



AGENDA

Ordinary Meeting of Council

24 September 2019

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

ON TUESDAY 24 SEPTEMBER 2019

COMMENCING AT 11.00AM

AGENDA

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

1. WELCOME

2. ACKNOWLEDGEMENT OF COUNTRY

3. APOLOGIES

Nil

2. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

2.1 Ordinary Meeting held on 10 September 2019

3. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

(Declarations also to be made prior to discussions on each item)

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4. MAYORAL REPORTS

5. NOTICES OF MOTION

Nil

6. QUESTIONS ON NOTICE FROM COUNCILLORS

Nil

7. PETITIONS

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8. GENERAL MANAGER'S REPORTS

Nil

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Nil

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14. URGENT BUSINESS

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16. CONFIDENTIAL MATTERS

**DR CATHERINE DALE
GENERAL MANAGER**

**PET19/002 PROVISION FOR A LOW-IMPACT SPLASHPAD WITHIN THE PLAN OF MANAGEMENT
FOR CORRIGANS RESERVE, BATEHAVEN**

E97.1337

Responsible Officer: Councillor Rob Pollock

Attachments: 1. Under Separate Cover - Confidential - Petition

Councillor Rob Pollock has given notice that at the Ordinary Meeting of Council on 24 September 2019, he will submit a petition provided to him by Charles Stuart, on behalf of the Bay Push Inc and signatures concerned, for Council to consider including the provision for a kiddies low-impact splashpad, adjacent to the existing Variety Inclusive Playground, Batemans Bay within the Plan of Management for Corrigans Reserve, Batehaven.

MOTION

THAT Council consider this petition in the development of a Plan of Management for Corrigans Reserve.

BACKGROUND

Petition specifically states:

'The revision of the Plan of Management for Corrigans Reserve, Batehaven is imminent and community support exists for the provision of a 'Splashpad' adjacent to the recently completed and highly successful Variety Inclusive Playground, Batemans Bay. The Splashpad is designed to appeal to all levels of ability and will be free to all and compliment the inclusive elements available at Corrigans Reserve'.

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Under Separate Cover - Confidential - Submissions
2. Summary of submissions and responses [↓](#)
3. Under Separate Cover - Draft Rural R5 Large Lot Residential and E4 Environmental Living Zones DCP
4. Draft Rural DCP - amendments to all other DCPs [↓](#)

Outcome: Responsible and Balanced Development

Focus Area: 6.1 Plan for growth and encourage increased investment and development outcomes

Delivery Program Link: 6.1.2 Review and prepare planning strategies, policies and studies

Operational Plan Link: 6.1.2.1 Ongoing review and update of planning controls

EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council adopt the draft Rural, R5 Large Lot Residential and E4 Environmental Living Zones Development Control Plan (draft Plan). Council endorsed the draft Plan for public exhibition at the Ordinary Meeting of Council on 13 August 2019 (Min 19/157).

The draft Plan was publicly exhibited from 14 August to 12 September 2019 and during this period, 73 submissions were received, including 64 form letters. The issues raised are summarised and a response provided in this report. A summary of the submissions is attached, together with a confidential comprehensive copy for councillors.

The draft Plan introduces the terrestrial biodiversity mapping into a Development Control Plan (DCP) and provides additional information to address concerns raised by the NSW Rural Fire Service (RFS).

RECOMMENDATION

THAT:

1. Council adopts the draft Rural, R5 Large Lot Residential and E4 Environmental Living Zones Development Control Plan (draft Plan) and associated amendments to all other Development Control Plans.
2. Council place a public notice in a local newspaper to advise that the draft Rural, R5 and E4 Zones Development Control Plan has been adopted and will commence either on the gazettal date of amendment to the Eurobodalla Local Environmental Plan 2012 (Amendment No. 11) or on the date that the notice appears in the local newspaper, whichever is the later date.

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

BACKGROUND

The draft Plan has been prepared in conjunction with the implementation of the Rural Lands Planning Proposal, currently with the Department of Planning, Industry and Environment (Department). On 28 August 2018, Council endorsed the Rural Lands Planning Proposal to be sent to the Department to make the Plan (Min 18/224). In accordance with this determination, Council staff sent a final package to the Department on 18 December 2018.

On Friday 28 June 2019, Council staff had a teleconference with the Department and representatives of the Minister's office (Minister). It was advised that the Department would progress the amendment to the *Eurobodalla Local Environmental Plan* (ELEP 2012) to the Minister, on the basis that the commencement of the amended ELEP 2012 would be deferred until the end of September. This enables the draft Plan to be prepared that includes the terrestrial biodiversity mapping and addresses the remaining concerns of the RFS.

CONSIDERATIONS

The draft Plan applies to the following rural and rural residential zones:

- RU1 – Primary Production
- RU4 – Primary Production Small Lots
- R5 – Large Lot Residential (lots equal to or greater than 5000m²) and
- E4 – Environmental Living (lots equal to or greater than 5000m²).

The draft Plan includes standard provisions on the siting of developments, setbacks, parking and access, views, signage, subdivision, built form, site considerations and site works which are consistent with the existing Residential Zones DCP and Rural Subdivision DCP.

As a result of the draft Plan, minor amendments to all existing DCPs will be required, including amending the Tree Preservation clause, introducing a new biodiversity clause and ensuring references to *Environment Planning and Assessment Act 1979* (EP&A Act) are up to date.

Public Exhibition

The draft Plan was publicly exhibited between 14 August and 12 September 2019. During the exhibition period, Council received 73 submissions, including 64 form letters, relating to the draft Plan.

The submissions received during the period raised several issues that have been summarised and responded to in the following table:

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

Table 1: Issues raised during public exhibition.

Comment	Response
<i>How can the public judge the adequacy of the draft Plan without understanding the final amendment of the ELEM 2012?</i>	<p>The draft Plan is consistent with Council's adopted position contained in the Rural Lands Planning Proposal, and is a negotiated outcome with the relevant government agencies. Further, Council has been requested to prepare this Plan so it is in place when the ELEM 2012 planning amendment comes into effect.</p> <p>At this stage the Department is responsible for progressing the amendment of the ELEM 2012 and Council assumes, based on verbal advice received, that the amendment will be put into place without change.</p>
<i>Draft Plan is only temporary and will need to change</i>	<p>The draft Plan was prepared to implement Council's adopted position to remove the terrestrial biodiversity mapping from the ELEM 2012 into a DCP, ensuring that it is in place from the outset of the amendment to the ELEM 2012 coming into effect.</p> <p>A development control plan (DCP) should be regularly reviewed, responding to trends and issues that arise.</p>
<i>Removing the biodiversity clause and terrestrial biodiversity mapping from the ELEM 2012 and replacing them in the draft Plan is watering down protection measures</i>	<p>Locating the biodiversity clause and subsequent map in the draft Plan will achieve the same outcome as having these provisions in the ELEM 2012.</p> <p>The principal environmental requirements are contained in the <i>NSW Biodiversity Conservation Act 2016</i> and these requirements will continue to apply to development in Eurobodalla.</p>
<i>Land use conflict in rural areas is not addressed in the draft Plan</i>	<p>Land uses that are permitted with consent, will require a development application and be assessed according to the objectives of the zone and whether it is appropriate in specific localities. Council has not observed any patterns of issues related to land use conflicts and there is no requirement to include provisions in the draft Plan</p> <p>Council intends to review the draft Plan in the future and at that time can provide greater guidance on management of land use conflict if required.</p>
<i>Government agency revised submissions from OEH and RFS have not been made public</i>	<p>The revised feedback received from the RFS and Office of Environment and Heritage (OEH) is not Council's responsibility to make public and was used specifically to inform the draft Plan.</p> <p>The draft Plan was publicly exhibited from 14 August to 12 September 2019.</p> <p>Copies of the revised feedback from the RFS and OEH have been made available to those who have requested the information.</p>

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

Comment	Response
<i>Other government agency concerns have been ignored</i>	Government agency concerns have not been ignored. The concerns were addressed as part of processing the Rural Lands Planning Proposal and a subsequent response was provided to address these issues in the Council meeting on 28 August 2018 (Report PSR18/069) after the public exhibition period.
<i>Schedule 4 of the draft Plan ignores permissible land uses on land not identified in the table</i>	Schedule 4 addresses the land identified by the RFS that requires additional bushfire protection measures in addition to requirements under Planning for Bushfire Protection. Development on land not identified in Schedule 4 will be assessed in accordance with a range of State and local requirements, including Planning for Bushfire Protection.
<i>Schedule 4 only addresses dwellings and ignores other land uses</i>	Schedule 4 addresses 'development' including a range of land uses not limited to just dwellings.
<i>Schedule 4 ignores the concern raised about tree removal for the required Asset Protection Zones (APZs) on land identified</i>	Schedule 4 only addresses bushfire protection issues on identified properties. Any proposed development requiring the removal of vegetation to comply with Asset Protection Zones (APZs) will be assessed in accordance with controls in the draft Plan relating to biodiversity and tree preservation. Furthermore, vegetation removal will need to comply with the environmental requirements contained in the NSW <i>Biodiversity Conservation Act 2016</i> .
<i>Change from the application from areas to suburbs needs to be rectified</i>	The change in use from areas to suburbs in Schedules 4 and 5 of the draft Plan, is intended to make it clearer for the public to identify land.
<i>Links to some legislation and policy in the draft Plan cannot be found</i>	Noted. Council will review the links in the draft Plan however, the documents linked to the draft Plan are publicly accessible and do not require a link to access them.
<i>Setbacks in the draft Plan are too small in distance</i>	The setback controls referred to in the draft Plan are consistent with controls currently applied to rural development in our Shire. To date, the setback controls have been appropriate.
<i>Biodiversity Values Map is not user friendly</i>	The Biodiversity Values Map is a map created or managed by OEH and therefore it is not under the control of Council.
<i>Draft Eurobodalla Native Vegetation Map is not user friendly</i>	Noted. Council will review and consider whether the draft Eurobodalla Native Vegetation Map can be relocated on Council's GIS mapping system to be more user friendly.
<i>The note in the Bushfire Protection section of the draft Plan suggesting developers first consult with RFS is unrealistic and naïve</i>	Consulting with agencies who may have an interest in a Development Application, is considered best practice, assists in early consideration and resolution of potential issues.

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

Comment	Response
<i>There needs to be more development controls that prevent runoff and erosion to wetlands and oyster growing areas</i>	<p>A small number of potential additional lots and dwellings are facilitated in water catchment areas, including catchments of oyster growing areas.</p> <p>Any development proposal that is permissible now or will be permissible as a result of the Rural Lands Planning Proposal, will be assessed with regards to its potential impact on water quality.</p> <p>Water quality is strongly regulated through State planning policy and therefore does not need additional controls within the draft Plan.</p>

In addition, the submissions raised several issues pertaining to the amendment of the ELEP 2012 which are not relevant to the draft Plan. A response was provided to address these issues in the Council meeting of 28 August 2018 (Min 18/224) after the public exhibition period of the Rural Lands Planning Proposal.

Having considered the submissions received, it is recommended that the draft Plan be adopted without amendment, with the understanding that the draft Plan will be reviewed in the future. The review of the draft Plan will provide further consideration of the need for guidance relating to matters such as rural tourism and other permissible non-agricultural activities, rural land use conflicts, rural scenic values and cultural landscapes and farm buildings.

Legal

Division 3.6 of the *Environmental Planning and Assessment Act 1979* states that a council may prepare a DCP to provide guidance to persons proposing to carry out development and the consent authority assessing the development.

In accordance with Part 3 of the *Environmental Planning and Assessment Regulations 2000*, the draft Plan was placed on public exhibition for a minimum of 28 days and submissions received during this time are considered by Council before deciding whether to adopt the draft Plan.

Public notice of Council's decision to adopt the draft Plan will be made within 14 days of the decision.

Policy

The draft Plan provides guidance to applicants and development assessment staff on the expectations for development in rural areas, including land zoned RU1, RU4, R5 (for land equal or greater than 5000m² in area) and E4 (for land equal or greater than 5000m² in area). The draft Plan provides planning provisions that relate to the proposed amendment of the ELEP 2012 relating to rural lands.

**PSR19/022 DRAFT RURAL, R5 AND E4 ZONES DEVELOPMENT CONTROL PLAN
POST EXHIBITION**

E16.0182

Environmental

The draft Plan incorporates the biodiversity overlay mapping as a link to the draft Eurobodalla Native Vegetation Map on Council's GIS mapping system and includes controls that ensure that biodiversity is comprehensively assessed as part of the development assessment process.

The impact of vegetation removal will continue to be assessed in accordance with the requirements of the *Biodiversity Conservation Act*.

Community and Stakeholder Engagement

The draft Plan was on public exhibition between 14 August and 12 September 2019. During this period, the draft Plan was on Council's website and a hard copy was provided at Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

Public exhibition of the draft Plan was promoted through a public notice in the local newspaper and a media release.

The draft DCP was referred to NSW RFS for comment. No submission was received. It is however noted, that the DCP content and format is as per advice from the RFS.

CONCLUSION

A draft Rural, R5 Large Lot Residential and E4 Environmental Living Zones Development Control Plan (draft Plan) has been prepared to include the terrestrial biodiversity mapping into an appropriate planning instrument and address the remaining concerns raised by the NSW Rural Fire Service.

The draft Plan has been prepared in response to the Department, requesting that a Development Control Plan be in place before implementation of the amendment of the *Eurobodalla Local Environmental Plan 2012* relating to rural lands.

The draft Plan was on public exhibition between 14 August and 12 September 2019.

Council received 73 submissions relating to the draft Plan which have been considered and summarized in this report. Having considered the submissions, it is recommended that Council adopt the draft Plan without amendment.

Response to submissions received - draft Rural, R5 and E4 Zones Development Control Plan

Number	Issues raised	Response
1	1. How can the community comment on the draft DCP without the benefit of seeing the final amended Eurobodalla LEP?	The draft DCP is consistent with Council's adopted position, the Planning Proposal, and negotiated outcome with government agencies. Further, Council has been requested to prepare the draft DCP so that it is in place when the ELEP 2012 amendment comes into effect. At this stage, the Department Planning, Industry & Environment (Department) is responsible for progressing the amendment of the Eurobodalla Local Environmental Plan (ELEP) 2012, and Council must assume that the amendment will be put into effect without change.
	2. Attempting to address the concerns of the RFS is entirely unsatisfactory because it is piecemeal and the outcomes are uncertain and unenforceable.	The concerns of RFS are being addressed in the draft DCP in accordance with their recent advice. Schedules 4 and 5 clearly address sites that are a high or extreme bushfire risk, and present the necessary bushfire protection measures in addition to planning for bushfire protection.
	3. The moving of the biodiversity clause and terrestrial biodiversity mapping from the Eurobodalla LEP to the draft DCP is a significant watering down of the protections.	Relocating the biodiversity clause and subsequent map in the draft Plan will achieve the same outcome as having them located in the ELEP 2012. The principal environmental requirements are contained in the NSW Biodiversity Conservation Act 2016 and these requirements will continue to apply to development in Eurobodalla.
	4. The land-use conflict and fragmentation of productive agricultural land will result in the increase in allowable land-uses on rural lands and smaller minimum lot sizes.	Land-uses that are permitted with consent, will require a development application and be assessed according to the objectives of the zone and whether it is appropriate in specific localities. Council intends to review the draft Plan after the amendment of the ELEP 2012 takes effect, with a focus on potential land-use conflict. The Rural Lands Planning Proposal does not result in the fragmentation of productive agricultural land, but establishes minimum lot sizes that will facilitate modest development and subdivision in some rural areas.
	5. Vegetation clearing will cause deteriorating water quality, devastating the oyster industry and recreational and commercial fishing.	A small number of potential additional lots and dwellings are facilitated in water catchment areas, including catchments of oyster growing areas. Any development proposal that is permissible now, or will be permissible as a result of the Rural Lands Planning Proposal, will be assessed in accordance with State planning policy controlling water quality, and tree removal will need to comply with the provisions in the draft Plan relating to biodiversity and tree preservation. Council have consulted with the oyster growers and received a letter from the Clyde River Shellfish Quality Assurance Program Committee stating that they did not object to the ELEP amendment. Further, areas identified as environmentally sensitive areas (ie, wetlands, littoral rainforests, etc) will continue to be protected in accordance with Clause 3.3 of the ELEP 2012.
2	Same as above	Same as above
3	Same as above	Same as above
4	Same as above	Same as above
5	Same as above	Same as above
6	Same as above	Same as above
7	Same as above	Same as above
8	Same as above	Same as above
9	Same as above	Same as above
10	Same as above	Same as above
11	Same as above	Same as above
12	Same as above	Same as above
13	Same as above	Same as above
14	Same as above	Same as above
15	Same as above	Same as above
16	Same as above	Same as above
17	Same as above	Same as above
18	Same as above	Same as above
19	Same as above	Same as above

Response to submissions received - draft Rural, R5 and E4 Zones Development Control Plan

Number	Issues raised	Response
20	Same as above	Same as above
21	Same as above	Same as above
22	Same as above	Same as above
23	Same as above	Same as above
24	Same as above	Same as above
25	Same as above	Same as above
26	Same as above	Same as above
27	Same as above	Same as above
28	Same as above	Same as above
29	Same as above	Same as above
30	Same as above	Same as above
31	Same as above	Same as above
32	Same as above	Same as above
33	Same as above	Same as above
34	Same as above	Same as above
35	Same as above	Same as above
36	Same as above	Same as above
37	Same as above	Same as above
38	Same as above	Same as above
39	Same as above	Same as above
40	Same as above	Same as above
41	Same as above	Same as above
42	Same as above	Same as above
43	Same as above	Same as above
44	Same as above	Same as above
45	Same as above	Same as above
46	Same as above	Same as above
47	Same as above	Same as above
48	Same as above	Same as above
49	Same as above	Same as above
50	Same as above	Same as above
51	Same as above	Same as above
52	Same as above	Same as above
53	Same as above	Same as above
54	Same as above	Same as above
55	Same as above	Same as above
56	Same as above	Same as above
57	Same as above	Same as above
58	Same as above	Same as above
59	Same as above	Same as above
60	Same as above	Same as above
61	Same as above	Same as above
62	Same as above	Same as above
63	Same as above	Same as above
64	Same as above	Same as above

Response to submissions received - draft Rural, R5 and E4 Zones Development Control Plan

Number	Issues raised	Response
65	1. Cannot rely on the draft Plan as the only means of addressing concerns raised about the implementation of the Rural Lands Planning Proposal.	The draft Plan is not the only planning mechanism in dealing with rural land-use matters. Any proposed development in rural areas will need to comply with the relevant planning, biodiversity and bushfire legislation, and also be assessed in accordance with State planning policy and the <i>Eurobodalla Local Environmental Plan 2012</i> .
	2. Require a strategic plan to deal with bushfire risk.	Bushfire risk can continue to be addressed through the development assessment stage and does not necessitate a strategic plan across Eurobodalla. Development needs to comply with planning for bushfire protection and in many cases, proposed development requires NSW RFS concurrence to ensure bushfire risk is mitigated.
	3. Terrestrial biodiversity mapping should not be discarded.	The terrestrial biodiversity mapping will not be discarded and is included in the draft Plan. The draft Plan includes a biodiversity provision that refers to the biodiversity mapping in Council's GIS system.
	4. Increase land clearing.	The draft Plan has provisions relating to biodiversity and tree preservation that will minimise unnecessary land clearing. It is also important to note that land clearing will also need to comply with biodiversity legislation, requiring biodiversity assessment and possibly triggering the Biodiversity Offset Scheme threshold.
66	Support of the draft DCP and finalisation to amending the ELEP 2012 (rural lands).	Noted.
67	1. Rezoning from R5 to RU4. 2. Land-use conflict.	The rezoning of land is not a matter that can be addressed in the draft Plan. New land-uses that are permitted with consent will require a development application and be assessed according to the objectives of the zone, and whether it is appropriate in specific localities. Any new land-uses will require public exhibition and/or notification, and allow adjacent property owners to object or respond to development applications.
68	Draft plan ignores reputable scientific information and will lead to the destruction of Eurobodalla's natural beauty and heritage.	The draft Plan includes provisions relating to biodiversity, tree preservation and bushfire protection that look to protect the natural environment. Any development resulting in land clearing will also need to comply with the relevant legislation and State planning policies. In no way does the draft Plan impact on heritage matters that are identified and protected within the ELEP 2012.
69	Draft plan will lead to the destruction of Eurobodalla's natural environment and bushfire risk is not appropriately addressed.	The draft Plan includes provisions relating to biodiversity, tree preservation and bushfire protection that look to protect the natural environment. Any development resulting in land clearing will also need to comply with the relevant legislation and State planning policies. Furthermore, Schedules 4 and 5 in the draft Plan identify land that is high and extreme bushfire risk, ensuring Council and NSW RFS carefully consider future development in accordance with bushfire risk and the relevant legislation.
70	Objection to property being identified in Schedule 5 of the draft Plan as 'land unlikely to achieve adequate bushfire protection'.	Schedule 5 in the draft Plan is advice provided by NSW RFS on land identified as an extreme bushfire risk, and to reduce unrealistic expectations it needs to remain in the document. However, it is a planning consideration and if a proposed development can prove to mitigate the bushfire risk and address other concerns, development may be permissible.
71	Objection to property being identified in Schedule 5 of the draft Plan as 'land unlikely to achieve adequate bushfire protection'.	Same as above.
72	Objection to property being identified in Schedule 5 of the draft Plan as 'land unlikely to achieve adequate bushfire protection'.	Same as above.

Response to submissions received - draft Rural, R5 and E4 Zones Development Control Plan

Number	Issues raised	Response
73	1. How can the public judge the adequacy of the draft DCP without the final Eurobodalla LEP?	The draft DCP is consistent with Council's adopted position, the Planning Proposal, and negotiated outcome with government agencies. Further, Council has been requested to prepare the draft DCP so that it is in place when the ELEP 2012 amendment comes into effect. At this stage, the Department Planning, Industry & Environment (Department) is responsible for progressing the amendment of the Eurobodalla Local Environmental Plan (LEP) 2012, and Council must assume that the amendment will be put into effect without change.
	2. Draft DCP is only a temporary document.	The draft Plan was prepared to immediately address the issue of removing the terrestrial biodiversity mapping from the ELEP 2012, ensuring that biodiversity can be adequately assessed, and bushfire risk appropriately identified from the outset of the amendment to the ELEP 2012 coming into effect. A development control plan (DCP) should be regularly reviewed, responding to trends and issues that arise. Council have been clear that the intent is to revise the draft Plan after the amendment of the ELEP 2012 takes effect.
	3. The moving of the biodiversity clause and terrestrial biodiversity mapping from the Eurobodalla LEP to the draft DCP will make it only advisory.	Relocating the biodiversity clause and subsequent map in the draft Plan will achieve the same outcome as having them located in the ELEP 2012. The principal environmental requirements are contained in the NSW Biodiversity Conservation Act 2016 and these requirements will continue to apply to development in Eurobodalla.
	4. Where are the revised submissions from RFS and OEH so the public can test them against what is proposed in the draft DCP?	The revised feedback received from RFS and OEH is not Council's responsibility to make public, and was used to specifically inform the draft Plan. The draft Plan was publicly exhibited from 14 August to 11 September 2019. Copies of the revised feedback from RFS and OEH have been made available to those that have requested the information.
	5. Have the concerns raised by other government agencies been similarly addressed?	Other government agency concerns have not been ignored and a response was provided to address these issues in a report (PSR18/069) to the Council meeting on 28 August 2018, after the public exhibition period of the Rural Lands planning proposal.
	6. What changes have been made to the Eurobodalla Rural Lands Planning Proposal as a result of discussions with government agencies?	Any changes to the Rural Lands Planning Proposal are the responsibility of the Department to implement in finalising the amendment of the ELEP 2012, and are not relevant to the draft Plan.
	7. Why have these government agency concerns not been accepted? Why is Council going against the government's own agencies' strong opposition?	Government agency concerns have been considered and the draft Plan is in direct response to some of these concerns raised.
	8. Schedule 4 in the draft DCP ignores rural areas of Eurobodalla that have always had a rural zoning, and will have an increase in the number of land-uses permitted on these lands.	Schedule 4 addresses the land identified by RFS that requires additional bushfire protection measures in addition to requirements under planning for bushfire protection. Development on land not identified in Schedule 4 will be assessed in accordance with a range of NSW Government and local requirements, including planning for bushfire protection.
	9. Schedule 4 in the draft DCP ignores facility construction that are not strictly dwellings, but are where people will congregate and need bushfire protection.	Schedule 4 addresses 'development' including a range of land-uses not limited to just dwellings. Dwellings have been specifically identified in the table as they pose the greatest risk to life, however, other development will be assessed in accordance with planning for bushfire protection.
	10. 'Areas' are now identified in the draft DCP with the use of the term 'suburb'.	The change in use from 'areas' to 'suburbs' in Schedules 4 and 5 of the draft Plan is intended to make it clearer for the public to identify land.

Response to submissions received - draft Rural, R5 and E4 Zones Development Control Plan

Number	Issues raised	Response
11.	Schedule 4 in the draft DCP does not address OEH concerns regarding the potential tree clearing as a result of complying with Asset Protection Zones (APZs).	Schedule 4 only addresses bushfire protection issues on identified properties. Any proposed development requiring the removal of vegetation to comply with APZs, will be assessed in accordance with controls in the draft Plan relating to biodiversity and tree preservation. Furthermore, vegetation removal will need to comply with the environmental requirements contained in the NSW Biodiversity Conservation Act 2016.
12.	Some links in the document do not link to documents and mapping is not user friendly.	Noted. Council will review the links in the draft Plan, however, the documents linked to the draft Plan are publicly accessible and do not require a link to access them. Further, we will look into mapping the draft Eurobodalla Native Vegetation Map on Council's GIS mapping system easier to locate.
13.	Biodiversity Values Map is not user friendly.	The Biodiversity Values Map is a mapping system created or managed by OEH and therefore, it is not under the control of Council.
14.	Setback controls are small distances and very questionable.	The setback controls referred to in the draft Plan are currently applied to rural development in Eurobodalla. To date, the setback controls have been appropriate.
15.	The use of a schedule table and a note to advise proponents to discuss their proposal with the RFS prior to lodgement of a development application, is unrealistic and a naive attempt to mitigate public expectations.	As properties identified in Schedules 4 or 5 have been identified as high or extreme bushfire risk, it is essential that property owners consult with the RFS as soon as possible to ensure owners are fully aware of the bushfire protection measures required before proceeding with any proposed development. This will, to some extent, reduce unrealistic expectations and is considered good practice.
16.	Additional erosion and runoff prevention is needed close to sensitive wetlands and oyster growing areas.	A small number of potential additional lots and dwellings are facilitated in water catchment areas, including catchments of oyster growing areas. Any development proposal that is permissible now, or will be permissible as a result of the Rural Lands Planning Proposal, will be assessed with regards to its potential impact on water quality. Water quality is comprehensively regulated through State planning policy and therefore, does not need additional controls within the draft Plan. Council have consulted with the oyster growers and received a letter from the Clyde River Shellfish Quality Assurance Program Committee stating that they did not object to the ELEP amendment.
17.	Several concerns with the Rural Lands Planning Proposal.	Concerns raised about the Rural Lands Planning Proposal were considered and addressed after the public exhibition period of the planning proposal at Council's meeting on 28 August 2018. These concerns are not relevant for the purpose of assessing the draft Plan.
18.	Concern about Council's capacity to implement the draft DCP.	Council has a number of planning staff that are qualified and experienced in assessing development applications, and understand the issues facing rural development in Eurobodalla.
19.	Draft DCP does not address potential corruption.	The draft DCP is a document that cannot deal with issues around corruption and probity. It is also important to state that the comments are unsubstantiated.
20.	Draft DCP creates a poor planning precedent.	Council would disagree that the draft DCP is a poor planning precedent, as it provides controls around environmental and bushfire risk issues that have been raised through the implementation of the Rural Lands Strategy and subsequent Rural Lands Planning Proposal.

Amendment of Eurobodalla's Development Control Plans

The following amendments apply to all of Council's Development Control Plans, including:

- Batemans Bay Regional Centre DCP
- Bodalla Village DCP
- Industrial Zones DCP
- Moruya Township DCP
- Narooma Township DCP
- Neighbourhood Centres DCP
- Nelligen Village DCP
- Residential Zones DCP
- Tilba Villages and Conservation Area DCP
- Mogo Village Commercial Centre DCP

[1] Update Section 6.1 Tree Preservation

6.1 Tree Preservation

Intent:

- *To minimise impacts on native flora and fauna, particularly threatened species.*

Development Controls:

- A1 *All development on land to which the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 applies must comply with that policy.*
- A2 *Clearing of vegetation that is not likely to significantly affect threatened species must comply with the Eurobodalla Tree Preservation Code. Clause 7.2 of the Biodiversity Conservation Act 2016, describes when an activity is likely to significantly affect threatened species which includes:*
- (a) *If it is found to be likely to significantly affect threatened species according to the test in Section 7.3 of the Biodiversity Conservation Act 2016;*
 - (b) *If the area of clearing exceeds the threshold described in Clause 7.2 of the Biodiversity Conservation Act 2016; or*
 - (c) *If the clearing is of native vegetation on land included on the Biodiversity Values Map.*

[2] Add new Section 6.2 Biodiversity

6.2 Biodiversity

Intent:

- *To maintain terrestrial and aquatic biodiversity, including the following:*
 - (a) protecting native fauna and flora,*
 - (b) protecting the ecological processes necessary for their continued existence,*
 - (c) encouraging the recovery of native fauna and flora and their habitats,*
 - (d) maximising connectivity, and minimising fragmentation, of habitat.*

Development Controls:

- A1** *Before determining a development application for development on land identified as "Native Vegetation" on the Native Vegetation Map, the consent authority must consider any adverse impact of the proposed development on the following:*
- (a) native ecological communities,*
 - (b) the habitat of any threatened species, populations or ecological community,*
 - (c) regionally significant species of fauna and flora or habitat,*
 - (d) habitat elements providing connectivity.*
- A2** *Development consent must not be granted to development on land identified as "Native Vegetation" on the Native Vegetation Map, unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
 - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Note:

The proposed amendments to each Council's Development Control Plans will be publicly exhibited and displayed Eurobodalla Shire's Administration Building and the Moruya, Narooma and Batemans Bay libraries.

**PSR19/027 DRAFT COMMUNITY ENGAGEMENT FRAMEWORK AND
PARTICIPATION PLAN - EXHIBITION**

E05.9582

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Under Separate Cover - Community Engagement Framework and Participation Plan

Outcome: Responsible and Balanced Development

Focus Area: 6.1 Plan for growth and encourage increased investment and development outcomes

Delivery Program Link: 6.1.2 Review and prepare planning strategies, policies and studies

Operational Plan Link: 6.1.2.1 Ongoing review and update of planning controls

EXECUTIVE SUMMARY

The purpose of this report is to recommend that Council endorse public exhibition of the draft Community Engagement Framework and Participation Plan (draft Plan).

Community Participation Plans (CPPs) are a new requirement under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The purpose of the CPP is to provide a single document that the community can access which explains how they can participate in the planning process.

Currently, Council outlines community engagement commitments for the planning process in the Advertising and Notification Code and Community Engagement Framework (CEF).

The draft Plan has been prepared to meet the new requirements for a CPP under the EP&A Act. The CPP has been prepared by simply merging Council's existing Community Engagement Framework adopted by Council in 2017 and the Advertising and Notification Code. The CPP is therefore consistent with current Council policy and practice.

The draft Plan incorporates all minimum mandatory exhibition timeframes for development applications, amending Local Environmental Plans and Development Control Plans and strategic planning documents such as Local Strategic Planning Statements and Community Participation Plans, into the existing CEF.

The draft Plan is consistent with Council's current community engagement commitments and complies with recent changes in planning legislation. The draft Plan will supersede the Council's Advertising and Notification Code.

As prescribed in Schedule 1 of the EP&A Act, the draft Plan needs to be publicly exhibited for 28 days.

**PSR19/027 DRAFT COMMUNITY ENGAGEMENT FRAMEWORK AND
PARTICIPATION PLAN - EXHIBITION**

E05.9582

RECOMMENDATION

THAT:

1. Council endorse the draft Community Engagement Framework and Participation Plan to be publicly exhibited for 28 days.
2. Following public exhibition, a further report be submitted to Council for consideration of submissions and adoption of the draft Community Engagement Framework and Participation Plan.

BACKGROUND

Community Participation Plans (CPPs) are a new requirement under the *Environmental Planning and Assessment Act 1979* (EP&A Act) and came into effect on 1 July 2018. Councils are required to have a CPP in place by 1 December 2019.

Currently, Council outlines community engagement commitments in several documents including Council's Advertising and Notification Code and Community Engagement Framework (CEF). Under section 402 of the *Local Government Act 1993*, the CEF was adopted by Council on 16 February 2017 whilst the Advertising and Notification Code is annually reviewed and updated.

The purpose of the CPP is to provide a single document that the community can access which explains how the community can participate in the planning process.

Council staff have attended several webinars facilitated by the Department of Planning and Environment and worked together to understand how Council can best respond to the legislated changes in the most practicable way.

CONSIDERATIONS

In summary, considerations to meet requirements of the CPP include:

Considerations to meet requirements of the CPP	Comments
The options to prepare a standalone CPP or include the requirements in an existing community engagement document (prepared under section 402 of the <i>Local Government Act 1993</i>).	Requirements for a CPP have been included within the CEF to create the draft Plan. This will avoid duplication and unnecessary confusion. The CEF was prepared under section 402 of the <i>Local Government Act 1993</i> and adopted on 16 February 2017.
Minimum public exhibition timeframes (consistent with Schedule 1 of the EP&A Act).	The draft Plan tables minimum public exhibition timeframes for planning functions as specified in Schedule 1 of the EP&A Act. These timeframes are consistent with Council's commitment with the Advertising and Notification Code or relevant planning

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PARTICIPATION PLAN - EXHIBITION**

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	legislation.
A CPP should include all other non-mandatory community participation commitments.	The draft Plan includes non-mandatory public exhibition period of 28 days for other strategies, masterplans, studies, policies and guidelines, depending on the urgency, scale and nature of each individual proposal. It also refers to public exhibition period of 14 days for applications relating to development consent modifications.
Clarity about what is meant by public exhibition.	The draft Plan provides explanation on what is meant by public exhibition, as was originally written in the Advertising and Notification Code.
The period between 20 December to 10 January is excluded from the calculated public exhibition period.	Council already commits to excluding the period from 20 December to 10 January from the calculated public exhibition period. In most cases, Council tries to avoid exhibiting in this period altogether.
Revoke the community participation requirements form any DCP.	The Advertising and Notification Code will be revoked once the draft Plan is adopted.

The draft Plan must be adopted by Council and published on the NSW Planning Portal by 1 December 2019.

Legal

CPP requirements are defined in division 2.6 and Schedule 1 of the EP&A Act. The Act states that CPP requirements apply to all councils in relation to their planning functions.

The draft Plan meets the requirements of the EP&A Act.

Policy

The draft Plan will replace Council's Advertising and Notification Code. The necessary information in the Advertising and Notification Code has been transferred into the draft Plan to ensure it is consistent with previous advertising and notification requirements.

Social Impact

The draft Plan provides a single document that provides the community clarity on Council's community participation commitments in the planning process.

Community and Stakeholder Engagement

Council will place the draft Plan on public exhibition for a period of not less than 28 days commencing on 2 October until 30 October 2019. Notification will be made in the local newspaper. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

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The exhibition period is consistent with Schedule 1 of the EP&A Act.

CONCLUSION

A draft Community Engagement Framework and Participation Plan has been prepared in accordance with new legislative requirements under the EP&A Act. The draft Plan is consistent with Council's current community engagement commitments but now provides a single document that the community can access which explains how they can participate in the planning process.

It is recommended that Council endorse public exhibition of the draft Plan for 28 days as prescribed in Schedule 1 of the EP&A Act.

**PSR19/028 2018-19 EMISSIONS REDUCTION PLAN AND SUSTAINABILITY
PROGRESS REPORT**

E07.1073

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Emissions Reduction Plan Progress 2018-19 - actions update attachment [↓](#)
2. Submission to Sustainability of Energy Supply and Resources in NSW Inquiry [↓](#)

Outcome: Sustainable Living

Focus Area: 4.4 Work together to reduce our environmental footprint and develop a clean energy future

Delivery Program Link: 4.4.1 Plan for and work towards reducing Council's environmental footprint

Operational Plan Link: 4.4.1.1 Implement the Emissions Reduction Plan

EXECUTIVE SUMMARY

This report provides the annual update on the progress and activities to date on the 2017-2021 Emissions Reduction Plan (ERP) for the period July 2018 to June 2019. It also provides a snapshot of other sustainability programs delivered by Council during the same period, and responds to matters arising from the climate emergency Notice of Motion (Minute No: 19/149).

The ERP has achieved significant emission savings of over 23,000 tonnes of CO² and cost savings of over \$1m per year to Council. The ERP is largely on track with many actions progressing well and some targets achieved. Compared to the 2005-06 baseline:

- Building emissions are down 28%.
- Street lighting emissions are down 37%.
- Landfill methane emissions are down by about 50%.

Significant savings to Council have already been achieved as a result of activities within the ERP, and it is recommended to continue to resource the ERP in order to fully realise its objectives and targets. Council has achieved its interim target of a 25% reduction in emissions by 2020, and has reduced total emissions by approximately 36%.

Attached to the report is a submission on behalf of Council for the NSW Government inquiry on the *Sustainability of energy supply and resources in NSW*.

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RECOMMENDATION

THAT Council:

1. Receive and note the 2018-19 Emissions Reduction Plan and Sustainability Progress Report
2. Write to the NSW and Australian Government advocating for increased certainty and leadership on low emission vehicles, energy and emissions policies and submit to the NSW Legislative Assembly, Committee on Environment and Planning a response to the inquiry on the sustainability of energy supply and resources in NSW, as attached to this report.
3. Conduct a workshop with the representatives from key community and business groups and related stakeholders on the progress to date of the Eurobodalla Shire Council ERP 2017-2021 and identify and consider potential additional actions for Council, businesses and the community.
4. Receive a briefing on the outcomes of the workshop.

BACKGROUND

The 2017-21 ERP was adopted by Council (Minute No: 17/175) on 13 June 2017. The ERP identifies 21 new actions and 48 'core' or ongoing actions covering the areas of community, fleet, energy management, street-lighting, leadership, planning, renewable energy and waste. Actions within the ERP were designed to help meet the following goals and be achievable and measureable. Council's goals are set out in the ERP and include:

- Reduce emissions by 25% by 2020 for Council operations.
- Reduce energy emissions by 80% by 2030 for Council operations.
- Source 100% of Council's electricity from renewable energy by 2030.

Council delivers a range of sustainability and education programs. These programs serve a number of key objectives:

- Maintain high recycling rates and low contamination to help ensure that waste streams can be recycled and to conserve landfill space.
- Encourage water conservation through education and water rebates programs.
- Support the community to reduce their environmental footprint.

Notable developments during 2018/19 included:

1. In October 2018 the Intergovernmental Panel on Climate Change (IPCC), the United Nation body dedicated to providing objective and scientific information on climate change and its impacts, published a report on the impacts of global warming of 1.5C. The report concluded that capping global warming at 1.5C, as opposed to 2C, offers a far greater chance to preserve the biodiversity, ecosystems, health, livelihoods, food

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security, water supply, human security, and economic growth as we know it today. In order to achieve this, deep reductions in global CO² emissions of about 45% by 2030 need to be achieved.

2. The electricity contracts for Council's 'large sites' and 'street lighting' expired on 31 December 2018 and were renewed for an extra 12 months. Due to increases in the cost of wholesale electricity since the previous contract was entered into, the renewed contract was expected to cost Council an extra \$450,000 per year. This illustrates the volatility of the electricity market.

The electricity grid is currently going through an unprecedented and inevitable transition to cleaner energy sources. In the absence of a clear and enduring national climate and energy policy, this transition may result in higher prices remaining for some time.

Council is a large, stable and credit-worthy energy user and has more options to manage its exposure to market volatility. The renewable energy Power Purchase Agreement promises to lock-in long-term competitive electricity prices. Businesses and residents in Eurobodalla remain exposed to higher energy prices.

3. In 2019 a growing number of voices from a range of sectors called for leadership and action on climate and energy policy. In March, 2000 cities around the world, including Moruya, took part in strikes for climate. In April the Business Council of Australia called for a "bipartisan, pragmatic and enduring solution." In July BHP's CEO stated that "we must change the current storylines about how to address global warming. We require an 'all of the above' approach".
4. Council, along with local businesses and residents, are also paying more for transport fuel due to the absence of higher vehicle emission standards. In 2017 the ERP referenced the Australian Government's proposed new vehicle emission standards that were in draft stage at the time. It was assumed, given the government's modelling showed a favourable benefit cost ratio and average savings to motorists of over \$500 per year by 2025, that the adoption of this policy would be a formality. The policy was not adopted and Australia lags behind the rest of the world on vehicle emission standards and electric vehicle adoption.

In response to the impact of these issues on our local communities, it is recommended that Council advocate to the NSW and Australian Governments for increased certainty and leadership on electric and low emission vehicles, energy and emissions policy. The NSW Government is currently conducting an inquiry looking at the capacity and economic opportunities of renewable energy, including effects on regional communities and options to support sustainable economic development in communities affected by changing energy and resource markets. A submission has been prepared and is attached to this report.

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CONSIDERATIONS

Of the 21 new actions in the ERP, seven are 'completed' and 14 are 'in progress' and will be addressed in the coming years of the ERP. Information on the progress and activities for each action are detailed in the attachment.

Specific updates and further information requested by Minute No: 19/149 on 13 August 2019 point 5, included:

- a) Waste to energy: ERP core actions #R2, #R3 involve investigating, supporting or installing proven and feasible renewable energy generation technologies with a positive business case. Waste to energy plants are technically feasible and have been well proven overseas, particularly in Europe and Japan. In NSW however, there remains significant economic, regulatory and social barriers, which limit small scale landfill waste to energy plants from becoming viable or sustainable in locations comparable to Eurobodalla. Due to these barriers and risks, with the relatively low volumes of waste generated locally, without significant improvements in technology or efficiency, it is considered unlikely that waste to energy will become a viable proposition for Eurobodalla in the short to medium term.
- b) The renewable energy Power Purchase Agreement: ERP actions #17 and #19. Independent experts were engaged in 2018 to review various options to meet the 100% renewable energy target, including building a solar farm. A solar farm was deemed to be relatively high cost and high risk. Though technically feasible, a renewable energy Power Purchase Agreement was considered a more attractive way to meet Council's goals. On 12 February 2019, (Minute No: 19/7), Council considered a renewable energy Power Purchase Agreement report and motioned that "Council commits to the Power Purchase Agreement with Procurement Australia." Discussions with Procurement Australia, their consultants and tenderers on this matter are continuing.
- c) LED street lighting and smart controls: ERP actions #6 and #7. In 2017 ESC upgraded all residential roads to LEDs, however LEDs for main roads have been unavailable in the Essential Energy network. Discussions with Essential Energy, regional councils and joint organisations have progressed well under the Southern Lights Project. In late 2018, the Southern Lights Group submitted a business case to the NSW Government requesting full funding of the Southern Lights Project, which consisted of an upgrade to LEDs and the installation of smart controls on all 75,000 streetlights in NSW. In early June 2019, advice was received that the NSW Government is currently unable to commit funds to the program. However, it remains possible that this funding may be available for the smart city component of the program and this is being progressed.

As a result of close collaboration with Essential Energy through the Southern Lights Project, LED street lights for main roads and smart controls will soon become available. This offers the opportunity to further reduce street lighting energy and maintenance

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costs to improve service delivery, and provides the supporting infrastructure for new smart city technologies to be deployed.

- d) Electric vehicles and chargers: ERP action #12 and core fleet actions #F1 and #F5. Council granted a licence to the NRMA, who launched an electric vehicle fast charging station at the Batemans Bay Visitor Information Centre in April 2019. Ten public charging stations are now listed in Eurobodalla. A plug-in hybrid electric vehicle was purchased for the Council pool in July 2019, along with three hybrid vehicles. Council continues to support and investigate further opportunities for accelerating the uptake of electric vehicles.
- e) Additional methane flaring opportunities: ERP action #20 and #21, and core waste action #W4. Methane flaring has been successful in reducing landfill emissions since it was introduced in 2017. It may be possible to further reduce emissions and generate additional carbon credit revenue through the installation of more methane extraction pipes and wells. This has the potential to save over 7,000 tonnes of CO² per year. The costs and benefits of options are currently being investigated.
- f) Community engagement and education: ERP core actions #C1, #C3, #C5 and #W+S2. Council supports a range of relevant community education activities. Examples include:
- a wide range of waste reduction, recycling and composting educational programs
 - over 150 people attended free home composting workshops with free compost bins
 - providing in-kind support and collaborating with the South Coast Health and Sustainability Alliance (SHASA)
 - three workshops on solar power were run by Council in partnership with SHASA and solar installers
 - smart water monitoring, water efficiency support, advice and rebates to schools and large water-using businesses
 - water rebates and a range of water efficiency educational programs
 - 30 businesses supported (so far, and another 30 in the next 12 months) to reduce their food waste through the Your Business is Food Program.

Where grant funding and opportunities have been available, other programs have been delivered over the years to help support the community to reduce their emissions.

Other highlights related to the ERP from 2018-19 include:

- Council was recognised as a finalist in the 2018 Cities Power Partnership Awards for work towards the ERP. Eurobodalla was also the joint winner of the Knowledge Sharing

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Award, along with neighbouring councils, Shoalhaven, Bega Valley, Wingecaribee and Kiama.

- With support from the former NSW Office of Environment and Heritage (OEH) Council completed energy audits on three buildings. Funding was received from OEH towards energy efficiency upgrades for the Moruya administration building air-conditioning system.

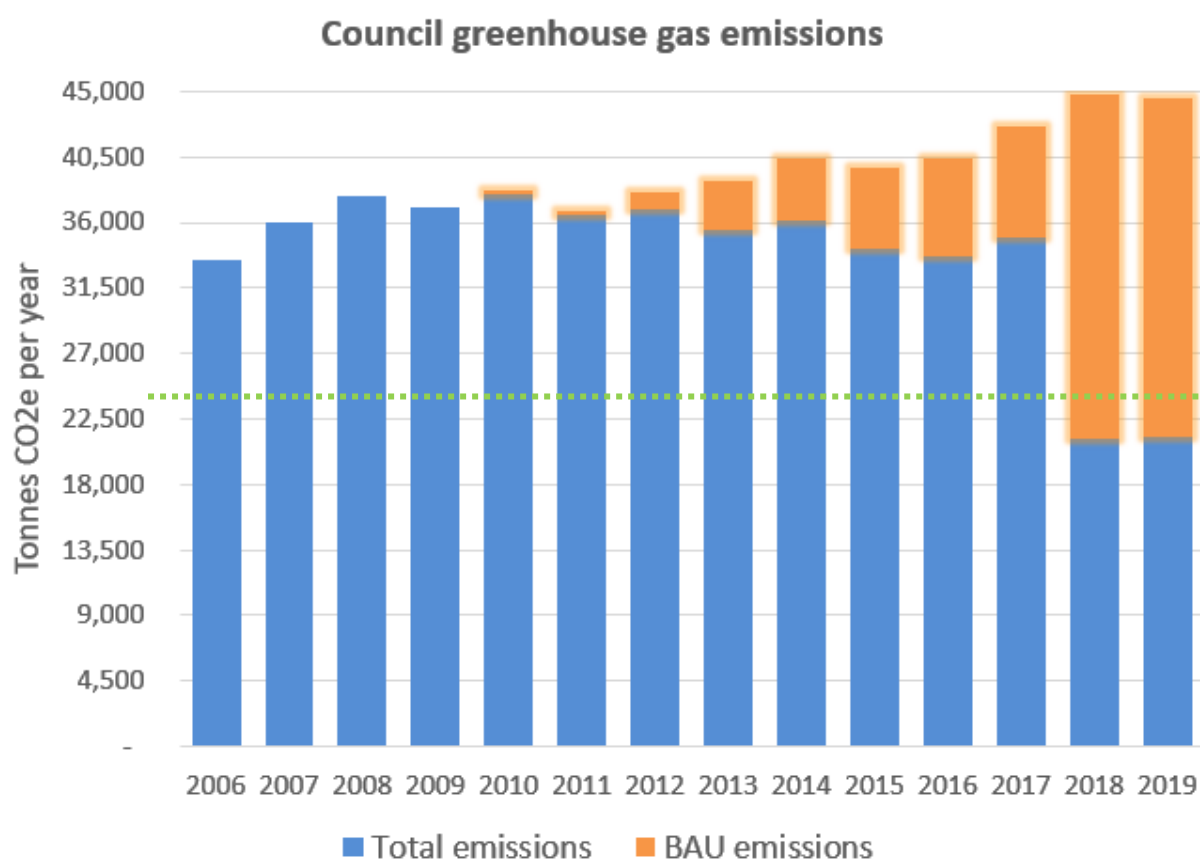


Figure 2. Council greenhouse gas emissions compared to the 2005-06 baseline

The blue part of the graph shows actual Council emissions. The orange part shows emissions reduction activities completed by Council. By including this in the chart, it shows what emissions would have been if all the energy efficiency, renewable energy and carbon offset projects had not been completed in a 'business as usual' scenario.

Total emissions for 2018-19 are down 36% compared to the 2005-06 baseline. Compared to the 2005-06 baseline, total street lighting emissions are down 37%, building emissions are down 28% and landfill methane emissions are down about 50%.

A wide range of sustainability and education programs were delivered in 2018/19. Many activities are well established and occur on a regular or ongoing basis such as the

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environmental calendar, the popular Water Rebates Program, the Botanic Gardens primary school excursions and the Business Water Efficiency Program.

On occasion, there are also specific campaigns and activities that are delivered to highlight special events or messages, or in response to the availability of grant funding. Over 10,000 people were involved in Council sustainability education events in 2018/19.

Some sustainability and education program highlights from 2018/19 include:

- 569 water rebates were provided for: dual flush toilets (80), washing machines (369) and low-flow showerheads (120). This is expected to save over 11ml per year.
- 55 local food businesses joined the 'We Care' grant-funded program where they were supported to reduce single-use plastic items.
- 99 marine debris clean ups recorded over 25,000 items and 700kg of litter in the Eurobodalla. 'Seaside scavenger', a clean-up and mini-market/festival event was held during Plastic Free July in Batemans Bay and attracted over 200 participants.
- Many schools participated in waste audits, the Tapstar water wise performance, marine debris clean-ups, and presentations on waste, recycling and water conservation.
- 14 school classes participated in water excursions visiting Deep Creek Dam, the water treatment plant and a sewage treatment plant.
- The Business Water Efficiency Program provided support, smart water monitoring devices and piloted a new rebate program with large water-using businesses. Through the early detection of leaks and rebates for water efficient devices, businesses saved an estimated 65ml per year.

Policy

The 2017-21 ERP was adopted by Council (Minute No: 17/175) on 13 June 2017.

Environmental

The implementation of the 2017-2021 ERP and previous Greenhouse Action Plans have already resulted in many environmental improvement activities being undertaken. Council greenhouse gas emissions have been reduced by over 23,000 tonnes of CO². Other sustainability and education programs have supported the community to recycle correctly, reduce waste, and to save energy and water.

Financial

A business case for all projects from the ERP are prioritised and evaluated before they are implemented. Only projects with an attractive payback period and positive rate of return are approved. Completed actions from the ERP have generated financial savings of over \$1m/year in energy and water costs. Some of these activities include:

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Building and pool energy efficiency (not lighting or solar PV)	\$ 160,000
Street lighting and building lighting	\$ 310,000
Pumps and motors: variable speed drives, solar aerators, upgrades	\$ 200,000
Energy management: off-peak operations, tariff switching	\$ 300,000
Solar power	\$ 195,000
TOTAL	\$ 1,165,000

A strong case can be made for continuing to resource the implementation of cost-effective emissions reduction activities identified in the 2017-2021 ERP.

Community and Stakeholder Engagement

The community were consulted in the development of the ERP. This included a workshop with external stakeholders and a public exhibition period that received 27 written responses. Where practical, this feedback was incorporated into the ERP and was used to refine some of the actions in the implementation of the ERP.

Council continues to inform and engage the community about many of the sustainability activities and ERP actions through a variety of media channels. Council has also supported a range of community and business initiatives which help to save water, waste and energy. Council has provided in-kind support and collaborated with the South Coast Health and Sustainability Alliance (SHASA) on solar power information workshops and several grant applications. Council has supported businesses, schools and the community with advice and education on water, waste and energy through a range of programs.

The ERP is currently mid-way through the four-year implementation cycle and there has recently been a high level of interest in the ERP. It is timely to inform the community of the progress made to date, and conduct a targeted workshop with representatives from key community and business groups and related stakeholders, to facilitate information sharing for potential new actions for both Council, businesses and the community.

CONCLUSION

The 2017-2021 ERP is progressing well and is on track to meet the emission reduction targets. Significant financial savings to Council have been achieved as a result of activities within the ERP. It is recommended to continue to implement the ERP in order to fully realise the objectives, targets and financial benefits of the ERP.

Council provides a well utilised and respected program of sustainability and education activities. This provides a direct benefit in helping to maintain the quality of the natural environment that so many residents and visitors appreciate in Eurobodalla. It also helps our community by enhancing both organisational and individual usage of water, waste, and energy efficiency.

Number	New action	2019 status report update
1	Implement identified energy and water conservation measures from the Energy Performance Contract at Council's largest energy using sites by June 2018.	All works have been completed.
2	Conduct annual measurement and verification of projects completed from the Energy Performance Contract (EPC).	The contractor defaulted on this part of the contract so the measurement and verification process will not be continued. However, savings are being delivered as expected.
3	All new electrical equipment must be better than the market average energy star rating.	Standards have been adopted and staff have been using these when purchasing new appliances.
4	All new water-using appliances, shower heads, taps and toilets purchased by Council must be better than the average Water Efficiency Labelling Scheme (WELS) star rating by product type.	Standards have been adopted and staff have been using these when purchasing new appliances.
5	Formalise a process for incorporating sustainable designs, products and materials into buildings and construction projects.	A Sustainable Building policy has been drafted for a range of different building project scales. This will be trialled on some upcoming builds and renovations before being formalised.
6	Upgrade all street lighting to LED by June 2021.	LEDs for main roads will soon be approved for use by Essential Energy and will be the default light for all new lights and spot replacements. Council has long advocated for this with Essential Energy via their Street lighting Consultative Committee and also through the Southern Lights project which represents the Canberra JO, RAMROC, REROC and CENTROC on streetlighting issues.
7	Investigate the opportunities presented by smart controls for street lights.	Smart controls for street lighting should be approved for use by Essential Energy by 2020. Council has advocated for this with Essential Energy via their Street lighting Consultative Committee and also through the Southern Lights project which represents the Canberra JO, RAMROC, REROC and CENTROC on streetlighting issues.
8	Develop a water demand management plan by June 2020	Works are progressing on other plans that will feed into a water demand management plan.

9	Develop a mains water leak detection program by June 2021.	Smart metering trials are being conducted at Mystery Bay, Tilba and Potato Point. These trials will inform a mains leak detection program.
10	Investigate opportunities to operate a biogas plant and reduce biosolids volume at the Surf Beach sewage treatment works by June 2018.	This was not completed as part of the Energy Performance Contract as the contractor was unable to perform these investigations. Opportunities continue to be investigated.
11	Monitor and report on key performance indicators for demand management and energy efficiency for Water and Sewer services.	Energy efficiency for Water and Sewer services continues to be monitored.
12	Work with stakeholders to facilitate electric car charging infrastructure.	Council approved a license for the NRMA to build an electric vehicle fast charger at the Batemans Bay Visitor Centre. It was opened in April 2019.
13	Investigate utilising GPS tracking on Council's fleet to improve fleet efficiency and driver safety.	GPS tracking is being installed on all vehicles >4.5T as part of the Chain of Responsibility legislative requirements. Opportunities to use this to improve fleet efficiency and driver safety will be investigated during 19/20.
14	Council will give preference to investing with financial institutions that do not invest in, or finance, the fossil fuel industry.	Council continues to report on progress towards this action. In July 2019 45% of funds were invested in fossil fuel free institutions.
15	Develop a Council Climate Adaptation Strategy by June 2020.	This is contingent on other studies being completed. It is unlikely to be completed as scheduled.
16	Investigate opportunities to maximise the benefits of the renewable energy generated by Council.	15kW of solar was installed at Kyla Park Hall and the Rally for Recovery shed.
17	Investigate the costs and benefits of working towards a corporate target of 100% renewable energy by 2030.	Independent experts were engaged in 2018 to review various options to meet the 100% renewable energy target, including building a solar farm. A solar farm was deemed to be relatively high cost and high risk. Though technically feasible, a renewable energy Power Purchase Agreement was considered a more attractive way to meet Council's goals. On 12 February 2019, PSR1/001, minute 19/7, Council considered a renewable energy Power Purchase Agreement report and motioned that "Council commits to the Power Purchase

		Agreement with Procurement Australia.” Discussions with Procurement Australia, their consultants and tenderers on this matter are continuing.
18	Investigate opportunities to use battery storage technologies in conjunction with the renewable energy Council has installed.	Grant funding enabled the installation of a new 5kW solar power system with a battery storage unit at Dalmeny Hall in 17/18. Opportunities continue to be investigated.
19	Complete a feasibility study of implementing a large scale solar farm.	Independent experts were engaged to review this concept alongside other ways meet the 100% renewable energy target. A solar farm was deemed to be relatively high cost and high risk. Though technically feasible, a renewable energy Power Purchase Agreement was considered a more attractive way to meet Council's goals.
20	Investigate opportunities for generating electricity from methane gas extraction by June 2019.	The volumes of methane being extracted appears insufficient for current commercially viable electricity generation plants.
21	Investigate opportunities for utilising the waste heat produced from landfill gas flare by June 2019.	Investigations are continuing into the potential options for utilising the methane gas.



Our Reference: E07.1073

25 September 2019

Committee on Environment and Planning
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

environmentplanning@parliament.nsw.gov.au

To the Committee of Environment and Planning,

Sustainability of energy supply and resources in NSW

Eurobodalla Shire Council (Council) supports the intent of the *Sustainability of energy supply and resources in NSW* inquiry. Council has been an early adopter and advocate for renewable energy for many years and we would like to thank you for the opportunity to make a submission to the inquiry.

Eurobodalla is located on the NSW south coast and comprises the regional towns of Batemans Bay, Moruya and Narooma.

The terms of the inquiry are that the Committee on Environment and Planning inquire into and report on the sustainability of energy supply and resources in NSW, including:

1. The capacity and economic opportunities of renewable energy
2. Emerging trends in energy supply and exports, including investment and other financial arrangements
3. The status of and forecasts for energy and resource markets
4. Effects on regional communities, water security, the environment and public health
5. Opportunities to support sustainable economic development in regional and other communities likely to be affected by changing energy and resource markets, including the role of government policies
6. Any other related matters.

1. The capacity and economic opportunities of renewable energy

Council appreciates that the capacity for new renewable energy and economic development in our Shire is relatively limited due to a lack of commercially viable renewable resources. However, Council supports the development of more new sustainable renewable energy generation in suitable locations across NSW. It offers the potential to deliver clear economic development to these regions. Council also strongly advocates for support being provided to regional communities likely to be affected by changing energy and resource markets.

2. Emerging trends in energy supply and exports, including investment and other financial arrangements

Council is a relatively large user of energy and is acutely aware of the impact of high energy prices, not just for our own operations, but also for local businesses and residents. It has been widely reported over the past year by a range of authorities including the Australian Competition and Consumer Commission, the Australian Energy Market Operator, the Australian Energy Regulator and the Clean Energy Council, that the lack of policy certainty and leadership on energy and emissions policy has significantly undermined investor confidence and a smooth transition for the energy sector. Council is concerned that in the absence of a clear policy direction, we will continue to be exposed to high prices and volatility in the energy market. This uncertainty has negative impacts, not just on councils like us, but on businesses and residents across NSW as well.

It is critical that the emerging trends are identified and that governments are prepared to act in a timely manner to ensure that adequate investment and financial signals are in place to support the changes in energy supply and resource exports.

3. The status of and forecasts for energy and resource markets

Council realises the benefits that renewable energy can deliver for consumers, both at a local level, and at a grid-scale level. The energy market is in the midst of an inevitable transition towards a higher penetration of renewable energy. It is important to manage this process through clear planning and policies in order to ensure a smooth and equitable transition for those communities that are affected. The lack of clear policy and pricing limits investment and economic development in general, not just in energy generation.

4. Effects on regional communities, water security, the environment and public health

Council strongly advocates for support being provided to regional communities likely to be affected by changing energy and resource markets. This includes providing community engagement and support for new renewable energy developments and comprehensive support for communities impacted in a transition away from fossil fuel generation and extraction industries.

Other effects on communities such as water security are paramount and of increasing concern in multiple communities across NSW. The impact of this is also evident in environmental degradation, loss of agricultural income, changing landscapes, social health issues associated with physical and mental wellbeing of individuals and communities. The usage of hydro and pumped hydro for energy generation and storage, should complement water storage and security for communities.

The sustainability of energy supply and resources is critical to long term planning, financial forecasting and longevity of businesses and for new and emerging industries. It is also important that the public health impact of failing to provide a sustainable supply of energy and resources be better researched and understood.

5. Opportunities to support sustainable economic development in regional and other communities likely to be affected by changing energy and resource markets, including the role of government policies

There are a broad range of opportunities to support sustainable economic development in regional communities and fundamental to this is clear, consistent government direction embodied in policies that have a long term impact and deliver market confidence. Council urges the NSW Government to demonstrate leadership on electricity and emissions policies to ensure the transition in this sector can be managed in a smooth way and so that potential benefits can be realised by electricity consumers.

The opportunities to improve water security, the transition to a sustainable energy supply and improve community public health can readily be supported by sound government policy.

Opportunities could include:

- ensure sound community engagement and equitable support programs are provided in regions where renewable energy developments are constructed
- provide resources and support to local government and community organisations to assist communities in the transition away from fossil fuel generation and extraction industries
- investigating and financially supporting Waste to Energy opportunities through the use of technological innovation and the treatment of residual wastes to harness energy, or create fuel for energy generation, from material that would otherwise be landfilled.
- support new and emerging businesses that invest in sustainable energy development
- support the augmentation of necessary transmission infrastructure that will allow the development of the renewable energy hubs identified in the AEMO Integrated System Plan
- support the development of infrastructure such as electric vehicle charging stations to enhance low emission vehicle usage in regional areas
- maintain and enhance subsidy programs and investments to enhance the uptake of sustainable energy and resource markets for businesses and communities
- ensure that support programs for the regions are delivered in the regions, not from Sydney.

6. Any other related matters

Regional communities like Eurobodalla, are particularly reliant on road transport. Transport fuels are a high operational cost to Council. Council is aware that the lack of clear policy and leadership on new vehicle emission standards and electric vehicles is resulting in consumers paying more on fuel than they otherwise should. Local businesses and residents, not just in the Eurobodalla, but across NSW, are missing out on the opportunity to reduce their fuel costs due to inaction. It is important that the NSW Government shows leadership on low emissions vehicle policies so that the potential benefits can be realised by motorists across NSW.

A 2016 Regulation Impact Statement estimated average savings of over \$500 per year to motorists by 2025 by introducing new vehicle emission standards. The Electric Vehicle Council recently estimated that electric vehicle drivers will save up to \$1,400 per year in ownership costs. Supporting the growth of electric vehicles delivers a number of additional benefits as well. It would reduce the reliance on billions of dollars per annum in imported fuels and keep refuelling expenses within NSW. The Electric Vehicle Council and Asthma Australia also recently documented the multi-billion dollar per annum health benefits that electric vehicles could deliver to NSW.

Should you require further information, please contact Council's Sustainability Coordinator, Mr Mark Shorter on 4474 1373 or mark.shorter@esc.nsw.gov.au.

Yours sincerely

IR19/021 LOCAL TRAFFIC COMMITTEE NO 3 FOR 2019-20

E16.0002

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services
Attachments: Nil
Outcome: Connected and Accessible Places
Focus Area: 7.1 Work in partnership to provide an integrated transport network
Delivery Program Link: 7.1.2 Provide a safe efficient and integrated transport network
Operational Plan Link: 7.1.2.5 Coordinate the Local Traffic Committee

EXECUTIVE SUMMARY

The Local Traffic Committee is primarily a technical review committee. It advises Council on traffic control matters that relate 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 Councillor's review. The main issues covered at the Eurobodalla Local Traffic Committee meeting, held 5 September 2019, are as follows:

- Signage – Review of 'Keep Left Unless Overtaking' sign, southbound along George Bass Drive, Batehaven
- Signage – 'No Stopping' sign adjustments on Old Princes Highway at the intersection of South Street, Batemans Bay

RECOMMENDATION

THAT:

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 3 for 2019-20 be received and noted.
2. Council removal of the 'Keep Left Unless Overtaking' sign, located on George Bass Drive adjoining the south bound lane about 200 metres south of the Glenella Road Intersection be approved.
3. Council Plan No. 5156 Set BP Sheet 18 detailing the modification of two 'No Stopping' signs on Old Princes Highway at the intersection of South Street, Batemans Bay be approved.

BACKGROUND

The Eurobodalla Local Traffic Committee Meeting No 3 for 2019-20 was held on 5 September 2019. The meeting was attended by Danielle Brice (representative for the Hon Andrew Constance MP), Jesse Fogg via phone (Roads and Maritime Services), Senior Constable Scott Britt (NSW Police), Dave Hunter (Traffic Coordinator) and Tom Franzen (Design Officer).

IR19/021 LOCAL TRAFFIC COMMITTEE NO 3 FOR 2019-20

E16.0002

APOLOGIES

Apologies were received from Councillor Anthony Mayne (Chair), Kate McDougall (Road Safety Officer), and Matt Cormick (minute taker).

The meeting was chaired by Dave Hunter (Traffic Coordinator) in Councillor Anthony Mayne's absence.

DEPUTATIONS

Nil

MINUTES OF PREVIOUS MEETING

The minutes of the Eurobodalla Local Traffic Committee Meeting No 2 for 2018-19 held on 8 August 2019 were confirmed and accepted.

OUTSTANDING ITEMS FROM PREVIOUS MEETING

There were no outstanding items requiring additional attention.

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION

2020.RT.008 Signage - Removal of 'Keep Left Unless Overtaking' southbound along George Bass Drive, Batehaven

A request has been received from NSW Police to review the 'Keep Left Unless Overtaking' (KLUO) sign located on George Bass Drive adjoining the south bound lane about 200 metres south of the Glenella Road Intersection, within an 80 speed zone.

Road rule 130 requires that on a multilane road drivers must keep left but only if the posted speed is over 80km/hr. In the case of this section of George Bass Drive, drivers must only keep left if the KLUO sign is installed.

This KLUO sign was used to regulate traffic at the commencement of a diverge taper from a single lane into 2 lanes. This configuration then merged back to one lane 700 metres further south, 100 metres from the Sunshine Bay roundabout intersection.

In early 2019 the installation of a roundabout at Glenella Road intersection was completed, however the KLUO sign was not considered.

To ensure consistency in signage, the whole section of George Bass Drive has now been reviewed, from the start of the 80km/hr speed zone near Calga Crescent intersection at Catalina through to the Beach Road roundabout at Surf Beach.

Current Configuration:

- 4km long section of George Bass Drive, predominantly multilane (2 lane 2 way)
- Glenella Road to Sunshine Bay Rd, 900m 2 lane south / 1 lane north - *Current 'KLUO, (includes Glenella Roundabout)*
- Sunshine Bay Road to Glenella Road, 800m 2 lane north / 1 lane south - *No 'KLUO,*
- Crosby Dr to Silverdell Place, 450m 2 lane north / 1 lane south - *No 'KLUO,*
- Beach Road to adjacent Tallgums Way, 800m 2 lane north / 1 lane south - *No 'KLUO, (includes Beach Road Roundabout)*

IR19/021 LOCAL TRAFFIC COMMITTEE NO 3 FOR 2019-20

E16.0002

- Various channelised right turn lanes to side streets.

Now that the Glenella Road to Sunshine Bay Road section includes 2 lanes through the Glenella Road intersection, it is proposed to remove the 'Keep Left Unless Overtaking' sign. This will make the entire 4km length consistent and less confusing to drivers.

Conversely, it is not considered appropriate to regulate Keep Left to all four multilane sections (2 lanes in one direction), particularly where traffic should stay in left lanes when exiting to Glenella Road and Tallgums Way.

Recommendation:

That the removal of the 'Keep Left Unless Overtaking' sign, located on George Bass Drive adjoining the south bound lane about 200 metres south of the Glenella Road Intersection be approved.

2020.RT.009 Signage – 'No Stopping' sign adjustments on Old Princes Highway at the intersection of South Street, Batemans Bay

After experiencing a 'near miss crash' the driver of the vehicle has asked if the existing parking restrictions at the intersection of Old Princes Highway and South Street, Batemans Bay can be extended.

TfNSW Centre for Road Safety database records that in the past 5 year recorded period there has been one moderate crash and one serious injury crash at this intersection.

On review it has been ascertained that the sight line from vehicles stopped at the give way holding line can be impaired by vehicles that may be parked (to the north) along Old Princes Highway.

This 'T' intersection is at 22 degrees from 90 (68 degrees on north side) which is less than desirable. This means that drivers have to look much further than normal to the right to view oncoming traffic.

To reduce the risk to road users, it is proposed to move the 'No Stopping' sign along this north east side of Old Princes Highway to 22.5 metres from the kerb apex. The current post which is at 10 metres from the kerb apex will then be modified to Left & Right arrow.

The subsequent loss of 2 on-street parallel parking space will have minimal effect on the adjoining business site as there will still be an additional 4 spaces available on this corner block as well as formal parking available (off road) on this site. The business owner has been contacted and has no objection to the proposal.

Plan No. 5156 Set BB Sheets 18 detailing the modification of two 'No Stopping' signs on Old Princes Highway at the intersection of South Street was reviewed by the Committee.

Recommendation:

That Council Plan No. 5156 Set BP Sheet 18 detailing the modification of two 'No Stopping' signs on Old Princes Highway at the intersection of South Street, Batemans Bay be approved.

IR19/021 LOCAL TRAFFIC COMMITTEE NO 3 FOR 2019-20

E16.0002

INFORMAL ITEMS FOR DISCUSSION

Nil

GENERAL BUSINESS

Nil

NEXT MEETING

The next meeting of the Eurobodalla Local Traffic Committee will be held on Thursday 7 November 2019 in Council's Committee Room.

CCS19/043 LICENCE FOR COMMUNITY GARDENS - MORUYA

09.3150.D

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services
Attachments: Nil
Outcome: Sustainable Living
Focus Area: 4.3 Support and encourage sustainable choices and lifestyles
Delivery Program Link: 4.3.1 Partner with schools and community to deliver environmental education programs and projects
Operational Plan Link: 4.3.1.3 Provide sustainability education programs

EXECUTIVE SUMMARY

The five-year licence to Sustainable Agriculture & Gardening Eurobodalla Incorporated (SAGE) over Lots 2 and 3 Section 15 DP 758710 Queen Street, Moruya to operate a community garden expires on 30 November 2019. SAGE has requested another five-year licence be granted.

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, as no other parties have expressed an interest in using the land it is appropriate the licence application be considered.

Public notice has been given and no submissions were received. It is considered reasonable and appropriate that a five-year licence be granted to SAGE, and for the General Manager to be given delegated authority to grant further licences subject to consideration of any public feedback received.

RECOMMENDATION

THAT

1. Council grant a licence to Sustainable Agriculture & Gardening Eurobodalla Incorporated for the purpose of a community garden within Lots 2 and 3 Section 15 DP 758710, Queen Street, Moruya for five years commencing on 1 December 2019 and terminating on 30 November 2024 subject to conditions including:
 - a. Payment of annual licence fees in accordance with Council's adopted fees and charges;
 - b. Provision of evidence of public liability insurance cover in the amount of at least \$20 million; and
 - c. Conditions generally in line with the previous licence.
2. The General Manager be given delegated authority to negotiate further licences for the continued occupation of Lots 2 and 3 Section 15 DP 758710 for community horticultural activities and education until such time as the land is required for other purposes.

BACKGROUND

SAGE is a not-for-profit group which has successfully operated an education and training facility for teaching sustainable agricultural and horticultural practices for the homeowner and semi commercial producer on Lots 2 and 3 Section 15 DP 758710 Queen Street, Moruya since December 2009.

At its meeting on 23 September 2014 Council resolved to renew a five-year licence to SAGE over Lots 2 and 3 Section 15 DP 758710 to operate the community garden. The current licence expires on 30 November 2019 and SAGE has requested another five-year licence be granted.

No other party expressed an interest in using the land therefore it is appropriate that consideration be given to the request.

CONSIDERATIONS

The licence area is shown in the sketch below.



Legal

Lots 2 and 3 Section 15 DP 758710 is Council owned community classified land categorized as General Community Use.

Council can only issue a licence for a period up to five years for public reserves classified as community land after giving public notice and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*.

www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a

Policy

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, an Expression of Interest (EOI) was called in February 2019 for parties interested in seeking a licence for periods up to five years to use any Council owned or controlled public reserves. No other party expressed an interest in using the land.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

In accordance with Council's Community Gardens Policy, the SAGE community garden is supported.

www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Community-Gardens-policy.pdf

Environmental

Community gardens can help reduce negative environmental impacts by building awareness of sustainable agriculture and educating the community on urban gardening practices.

Social Impact

Community gardens can be beneficial to the health and wellbeing of community members. Social ties are important for the wellbeing of people in a community as they can bring positive health effects and community involvement.

Economic Development Employment Potential

Community gardens can improve economic opportunities by teaching the community useful skills in planning, food production and business. The gardens help to foster a community culture of supporting local horticulture.

Financial

The licence fees will be in accordance with Council's adopted fees and charges for community gardens.

Community and Stakeholder Engagement

The annual EOI was called in February 2019 from interested parties wishing to conduct activities on Council controlled public reserves for a period of up to five years. No other party expressed an interest in using the land.

The intention to grant a five-year licence to SAGE has been publicly notified in accordance with Section 47A of the *Local Government Act 1993* and Council's *Community Engagement Framework*.

CONCLUSION

The use of Lots 2 and 3 Section 15 DP 758710 Queen Street, Moruya by SAGE is permissible under the General Community Use categorisation of the community classified land and is considered a worthwhile venture. The granting of another five-year licence is considered appropriate.

CCS19/044 LICENCE FOR KAYAK HIRE, NAROOMA

E07.1581

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services
Attachments: Nil
Outcome: Innovative and Proactive Leadership
Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations
Delivery Program Link: 9.2.2 Manage land under Council control to achieve a return for the community
Operational Plan Link: 9.2.2.1 Manage leases and licences

EXECUTIVE SUMMARY

Kayaking Narooma has been operating a kayak hire business from Lot 7318 DP 1166668 within Crown Reserve R85364 Riverside Drive, Narooma for eleven years. The business operates primarily on weekends, public holidays and school holidays. The current temporary twelve-month licence to conduct the business expires on 3 December 2019 and the Licensee has requested a five-year licence be granted.

Under the *Crown Lands Management Act 2016* (the Act) the current licence over this Crown Reserve can be renewed as an existing use for a term not exceeding five years.

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, as no other parties have expressed an interest in using this part of the reserve it is appropriate the request be considered.

Public notice has been given and no submissions were received.

As this business has been operating for many years, it is considered reasonable for Council to support Kayaking Narooma by granting ongoing five-year licences subject to the Licensee complying with the terms of the licences.

RECOMMENDATION

THAT:

1. Council grant a licence to Kayaking Narooma to operate a kayak hire business within Crown Reserve R85364 Lot 7318 DP 1166668 Riverside Drive, Narooma for five years commencing on 4 December 2019 and terminating on 3 December 2024 subject to conditions including:
 - a. Payment of annual licence fees in accordance with Council's adopted fees and charges;
 - b. Provision of evidence of public liability insurance cover in the amount of at least \$20 million; and
 - c. Conditions generally in line with the previous licence.
2. The General Manager be given delegated authority to negotiate further licences to Kayaking Narooma to operate within Council and Crown reserves.

BACKGROUND

Kayaking Narooma has been operating from this reserve for eleven years. The business operates primarily on weekends, public holidays and school holidays and serves as an attraction for both tourists and residents alike. The business is conducted from a vehicle parked within the reserve adjacent to the boat ramp and the kayaks are stored on a trailer with an attached advertising sign awaiting hire. All equipment and waste is removed from the site at the end of the day.

This reserve is also the site of the annual Narooma Oyster Festival event and it is a condition of the licence that the Licensee is not permitted to operate from this location during the running of the festival.

The current temporary twelve-month licence expires on 3 December 2019. The Licensee has requested a five-year licence be granted.

No other party expressed an interest in using this part of the reserve therefore it is appropriate that consideration be given to the request.

CONSIDERATIONS

The licence area is shown in the sketch below.



Legal

Lot 7318 DP 1166668 being part of Crown Reserve R85364 Riverside Drive, Narooma is under the management of Council as Crown Land Manager.

Council can only issue a licence for a period up to five years for Crown reserves for which Council is Crown Land Manager after giving public notice and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*.

www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a

Under the *Crown Lands Management Act 2016* the current licence over this Crown Reserve can be renewed as an existing use for a term not exceeding five years.

Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests.

It will be a condition of the licence that the Licensee obtain any consent or licence necessary for the conduct of the water-based activity and maintain and/or renew such consent or licence so as to ensure that the same is current during the whole of the term/s.

Policy

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, the annual Expression of Interest (EOI) was called in February 2019 for parties interested in seeking a licence for periods up to five years to use any Council owned or controlled public reserves. No other party expressed an interest in using this part of the reserve.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

Environmental

Council's support of ecotourism within the Eurobodalla is encouraging sustainable tourism and low environmental impact business models. All equipment and waste is removed from the site at the end of the day.

Social Impact

Encouraging healthy lifestyles within the community by way of providing enjoyable activities for tourists and local residents aligned with those values.

Economic Development Employment Potential

The business has been operating successfully from this reserve for eleven years providing an ongoing attraction for tourists and local residents. Kayaking Narooma continue to add value to the local tourism industry.

Financial

It is considered appropriate the initial licence fee be the current licence fee of \$1,123 plus GST pa increased by CPI with subsequent annual CPI increases and in accordance with Council's adopted Fees and Charges.

Community and Stakeholder Engagement

An annual EOI was called in February 2019 from interested parties wishing to conduct activities on Council controlled public reserves for a period of up to five years. No other party expressed an interest in using this part of the reserve.

The intention to grant a five-year licence to Kayaking Narooma was publicly advertised and no submissions were received.

CONCLUSION

The temporary twelve-month licence to Kayaking Narooma to operate a kayak hire business from Lot 7318 DP 1166668 within Crown Reserve R85364 Riverside Drive, Narooma expires on 3 December 2019. The Licensee has requested a five-year licence be granted.

The business has been operating successfully from this reserve for eleven years providing an ongoing attraction for tourists and local residents. It is considered appropriate for Council to support Kayaking Narooma by granting licences to operate.

LICENCE TO CONDUCT BUSINESS OPERATIONS NEAR NAROOMA WHARF **E80.1214**
CCS19/045

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: Nil

Outcome: Connected and Accessible Places

Focus Area: 7.2 Improve provision and linkages of our pathway network

Delivery Program Link: 7.2.1 Provide and enhance the pathway network

Operational Plan Link: 7.2.1.1 Build, renew and maintain pathway network

EXECUTIVE SUMMARY

There are a number of businesses operating from Narooma Wharf. Council has received a request from one operator to licence an area to park vehicles adjacent to the wharf to supplement business operations.

There is limited space adjacent to the wharf for parking and pedestrians in the area. Council has identified two alternate areas within Narooma Flat, as well as the requested area, to make available for temporary licences as a trial.

It is proposed to seek Expressions of Interest for people wishing to take out a licence to operate a business from Council land near the Narooma Wharf.

At the conclusion of the Expressions of Interest a report will be presented to Council to consider approving the licences.

RECOMMENDATION

THAT:

1. Council seek Expressions of Interest for people wishing to take out a licence to operate a business from Council land near the Narooma Wharf.
2. At the conclusion of the Expression of Interest, a report be presented to Council for consideration of licence approvals.

BACKGROUND

There are a number of businesses operating from Narooma Wharf.

One boat operator is conducting part of his business operations from a vehicle in the carpark adjacent to Narooma Wharf.

Council has received a request from that operator to formalise this use via a licence and the operator wishes to park vehicles adjacent to the wharf to supplement business operations e.g. the provision of wetsuits.

Council has also received an objection to this operator's use of the space for commercial purposes from a competing business.

**CCS19/045 LICENCE TO CONDUCT BUSINESS OPERATIONS NEAR NAROOMA
WHARF**

E80.1214

Business operators are seeking a solution prior to this summer's peak season.

Council proposes to seek expressions of interest for people wishing to take out a licence to operate a business from Council land in three locations near the Narooma Wharf.

Licence applications will be subject to a public, competitive process in line with Council's Code of Practice – *Licensing of Council controlled Public Reserves and Associated Buildings*.

One location is the swimming pool car park which is on Crown Land, another at the Wharf itself and the other location is in the carpark area next to the playground at the bottom of Bowden Street which is in the road reserve.

CONSIDERATIONS

There is limited available space at Narooma Wharf for parking and pedestrians.

Council has identified three areas within Narooma Flat to make available for temporary licences to conduct business. A six month licence allows Council to trial how this works.

There would be a number of key conditions related to such a licence including:

1. This is a trial so the initial licence period will be for a six month period and there is no guarantee it will be renewed in future years.
2. Customers must not block footpaths when being served from the licence area or when changing into wetsuits etc.
3. A maximum of one licence will be issued in each location.
4. The rent fee for the licence will be calculated on a commercial basis.
5. Operating hours will be limited to when boats are leaving and returning from the wharf.

The licence will include other standard clauses and will allow temporary relocation of the licence area if required for public safety reasons.

If more than two licence requests are received for the same area, these will be assessed in line with Council's Code of Practice – *Licensing of Council controlled Public Reserves and Associated Buildings*.

The proposed licence areas are indicated by green squares in the sketch below.

**CCS19/045 LICENCE TO CONDUCT BUSINESS OPERATIONS NEAR NAROOMA
WHARF**

E80.1214



Legal

Council has been appointed Crown Land Manager to manage Crown Reserves within the Shire under the provisions of Section 3.22 of the *Crown Land Management Act 2016*.

www.legislation.nsw.gov.au/#/view/act/2016/58/part3/div3.4/sec3.22

Council, as Roads Authority or Crown Land Manager, can only issue a licence for a period up to five years after giving public notice and considering any submissions in accordance with Section 47A of the *Local Government Act 1993*.

www.legislation.nsw.gov.au/#/view/act/1993/30/chap6/part2/div2/sec47a

Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests.

Narooma Wharf itself and the immediately adjoining land is a Crown Asset and not under Council management or control.

Policy

In line with the provisions of Council's Code of Practice - *Licencing of Council controlled Public Reserves and Associated Buildings*, an Expression of Interest (EOI) will be called for parties interested in seeking a licence for six months to use the proposed locations for business operations. The same code includes a process if Council receives more expressions of interest than are available. The information required for this assessment process will be requested at the EOI stage.

www.esc.nsw.gov.au/inside-council/council/council-policies/codes/Licencing-of-council-controlled-public-reserves-and-associated-buildings-code-of-practice.pdf

**CCS19/045 LICENCE TO CONDUCT BUSINESS OPERATIONS NEAR NAROOMA
WHARF**

E80.1214

Economic Development Employment Potential

The Narooma Wharf boat operators are an important part of the local tourism economy providing fishing, snorkelling and Montague Island experiences.

Financial

Council proposes six month licences be granted to suitable businesses with a fee of \$1,663 plus GST. This six month fee is in line with other 'high impact' licences which have a 12 month duration.

Community and Stakeholder Engagement

As part of the engagement work around the development of management plans for the Narooma Foreshore, Council's consultants contacted all wharf boat operators.

An EOI will be called for interested parties wishing to conduct activities from the proposed locations for a period of six months.

The intention to grant a licence will also be publicly notified for 28 days in accordance with Section 47A of the *Local Government Act 1993* and Council's Community Engagement Framework.

Council is in ongoing communication with the two operators who have raised this matter.

CONCLUSION

The granting of temporary six month licences to carry out supplementary business operations from nearby carpark locations will provide a resolution for the 2019/20 peak period and act as a trial for future years.

A report will be presented to Council at the end of the public notification period of 28 days for consideration of the licences along with any submissions received.

CCS19/046 DIVIDENDS FROM WATER AND SEWER FUNDS

E05.9535

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services
Attachments: Nil
Outcome: Innovative and Proactive Leadership
Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations
Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status
Operational Plan Link: 9.2.4.3 Provide financial management and reporting

EXECUTIVE SUMMARY

Each year there is an opportunity to pay Water and/or Sewer dividends providing certain criteria are addressed.

The Water and Sewer Funds are in a sound financial position to pay a dividend to transfer funds to the General Fund based upon the final Water and Sewer Fund operating results for 2017-18 (as per the audited Special Purpose Financial Statements) and subject to achievement of substantial compliance of best practice audit and approval from the Department of Primary Industries, Water (DPIW).

Guidelines for Best-Practice Management of Water Supply and Sewerage encourage continuing improvement in performance and identify six criteria for best-practice management of water supply and sewerage.

The guidelines also set out the outcomes the NSW local government Local Water Utilities (LWU) need to achieve in order to be eligible for payment of dividend from the surplus of their water supply or sewerage businesses, including effective and sustainable water supply and sewerage businesses. Additionally best-practice management of these businesses as well as their compliance with *National Competition Policy* and the *National Water Initiative* needs to be demonstrated.

Any local government LWU wishing to pay a dividend from the surplus of its water supply and sewerage businesses are required to demonstrate achievement against these outcomes through substantial compliance with these guidelines for each of the six criteria.

The audit for the annual compliance of the Water and Sewer Funds is to be performed when the auditors are onsite for the year end audit in the first week of October. Subject to relevant endorsements payment of the dividend is expected to occur October 2019. The dividends were payable as at 30 June 2019 and a provision has been made in the 2018-19 accounts.

Payment of these dividends will assist Council to continue to meet its Fit for the Future ratios in accordance with Council's adopted Fit for the Future Strategy.

RECOMMENDATION

THAT Council resolve to transfer dividends from the Water and Sewer Funds of \$611,900 and \$566,440 respectively based upon 2017-18 audited results in the Water and Sewer Funds, and

CCS19/046 DIVIDENDS FROM WATER AND SEWER FUNDS

E05.9535

subject to achievement of substantial compliance with Best Practice Guidelines and approval from the Department of Primary Industries, Water.

BACKGROUND

Council's water supply and sewerage businesses are permitted to pay an annual dividend from its water supply or sewerage business surplus.

The NSW Government encourages best-practice by all LWUs. The purpose of best-practice management is:

- to encourage the effective and efficient delivery of water supply and sewerage services; and
- to promote sustainable water conservation practices and water demand management throughout NSW.

Guidelines for Best-Practice Management of Water Supply and Sewerage encourage continuing improvement in performance and identify six criteria for best-practice management of water supply and sewerage:

1. Strategic Business Planning
2. Pricing (including Developer Charges, Liquid Trade Waste Policy and Approvals)
3. Water Conservation
4. Drought Management
5. Performance Reporting
6. Integrated Water Cycle Management.

The guidelines also set out the outcomes local government LWUs need to achieve in order to be eligible for payment of a dividend from the surplus of their water supply or sewerage businesses, including effective and sustainable water supply and sewerage businesses. Additionally best-practice management of these businesses as well as their compliance with *National Competition Policy* and the *National Water Initiative* needs to be demonstrated.

Any local government LWU wishing to pay a dividend from the surplus of its water supply and sewerage businesses are required to demonstrate achievement against these outcomes through substantial compliance with these guidelines for each of the six criteria.

In order to make a dividend payment from a surplus, an LWU must:

- Demonstrate best-practice management compliance through an independent compliance audit report; and
- Obtain an unqualified financial audit report for its water supply and sewerage businesses; and
- Resolve in a council meeting open to the public that it has achieved 'substantial compliance' with each criterion in the guidelines.

Each dividend must be calculated and approved in accordance with the DPIW guidelines and must not exceed:

CCS19/046 DIVIDENDS FROM WATER AND SEWER FUNDS

E05.9535

- i. 50% of this surplus in any one year, or
- ii. The number of water supply or sewerage assessments at 30 June 2018 multiplied by \$30 (less the payment for tax equivalent charges, not exceeding \$3 per assessment).

In accordance with the DPIW guidelines, a Dividend Payment Form, Statement of Compliance, Unqualified Independent Financial Audit Report and Compliance Audit Report are required to be submitted to the DPIW.

The proposed transfer of funds from the Water and Sewer Funds to the General Fund are based upon 2017-18 audited results in the Water and Sewer Funds, and subject to a satisfactory compliance of best practice audit and approval from the DPWI.

CONSIDERATIONS

Financial

The Water and Sewer Funds are in a sound financial position and have capacity to transfer the full dividend amounts. They had operating surpluses (before capital revenue) of \$2.53 million (Water) and \$1.022 million (Sewer) in 2017-18. Payment of these dividends will assist Council to continue to meet its Fit for the Future ratios in accordance with Council's adopted Fit for the Future Strategy.

Community and Stakeholder Engagement

The 2017-18 Financial Statements, which included Water and Sewer Funds, were referred to audit on 27 November 2018 and publicly exhibited on 30 January 2019 prior to being presented to Council for adoption at the Ordinary Meeting of Council held on 12 February 2019.

CONCLUSION

Based upon 2017-18 audited results in the Water and Sewer Funds, and subject to achievement of substantial compliance of best practice audit and approval from the Department of Primary Industries, Water, it is appropriate to seek the endorsement of Council to transfer Dividends of \$611,900 (Water) and \$566,440 (Sewer) Funds to the General Fund.

CCS19/047 INVESTMENTS MADE AS AT 31 AUGUST 2019

E99.3517

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments: Nil

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.4 Responsibly manage Council's finances and maintain Fit for the Future status

Operational Plan Link: 9.2.4.3 Provide financial management and reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

- certify that Council's investments in financial instruments have been made in accordance with 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 August 2019, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

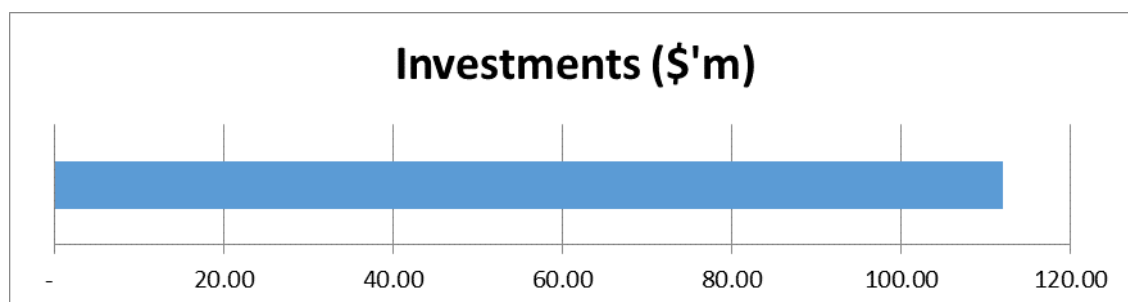
CONSIDERATIONS

Policy

The portfolio is compliant with Council's Investment Policy adopted by Council on 31 July 2018 (Minute 18/182).

Financial

Council investing overall



CCS19/047 INVESTMENTS MADE AS AT 31 AUGUST 2019

E99.3517

Council has 100% (\$112.00m) invested in Bank Deposits. The Bank Deposits are held in banks rated A or greater, or covered by the AAA rated Government Guarantee, except for \$35.25m invested in banks rated below A, and in the 'some limited risk' category of the policy.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 31.47% invested in BBB+. Investment in Government Guaranteed Deposits is \$1.75m and represents 1.56% of the portfolio.

There was a downgrade to the AMP Bank from A to BBB+ rating by Standard and Poors rating agency and as a result the amount invested in the BBB+ category of the portfolio exceeds the 30% allowed in Council's investment policy by 1.47%. AMP Bank will be removed from the portfolio when the current investments mature and this will rebalance the portfolio.

There are \$51m (45.54%) of funds invested in claimed fossil fuel free institutions. This percentage has increased in line with the total portfolio.

The weighted average return for all investments for the month is 2.37%, which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (1.23%).

Collateralised Debt Obligation (CDO)

Funded legal action against one agency is continuing.

Summary investment information

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

CATEGORY	(\$)
At Call Deposit	5,000,000
Term Deposits	105,250,000
Term Deposits Government Guaranteed	1,750,000
	112,000,000
<i>Weighted average interest %:</i>	2.37%
<i>Average 90 day BBSW + 0.25%</i>	1.23%

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 %	Total % of investments	Policy risk % (max holdings)
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CCS19/047 INVESTMENTS MADE AS AT 31 AUGUST 2019

E99.3517

Remote risk	1.56	1.56	100.00
Near risk free	66.96	66.96	100.00
Some limited risk (BBB+)	31.47	31.47	30.00
Grand total	100.00	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 2018 is 2.51:1. Council therefore has approximately \$2.51 of current assets for each \$1 of current liabilities.

CONCLUSION

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 Local Government Act 1993* and related Regulations.

CCS19/048 SALE OF MORUYA RACECOURSE

E14.8327

Responsible Officer: Anthony O'Reilly - Director Corporate and Commercial Services

Attachments:

1. Confidential - Racing NSW offer
2. Confidential - Submissions received - support
3. Confidential - Submissions received - opposing
4. Confidential - Moruya Jockey Club correspondence

Outcome: Innovative and Proactive Leadership

Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations

Delivery Program Link: 9.2.2 Manage land under Council control to achieve a return for the community

Operational Plan Link: 9.2.2.2 Facilitate property sales and development

EXECUTIVE SUMMARY

This report is presented to Council for consideration of the sale of the Moruya Racecourse (the racecourse) to Racing NSW following a 28-day public notification period that closed on 11 September 2019.

In late 2015, Racing NSW approached Council enquiring whether Council would consider the sale of the racecourse. Ongoing negotiations with Racing NSW have been periodically occurring and a potentially acceptable price was recently proposed.

In making the offer, Racing NSW has confirmed in writing its intention that the land will continue to be used indefinitely for the purposes of thoroughbred racing and training.

The Moruya Jockey Club (MJC) currently has a 50-year lease which is attached to the land. The MJC is supportive of the sale, has had many discussions with Racing NSW about it, and has written to Council outlining its belief that it will be good for racing in Eurobodalla.

A period of 28 days was provided for community comment. Notification of the proposed sale was placed on Council's website and in the local papers. A media release was issued and this resulted in wide promotion of the proposed sale and community notification period including on WIN TV news and ABC Radio. Submissions closed on 11 September 2019.

This report provides a summary on the submissions received. The submissions are available as a confidential attachment to this report.

Whilst the vast majority of submissions supported the sale, some submissions did not, and others wanted to be reassured that Council was getting good value for the sale. From the racing community specifically, no submissions were received opposing the sale.

RECOMMENDATION

THAT the General Manager be given delegated authority to finalise the sale of Lot 1 DP1249510, known as the Moruya Racecourse, to Racing NSW for the amount identified in its letter which is a Confidential Attachment to this report.

CCS19/048 SALE OF MORUYA RACECOURSE

E14.8327

BACKGROUND

In late 2015, Racing NSW approached Council regarding the sale of the racecourse to Racing NSW. Since that time, negotiations have been intermittent. In late July 2019, after Racing NSW made a number of offers which Council did not believe offered value for money, a potentially acceptable price was proposed.

A report was presented to the Council meeting on 13 August 2019 to seek public submissions regarding the proposal to sell the racecourse. At that meeting Council resolved that:

- 1. Council note the offer from Racing NSW detailed in the confidential attachment to this report for the purchase of the Moruya Racecourse.*
- 2. Public Notice be given of the proposed sale of Moruya Racecourse to Racing NSW for a period of 28 days.*
- 3. A further report be presented to Council following the notification period to consider submissions.*

Although not legislatively required, Racing NSW was aware that Council had a commitment to provide the community with the opportunity to comment on the sale of the Moruya Racecourse. That opportunity was provided with a 28-day public notification period that closed on 11 September 2019.

In making the offer, Racing NSW has provided the attached confidential written confirmation of its offer for the purchase of the property and confirmed its intention that the land will continue to be used indefinitely for the purposes of thoroughbred racing and training, and leased to the MJC for that purpose. Racing NSW also confirmed that it does not object to the use of the present St John's Ambulance building by that organisation under the existing conditions. The current licence ends on 30 November 2020 and Racing NSW has agreed to an extension of this term.

Racing NSW has provided significant funds for much of the investment at the Moruya Racecourse.

Racing NSW is an independent, autonomous body established under the [*Thoroughbred Racing Act 1996*](#) responsible for the conduct of thoroughbred racing in New South Wales. Racing NSW's Strategic Plan is found at https://www.racingsw.com.au/wp-content/uploads/RNSW-Strategic-Plan-2018_3_Final.pdf. The Strategic Plan includes a Racecourse Infrastructure and Funding Allocation (see page 29) which is specifically aimed at improving racecourses.

CONSIDERATIONS

Consideration of current users

During negotiations, staff have been aware of the need to secure terms to seek to protect the interests of the MJC and St John's Ambulance.

The MJC holds a 50-year lease with Council over the racecourse and is supportive of the sale to Racing NSW. Racing NSW has indicated its intention is that the land will continue to be used indefinitely for the purposes of thoroughbred racing and training. MJC has had many meetings with Racing NSW and a letter from the MJC provided as a confidential attachment to this report outlines its firm belief that the closer involvement of Racing NSW will be good for the MJC and racing in Eurobodalla.

CCS19/048 SALE OF MORUYA RACECOURSE

E14.8327

Within the racecourse, St John's Ambulance has a licence to occupy an area for its operations. Racing NSW has confirmed that it does not object to the use of the present St John's Ambulance building by that organisation under the existing conditions. The current licence ends on 30 November 2020 and Racing NSW has agreed to an extension of this term.

Owners of the adjacent freehold dwellings will continue to have right of carriageway access via Donnelly Drive.

Legal

The conduct of thoroughbred racing in New South Wales is overseen by Racing NSW, an independent, autonomous body established under the [*Thoroughbred Racing Act 1996*](#).

Section 55 of the *Local Government Act 1993* confirms that a tender process is not required for the sale of land or when transacting with a statutory authority.

Policy

In accordance with Council's *Land Acquisition and Disposal Policy*, the direct dealing with Racing NSW was appropriate given that it is not considered in the public interest to place the facility on the open market as the land was initially developed for the purpose of thoroughbred horse racing.

Lot 1 DP1249510 comprises the 50ha area which includes the racecourse facility and an area set aside for drainage and access within the freehold dwelling subdivision. This lot was formally part of Lot 41 DP 1036166.

Asset

A significant proportion of the funding for the building and improvements at the racecourse has been provided by grants administered under Racing NSW. Future capital improvements are likely to be reliant on the same.

Economic Development Employment Potential

Racing NSW's Strategic Plan includes a Racecourse Infrastructure and Funding Allocation which is specifically aimed at improving racecourses.

It is understood that additional investment at Moruya will be facilitated by the acquisition by Racing NSW and will increase tourism and jobs in the region. MJC's letter to Council outlines its belief that the sale to Racing NSW will increase employment in Eurobodalla.

Financial

The market value of the land was assessed by a registered valuer in January 2019. This valuation is based on freehold value, vacant possession.

The rent received from the lease to MJC is reinvested back into the racecourse so there is no net revenue for Council. The removal of the depreciation expenses is anticipated to improve Council's operating surplus.

The proposed sale price includes consideration of the value of the land and the assets.

The zoning of the land is RE2 – Private Recreation. The zoning and the land uses permissible under the zone have been considered and are reflected in the valuation. It should be noted that

CCS19/048 SALE OF MORUYA RACECOURSE

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this zoning does not permit residential or commercial development which significantly affects the value of the land.

Another means of assessing value for leased properties is to consider the rents that are generated from a property. The value of the land for rating purposes has also been considered. Both these alternative methodologies support the land value figures provided by the registered valuer.

Community and Stakeholder Engagement

A period of 28 days was provided for community comment. Notification of the proposed sale was placed on Council's website and in the local papers. A media release was issued and this resulted in wide promotion of the proposed sale and community notification period including on WIN TV news and ABC Radio.

The MJC is enthusiastically supportive of the acquisition of the Moruya Racecourse by Racing NSW and presented its views to Councillors in public access prior to the Council meeting on 13 August 2019.

A meeting was offered with stakeholders during the notification period. Staff attended a meeting organised by the MJC where residents of adjoining properties in Donnelly Drive were present and the meeting was very supportive of the sale. Staff contacted those residents of Donnelly Drive not present at the meeting and the neighbouring Surfair Speedway, provided information on the sale, and made the offer to meet if they had any questions.

Staff have also been in direct contact with St Johns Ambulance representatives.

Feedback from the community is summarised as follows:

- 91 signed letters from members of the MJC supporting the sale
- 119 signed letters from attendees at recent race meetings supporting the sale
- 6 individual submissions supporting the sale
- 4 submissions not supportive of or questioning aspects of the sale
- Feedback received at a meeting with trainers at the racecourse which was supportive of the sale

All submissions received are attached to this report as a confidential attachment.

The submissions supporting the sale believe it will be an important boost for the local racing industry.

A summary of matters raised in submissions not supportive of the sale and Council's response to them is provided below:

Matter Raised	Council Response
Why the sale price is confidential and how can the community provide informed input without knowing the price	Racing NSW has confirmed that it wishes the sale price to be confidential, so it remains commercial in confidence. The sale price has been determined as

CCS19/048 SALE OF MORUYA RACECOURSE

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	outlined in this report.
Whether Council's Land Acquisition and Disposal Policy has been complied with	Council's Policy has been complied with including consideration of probity matters, the fact that only one valuation is required and that negotiations have only been with Racing NSW because of the specific use of the site and the existing 50 year lease with MJC.
What Racing NSW's future intentions for the racecourse are	<p>Racing NSW has confirmed in writing its intention that the land will continue to be used indefinitely for the purposes of Thoroughbred Racing and leased to the MJC for those purposes.</p> <p>In addition, the MJC has had numerous meetings with Racing NSW about its future intentions for the racecourse.</p> <p>A link to Racing NSW's Strategic Plan is included in this report which shows the strategic importance of developing racecourse infrastructure to Racing NSW.</p>
Whether Council and the ratepayers are getting value for money from the sale, particularly considering the potential to rezone the site. What methodology was used for the valuation.	<p>Council has used a valuation by a registered valuer to assess the land value who stated in his report that:</p> <p><i>"The valuation is to reflect the market value of the freehold interest and is to be undertaken in accordance with the Australian Property Institute's definition of market value which is -</i></p> <p><i>"The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion".</i></p> <p>It has also considered other methodologies listed in this report around assessing the value of the land as well as considering the value of the assets.</p> <p>Any land can be rezoned in the future and such requests would come to Council for consideration.</p>
Council should consider the option of a 99-year lease to Racing NSW rather than a sale	Racing NSW has advised Council a number of times that it does not agree to this option.

CCS19/048 SALE OF MORUYA RACECOURSE**E14.8327**

First right to buy back option	Racing NSW have agreed to the inclusion of such a clause
The long term strategic value of the racecourse to the shire	The racecourse has a long term lease over it (50 years) so the long term strategic value of the site is driven by the uses under this lease. The holder of the 50-year lease believes the sale is the best way to support its operation.

CONCLUSION

The proposal by Racing NSW for the purchase of the Moruya Racecourse potentially provides significant opportunities for the expansion of racing in Eurobodalla and is supported by the racing community.

The sale price that staff have negotiated includes consideration of the value of the land and the assets.

The community has been provided with an opportunity to comment on the proposed sale during the 28-day public notification period.

Given the level of community support and the likely benefits of the sale to local employment in the racing industry, it is considered appropriate for Council to endorse the sale of the Moruya Racecourse to Racing NSW.

15. 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.

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.