

EUROBODALLA SHIRE COUNCIL

PUBLIC FORUM

All members of the community who have registered have been advised that they have a **maximum of five minutes** to put their case.

Ordinary Meeting of Council on 27 November 2018

Name	Subject/Comments
Public Forum – 10.00am	
Stuart Scobie on behalf of Broulee Memorial Gardens	PET18/005 Broulee Burial Vaults
Harry Bingley	PET18/005 Broulee Burial Vaults
David Rivett	PET18/005 Broulee Burial Vaults
Jim Bright	GMR18/029 Annual Report 2017-18
Lei Parker	GMR18/029 Annual Report 2017-18 CAR18/041 Categorisation of Community Land at Kyla Park, Tuross Head
Yolanda Imms	CCS18/058 Licence for Outdoor Eating Area - Perry Lane, Batemans Bay
Paul Smith	CCS18/057 Leases at Moruya Airport - Skydive Oz
Stephen Bourke – Netball NSW	CAR18/039 Captain Oldrey District Sports Park Landscape Masterplan
Owen Cartledge	CAR18/039 Captain Oldrey District Sports Park Landscape Masterplan

21st November 2018

Our ref: 18-0027

General Manager
Eurobodalla Shire Council
P.O. Box 99
Moruya, NSW 2537

Dear General Manager

RE: BROULEE MEMORIAL GARDENS BURIAL VAULTS MODIFICATION TO CONSENT 1289/04-M3 – PETITION RESPONSE

On behalf of Broulee Memorial Gardens & Crematorium (BMGC), I would like to present Councillors with a considered response to the petition tabled by those objecting to aspects of the current DA Modification being assessed by Council Planning staff for the introduction of burial vaults to this facility.

This petition is asking for two specific outcomes, firstly, that the DA modification not be approved and secondly that the DA modification be voted on by councillors.

In response to the first outcome, BMGC strongly requests that Council does approve the DA Modification for the reasons that I will outline shortly. In response to the second outcome, BMGC is happy for either delegated approval or direct Councillor debate and voting on this issue as they have faith in either process to reach a well-reasoned solution that is in the best interests of all ratepayers in the shire.

To clearly outline the current proposal under Council assessment I offer the following summary;

- This DA is seeking to modify the original DA, for the facility, to permit 28 burial vaults in a specific and discreet location within the Gardens.
- A burial vault is defined as an above ground burial structure where the remains of the deceased are required to be embalmed and encased in a coffin within the structure. Burial Vaults are primarily used by European nationalities and form a very small percentage of overall burials, however, no national statistics are available.
- Approximately 500 people die in the Eurobodalla Shire each year. Of these deaths, 3.8% are physically buried at BMGC i.e. approx. 19 people. Based on historical enquiries for burial vaults at BMGC, approximately 2 of these 19 burials might choose a vault option per year.
- The proposed number of burial vaults within the modified DA would notionally meet demand for the next 14 years should it be approved as submitted.
- The proposed burial vault zone comprises an area of 1560m² which equates to less than 2% of the total site area of the Memorial gardens and is in excess of 800m away from the only residence that would have a direct line of site to the development. This residence primarily faces the opposite direction in its building orientation.

To address the two key objections raised in the petition, I offer the following alternative views from BMGC to assist Councillors in understanding why this modification has been proposed and how the final design was arrived at.

The petition firstly asserts that "the erection of the burial vaults will be an eyesore to surrounding properties and will destroy the pleasantness and attractiveness of the existing lawn cemetery."

The location, scale and surrounding landscape treatment of the burial vaults zone have been specifically designed to be not visible from Broulee Road and all adjacent neighbours on the Southern and Eastern sides of



the facility. It is almost impossible to completely hide these structures from the Northern adjacent residence as a result of its elevation on an overlooking hill, however, feature tree plantings, perimeter hedging 1800mm high and an existing backdrop of a 3-4m high planting screen and mound have all been used to minimise the visual impact of this proposal from the North. In addition, this residence is in excess of 800m from the proposed burial vault zone and oriented away from the Memorial Gardens facility.

Therefore, the proposition that a development that comprises less than 2% of the overall land area of the existing Memorial Gardens and is effectively screened from all adjacent neighbours excepting one that is a significant distance away will be an eyesore is not supported by fact in the view of BMGC.

Furthermore, far from the destruction of the "pleasantness and attractiveness of the existing lawn cemetery", BMGC are of the view that this proposal will enhance the gardenesque landscape theme already developed in the facility whilst providing additional burial options for our culturally diverse community in a non-discriminatory manner. This intent builds on BMGC's stated aims of "honouring a person's wishes as to their preferred funeral options and their last resting place."

BMGC has continually strived to create and maintain a high quality garden environment for both its clientele and the broader community as a reflective and peaceful memorial facility. It would be completely against the aims and objectives of BMGC to develop a portion of the Gardens that could, in any way, be perceived to be an eyesore.

Therefore, the proposition that the pleasantness and attractiveness of the Gardens would be destroyed by this proposal is also not supported by fact in the view of BMGC.

The petition secondly asserts that "we find this very disrespectful to the people whom have been already buried there as they were under the impression they were going to be buried in a rural setting – lawn cemetery."

Will the introduction of burial vaults in some way diminish the Memorial Gardens in the eyes of the relatives of those already interred there. The Memorial Gardens do not believe so. They are of the view that the majority of the community would see this as a better outcome, with more choice, undertaken in a tasteful and respectful manner. The overall visual character of the Gardens' as a lawn cemetery in a rural setting will not change at all. 98% of the site will still be predominantly a lawn cemetery with landscaped surrounds, buildings or remnant forest. BMGC is an organisation based on respect. Respectfulness is the main hallmark of the service that they perform for the community and any suggestion that they would, in some way, be disrespectful to those already buried within the Gardens or their relatives is counter to their core objectives.

As a previous example of how modifying the permitted uses of the Gardens has not had any negative effect on the overall visual amenity of the facility, I am reminded of a previous DA submission to include headstones as part of the offered alternatives on site. This submission was met with similar concerns, as those expressed currently, by some adjacent neighbours. A number of years and 60 or so headstones later, those who raised concerns regarding the potential for the Gardens becoming an eyesore now describe it as pleasant and attractive lawn cemetery. This outcome, in part, was a result of input from those same objectors in terms of additional consent conditions being included that improved the result for all parties.

Change, or the fear of change, is a challenging dilemma, at times, for us all. Will it be change for the better, will it be change for the worse or is it just change for changes sake. This proposal is not change just for changes sake. It is a well-considered and well-designed long term plan to enhance the visual amenity of the Memorial Gardens whilst providing alternative burial options for the broader community.

I encourage Councillors to consider the broader benefit for our entire community when reviewing both the tabled petition and the related application for a modified DA.

Yours faithfully



Stuart Scobie

Stuart Scobie AILA

Senior Landscape Architect

Encl: Note docs

Copy: Client Name

My name is Harold Bingley, my family and I have lived straight opposite the Broulee Crematorium since July 2000.

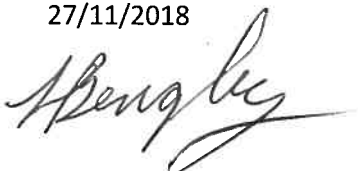
I got this petition together with the support of my neighbours to strongly object to the proposed DA for the erection of 28 burial vaults at the Broulee Crematorium.

Our reasons for objecting to this DA are because of the following:

- The vaults are a very high visual impact on the rural locality not only to my place but my neighbours as well. It doesn't fit into the beauty and pleasantness of the area as it stands at present. The erection of the vaults will have an adverse environmental, social or ecommerce impact for the Broulee Area which is consistent with previously approved DA's on this site.
- If approved these vaults will be there in this rural setting forever. Not 20 to 50 years but forever. What a tragic environmental mistake this will be.
- The people that have signed this petition have expressed concerns to me how disrespectful it is for their loved ones who are already buried there. As these people were of the understanding there loved ones were laid to rest in a pleasant rural setting.
- People who I have spoken to about this DA who have purchase plots are extremely unhappy with this proposed DA.
- Is there really a demand for this type of development? My neighbours and I had a meeting with Sturt Scovie and the lawn cemetery manager just before the DA was lodged and the manager stated when asked what sort of demand they have had for the burial vaults he said and I quote *"they have had 2 inquiries in 10 years"*. The way my neighbours and I see it, is there is not a high demand for burial vaults at Broulee.
- If council thinks that there is a demand for this type of development has council considered this development in either Batemans Bay or Mogo cemetery. Or alternately a nice building with the vaults inside, so the only people who see them are the people who want to. This way it won't affect the neighbours and doesn't affect a beautiful rural lawn cemetery in a beautiful area.

Harold Bingley

27/11/2018



Submission by David Rivett opposing proposed changed usage of property at 195 Broulee Rd Broulee, DP 1020017 Lot 41

What currently exists is a lawn cemetery which very oddly is operating despite it not complying with Councils requirement for a dense peripheral visual barrier of trees specified in the original consent. For the principals to state that the last 18 years have been too dry to meet that requirement is absurd. Council must answer why the development conditions have not been enforced.

As I have stated previously I have fenced off part of my southern paddock and planted screening pines at my own cost. Both in terms of loss of pasture and capital expense such cost has been significant, and should not have been incurred had Council's officers done their duty, and enforced compliance with the consent requirements.

When I purchased the adjacent property I was assured 195 Broulee Rd would remain a lawn cemetery and crematorium. If such usage is to radically change with the erection of multiple mausoleums, I will seek an injunction to halt such radical change and seek compensation from Council for the resultant loss of ambience afforded my property by the imposition of such an eyesore. Broulee Rd is a scenic and peaceful rural setting and the lawn cemetery is in keeping with such, or it was up until the recent institution of headstones. To suggest a collection of 28 vaults each the size of a garage or greater would not destroy such an atmosphere of rural tranquility is incredulous.

No details of the height of the vaults has been provided nor the technical details as to how odours from bodies decomposing above the ground in these structures will be contained. And having performed post mortems for over 30 years on many bodies in advanced states of decomposition I can assure you such odours are extreme.

Instances have occurred in other mausoleums where decaying bodies have exploded releasing body fluids. My main dam which supplies pumped water to all my cattle lies directly downhill from the proposed vaults and in close proximity. No engineering details have been provided as to what earthworks are proposed to ensure contaminated runoff cannot occur. The South Coast can periodically

receive torrential rainfall and any such earthworks would need to be substantial. None appear on the plans provided.

To claim that the proposed Mausoleums meet a cultural need is clearly absurd, as the principals admit that they have at most had 2 requests for such in the past 18 years. Surely if they were in demand the town Cemeteries would be better placed to house them than a rural lawn cemetery, and if they were truly in demand we would see multiple such constructions in the town cemeteries.

I would respectfully ask Council to give a firm no to this bizarre request from what is a successful lawn cemetery, and to act firmly and with haste to ensure compliance with the original consent conditions ... namely the provision of a dense visual barrier of trees about the periphery.

Items:

GMR18/029 Annual Report 2017-18.

CAR18/041 Categorisation of Community Land at Kyla Park, Tuross Head.

Mayor, Councillors

Today I wish to present on two items. The first is the Annual Report.

Whilst it is understood that Council has been granted an extension to complete the annual Financial Statements due to key staff turnover and the implementation of a new finance software system and that the figures contained in the Annual Report 2017-18 are based on unaudited financial information and maybe subject to change as the Financial Statements are finalised I seek clarity around the line item:

Information Technology on Page 37 that states:

Original Capital Expenditure Budget \$2.504 million

Actual Capital Expenditure \$4.711 million

This gives a variance of \$2.207 million with no explanation.

Question: Have Councillors been advised of the variance and the reason behind this \$2.2m variance?

I remind Councillors that on Tuesday the 26th June 2016 you endorsed the staff recommendation of their selection of the preferred Corporate Business System Implementation, Support and Value Added Service Provider tenderer and also, by that motion, provided delegated authority to the General Manager to commit to a contract value for the purchase of software licenses, implementation services and first year Maintenance and Support in accordance with the confidential attachment to that report.

You were also advised on that day that funds had been internally restricted for this purpose and that the current tendered amount can be accommodated within these funds.

I have recently been advised by a Council spokesperson that \$6.249 million was allocated in the budget, which included the cost of TechnologyOne software and implementation services as well as the cost of Council effort to deliver the project.

I have also been advised by the Council spokesperson that the TechnologyOne implementation project comprises three phases, running concurrently addressing different aspects of Council's systems and that Phase 2 and Phase 3 are in

progress and scheduled for completion before the end of 2019.

Question: With no public explanation of the reported \$2.2million variance in *Information Technology Capital Expenditure*, which is limited to hardware and software alone, and with Phase 2 and Phase 3 still to be completed, does Council anticipate further spending on this project and if so how much and how do they intend to fund any budget overrun?

The Annual report also reveals the General Managers remuneration at \$315,000

The disclosure of the General Manager's salary has been a long time coming since July 2017 when it was reported that Eurobodalla Shire Councillors gave Dr Catherine Dale a resounding endorsement at the Tuesday 13th June 2017 Council meeting when the results of her annual performance review and an extension of her contract were voted on.

Council advised then that Dr Dale's contract as General Manager had been extended for five years, commencing from 1 July 2017 with Mayor Liz Innes saying the vote "acknowledged Dr Dale's outstanding achievements against the nine key performance indicators she was assessed on."

There has been considerable consternation in the public domain around Council's apparent reluctance to reveal the General Managers remuneration following notice of her contract being extended.

This Council has failed to carry out the very clear directive of the Division of Local Government, Department of Premier and Cabinet Guidelines For The Appointment & Oversight Of General Managers that states, in part:

It is important that any decision by the governing body of council to renew a contract for the general manager and the term of that contract be reported back to an open meeting of council, together with the total amount of any salary package agreed to.

and ...

Any discretionary increases should be modest and in line with community expectations. All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.

It has taken twenty months for ratepayers to discover that the General Manager's remuneration jumped by a staggering 6.1% from \$296,866 to \$315,000 - remember *All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of council.* That has NOT been done.

Question: Can Council please advised why this was not done?

Categorisation of Community Land at Kyla Park, Tuross Head.

As today's Council agenda will become a historical document it is essential that it reflect the whole truth and not just an abbreviation.

In the agenda today it states as background, in precis only:

Council resolved on 28 June 2016 (Motion 16/184) to seek public comment on the proposed recategorisation and subject to the result, amend the relevant plans of management

What Council in fact resolved was: 16/184 MOTION Councillor Pollock/Councillor Brice

THAT: 1. The draft amended plans of management 26 - Kyla Park Community Land and 27 - Kyla Park Community Land - Areas of Cultural Significance (2003) to re-categorise the southern part of Lot 77 DP 260321 from area of cultural significance to general community use be endorsed for exhibition for a period of 28 days and that public submissions be received for a period of 42 days.

2. A consultant be engaged as an independent chairperson to hold a public hearing for the draft plans of management.

3. All submissions received by Council prior to the exhibition period and as part of the exhibition period, be provided to the consultant for his consideration.

4. A further report be received following the receipt of the public hearing report from the independent chairperson on the draft plans of management taking into account all submissions that have been received prior to this process.

That was two years and five months ago.

Might I remind Councillors that under the LOCAL GOVERNMENT ACT 1993 - SECT 335 the Functions of a general manager state in part:

(b) to implement, without undue delay, lawful decisions of the council,

It has taken two years and five months of nil action to a definitive Council directive to see this report come to Council recommending that there be no action negating the adopted motion of June 2016.

Can Council advise why the general manager, on the Kyla Park issue, contrary to SECT 335 of the Act, did NOT carry out councillors clear instructions as per the June 2016 motion and undertake the process, as directed, of recategorisation of Part Lot 77, Kyla Park?

APPLICATION BY 'DELI ON PERRY' FOR OUTDOOR EATING AREA

As the owner of premises adjacent to Deli on Perry, I want to firstly make clear that I have no objection to the concept of outdoor eating. However, I do object to this proposal which is non-compliant with the **Building Code of Australia**¹ and Council's **Footpath Trading Code**.

My first concern is that the plans lodged by the applicant are not the current plans of the premises. Council cannot properly consider this application based on the plans submitted by the applicant which do not accurately reflect the current building layout and facilities.

The plans being considered by council distort the view of the proposed outdoor seating and its impact. For example, the outdoor area is approximately 17 square metres and the applicant's proposal is to provide seating for 28. The Building Code requires that 1 square metre be provided per seat - the application is therefore proposing 53% more seating than is allowable.

My next concern relates to Health Considerations² and the provision of toilets. Deli on Perry currently has no toilets available for customers (any toilet facilities are behind food preparation areas) yet the application will increase the seating to a total of over 50 customers. The Building Code requires that food premises must provide appropriate toilet facilities based on seating capacity. For 50 customers, the Building Code requires a minimum of two toilets for patrons plus staff facilities³.

The proposal is non-compliant in several areas with the Footpath Trading Code. Council has advised that they support the application on the basis that the required 2 metre Walkway Zone will be provided next to the garden bed. Apart from this not complying with the current Code, the proposed Walkway Zone is not 2 metres in width due to the four handrails that protrude .35 metres into the Zone. In addition, tactile markers for the visually impaired further limit the available walkway to 1.3 metres for these individuals. Access for the disabled will be significantly compromised and this application will, in my view, set a concerning precedent for the Shire.

My major concern is the unapproved drop-down blinds that the applicant has installed. Council has indicated that, as a condition of the licence, the blinds will be allowed in the new outdoor area. This structure blocks all views of shops to either end of the corridor, obstructs under-awning signage, and forces pedestrians away from shopfronts. A permanent structure would not be allowed for this very reason and yet the blinds are, in effect, permanent with the capacity to be utilised 365 days a year. There is no provision under the current Footpath code for a fully enclosed structure - only for barriers between adjoining outdoor dining areas and/or along the curb zone for safety and/or amenity reasons⁴. The proposed dining area is not in the curb zone thus there is no provision for approval of the enclosed structure.

¹ The **National Construction Code** is an initiative of the Council of Australian Governments (COAG) developed to incorporate all on-site construction requirements into a single code. The NCC includes the **Building Code of Australia** (BCA), Volumes One and Two.

² Section 5.1.10 of the **ESC Footpath Trading Code**.

³ Refer also the Australian Standards for the **Design, construction and fit-out of food premises** (AS 4674).

⁴ **Footpath Trading Code**, Section 5.1.3.

As an adjoining shop-owner, my premises are being put at a significant disadvantage by the blinds which divert shoppers away from my premises. I have observed that most people move out to the centre pathway because they are faced with a solid structure. This problem will not be resolved by requiring that the applicant reduce the current awning by only 0.4 metres as proposed.

In summary, I am very concerned that Council has indicated an intention to approve the application which is non-compliant with the Australian Building Code, the Australian Standards for food premises, the Disability Access Code and Council's own Footpath Code. It significantly disadvantages my business and sets a precedent that will, amongst other things, impact negatively on the disabled.

The rationale behind a footpath code is to allow shoppers to shelter from the weather under the building eaves and attract them into shops through viewing the goods on display. This is fundamental to making businesses attractive, viable and accessible to the community. This proposal will approve a structure erected on community land forcing pedestrians away from shopfronts. In addition, it will be impossible for Council to ensure compliance at all times given that, as acknowledged in Council's report, the owner currently has shown a disregard for maintaining a clear Walkway Zone.

My premises have been vacant for over two years and have suffered as a result of the unapproved blinds installed by the applicant. It seems so unfair that my premises are compromised and economically devalued at the expense of the applicant.

I put this question to Council: with all the issues of non-compliance with the various Codes, the complaints Council has already received from the public, and by limiting access for the disabled, on what grounds and for what reason would Council approve this proposal and especially the structure that is so detrimental to other business owners on that strip?

Attachment: Photos of the applicant's outdoor eating area, including the drop-down blinds.



Paul Smith
Public Forum

Name Paul Smith from Skydive Oz

- We started @ Moruya Airport 2007
- With 2 staff & small 5 seat aircraft.
- We now have 16+ staff and a large 18 Place aircraft

I have 3 Point that we are about.

- ① High Quality & Service facilities
- ② EVENTS
- ③ More student & sports jumpers on a more Regular Basis.

Questions ?

CAR18/039
Captain Oldrey District Sports Park Landscape Master Plan

Eurobodalla Shire Council

November 2018



Thank you Mayor, Councillors and Senior Staff for the opportunity to speak in regard to the Master Plan for Captain Oldrey Reserve. I also pay my respects to the traditional land owners past and present.

My name is Stephen Bourke

I am the State Manager Facilities & Infrastructure with Netball NSW

I am joined here today by Nikita Sevula Regional Development Officer - South (South Coast and Riverina and tender apologies for representatives of Eurobodalla Netball Association who could not make the meeting today.

Netball NSW is a member based federation of 115 associations spread across the state. We have regular and ongoing communication with all local councils in NSW last count around 132 local governments.

Netball competitions are best delivered at centralised venues with multi-courts that cater for a region. Netball caters for all age brackets Net-Set-Go for the young and enthusiastic to Walking Netball for people of all abilities.

Local Competitions for the region and for those that wish pathways and opportunities for representative teams and state titles right through to the potential of playing in the Suncorp Super Netball with Sydney Swifts or perhaps the Giants.



Netball NSW appreciates, that Council is faced with many challenges created by - population increases – trying to find the right formula for financial sustainability – the changing and increasing expectations of the community – management of our ageing community assets.

We understand that Eurobodalla Council have taken a strategic decision to obtain a big picture view of community needs as a first step by undertaken a Recreation and Open Space Strategy 2018 referred as ROSS18. This study sub-sequentially identified that additional sporting capacity is required in order to meet current and future expected sporting demands. Eurobodalla Council faces a similar challenge confronting many Local Councils across NSW and around Australia.

Council and staff have taken the logical and pragmatic step to review existing facilities to ensure they provide “a value for money” option before moving onto developing greenfield sites.

Captain Oldrey Reserve has been identified at capacity already on peak load days (game days mainly Saturdays) and at key training times. The development of the site master plan has optimise the capacity of this venue thus increasing utilisation for existing and future demand. Netball has 630 members which is nearing court capacity. With the forecast increase in population more courts are going to be essential just to keep pace with population increases. (As a general planning benchmark 1 new netball court is required for every 3500 increase in population.)





The Masterplan as presented has evolved from the initial draft and provides a vision for Captain Oldrey, identifying what it should look like and how it should function into the future.

It presents a consistent direction, providing a framework for ongoing improvement in a sensitive manner, it is not 'development at all cost' but considers the relationship between:

- current character and functionality of the landscape
- public opinion, expectations and needs
- emerging issues and trends
- the realities of the economic, social, environmental and legislative context of the time.

The result is a master plan that is well considered and balances needs across a range of differing interests.

It is presented in a fashion that clearly identifies priorities and a logical order of delivery for future development over an extended time period so that ad hoc improvements are avoided, and community use and long-term viability are maximised.

Netball as a beneficiary within the master plan, will not be a passive observer waiting for someone else to deliver the outcomes.

Netball as a sport has a tradition and practice of working collaboratively with our strategic partners quite capable and willing to seek and secure alternate funding sources to advance these longer term plans.

By having a detailed Master Plan will further enhance the potential of securing funds. At present various opportunities are current with Federal and State Grant funding programs being rolled out.

In closing Netball NSW supports the Master Plan as presented

commends Council on its structured approach in addressing the needs of the residents of the Shire

And we look forward to working collaboratively with Council to bring the Captain Oldrey Master Plan to life.

*Stephen Bourke
Facilities & Infrastructure Manager
27th November 2018*



Captain Oldrey Park (COP) Owen Contledge

I wish again to express my concern about the plan for COP presented to nine Councillors this morning.

The changes from the previous Draft Document are minimal. Clearly the ESC staff are not for turning. Hopefully a majority of ESC Councillors today will have seen the light.

Again, today over 60% of the Bangalay forest is still pencilled in as a possible oval site. It is again stated that ~~that~~ other alternative sites will be examined. My concern is that in 5, 10, or 15 years when the ESC examines alternative sites, they will not try very hard.

I received a staff response to my address on ~~10~~ 11 September and it stated

"the vast majority of the existing vegetation on site will be retained" ~~if~~ and when

an oval goes ahead 60% will be lost, 2
40% retention, So 40% retention, is
"vast majority", - 40%, a very strange
understanding of the connection between the
quantitative and the qualitative.

Likewise any quantitative analysis
of ~~the~~ the community responses to the draft
report is lacking. The ESC staff response
to submissions deserves a fail grade.

Having attended the evening, April 2018
meeting at Broulee school along with Councillors
Mayne + McGinlay I received a definite
quantitative message. All but one or two
attendees were in favour of no^{new} oval at
C.O.P.

I hope the Broulee community receive
the response they deserve, similar to the
Tuross community and their grazing lands.

State and Federal elections are indicating
that communities are changing. They have had
enough, my gut feeling is, so too in Eurobodalla.