communicate about Climate Change

Ms **Kate Nelson**, East Gippsland Shire Council (VIC)
*Coastal Climate Risk: from "too hard" environmental
consideration to whole-of-community response*
Dr **Imogen Fullagar**, Kingborough Council (TAS)

SESSION TUE B FIELD TOUR

Hosted by Ballina Shire Council

15:00

Afternoon tea

15:30

CONCURRENT SESSIONS

SESSION TUE C

COASTAL POLICY

*Ageing in the regions: more than healthcare and
pensions*

Morgan Rennie, Policy Researcher, The Regional
Australia Institute

Facilitated workshop session on options for
developing effective policy in Australia's coastal
areas including managing population growth

SESSION TUE D FIELD TOUR

Hosted by Ballina Shire Council

17:00

CONFERENCE DAY TWO CONCLUDES

19.00

GALA CONFERENCE DINNER

Ballina Surf Club, 65 Lighthouse Parade, East Ballina

19:30

Australian Coastal Awards Presentation

Wednesday 26 March 2014

- 09:00 PRESENTATION: **Ballina Shire Council's Flood Plain Management Strategy.**
Year 10 Marine Science students from Ballina High School presented on their studies into the lower Richmond estuary that is part of their normal curriculum
- 09:15 SESSION AND DISCUSSION: COASTAL VALUES AND CHARACTER
Dr **Garry Middle**, Curtin University reported on the findings from the research project undertaken for the National Sea Change Taskforce on beaches in four WA LGAs
- 09:35 SESSION AND DISCUSSION: CARING FOR THE BEACH
Dr **Lee Andresen**, Volunteer Coordinator, Ballina Coastcare Inc.
Meeting the social needs of coastal communities through Coastcare volunteering
Naomi Edwards, Community Engagement Manager, Griffith Centre for Coastal Management, Griffith University, *The Beach Happiness Index*
Erica Davey, Project Engineer, Water Research Laboratory, University of NSW, *Beach Width: the Ideal Expectations and Observations*
- 10:30 *Morning tea*
- 11:00 SESSION AND DISCUSSION: **Managing Coastal Erosion**
Paul Busmanis, Manager Engineering Works, Ballina Shire Council (NSW)
Managing coastal erosion: a local perspective
Oliver Moles, Director of Sustainable Development, Moyne Shire Council (VIC), *Coastal hazard – Defending Port Fairy*
Kurt Laboyrie, Environmental Consultant and Operations Manager, Cronulla Coastal Management Centre, NSW Soil Conservation Service
The impacts and management of coastal erosion on the Kurnell Peninsula
- 11:50 RESEARCH FORUM AND DISCUSSION: COASTAL MARINE DEBRIS IN AUSTRALIA
Dr **Chris Wilcox**, Senior Scientist, CSIRO Marine and Atmospheric Research *A national survey of marine debris along Australia's coast, patterns and implications for local managers and policy makers*
Dr **Britta Denise Hardesty**, Research Scientist, CSIRO Marine and Atmospheric Research, *The influence and efficacy of waste management policies on coastal marine debris in Australia.*
- 12:30 *Lunch*
- 13:30 COASTAL POLICY AND RESEARCH NEEDS
- 14:30 CONFERENCE CONCLUDES

DR15/034 AUSTRALIAN COASTAL CONFERENCE 2015

**E04.8493;
E91.3255**

Responsible Officer: Rob Pollock - Councillor

Attachments: Nil

Focus Area: Collaborative Communities

Delivery Program Link: C1.1 Conduct the business of Council in an inclusive, responsive and transparent manner

Operational Plan Link: C1.1.1 Support the councillors in meeting their statutory obligations and roles as community representatives

EXECUTIVE SUMMARY

The National Sea Change Taskforce in conjunction with the Mornington Peninsula Shire Council and Frankston City Council hosted the Australian Coastal Councils Conference in March 2015. Councillor Rob Pollock OAM was Council's delegate at the Conference and presents the following report.

RECOMMENDATION

THAT Councillor Pollock's delegate's report on the Australian Coastal Councils Conference held on the Mornington Peninsula in March 2015 be received and noted.

BACKGROUND

The Australian Coastal Councils Conference was convened by the National Sea Change Taskforce (now the Australian Coastal Councils Association) and was held at Cape Schank, on Victoria's Mornington Peninsula. It was attended by representatives of coastal councils from all States, as well as members of the coastal research community and representatives of relevant government agencies.

This year's Conference had a very full program, focusing on academic and case studies. The full Conference Report and presentations can be found at <http://coastalcouncils.org.au/conference-report/>

At the conclusion of the Conference, the delegates endorsed the Executive Summary, which can be found in the Conference report.

A brief summary of some of the more relevant presentations are listed below.

- *Coastal Tourism: A Case Study*. Presented by Ms Tracey Cooper, Executive Chair, Mornington Peninsula Regional Tourism Board.
- *I Sea I Care*. Presenter Dave Donnelly – an excellent model of education and engagement of young people.

DR15/034 AUSTRALIAN COASTAL CONFERENCE 2015

**E04.8493;
E91.3255**

- Panel Discussion: *Coastal Issues and Challenges*. Professor Bruce Thom emphasized a lack of National and State guidance on coastal erosion policy including sea level rise and response; planning for and addressing impacts of coastal hazards related to sea level rise and climate change. Panel discussions covered: generating data and resourcing nationwide; place environmental issues alongside other infrastructure issues; costs, responsibilities and support; Federal policy, State Power, local problems; inconsistency in how councils are treated; identifying properties with the potential for inundation and legal compensation/insurance.
- Keynote Address: *Sea Level Change and Recent Australian Projections* – Dr John Church. The rate of sea level rise has increased – need to adapt; Projection maps – there are variabilities – information is available on website www.ipcc.ch/
- Coastal Research Forum and Discussion: *The Scope of Liability for decision-making in coastal areas: how far do protections extend?* – Dr Justine Bell, School of Law, University of Queensland. Local government has to make hard decisions; negligence law, competing interests; limited financial resources, IPP review of negligence – public functions, policy decisions = reasonable council test. Case study – illegal coastal defence structures.
- Coastal Populations: Planning for the Future. *Population Change in Seachange Regions* – Mr Andrew Howe, Senior Demographer, Regional Population Unit, Australian Bureau of Statistics. ABS Intergenerational report shows record levels of change. Sea change areas recorded a 21.7% population increase over the past 15 years. Aged population will increase as a greater proportion of the population while the proportion of younger age cohorts will decrease.
- Managing and Funding Natural Disasters in Coastal Australia: *Australian Business Roundtable for Disaster Resilience and Safer Communities* – Mr Andrew Coghlan, National Manager Emergency Services, Australian Red Cross. Discussion on Productivity Commission inquiry into natural disaster funding – potential impacts for local councils. Move from hazard risk to more collaboration and community resilience.
- Presentations and Panel Discussion on Research on Coastal Australia: *Overview of national research programs relevant to coastal councils* – Dr Andy Steven, Research Director, CSIRO Coastal, Oceans & Atmosphere. Coastal challenges – a question of balance informed by timely, transparent decisions versus protection of vulnerable environments and species.
- *Planning and bushfire risk in a changing climate* – Professor Barbara Norman, University of Canberra.

DR15/034 AUSTRALIAN COASTAL CONFERENCE 2015

**E04.8493;
E91.3255**

During the Conference, a Special General Meeting of the National Sea Change Taskforce Inc agreed to change the name of the organisation to the Australian Coastal Councils Association Inc, effective from July 2015.

A Conference Communique was unanimously agreed by delegates to be sent to the Federal Treasurer calling for the retention of the National Census in its current form, as this forms a key tool for councils and other agencies in their planning processes.

CONCLUSION

I believe there were certain aspects of this Conference that were relevant to Eurobodalla's situation, however I found a lot of the Conference was very Victorian-centred.

17. DEALING WITH MATTERS IN CLOSED SESSION

In accordance with Section 10A(2) of the Local Government Act 1993, Council can exclude members of the public from the meeting and go into Closed Session to consider confidential matters, if those matters involve:

- (a) personnel matters concerning particular individuals; or
- (b) the personal hardship of any resident or ratepayer; or
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business; or
- (d) commercial information of a confidential nature that would, if disclosed;
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law; or
- (f) matters affecting the security of the council, councillors, council staff or council property; or
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege or information concerning the nature and location of a place; or
- (h) an item of Aboriginal significance on community land.

and Council considers that discussion of the material in open session would be contrary to the public interest.

In accordance with Section 10A(4) of the Local Government Act 1993 the Chairperson will invite members of the public to make verbal representations to the Council on whether the meeting should be closed to consider confidential matters.

RECOMMENDATION

THAT pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

CON15/013 Property Matter

Item CON15/013 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

EUROBODALLA SHIRE COUNCIL

ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

ETHICAL DECISION MAKING

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

CONFLICT OF INTEREST

A conflict of interest is a clash between private interest and public duty. There are two types of conflict: Pecuniary – regulated by the *Local Government Act* and Department of Local Government; and Non-Pecuniary – regulated by Codes of Conduct and policy, ICAC, Ombudsman, Department of Local Government (advice only).

THE TEST FOR CONFLICT OF INTEREST

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of "corruption" – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

IDENTIFYING PROBLEMS

- 1st** Do I have private interests affected by a matter I am officially involved in?
- 2nd** Is my official role one of influence or perceived influence over the matter?
- 3rd** Do my private interests conflict with my official role?

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

AGENCY ADVICE

Officers of the following agencies are available during office hours to discuss the obligations placed on Councillors, Officers and Community Committee members by various pieces of legislation, regulation and Codes.

CONTACT	PHONE	EMAIL	WEBSITE
Eurobodalla Shire Council Public Officer	4474-1000	council@eurocoast.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Local Government Department	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	8286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

Reports to Committee are presented generally by 'exception' - that is, only those items that do not comply with legislation or policy, or are the subject of objection, are discussed in a report.

Reports address areas of business risk to assist decision making. Those areas include legal, policy, environment, asset, economic, strategic and financial.

Reports may also include key planning or assessment phrases such as:

Setback Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);

Envelope taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;

Footprint the percentage of a lot taken up by a building on a site plan.

Acronym	Meaning	Description
ACR	Australian Capital Region	The political and strategic grouping of the ACT government and 17 adjacent councils.
AEP	Annual Exceedance Probability	For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.
AHD	Australian Height Datum	Floor levels for buildings set to remain at or above flood level (expressed as 'freeboard').
APZ	Asset Protection Zone	Area to be cleared and maintained around habitable buildings in bushfire prone areas.
AS	Australian Standard	Standards set by national body as minimum construction, service, system, planning or design requirements.

Acronym	Meaning	Description
BCA	Building Code of Australia	Prescribes minimum standards or performance base for building construction.
CAMP	Companion Animal Management Plan	Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).
CC	Construction Certificate	Floor plans approved by council or private certifier in compliance with development conditions and BCA.
COPW	Condition of Public Works Report	Required by state law to define the condition of infrastructure assets, the cost to upgrade to defined standards, the current costs of maintenance and desired levels of maintenance.
CP	Cultural Plan	A cultural plan enables identification of cultural assets, identity and needs as well as providing a framework to develop cultural initiatives to increase opportunities for residents.
CSR	Complaint and Service Request	Requests received from public by phone, letter, email or Councillor to attend to certain works (eg pothole) or complain of certain service or offence (eg dogs barking).
DA	Development Application	Required by state law to assess suitability and impacts of a proposed development.
DAP	Disability Action Plan	Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.
DCP	Development Control Plan	Local planning policy defining the characteristics sought in residential, commercial land.
DECCW	Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)	State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.
DWE	Department of Water and Energy	State agency managing funding and approvals for town and country water and sewer services and State energy requirements.
DoP	Department of Planning	State agency managing state lands and regulating council activity or advising on development applications or strategic planning.
DLG	Department of Local Government	State agency responsible for regulating local government.
DoL	Department of Lands	State agency managing state lands and advising on development applications or crown land management.
DoC	Department of Commerce	State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.

Acronym	Meaning	Description
DoH	Department of Health	State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.
DOTAR	Department of Infrastructure, Transport and Regional Development and Local Government	Federal agency incorporating infrastructure, transport system, and assisting regions and local government.
EBP	Eurobodalla Bike Plan	Strategic Plan identifying priorities and localities for cycleways in the Shire.
EIS	Environmental Impact Statement	Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.
EMP	Estuary Management Plan	Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary
EMS	Environmental Management System	Plans prepared by council (such as waste management and strategic planning) around AS14000.
EOI	Expressions of Interest	Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.
EP&A	Environment Planning & Assessment Act	State law defining types of development on private and public lands, the assessment criteria and consent authorities.
ESC	Eurobodalla Shire Council	
ESD	Ecologically Sustainable Development	Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.
ESS	Eurobodalla Settlement Strategy	Council strategy prepared with assistance of government to identify best uses and re-uses of urban lands, the appropriate siting of private and public investment (eg institutions, employment areas or high density residential) based on current and planned infrastructure and land capacity.
ET	Equivalent Tenement	Basis of calculation of demand or impact of a single dwelling on water and sewer system.
FAG	Financial Assistance Grant	Federal general purpose grant direct to local government based on population and other 'disability' factors.

Acronym	Meaning	Description
FSR	Floor Space Ratio	A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.
GIS	Geographic Information System	Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.
IPART	Independent Pricing & Regulatory Tribunal	State body that reviews statutory or government business regulatory frameworks and pricing levels.
IPWEA	Institute Public Works Engineers Australia	Professional association.
IWCMS	Integrated Water Cycle Management Strategy (or Plan)	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.
IWMS	Integrated Waste Management (Minimisation) Strategy	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).
LEP	Local Environment Plan	The statutory planning instrument defining the zones and objectives of urban and rural areas.
LGAct	Local Government Act	State law defining the role of Mayor, Councillors, staff, financing, approvals etc.
LGMA	Local Government Managers Australia	Professional association.
LGNSW	Local Government NSW	Representative advisory and advocacy group for councils in NSW.
MOU	Memorandum of Understanding	Agreement in principle between parties (eg council and agency) to achieve defined outcomes.
NPWS	National Parks & Wildlife Service	Now merged into DECCW.
NRM	Natural Resource Management	
NVC	Native Vegetation Act 2003	State law defining means of protection of threatened legislation and approval processes to clear land.
OC	Occupation Certificate	Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.
OSMS	On site sewage management system	Includes septic tanks, aerated systems, biocycles etc.
PCA	Principal Certifying Authority	The person or organisation appointed by applicant to inspect and certify structures.

Acronym	Meaning	Description
PIA	Planning Institute of Australia	Professional association.
POEO	Protection of the Environment Operations Act	State law outlining standards for emissions and discharges and penalties for pollution.
PoM	Plan of Management (usually for community land)	Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.
PPP	Public Private Partnerships	
PTS	Public Transport Strategy	Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.
REF	Review of Environmental Factors	Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.
REP	Regional Environment Planning Policy	Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.
RFS	Rural Fire Service	State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.
RLF	Regional Leaders Forum	The group of mayors and general managers representing the councils in the ACR.
RMS	Roads & Maritime Service	State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.
S64	S64 Contributions Plan	Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.
S94 S94A	S94 Contributions Plan S94A Contributions Plan Levy Plan	Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.
SCG	Southern Councils Group	Political and strategic grouping of councils along the NSW south coast from Wollongong to the border, lobbying government for assistance (eg highways) and resourcing sharing initiatives.
SCRS	South Coast Regional Strategy	Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.

Acronym	Meaning	Description
SEA	Strategic Environment Assessment	Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure. Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.
SP	Social Plan	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

Acronym	Meaning	Description
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.