



AGENDA

Ordinary Meeting of Council

12 October 2021

**ORDINARY MEETING OF COUNCIL
TO BE HELD VIA ZOOM**

ON TUESDAY 12 OCTOBER 2021

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
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
1.1 Ordinary Meeting held on 28 September 2021
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**
(Declarations also to be made prior to discussions on each item)
- 6. MAYORAL REPORTS**
Nil
- 7. NOTICES OF MOTION**
Nil
- 8. QUESTIONS ON NOTICE FROM COUNCILLORS**
QON21/008 Modification of Development Application (DA) DA0124/20 and DA
2248/1983 Proposed Subdivision - Lot 35 DP 2445593
- 9. PETITIONS**
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**DR CATHERINE DALE
GENERAL MANAGER**

**QON21/008 MODIFICATION OF DEVELOPMENT APPLICATION (DA) DA0124/20 AND DA
2248/1983 PROPOSED SUBDIVISION - LOT 35 DP 244559**

S006-T00001

Responsible Officer: Anthony Mayne - Councillor

Attachments: Nil

The following question on notice was received from Councillor Anthony Mayne:

Question

1. How does Council assess that the environmental impact has decreased without having done a study of environmental impact?
2. Could you please confirm that as the DA was approved in 1983, it is no longer the responsibility of Council to ensure that a modern assessment of biodiversity and environmental impact is not required.
3. Council advised there is no additional clearing of the land required. However with the changes to the eastern side, placing houses against the forest, what will be the impact to ensure fire hazard protection?
4. Council advise that indigenous communities have been consulted with. When and with whom did this occur?
5. The Heritage NSW website says 'if you are planning an activity where harm to an Aboriginal object or declared Aboriginal place cannot be avoided, you will need to apply for an Aboriginal Heritage Impact Permit (AHIP)'.

Response

In response to the questions on notice raised by Councillor Mayne, the following response can be provided.

1. *The application is still under assessment and therefore it has not been determined at this stage that the environmental impact has been decreased. The applicant has contended in their application that the environmental impact is either the same or less on the basis that the development footprint has not altered.*

The applicant has also argued that the addition of bioretention swales and onsite detention (OSD) is in addition to the existing approval, and therefore will improve water quality and have a lesser environmental impact than if the subdivision was constructed as originally approved.

Regarding the proposed 5.5m wide shared pathway, it should be noted that the original subdivision was approved with a public road connecting the two precincts. The applicant is proposing to reduce the through road to a shared pathway as part of the application. The approved road and the proposed shared pathway which replaces it moves through swamp oak floodplain Endangered Ecological Community, and therefore the reduction in road construction is a lesser impact.

**QON21/008 MODIFICATION OF DEVELOPMENT APPLICATION (DA) DA0124/20 S006-
AND DA 2248/1983 PROPOSED SUBDIVISION - LOT 35 DP 244559 T00001**

The applicant also contends that the Biodiversity Conservation (Savings and Transitional) Regulation 2017 provides exemptions for existing planning approvals and the need to prepare a Biodiversity Development Assessment Report (BDAR) on the basis that the impact on biodiversity values is not increased.

2. *As per the point above, the applicant has contended that there are 'savings provisions' that do not require the development proposal to be assessed. This is on the basis that the site was approved to be a residential subdivision in December 1984 and therefore, the site is already considered cleared for the purpose of the Biodiversity Conservation Act. Council, as part of its normal assessment process, is currently reviewing case law and the legislation to determine the legality of this position.*
3. *This relates to the points above; it is the applicant's contention, and Council's current view, that there is no additional clearing required over and above the existing approved development footprint. If it is determined otherwise, then the applicant would need to consider the additional impact and requirements of the Biodiversity Conservation Act. It needs to be reiterated that Council has not finalised its assessment of the application, and it is not possible to be determinative in these matters now.*
4. *Development Application 223/12 (DA223/12) was lodged on the 13 October 2011 for a 71-lot subdivision on the subject land. This application is yet to be determined but did include a cultural heritage assessment prepared by Onsite Cultural Heritage Management dated May 2015. Local indigenous communities were consulted as part of this report and include.*
 - *Ngunnawal Elders Corporation*
 - *NSW Aboriginal Land Council*
 - *Cobowra Local Aboriginal Land Council*
 - *Matong Merringanna Aboriginal Corporation*
 - *Yuin traditional owner*
 - *South East Coast Gadu Elders Aboriginal Corporation*
 - *Mogo Local Aboriginal Corporation*
 - *Bodalla Local Aboriginal land Council*
 - *Batemans Bay Local Aboriginal Land Council*
 - *Batemans Bay Aboriginal Corporation*
 - *Jerrinja Consultants P/L*
 - *Merrimans Local Aboriginal Corporation*
 - *Walbunja Aboriginal Corporation*
 - *Gunjeewong Cultural Heritage Aboriginal Corporation*

It should be noted that as part of this application, General Terms of Approval (GTA's) were issued by the NSW Office of Environment and Heritage. GTA's are an agencies response to integrated development and are also generally a precursor to the issue of a permit or other license by the agency, i.e., once development consent is issued it would be expected that an AHIP would have been issued.

PET21/003 BROULEE MOSSY POINT COMMUNITY ASSOCIATION PETITION

S012-T00029

Responsible Officer: Anthony Mayne - Councillor

Attachments: 1. Under Separate Cover - Confidential - Petition

Councillor Anthony Mayne has given notice that at the Ordinary Meeting of Council on 12 October 2021, he will move the following motion.

MOTION

THAT Council receive and note the petition.

BACKGROUND

Petition specifically states:

We the undersigned, petition the Eurobodalla Shire Council to:

Meet its 2003 Commitment that lot 89 (DP 1093710) is Community Land: Bushland and the commitment in the press release of 29 June 2021 that "the unformed road adjacent to Lot 89 will become Community Land".

GENERAL MANAGER'S RESPONSE

GMR21/038 2022 COUNCIL MEETING DATES

**S012-
T00025**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: 9 Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.2 Assist the Council in meeting its statutory obligations and roles

EXECUTIVE SUMMARY

This report provides a schedule of proposed Council Meetings and Public Access sessions for the 2022 calendar year and seeks Council's endorsement of the schedule.

Under Section 365 of the *Local Government Act 1993*, Council is required to meet at least 10 times per year, each time in a different month. The proposed schedule includes 19 meetings to be held during 2022. In 2021, 17 ordinary meetings were scheduled to be held. Due to the postponement of the election, the schedule was amended to 15 meetings.

The schedule of meetings for 2022 has been developed to take into account Council's compliance and reporting requirements, public holidays, school holidays (when possible) and any other significant event.

It should be noted that the calendar may be amended at any time if Council resolves to alter the meeting days. The proposed schedule has followed normal procedure for the majority of the year.

RECOMMENDATION

THAT Council:

1. Endorse the following 19 dates as the meeting schedule for Council meetings for the 2022 calendar year:
 - (a) 8 February 2022
 - (b) 22 February 2022
 - (c) 8 March 2022
 - (d) 22 March 2022
 - (e) 12 April 2022
 - (f) 26 April 2022
 - (g) 10 May 2022
 - (h) 24 May 2022
 - (i) 14 June 2022

GMR21/038 2022 COUNCIL MEETING DATES

**S012-
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- (j) 28 June 2022
 - (k) 26 July 2022
 - (l) 9 August 2022
 - (m) 23 August 2022
 - (n) 13 September 2022
 - (o) 11 October 2022
 - (p) 25 October 2022
 - (q) 8 November 2022
 - (r) 22 November 2022
 - (s) 13 December 2022
2. Endorse the following 11 dates as the Public Access sessions for the 2022 calendar year:
- (a) 1 February 2022
 - (b) 1 March 2022
 - (c) 5 April 2022
 - (d) 3 May 2022
 - (e) 7 June 2022
 - (f) 19 July 2022
 - (g) 2 August 2022
 - (h) 6 September 2022
 - (i) 4 October 2022
 - (j) 1 November 2022
 - (k) 6 December 2022
3. Note that the schedule of meeting dates may be amended at any time, as required.

BACKGROUND

Under Section 365 of the *Local Government Act 1993*, Council is required to meet at least 10 times per year, each time in a different month. The proposed schedule includes 19 meetings to be held during 2022. In 2021, 17 ordinary meetings were scheduled to be held. Due to the postponement of the election, the schedule was amended to 15 meetings.

Council's Code of Meeting Practice allows for Council meetings to be held on the second and fourth Tuesday of the month, excluding January.

A schedule of meetings for 2022 has been developed in consultation with Councillors. The calendar may be amended at any time if Council resolves to alter the meeting day/s.

GMR21/038 2022 COUNCIL MEETING DATES

**S012-
T00025**

CONSIDERATIONS

When developing the schedule of meetings for 2022 it is important to ensure that consideration of the Office of Local Government's compliance and reporting requirements, public holidays, school holidays (when possible) and any other significant event.

Consideration of statutory deadlines for Council's compliance and reporting requirements provides that the following Council meeting dates are required:

Date	Statutory Deadline
22 February 2022	December quarterly review Exhibition of Community Strategic Plan
26 April 2022	Delivery Program and Operational Plan on exhibition
24 May 2022	March quarterly review
28 June 2022	Adoption of Integrated Planning and Reporting documents
22 November 2022	Annual Report and September quarterly review

Therefore, when developing the proposed schedule, Council will have a week's recess in April for Easter which coincides with a briefing day. The second recess will occur in July which will coincide with the End of Term 2 school break. The third recess will occur in September to coincide with End of Term 3 school break. It is proposed to observe the recess during the Christmas break in December/January.

Due to the local government elections, the calendar may be amended at any time if Council resolves to alter the meeting days. The proposed schedule has followed normal procedure for the majority of the year.

Date	Meeting Type
1 February 2022	Public Access
8 February 2022	Council Meeting
22 February 2022	Council Meeting
1 March 2022	Public Access
8 March 2022	Council Meeting
22 March 2022	Council Meeting
5 April 2022	Public Access
12 April 2022	Council Meeting
26 April 2022	Council Meeting

GMR21/038 2022 COUNCIL MEETING DATES

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3 May 2022	Public Access
10 May 2022	Council Meeting
24 May 2022	Council Meeting
7 June 2022	Public Access
14 June 2022	Council Meeting
28 June 2022	Council Meeting
5 July 2022	Recess
12 July 2022	Recess
19 July 2022	Public Access
26 July 2022	Council Meeting
2 August 2022	Public Access
9 August 2022	Council Meeting
23 August 2022	Council Meeting
6 September 2022	Public Access
13 September 2022	Council Meeting
20 September 2022	Recess
27 September 2022	Recess
4 October 2022	Public Access
11 October 2022	Council Meeting
25 October 2022	Council Meeting
1 November 2022	Public Access
8 November 2022	Council Meeting
22 November 2022	Council Meeting
6 December 2022	Public Access
13 December 2022	Council Meeting

Financial

Adoption of the recommendations outlined in this report will have no financial implications on the adopted budget.

Policy

GMR21/038 2022 COUNCIL MEETING DATES

**S012-
T00025**

Adoption of the schedule is in accordance with Section 2.2(1) of Council's Code of Meeting Practice.

Community and Stakeholder Engagement

We will inform the community through providing information on Council's website; Living in Eurobodalla residents newsletter and advertising on Council's noticeboard page in two local newspapers.

CONCLUSION

The proposed schedule of Council meetings for 2022 has been prepared in consultation with Councillors and takes into account compliance and reporting requirements. It is proposed that Council will have one week recess in April for Easter which coincides with a briefing day. The second recess will occur in July which will coincide with the End of Term 2 school break. The third recess will occur in September to coincide with End of Term 3 school break. It is proposed to observe the recess during the Christmas break in December/January.

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL REPORT
FOR YEAR ENDING 30 JUNE 2021**

**S004-
T00048**

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: Nil
Outcome: 9 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: 9.2.4.2 Provide financial management and reporting

EXECUTIVE SUMMARY

The Audit, Risk and Improvement Committee (ARIC), an advisory committee of Council, is recommended under the *NSW Premier & Cabinet Internal Audit Guidelines* to report to the Council, at least annually, on its oversight role of the internal audit function. This report is presented to advise Council on the activities and matters that the ARIC has been reviewing over the last 12 months.

RECOMMENDATION

THAT the Audit, Risk and Improvement Committee annual report for year ending 30 June 2021 be received and noted.

BACKGROUND

Since 2008, the ARIC has played a pivotal role in the governance framework, providing Council with independent oversight and monitoring of Council's audit processes, including the internal control activities.

The ARIC achieves its independence by having a majority of independent members external to Council and its operations.

The committee comprises three independent members and two Councillors representing Council;

Chair - Mr Mark Barraclough

Independent Member - Ms Sharlene Cohen *

Independent Member - Mr David Anderson

Independent Member - Mr Kim Gillis *

Councillor Lindsay Brown

Councillor Phil Constable

- * On 21 January 2021, independent member of the Audit, Risk and Improvement Committee Ms Sharlene Cohen tendered her resignation after six years of service.
- * Recruitment for a replacement independent member commenced on 22 February 2021 and closed on 28 March 2021. A total of seven applications were received.

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL
REPORT FOR YEAR ENDING 30 JUNE 2021**

**S004-
T00048**

- * After assessment and interview, the preferred candidate was identified as Mr Kim Gillis AM.
- * Council endorsed Mr Kim Gillis AM as an independent member of the Audit, Risk and Improvement Committee on [25 May 2021](#).

The ARIC meets four times a year with extra meetings scheduled as required. A review of documents and financial issues occurs between scheduled meetings as necessary.

The Auditor-General engaged Deloitte Touché Tohmatsu (Deloitte) to provide audit and/or assurance services to Eurobodalla Shire Council for 2020/21 financial year. Deloitte has nine councils in its portfolio including Kiama and Goulburn. The Auditor General remains responsible for the audit(s), their performance and for issuing the Independent Auditor's reports. The Audit Office oversee Deloitte planning and execution of the audits.

The NSW Audit Office or their delegated representative (Deloitte) participate in the regular ARIC meetings, with their participation listed as a standard agenda item.

The draft Annual Engagement Plan from the NSW Audit Office for the financial year ending 30 June 2020 was provided to the ARIC at the meeting of 19 May 2021 and set out the key issues and audit approach regarding the audit of the financial statements of the Council.

CONSIDERATIONS

During the past year, the ARIC has reviewed and/or monitored a number of regular (standard agenda items) and one-off issues such as:

- Draft Financial Statements for year ending 30 June 2020 referred for audit
- NSW Audit Office;
 - Final management letter for year ending 30 June 2020
 - Draft annual engagement plan for the financial year ending 30 June 2021
- Overview of the Special Rate Variation (SRV) and Fit for the Future (FFF) frameworks
- Investment reports
- Batemans Bay Beach Resort - monitoring financial and occupancy trends
- Batemans Bay Regional Aquatic, Arts and Leisure Centre (now known as Bay Pavilions) progress
- Insurance claims update
- ICAC and other external bodies reports/matters
- Corporate Business System implementation
- Bushfire and disaster recovery updates
- COVID-19 pandemic updates
- Draft Delivery Plan and Operation Plan

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL
REPORT FOR YEAR ENDING 30 JUNE 2021**

**S004-
T00048**

- Progress reports on;
 - Holiday Parks internal audit
 - Property internal audit
 - Debtors internal audit
 - Information Technology internal audit
 - Water and Sewer internal audit
 - Asset Management internal audit
 - Development Engineering internal audit
 - Developer Contributions internal audit (commenced)
 - Payroll internal audit
 - Purchase Cards internal audit
 - Procurement internal audit.

Internal audits

An Internal Audit Plan (IAP) is prepared annually, agreed and conducted by Inconsult. The IAP lists internal audits to be carried out by the internal auditor; InConsult. The list is reviewed and rearranged as necessary based on the priority the ARIC might place on particular functions.

Recommendations from the internal audit reports are prioritised as extreme, high, medium or low and reviewed by the ARIC and Executive Leadership Team (ELT). Actions to comply with the recommendations are then implemented by staff. All actions are given a timeframe for completion and where timeframes cannot be achieved, a revised timeframe is considered. Progress on all internal audit recommendations are reviewed and monitored by the ARIC until all actions are complete when the internal audit report is deemed finalised.

The final three audits for the 2020-21 year were postponed due firstly to the 2019/20 Black Summer bushfires and then the COVID-19 situation. The Committee agreed that the General Manager would liaise with InConsult to determine internal audit projects that could be completed whilst COVID-19 restrictions remained in place.

Three internal audits, Purchase Card Usage, Payroll and Procurement were completed by Inconsult this past financial year (2020-21), and the recently completed Building Certification internal audit has also been provided to the ARIC.

Best practice audit standards are applied by Inconsult in auditing the activities undertaken in the daily operation of Council's financial management and processes. The audits allow the ARIC to review the activities and monitor the implementation of the recommendations provided. Any extreme recommendations are dealt with immediately and high, medium and low recommendations are generally completed within allocated timeframes.

InConsult were selected to provide internal auditing services to Council (from the LG Professional Services panel of internal auditors) until the 2020 Council elections. Following the

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL
REPORT FOR YEAR ENDING 30 JUNE 2021**

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T00048**

2019-20 Black Summer bushfires and COVID-19 pandemic, the Office of Local Government (OLG) postponed Council elections until 2021. As a result, InConsult's internal auditing services will be retained until the next Council election, now revised to be held on 4 December 2021.

The results of the internal audits already carried out across the organisation have provided assurance to the ARIC and to Council that appropriate checks and balances are in place and have reinforced the adherence to procedures and policies. The next round of audits will continue to add to that assurance.

Special Rate Variation (SRV)

The ARIC continue to monitor the progress of the SRV. 2020-21 is the sixth year of the SRV program and the total spend for the financial year came out at \$2,899,106.00.

Corporate Management System

e-connect is the project to implement the new Corporate Business System provided by TechnologyOne. The Project Manager provides regular updates to the ARIC detailing risks and the mitigation of those risks, and the project performance against cost.

Please 1 and 3 are complete.

Phase 2 of the e-connect project comprises the introduction of mobile asset maintenance management across all of Infrastructure Services. Phase 2 is in progress.

The system is providing wider access to council services for the community and improve business processes and effectiveness for staff, enabling continual improvement and service excellence.

Batemans Bay Beach Resort and Holiday Parks

The ARIC is regularly updated on the progress of the Batemans Bay Beach Resort (BBBR) and was comprehensively kept informed of the impact that the seven natural disasters and COVID-19 pandemic since December 2019 had on the resort.

Despite a reduction in revenue, BBBR still delivered an operating profit, which was a very pleasing result.

A long-term plan, in conjunction with the Asset Management Plan is being progressed for the facilities. This will look strategically at the operation and expected outcomes of our holiday parks and provide future guidance in how we operate the businesses.

Terms of Reference

To continue to provide independent oversight and monitoring of council processes and internal control activities, the ARIC Terms of Reference (TOR) is regularly reviewed. The Office of Local Government (OLG) is currently reviewing Audit Committee guidelines.

OLG's New Risk Management and Internal Audit Framework for Local Councils in NSW issued a discussion paper in September 2019. After feedback received, OLG released a summary of changes on 24 August 2021. Amongst the proposed changes, all Councils must have an ARIC by 4 June 2022.

**GMR21/044 AUDIT, RISK AND IMPROVEMENT COMMITTEE ANNUAL
REPORT FOR YEAR ENDING 30 JUNE 2021**

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T00048**

A three-month consultation period seeking submissions by COB 26 November 2021. Once these guidelines are finalised and released, a review of the current TOR will be undertaken, and a report prepared for Council to consider mandated recommendations.

CONCLUSION

It is considered the presence of the ARIC adds value to Council and strengthens a culture of sound financial governance that is increasingly transparent and accountable.

Each member of the ARIC contributes to the continual improvement of Council processes from within and represents the community by playing a pivotal role in the management of Council's financial requirements and expectations.

Mr Mark Barraclough, Chair of the Audit Risk and Improvement Committee would like to take this opportunity to thank his fellow members for their continued contribution to the roles they have undertaken, and recommends that this annual report tabled by the Audit, Risk and Improvement Committee Chair be received and noted.

**GMR21/045 DRAFT FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE
2021 - REFERRAL TO AUDIT**

**S011-
T00002**

Responsible Officer: Scott Westbury - Chief Financial Officer

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 bring the draft Annual Financial Statements for the year ended 30 June 2021 to Council to consider referral to Audit which is being undertaken by the NSW Audit Office. The referral to audit is a statutory requirement. The draft Statements are currently with our Auditor, the NSW Audit Office. The audit is in its closing stages with the Audit Office review and sign off still to occur. Council has not been advised of any significant issues being identified during the audit.

RECOMMENDATION

THAT:

1. The Draft Annual Financial Statements for the year ended 30 June 2021 be referred to audit.
2. The statement by Councillors and Management be made pursuant to section 413(2)(c) of the *Local Government Act 1993* (as amended) and signed by the Mayor, Deputy Mayor (or Councillor), General Manager and Responsible Accounting Officer at the Council meeting on 12 October 2021.
3. The audited Financial Statements, together with the Auditor's report and financial Commentary, be presented to the public at an Extraordinary Council meeting to be held on 2 November 2021.

BACKGROUND

The Local Government Act 1993 (as amended) requires Council to prepare financial statements for each year and refer them for audit as soon as practicable after the end of that year.

A council's financial statements must include:

- (a) A General Purpose Financial Statement;
- (b) Any other matter prescribed by the regulations, and
- (c) A statement in the approved form by the Council as to its opinion on the General Purpose Financial Statement.

**GMR21/045 DRAFT FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE
2021 - REFERRAL TO AUDIT**

**S011-
T00002**

The Annual Financial Statement Approval and Audit Process is largely governed by the requirements of *the Local Government Act 1993* (as amended) having regard to the timing of Council meetings.

The timeline for the process is as follows:

- | | |
|-----------------|---|
| 12 October 2021 | Council resolves to refer Financial Statements to Audit |
| 26 October 2021 | Advertises financial statements for public exhibition |
| 2 November 2021 | Presentation of Financial Statements to an Extraordinary Council meeting by Audit Office. |

CONSIDERATIONS

Section 413 of the *Local Government Act 1993* (as amended) requires the Council to form an opinion as to whether Council's Annual Financial Statements have been drawn up in accordance with the *Local Government Act 1993* and associated Codes and Australian Accounting Standards as prescribed by the Regulations. The statements have been reviewed by Council's Auditors and are presented to Council for an opinion to be formed. Subsequent to these Statements being signed, Council's Auditor will present its Audit Report to an Extraordinary Council Meeting on 2 November 2021.

Following the signing of opinions and receiving the Auditor's Report, a copy of the Audited Financial Statements will be submitted to the Office of Local Government in accordance with Section 417(5) of the *Local Government Act 1993* (as amended).

The Council must give public notice of the date of the meeting at which the Audited Financial Statements and Auditor's Report will be presented. An advertisement will be included in Council's Noticeboard which is made available on Council's website on Tuesday 26 October 2021.

Section 420 of the *Local Government Act 1993* provides that any person may make submissions to Council with respect to the Financial Statements and/or the Auditor's reports and those submissions must be made in writing and lodged with the Council within seven days of the public meeting. Any submissions received are to be provided to Councilors and the Auditor for consideration.

Legal requirements include:

- Adherence to the Local Government Code of Accounting Practice and Financial Reporting (which is based on generally accepted accounting practice).
- Annual Financial Statements must be referred to audit as soon as practicable after the end of the financial year.
- Audited statements must be lodged with the Office of Local Government (OLG) by 31 October 2021.
- Seven days public notice of the 'presentation' of audited financial statements is required.

**GMR21/045 DRAFT FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE
2021 - REFERRAL TO AUDIT**

**S011-
T00002**

Policy

The principal accounting policies used in the preparation of these consolidated financial statements are disclosed in No. 1 of the draft statements. These policies have been consistently applied to all the years presented, unless otherwise stated.

Financial

The Annual Financial Statements are required to be prepared in accordance with the *Local Government Act 1993* (as amended), the Local Government Code of Accounting Practice and Financial Reporting and the Australian Accounting Standards. Council has professionally qualified staff to ensure compliance with the reporting requirements.

No matters or occurrence have come to attention that would materially affect the Financial Statements or disclosures therein, or which are likely to materially affect the future results or operations of the Council. Additionally, staff have not been advised by the external Auditor of any significant issues that need separate or additional disclosure during the audit process.

Following lodgment, the Financial Statements will be distributed to the Audit, Risk and Improvement Committee and Councillors, prior to the Auditor presentation at an Extraordinary Council Meeting to be held on 2 November 2021.

Community and Stakeholder Engagement

The audited Financial Statements will be presented to an Extraordinary Council meeting to be held on the 2 November 2021. The statements will be an attachment to the public agenda for this meeting and made available seven days prior to the meeting on Council's website, at Council's three libraries and at the main administration building in Moruya. Submissions may be made to Council for a minimum of seven days after they are presented to the public as per the *Local Government Act 1993* (as amended), s418(2). Submissions will close 9 November 2021. The external auditor will be available to present the audited financial statements via a pre-recorded video.

CONCLUSION

The Annual Financial Statements have been drafted and can now be endorsed and referred to audit, and if so endorsed, the statements can be signed by the Mayor, Deputy Mayor (or Councillor), General Manager and Responsible Accounting Officer.

GMR21/046 DIVIDENDS FROM WATER AND SEWER FUNDS

**S011-
T00022**

Responsible Officer: Scott Westbury - Chief Financial Officer
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 expected to be 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 2020-21 (as per the draft audited Special Purpose Financial Statements), subject to achievement of substantial compliance of best practice audit as conducted by Deloitte and approval from the Department of Primary Industries, Water (DPIW). The dividend will be paid once the audit completes which will be during the current financial year.

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.

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 based upon 2020-21 audited results in the Water and Sewer Funds, subject to achievement of substantial compliance with Best Practice Guidelines and approval from the Department of Primary Industries, Water. Current estimate of these dividend amounts is \$651,210 for Water Fund and \$310,060 for Sewer Fund.

GMR21/046 DIVIDENDS FROM WATER AND SEWER FUNDS

**S011-
T00022**

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 outcome's 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:

- i. 50% of this surplus in any one year, or

GMR21/046 DIVIDENDS FROM WATER AND SEWER FUNDS

**S011-
T00022**

- ii. The number of water supply or sewerage assessments at 30 June 2020 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 2020-21 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 have draft operating surpluses (before capital revenue) of \$1.79 million (Water) and \$0.84 million (Sewer) in 2020-21. 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 2020-21 Financial Statements, which include Water and Sewer Funds, are being referred to audit on 12 October 2021 and will be publicly exhibited once lodged in October 2021 prior to being presented to Council for adoption at an Ordinary Meeting of Council to be held in November 2021.

CONCLUSION

Based upon 2020-21 draft results in the Water and Sewer Funds, and subject to Audit Office sign off and 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 from the Water and Sewer Funds to the General Fund. Current estimates of these Dividends are \$651,210 (Water) and \$310,060 (Sewer).

**GMR21/047 DISCLOSURE OF PECUNIARY INTEREST AND OTHER MATTERS
RETURNS**

**S012-
T00031,
S021-
T00004**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.2 Implement effective governance

Operational Plan Link: 9.1.2.3 Assist the Council in meeting its statutory obligations and roles

EXECUTIVE SUMMARY

In accordance with part 4, clause 4.21 of the *Model Code of Conduct*, councillors and designated persons who hold that position on 30 June in each year are required to lodge a "Disclosures by Councillors and Designated Persons Return" with their general managers by 30 September each year.

Accordingly, the Disclosure of Pecuniary Interest and Other Matters returns for Councillors and designated staff for 2020-21 are tabled.

RECOMMENDATION

THAT the report on the Disclosure of Pecuniary Interest and Other Matters returns be received and noted.

BACKGROUND

The lodgement date for Disclosure of Pecuniary Interest and Other Matters returns covering 1 July 2020 to 30 June 2021 was 30 September 2021.

Notice was provided to designated staff on 30 July 2021 and Councillors on 21 July 2021, with reminders sent on 1 September and 20 September 2021.

CONSIDERATIONS

Legal

The lodgement of Pecuniary Interest and Other Matters return is required to comply with part 4, clause 4.21 of the *Model Code of Conduct*.

CONCLUSION

The register of returns by Councillors and designated staff for their disclosures of pecuniary interests and other matters is now tabled in accordance with part 4, clause 4.21 of the *Model Code of Conduct*.

GMR21/048 BULK CONSTRUCTION MATERIALS SUPPLY PANEL

**S004-
T00034**

Responsible Officer: Dr Catherine Dale - General Manager
Attachments: 1. Confidential - Tender Evaluation
Outcome: 9 Innovative and Proactive Leadership
Focus Area: 9.2 Ensure financial sustainability and support the organisation in achieving efficient ongoing operations
Delivery Program Link: 9.2.3 Provide administrative, technical and trade services to support the organisation
Operational Plan Link: 9.2.3.3 Manage fleet and procurement services

EXECUTIVE SUMMARY

Council establishes a panel for the supply of bulk construction materials every two years which is comprised of the following products:

- Drainage aggregate/rocks
- Sealing aggregate (pre-coated);
- Clay;
- Pavement materials;
- Sand and Crusher Dust;
- Soil, Mulch and Compost; and
- Virgin Excavated Natural Material (VENM)

Tenders were called for participation in the panel, against a set of pre-determined terms which would form the basis of a Deed of Standing Offer.

This report is presented to Council with a Confidential Attachment detailing the evaluation activity undertaken and the resulting panel rankings for each material type and geographical location.

RECOMMENDATION

THAT Council:

1. Endorses the proposed panel composition Request for Tender No. 2021/084 and associated rankings detailed within the Confidential Attachment to this report.
2. Accordingly approves the entering into Deeds of Standing Offer with the proposed panellists, subject to the terms specified in the Request for Tender No. 2021/084.

BACKGROUND

Council regularly procures the tendered materials in bulk to support its many construction projects and works program. Given the need for strict safety risk mitigation and quality management each procurement activity, without a pre-negotiated set of pricing and terms would be time consuming for both parties to the associated contract and may not represent value for money. A panel arrangement provides a screening of compliance and cost up front, removing the need for many lengthy procurement processes.

GMR21/048 BULK CONSTRUCTION MATERIALS SUPPLY PANEL

**S004-
T00034**

Request for Tender (RFT) No. 2021/084 was advertised on 07 July 2021 and closed on 11 August 2021. Offers were received for the following tenderers:

- Batemans Bay Sand and Gravel Supply Pty Ltd T/As South East Quarries & Landscaping;
- Blue Ridge Quarry Pty Ltd;
- Greenlands Garden Centre;
- Narooma Sand Soil and Gravel Pty Ltd;
- RJ & JE Shepherd Pty Ltd;
- Schmidt Quarries; and
- Soilco Pty Ltd

Submissions were started but never completed before the Tender Closing Time for the following tenderers:

- Beashel Quarries

CONSIDERATIONS

Legal

RFT No. 2021/084 was advertised in accordance with *Local Government (General) Regulation 2005 REG 167* and the *Local Government Act 1993*.

The tender was advertised on Council's noticeboard page in local newspapers and at Council's Tenderlink web portal www.tenderlink.com/eurobodalla.

A Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC) prior to the closing date.

An assessment was carried out in accordance with the Tender Evaluation Plan. This report with a Confidential Attachment details the preferred tenderer determination and assessment rationale.

Policy

The tendering activity and associated evaluation for which this tender applies has been administered in compliance with Section 55 of the *Local Government Act 1993*, The *Local Government (General) Regulation*, Tendering Guidelines for NSW Local Government and Council's Procurement Policy/Codes of Practice.

Financial

A panel arrangement provides a screening of compliance and cost up front, removing the need for many lengthy and costly procurement processes.

GMR21/048 BULK CONSTRUCTION MATERIALS SUPPLY PANEL

**S004-
T00034**

Community and Stakeholder Engagement

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

The community will be informed of the tender outcome via Council's contract register found in Council's 'Public Access to Information' web link www.esc.nsw.gov.au/inside-council/council/public-access-to-information .

CONCLUSION

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the panel composition and rankings have been assessed, through an extensive evaluation.

**GMR21/049 REQUEST FOR TENDER (RFT) – 2021/085 PROFESSIONAL SERVICES
PANEL**

**S004-
T00004**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. List of tenderers
2. Confidential - Tender Evaluation

Outcome: 9 Innovative and Proactive Leadership

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

Delivery Program Link: 9.2.3 Provide administrative, technical and trade services to support the organisation

Operational Plan Link: 9.2.3.3 Manage fleet and procurement services

EXECUTIVE SUMMARY

This report outlines the associated evaluation process for Request for Tender (RFT) No. 2021/085 – Professional Services Panel, that was advertised on 07 July 2021 for the purpose of establishing a pre-qualified list of consultants and professional service providers for a period of two years with an option of a further two by twelve months.

RECOMMENDATION

THAT

1. Council endorses the outcome of evaluations for Request for Tender (RFT) No. 2021/085 and associated composition of the Professional Services Panel as detailed within the Confidential Attachment; and
2. Accordingly approves the entering into the Deeds of Standing Offers with the proposed panelists as detailed within the Confidential Attachment.

BACKGROUND

From time-to-time Council requires external parties to provide expert advice or undertake specialised professional services across the following disciplines:

- Arts and Recreation.
- Architecture and Planning.
- Engineering and Project Management (construction).
- Environmental Science.
- Legal Services; and
- Other Consultancy/Professional Services (i.e. risk management, project management and procurement).

RFT No. 2021/085 was advertised on 07 July 2021 and closed at 2pm on 04 August 2021. The Request for Tender had a very high response performance with 129 tenders received to provide services across the six categories. A list of the tenderers is provided at Annex A to this report.

**GMR21/049 REQUEST FOR TENDER (RFT) – 2021/085 PROFESSIONAL
SERVICES PANEL**

**S004-
T00004**

A summary of the evaluation including each level of compliance against the evaluation criteria and proposed panel composition is provided with the confidential attachment.

CONSIDERATIONS

Council has previously developed panels for the supply of a variety of goods and services such as items of equipment and bulk materials.

Establishing a panel for professional services will provide the following benefits to Council:

- Meeting the tendering requirements of Section 55 of the Local Government Act and removing the risk of inadvertently drifting above the \$250,000 threshold with individual service providers.
- Developing and maintaining corporate and project specific knowledge within a common pool of service providers.
- Providing a level playing field for local service providers to bid for work and increase their skills and experience in the Local Government setting in general; and
- Removing the need for costly individual quotation and compliance screening processes for every project.

A list of the 129 tenders received is attached to this report.

Legal

RFT No. 2021/085 was advertised in accordance with *Local Government (General) Regulation 2005 REG 167* and *Local Government Act 1993*.

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

Prior to the RFT closing, a Tender Evaluation Plan was approved and distributed amongst the Tender Evaluation Panel.

Policy

The tendering activity and associated evaluation for which this tender applies has been administered in compliance with Council's Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, *Local Government (General) Regulation 2005* and *Section 55 of the Local Government Act 1993*.

Financial

The outcome of the proposed Professional Services Panel will avoid costly future screening exercises and funding for services provided under the panel.

Community and Stakeholder Engagement

Subject to resolution of Council to the Professional Services Panel, the community will be informed of the panel via Council's contract register found on Council's website.

CONCLUSION

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the preferred tenderer has been assessed, through an extensive

**GMR21/049 REQUEST FOR TENDER (RFT) – 2021/085 PROFESSIONAL
SERVICES PANEL**

**S004-
T00004**

evaluation as representing best value for money and meeting the compliance and skill requirements of the tender.

Deeds of Standing Offer will be entered into with the proposed panelists as detailed within the Confidential Attachment.

Attachment – List of Professional Services Panel tenders – August 2021

Altus Group Consulting Pty Ltd
Altus Group Cost Management Pty Ltd
AMAN Services Pty Ltd (T/as C2C Consultancy)
AMC Architecture Pty Ltd
ANDITI Pty Ltd
APP Corporation Pty Limited
Applied Land Systems Pty Ltd
APV Valuers & Asset Management
ARRB Group Ltd
Astrolabe Group Pty Ltd
Ayling & Drury
Baird Australia
Bellcorp Management Pty Ltd
Bitzios Consulting Pty Ltd
BKA Architecture
BMT Eastern Australia Pty Ltd
Bowantz Bushfire & Environmental Pty Ltd
Bradley Allen Love
Burnett Engineering
Capital Insight Pty Limited
Centium Pty Ltd
City Plan Strategy and Development Pty Ltd
Civilstorm Pty Ltd
Coleman Engineering Services Pty Ltd
Conrad Gargett
Construct Maintain Manage Pty Ltd
Conybeare Morrison International Pty Ltd
Cox Architecture Pty Ltd
CT Management Group Pty Ltd
Dedden Land & Water
Destination Marketing Store
DFP Planning Pty Ltd
Dickson Rothschild
DJ Gabriel Consulting Pty Ltd T/AS Signature Project Management
Donald Cant Watts Corke (NSW) Pty Ltd
Eco Logical Australia Pty Ltd
Ecological Consultants Australia Pty Ltd
EDP Consultants Pty Ltd
EMM Consulting Pty Ltd
Engineering Risk Management Pty Ltd
Environmental Earth Sciences
Environmental Partnership NSW Pty Ltd
Ethos Urban
Extent Heritage Pty Ltd
Facility Design Group
Footprint NSW Pty Ltd
Ganden Engineers and Project Managers
Genium Civil Engineering Pty Ltd
G Neimoller T/as On Site Cultural Heritage Management Pty Ltd
Gray Puksand Pty Ltd
Greenlees Property
Hall & Wilcox
Haskoning Australia Pty Limited
HDS Australia Pty Ltd

Higgins Property Group (ACT) Pty Ltd
Holding Redlich Partnership
Hunter H2O Holdings Pty Limited
Hydrology and Risk Consulting
InConsult Pty. Ltd.

Indesco Pty Ltd
Indus Engineering
Integrated Site Design
JBR Legal Services Pty Ltd t/a RGSLAW
JHK and Associates Pty Ltd
JimJam Ideas Pty Ltd
JJ Ryan Consulting Pty Ltd
John O'Grady
John Raineri & Associates Pty Ltd
Karen Legge Consulting
Kellogg Brown & Root Pty Ltd
Knight Frank Australia Pty Ltd
Lackon Pty Ltd
Lacus Consulting Pty Ltd
Lambourne Partners
Land Team
Lindsay Taylor Lawyers Services Pty Ltd
Local Architect South Coast
Locale Consulting Pty Ltd
lo-fi
Maddocks
MAKERENG PTY LIMITED
Marsdens Law Group
MBMpl Pty Ltd
Melocco & Moore Architects Pty Ltd
MIEngineers
Molino Stewart Pty Ltd
MRA Consulting Group
Narla Environmental Pty Ltd
National Trust of Australia (NSW)
NGH PTY LTD T/a NGH Consulting
niall.byrne@caras.com.au
Niche Environment and Heritage
O'Connor Marsden & Associates
OzArk Environmental & Heritage Management Pty Ltd
Pavement Management Services
Pelle Architects Pty Ltd
Pikes & Verekers Lawyers
Pilbrow Global Pty Ltd
Place Logic
Propel Projects Pty Ltd
Prudence Bartlett Pty Ltd
REALMstudios Pty Ltd
Rhelm Pty Ltd
Root Partnerships Pty Ltd - Melbourne, VIC
ROSS Planning Pty Ltd
SABA CIVIL MANAGEMENT AND CONSULTANCY PTY LTD
Sage Environmental Services PTY LTD
Sala4D Pty Ltd
Shaw Reynolds Lawyers Pty Ltd
SMEC Australia Pty. Limited
Southeast Engineering and Environmental

SPARKE HELMORE SOLICITORS
SQC Group
STUDIO HOLLENSTEIN PTY. LTD.
Terra Firma Pty Ltd
Tetra Tech Coffey Pty Ltd
THE TRUSTEE FOR ARCBLUE CONSULTING TRUST
Thrive PR
Tonkin Consulting
Total Earth Care Pty Ltd
Tuff-As Consulting Pty Ltd
Two Trees & Co.
Utilstra Pty Ltd
Vishal Lakhia
Walsh & Monaghan Pty Ltd
WESTLAKE PUNNETT & ASSOCIATES PTY LIMITED
Wilde and Woollard Consultants Pty Ltd
Wilshire Webb Staunton Beattie
WSP Australia Pty Limited

GMR21/051	AUSTRALIAN GOVERNEMENT DEPARTMENT OF INDUSTRY, SCIENCE, ENERGY AND RESOURCES FUNDING FOR MORUYA AIRPORT TAXIWAY - ACCEPTANCE OF FUNDING	S014- T00019
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Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: 9 Innovative and Proactive Leadership

Focus Area: 9.1 Provide strong leadership and work in partnership to strategically plan for the future and progress towards the community vision

Delivery Program Link: 9.1.3 Advocate and collaborate to advance the region and address local issues

Operational Plan Link: 9.1.3.2 Seek sources of funding to implement community vision

EXECUTIVE SUMMARY

This report seeks to inform Council of the offer of \$300,000 in grant funding towards the upgrade of the taxiway to existing hangars at the Moruya Airport from the Department of Industry, Science, Energy and Resources administered by the Regional Airport Program.

RECOMMENDATION

THAT Council endorses the actions taken to accept the funding offer of \$300,000 from the Department of Industry, Science, Energy and Resources towards the upgrade to the taxiway to existing hangars at the Moruya Airport.

BACKGROUND

In 2015, Council adopted a Master Plan which identified redevelopment opportunities for the airport precinct. This plan can be viewed at [Master-Plan-for-Moruya-Airport.pdf \(nsw.gov.au\)](#)

The grant is being provided as part of the Regional Airports Program Round 2 grant opportunity. Funds will be used for the reconstruction, strengthening and widening of the taxiway to the existing hangar precinct to meet current regulations, to achieve a safer and more accessible airport for freight and airport related business, ensuring access and continuity of airport services for our regional community.

Expected project outcomes:

- Support the increasing range of businesses establishing a presence at the airport, enabling business growth
- Faster and safer access to airport facilities in the event of an emergency or natural disaster
- Compliance with current regulatory environment to meet operational requirements
- Strengthened infrastructure to ensure resilience into the future
- Facilitate improved delivery of essential goods and services
- Support the continuation of specialist outreach services to regional areas.

**GMR21/051 AUSTRALIAN GOVERNEMENT DEPARTMENT OF INDUSTRY,
SCIENCE, ENERGY AND RESOURCES FUNDING FOR MORUYA
AIRPORT TAXIWAY - ACCEPTANCE OF FUNDING**

**S014-
T00019**

CONSIDERATIONS

Moruya Airport plays an important role to local businesses and many others in our community, providing a vital economic, social and medical service link to Sydney and beyond.

The objective of the Regional Airport Program is to improve the safety and accessibility of airports or aerodromes in regional areas of Australia by assisting airport or aerodrome owners/operators to undertake essential works, promoting aviation safety and access for regional communities.

Financial

Financial year	Annual capped amount (GST excl)
2021/22	\$120,000
2022/23	\$180,000
Total	\$300,000

The project is 100% funded with no co-contribution required.

CONCLUSION

Council has been awarded \$300,000 in grant funding from the Department of Industry, Science, Energy and Resources under the Regional Airport Program Round 2. This grant funding is welcomed and will be formally accepted.

This offer of grant funding is welcomed, and it is recommended that it be accepted.

**GMR21/052 FENCE ON ROAD RESERVE INTERSECTION OF COOPERS ISLAND
ROAD AND PRINCES HIGHWAY**

**S028-
T00001**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: Nil

Outcome: 6 Responsible and Balanced Development

Focus Area: 6.2 Ensure development is sustainable, and reflects community values
and the desired local setting

Delivery Program Link: 6.2.2 Provide receptive and responsive development assessment
services

Operational Plan Link: 6.2.2.1 Assess and determine development applications

EXECUTIVE SUMMARY

Unapproved fencing has been identified in the road reserve near the intersection of Coopers Island Road and Princes Highway, Bodalla.

In order to resolve the illegal use of the Road Reserve Council is requiring the adjoining landowner to remove the unapproved fencing and install fencing on the boundary of the Road Reserve and the Landowners property.

RECOMMENDATION

THAT

1. Council writes to the adjoining landowner to remove the unapproved fencing on the Council's Road Reserve and install fencing on the boundary of the Road Reserve and the landowner's property (Lot 2 DP12290) within 28 days of the notification.
2. If the Adjoining Landowner does not install the fence within the notification period, on the boundary of the Road Reserve and the landowner's property, Council will.
 - (a) give the Adjoining Owner notice of Council's intention to give Order No. 7 under s124 of the Local Government Act 1993 (NSW) requiring the Adjoining Owner to erect a fence on the boundary of the road reserve and the landowners property (Lot 2 DP 12290) on the basis that Council is satisfied that public safety renders it necessary that the fence is erected pursuant to the Direction ('Order'),
 - (b) the Order is to specify that the fence is to be not materially different to existing fencing along Coopers Island Road,
 - (c) the Order is to require compliance with the Order within a period of 21 days from the giving of the Order,
 - (d) the notice of intention is to specify a period of 14 days in which the Adjoining Owner may make representations to Council in accordance with the Local Government Act as to why the Order should not be given or as to the terms of, or the period for compliance with, the Order.

**GMR21/052 FENCE ON ROAD RESERVE INTERSECTION OF COOPERS ISLAND
ROAD AND PRINCES HIGHWAY**

**S028-
T00001**

- (e) If Council determines in accordance with the Local Government Act to give the Order (with or without modifications) to the Adjoining Owner, Council give the Direction to the Adjoining Owner requiring compliance within a period of 14 days of the Order being complied with to the satisfaction of the Council.

BACKGROUND

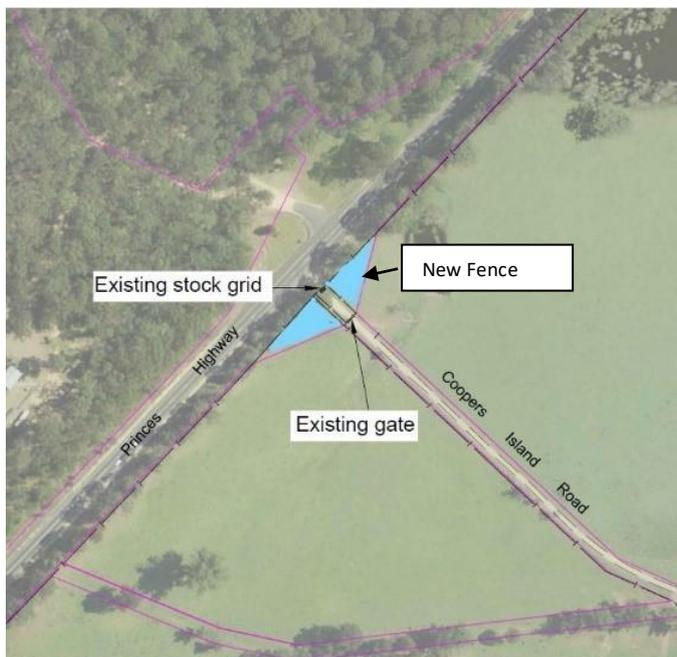
Coopers Island Road was converted to a public road in the 1930s and is currently a public road. The road is used by the owners to access their property and has been used by the public to access the Tuross Lake system for recreational fishing.

The current owners purchased the property on 24 October 2017 and the use of the farm has changed from a dairy farm to Wagyu beef. The land includes all parcels on either side of the roadway and the island at the end of the causeway. The existing fence from Princes Highway to the "gate" on Coopers Island Road was constructed in Council's Road Reserve.

Council became aware of this issue whilst reviewing the public gate permit application that has been submitted by the adjoining landowner.

To resolve the illegal use of the Road Reserve this recommendation to Council is requiring the adjoining landowner to remove the unapproved fencing and install fencing on the boundary of the Road Reserve and the landowners property.

Area in question is highlighted light blue:



Considerations

Legal

Section 128 of the Road Act 1993 states that:

*'(1) A roads authority may permit the occupier of any land through which an **unfenced public road passes** to erect a gate across the road at any place at which the road intersects a boundary fence'.*

**GMR21/052 FENCE ON ROAD RESERVE INTERSECTION OF COOPERS ISLAND
ROAD AND PRINCES HIGHWAY**

**S028-
T00001**

As the location of the gate subject to the application is not a 'place at which the road intersects a boundary fence' the application cannot be currently approved until the boundary fence is installed on the correct boundary.

Policy

A policy for public gates and cattle grids will be developed and presented to Council in 2022.

CONCLUSION

This report considers the issues of an unapproved fencing in a Road Reserve near the intersection of Princes Highway and Coopers Island Road, Bodalla.

GMR21/053 COOPERS ISLAND ROAD PUBLIC GATE PERMIT PUBLIC EXHIBITION

**S028-
T00001**

Responsible Officer: Dr Catherine Dale - General Manager

Attachments: 1. Under Separate Cover - Confidential - Full submissions

Outcome: 6 Responsible and Balanced Development

Focus Area: 6.2 Ensure development is sustainable, and reflects community values and the desired local setting

Delivery Program Link: 6.2.2 Provide receptive and responsive development assessment services

Operational Plan Link: 6.2.2.1 Assess and determine development applications

EXECUTIVE SUMMARY

This report provides recommendations to Council in response to the application for a Public Gate Permit for Coopers Island Road, Bodalla, made by the adjoining landowners.

Coopers Island Road is a public road which dissects private property (Lot 2 DP 12290). The adjoining landowners have submitted an application to Council requesting approval under section 128 of the *Roads Act 1993*, for the installation of a gate across the road, close to the Princes Highway.

It should be noted that it is the owner's responsibility to reduce the risk of the owner's stock from staying from the property onto public land, including public roads. Within this context, the owners of Coopers Island Road have submitted a permit for a gate to assist with this objective.

At the Council meeting of 22 June 2021, it was resolved (pursuant to clause 69 of the *Roads Regulations 2018*) that Council give notice to the public of the gate permit application which was advertised on Council's website from 23 June 2021 to 21 July 2021.

A total of ten (10) submissions from nine (9) respondents was received. Seven (7) of the submissions were not in favour of approving the application for the public gate permit on Coopers Island Road. Two (2) submissions did not explicitly support or not support the application. Councillors have received all submissions.

RECOMMENDATION

That Council resolves to adopt one of the two following options:

Option 1.

1. Refuse the application to approve a gate permit on Coopers Island Road, Bodalla.
2. Write to the landowners of Lot 2 DP 12290 and request that they inform Council within 21 days, how they intend to reduce the risk of their stock from straying from their property onto public land by means other than a gate, noting that should the owner decide to erect a fence, Council has resolved to contribute 50% of the cost of the fence

**GMR21/053 COOPERS ISLAND ROAD PUBLIC GATE PERMIT PUBLIC
EXHIBITION**

**S028-
T00001**

as a one-off contribution to a maximum amount of \$5000. The response from the landowners should also include a reasonable timeframe for implementation.

3. In the absence of an acceptable response within 21 days, Council, pursuant to s107 of the Roads Act 1993 (NSW), direct the owner of the land adjoining Coopers Island Road, Bodalla ('Adjoining Owner'), at the Adjoining Owner's cost, to remove the gate that is currently erected across that road where it meets the Princes Highway ('Gate') in accordance with this resolution (Direction).
4. Council give the Adjoining Owner notice of Council's intention to give Order No. 7 under s124 of the Local Government Act 1993 (NSW) requiring the Adjoining Owner to erect a fence on and along the full length of the boundary between the Adjoining Owner's land and the road reserve of Coopers Island Road on the basis that Council is satisfied that public safety renders it necessary that the fence is erected at the time the Gate is removed pursuant to the Direction ('Order'),
 - a. the Order is to specify that the fence is to be not materially different to existing fencing along Coopers Island Road,
 - b. the Order is to require compliance with the Order within a period of 21 days from the giving of the Order,
 - c. the notice of intention is to specify a period of 14 days in which the Adjoining Owner may make representations to Council in accordance with the Local Government Act as to why the Order should not be given or as to the terms of, or the period for compliance with, the Order.

Option 2.

- 1 Council approves the gate application on Coopers Island Road, Bodalla subject to the recommendations in report GMR21/051 Fence on Road Reserve Intersection of Coopers Island Road and Princes Highway being enacted.
- 2 The permit contain the appropriate provisions.

BACKGROUND

Coopers Island Road was converted to a public road in the 1930s and is currently a public road. The road is used by the owners to access their property and has been used by the public to access the Tuross Lake system predominantly for recreational fishing.

The current owners purchased the property on 24 October 2017 and the use of the farm has changed from a dairy farm to Wagyu beef. The land includes all parcels on either side of the roadway and the island at the end of the causeway.

Recreational fishers park near the causeway to fish from the causeway, bank and bridge and to launch kayaks into the waterway. This provides access to a long arm of the Tuross Lake system.

The owners have requested formal approval for a public gate on Coopers Island Road near the Princes Highway. The owners maintain that cattle could jump the existing cattle grid and for safety reasons the gate is required.

**GMR21/053 COOPERS ISLAND ROAD PUBLIC GATE PERMIT PUBLIC
EXHIBITION**

**S028-
T00001**

It should be noted that it is the owner's responsibility to reduce the risk of the owner's stock from staying from the property onto public land, including public roads. Within this context, the owners of Coopers Island Road have submitted a permit for a gate to assist with this objective.

The gate on Coopers Island Road, while not locked, still requires a public gate permit under the Roads Act. The owners were advised by Council in October 2019 to apply to Council as the roads authority for a permit to authorize the gate. A public gate permit application was received on 17 February 2021.

Section 128 of the Road Act 1993 states that:

*'(1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a **boundary fence**'.*

As the location of the gate subject to the application is not a 'place at which the road intersects a boundary fence' the application cannot be currently considered until the boundary fence is installed (This issue is addressed in GMR21/051 Fence on Road Reserve Intersection of Coopers Island Road and Princes Highway).

CONSIDERATIONS

The owners have requested formal approval for a public gate on Coopers Island Road near the Princes Highway. A total of ten (10) submissions from nine (9) respondents was received. Seven (7) of the submissions were not in favour of approving the application for the public gate permit on Coopers Island Road. Two (2) submissions did not explicitly support or not support the application.

The main objection to the formal approval for a public gate on Coopers Island Road was barriers to accessing the recreational fishing haven.

In regard to the options presented in the Recommendations,

Option 1.

The advantages of this option are:

- Having no gate will allow easy access to Coopers Island Road
- Not having to rely on the gate being closed potentially increases public safety.

The disadvantages of this option are:

- This may trigger a dispute over Council's Order, leading to a delay in outcome and potentially legal costs in the Land and Environment Court

Option 2

The benefits of this option are:

- Reduces the possibility of cattle entering highway
- No contribution cost to Council for the fence along Coopers Island Road
- It assists the landowner to keep stock off public land.

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**S028-
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The disadvantages of this option:

- Potentially hinders access to Coopers Island Road
- Some residents will need to open and close a gate
- Possibility that the gate may be left open allowing cattle access to the highway.

Community and Stakeholder Engagement

Pursuant to clause 69 of the *Roads Regulations 2018* Council gave notice to the public of the gate permit application and this was advertised on Council's website from 23 June 2021 to 21 July 2021.

Council invited submissions from the public to assist Council in making a determination on the application. Upon close of public exhibition, ten (10) submissions from nine (9) respondents were received.

The table below provides a summary of the key issues contained in the public submissions received.

Doc ID	Issues/Concerns	Response
4561531	The submission is not supportive of approving the public gate permit. The respondent is seeking a policy on public gates and grids. The respondent is concerned with absence of fencing along the roadway.	Noted. Council is in the process of developing a Public Gates and Grids Policy.
4559969	The submission is not supportive of approving the public gate permit. The respondent is concerned with fencing location, stock on the road, a security camera and private property sign, and the condition of the current grid. Would like Council to address these issues.	Noted. Issues relating to fencing, stock on the road and the grid, will be addressed by Council in line with a determination on the gate application.
4556431	The submission is not supportive of approving the public gate permit. The respondent is concerned with a perceived lack of compliance from both the landowner and Council, and safety issues.	Noted. The solution determined by Council will determine the compliance requirements of the landowner and Council.
4556167	The submission does not explicitly support approval or denial of the application. The respondent notes that the gate was erected to mitigate against livestock escaping and that it has remained unlocked and does not prevent public access. DPI Fisheries remains supportive of public access along Coopers Island Road to the water's edge of Tuross Lake Recreational Fishing Haven (RFH), noting its importance to recreational fishers.	Noted. Council is seeking a solution which enables movement and security of stock while retaining safe public access to the RFH.

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S028-T00001

Doc ID	Issues/Concerns	Response
4551060	The submission does not explicitly support approval or denial of the application. The respondent believes provision of the gate permit would discourage access to the waterway, and is concerned about fencing, believes other stock management methods can be used. Notes that access has been provided historically, and if a permit is granted, it should be made clear that public access is retained.	Noted. Council will install appropriate signage to manage public use of the area. The misalignment of the physical road to the road reserve needs to be rectified and fencing will not be allowed to encroach on the road reserve when this is addressed.
4541917	The submission is not supportive of approving the public gate permit. The respondent is deterred from accessing the area by the gate, is concerned with liability if the gate is left open, and believe the landowner should fence the land appropriately and install a bigger grid.	Noted. Council is seeking a solution which enables movement and security of stock while retaining safe public access to the RFH.
4537148	The submission is not supportive of approving the public gate permit. The respondent believes the gate is illegal and should be removed to allow public access to the lake for recreational fishers and visitors.	Noted. This permit will address the legality of the gate. It is currently not locked and does not deny access.
4536617	The submission is not supportive of approving the public gate permit. The respondent believes the gate would obstruct public access, and the owner of the property should be responsible for protection of the cattle and public safety.	Noted. Council is seeking a solution which enables movement and security of stock while retaining safe public access to the RFH.
4535641	The submission is not supportive of approving the public gate permit. The respondent believes the farmer should provide proper fencing and a larger grid. The respondent is concerned with safety.	Noted. Council is seeking a solution which enables movement and security of stock while retaining safe public access to the RFH.
535364	Duplicate of doc id 4535641 above.	

Legal

Section 128 of the Road Act 1993 states that:

*'(1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road **intersects a boundary fence**'.*

Financial

**GMR21/053 COOPERS ISLAND ROAD PUBLIC GATE PERMIT PUBLIC
EXHIBITION**

**S028-
T00001**

Council will contribute up to \$5000 for the fence if option 1 is adopted.

Policy

Council is developing a policy for Public Gates and Grids.

Social Impact

Recreational fishing is an important activity for the general public.

CONCLUSION

This report considers the issues regarding the public gate permit application for Coopers Island Road, Bodalla, and Council will determine the outcome.

**PSR21/046 OPTIONAL SPECIAL FLOOD CONSIDERATIONS CLAUSE IN THE
EUROBODALLA LEP 2012**

**SO017-
T00008**

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

Attachments: Nil

Outcome: 6 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

Earlier this year, the NSW Department of Planning, Industry and Environment (DPIE) introduced a package of reforms for flood risk management in NSW, the 'Flood Prone Land Package'. As part of the reforms, councils can now choose to adopt an optional clause in the Local Environmental Plan (LEP) for special flood considerations.

The optional clause considers the impacts of rare flood events on land outside the Flood Planning Area (FPA) and up to the Probable Maximum Flood (PMF). It introduces development considerations for sensitive and hazardous development above the FPA and up to the PMF. The clause gives Council a greater ability to manage the risk of extreme flooding through suitable development controls by:

- increasing flood resilience
- decreasing potential loss of life
- reducing property damage.

Councils that want to opt-in to the 'special flood considerations' clause must resolve to do so before the caretaker period starts so that DPIE can make the LEP changes via an amending State Environmental Planning Policy (SEPP). This will mean Eurobodalla Council does not have to undertake a planning proposal.

RECOMMENDATION

THAT Council:

1. Adopts the optional Local Environmental Plan clause 5.22 Special Flood Considerations.
2. Conveys the resolution to the NSW Department of Planning, Industry and Environment for DPIE to include the clause in the *Eurobodalla Local Environmental Plan 2012*.

BACKGROUND

The NSW Department of Planning, Industry and Environment (DPIE) introduced a package of reforms for flood risk management in NSW, the 'Flood Prone Land Package'. The package includes updates to the regulations, directions, guidelines and policies relevant to flooding and flood-related constraints in land-use planning. The aim of the reforms is to better manage flood risk throughout NSW, particularly for rare events up to the PMF by:

**PSR21/046 OPTIONAL SPECIAL FLOOD CONSIDERATIONS CLAUSE IN THE
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- increasing flood resilience
- decreasing potential loss of life
- reducing property damage.

The reforms do not change the existing floodplain management process outlined in the NSW Government's Floodplain Development Manual requiring councils to prepare flood studies and flood risk management plans.

The 'Flood Prone Land Package' allows a more contemporary approach to managing flood risk between the Flood Planning Area (FPA) and up to the Probable Maximum Flood (PMF), giving Council greater ability and guidance to manage the risk of extreme flooding. The package addresses the key concerns of the safety of people, the management of potential damage to property and infrastructure, and the management of the cumulative impacts of development, particularly on evacuation capacity.

The FPA is the area of land at or below the Flood Planning Level (FPL). The FPL is a combination of the flood level from the defined flood event and freeboard selected for flood risk management purposes. Council defines the FPAs and FPLs and the associated development controls in development control plans and codes.

The 'Flood Prone Land Package' includes the introduction of an optional special flood considerations clause in the LEP. Special Flood Considerations (SPC) consider the impacts of rarer flood events on land outside the FPA and up to the PMF, and relates to the management of risk of life and hazards as a result of rare flood events.

Councils can choose from a standard list of sensitive and hazardous developments in the clause, which can include caravan parks, early education and care facilities, tourist and visitor accommodation, group homes, hazardous storage establishments, hospitals and/or seniors housing.

The optional clause is shown below:

5.22 Special flood considerations [optional]

(1) The objectives of this clause are as follows—

- (a) to enable the safe occupation and evacuation of people subject to flooding,*
- (b) to ensure development on land is compatible with the land's flood behaviour in the event of a flood,*
- (c) to avoid adverse or cumulative impacts on flood behaviour,*
- (d) to protect the operational capacity of emergency response facilities and critical infrastructure during flood events,*
- (e) to avoid adverse effects of hazardous development on the environment during flood events.*

(2) This clause applies to—

- (a) for sensitive and hazardous development—land between the flood planning area and the probable maximum flood, and*

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EUROBODALLA LEP 2012**

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(b) for development that is not sensitive and hazardous development—land the consent authority considers to be land that, in the event of a flood, may—

(i) cause a particular risk to life, and

(ii) require the evacuation of people or other safety considerations.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

(a) will not affect the safe occupation and efficient evacuation of people in the event of a flood, and

(b) incorporates appropriate measures to manage risk to life in the event of a flood, and

(c) will not adversely affect the environment in the event of a flood.

(4) A word or expression used in this clause has the same meaning as it has in the Considering Flooding in Land Use Planning Guideline unless it is otherwise defined in this clause.

(5) In this clause—

Considering Flooding in Land Use Planning Guideline—see clause 5.21(5).

flood planning area—see clause 5.21(5).

Floodplain Development Manual—see clause 5.21(5).

probable maximum flood has the same meaning as it has in the Floodplain Development Manual.

sensitive and hazardous development means development for the following purposes—

(a) [list land uses] Direction— Only the following land uses are permitted to be included in the list—

(a) boarding houses,

(b) caravan parks,

(c) correctional centres

(d) early education and care facilities,

(e) eco-tourist facilities,

(f) educational establishments,

(g) emergency services facilities,

(h) group homes,

(i) hazardous industries,

(j) hazardous storage establishments,

(k) hospitals,

(l) hostels,

(m) information and education facilities,

**PSR21/046 OPTIONAL SPECIAL FLOOD CONSIDERATIONS CLAUSE IN THE
EUROBODALLA LEP 2012**

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- (n) respite day care centres,
- (o) seniors housing,
- (p) sewerage systems,
- (q) tourist and visitor accommodation,
- (r) water supply systems.

CONSIDERATIONS

Including the optional clause 5.22 Special Flood Considerations in the *Eurobodalla LEP 2012* would give Council a greater ability to manage the risk to life and property of extreme flooding for certain types of development, eg, hospitals. It would apply to land located between the FPA and up to the PMF for listed sensitive or hazardous development. The optional clause considers the impacts of rarer flood events for which Eurobodalla Council has not previously applied development controls.

Councils must resolve to adopt the optional clause 5.22 Special Flood Considerations prior to the council caretaker period commencing so that DPIE can make the LEP changes via an amending SEPP. This would mean Eurobodalla Council does not have to undertake a planning proposal, saving resources. DPIE have stated that they will develop the amending SEPP to include the Special Flood Considerations clause in the Eurobodalla LEP in consultation with Council. DPIE will also assist Council to choose the types of development they want the Special Flood Considerations clause to apply to, from a list of sensitive and hazardous development.

Legal

Councils are broadly responsible for floodplain management in New South Wales. This role is guided by the *NSW Floodplain Development Manual: the management of flood liable land* published in 2005, which is a statutory guideline referred to in the *Local Government Act 1999*.

Council can choose to adopt the optional clause 5.22 Special Flood Considerations in the LEP without the need for a planning proposal because DPIE is preparing an amending SEPP that would insert the clause.

Policy

The NSW Government's Flood Prone Land Policy aims to reduce the impact of flooding and flood liability on individual owners and occupiers of flood-prone property, and to reduce private and public losses resulting from floods. The policy highlights that primary responsibility for floodplain risk management rests with councils.

The optional clause gives councils a greater ability to manage the risk of extreme flooding through suitable development controls that reduce potential flood risks to life and property during rarer flood events.

Social Impact

The Special Flood Considerations clause in the LEP would allow Council to implement controls for sensitive and hazardous developments that may experience higher risk during rare flood events. The optional clause aims to ensure both existing and future community are more resilient to extreme flooding, decreasing potential loss of life and reducing property damage.

**PSR21/046 OPTIONAL SPECIAL FLOOD CONSIDERATIONS CLAUSE IN THE
EUROBODALLA LEP 2012**

**SO017-
T00008**

Community and Stakeholder Engagement

DPIE must be advised before the Council caretaker period starts so there is not enough time to publicly exhibit the optional clause. Should Council wish to exhibit the proposed clause 5.22 Special Flood Considerations, it would then need to prepare a planning proposal. This would be a longer process and require additional resources.

CONCLUSION

It is recommended that Council adopts the optional clause 5.22 Special Flood Considerations and advises DPIE to include Eurobodalla LEP 2012 in the amending SEPP.

PSR21/047 PARTNERSHIP AGREEMENT - SERVICE NSW FOR BUSINESS

**S007-
T00003**

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

Attachments: 1. Under Separate Cover - Service NSW: Previous Memorandum of Understanding
2. Under Separate Cover - Service NSW: New Partnership Agreement

Outcome: 5 Vibrant and Diverse Economy

Focus Area: 5.1 Diversify the region's economy, attract investment and target new and emerging employment sectors

Delivery Program Link: 5.1.1 Encourage and attract new business industry, investment and employment opportunities

Operational Plan Link: 5.1.1.2 Implement Advancing Australia

EXECUTIVE SUMMARY

The purpose of this report is to present the Partnership Agreement (Agreement) proposed by Service NSW for the provision of business support services across Eurobodalla Shire by the Business Concierge Service.

This Agreement supersedes the 2018 Memorandum of Understanding between Council and Service NSW for the provision of the 'Easy to do Business' initiative.

The new Agreement is not legally binding, and the Business Concierge Service is at no cost to businesses or to Council.

RECOMMENDATION

THAT Council:

1. Delegates authority to the General Manager to enter into a Partnership Agreement with Service NSW for the provision of the Business Concierge Service
2. The Partnership Agreement and related documents be authorised for execution under the Common Seal of Council.

BACKGROUND

In 2018, Council signed a Memorandum of Understanding (MoU) in support of the 'Easy to do Business' initiative delivered by Service NSW.

The purpose of the MoU was to address a range of initiatives to reduce 'red tape' and improve the timeframe for permits relating to cafes and bars (outdoor dining and liquor licensing).

Since that time, and initiated by bushfire support programs, the Business Concierge Service has assisted local businesses in a broader function. Service NSW reports that a total of 2,034 Eurobodalla shire-based businesses have received assistance since 2016.

Under the new Agreement, services provided to business owners and operators include:

- Business Concierges offering over-the-phone, email and face-to-face support and case

PSR21/047 PARTNERSHIP AGREEMENT - SERVICE NSW FOR BUSINESS

**S007-
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management.

- An online business profile to make it faster and easier for business owners to transact with the NSW Government.
- Guidance and support for small business owners impacted by natural disasters or emerging issues to access a range of Government stimulus, support and information.
- Online business information hubs, including how-to guides to help business owners understand key tasks and the support available when starting and running a business in NSW.

The new Agreement is a requirement under the *Service NSW Act 2013* and is more detailed than the 2018 MoU. The primary change to the new Agreement addresses Service NSW's compliance requirements in relation to the secure collection, use, retention, and disposal of personal information. These requirements comply with Council practices.

The Partnership Agreement has also been developed to provide consistency across all councils and to reflect the broader focus of Service NSW for Business.

CONSIDERATIONS

Legal

This Partnership Agreement is not legally binding between the two parties, however is a requirement under the *Service NSW Act 2013* to ensure an understanding of services to be provided, and surety of the required management of private and confidential information.

Environmental

There are no environmental considerations subject to the Agreement.

Social Impact

The expanded range of services offered under this Agreement are reflective of the changes in service delivery, particularly around the financial support delivered during times of business disruption due to bushfires and COVID-19 restrictions. These services have been integral in directly supporting the welfare of business owners and protecting business assets in vulnerable communities.

Economic Development Employment Potential

Supporting the development of new business and assisting businesses to become operational faster has direct economic benefits for employment creation and flow-on benefits for direct, industrial, and consumption effects. As an estimate, the creation of ten jobs in the retail sector provides a combined employment multiplier of an additional three jobs.

Financial

Entering into the Partnership Agreement has no financial implications.

Community and Stakeholder Engagement

In the course of their work, the Business Concierge may engage with several Council work areas including, but not limited to, economic development, commercial services and development

PSR21/047 PARTNERSHIP AGREEMENT - SERVICE NSW FOR BUSINESS

**S007-
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approvals. Staff across the organisation have been consulted to ensure the new Agreement does not have an impact on their work areas or require additional services.

CONCLUSION

This Agreement supersedes the 2018 Memorandum of Understanding between Council and Service NSW for the provision of the 'Easy to do Business' initiative.

The new Agreement is not legally binding and the Business Concierge Service is of no cost to businesses or Council.

PSR21/048 LICENCES - MACKAY PARK, HANGING ROCK AND BILL SMYTH OVAL

**S023-
T00017**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services
Attachments: Nil
Outcome: 9 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

The purpose of this report is to seek approval to simplify the process of granting event licences at locations with existing Development Application (DA) approvals for events.

The locations with existing DA approvals are:

Mackay Park, Batemans Bay: Lots 259, 30 and 31 DP 755902, Lot 1 and 2 DP 1049123, Reserve No. 580022
Hanging Rock, Catalina: Lots 2 and 3 DP 1171024, Reserve No. 66122
Bill Smyth Oval, Narooma: Lot 2 DP 1205774, Reserve No. 80515

The aim is to shorten the process to assist event organisers to obtain a licence for an event. The process can be lengthy when event applications requiring a licence are reported to Council for each separate event. Further, the delays and restrictions due to Covid-19 have impacted event organisers' ability to plan and commit to hosting events many months in advance.

A simpler process will enable the issuing of licences on these reserves without a further Council report:

- when no public notification is required
- following public notification if required and when no objections have been received.

It is recommended that Council approve the General Manager be given delegated authority to authorise licences at sites that have DA approvals in place for events.

RECOMMENDATION

THAT

1. Council, as Crown Land Manager, grant licences to organisers hosting events at the following sites that have DA approvals in place for events:
 - (a) Mackay Park, Batemans Bay: Lots 259, 30 and 31 DP 755902, Lot 1 and 2 DP 1049123, Reserve No. 580022

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**S023-
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- (b) Hanging Rock, Catalina: Lots 2 and 3 DP 1171024, Reserve No. 66122
 - (c) Bill Smyth Oval, Narooma: Lot 2 DP 1205774, Reserve No. 80515.
2. Payment of annual licence fees in accordance with Council's adopted fees and charges.
 3. Provision of evidence of public liability insurance cover in the amount of at least \$20 million.
 4. Conditions generally in line with similar event licences.
 5. The General Manager be given delegated authority to negotiate further licences to organisers hosting events to operate within the reserves set out in 1 above.

BACKGROUND

Organisers hosting events in Eurobodalla Shire have had difficulty obtaining licence approvals as applications currently need to be lodged up to six months in advance.

The delays and restrictions due to Covid-19 have impacted event organisers' ability to plan and commit to hosting events many months in advance. For example, grants become available for a community event and the event organisers often only have a short window to get approval for the use of Council-managed land to host the event. Amendment to the date of Council elections is also a factor.

Council is looking to streamline the licensing process and provide some certainty to organisers, and greater flexibility to plan events under difficult circumstances. This will provide organisers with a choice of sites to host their event and a much shorter approval period.

There are existing Development Application approvals for events at each of these sites:

Mackay Park:	DA235-16 Mod 3
Hanging Rock:	DA0205-20
Bill Smyth:	DA0299-20

Event applications would still follow the event assessment process and a 28-day public notification period may be required. However, if the event occurs only once and it does not continue for more than three consecutive days, no public notification is required.

Council will provide public notification for licences in these locations as soon as practical after receipt of an application. There will be a Council report to consider a licence only if objections are received.

These locations are suitable for various events, including larger events, like: circuses at Bill Smyth Oval and Mackay Park; Red Hot Summer Tour and Next Exit Music Festival at Mackay Park, and the Caravan and Camping Show at Hanging Rock.

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These are large events however other smaller events at these sites could be approved and licensed within a short period of time enabling the event to take place.

CONSIDERATIONS

All aspects of each event will be assessed, including:

- safety of all participants
- any boost to the local economy
- positive impacts on local food, hospitality and trade services
- the creation of economic opportunities for local community groups,
and
- increases in tourism visitation to Eurobodalla Shire.

Fees would be payable in accordance with Council's adopted fees and charges for event days, as well as time spent to set up and set down.

Event licences will be considered by relevant sections of Council, publicly notified where required and any submissions received will be considered by Council.

Sketches of the event locations are set out below.



*Mackay Park, Batemans Bay: Lots 259, 30 & 31 DP 755902,
Lot 1 & 2 DP 1049123, Reserve No. 580022*

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Hanging Rock, Catalina: Lots 2 & 3 DP 1171024, Reserve No. 66122



Bill Smyth Oval, Narooma: Lot 2 DP 1205774, Reserve No. 80515

Legal

Mackay Park, Batemans Bay Reserve No. 580022, Hanging Rock, Catalina Reserve No. 66122, and Bill Smyth Oval, Narooma Reserve No. 80515 are Crown Reserves under the management of Council as Crown Land Manager.

Council can issue licences for up to five years for public reserves classified as community land, and Crown Reserves for which Council is Crown Land Manager, after public exhibition, 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

Licences granted will be consistent with the purpose of the reserves.

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OVAL**

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T00017**

In accordance with the *Local Government (General) Regulation 2005 – Reg 117*, Council is not required to publicly notify when issuing a licence, where the use or occupation:

- does not involve the erection of any building or structure of a permanent nature, and
- that occurs only once, it does not continue for more than three consecutive days.

[Local Government \(General\) Regulation 2005 - NSW Legislation Regulation 117](#)

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

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 2021 for parties interested in seeking a licence for periods up to five years to use any Council- owned or managed public reserves.

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

Council's intent is to issue licences for these reserves in accordance with the Events Policy and purposes of the relevant Plan of Management.

www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Events-Policy.pdf

Environmental

Conditions of licences will include that the licence area is to be left clean and tidy.

Asset

Conditions of licences will include that the licensee is to repair and make good any damage occasioned by the licensee's use of the licensed area during the event.

Social Impact

Supporting and enabling entertainment in our area will be most welcomed by the community.

Economic Development Employment Potential

Events in Eurobodalla Shire will provide entertainment and economic benefit to the community.

Financial

Licence fees are payable in accordance with Council's adopted fee and charges.

Community and Stakeholder Engagement

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

**PSR21/048 LICENCES - MACKAY PARK, HANGING ROCK AND BILL SMYTH
OVAL**

**S023-
T00017**

CONCLUSION

Organisers hosting events in Eurobodalla Shire have had difficulty obtaining the approvals due to delays and restrictions related to the Covid-19 pandemic and the amended date for the Council elections.

Council is looking to streamline the event licensing process and provide some certainty to organisers, and greater flexibility to plan events under difficult circumstances. Enabling licences to be approved at these locations will give organisers sites to host their events with a much shorter approval period.

This report is presented to Council seeking approval for the granting of event licences, subject to public notification where applicable and compliance with Council's Events Policy, at the locations where Development Application approvals are in place.

**PSR21/049 LAND AND ROAD RESERVE CLASSIFICATION - CLARKE STREET,
BROULEE**

**S023-
T00012/LAND
ID 33328**

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

Attachments:

1. 1994: 26 July 1994 - Council Report
2. 1994: 26 July 1994 - Council Minute 540
3. 1997: 28 January 1997 - Council Report
4. 1997: 28 January 1997 - Minute 18
5. 2002: 10 December 2002 - Works and Facilities Meeting Minute WM228
6. 2003: 25 March 2003 - Council Minute 107
7. 2003: 12 August 2003 - Works and Facilities Meeting Report
8. 2003: 12 August 2003 - Works and Facilities Meeting Minute WM132
9. 2003: 25 November 2003 - Council Report
10. 2003: 25 November 2003 - Council Minute 478
11. Under Separate Cover - 2003: Broulee & Mossy Point Reserves Plan of Management

Outcome: 9 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

The purpose of this report is to advise Council of the current status of Lot 89 DP 1093710 ('the lot') and road reserve at the corner of Broulee Road and Clarke Street, Broulee ('road reserve'), and to advise of options regarding reclassification or otherwise of the lot and road reserve.

Currently, the lot is operational land and adjoining that lot is unconstructed road reserve that is not required as road due to the location of the constructed Clarke Street.

Previous Council reports refer to the 'land' and in some cases it is not completely clear whether this definition includes the road reserve or just the lot. Except when quoting from previous reports or minutes, this report will use the terms 'the lot' for Lot 89 in DP 1093710, 'road reserve' for the road reserve and 'lot and road reserve' for both.

The lot and road reserve has been the subject of considerable discussion between Council and the community since the 1990s.

In 1994, Council resolved to reclassify the lot (then part lots 8 and 9 in DP 758168) as operational land, and this was subsequently enacted by the gazettal of *Eurobodalla Urban Local Environment Plan 1999* ('1999 LEP').

In 1997, the Natural Areas and Undeveloped Reserves Plan of Management was adopted by Council which lists the lot as community land.

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In 1999, the 1999 LEP was gazetted which was the legal enactment of the 1994 resolution to reclassify the lot as operational land.

In 2003, following significant public consultation, Council resolved that:

- 1. Council reclassify the Operational Land at the Corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168) as Community Land.*
- 2. Council adopt the Plan of Management for Broulee & Mossy Point Reserve.*

This Plan of Management ('POM') stated the road reserve would be closed and made into community land, even though the POM is not the means of doing this. Council did not resolve to close the road reserve nor to classify the road reserve in any way. The road closure process was not commenced.

In July 2021, legal advice was received that the 2003 Council resolution to reclassify the lot as community land was not a lawful resolution because public notification was not given in the correct way under the provisions of the NSW Local Government Act.

The options before Council are listed here and the required action to enact each option is listed under 'Recommendation' below:

1. Leave the lot as is, being operational land and keep the road reserve as road reserve.
2. Close the road reserve, apply to the NSW Government to have the (former) road reserve transferred to Council and classify the road reserve and the lot as community land.
3. Leave the road reserve as is and reclassify the lot as community land.
4. Close the road reserve, apply to the NSW Government to have the land (former) road reserve transferred to Council. Develop the lot and the road reserve into residential lots and then sell.

RECOMMENDATION

THAT:

Council considers the following options:

Option 1: Status quo

That Council:

Retain Lot 89 in DP 1093710 as operational land and keep the road reserve at the corner of Broulee Road and Clarke Street, Broulee as road reserve.

Option 2: Close the road reserve and classify the lot and road reserve as community land

That:

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1. A proposal to close the road reserve at the corner of Broulee Road and Clarke Street, Broulee is publicly notified in accordance with the provisions of the *Roads Act 1993* for a period of 28 days.
2. Subject to no objections being received, the closure of the road reserve noted in 1 above proceed.
3. If required, application be made to the NSW Government (Minister for Water, Property and Housing) to transfer the (former) road reserve to Council.
4. The (former) road reserve be reclassified as community land.
5. A proposal to classify Lot 89 in DP 1093710 as community land be publicly notified in accordance with ss.33 and 34 of the *Local Government Act 1993*.
6. Subject to no objections being received, the reclassification of the land noted in 5 above as community land proceed.
7. If objections are received to the road closure or the reclassification of Lot 89 in DP 1093710, a further report be presented to Council to consider these objections.
8. Easement(s) be created for existing water line and any other required infrastructure within the (former) road reserve.
9. Consent be given to affix the Common Seal of Council, if required, to all necessary documents associated with the closure of the road reserve, application to the NSW Government and classification as community land and reclassification of Lot 89 in DP 1093710 as community land.

Option 3: Keep the road reserve but reclassify the lot as community land

That:

1. Council keep the road reserve at the corner of Broulee Road and Clarke Street, Broulee as road reserve.
2. A proposal to reclassify Lot 89 in DP 1093710 as community land be publicly notified in accordance with s.33 and s.34 of the *Local Government Act 1993*.

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3. Subject to no objections being received, the reclassification of the land noted in 2 above proceed.
4. If objections are received, a further report be presented to Council to consider these objections.
5. Consent be given to affix the Common Seal of Council, if required, to all necessary documents associated with the reclassification of Lot 89 in DP 1093710 as community land.

Option 4: Close the road reserve, classify the road reserve and the lot as operational land and sell both

That:

1. Lot 89 in DP 1093710 remain as operational land.
2. A proposal to close the road reserve at the western end of Clarke Street, Broulee be publicly notified in accordance with the provisions of the *Roads Act 1993* for a period of 28 days.
3. Subject to no objections being received, the closure of the road reserve noted in 2 above proceed.
4. If objections are received, a further report be presented to Council to consider these objections.
5. If required, application be made to the NSW Government (Minister for Water, Property and Housing) to transfer the (former) road reserve to Council.
6. Easement(s) be created for existing water line and any other required infrastructure within the subject road reserve.
7. Council sell Lot 89 in DP 1093710 and if closed (and transferred by the NSW Government), sell the former road reserve.
8. The General Manager take all necessary steps to implement Council's decision to develop and sell Lot 89 in DP 1093710 and the former road reserve in accordance with Council's Land Acquisition and Disposal Policy.

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9. Consent be given to affix the Common Seal of Council, if required, to all necessary documents associated with the road closure, application to the NSW Government and sale of the former road reserve and Lot 89 in DP 1093710.

BACKGROUND

The lot was formerly described as Part Lots 8 and 9 Section 19 in DP 758168.

The lot and road reserve have been the subject of community discussion and numerous Council reports since the 1990s.

Land classification background:

All minutes and reports mentioned are attachments to this report in full.

1994

26 July 1994. Council Minute 540 states:

'THAT the Draft Urban Local Environmental Plan (IDO 3 Review) include the reclassification of the following property from "community" to "operational": Property No.4701.650 and 4704.20, Lots 8 and 9 Section19 Corner of Grant and Clarke Streets, Broulee plus the road reserve. Description: Vacant 2(a) land.'

The Council report of 26 July 1994 advises that the *Local Government Act 1993* commenced on 1 July 1993 and that the Act created the situation where 'public lands' must be classified as either 'operational' or 'community'. Various properties were automatically classified as community land and following an assessment process, some properties were identified as being suitable for reclassification as operational, including the lot.

1996 / 97

There were various Council reports concerning the development of the Natural Areas and Undeveloped Reserves Plan of Management in 1996 prior to its adoption via a Council report on 28 January 1997 and Minute 18.

That Plan of Management is still current and available on Council's website. It does list Lots 8 and 9 (now Lot 89) as being community land, which was correct at the time the POM was adopted, however is no longer correct.

1999

The 1994 resolution was enacted by the gazettal of the *Eurobodalla Urban LEP 1999*.

The gazetted 1999 LEP confirms that at that time, the lots were operational.

A link to the 1999 LEP on the NSW Government website is provided here:

<https://legislation.nsw.gov.au/view/html/repealed/current/epi-1999-0183#sec.78>

The 1999 LEP shows that Lots 8 and 9 (now Lot 89) are listed at Item 78 'What public land is classified or reclassified by this plan?' and 'Table Part 1 Operational Land'. Extracts from the LEP are shown here:

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6	Property No:	4701.650 Lot 8 Section 19 Corner of Grant and Clarke Streets, Broulee, plus the road reserve
	Description:	Vacant land
7	Property No:	4704.20 Lot 9 Section 19 Corner of Grant and Clarke Streets, Broulee, plus the road reserve
	Description:	Vacant land



2002

10 December 2002- Council Minute WM228 states:

'THAT:

1. Council adopt the draft Plan of Management for Broulee and Mossy Point Community land for exhibition.
2. The plan be exhibited for 56 days (8 weeks) and submissions received for 70 days (10 weeks).
3. Consultants be engaged to preside over a Public Hearing on the re-categorisation of community Land included in the Draft Plan of Management.
4. The reclassification proposal of Part Lot 8 DP 758168 Sec 19 and Part Lot 9 DP 758168 Sec 19 be readvertised with the community for comment along with the exhibition of the draft Plan of Management with explanatory details.'

2003

29 January 2003 – A public hearing was held to discuss Draft POM on 29 January 2003 and over 20 people attended the meeting. The report from the consultant stated that the 'main interest related to the land at the corner of Clarke Street and Broulee Road and the unanimous option was that it should be retained in public ownership'.

2003

26 February 2003 – The submission period for the POM concluded on 26 February 2003. 23 submissions were received together with a petition containing 120 signatures seeking for the 'land' to be reclassified as community land.

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2003

25 March 2003 – Council Minute 107 states:

‘THAT:

- 1. The Department of Land and Water Conservation be approached with a view to the Crown Road (Unformed Road) adjacent to Part Lot 9 Sec 29 DP 758168 & Part Lot 8 Sect 19 DP 758168 being closed and transferred to Council as Operational Land.*
- 2. Council determine the value that may be realised by selling the land in (1) above and inform the community of the possible uses for these funds, i.e. a list of unfunded projects for the Broulee area, with Council to approve the wording of the information to be provided to the community.*
- 3. Council defer adoption of the Plan of Management Broulee & Mossy Point Plan Reserves (Community Land) until such time as the community has been further consulted on the issues raised in (2) above.’*

2003

12 August 2003 – Works and Facilities Committee Meeting Report dated 12 August 2003 discussed the December 2002 meeting regarding the POM being exhibited, the public hearing held in January 2003 and the submissions received in February 2003.

12 August 2003 - Minute WM132 states:

‘THAT:

- 1. The Broulee and Mossy Point community be consulted on the options for the future use of the land at the corner of Broulee Road and Clarke Street, Broulee as per the 25 March 2003 resolution, Council confirms that the following wording is appropriate to provide to the community.*

Community comment is sought on the following two options for the future use of the land at the corner of Broulee Road and Clarke Street:

OPTION 1

Sell the land and expend funds on Community and Crown land requirements in Broulee and Mossy Point’

(The lengthy resolution listed a number of potential projects and is contained in full in the attached copy of the minute)

‘OR

OPTION 2

Reclassify the land as Community land

The land at the corner of Broulee Road and Clarke Street be reclassified as Community land and remain as bushland.

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2. *The options be placed on public exhibition for 28 days and submissions be received for 42 days.'*

2003

The exhibition and community consultation period for the two options was on public exhibition from 20 August 2003 to 3 September 2008. Submissions closed on 3 October 2003, resulting in 99 letters and a 394-signature petition preferring option 2 to reclassify the land as community land.

2003

25 November 2003 – Council report of 25 November 2003 confirmed the exhibition and submission period on the two options for the land at Broulee was complete, and the preferred option was option 2 to reclassify the lot as community land.

25 November 2003 - Council Minute 478 states:

'THAT:

1. *Council reclassify the Operational land at the corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168) as Community Land.*
2. *Council adopt the Plan of Management for Broulee & Mossy Point Reserves.'*

The POM states *'The development of this Plan of Management has resulted in reclassification of these two lots (8 and 9) as Community Land. In addition, the Unformed Road is to be closed and added to this POM as community land once this process is finalised'*.

The statement in the POM about reclassification is incorrect as reclassification can only be effected by Council resolution, which has to be undertaken in the prescribed manner or the making of an LEP. The road closure process was not enacted, nor did the Council's resolution of 25 November 2003 address the closing or reclassification of the road reserve. The legality of the resolution to reclassify was the subject of legal advice obtained in 2021 and is detailed below.

2003

1 December 2003 - Internal Council memo with attachment of Minute 478 to staff member to make amendments to the 1999 LEP to reflect that resolution to reclassify land from operational land to community land, and once done to request amendment to LIMES and MapInfo to show land as community land.

2012

The *Eurobodalla Local Environmental Plan 2012* (ELEP 2012) was adopted by Council at the ordinary Council meeting on 20 December 2011 after public exhibition from 5 September 2011 to 28 October 2011. Lot 89 was clearly identified on the land zone map as being zoned R2 - Low Density Residential. No submissions received related to Lot 89.

Classification of the lot is not identified in the ELEP 2012, unless it is changed via an amendment to the ELEP 2021. This has not occurred for Lot 89. Eighteen amendments to the ELEP 2012 have been made since 2012. None of these have resulted in changes to how the ELEP 2012 applies to the lot.

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2014

Biodiversity certification under the *Biodiversity Conservation Act 2016* is a strategic biodiversity assessment process for areas of land that are proposed for development. Where land is 'biodiversity certified', development may proceed without the usual requirement for site-by-site biodiversity assessment, because it has already been assessed and offset.

The Broulee Biodiversity Certification Strategy was exhibited in 2013 and then again in 2014, and adopted by Council on 24 June 2014. The exhibited documents identify the lot and the road reserve, both in writing and map form, as being part of the development area and no comments concerning the lot or the road reserve were received during the exhibitions.

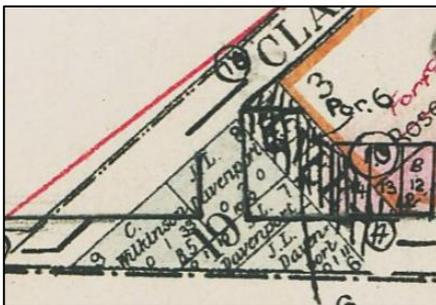
2021

Legal advice obtained in July 2021 has confirmed that to reclassify land, public notification for 28 days in accordance with sections 33 and 34 of the *Local Government Act 1993* is required, followed by a resolution of Council.

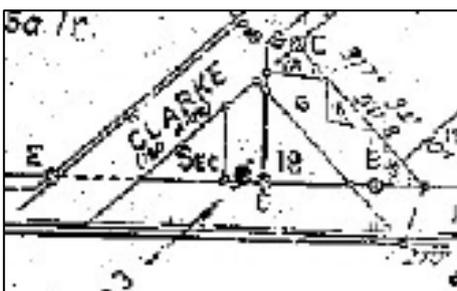
The legal advice notes that the public notification in 2003 as to the 'option' of either reclassifying the land as operational land or community land, was not the correct notification process and hence the resolution is not valid and does not change the reclassification of the land to community land.

Land identification background:

1958 - Historical plan shows Lots 8 and 9 (together with Lots 6 and 7) Section 19 in DP 758168 with proposed realignment of boundaries and road creation.



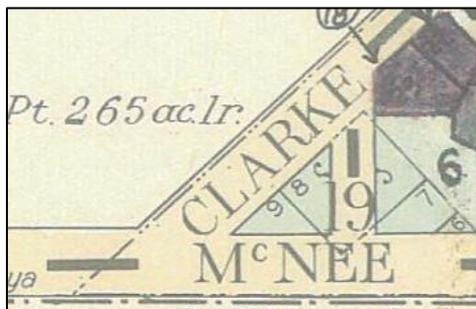
1970 - Road Plan DP 239668 was created by the Crown in 1970 - it shows part Lots 8 and 9 Section 19 in DP 758168 as one lot.



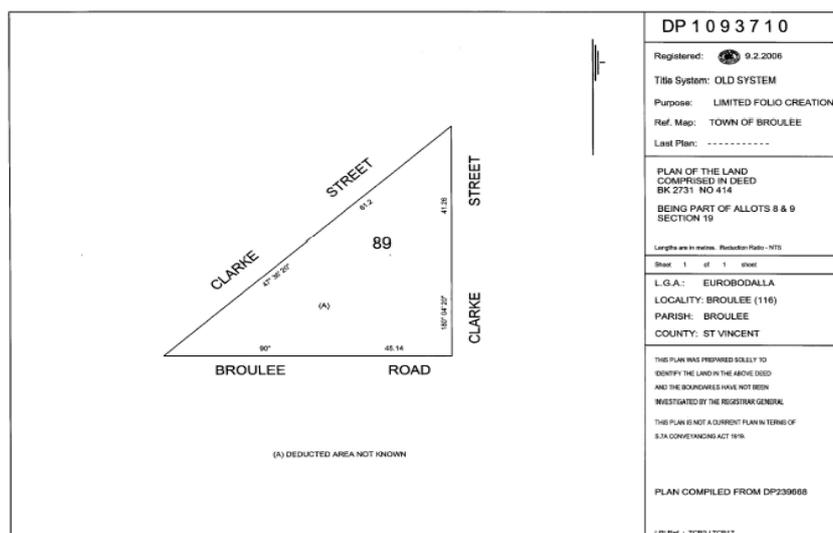
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1972 - Snip of Parish Map DP 758168 shows part Lots 8 and 9 Section 19 in DP 758168 following realignment of boundaries and road creation.



2006 – Lot 89 DP 1093710 was created by the Crown in 2006 from part Lots 8 and 9 DP 758168 as part of the process to ensure Old System land was updated to the Torrens System. It was compiled from road plan DP 239668, created in 1970.



CONSIDERATIONS

The following is a list of attachments to this report:

1. 1994 – 26 July 1994 Council Report
2. 1994 – 26 July 1994 Council Minute 540
3. 1997 – 28 January 1997 Council Report
4. 1997 – 28 January 1997 Minute 18
5. 2002 – 10 December 2002 Works and Facilities Meeting Minute WM228
6. 2003 – 25 March 2003 Council Minute 107
7. 2003 – 12 August 2003 Works and Facilities Meeting Report

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8. 2003 – 12 August 2003 Works and Facilities Meeting Minute WM132
9. 2003 – 25 November 2003 Council Report
10. 2003 – 25 November 2003 Council Minute 478
11. 2003 – Broulee and Mossy Point Reserves Plan of Management adopted 25 November 2003.

The decision to reclassify the lot and to close the road reserve and classify it must be achieved by proper legal procedures. Public notification of the reclassification of the lot and the closure of the road reserve is required to take place and to complete the process, a Council report after the notification is required.

Council's options

The options Council can resolve to do, are listed below with a summary of factors councillors may wish to consider when making their decision. The resolution for each of the options contain the actions required under each option.

1. Leave the lot as is, being operational land, and keep the road reserve as road reserve.

- Requires no further action by Council other than to note this status on internal systems.

2. Close the road reserve, apply to the NSW Government to have the (former) road reserve transferred to Council and classify the road reserve and the lot as community land.

- After extensive community engagement, Council resolved to classify Lot 89 as community land in 2003. It would now be community land if correct public notification had been given prior to the 2003 resolution. Community feedback was overwhelmingly in favour of it being classified as community land.
- There is no resolution to close the road but there is a resolution to adopt a Plan of Management from 2003, which notes the road will be closed and classified as community land.
- Implementation of this option is considered to be consistent with the intent of the outcomes of the 2003 decision by Council, despite Council not having resolved to close or classify the road reserve.

3. Leave the road reserve as is and reclassify the lot as community land.

- After extensive community engagement, Council resolved to classify Lot 89 as community land in 2003. It would now be community land if correct public

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notification had been given prior to the 2003 resolution. Community feedback was overwhelmingly in favour of it being classified as community land.

- There is no resolution to close the road, but there is a resolution to adopt a Plan of Management from 2003, which notes the road will be closed and classified as community land.

4. Close the road reserve, apply to the NSW Government to have the land (former) road reserve transferred to Council. Develop the lot and the road reserve into residential lots and then sell.

- This would generate significant revenue for Council, likely to be in the order of \$1million.
- This would be a change of intent by Council from the 2003 resolution.
- The decision would be consistent with the current classification, zoning and intent under the bio-certification process.
- Public notification of the intent to close the road reserve would be required, and Council would need to consider any objections in a further Council report.
- Council would need to submit a development application to create residential lots. Public notification would be required and the development application would need to be determined by Council rather than under staff delegation

Legal

In accordance with the *Roads Act 1993* Council is the roads authority for public roads. Any proposal to close the road reserve must be advertised in the local paper, and all affected landowners and notifiable authorities given a minimum 28 day submission period, as per Section 38B of the *Roads Act 1993*:

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-033#sec.38B>

A plan of survey for the closed road will be required to be registered at NSW Land Registry Services. On registration of the plan, a Certificate of Title is created and the road closure is then notified in the Government Gazette.

Because the road reserve may be determined to be an unformed road that has never been constructed, closure of the road reserve would result in the closed road vesting in the Crown: Section 38E(2) of the *Roads Act 1993*. Additional steps will be required (following closure of the road reserve) to have the road reserve transferred to Council: Division 4.2 *Crown Land Management Act 2016*.

[Roads Act 1993 s38E\(2\)](#)

If vested in Council, unless the Minister declares otherwise, the land (formerly road reserve) would be classified as community land: Section 4.8(1) *Crown Land Management Act 2016*.

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[Crown Land Management Act 2016 s4.8\(1\)](#)

Notwithstanding the above, Crown Lands has advised Council that:

“it is Council's responsibility to decide whether a council road can vest in council upon closure. Department of Planning, Industry & Environment (DPIE) - Crown Lands is not a regulatory authority and therefore can't overturn a council decision to keep a road vested in council upon closure. Section 38E(2) of the Roads Act 1993 sets out which council roads remain vested in council upon closure. It is up to councils to interpret “construction”. Councils may consider construction to take any form and have occurred at any time. The legislation does not specify that the construction must currently be visible.

“The land comprising a former road ... other than a public road in respect of which no construction has ever taken place – remains vested in the Council”

If Crown Lands accepts that the land should stay vested in Council upon closure of the road, the land will vest in Council as operational land in accordance with s43(2) of the *Roads Act 1993*:

<https://www.legislation.nsw.gov.au/view/html/inforce/current/act-1993-033#sec.43>

For the lot to be classified as community land, it must be in accordance with Sections 33 and 34 of the *Local Government Act 1993* as follows:

Section 33- “A council may resolve that public land classified as operational land is to be reclassified as community land” and,

Section 34 – “Public notice to be given of classification or reclassification by council resolution:

- (1) A council must give public notice of a proposed resolution to classify or reclassify public land.
- (2) The public notice must include the terms of the proposed resolution and a description of the public land concerned.
- (3) The public notice must specify a period of not less than 28 days during which submissions may be made to the council.”

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030#sec.33>

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1993-030#sec.34>

Policy

Any road closure or sale of Council land would take place in accordance with relevant legislation and Council’s Land Acquisition and Disposal Policy.

<https://www.esc.nsw.gov.au/inside-council/council/council-policies/policies/Land-Acquisition-and-Disposal-Policy.pdf>

Environmental

The lot is part of the Broulee bio-certification area that was identified as a development area in 2014. Any tree clearing would require payment for biodiversity credits, which will be invested in

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managing biodiversity outcomes in the Broulee area. Further information is set out at '2014' above.

Asset

The subject property is currently operational land and road reserve.

The road reserve contains an accessway and number of existing assets, which will need to be maintained. Additional assets are proposed within the road reserve as part of the subdivision of the adjoining land.

Additional vegetation management will be required within the road reserve and the lot to manage bushfire risk and for Council to meet its associated land management obligations.

Social Impact

Public meetings have been held in Broulee on this matter and strong feelings are evident within some sectors of the community. A decision not to proceed with the reclassification or to proceed with the subdivision and sale of the land, would be opposed by some in the community.

It also needs to be acknowledged that the Eurobodalla, like all regional areas, is currently facing a critical housing supply shortage across all income levels and housing types. This can be partially alleviated by facilitating development in areas already identified through the planning process to accommodate growth across the Eurobodalla. There is a 21% increase (from the 2016 census figure) in the projected number of dwellings required in the Eurobodalla over the next 15 years (Forecast.id). Whilst the lot yield of the lot and the road reserve is only small (approximately 3 to 4 lots), it is assisting in meeting the strong demand for housing in the area, and makes efficient use of available land and infrastructure.

Financial

The lot and the road reserve could yield three to four lots if a small land swap with an adjoining owner is included to achieve a uniform allotment pattern. Land values are very strong at the moment and therefore, subdivision and sale could generate revenue for Council, likely to be in the order of \$1million.

Community and Stakeholder Engagement

Council engaged with the community a number of times in 2002/03 about the future of the lot and road reserve. Any funds realised at the time were to be dedicated to projects in Broulee and Mossy Point. The view of the community remained unchanged and resulted in the Council resolutions of November 2003 to adopt the Plan of Management and reclassify the lot as community land.

In Council's meeting of 12 August 2003, it was decided to engage the community on options for the lot and road reserve to either option 1: close the road reserve and sell together with adjacent Lots 8 and 9 Section 19 in DP 758168 and funds be expended on unfunded projects in the Broulee and Mossy Point Areas, or option 2: reclassify the lot as community land.

2003 November – 25 November 2003: Council's report confirmed the exhibition and submission period on the two options for the lot and the road reserve was complete, and the

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community's preferred option at that time was clearly option 2 to reclassify the lot as community land.

The community has thought that the lot and the road reserve has been community land since 2003, however the lot and the road reserve were not reclassified to community land via the adoption of the POM. Any change to the current status of the lot and the road reserve will be required to be publicly notified.

There have also been a number of planning processes undertaken since 2003 which have involved community engagement, and have clearly set out the intent and ability for the lot to be developed.

In 2021, further information has been provided on this matter in a range of ways, including:

- meetings with Broulee and Mossy Point Community Association in 2021
- written correspondence with both the association and other community members
- response to Questions on Notice and matters raised in their discussion
- in response to a request for information under the *Government Information (Public Access) Act 2009*.

CONCLUSION

Currently the lot is operational land and adjoining that lot is road reserve that is not required as road due to the location of constructed Clarke Street.

This report sets out options regarding the future of the lot and the road reserve for Council's consideration.



ENVIRONMENT AND COMMUNITY SERVICES REPORT TO ORDINARY
MEETING OF COUNCIL HELD ON TUESDAY 26 JULY 1994

E 5 COUNCIL OWNED LAND CLASSIFIED AS
COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL
PLAN TO RECLASSIFY AS OPERATIONAL

93.5865

OBJECTIVE

This report presents to Council properties which were classified as community automatically and have been identified as being suitable for reclassification as operational. Reclassification will require a Local Environmental Plan to be prepared and a public hearing to be conducted. The relevant properties are outlined in the report.

HISTORY

The Local Government Act 1993 commenced on 1 July 1993. It created the situation where "public lands" must be classified as either "operational" or "community".

The properties in this report were automatically classified as community with the commencement of the Act due to their zoning or because they are public reserve. In the assessment process they were identified as being suitable for reclassification as operational. Two properties which were assessed as being suitable as operational were not included in reports to Council which dealt with classification of land as by the resolution process and now require reclassification.

A report was placed before the council meeting of 9 November 1993 outlining the various requirements and resulting in Council adopting a policy for land classification procedures. Part (e) of Minute No 839 from that meeting states:

"For lands requiring reclassification to "operational" a report be placed before Council identifying them and justifying the need for the change to "operational" . These matters to be held pending inclusion into a single future LEP. This LEP to be allocated a priority on the Landuse Work programme once the number of lands involved is identified unless urgency dictates otherwise".

CONSIDERATIONS

The following properties were automatically classified community and have been identified as being better suited as operational.

Section 29 of Part 2 Division 1 of the Local Government Act 1993 (LGA 1993) requires Councils to arrange a public hearing under Section 68 of the Environmental Planning and Assessment Act 1979 (EPA 1979) in respect of a proposal in a draft Local Environmental Plan to reclassify Community land as operational.

Furthermore, Section 30 of Part 2 Division 1 states that:

E	COUNCIL OWNED LAND CLASSIFIED AS COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL PLAN TO RECLASSIFY AS OPERATIONAL	93.5865
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CONSIDERATIONS (contd)

"On the commencement of a local environmental plan that reclassifies community land as operational land, the land, if it is a public reserve, ceases to be a public reserve, and the land is discharged from any trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except for:

- (a) any reservations that except land out a Crown grant relating to the land;
- (b) reservations of minerals (within the meaning of the Crown Lands Act 1989)

This clause would affect the property in Tomakin (Public Reserve).

Due to the time involved in the reclassification Local Environmental Plan and the fact that a public hearing is required, an alternative to Council's policy adopted in November 1993 may be to include the reclassification process in the current Draft Urban Local Environmental Plan (IDO 3 Review).

The individual properties are now listed with a brief background together with justification for their reclassification.

1.
Property No: Part 4310.1130 Pt Lot 9 DP 808940 George Bass Drive, Tomakin.
Description: Part of land which is Public Reserve by registration of the Deposited Plan.
Zoning: 2(d)
Comments: Part of Lot 9 DP 808940 has been identified in Development Control Plan 183 as being land suitable for further residential development.

Council's Property Manager agrees with the assessment that the land is suitable for classification as operational and comments:

This area of reserve was dedicated by Council from its Forrest Parade and Tomakin Place development. The area dedicated was far in excess of Council's normal subdivision requirements and is more than adequately compensated for in the open space areas identified in the DCP for the Barlings Beach subdivision.
(Reclassification would "undesignate" Public Reserve automatically).

E COUNCIL OWNED LAND CLASSIFIED AS
COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL
PLAN TO RECLASSIFY AS OPERATIONAL 93.5865

2.

Property No: 5220.1000 Lot 85 DP 262097 off Murray Street Moruya.
Description: This is a vacant parcel within the street block with access from Murray Street via a Right of Way over Lot 84 DP 262097. Parcel was acquired as a condition of consent to adjoining subdivision in 1980.
Zoning: 2(d1)
Comment: Parcel of land was automatically classified community on the commencement of the Local Government Act 1993 as it was dedicated as condition of consent under the Environmental Planning and Assessment Act 1979. The land does have future subdivision potential for residential lots, however this would be dependant on the surrounding allotments being subdivided to provide more appropriate access.

3.

Property No: 6053.110, .120, .140, Lots E, C and D DP 25239 Tuross Boulevard, Tuross.
Description: These lots form part of the Tuross Camping and Caravan Park.
Zoning: 6(a)
Comments: Reclassification to operational would allow for better management options of the site.

4.

Property No: 4701.650 and 4704.20 Lots 8 and 9 Sec 19 corner of Grant and Clarke Streets Broulee.
Description: Vacant land.
Zoning: 2(a)
Public Notice: In "the Southern Star" on 9 February 1994.
Comments: Both parcels were purchased by Council in 1964 at auction for unpaid rates with other lots in Broulee. As they are already zoned residential and easily serviced, they are suited for residential use. It had been intended that the two properties be classified as operational by means of the resolution method. Unfortunately they were overlooked and should have been included in the report of properties for which submissions were received by Council.

Council received one submission regarding the properties from the Broulee Progress Association, who highlighted the advantage of having a buffer between the existing residential area to the north and east and the zoned commercial area to the east. To achieve this buffer, the Association suggests the properties may be developed as "an appropriate welcome/information stop for visitors arriving in Broulee from the south/east "and should therefore be retained as community purpose land."

E COUNCIL OWNED LAND CLASSIFIED AS
COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL
PLAN TO RECLASSIFY AS OPERATIONAL 93.5865

5.

Property No: 8055.380 Pt Lot 91 DP 604795 Hector McWilliam Drive Tuross Head
Description: Small parcel of land leased to Sports Club containing Club House.
Zoning:
Public Notice:
Comments:

Land was automatically classified "community" with the commencement of the Act as it is defined as a Public Reserve. As land is subject to a 20 year lease between Eurobodalla Council and the Trustees of the Tuross Head Youth and Sports Club the land should be operational to allow for any future long term lease. Community classification does not provide for long term leases, although it is understood existing leases are not affected by the classification.

CONCLUSION

The properties outlined in the report are all currently classified as community and have been identified as being better suited as operational. All the properties are within the are to be covered by the Draft Urban LEP (IDO 3 Review). Due to the time involved in completing the necessary Local Environmental Plan and conducting the public hearing as required by Section 29 of the LGA, it is recommended that reclassification of the properties be completed as part of the Urban Local Environmental Plan. It is anticipated that a public hearing will be held as part of the Draft Urban LEP in any event. If this option is not adopted then the reclassification LEP should be allocated a priority on the land use work programme.

RECOMMENDED

THAT the Draft Urban Local Environmental Plan (IDO 3 Review) include the reclassification of the following properties from "community" to "operational":

- Property No:** 4310.1130 Lot 9 DP 808940 George Bass Drive, Tomakin
Description: Part of land which is Public Reserve by registration of Deposit Plan.
- Property No:** 5220.1000 Lot 85 DP 262097 off Murray Street, Moruya.
Description: Vacant 2(d1) land with access via a Right of Way off Murray Street.
- Property No:** 6053.110 Lot E DP 25239 Tuross Boulevard, Tuross.
Description: Part of Camping Ground.

E COUNCIL OWNED LAND CLASSIFIED AS
COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL
PLAN TO RECLASSIFY AS OPERATIONAL 93.5865

RECOMMENDED (contd)

4. **Property No:** 6053.120 Lot C DP 25239 Tuross Boulevarde, Tuross.
Description: Part of Camping Ground.
5. **Property No:** 6053.140 Lot D DP 25239 Tuross Boulevarde, Tuross.
Description: Part of Camping Ground.
6. **Property No:** 4701.650 Lot 8 Section 19 Corner of Grant and Clarke
Streets, Broulee.
Description: Vacant 2(a) land.
7. **Property No:** 4704.20 Lot 9 Section 19 Corner of Grant and Clarke
Streets, Broulee.
8. **Property No:** 8055.380 Pt Lt 91 DP 604795 Hector McWilliam
Drive Tuross Head


P A MAY
DIRECTOR OF PLANNING

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MINUTES OF THE ORDINARY MEETING OF THE COUNCIL
OF EUROBODALLA HELD ON TUESDAY 26 JULY 1994

Page 47

MINUTE NO 540

E5 COUNCIL OWNED LAND CLASSIFIED AS
COMMUNITY REQUIRING A LOCAL ENVIRONMENTAL
PLAN TO RECLASSIFY AS OPERATIONAL 93.5865

540 **MOTION** moved by Councillor Gough

THAT the Draft Urban Local Environmental Plan (IDO 3 Review) include the reclassification of the following property from "community" to "operational":

Property No: 4701.650 and 4704.20 Lots 8 and 9
Section 19 Corner of Grant and Clarke
Streets, Broulee plus the road reserve.
Description: Vacant 2(a) land.

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

At 11.40am Councillor Cairney left the Chamber with the permission of the Chair.

This is Page No 47 of the Minutes of the Ordinary Meeting
of Eurobodalla Shire Council held on 26 July 1994

GENERAL MANAGER

MAYOR

WORKS REPORT TO ORDINARY MEETING OF COUNCIL
HELD ON TUESDAY 28 JANUARY 1997

Page 5.1

W 5 PLANS OF MANAGEMENT - PARKS AND RESERVES
NATURAL AREAS AND UNDEVELOPED RESERVES

96.8047

OBJECTIVE

1. To discuss submissions received for the Draft Plan of Management for Natural Areas and Undeveloped Reserves.
2. Recommend adoption by Council of this Draft Plan as amended.

HISTORY

In order to comply with the Land Management requirements of the new Local Government Act, 1993 Council needs to prepare Plans of Management for Council owned "community" land. The Act requires that Plans of Management be prepared by 30 June 1996.

The Plan of Management for Natural Areas and Undeveloped Reserves is a Plan covering existing community land which is categorised as a natural area or as an undeveloped area of land. All developed community land is covered by the previously adopted Plan of Management for Developed Reserves and Facilities. These two plans together cover most of the Council owned community land in the Eurobodalla Shire. Separate plans of management have also been prepared for a number of individual areas of Council owned community land (eg Gundry Reserve Plan of Management, Tuross Golf Course Reserve Plan of Management, Malua Bay Community Centre Reserve Plan of Management, Candlagan Bushfire Brigade Reserve Plan of Management).

This Plan represents the final Plan of Management required to comply with the Local Government Act 1993 for Council owned Community Land.

The Draft Plan of Management for Natural Areas and Undeveloped Reserves has been exhibited to the public (exhibited for a period of 28 days from 3 July 1996 to 31 July 1996) and remained open for public comment for a period of 42 days until 14 August 1996.

The Local Government Act specifies that at the end of the public submission period a review of submissions should take place and the issues raised be discussed and the Draft Plan should either be adopted without amendment or amended to incorporate any necessary changes. Council may publicly exhibit an amended Draft Plan, if it is satisfied that the amendments are not substantial, it may adopt the amended draft plan without public exhibition as the Plan of Management applying to the community land.

The Draft Plan with suggested amendments as discussed in detail in Appendices A and B (attached) and as displayed in Appendix C (tabled) now needs to be either:

1. adopted by Council with some or all of the recommended amendments; or
2. re-exhibited with some or all of the recommended amendments for further public comment.

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**WORKS REPORT TO ORDINARY MEETING OF COUNCIL
HELD ON TUESDAY 28 JANUARY 1997**

Page 5.2

**W5 PLANS OF MANAGEMENT - PARKS AND RESERVES
NATURAL AREAS AND UNDEVELOPED RESERVES**

96.0047

CONSIDERATIONS

Written submissions have been received from five respondents regarding the Draft Plan of Management (three groups and two individuals). These responses are tabled for reference.

In addition, internal department submissions have been made regarding various issues.

The issues raised, comments and recommended actions are all listed in Appendix A.

The recommended amendments are not considered substantial, however are considered necessary to:

- (a) correct minor inaccuracies and clarify text;
- (b) bring this plan into line with the already adopted Plan of Management for Developed Reserves and Facilities (through minor changes); and
- (c) incorporate newly identified Council owned community land into the plan which has been overlooked in preparation of the draft or newly dedicated since preparation of the draft;
- (d) provide a mechanism for increased community consultation for any substantial non routine work on community land.

Changes to schedules have been recommended to incorporate more detail or inadvertently overlooked information. These schedules are to be updated and amended as required in the normal course of business under the advertised generic Plan of Management. Notification of these changes is in this case a courtesy not a requirement under the terms of the advertised plan.

It is pointed out that the proposed Plan of Management covers reserves listed in the attached Schedule A. It is not a document that sets Council policy to acquire new reserves. The issue of reserve dedications is dealt with under the various planning documents (LEPs, DCPs, etc) and associated legislation.

Appendix B lists individual amendments to Schedule A properties along with the reason for change.

Appendix C contains the Draft Plan of Management for Natural Areas and Undeveloped Reserves as advertised with handwritten amendments as referred to by the recommended actions in Appendices A and B.

It should be noted that any adopted Plan of Management does require ongoing review and updating. Consideration needs to be made for allocation of appropriate levels of resources to ensure the integrity of the Plan of Management process.

The Plan of Management has been designed so that in future, changes and amendments will mostly take place via advertising amendments to the Schedules with the body of the document remaining unchanged.

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**WORKS REPORT TO ORDINARY MEETING OF COUNCIL
HELD ON TUESDAY 28 JANUARY 1997**

Page 5.3

W5 PLANS OF MANAGEMENT - PARKS AND RESERVES
NATURAL AREAS AND UNDEVELOPED RESERVES

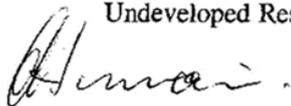
96.0047

CONCLUSION

The Draft Plan of Management for Natural Areas and Undeveloped Reserves has received comment during and prior to the exhibition period both from public and internal departments of Council. These have been considered with amendments being made. It is recommended that this Draft as seen in Appendix C (tabled) be adopted with amendments. These amendments are considered to be not substantial enough to require readvertisement of the Plan under the Local Government Act, 1993.

RECOMMENDED

THAT the attached Plan of Management as amended for Natural Areas and Undeveloped Reserves (Appendix C tabled) be adopted by full Council.



A HIMAN
DIRECTOR OF ENGINEERING

MINUTES OF THE ORDINARY MEETING OF THE COUNCIL
OF EUROBODALLA HELD ON TUESDAY 28 JANUARY 1997

Page 23

MINUTE NO 18

W5 PLANS OF MANAGEMENT - PARKS AND RESERVES
NATURAL AREAS AND UNDEVELOPED RESERVES 96.0047

18 **MOTION** moved by Councillor Gough

THAT the Plan of Management as amended for Natural Areas and Undeveloped Reserves and submitted to Council on 28 January 1997 (W5) be adopted.

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

This is Page No. 23 of the Minutes of the Ordinary Meeting
of Eurobodalla Shire Council held on 28 January 1997

GENERAL MANAGER

MAYOR

MINUTES OF THE WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 10 DECEMBER 2002

Page 6

W11 DRAFT PLAN OF MANAGEMENT
BROULEE AND MOSSY POINT COMMUNITY LAND

02.6678

MOTION Councillor Dance/Cairney

THAT:

1. Council adopt the Draft Plan of Management for Broulee and Mossy Point Community land for exhibition.
2. The plan be exhibited for 56 days (8 weeks) and submissions received for 70 days (10 weeks).
3. Consultants be engaged to preside over a Public Hearing on the re-categorisation of Community Land included in the draft Plan of Management.
4. Part Lot 8 DP 758168 Sec 19 and Part Lot 9 DP 758168 Sec 19 be reclassified from Operational Land to Community Land.

MINUTE NO WM228

WM228 AMENDMENT Councillor Laughler/Green

THAT:

1. Council adopt the Draft Plan of Management for Broulee and Mossy Point Community land for exhibition.
2. The plan be exhibited for 56 days (8 weeks) and submissions received for 70 days (10 weeks).
3. Consultants be engaged to preside over a Public Hearing on the re-categorisation of Community Land included in the draft Plan of Management.
4. The reclassification proposal of Part Lot 8 DP 758168 Sec 19 and Part Lot 9 DP 758168 Sec 19 be readvertised with the community for comment along with the exhibition of the draft Plan of Management with explanatory details.

(The Amendment on being put was declared **CARRIED**.
The Amendment then became the Motion and on being put was declared **CARRIED**.)

MINUTES OF THE ORDINARY MEETING OF EUROBODALLA SHIRE
COUNCIL HELD ON TUESDAY 25 MARCH 2003

Page 35

At 12.04pm the Mayor adjourned the Ordinary Meeting of Council due to disorder arising from the conduct of some Councillors.

At 12.18pm the Mayor reconvened the Ordinary Meeting of Council.

In response to a question from the chair, the Council decided to proceed with debate on item W5-WR3.

MINUTE NO 107

W5 WORKS AND FACILITIES COMMITTEE MEETING HELD ON
TUESDAY 11 MARCH 2003 90.1221

107 **MOTION** Councillor Dance/Councillor Laughher

WR3

W8 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

THAT:

1. The Department of Land and Water Conservation be approached with a view to the Crown Road (Unformed Road) adjacent to Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168 being closed and transferred to Council as Operational Land.
2. Council determine the value that may be realised by selling the land in (1) above and inform the community of the possible uses for these funds, i.e. a list of unfunded projects for the Broulee area, with Council to approve the wording of the information to be provided to the community.
3. Council defer adoption of the Plan of Management Broulee & Mossy Point Plan Reserves (Community Land) until such time as the community has been further consulted on the issues raised in (2) above.
4. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Broulee. In the interim the Executive of the Broulee Boardriders be members of the Committee.

(The Motion on being put was declared **CARRIED**.
Councillor Smellin voted against the Motion.)

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 1

**W5 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND)**

02.6678 P12

SYNOPSIS

The final adoption of the draft Plan of Management for Broulee & Mossy Point Reserves (Community Land) is pending the determination of the future use of the Council owned Operational Land and unformed Council road at the corner of Broulee Road and Clarke Street, Broulee.

This land could be sold and the funds expended on Community and Crown Land projects in Mossy Point and Broulee; alternatively it could be re-classified as Community Land and remain as a natural area of bushland.

Community consultation on both options needs to be undertaken to ascertain the level of support for either project in the community.

BACKGROUND

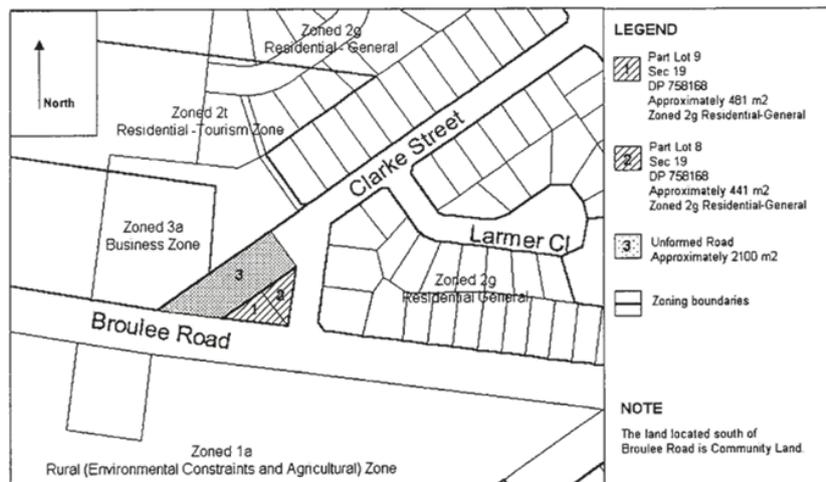


Figure 1
Land at the corner of Broulee Road & Clarke Street.
Note 1 & 2 are currently classified as Council owned Operational Land

December 2002

Council adopted the draft Plan of Management Broulee & Mossy Point Community Land for public exhibition and submissions.

January 2003

The Draft Plan of Management proposed to recategorise some community land included in the plan, and as per the Local Government Act 1993, a Public Hearing was held on Wednesday 29 January 2003. Over 20 people attended this meeting.

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 2

W PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

The Public Hearing was chaired by an independent consultant, Mr Peter Cowman of Cowman Stoddardt Pty Ltd. Mr Cowman's report stated:

The Public Hearing has been held in accordance with the relevant sections of the Local Government Act to consider recategorisation of various public reserves in the Broulee and Mossy Point areas.

The Hearing was well attended by local residents and a number of issues were discussed in the context of the Draft Plan of Management.

The main interest related to the land at the corner of Clarke Street and Broulee Road and the unanimous opinion was that it should be retained in public ownership.

There was no objection to the proposed categories for the different reserves which will more accurately reflect the core objectives.

February 2003

The submission period for the draft Plan of Management concluded on 26 February 2003. A total of 23 submissions were received.

A petition containing 120 signatures was also received after 26 February 2003. The petition sought that the land at the corner of Broulee Road and Clarke Street be reclassified "as Community Land and remain as remnant bush land".

The majority of submissions were concerned with the land at the corner of Broulee and Clarke Streets, Broulee.

March 2003

At the Ordinary Meeting of Council on 25 March 2003, Council resolved:

"*THAT:*

- 1. The Department of Land and Water Conservation be approached with a view to the Crown Road (Unformed Road) adjacent to Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168 being closed and transferred to Council as Operational Land.*
- 2. Council determine the value that may be realised by selling the land in (1) above and inform the community of the possible uses for these funds, i.e. a list of unfunded projects for the Broulee area, with Council to approve the wording of the information to be provided to the community.*
- 3. Council defer adoption of the Plan of Management Broulee & Mossy Point Plan Reserves (Community Land) until such time as the community has been further consulted on the issues raised in (2) above.*
- 4. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Broulee. In the interim the Executive of the Broulee Boardriders be members of the Committee."*

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 3

W PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

ISSUES

In response to the above resolutions from the Ordinary Meeting of Council on 25 March 2003:

1. On further investigation it was determined that the unformed road is a Council road. Council can make an application to the Department of Lands to close the road and as the road was originally constructed as part of Clarke Street (aerial photos taken in the early 1960's confirm this) on closure the land can be vested in Council as Operational Land.
2. Appraisals were sought from the two local Broulee Real Estate Agents on 26 June 2003. However, only one appraisal had been received at the time of this report.

Elders Real Estate recommend that the land be listed at \$550,000 as an undeveloped parcel.

The community now needs to be advised of the options for the future use of this land and the opportunities that may be available if the land is sold. The options are:

- (a) Sell the land and expend funds on Community and Crown Land requirements in Broulee and Mossy Point

The land at the corner of Broulee Road and Clarke Street be listed for sale and the proceeds of the sale be expended on Community and Crown Land unfunded projects in the Broulee and Mossy Point areas.

In addition to projects suggested by Council, the community should also be invited to submit project proposals.

- (b) Reclassify the land as Community Land

The land at the corner of Broulee Road and Clarke Street be reclassified as Community Land and remain as bushland.

3. The adoption of the Plan of Management is on hold until the above issues in 1 and 2 above are resolved.
4. At the Works and Facilities Committee meeting on 22 July 2003 Council appointed Gerry Fafie, Anita Macadam and Rob Nedwich as members of the Old Broulee Fire Shed Section 355 Management Committee.

Legal

The draft Plan of Management included both options for the future use of the land at the corner of Broulee Road and Clarke Street. Therefore there is no requirement for the plan to be re-exhibited once a decision is made on which option to pursue as there would be no substantial change to the draft Plan of Management – only a determination of which option was preferred by the community.

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 4

W PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

Strategic Links

A draft Plan of Management has been prepared for the Community Land in Broulee and Mossy Point. This Plan of Management will be ready for adoption on the resolution of the issue regarding the land at the corner of Broulee Road and Clarke Street. The draft Plan of Management includes many projects on Council Community Land that could be funded by the sale of the land at the corner of Broulee Road and Clarke Street.

Financial

The appraisals received for the land indicate that the sale of the land may yield around \$550,000.

These funds could be expended on Crown and Community Land projects in Broulee and Mossy Point.

The draft Plan of Management for Broulee and Mossy Point Community Land proposes the many projects on Community Land and there are also several opportunities for improving Crown Land reserves.

CONCLUSION

The sale of the land at the corner of Broulee Road and Clarke Street has the potential to generate significant funds for expenditure on the Crown and Council public reserves in Broulee and Mossy Point. However there has also been strong support to reclassify this land as Community Land and retain it as an area of natural bushland.

Further community consultation on these options is required to assist with determining the best course of action for the future.

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 5

W PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

RECOMMENDED

THAT under delegated authority dated 29 February 2000 (Minute No. 61) the Committee resolve the following:

THAT:

1. The Broulee and Mossy Point communities be consulted on the options for the future use of the land at the corner of Broulee Road and Clarke Street, Broulee. As per the 25 March 2003 resolution, Council confirms that the following wording is appropriate to provide to the community.

Community comment is sought on the following two options for the future use of the land at the corner of Broulee Road and Clarke Street:

OPTION 1

Sell the land and expend funds on Community and Crown land requirements in Broulee and Mossy Point

Application be made to the Department of Lands to close the Council road adjacent to Part Lots 8 and 9 DP758168. After closure of the road and vesting in Council all of the Council land at the corner of Broulee Road and Clarke Street, the land be listed for sale and the proceeds of the sale be expended on Community and Crown land unfunded projects in the Broulee and Mossy Point areas.

Projects could include:

- Address the sand dune blow out at North Broulee Beach.
- Boardwalks and viewing platforms in appropriate locations.
- Broulee Beach (near the Surf Club) parking, boardwalks, vehicular and pedestrian circulation, dunal stabilisation, viewing platform, embankment stabilisation, stormwater treatment, etc.
- Broulee Skate Park development.
- Captain Oldrey Reserve upgrades (note \$15,000 already allocated in 2003/2004 for Captain Oldrey Amenities Block improvements).
- Defined pedestrian access to beaches with appropriate signage.
- Dunal revegetation/restoration and fencing.
- Identification and development of possible on-site water detention devices where stormwater could be reused.
- Improve pedestrian links through Broulee and Mossy Point including signage indicating public pathways. Identify the network of pathways through Community and Crown land highlighting points of interest – develop walking map of the area.
- Interpretive signage on local history and the environment in appropriate locations.

REPORT TO WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

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W PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

- Maintenance of natural areas including replacing exotic species with native species.
- Plan of Management prepared for Broulee and Mossy Point Crown land.
- Protection of Aboriginal sites.
- Signage to identify locations of vulnerable ecosystems and threatened species (flora and fauna), eg areas where the Yellow Bellied Glider lives could have interpretive signage located nearby to inform and educate the local community.
- Upgrade the Mossy Point Headland and Boat Ramp reserve (landscaping, access, fencing, viewing platform, parking, protection of Aboriginal sites, signage, picnic and barbecue facilities, defined coastal walkway (to connect through to Broulee Beach around the Mossy Point Headland).
- Upgrade the Old Broulee Fire Shed.
- Upgrade the Old Mossy Point Fire Shed.
- Upgrade the public toilets at Broulee Beach including provision for disabled access.

In addition to the above list of projects, the community is encouraged to suggest any other project ideas that could be funded by the sale of this land.

OR

OPTION 2

Reclassify the land as Community land

The land at the corner of Broulee Road and Clarke Street be reclassified as Community land and remain as bushland.

2. The options be placed on public exhibition for 28 days and submissions be received for 42 days.

ROB ADDISON
PROPERTY MANAGER
TECHNICAL SERVICES AND PROPERTY DIVISION



MINUTES OF THE WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

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MINUTE WM132

W5 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

WM132 **MOTION** Councillor Vardon/Laughter

THAT under delegated authority date 29 February 2000 (Minute No 61) the Committee resolved the following:

THAT:

1. The Broulee and Mossy Point communities be consulted on the options for the future use of the land at the corner of Broulee Road and Clarke Street, Broulee. As per the 25 March 2003 resolution, Council confirms that the following wording is appropriate to provide to the community.

Community comment is sought on the following two options for the future use of the land at the corner of Broulee Road and Clarke Street:

OPTION 1

Sell the land and expend funds on Community and Crown land requirements in Broulee and Mossy Point

Application be made to the Department of Lands to close the Council road adjacent to Part Lots 8 and 9 DP758168. After closure of the road and vesting in Council all of the Council land at the corner of Broulee Road and Clarke Street, the land be listed for sale and the proceeds of the sale be expended on Community and Crown land unfunded projects in the Broulee and Mossy Point areas.

Projects could include:

- Address the sand dune blow out at North Broulee Beach.
- Boardwalks and viewing platforms in appropriate locations.
- Broulee Beach (near the Surf Club) parking, boardwalks, vehicular and pedestrian circulation, dunal stabilisation, viewing platform, embankment stabilisation, stormwater treatment, etc.
- Broulee Skate Park development.
- Captain Oldrey Reserve upgrades (note \$15,000 already allocated in 2003/2004 for Captain Oldrey Amenities Block improvements).

MINUTES OF THE WORKS AND FACILITIES COMMITTEE MEETING
HELD ON TUESDAY 12 AUGUST 2003

Page 22

- Defined pedestrian access to beaches with appropriate signage.
- Dunal revegetation/restoration and fencing.
- Identification and development of possible on-site water detention devices where stormwater could be reused.
- Improve pedestrian links through Broulee and Mossy Point including signage indicating public pathways. Identify the network of pathways through Community and Crown land highlighting points of interest – develop walking map of the area.
- Interpretive signage on local history and the environment in appropriate locations.
- Maintenance of natural areas including replacing exotic species with native species.
- Plan of Management prepared for Broulee and Mossy Point Crown land.
- Protection of Aboriginal sites.
- Signage to identify locations of vulnerable ecosystems and threatened species (flora and fauna), eg areas where the Yellow Bellied Glider lives could have interpretive signage located nearby to inform and educate the local community.
- Upgrade the Mossy Point Headland and Boat Ramp reserve (landscaping, access, fencing, viewing platform, parking, protection of Aboriginal sites, signage, picnic and barbecue facilities, defined coastal walkway (to connect through to Broulee Beach around the Mossy Point Headland).
- Upgrade the Old Broulee Fire Shed.
- Upgrade the Old Mossy Point Fire Shed.
- Upgrade the public toilets at Broulee Beach including provision for disabled access.

In addition to the above list of projects, the community is encouraged to suggest any other project ideas that could be funded by the sale of this land.

OR

OPTION 2

Reclassify the land as Community land

The land at the corner of Broulee Road and Clarke Street be reclassified as Community land and remain as bushland.

MINUTES OF THE WORKS AND FACILITIES COMMITTEE MEETING
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2. The options be placed on public exhibition for 28 days and submissions be received for 42 days.

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

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HELD ON TUESDAY 25 NOVEMBER 2003

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W12 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND)

02.6678

SYNOPSIS

The exhibition and submission period seeking comment on two options for the future use of the Council owned Operational Land at the corner of Broulee Road & Clarke Street, Broulee is now complete. 99 letters and the 394-signature petition preferred Option 2 – to reclassify the land as Community Land and categorise as Natural Area Bushland. 2 submissions were received that were not committed either way.

This report recommends adoption of the Plan of Management for Broulee & Mossy Point Reserves. It also recommends that the land at the corner of Broulee Road & Clarke Street Broulee be reclassified as Community Land in accordance with the results of the submissions.

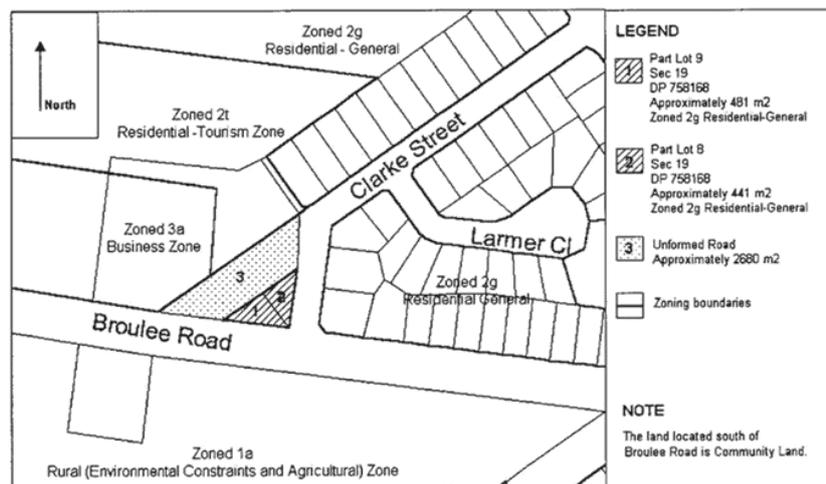


Figure 1: Illustration of the Council Land at the Corner of Broulee Road & Clarke Street, Broulee

BACKGROUND

Plan of Management Overview

The Draft Plan of Management for Broulee and Mossy Point contains 28 parcels of community land. Mostly small, these reserves are complemented with a network of pathways that facilitate access through the suburbs and to the aquatic edges. A copy of this Draft Plan of Management is attached for information.

This Plan of Management outlines various landscaping upgrades on the Mossy Point Headland to improve and enhance public access and enjoyment of this spectacular location.

The re-use of the old Mossy Point and Broulee Firesheds as community managed multi-purpose community facilities is included in this plan and has been in response to community support for the continued use of these facilities.

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W12 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
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February 2003

The submission period concluded on 26 February, 2003. A total of 23 submissions were received.

The majority of submissions were concerned with the land at the corner of Broulee Road & Clarke Street, Broulee.

March 2003

At the Works & Facilities Committee meeting on 11 March Council resolved:

THAT:

1. Council reclassify the Operational Land at the Corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168) to Community Land.
2. The Department of Land and Water Conservation be approached with a view to the Crown Road (Unformed Road) adjacent to Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168 being closed and reserved for public recreation or transferred to Council as Community Land.
3. Council adopt the Plan of Management Broulee & Mossy Point Plan Reserves (Community Land).
4. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Broulee. In the interim the Executive of the Broulee Boardriders be members of the Committee.

At the Ordinary meeting of Council on 25 March 2003 Council resolved:

THAT:

1. The Department of Land and Water Conservation be approached with a view to the Crown Road (Unformed Road) adjacent to Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168 being closed and transferred to Council as Operational Land.
2. Council determine the value that may be realised by selling the land in (1) above and inform the community of the possible uses for these funds, i.e. a list of unfunded projects for the Broulee area, with Council to approve the wording of the information to be provided to the community.
3. Council defer adoption of the Plan of Management Broulee & Mossy Point Plan Reserves (Community Land) until such time as the community has been further consulted on the issues raised in (2) above.
4. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Broulee. In the interim the Executive of the Broulee Boardriders be members of the Committee.

August 2003

REPORT TO ORDINARY MEETING OF COUNCIL
HELD ON TUESDAY 25 NOVEMBER 2003

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W\2 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND)

02.6678

This plan identifies many other opportunities to improve the community's access to community land in Broulee and Mossy Point. With grant funding and community support, these projects will improve public use and enjoyment of community land in Broulee & Mossy Point.

Development of the Plan of Management

September 2002

A public meeting was held on Wednesday 18 September 2002 at Captain Oldrey Reserve, Broulee. The meeting discussed the future use of the Mossy Point Fire shed and the many management and maintenance issues associated with community land in Broulee & Mossy Point.

The meeting was well attended with approximately 60 people present.

In regard to the Old Mossy Point Fire shed, the general consensus from those at the meeting was for that land to remain as community land. This had already been resolved by Council at the Ordinary Meeting held on 26 February 2002.

December 2002

The Draft Plan of Management for Broulee and Mossy Point Reserves was placed on public exhibition in December 2002.

January 2003

The Draft Plan of Management proposed to re-categorised some community land included in the plan and in accordance with the Local Government Act 1993, a Public Hearing was held on Wednesday 29 January 2003. Over 20 people attended this meeting.

The Public Hearing was chaired by an independent consultant, Mr Peter Cowman of Cowman Stoddardt Pty Ltd. Mr Cowman's report stated:

The Public Hearing has been held in accordance with the relevant sections of the Local Government Act to consider recategorisation of various public reserves in the Broulee and Mossy Point areas.

The Hearing was well attended by local residents and a number of issues were discussed in the context of the Draft Plan of Management.

The main interest related to the land at the corner of Clarke Street and Broulee Road and the unanimous opinion was that it should be retained in public ownership.

There was no objection to the proposed categories for the different reserves which will more accurately reflect the core objectives.

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HELD ON TUESDAY 25 NOVEMBER 2003

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W12 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND)

02.6678

At the Works & Facilities Committee meeting Council resolved:

THAT:

1. *That the Broulee and Mossy Point communities be consulted on the options for the future use of the land at the corner of Broulee Road and Clarke Street, Broulee. As per the 25 March 2003 resolution, Council confirms that the following wording is appropriate to provide to the community.*

Community comment is sought on the following two options for the future use of the land at the corner of Broulee Road and Clarke Street:

OPTION 1

Sell the land & expend funds on Community & Crown Land requirements in Broulee & Mossy Point

Application be made to the Department of Lands to close the Council road adjacent to Part Lots 8 & 9 DP 758168. After closure of the road and vesting in Council all of the Council land at the corner of Broulee Road and Clarke Street, the land be listed for sale and the proceeds of the sale be expended on Community and Crown Land unfunded projects in the Broulee and Mossy Point areas.

Projects could include:

- *Address the sand dune blow out at North Broulee Beach*
- *Boardwalks and viewing platforms in appropriate locations*
- *Broulee Beach (near the surfclub) parking, boardwalks, vehicular & pedestrian circulation, dunal stabilisation, viewing platform, embankment stabilisation, stormwater treatment etc.*
- *Broulee Skate Park development*
- *Captain Oldrey Reserve upgrades (note \$15,000 already allocated in 2003/2004 for Captain Oldrey Amenities Block improvements)*
- *Defined pedestrian access to beaches with appropriate signage*
- *Dunal revegetation/restoration and fencing*
- *Identification and development of possible on-site water detention devices where stormwater could be reused*
- *Improve pedestrian links through Broulee & Mossy Point including signage indicating public pathways. Identify the network of pathways through Community and Crown land highlighting points of interest – develop walking map of the area.*
- *Interpretive signage on local history and the environment in appropriate locations*
- *Maintenance of natural areas including replacing exotic species with native species*
- *Plan of Management prepared for Broulee & Mossy Point Crown Land.*

REPORT TO ORDINARY MEETING OF COUNCIL
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- *Protection of Aboriginal sites*
- *Signage to identify locations of vulnerable ecosystems and threatened species (flora & fauna) eg. areas where the Yellow Bellied Glider lives could have interpretive signage located nearby to inform and educate the local community*
- *Upgrade the Mossy Point Headland & Boat Ramp reserve (landscaping, access, fencing, viewing platform, parking, protection of Aboriginal sites, signage, picnic & bbq facilities, defined coastal walkway (to connect through to Broulee Beach around the Mossy Point Headland)*
- *Upgrade the Old Broulee Fireshed*
- *Upgrade the Old Mossy Point Fireshed*
- *Upgrade the public toilets at Broulee Beach including provision for disabled access.*

In addition to the above list of projects, the community is encouraged to suggest any other project ideas that could be funded by the sale of this land.

OR

OPTION 2

Reclassify the land as Community Land

The land at the corner of Broulee Road and Clarke Street be re-classified as Community Land and remain as bushland.

2. *That the options be placed on public exhibition for 28 days and submissions be received for 42 days.*

ISSUES

Land at the corner of Broulee Road & Clarke Street, Broulee

99 letters received during the submission period supported Option 2. In addition a petition with 394 signatures was also attached in support of Option 2. An additional 2 submissions were received that were not committed either way.

Legal

The Plan of Management for Broulee & Mossy Point Reserves has been developed in accordance with the Local Government Act 1993.

The Plan of Management does not allow for the exclusive use of either the Old Mossy Point Fireshed or the Old Broulee Fireshed. The management of these facilities must accommodate use by the wider community if required through the relevant Management Committee. A Management Committee is already in place for the Old Broulee Fireshed and this report recommends that expressions of interest be sought for the creation of a Mossy Point Fire Shed Management Committee.

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W12 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND)

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The reclassification of Council Operational Land to Community Land requires a resolution of Council, in accordance with the requirements of Section 33 of the Local Government Act 1993 which states "A council may resolve that public land classified as operational land is to be reclassified as community land."

Asset

The Old Mossy Point Fire Shed and Old Broulee Fire Shed are council owned and maintained assets. There are no funds currently available to upgrade these buildings. Council will incur continued maintenance costs for both facilities.

Social Impact

The re-use of the Old Mossy Point Fire Shed and the Old Broulee Fire Shed by the local community will facilitate community interaction.

Financial

There has been no funding allocated for the projects identified in the draft Plan of Management for Broulee & Mossy Point Reserves.

Funding will be dependent on Council resolving to allocate funds for projects through the annual review of Council's Management Plan. Funding for future improvements to the Old Mossy Point Fire Shed and the Broulee Fire Shed will be the shared responsibility of Council and the appointed Management Committees.

Once projects are included in a Plan of Management, in addition to Council providing funding, there are also opportunities to apply for grant funding for projects. The Environment Protection Authority's *Environment Trust* and the National Heritage Trust's *Envirofund* are two programs that allocate funding for environmental projects.

CONCLUSION

The community has again been consulted on how they would like to see the land at the corner of Broulee Road and Clarke Street, Broulee managed for the future. The majority of responses indicated that Option 2 – reclassify the land and categorise it as Natural Area Bushland – was the preferred option.

The draft Plan of Management may now be adopted with the inclusion of the land at the corner of Broulee Road and Clarke Street, Broulee reclassified as Community Land.

RECOMMENDED

THAT:

REPORT TO ORDINARY MEETING OF COUNCIL
HELD ON TUESDAY 25 NOVEMBER 2003

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W12 PLAN OF MANAGEMENT BROULEE & MOSSY POINT RESERVES
(COMMUNITY LAND) 02.6678

1. Council reclassify the Operational Land at the Corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168) as Community Land.
2. Council adopt the Plan of Management for Broulee & Mossy Point Reserves.
3. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Mossy Point. In the interim the Candlagan Precinct Association continue to manage the facility.


~~ROB ADDISON~~ Andrew Parkinson
PROPERTY MANAGER
TECHNICAL SERVICES & PROPERTY DIVISION

MINUTES OF THE ORDINARY MEETING OF EUROBODALLA
SHIRE COUNCIL HELD ON TUESDAY 25 NOVEMBER 2003

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W12 PLAN OF MANAGEMENT BROULEE AND MOSSY POINT
RESERVES (COMMUNITY LAND)

02.6678

(The following is a summary only and does not purport to be a complete transcript of the proceedings.)

Deputation by Mr David Huntley on behalf of the Broulee Community Association in support of selecting Option 2 for the use of remnant bush land at the intersection of Clarke St and Broulee Road, Broulee, as outlined in report W12. Mr Huntley said it was the overwhelming wish of the Broulee community that this land be retained as bushland.

On a personal basis, Mr Huntley offered to spend some of his own time clearing the dead vegetation from the area and at his expense, replanting of the land with native species.

The Mayor thanked Mr Huntley for his offer and said she was sure the local Landcare groups would be happy to help him.

MINUTE NO 478

W12 PLAN OF MANAGEMENT BROULEE AND MOSSY POINT
RESERVES (COMMUNITY LAND)

02.6678

478 **MOTION** Councillor Vardon/Councillor Pollock

THAT:

1. Council reclassify the Operational Land at the Corner of Broulee Road and Clarke Street (Part Lot 9 Sec 19 DP 758168 & Part Lot 8 Sect 19 DP 758168) as Community Land.
2. Council adopt the Plan of Management for Broulee & Mossy Point Reserves.
3. Council seek expressions of interest to form a Section 355 Management Committee for the Old Fire Shed at Mossy Point. In the interim the Candlagan Precinct Association continue to manage the facility.

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

**IR21/029 JACK BUCKLEY MEMORIAL PARK FISHING PLATFORM -
RECREATIONAL FISHING TRUST - ACCEPTANCE OF FUNDING**

**S014-
T00007**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services
Attachments: Nil
Outcome: 1 Strong Communities, Desirable Lifestyle
Focus Area: 1.3 Encourage and enable healthy lifestyle choices
Delivery Program Link: 1.3.2 Plan for and provide a safe and accessible network of recreation and community facilities
Operational Plan Link: 1.3.2.2 Progress the implementation of the Recreation and Open Space Strategy 2018

EXECUTIVE SUMMARY

Council has been successful in securing \$9,865 in funding under the NSW Government's Recreational Fishing Trust program to install a concrete fishing platform in Jack Buckley Memorial Park, Tomakin.

The project is to be delivered in the 2021-22 financial year.

RECOMMENDATION

That Council endorse the acceptance of \$9,865 in grant funding under the NSW Government's Recreational Fishing Trust program for the installation of a concrete fishing platform in Jack Buckley Park, Tomakin.

BACKGROUND

Council's Recreation and Open Space Strategy adopted in 2018 recommended that Jack Buckley Park in Tomakin be upgraded from a Local to a District Recreation Park, to enhance it as a destination park for extended family and social gatherings and community events.

The existing rockwall is popular with fishers. The accessibility could however be improved to improve ease of use of the space.

Subsequent community consultation with the Tomakin Community Association and the Tomakin Sports and Social Fishing Club identified the installation of a concrete fishing platform over the existing rockwall as a priority for the area. Council worked with these groups to lodge a grant application under the NSW Recreational Fishing Trust.

The grant offer was received on 9 September 2021 and has been accepted. This report seeks Council's endorsements of the actions taken to accept the grant.

**IR21/029 JACK BUCKLEY MEMORIAL PARK FISHING PLATFORM -
RECREATIONAL FISHING TRUST - ACCEPTANCE OF FUNDING**

**S014-
T00007**

CONSIDERATIONS

Jack Buckley Memorial Park sits on the edge of the Tomaga River in Tomakin.

Fishers currently fish from the rockwall which provides ready access to the water's edge for able bodied people. Access could be improved by providing a simple concrete structure which is flat and more stable.

Council's team worked with the community to design a concrete structure which will enhance accessibility, has a low environmental impact and low ongoing cost to maintain.

Strategy

The delivery of this project is identified under the Recreation and Open Space Strategy 2018, Action No. N23, and is acknowledged in the Delivery Program 2017-21 and Operational Plan 2021-22. The project aligns with Strategy 1 in the Regional Economic Development Strategy 2017 – 2028: *Support the development and growth of the regions tourism sector and overall lifestyle appeal -- Improved coastal access and inclusive infrastructure.*

Asset

The project is grant funded and has been designed with a low ongoing cost. The asset will be added to Council's asset register, inspected and maintained through routine activities already occurring at Jack Buckley Park.

The proposed fishing platform has been sited in a location where there is already other existing infrastructure so as not to increase the demand for other supporting facilities. Jack Buckley Park already has a public toilet, picnic facilities, and a playground and will in the future be connected by pathways (as per the adopted Pathways Strategy).

Social Impact

The introduction of a fishing platform at Jack Buckley Park will make the area a more attractive place to live and visit, with a safer facility to enjoy the many benefits of fishing. This will be easier to access for young people, people with a disability and older residents.

Council thanks the Tomakin Community Association and the Tomakin Sports and Social Fishing Club for their support to Council in the development phase and in the funding application for this project.

Environmental

The construction of a concrete fishing platform over the existing rockwall has a low environmental footprint.

Financial

This project is fully grant funded by the NSW Government's Recreational Fishing Trust program. The ongoing costs will be borne by Council within existing maintenance budgets.

Community and Stakeholder Engagement

Council consulted with the Tomakin Community Association and the Tomakin Sports and Social Fishing Club on the project prior to the grant application process. We advised these groups during project delivery.

**IR21/029 JACK BUCKLEY MEMORIAL PARK FISHING PLATFORM - S014-
RECREATIONAL FISHING TRUST - ACCEPTANCE OF FUNDING T00007**

We will also inform the broader community through providing information on Council's Major Projects website; Council's Online News and Facebook page, and by issuing a media release.

CONCLUSION

Council has been successful in securing grant funding to install a concrete fishing platform over the existing rock wall in the Jack Buckley Memorial Park. This grant has been accepted.

This report recommends that Council endorse the acceptance of \$9,865 in grant funding under the NSW Government's Recreational Fishing Trust program.

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

**S026-
T00023**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services

Attachments: 1. Bay Pavilions summary of submissions and response attachment

Outcome: 5 Vibrant and Diverse Economy

Focus Area: 5.1 Diversify the region's economy, attract investment and target new and emerging employment sectors

Delivery Program Link: 5.1.3 Plan for the development of the Batemans Bay Mackay Park Precinct

Operational Plan Link: 5.1.3.2 Conduct a tender process for the management of the Regional Aquatic, Arts and Leisure Centre Batemans Bay, subject to all Council and Development Application approvals

EXECUTIVE SUMMARY

This report is seeking to adopt the new schedule of fees and charges to be included in Council's 2021-22 Fees and Charges.

These new fees and charges cover the operation of the Bay Pavilions, listing entry and membership pricing to the pools, waterslides, gym, room and staff hire for other components of the new facility.

The fees and charges were placed on public exhibition for 28 days and Council received eleven (11) submissions which raised three general themes:

1. Fees and charges are too high and not affordable
2. Fees and charges for gym entry and memberships are too low
3. Some general queries were asked on how to interpret and apply the fees and charges.

Council has received all submissions.

From a thorough review of the submissions received, it is proposed to adopt the exhibited schedule of fees and charges with the following amendments to address some of the concerns raised during the exhibition process. These amendments include:

- Removing the spectator fee (\$2.50)
- Adding a concessional rate (\$12) for Older Adults/Pilates/Yoga/Wellness Class
- Reducing concessional rate from \$13 to \$12 for Group Exercise Class (casual visit)
- Allow for promotions by accepting periods of no joining fee and free membership trial

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

**S026-
T00023**

- Increasing standard adult rate (\$15) for Older Adults/Pilates/Yoga/Wellness Class to align with the pricing for Group Exercise Adult Class
- Change working of “health and fitness” to “group exercise”.

RECOMMENDATION

THAT Council:

1. Adopt the new schedule of fees and charges by including them into the 2021-22 Fees and Charges, incorporating the following amendments:
 - (a) Remove spectator fee
 - (b) Add new concessional rate for Older Adults/Pilates/Yoga/Wellness Class at \$12
 - (c) Reduce concessional rate for Group Exercise Class (casual visit) from \$13 to \$12
 - (d) Allow the provision for promotion by accepting marketing periods of a no joining fee and free membership trial
 - (e) Increase adult rate for Older Adults/Pilates/Yoga/Wellness Class from \$12 to \$15
2. Notify submitters of Council resolution and thank them for their submission.

BACKGROUND

With the completion of the Bay Pavilions planned for 2022 and a contractor (Aligned Leisure) in place to operate the facility, a schedule of fees and charges is now proposed. The aim is to have endorsed fees and charges in place as part of the transition period from the construction to operation of the Bay Pavilions, enabling pre-sales and fees and charges in place upon opening.

The fees and charges were initially developed by Otium Planning Group (specialists in planning leisure facilities throughout Australia) in preparing an updated business model for the management and operation of the Bay Pavilions. Through a comparison of fees and charges set across a range of regional facilities of a comparable size and offering to the Bay Pavilions, the consultants established a set of indicative fees and charges that provided the basis for modelling estimated revenue for the new facility.

Further to this work, Council staff reviewed and revised the proposed fees and charges in early 2021, comparing the proposed fees and charges against existing Council fees as well as the pricing of several other regional NSW leisure and art facilities, managed by local governments and private operators where applicable.

The latest business model has been placed on Council’s public exhibition page for the community to review during the exhibition period.

Council resolved on 24 August 2021 (CARS21/016)

THAT:

1. *The draft Fees and Charges for the operation of the Bay Pavilions be placed on public exhibition for a period not less than 28 days with the following changes:*
 - a. *Additional concession rate Aquarobics at \$12*

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

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- b. Additional concession rate Waterslide Ticket (2 hours) at \$9*
 - c. Additional concession rate Waterslide Ticket All Day Pass at \$16*
 - d. Amend fees and charges for Platinum Membership from \$86 to \$98/month and Platinum Membership (concession) from \$78.70 to \$90/month*
 - e. Amend fees and charges for Gold Membership from \$71 to \$84/month and Gold Membership (concession) from \$61.00 to \$77/month.*
- 2. Council note that the number of seats in the theatre is 350 not 500 as published in the report.*
 - 3. Following public exhibition, a further report be submitted to Council for the consideration of submissions and adoption of the Fees and Charges for the operation of the Bay Pavilions.*

Consistent with this resolution, the new fees and charges for the Bay Pavilions were publicly exhibited from 25 August – 22 September for a period of 28 days. Attached to this report is a summary of submissions received and recommended responses for each submission.

CONSIDERATIONS

The new fees and charges were placed on public exhibition for 28 days, in line with legislative requirements. Having adopted fees and charges in place in late 2021 will enable the contractor, Aligned Leisure, to start the required pre-sales and promotion for the Bay Pavilions over the summer and into 2022.

Submissions Received

During the exhibition period, Council received eleven (11) submissions. The submissions received were from nine (9) community members, a submission provided by a group of local gym operators and a submission by the Eurobodalla Local Government Committee – Australian Labor Party.

The submissions were varied, raising several queries, comments and concerns relating to the new fees and charges for operating the Bay Pavilions. The issues raised can be categorised under the following themes:

- Fees and charges are too high
- Fees and charges for gym entry and membership are too low
- Competition neutrality.

Fees and charges are too high

Council received four (4) submissions that commented that fees and charges were generally too high, unaffordable for retirees and require community subsidization. It was suggested that the fees and charges provide a no joining fee, membership free trial and be part of the Fitness Passport program.

Response:

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

**S026-
T00023**

In developing the fees and charges for the Bay Pavilions a key aim has been to achieve a balance between affordable pricing and minimising the net cost of operations for Council and the community.

The new fees and charges provide a concessional rate for a range of services making the new facility more affordable for concessional card holders, and there are a variety of options to provide a level of choice to suit a variety of personal and family budgets.

While aquatic pricing at Bay Pavilions is marginally more expensive than Council's existing aquatic facilities at Moruya and Narooma, this is because the facility offers increased services and facilities. Where the new facility can be directly compared to other similar regional leisure facilities, prices are comparable and provide a variety of choice.

As Council wants to ensure that fees and charges for the Bay Pavilions are affordable the following changes have been proposed:

1. Removing the spectator fee (\$2.50)
2. Adding a concessional rate (\$13) for Older Adults/Pilates/Yoga/Wellness classes
3. Reducing the concessional rate for Group Exercise Class (casual visit) from \$13 to \$12.

These amendments seek to make the new facility more affordable for concession cardholders (including retirees) wanting to access these classes. In addition, the removal of a spectator fee (commonly applied to other regional leisure facilities) will ensure the Bay Pavilions is more accessible to families. These changes will also ensure that a discounted concessional rate or community rate is provided for every service offered at the Bay Pavilions.

Fees and charges for gym entry and memberships are too low

Council received six (6) submissions that commented that gym fees and charges were too low and this would undercut local gym operators. Further comments were made that this was potentially anti-competitive and not in keeping with NSW Government's requirements for competition neutrality.

Response:

The fees and charges for gym entry and membership were created by Otium Planning Group against a detailed comparison of leisure facilities. Council staff have undertaken further assessment of these prices against local gyms and nearby leisure facilities.

In responding to concerns raised by gym operators prior to the proposed fees and charges being placed on exhibition, Council resolved to amend the draft gold (gym and group exercise classes) and platinum (full centre access) memberships, to further ensure a fair comparison to gym pricing in the region. The following table provides a basic comparison between Bay Pavilions gym entry and membership prices to five other gym and leisure facilities.

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

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Figure 1 – Gym Entry and Membership Comparison

	Bay Pavilions	Local Gym #1	Local Gym #2	Kiama Aquatics	Ulladulla Leisure	Chermside Pool
Gym standard entry	\$17	\$16	\$20	N.A.	\$15.20	N.A.
Gym membership (standard) – monthly	\$67.20	N.A.	\$65	N.A.	N.A.	N.A.
Gym membership (full) – monthly	\$98.00	\$68-100	N.A.	\$76.00	\$80.00	\$86.00

The table illustrates that the gym entry and membership prices are comparable. However, it is important to acknowledge that there are a large range of prices, pricing combinations and program offerings in place across all facilities and it is not always easy to provide a straight comparison.

In keeping with Council resolution on 24 August 2021 that increased gym membership prices, the following change has been proposed:

4. Increasing standard adult rate for Older Adults/Pilates/Yoga/Wellness Class from \$12 to \$15.

The increase in adult rate for Older Adults/Pilates/Yoga/Wellness classes seeks to address concerns raised over specific class pricing and be more comparable to group exercise classes offered in the community. In addition, this change aligns Older Adults/Pilates/Yoga/Wellness classes pricing to general Group Exercise classes pricing in the new facility.

Competition Neutrality

The submission raised by the Eurobodalla Local Government Committee – Australian Labor Party queried Council’s obligation to comment on Australia’s National Competition Policy program and associated guidelines. The principle of this policy is that the Australian Government and all state and territory governments will ensure that their publicly owned businesses do not enjoy any net competitive advantage simply because they are publicly owned.

Council is not obligated to report on competition neutrality. Regardless, through a rigorous process, the fees and charges for the Bay Pavilions are comparable to regional leisure facilities and local gyms. The new fees and charges are not deemed to provide a competitive advantage.

Furthermore, Council has sought to address concerns raised by local gym operators by amending some of the draft fees and charges associated with gym operations in the new facility.

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

**S026-
T00023**

Further amendments to the Fees and Charges

5. Allow for promotions by accepting periods of no joining fee and free membership trial.

A submission recommended the provision of a no joining fee and free trials to encourage greater sign-up and usage of the new facility. This was further supported by feedback from Aligned Leisure, as it would allow them the ability to waive the joining fees and provide free membership trials during targeted marketing campaigns.

6. Change working of “health and fitness” to “group exercise”.

The change of wording in the schedule will create more clarity and consistency.

Legal

Consistent with Clause 610F of the *Local Government Act 1993*, the proposed fees and charges for operating the Bay Pavilions were placed on exhibition for 28 days, from 25 August to 22 September. A public notice of the public exhibition period was placed in local newspapers and on Council’s website.

Policy

The Australian Government has a National Competition Policy program and associated guidelines to ensure that Council’s publicly owned businesses do not enjoy any net competitive advantage simply because they are publicly owned. As explained through this report, the draft fees and charges for the Bay Pavilions are comparable to region leisure facilities and local gym operators, which have a range of price combinations based on their unique offerings, and therefore enjoys no proven competitive advantage.

Social Impact

The Bay Pavilions will become a community gathering place for a range of different users at different times throughout the year, seasons, weekdays and weekends, both during the day and at night.

Through detailed analysis, the proposed fees and charges for the Bay Pavilions are considered to be affordable and comparative to other regional facilities.

The draft schedule of fees and charges for the new facility provide a range of choice for the community in accessing different or multiple parts of the new facility and provide discounted rates for concession cardholders, children, families and community groups.

Economic Development Employment Potential

The opening of the new facility will have a significant impact on the local and regional economy, providing a number of local jobs in the community.

The Bay Pavilions will attract a greater number of visitors to the region and provide more reasons for people to relocate to the area, which will have direct and indirect benefit to businesses in the Batemans Bay area.

CAR21/020 BAY PAVILIONS FEES AND CHARGES - POST EXHIBITION

**S026-
T00023**

Financial

The proposed fees and charges will influence the potential revenue that the Bay Pavilions will generate. These fees and charges have also been used by Otium Planning Group to establish a business model for the facility and this business model has been further applied, in part, to develop forecasted revenue for operating the facility over the next 5 years.

In accordance with these forecasts, which have been based on the proposed fees and charges presented in this report, Council has established an ongoing operational budget for the management and operation of the Bay Pavilions.

Community and Stakeholder Engagement

Council has consulted with the community by seeking and addressing feedback received through public exhibition period, providing the community an opportunity to raise issues, queries or provide support before the draft fees and charges for the Bay Pavilions are put to Council for endorsement.

The proposed new fees and charges for the Bay Pavilions were available on Council's website and Council staff answered several queries during the exhibition period.

CONCLUSION

It is proposed that Council endorse the adoption of the new fees and charges, incorporating several changes to address some of the concerns raised through the public exhibition process.

By establishing fees and charges for the Bay Pavilions in 2021, Aligned Leisure will be able to effectively transition into the new facility and commit to pre-sales and promotion over the summer months and into 2022.

Bay Pavilions Fees and Charges:

Summary of Submissions Received and Recommended Responses - September 2021

Ref	Doc	Key Issue	Submission Summary	Submission Response
1	4592300	Fees too low	Fees for gym are too low. Difficult for local small businesses (gyms) to compete.	The prices for gym entry and membership were initially calculated by Otium Planning Group who provided a detailed price comparison across a range of gyms. These prices were further reviewed by Council staff, comparing pricing against local and regional facilities. In responding to concerns raised by gym operators, the pricing of gym memberships were increased as part of Council's resolution on 24 August 2021.
2	4592299	Query	Expressed excitement for the opening of the new facility. Has seen two versions of fees? - only one with multi visit option. Are concession prices available to Seniors Card holders?	There are not two separate schedules for fees and charges for the Bay Pavilions. The proposed schedule was endorsed for exhibition by Council on 24 August 2021 and placed on Council's website for the exhibition period. The schedule continues to provide a 10 visit pass. Concessional prices are available to concession and health care cardholders.
3	4592298	Fees too low	Council should support existing local businesses rather than "bringing in a new chain brand" fitness group.	Council is providing a gym offering where the community will have access to a gym, an aquatic facility, arts and community spaces. This will create greater choice in the market, enhanced recreational offerings and employ locals.
4	4591083	Query	Expresses disappointment that pool is only 25m. Queries: Are prices higher than current local pools because the facility is new? What else will you offer? Are parents required to pay a spectator fee when attending with young children for squad/swim lessons? Does squad fee (\$125 for 10) include pool entry fee. Will the Bay Pavillions accept Fitness Passport for pool and gym entry. Is there a joining fee for pool entry for families or only with monthly payment? Is the 2 hour waterslide fee from time of purchase or for set hours (eg, 2-4pm)?	A number of these queries were answered through the exhibition period to provide more clarity. While prices are marginally more expensive than Council's existing aquatic facilities at Moruya and Narooma, this is because it facility is both new and offers increased services such as a warm therapy pool, leisure and learn to swim pool and play splash pad. Where the new facility can be directly compared to another similar facilities, prices are comparable and provide a variety of choices. The spectator fee primarily relates to swimming carnivals, swim squads and lessons. However, it is proposed that the spectator fee be removed from the proposed fees and charges. A Fitness Passport is not part of the operating plan at the moment. Hhowever, Council and the service provider will investigate this further.

Ref	Doc	Key Issue	Submission Summary	Submission Response
5	4591088	Fees too high	<p>Fee and charges are higher than comparable locations and may exclude or reduce use especially by retirees and concession card holders.</p> <p>Suggest period of fee-free usage and \$0 joining fee for memberships to encourage users to sign up and use the facility.</p> <p>Also suggest that the facility becomes part of the Fitness Passport network</p>	<p>While prices are marginally more expensive than Council's existing aquatic facilities at Moruya and Narooma, this is because the facility is both new and offers increased services. Where the new facility can be directly compared to another similar facilities, prices are comparable and provide a variety of choices.</p> <p>A concessional rate is provided for almost every service offered at the Bay Pavilions to make it affordable for concession card holders. It is proposed that a concession rate be further extended to yoga, wellness, pilates classes. In addition, it will be proposed to allow a no joining fee and free trial during selected marketing periods.</p>
6	4591177	Fees too low	Pricing structure will undercut local gym operators and impact business viability.	<p>The prices for gym entry and membership were initially calculated by Otium Planning Group who provided a detailed price comparison across a range of gyms. These prices were further reviewed by Council staff, comparing pricing against local and regional facilities.</p> <p>In responding to concerns raised by gym operators, the pricing of gym memberships were increased as part of Council's resolution on 24 August 2021. The changes in gym prices ensure improved competitive neutrality, as entry and membership prices are comparable to local gym and surrounding leisure facilities.</p>
6	4591177	Fees too low	Pricing is 40% less than local gym operators.	
6	4591177	Fees too low	Anti-competitive practice.	
6	4591177	Fees too low		
6	4591177	Fees too low		
6	4591177	Fees too low		
6	4591177	Fees too low		
7	4593193	Fees too low	<p>Generally positive comments and looking forward to using the facilities.</p> <p>Concerned that the proposed fees are too low and are anti-competitive. That they will damage local business owners in the fitness industry.</p> <p>Query: Asks for assurances that rate payers will not be required to subsidise the facility due to an incorrect pricing structure.</p>	<p>The prices for gym entry and membership were initially calculated by Otium Planning Group who provided a detailed price comparison across a range of gyms. These prices were further reviewed by Council staff, comparing pricing against local and regional facilities.</p> <p>In responding to the concerns of gym operators, the pricing for gym memberships were increased as part of Council's resolution on 24 August 2021. Each gym in the local area offers something different, providing the community a variety of choice in the market place.</p> <p>Fees and charges have been developed with the aim of achieving a balance between affordability in terms of entry fees and the minimisation of net operating costs for Council and the community going forward.</p>

Ref	Doc	Key Issue	Submission Summary	Submission Response
8	4594913	Fees too high/query	<p>Multiple queries about fee structure, cost etc. Why a membership fee for Community owned Facility? What does this Membership fee provide? Why are there different structures for the three pools in the shire? Was the Narooma fee structure increased when it was built? Why Direct Debits/can they be suspended When is it to open?</p>	<p>Membership fees are a common offering at Council owned and operated facilities across the country and it allows the community to save money if they are wanting to be a regular user of the facility There are a variety of membership options to create a variety of choice. Memberships include access to the aquatic centre, gym or group exercise classes; a single membership or access to multiple services. The memberships allow unlimited entry to sections of the facility depending on what a community member wants. The fee structures of the three pools in the Shire are not particularly different. Where Bay Pavilions fee structure is different to the other two existing pool facilities is a result of the new facility offering more services and facilities. The fees for Narooma Swimming Centre have increased over time. Direct debit can be suspended at any time but a new joining fee may be required each time the direct debit is suspended.</p>
9	4598931	fees too high/query	<p>Query #4598924 How did council arrive at the \$100,000,000 economic benefit estimate to the Shires Local Economy as a result of the Pavilion being built, completed and trading. Is there a financial formula available for public scrutiny that supports the \$100,000,000 estimated economic benefit. If there is can I be provided with it please ?</p> <p>Also separate letter #4598931 expressing concern that fees are too high for many locals but that the operating costs will be subsidised by the community. #4598931 The management and operations of the Pavilion Complex (depreciation as well) will be highly subsidised by all the shires residents and ratepayers a very high proportion who are already being stretched financially on a weekly basis. Many of the shires residents, most likely won't ever uses the new facilities, but all of us will be required to help with the subsidizing of it.</p>	<p>The claim of \$100,000,000 economic benefit has not been included in any Council document or statement. An extract copy of the cost benefit analysis was provided during the public exhibition process. Fees and charges have been developed with the aim of achieving a balance between affordability in terms of entry fees and the minimisation of net operating costs for Council and the community going forward.</p>
10	4602837	fees too low	<p>Concerned that the proposed fees are too low and are anti-competitive. That they will damage local business owners in the fitness industry. Prices will undercut local gyms. Local businesses already struggling after fires and Covid.</p>	<p>The prices for gym entry and membership were initially calculated by Otium Planning Group who provided a detailed price comparison across a range of gyms. These prices were further reviewed by Council staff, comparing pricing against local and regional facilities. In responding to concerns raised by gym operators, the pricing of gym memberships were increased as part of Council's resolution on 24 August 2021.</p>

Ref	Doc	Key Issue	Submission Summary	Submission Response
11	4614069		Seeking evidence that proposed fees and charges are in fact competition neutrality and meet NSW Govt guidelines for Council businesses.	<p>Council has demonstrated that gym pricing has gone through a rigorous process to be comparable and fair in the market place. As such, it is not necessary to comment on competition neutrality or the relevant guidelines.</p> <p>The prices for gym entry and membership were initially calculated by Otium Planning Group who provided a detailed price comparison across a range of gyms and leisure facilities. These prices were further reviewed by Council staff, comparing pricing against local and regional facilities.</p> <p>In responding to concerns raised by gym operators, the pricing of gym memberships were increased as part of Council's resolution on 24 August 2021.</p>

CAR21/021 PUBLIC ARTWORK GIFT TO COUNCIL

**S003-
T00034**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services

Attachments: 1. Artwork

Outcome: 2 Celebrated Creativity, Culture and Learning

Focus Area: 2.1 Support and encourage the expression of our vibrant creative arts sector

Delivery Program Link: 2.1.1 Develop and promote creative arts activities and industries

Operational Plan Link: 2.1.1.1 Co-ordinate the Public Art Advisory Committee and associated projects

EXECUTIVE SUMMARY

In 2017 Mr Basil Sellers committed a \$250,000 donation plus \$50,000 naming rights to the building of the art centre in Moruya. During the course of the build Mr Sellers offered Council the gift of a commissioned artwork 'Ocean' by Australian sculptor Terrence Plowright OAM. He requested that this public artwork be sited at the front of the Council building in Moruya (roughly where the SAGE garden boxes were) and serve to act both as an aesthetic enhancement to the main Council site and a wayfinding marker to the Bas.

This sculpture was recommended by the Public Art Advisory Committee (PAAC) to be accepted and on 23 March 2021 via minute CAR21/006. Council agreed to accept the gift and install the sculpture.

In September 2021 Council were generously offered a second Terrance Plowright sculpture 'Ocean Exuberance' to Council as a companion piece to the first commissioned piece also to be situated at the Council Administration building in Moruya. This work is 5.2m in height and shares a sympathetic dynamic and energy with the previously commissioned work.

RECOMMENDATION

THAT

1. Endorse the Public Art Advisory Committee's (PAAC) unanimous recommendation to accept the gift of the Terrence Plowright sculpture 'Ocean Exuberance' to be placed on the grounds near the Basil Sellers Exhibition Centre and Moruya Library; and
2. Support the allocation of a \$10,000 budget to install and light the sculpture on the site.

BACKGROUND

Terrence Plowright is one of Australia's most recognised artists. He has been creating fine art for over 30 years and has been commissioned by State Governments, City Councils, corporations, church groups and individuals. His artwork is installed throughout Australia and overseas. In 2019 he was awarded an 'Order of Australia', for his contribution to the arts, notably in sculpture.

CAR21/021 PUBLIC ARTWORK GIFT TO COUNCIL

**S003-
T00034**

A Terrance Plowright sculpture is an important addition to Council's art collection. This second piece 'Ocean Exuberance' represents extraordinary and substantial gift to the community. The two works combined are worth over \$200,000.

Given the change to local government elections, the PAAC, who had recently thought they had had their last meeting, were requested to regroup and review the latest gift, providing feedback and a recommendation to Council.

At 5.2m in height, this new sculpture is a highly visible statement piece with great visual impact, therefore the PAAC has suggested that it is more appropriately proportioned to be located at the front of the Council building at the site originally designated for the first commissioned work 'Ocean'. The artist and Mr Sellers both concur. The commissioned work would then be installed at the rear of the building close to the Bas entry, achieving a symmetry between both pieces and serving as wayfinding markers to the exhibition centre.

With Council acceptance, it is anticipated that both sculptures will be ready for install by the end of the year.

CONSIDERATIONS

Asset

The PAAC are satisfied that the intended location of the works will work well, with both works representing a significant contribution to Council's sculpture assets and permanent art collection.

Social Impact

Statistics show that 98% of Australians engage with the arts in one form or another and recognize the positive impact of the arts.

Public art is accessible to the broader community and helps develop our identity and pride as a society. The further creative development of our public spaces will support our community with its wellbeing and appreciation of our unique cultural landscape.

Economic Development Employment Potential

The addition of these major sculptural works, coupled up with the new infrastructure developments in the shire, are assisting the growth of the shire's creative arts profile in NSW.

The development of the sculpture walk in Batemans Bay, the installation of public art at the Bay Pavilions and the installation of these two major sculptures support high level strategic aims and local business group aspirations to help attract visitor numbers and make the Eurobodalla a great place to live, work and invest.

Financial

The sculpture will be gifted to Council and become part of the ongoing maintenance program of all Council's sculpture assets.

The sculpture is valued at \$100,000.00 and will require a \$10,000.00 budget to support installation, lighting and landscaping.

CAR21/021 PUBLIC ARTWORK GIFT TO COUNCIL

**S003-
T00034**

Community and Stakeholder Engagement

We will inform the community by distributing a media release and providing information Council's website and other communications platforms.

We have collaborated with the community through by seeking advice, ideas, and recommendations from Council's Public Art Advisory Committee and the recently adopted Public Art Strategy.

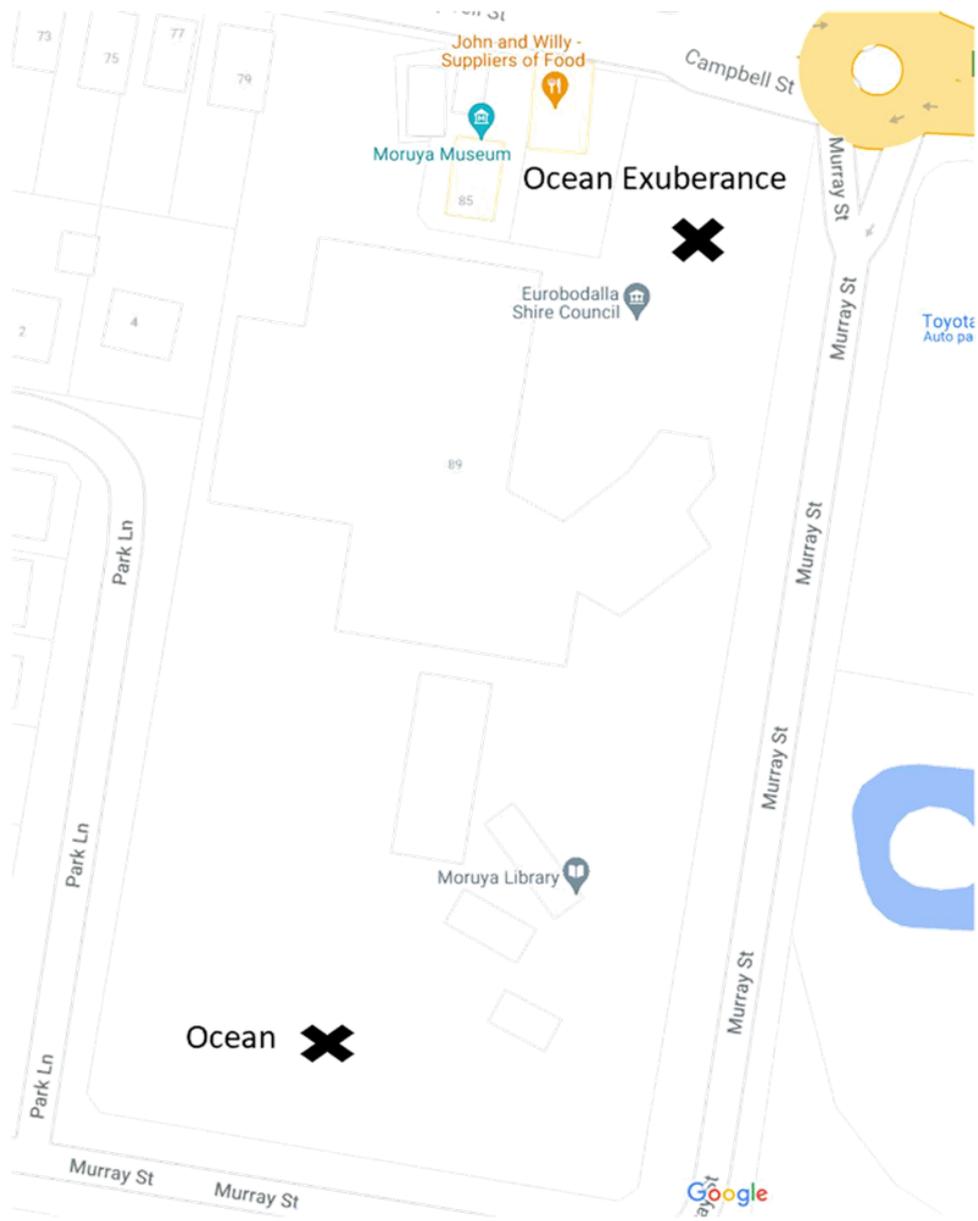
CONCLUSION

Eurobodalla Shire Council and the Eurobodalla community has been offered a second artwork from preeminent Australian sculptor Terrance Plowright. This work is a companion piece to the original commissioned work by this artist, to be installed at the Council Administration building and the Bas in Moruya.

The artworks have been submitted to the PAAC for review and unanimously agreed to recommend that Council accept the gift.







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.