



# **Minutes**

**Ordinary Meeting of Council**

**26 November 2019**



**ORDINARY MEETING OF COUNCIL**  
**HELD IN THE COUNCIL CHAMBERS, MORUYA**  
**ON TUESDAY 26 NOVEMBER 2019**

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**MINUTES OF THE  
ORDINARY MEETING OF COUNCIL  
HELD IN THE COUNCIL CHAMBERS, MORUYA  
ON TUESDAY, 26 NOVEMBER 2019  
COMMENCING AT 11.00AM**

**PRESENT:** Councillor Liz Innes, Mayor (in the Chair)  
Councillors Anthony Mayne, Jack Tait, James Thomson, Lindsay Brown,  
Maureen Nathan, Patrick McGinlay and Phil Constable

**Staff:** Dr Catherine Dale, General Manager  
Mr L Usher, Director, Planning and Sustainability Services  
Mr W Sharpe OAM, Director, Infrastructure Services  
Mr A O'Reilly, Director, Corporate and Commercial Services  
Mrs K Arthur, Director, Community, Arts and Recreation  
Mr J Phillips, Divisional Manager, Governance and Administration  
Mrs K Green, Minute Secretary

**1. WELCOME**

The Mayor welcomed everyone to the meeting.

**2. ACKNOWLEDGEMENT OF COUNTRY**

The Mayor acknowledged the Traditional Custodians of the Land, of Elders past and present, whose land we are gathered here today.

**3. EVACUATION MESSAGE**

The Mayor advised of the Evacuation Procedures.

**4. APOLOGIES**

**19/232 MOTION** Councillor Brown/Councillor Nathan

THAT apologies be received from Councillor Rob Pollock OAM and leave of absence be granted.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait  
and J Thomson.

Against the Motion: Nil.

**5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**19/233 MOTION** Councillor Tait/Councillor Thomson

THAT the minutes of the Ordinary Meeting held on 12 November 2019 be confirmed.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait  
and J Thomson.

Against the Motion: Nil.

**6. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**

Councillor Mayne declared a significant, pecuniary conflict of interest in GMR19/023 Southern Phone and stated that he did believe his interest would preclude him from voting.

**Reason:** Councillor Mayne declared an interest as he is an employee of Southern Phone.

Councillor Mayne declared a significant, non-pecuniary conflict of interest in CAR19/024 Health Communities and Seniors Festival Grants and stated that he did believe his interest would preclude him from voting.

**Reason:** Councillor Mayne declared an interest as a relative is a recipient of a grant.

**7. MAYORAL REPORTS**

Nil

**8. NOTICES OF MOTION**

Nil

**9. QUESTIONS ON NOTICE FROM COUNCILLORS**

Nil

**10. PETITIONS**

Nil

**11. GENERAL MANAGER'S REPORTS**

**GMR19/022 ANNUAL REPORT 2018-19**

File Ref: E08.2166

**19/234 MOTION** Councillor Thomson/Councillor Brown

THAT:

1. The Annual Report 2018-19 be received.
2. A copy of the Annual Report 2018-19 be placed on Council's website, Council libraries, the Moruya Customer Service Centre and a copy be forwarded to the Minister for Local Government.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait  
and J Thomson.

Against the Motion: Nil.

**GMR19/023 SALE OF SOUTHERN PHONE**

File Ref: E01.5634

Councillor Mayne declared a significant, pecuniary conflict of interest in GMR19/023 Southern Phone and stated that he did believe his interest would preclude him from voting.

**Reason:** Councillor Mayne declared an interest as he is an employee of Southern Phone.

**At 11:15 am** Councillor Mayne left the Chambers.

**19/235 MOTION** Councillor Brown/Councillor McGinlay

THAT

1. Council gives the delegated authority to the General Manager to arrange the sale of shares in Southern Phone.
2. Council appoints the General Manager as its representative for the purpose of the Share Sale Agreement.
3. Council gives Power of Attorney to the General Manager to vote at the Extraordinary Meeting of Southern Phone in favour of a special resolution to update the Southern Phone (Company) constitution, including to permit non-council Shareholders of the Company.
4. Council receive a further report on the use of the proceeds of this sale, should the sale proceed.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**AT 11:29 AM** Councillor Mayne returned to the Chambers.

**SUSPENSION OF STANDING ORDERS**

**19/236 MOTION** Councillor Brown/Councillor Nathan

That Standing Orders be suspended in order to deal with item CCS19/063 Licence to Park Vehicles for Business Operations within Narooma Flat.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**CCS19/063 LICENCE TO PARK VEHICLES FOR BUSINESS OPERATIONS WITHIN NAROOMA FLAT**

File Ref: E80.1214

**19/237 MOTION** Councillor Tait/Councillor Brown

THAT

1. The General Manager to be given delegated authority to grant licences to park vehicles for business operations within Narooma flat.
2. Licences be granted with terms and conditions including:
  - (a) Initial licence period will be for a six month trial period with no guarantee that licences will be renewed;
  - (b) Payment of a licence establishment fee in accordance with Council's fees and charges;
  - (c) Payment of a rental fee for the six month licence of \$1,663 plus GST for a two car space licence and \$1,100 plus GST for a single car space licence at the Wharf;
  - (d) The licence areas are not to be used as a booking office or to offer retail or ancillary services;
  - (e) Operating hours are strictly limited to the period before a boat departs and a short period after departure;
  - (f) Licence holders are to ensure they and their customers act safely at all times and do not block the shared pathway;
  - (g) Provision of evidence and maintenance of public liability insurance in the amount of \$20 million during the licence period.
3. The General Manager to be given delegated authority to amend or add additional terms and conditions to the licences as required.
4. The Traffic Committee's consideration be sought in regard to appropriate signage for the licenced areas.
5. Council receive a further report, prior to the end of the licence period, to review this trial.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**19/238 RESUMPTION OF STANDING ORDERS** Councillor Thomson/Councillor Nathan

That Standing Orders be resumed.

Division

For the Motion: Crs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**3. PLANNING AND SUSTAINABILITY REPORTS**

**PSR19/032 COMMUNITY ENGAGEMENT & PARTICIPATION PLAN - POST EXHIBITION**

File Ref:

**19/239 MOTION** Councillor Brown/Councillor Tait

THAT:

1. Council adopt the Community Engagement Framework and Participation Plan without amendment.
2. A public notice is prepared that advertises the adoption of the Community Engagement Framework and Participation Plan and the subsequent retraction of the Advertisement and Notification Code.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Cr A Mayne.

**PSR19/033 DA 488/18 - TWO LOT SUBDIVISION - MALONEYS DRIVE, MALONEYS BEACH**

File Ref: 16.0334.S

**19/240 MOTION** Councillor Tait/Councillor Brown

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act 1979*, development application no. 488/18 Lot 246 DP 569875, Maloneys Drive, Maloneys Beach be APPROVED, subject to the conditions set out below.

**GENERAL CONDITIONS**

**1 *Approved plans***

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA488/18 Sheet 1 of 1	unknown	3/11/2017	David Sledge

**Note:** *Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.*

*Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]*

**PRIOR TO ISSUE OF SUBDIVISION/STRATA CERTIFICATE**

**2 *Subdivision Certificate***

A Subdivision Certificate is to be obtained once any works required by this consent are complete. Submission of a completed subdivision certificate application form together with all required documents and fees is required to be made to Council. The application form, checklist and fee detail can be found at [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au). [12.34]

**3 *Public Utility Adjustments***

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

**4 *Plan of Survey Amendment***

The Plan of Survey submitted in conjunction with an application to Council for a Subdivision Certificate is to incorporate requirements specified in the conditions of subdivision approval. [12.02]

5 **Electricity Supply**

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable). [12.04]

6 **Telecommunications Cabling**

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra/NBN that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits. [12.05]

7 **Section 7.11 Contributions - Subdivision**

Prior to issue of a Subdivision Certificate the developer/consent holder shall pay Council contributions towards the provision of public amenities and services in accord with Council's Contributions Plan. The contribution rates for the current financial year are as follows:

Roads	\$3,150.85
Open Space & Recreation	\$1,583.40
Community & Cultural	\$91.80
Paths & Cycleways	\$293.40
Plan Prep & Admin	\$154.90
Waste	\$134.50

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the subdivision.*

The plan can be viewed on Council's website at [http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94\\_development\\_contributions\\_plan.pdf](http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf) [3.10]

8 **Water/ Sewer Developer Contributions - Subdivision**

Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$12,710 (1 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710 (for subdivisions 1.0 ET applies per additional lot <2000m<sup>2</sup> and 1.5 ET per additional lot >2000m<sup>2</sup>).

- b) \$11,065 (1 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.* [3.11]

9 **Bushfire Safety Authority**

1. At the issue of a Subdivision Certificate, suitably worded instruments shall be created over proposed Lot 1 pursuant to Section 88 of the 'Conveyancing Act 1919' which:
  - Prohibits the construction of a residential dwelling within 20 metres of the north eastern property boundary.
  - Requires any new residential dwelling to be built to BAL 40 standards or higher in accordance with Australian Standard AS39592009 'Construction of buildings in bush fire prone areas' or NASH Standard(1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006' (or equivalent).

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. Prior to issue of a Subdivision Certificate, and in perpetuity, all land within proposed lot 1 shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 of Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. The provision of all water, electricity and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

4. Unobstructed pedestrian access shall be provided to the rear of the property to

aid in firefighting activities.

### **Landscaping**

5. All landscaping within proposed Lot 1 shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006.'

### **General Advice**

The name of authority empowered to release, vary or modify the instruments contained within this Bush Fire Safety Authority shall be the Eurobodalla Shire Council.

### **ADVISORY NOTES**

#### ***Discovery of a Relic***

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

(The Motion on being put was declared **CARRIED**)

#### Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**PSR19/034 DA 593/19 - THREE LOT SUBDIVISION - 13A SUNSHINE BAY ROAD, SUNSHINE BAY**

File Ref: 17.1266.s

**19/241 MOTION** Councillor Brown/Councillor Tait

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, development application no. 593/19 Lot 9 DP774356, 13A Sunshine Bay Road, Sunshine Bay be APPROVED, subject to conditions set out below:

**GENERAL CONDITIONS**

**1 Approved plans**

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared b
DA593/19 - Sheets 1 & 2	Unknown	4/11/2019	Eurobodall: Council

**Note:** *Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.*

*Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]*

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**2 Construction Certificates**

A Construction Certificate is to be issued by Council prior to any works, including clearing or installation of services, being undertaken on the site. [12.32]

**3 Footpath Construction**

Prior to the issue of the Construction Certificate submission to and approval by Council of a detailed plan for footpath construction for the full John Oxley Crescent frontage of the property and from John Oxley Crescent to Sunshine Bay Road through the remaining reserve in accordance with 'Councils Infrastructure Design Standards <<http://www.esc.nsw.gov.au/development-and-planning/tools/development-control-plans/Infrastructure-Design-Standard-IDS.pdf>> Plan No. 4400-A-002-a-2.. [14.06]

**4 Section 7.11 Contributions**

Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The

current contribution rates for the current financial year are as follows:

Roads	\$6,301.70
Open Space & Recreation	\$3,166.80
Community & Cultural	\$183.60
Paths & Cycleways	\$586.80
Plan Prep & Admin	\$309.80
Waste	\$269

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

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.*

The plan can be viewed on Council's website at  
[http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94\\_development\\_contributions\\_plan.pdf](http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf) [3.07]

#### 5 **Water/Sewer Developer Contributions - Development**

Prior to the issue of a Section 68 Approval/Construction Certificate, the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$25,420 (2 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710.
- b) \$22,130 (2 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

The contribution shall be paid to the Eurobodalla Shire Council. Evidence of the payment shall be submitted to Principal Certifying Authority prior to the issue of the Construction Certificate.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.* [3.11a]

#### **PRIOR TO COMMENCEMENT OF WORKS**

#### 6 **Erosion and Sedimentation Control**

Prior to commencement of any earthworks, installation of all measures necessary to effectively control soil erosion on the site to prevent silt discharge into drainage systems and waterways in accordance with Council's Soil and Water Management Code. The measures, to include sediment fencing and erosion control devices, are to

be maintained and remain in place until the development is completed and disturbed areas are stabilised.

**Note:** *Clean Up Notices and/or on-the-spot fines may be imposed by Council for non-compliance with this condition.* [11.13]

7 **Site Waste Management**

A site rubbish enclosure must be provided prior to commencement of any work for the period of the proposed work and remain in place for the duration of all works. All waste materials from the site must be disposed of at an authorised waste facility. [22.01]

**DURING CONSTRUCTION**

8 **Commercial/Industrial Construction Hours - NOISE**

Construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and between 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays.

Work may be carried out outside of the above standard hours for construction if the work only generates noise that is:

- (a) no louder than 5dB(A) above the rating background level at any residence in accordance with the Interim Construction Noise Guidelines (ISBN 9781742322179) published by the NSW Dept of Environment and Climate Change, July 2009.
- (b) no louder than the noise management levels specified in Table 3 of the Guideline at other sensitive receivers. [20.01a]

**PRIOR TO ISSUE OF SUBDIVISION/STRATA CERTIFICATE**

9 **Public Utility Adjustments**

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council. [0209]

10 **Easements**

The Plan of Survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council. [12.03]

11 **Electricity Supply**

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable). [12.04]

12 **Telecommunications Cabling**

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written

confirmation from Telstra/NBN that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits. [12.05]

13 **Reserve Dedication**

The Plan of Survey subject of a Subdivision Certificate shall include dedication of all reserves free of all costs to Council. [12.11]

14 **Sewer Junction/Extension Provision**

Prior to issue of a Subdivision Certificate the applicant shall enter into a Private Works Agreement with Council for provision of sewer junction and/or minor extension to serve the proposed subdivision and provide certified Works as Executed Plans to Council. [12.15]

15 **Maintenance Bond**

Prior to issue of a Subdivision Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price or minimum of \$1,000.00 whichever is greater, applicable for six months from the date of issue of the Subdivision Certificate. [12.17]

16 **Easement Creation**

Construction of drainage or sewerage works over intervening private property for this development is dependent on the applicant negotiating a permit to enter that land and acquiring an easement or right to use the land under the surface for construction, and for future maintenance of works by Council. Proof of registration of legal access is to be submitted to Council prior to the issue of Subdivision Certificate. [12.18]

17 **Right of Carriageway**

The Plan of Survey subject of a Subdivision Certificate shall indicate restrictions on Title under Section 88B of the Conveyancing Act 1919 creating:

- (a) a right of carriageway in favour of the lot(s) for which access is to be provided being of a width adequate to accommodate the full width as constructed;
- (b) a restriction as to user whereby it is noted that responsibility for construction and/or maintenance of the right of carriageway is with the owner(s) of the lots benefited
- (c) a restriction as to user for services across the 4m wide reciprocal right of carriageway. [12.20]

18 **Footpaths**

Prior to issue of Subdivision Certificate concrete footpaths are to be installed in accordance with the standards set out under table 2 of [Councils Infrastructure Design Standards](#) and approved plans. Certified Work as Executed plans shall be submitted to Council prior to issue of Subdivision Certificate. [12.22]

19 ***'Battle Axe' Access***

Prior to issue of a Subdivision Certificate the applicant shall construct a sealed access to "battle axe" shaped lots where longitudinal grades exceed 10% (1 vertical:10 horizontal) and including provision for drainage, sediment and erosion control measures in accordance with sound engineering practice. [12.26]

20 ***Inter-allotment Drainage***

Prior to Issue of a Subdivision Certificate the applicant shall, in accordance with Councils [Infrastructure Design Standards](#) and subject of a Construction Certificate, construct an inter-allotment drainage scheme for all lots that cannot discharge stormwater to Council's street or an approved stormwater drainage scheme. Proposed Lot 2 shall be provided with inter-allotment drainage to Sunshine Bay Road. [12.29]

21 ***"Work as Executed" Plans***

Prior to issue of a Subdivision Certificate the applicant shall provide Work as Executed plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work. [12.30]

22 ***Bushfire Safety Authority***

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. Prior to the issue of a Subdivision Certificate and in perpetuity, any land within the proposed lots shall be managed as an Inner Protection Act (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of all new and the modification of any existing water, electricity, and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

General Advice

This approval is for the subdivision of land only. Any further development application for Class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to a separate application under Section 4.14 of the 'Environmental Planning and Assessment Act 1979' and address the relevant provisions of 'Planning for bush

Fire Protection 2006'.

### **ADVISORY NOTES**

#### ***Discovery of a Relic***

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

#### ***Underground Utility Services Check***

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development. [0263]

(The Motion on being put was declared **CARRIED**)

#### Division

For the Motion: Crs L Brown, P Constable, M Nathan, J Tait and J Thomson.

Against the Motion: Crs L Innes, A Mayne and P McGinlay.

**PSR19/035 DA 534/19 - THREE-LOT SUBDIVISION - GREGORY STREET, BATEMANS BAY  
COUNCIL-OWNED LAND**

File Ref: 16.0309.S

**19/242 MOTION** Councillor Brown/Councillor Tait

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act 1979*, development application no. 534/19 for Lot 388 DP 248840, Gregory Street, Batemans Bay be APPROVED, subject to the conditions set out below:

**GENERAL CONDITIONS**

1. **Approved plans**

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA 534/19 Sheet 1	Not provided	27/03/2019	Colleen Scott

Council Stamp No.	Document title	Date of document	Prepared by
DA534/19 Document 1 of 1	Biodiversity Development Assessment Report (BDAR)	23 September 2019 Final, Version 3	Ecological Australia

**Note:** Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act (EPA Act) 1979*, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

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

2. **Concept Approval**

This approval was issued under Division 4.4 of the EPA Act 1979 and allows Stage 1 being the creation of fully serviced Lots 1 & 2, whilst the residual lot is the subject of a concept plan for a further 3 lots. A further development application has to approved before it can be subdivided. No clearing is permitted on the residual lot excluding the 10 metre wide bushfire defendable space.

**PRIOR TO ISSUE OF INFRASTRUCTURE CONSTRUCTION CERTIFICATE**

3. **Ecosystem Credit Retirement Conditions**

- a) Prior to issue of a Construction Certificate (or the removal of any vegetation,

whichever is earlier) the class and number of ecosystem and species credits in Table 35 must be retired to offset the residual biodiversity impacts of the development.

- b) The requirement to retire credits in condition 3(a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 3(a) must be provided to the Council prior to the issue of a Construction Certificate.

*Reference: DA534/19 - Doc. 1 of 1*

*Biodiversity Development Assessment Report (BDAR) dated 23 September 2019 prepared by Ecological Australia.*

**Note:** *Prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.*

#### **4. Species Credit Retirement Conditions**

- a) Prior to issue of a Construction Certificate (or the removal of any vegetation, whichever is earlier) the class and number of ecosystem and species credits in Table 36 must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in condition 4(a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 4(a) must be provided to the Council prior to the issue of a Construction Certificate.

*Reference: DA534/19 - Doc. 1 of 1*

*Biodiversity Development Assessment Report (BDAR) dated 23 September 2019 prepared by Ecological Australia.*

**Note:** *Prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.*

#### **5. Prior to the Issue of Infrastructure Construction Certificate**

Submission to and approval by Council of engineer's design for sewer, water and stormwater is required prior to the issue of the Infrastructure Construction Certificate. Plans are to be in accordance with Council's Development Specifications, related Australian Standards and Water and Sewerage Specifications.

The fee for the issue of the subdivision Construction Certificate will be charged at the

rate for the current financial year at the time of issue, as set in Eurobodalla Shire Council's Fees and Charges.

#### **PRIOR TO COMMENCEMENT OF WORK**

##### **6. Construction in a Road Reserve**

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL) is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. [rol\\_southern@rta.nsw.gov.au](mailto:rol_southern@rta.nsw.gov.au)

Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from [http://www.esc.nsw.gov.au/media/395951/Section\\_138\\_Roads\\_Act.pdf](http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf) Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued.

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE (STAGE 1 ONLY)**

##### **7. Subdivision Certificate**

A Subdivision Certificate is to be obtained once any works required by this consent are complete. Submission of a completed subdivision certificate application form together with all required documents and fees is required to be made to Council. The application form, checklist and fee detail can be found at [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au).

##### **8. Public Utility Adjustments**

Adjustments to the public utilities necessitated by the development shall be completed prior to occupation of the development and in accordance with the requirements of the relevant authority, all at no cost to Council.

##### **9. Section 7.11 Contributions Subdivision**

Prior to issue of a Subdivision Certificate the developer/consent holder shall pay Council contributions towards the provision of public amenities and services in accord with

Council's Contributions Plan. The contribution rates for the current financial year are as follows:

Waste (shire wide) \$268.60

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the subdivision.*

The plan can be viewed on Council's website at

[http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94\\_development\\_contributions\\_plan.pdf](http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf)

**10. Water/ Sewer Developer Contributions - Subdivision**

Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the Water Management Act 2000/ compliance with Section 64 of the Local Government Act 1993. To be eligible, the developer/consent holder will have to contribute:

- a) \$25,420.00 (2 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$12,710.00 (for subdivisions 1.0 ET applies per industrial lot).
- b) \$22,130.00 (2 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$11,065.

**Note:** *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.*

**11. Plan of Survey Amendment**

The Plan of Survey submitted in conjunction with an application to Council for a Subdivision Certificate is to incorporate requirements specified in the conditions of subdivision approval.

**12. Electricity Supply**

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable).

**13. Easements**

The Plan of Survey subject of a Subdivision Certificate shall create drainage, water, sewer and service easements where required and/or as directed by Council free of all costs to Council.

**14. Telecommunications Cabling**

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra/NBN that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and

conduits.

**15. Water Reticulation**

Prior to the issue of a Subdivision Certificate the applicant shall construct water reticulation including 20mm water service connections to each newly created lot in accordance with Plan No: 4753. The limit of the service connection shall be the 20mm M\*F stopcock.

The Water Reticulation Plan shall be in accordance with Council's Water and Sewerage specification and is subject to approval and issue of a Construction Certificate with payment of fees applicable under the current fees and charges for the year of issue.

Work as Executed Plans are to be submitted to Council prior to the release of the Subdivision Certificate. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

**16. Sewer Reticulation**

Prior to issue of Subdivision Certificate the applicant shall construct sewer reticulation to the new lots in accordance with plans subject of a Construction Certificate to Council's codes and specifications and provide certified Works as Executed Plans to Council. The Construction Certificate for the provision of engineering infrastructure for this development will attract fees additional to those levied for the Construction Certificate associated with the structures assessed for compliance with the Building Code of Australia.

**17. Maintenance Bond**

Prior to issue of a Subdivision Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price or minimum of \$1,000.00 whichever is greater, applicable for six months from the date of issue of the Subdivision Certificate.

**18. "Work as Executed" Plans**

Prior to issue of a Subdivision Certificate the applicant shall provide Work as Executed plans in accordance with Council's specification, duly certified by an engineer or registered surveyor, for all construction work.

**19. Department of Lands Consent**

Prior to any work being carried out on a Crown road the applicant shall obtain consent from the State Department of Lands.

**20. Bushfire Safety Authority**

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall

apply:

- a) At the issue of subdivision certificate for Stage 1 and in perpetuity the proposed lots 1, 2, and the 10m bushfire defensible space requirement shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- b) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

#### **ADVISORY NOTES**

##### ***Discovery of a Relic***

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area.

(The Motion on being put was declared **CARRIED**)

#### Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**4. INFRASTRUCTURE REPORTS**

**IR19/024 REQUEST FOR TENDER NO. 2019/ISD094 - CLAY LINER BODALLA SEWER  
TREATMENT PLANT**

File Ref: E02.6256

**19/243 MOTION** Councillor Tait/Councillor Thomson

THAT:

1. Council endorse the selection of the preferred tenderer listed for Request for Tender (RFT) No. 2019/ISD094 Rectification of the Clay Liner, Bodalla Sewage Treatment Plant; and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait  
and J Thomson.

Against the Motion: Nil.

**5. CORPORATE AND COMMERCIAL SERVICES REPORTS**

**CCS19/059 LICENCE FOR CARAVAN AND CAMPING SHOW - HANGING ROCK SPORTS COMPLEX**

File Ref: E05.9612

**19/244 MOTION** Councillor Tait/Councillor Mayne

THAT:

1. Council as Crown Land Manager grant a licence in accordance with Section 2.20 of the *Crown Land Management Act 2016* to Expoz Pty Ltd to host the Batemans Bay Caravan, Camping and Leisure Expo within Crown Reserve R66122 Hanging Rock, Batemans Bay in 2019 with terms and conditions including:
  - a) Payment of an event bond be made 30 days prior to the event.
  - b) The provision of an event management plan acceptable to Council for the event.
  - c) Other conditions in line with previous licences for similar events.
2. The General Manager to be given delegated authority to grant further licences for these events subject to compliance with Council policy and consideration of any public feedback received.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**CCS19/062 BUDGET REVIEW FOR THE PERIOD ENDED 30 SEPTEMBER 2019**

File Ref: E05.9535

**19/245 MOTION** Councillor Tait/Councillor Brown

THAT

1. The budget review report for the quarter ended 30 September 2019 be received and noted.
2. The unfavourable variations for the Income Statement after capital revenue of \$12.4 million and favourable variations of \$0.34 million as per the Consolidated Fund Flow Statement be adopted.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait  
and J Thomson.

Against the Motion: Nil.

**CCS19/061 INVESTMENTS MADE AS AT 31 OCTOBER 2019**

File Ref: E99.3517

**19/246 MOTION** Councillor Tait/Councillor Brown

THAT the certification that the investments as at 31 October 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.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Crs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**6. COMMUNITY, ARTS AND RECREATION REPORTS**

**CAR19/025 NAROOMA SPORT AND LEISURE PRECINCT DRAFT PLAN OF MANAGEMENT**

File Ref: E05.9616

**19/247 MOTION** Councillor Constable/Councillor Brown

THAT:

1. In accordance with Section 39 of the NSW Local Government Act 1993, Council sends an electronic copy of the Narooma Sport and Leisure Precinct draft Plan of Management to the NSW Minister for Lands and Forestry and seeks the Minister's consent to exhibit the draft POM.
2. In accordance with Section 3.23(9) of the NSW Crown Land Management Act 2016, Council seeks the consent of the NSW Minister for Lands and Forestry to alter the category of Lot 7026 DP 1020248 (part of Crown Reserve 80515) and Lot 476 DP 752155 (part of Crown Reserve 63051) from 'Park/General Community Use' to 'Natural Area', Bushland and Foreshore categories respectively.
3. Subject to the decision of the NSW Minister for Lands and Forestry with respect to recommendation 1 and in accordance with Section 38 of the NSW Local Government Act 1993, Council publicly exhibits the Narooma Sport and Leisure Precinct draft Plan of Management for a period of not less than 28 days with a total specified period of not less than 42 days after the date on which the draft POM is placed on exhibition during which submissions may be made to Council.
4. Subject to the decision of the NSW Minister for Lands and Forestry with respect to recommendation 2, Council facilitates an independently chaired public hearing with respect to the proposed change of category of Lot 7026 DP 1020248 and Lot 476 DP 752155 from 'Park/General Community Use' to 'Natural Area' in accordance with Section 40A of the NSW Local Government Act 1993.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**CAR19/022 TENDER FOR GUNDARY OVAL SPORTING AMENITIES CONSTRUCTION**

File Ref: E89.3008

**19/248 MOTION** Councillor Tait/Councillor Nathan

THAT:

1. Council reject the tenders received in response to Request for Tender (RFT) No 2019/CAR083 – Construction of Gundry Sporting Amenities.
2. Council do not invite fresh tenders because it does not believe that this will achieve a better outcome for the project given the tender panel's assessment of the tenders received and the delay in delivering the project if fresh tenders are called.
3. Council enter into negotiations based on the conditions outlined in RFT 2019/CAR083 – Construction of Gundry Sporting Amenities, with the tenderer identified in the confidential attachment to this Council report, as they satisfied all criteria and ranked highest of the tenders received.
4. The General Manager be given delegated authority to conclude these negotiations and if appropriate, enter into contracts with the tenderer identified in the Confidential Attachment to the Council report 'Request for Tender (RFT) 2019/CAR083 – Construction of Gundry Sporting Amenities.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, A Mayne, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.



**CAR19/024 HEALTHY COMMUNITIES AND SENIORS FESTIVAL GRANTS**

File Ref: E17.1006

Councillor Mayne declared a significant, non-pecuniary conflict of interest in CAR19/024 Health Communities and Seniors Festival Grants and stated that he did believe his interest would preclude him from voting.

**Reason:** Councillor Mayne declared an interest as a relative is a recipient of a grant.

**At 12:38 pm** Councillor Mayne left the Chambers.

**19/250 MOTION** Councillor Thomson/Councillor Tait

THAT Council approve the recommendations detailed in the confidential attachment, awarding Healthy Communities and Seniors Festival Grants to the value of \$12,632.50 to 22 local groups and organisations for the 2019-20 financial year.

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs L Brown, P Constable, L Innes, P McGinlay, M Nathan, J Tait and J Thomson.

Against the Motion: Nil.

**At 12:43 pm** Councillor Mayne returned to the Chambers.

**7. DELEGATE REPORT**

Nil

**8. URGENT BUSINESS**

**19/003 CONGRATULATIONS**

**Councillor Phil Constable** congratulated 2EC and PowerFM for their recent radiothon. The radiothon raised over \$45,000 for the local surf life saving clubs across the South Coast. Councillor Constable particularly congratulated the local business for supporting this cause and shows the generosity of our business community.

**19/004 WATER RESTRICTIONS**

**Councillor Anthony Mayne** requested an updated on the Water Restrictions. Mr Warren Sharpe indicated that Deep Creek Dam was currently at 66%. Level 3 water restrictions would be implemented from 2 December 2019. This implementation has been brought forward due to zero flow in Moruya River and minimal flow in Tuross River.

**9. DEALING WITH MATTERS IN CLOSED SESSION**

**10. CONFIDENTIAL MATTERS**

Nil.

Prior to the meeting closing, the Mayor took the opportunity to acknowledge the passing of former employee and well known Eurobodalla resident, Ack Weyman.

Council offers its sincere condolences and support to Ack's wife Narelle, his children Michael, Tim and Amber, their extended family, and of course Ack's many friends and workmates at Council.

For over 41 years, Ack was our Construction Coordinator and for a further 13 years Ack returned from retirement to 'help out' with various jobs. Ack just loved 'the Shire'.

There are simply not sufficient words to describe the contribution Ack made to his community through his work, his volunteer efforts and to those whose life he touched.

Ack loved his footy, especially the Moruya Sharks and the Dragons. When a new field was needed, Ack rallied our Works team to volunteer their Friday RDOs, carving out and building what is now Ack Weyman Oval.

Ack was also heavily involved in the Basketball Club, the Surf Club, and he particularly enjoyed helping out during the George Bass Marathon.

Ack built the first roundabout in the Shire, right in front of the Council Chambers and led hundreds of projects all over the Shire helping make our community better for all who live or visit here.

Before closing the meeting, the Mayor congratulated Jessica Hannan of Coast and Country Occupational Therapy for winning the Outstanding Young Entrepreneur Award at the NSW Business Awards on Saturday night.

Coast and Country Occupational Therapy began trading in 2017 and was established to fill the gap in paediatric therapy services in Eurobodalla. Jessica prides herself in providing honest and affordable therapy to assist children living with a range of disabilities.

This is the first time that a business from Eurobodalla has won at the State Level and it is a fantastic achievement.

**THE MEETING CLOSED AT 12.51pm**

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CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday, 10 December 2019 at which meeting the signature hereon was subscribed.