



AGENDA

Ordinary Meeting of Council

23 May 2023

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Eurobodalla Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act, to the best of their skill and judgement. The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

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

ON TUESDAY 23 MAY 2023

COMMENCING AT 12.30PM

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**
4.1 Ordinary Meeting held on 9 May 2023
- 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**
Nil
- 9. PETITIONS**
Nil
- 10. GENERAL MANAGER'S REPORTS**
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WARWICK WINN
GENERAL MANAGER

GMR23/015 CONGO ROAD NORTH

S028-T00001

Responsible Officer: Warwick Winn - General Manager

Attachments: 1. Location

Community Goal: 4 Our connected community through reliable and safe infrastructure networks

Community Strategy: 4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla

Delivery Program Link: 4.1.1 Plan for an integrated and active local transport network, guided by the NSW Government's Future Transport 2056 Strategy

Operational Plan Link: 4.1.1.1 Plan for a safe, efficient and integrated transport network that meets current and future needs

EXECUTIVE SUMMARY

The purpose of this report is to seek endorsement for Council to proceed with actions to define the boundaries of Congo Road North under sections 18-21 of *the Roads Act 1993*.

Congo Road North, in part, runs through private property (Lot 197 DP752151). This section of road was closed to the public by the landowner in early 2022.

There has been strong community interest in having the road reopened, either in the current or an alternate location. Council facilitated a workshop with the community in November 2022 where a range of options were considered.

Following this workshop, Council held discussions with Crown Lands who advised that the Crown Road that dissects Lot 197 DP752151 is unsurveyed and not formally defined. Crown Lands also confirmed that the unsurveyed Crown Road does not form part of Lot 197 but is owned by the Crown.

To address the community desire to establish legal road access from the north to Congo, Crown Lands suggested that the unsurveyed Crown Road be transferred from the Crown to Council (such that it becomes a public road for which Council is the roads authority) and that Council cause surveys to be carried out to identify the boundaries of the public road over the formed "track in use" (ie. Congo Road) that passes through Lot 197 DP752151, under sections 18-21 of *the Roads Act 1993*.

This report recommends that Council commence the process to transfer the Crown road to Council and identify the boundaries of the public road over the formed "track in use" (ie. Congo Road) under sections 18-21 of *the Roads Act 1993*. This would enable Council to re-open the road.

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RECOMMENDATION

THAT Council:

1. Applies to Crown Lands to transfer the undefined Crown Road that dissects Lot 197 DP752151 to Council so that Council becomes the Roads Authority.
2. After the undefined Crown Road has been transferred to Council, commence the process to identify the boundaries of the public road over the formed "track in use" in accordance with sections 18-21 of *the Roads Act 1993* (including causing surveys to be carried out to identify the boundaries of the public road and publishing notice of the proposed boundaries).
3. Receive a further report on the matter following public notification of the proposed boundaries to enable the Council to consider any submissions received as required by section 20 of the *Roads Act 1993* and to make a decision under section 21 of the *Roads Act 1993* whether to approve the survey plan, either with or without alteration.

BACKGROUND

Congo Road North, in part, runs through private property (Lot 197 DP752151) as indicated in the plan attached to this report. Council and the landowner have been corresponding about various matters relating to the road for over 25 years.

A section of road running through private property, was closed to the public in early 2022 following concerns raised by the landowner about the risks of injury to members of the public and the potential liability resting with the landowner.

Council considered this matter at its meeting on 10 May 2022 where it resolved (Minute 22/124) to defer a decision on the future of the road in order to consult with the Congo community.

This consultation has been ongoing including a community workshop in November 2022 attended by over 70 residents where a range of options were discussed. The community have strongly articulated their desire to have Congo Road North reopened in its current location or an alternate location.

Following the community workshop, Council has engaged with Crown Lands to explore potential solutions to the situation. Crown Lands have advised Council that the Crown Road that dissects Lot 197 DP752151 is unsurveyed and not formally defined. Crown Lands also confirmed that the unsurveyed Crown Road does not form part of Lot 197 but is owned by the Crown.

In order to address the community desire to establish a legal road access from the north to Congo, Crown Lands suggested that the unsurveyed Crown Road be transferred from the Crown to Council (such that it becomes a public road for which Council is the roads authority), and that Council cause surveys to be carried out to identify the boundaries of the public road over the formed "track in use" (ie. Congo Road) that passes through Lot 197 DP752151, under sections 18-21 of *the Roads Act 1993*.

Since Crown Lands made the proposal to have the road transferred to Council, the NSW Government has paused the sale and transfer of assets to other agencies and entities. This

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means Crown Lands will now need to seek the Minister's endorsement to the road transfer which means additional time is required to process the transfer to Council and commence the required surveys.

Council has received legal advice that confirms it is open to Council to use sections 18-21 of the *Roads Act 1993* to identify the boundaries of the public road in accordance with the recommendations of Crown Land.

Additionally, Council has engaged with Land Registry Services (LRS) who have also confirmed that it is open to Council to identify the boundaries of the public road under sections 18-21 of the *Roads Act 1993* in the manner proposed and that LRS has the power to register a survey plan identifying the boundaries of the road in the manner proposed.

CONSIDERATIONS

Council has been attempting to resolve this issue in consultation with the landowner and the community for over 25 years without success. A range of alternatives, including different locations for the road, have been considered which for a range of environmental, financial and operational issues have not been considered viable.

The way forward as recommended by Crown Lands represents a means to achieve the desired outcome of providing a legal northern access to Congo.

The Crown Road that dissects Lot 197 DP752151 is unsurveyed, not formally defined and importantly does not form part of the privately owned land. If Crown Lands transfers the undefined Crown Road to Council and if a survey of the road boundaries over the formed "track in use" (ie. Congo Road) that passes through Lot 197 DP752151, is approved by Council and formally registered, the boundaries of the public road identified in the survey plan will become the boundaries of the public road (that is, the existing formed track in use will become the public road). This would enable Council to re-open the road and Council estimates this process might take 6 months or more to complete.

In accordance with the requirements of sections 18-21 of the *Roads Act 1993* Council will be required to:

- cause a survey to be carried out to identify the boundaries of the road
- once surveyed, cause notice of the proposed boundaries to be published in a local newspaper and served on the owner of Lot 197 DP752151 (being the only affected parcel of land for the purposes of section 19 of the *Roads Act 1993*).
- consider any submissions that have been duly made about the proposed boundaries before deciding whether to approve the survey plan either with or without alteration and
- lodge the survey plan with Land Registry Services (LRS) for registration.

Under section 21 of the *Roads Act 1993*, no compensation is payable for any loss or damage arising from the operation of section 21 of the *Roads Act 1993*. The *Land Acquisition (Just Terms Compensation) Act 1991* does not apply because Council is not acquiring the land but is instead redefining the boundaries of the unsurveyed road reserve over the existing formed track in use.

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The existing formed track in use will need to be surveyed and Crown Lands have agreed to share the cost of this with Council in order to assist in resolving this matter.

Council has been in discussion with the NSW Government agency, Public Works Advisory, who have agreed to undertake the survey on Council's behalf.

Legal

Sections 18-21 of the *Roads Act 1993* [Roads Act 1993 No 33 - NSW Legislation](#) make this option available.

Under s18-21 of the *Roads Act 1993*:

1. A Roads Authority may cause a survey to be carried out to identify the boundaries of a public road if the boundaries of that road have not been previously properly identified if the survey marks used to identify those boundaries cannot be properly located or ascertained
2. Once surveyed, the roads authority must cause notice of the proposed boundaries to be published in a local newspaper and also served on the owner of each parcel of land affected by the proposed boundaries. Section 19 of the *Roads Act 1993* prescribes the requirements for the form of the public notice.
3. Any person may make submissions to the roads authority about the proposed boundaries indicated on the survey plan
4. The roads authority must consider any submissions duly made
5. After considering the submissions, the roads authority may approve the survey plan with or without alteration
6. If approved, the roads authority must lodge the survey plan with the Registrar-General for registration
7. Once registered, the boundaries identified by the survey plan become the boundaries of the public road.
8. No compensation is payable to any person with respect to any loss or damage arising from the operation of section 21 of the *Roads Act 1993*.

A further Council report will be required to consider any submissions that have been duly made about the proposed boundaries.

Access to Lot 197 DP752151 to undertake a survey is available under the *Surveying and Spatial Information Act 2002*.

Council has received legal advice that confirms it is open to Council to use sections 18-21 of the *Roads Act 1993* to identify the boundaries of the public road in accordance with the recommendations of Crown Land.

Additionally, Council has engaged with Land Registry Services (LRS) who have also confirmed that it is open to Council to identify the boundaries of the public road under sections 18-21 of the *Roads Act 1993* in the manner proposed and that LRS has the power to register a survey plan identifying the boundaries of the road in the manner proposed.

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Environmental

This option has minimal environmental impact as it uses an alignment of the road over the existing formed track in use that has been used for decades.

If the survey plan of the road is registered as proposed, prior to reopening the road to the public Council will need to remove the previously identified 9 trees to address the safety and liability issues identified before the road was closed.

Asset

If the road is redefined to the physical road, Council would need to undertake some works before it could be reopened to the public. This would include removing barriers, some trees and grading the road.

The next step would be upgrading the road to a standard unsealed road quality, with proper drainage and a resheet of gravel. This would be conducted as part of Council's ongoing works program.

To upgrade the road to a sealed road standard would be subject to future funding considerations.

Social Impact

Proceeding as recommended is anticipated to have a positive social impact for Congo residents who have expressed their desire to have the road reopened for a range of reasons.

Financial

Apart from taking no action to restore access to Congo from the north, this solution has the least cost of any option.

Crown Lands have offered to fund half of the survey costs.

Other costs associated with progressing with the registration can be met within existing budgets.

If the survey of the road is registered as proposed it is estimated that a budget of \$50,000 would be required in order to remove a number of trees, grade and make good the road prior to opening to the public.

Community and Stakeholder Engagement

As well as the community consultation already undertaken, Council has informed the owners of Lot 197 DP752151, the Congo Community Association and members of the Congo Community who signed up to a mailing list, of this report prior to its publication.

The Roads Act also requires public notification of the proposed boundaries to occur and for Council to notify the affected landowner. After public notification Council is required to consider any submissions received.

As required by section 19 of the *Roads Act 1993*, notice of the proposed boundaries will:

- (a) be published in a local newspaper as well as on Council's website and in a media release

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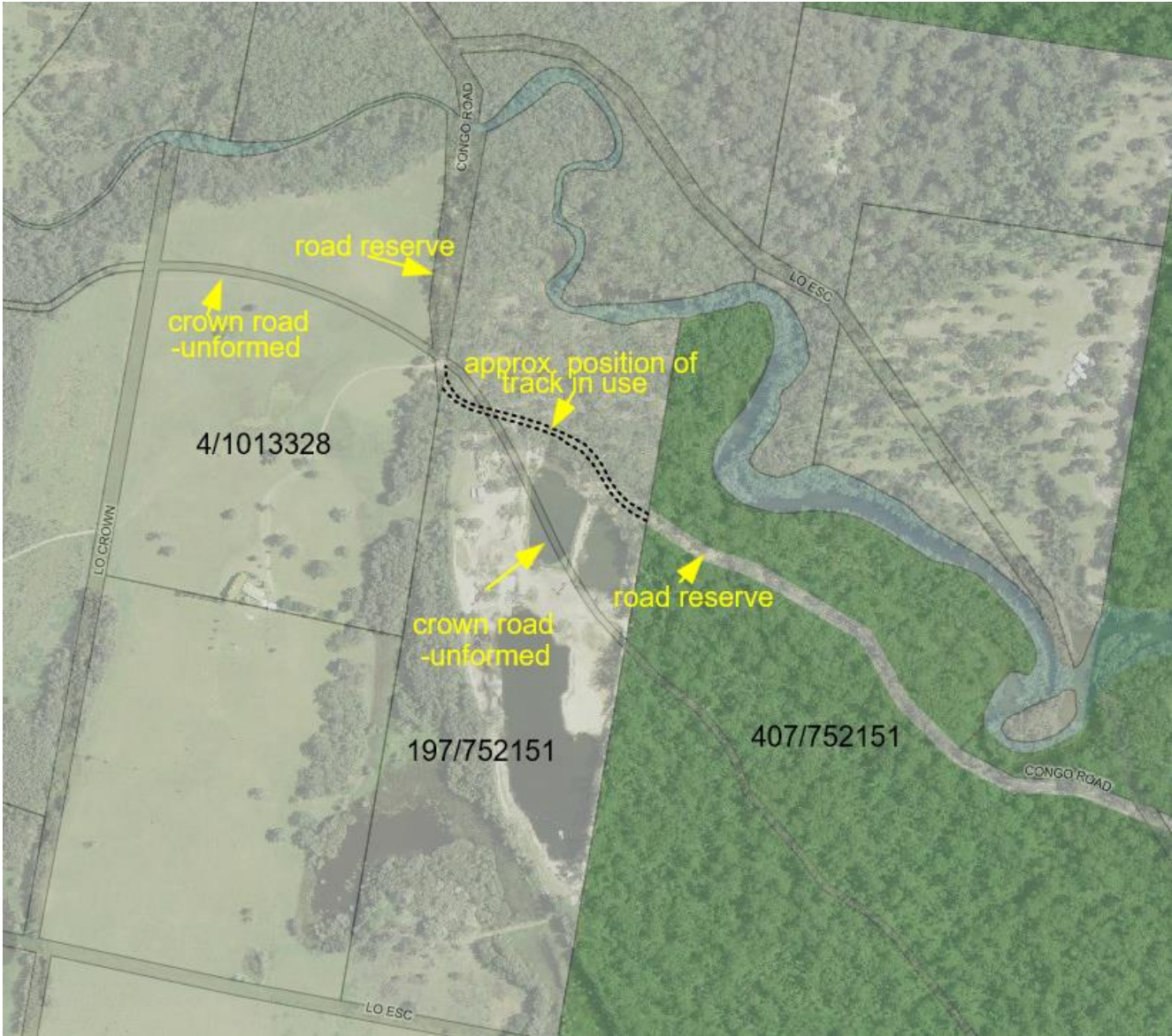
- (b) Identify the survey plan that indicates the proposed boundaries of the road concerned
- (c) Indicate the place at which, and the times during which, the survey plan is available for inspection by members of the public
- (d) state that any person is entitled to make submissions to the roads authority about the proposed boundaries indicated in the survey plan, and
- (e) indicate the manner in which, and the period within which (being 28 days), any such submission should be made.

CONCLUSION

It is recommended that Council apply to Crown Lands to transfer the unsurveyed Crown Road to the Council (such that it becomes a public road for which Council is the roads authority) and proceeds with the actions under sections 18-21 of *the Roads Act 1993* to identify the boundaries of the public road over the boundaries of the physical road that currently traverses Lot 197 DP752151 in order to enable the road to be reopened for use by the public to access the Congo village.

GMR23/015 CONGO ROAD NORTH

ATTACHMENT 1 LOCATION



GMR23/016 RAPID RESPONSE TEAM UPDATE

S031-T00028

Responsible Officer: Warwick Winn - General Manager

Attachments: Nil

Community Goal: 2 Our community that welcomes, celebrates, and supports everyone

Community Strategy: 2.2 Encourage community spirit and enable healthy lifestyles

Delivery Program Link: 2.2.2 Provide and manage quality community facilities to meet the needs of the current and future communities

Operational Plan Link: 2.2.2.3 Provide, maintain and renew the network of public toilets

EXECUTIVE SUMMARY

The purpose of this report is to advise Councillors of the systems being put in place to provide a suitable level of service for litter and public toilet management during the Shire's busy holiday periods.

Over the 2022/23 Christmas and New Year period, concern was raised by the community around the level of service for litter collection and cleaning of public toilets. These issues were primarily experienced around the Batemans Bay waterfront and to a lesser extent, in areas of Narooma including The Flat, Apex Park and Surf Beach.

As in previous years, Council had increased the quantity of litter bins available and the number of waste collections by our contractors, Cleanaway Pty Ltd, to cater for the expected increased demand over this busy period. Despite these actions, the level of service was still not acceptable.

In response to this issue, Council staff reviewed the situation in consultation with our contractors, Cleanaway Pty Ltd. To address this matter, Council ran a trial over the Australia Day long weekend and Easter period. The trial involved deploying a range of additional resources, including:

- additional bins in the hot spots
- additional waste collection by our contractors (Cleanaway Pty Ltd)
- a rapid response squad consisting of two staff stationed at the Batemans Bay waterfront but with the ability to respond to any issues that arose in other parts of the Shire.

While the focus of the rapid response squad was on litter collection and waste management, they also monitored and undertook additional cleaning of the toilets in that high use area.

The trial proved very effective with no recorded complaints over the subject periods and positive responses from the public to the staff undertaking the work.

As a result of the success of the trials, Council will continue to provide additional resources over the Christmas/New Year, Easter and October long weekend periods. Outside of these times, the standard services will continue with increased bins supplied as required.

The ongoing application of the rapid response squad has been included in the draft Delivery Program and Operational Plan.

GMR23/016 RAPID RESPONSE TEAM UPDATE

S031-T00028

RECOMMENDATION

THAT Council receive and note the Rapid Response Team Update report.

BACKGROUND

Over the 2022/23 Christmas and New Year period, concern was raised by the community around the level of service for litter collection and cleaning of public toilets. These issues were primarily experienced around the Batemans Bay waterfront and to a lesser extent in areas of Narooma including The Flat, Apex Park and Surf Beach.

Issues included overflowing bins and stockpiled litter, toilets not having been unlocked by contractors and cleanliness of toilets. These issues unfortunately resulted in significant negative social media comments.

In response, a review was initiated to determine the best means to address the issues experienced and to provide an improved level of service for our community and visitors alike.

Litter bin collection is undertaken by Council's contractor (Cleanaway Pty Ltd) who commenced as Council's waste collection contractor on 1 October 2022. This is a seven-year contract with an option for a further three years.

The contract increases the frequency of service for peak periods such as Christmas/New Year. Ten additional bins were placed within the Batemans Bay waterfront CBD area at the beginning of the peak season which effectively doubled the number of litter bins. This has historically been standard practice to cater for expected increased demand. Following complaints regarding overflowing rubbish, Council arranged for a further twelve litter bins to be distributed to this area.

The contractor has advised that a significant amount of waste stockpiled adjacent to litter bins, particularly those adjacent to the gazebo area on the Batemans Bay waterfront (opposite Bridge Plaza), was commercial waste (eg, waxed produce boxes and industrial/commercial packaging). In addition to the commercial waste, litter was primarily takeaway food containers and wrapping.

The public toilet cleaning contract is currently split into three sections: north, central, and south.

Issues were experienced with toilets not being unlocked and complaints about the cleanliness of these facilities. The cleanliness of the toilets has been an ongoing issue with cleaning being undertaken and within a short period of time, the toilets require cleaning again.

In response, Council is preparing a Toilet Strategy. The Strategy includes actions to improve the amenity, condition and cleanliness of our public toilets, with the draft to be finalized in June 2023.

In developing the Strategy, our existing network of 67 toilets were assessed. Facilities have been rated from 1 (Excellent) to 5 (Poor), with an associated Improvement Program to be implemented. In addition, the draft Strategy will include proactive communication and information for the community, with greater engagement anticipated as we implement the final Strategy.

GMR23/016 RAPID RESPONSE TEAM UPDATE

S031-T00028

CONSIDERATIONS

Issues related to the overflow of litter can be addressed through improved capacity of bins and increased frequency of service. Discussions with the contractor confirmed that they could provide an additional collection service to the high-volume litter areas over these short high peak periods (Christmas/New Year, Australia Day long weekend, Easter, October long weekend). This additional service was supported with a continuation of providing additional bins.

The trial included the introduction of a rapid response squad consisting of two staff and a vehicle from within the Parks Team to undertake duties including:

- a. ensure public toilets are unlocked and have been cleaned by contractor, undertake additional clean as required
- b. general litter collection
- c. monitoring of bins to ensure waste is appropriately disposed of within bins
- d. assist Cleanaway with movement of bins to and from waste collection vehicles
- e. act as visible for members of the public to relay any concerns re overflow of litter or issues with public toilets
- f. gain an understanding of littering and toilet cleaning concerns and provide feedback to key Council staff
- g. authorised to arrange additional waste collection or toilet cleans on those days.

Deployment of the rapid response squad to the Batemans Bay waterfront created a positive presence in the area and a high level of oversight and management which was well received by the public. This also provided a point of contact for any associated concerns that were raised and enabled those issues, where appropriate, to be addressed in a timely manner.

Social Impact

The increased resources and introduction of the rapid response squad was very well received by the public over the trial periods with staff receiving positive feedback and response from community members and visitors.

The improvements to service levels have improved the image of the areas, resulting in a positive impact on the amenity and the experience of visitors and users of these important public spaces.

Community and Stakeholder Engagement

Council publicly acknowledged the issues experienced and actions it would take via a media release and social media on Friday 6 January 2023. Council also informed the community of the changes to resources and trial of a rapid response squad via a media release on Thursday 19 January 2023 and of the outcome of the January Long Weekend trial.

Information and updates regarding this matter have also been provided on social media, in Council News (email newsletter) as well as the print newsletter - Living In Eurobodalla.

CONCLUSION

Council acknowledged the inadequate level of service experienced over the Christmas/New Year period regarding overflowing litter bins and unopened/unclean toilets, and undertook a review. As a result, Council successfully trialed the provision of additional bins, services and the

GMR23/016 RAPID RESPONSE TEAM UPDATE

S031-T00028

introduction of a rapid response squad, over the January Long Weekend and Easter Periods. The trial achieved significant improvements which resulted in positive community feedback.

Due to the success of the trial it is intended to now implement these initiatives over future Christmas/New Year, January and October long weekends, and the Easter period.

**PSR23/017 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY FOR
ADOPTION**

**S010-
T00037**

Responsible Officer: Deb Lenson - Acting Director, Planning and Sustainability Services

Attachments: 1. Under Separate Cover - Draft EVCI Strategy
2. Confidential - Submissions

Community Goal: 1 Our sustainable shire celebrates our natural environment and outdoor lifestyles

Community Strategy: 1.1 Move together for a sustainable future

Delivery Program Link: 1.1.2 Investigate and encourage renewable energy and technologies for Council and the community

Operational Plan Link: 1.1.2.4 Develop a Council Electric Vehicle (EV) Strategy

EXECUTIVE SUMMARY

The purpose of this report is to seek Council endorsement to adopt the draft Electric Vehicle Charging Infrastructure (EVCI) Strategy.

The draft EVCI Strategy (Strategy) defines the role Council will play in supporting the growth of publicly available EVCI in the Eurobodalla in alignment with local, NSW and Australian Government policies and strategies.

The draft EVCI Strategy was on public exhibition in accordance with Minute No: 23/25 adopted at the Ordinary Meeting of Council on 28 March 2023, as follows:

THAT

- 1. Council endorse the draft Electric Vehicle Charging Infrastructure Strategy for public exhibition for a period of not less than 28 days.*
- 2. A report be prepared for Council post exhibition of the draft Electric Vehicle Charging Infrastructure Strategy following consideration of any submissions received during the public exhibition.*

RECOMMENDATION

THAT Council endorse the draft Electric Vehicle Charging Infrastructure Strategy.

BACKGROUND

The draft EVCI Strategy addresses the provision of electric vehicle charging infrastructure on Council managed lands in a clear, consistent and equitable manner.

On 28 March 2023, a report was presented to the Ordinary Meeting of Council seeking endorsement to publicly exhibit the draft Strategy. As a result, the draft Strategy was exhibited for 28 days by way of Council's website and hard copies for the three libraries and Administration Centre in Moruya; during this time, two submissions were received.

PSR23/017 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY FOR ADOPTION

S010-T00037

CONSIDERATIONS

In response to the submissions during the public exhibition and further council review the following changes have been made to the draft EVCI Strategy.

A total of two submissions were received and in the main they were supportive of the EVCI Strategy. The summary table below provides the main issues raised, staff comment and recommendation.

Table 1 – submissions on the draft EVCI Strategy: issue, staff comment and recommendation.

Issue	Staff Comment	Staff Recommendation
Strategy does not adequately address the variety of ways that Council should support EV transition	The Strategy is specifically about the required EV infrastructure on Council managed public lands only.	No change. The Climate Action Plan – Integrated Transport aims to address other EV matters. Like Council fleet, education etc.
Definition of publicly available needs clarification	This is covered in the guidelines regarding access, security, etc	No change
Does not mention network providers specifically	They are referred to generally as suppliers	No change
Proactive engagement with providers -advertising of the locations on apps	EVCI on Council managed public land should be advertised via relevant charging apps	Add to the supplier's role in the guidelines. EVCI should be advertised via relevant charging apps and appropriate mechanisms.
Excessive detail in Guidelines section and should be in a policy document. Questions around policy vs strategy	The Guidelines are specific and more detailed to assist suppliers	No change
Lacks specific actions such as installing charging stations at Council managed parking venues with more than 20 spaces, libraries, sports grounds and boat ramps	Council is not in a position to nominate site specific details in the EVCI Strategy	No change
Does not address the barriers to EV adoption or highlight the barriers, or the environmental benefits	This is covered to some extent in the report and the barriers are being addressed primarily by Australian and NSW Governments eg: lack of infrastructure, range, anxiety, etc	No change
Clearer link with the Council Delivery Program (DP)and Operational Plan (OP) and improve overall document	The EVCI Strategy links with the Climate Action Plan which has actions identified in the DP and OP documents of Council.	No change
Strategic outcomes lack actions	The EVCI Strategy establishes the framework for EVCI on Council	No change. With future updates, changes

**PSR23/017 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY FOR
ADOPTION**

**S010-
T00037**

Issue	Staff Comment	Staff Recommendation
	managed lands.	can be incorporated into the Strategy
Various types of plugs for EV charging are required and this is not identified.	Publicly available charging facilities should be for all types of EVs. Information is in the guidelines.	No change. Differing plugs will be investigated.
No practical guidelines for site selection	The guidelines in part provide details of suitable sites on public land. They also reflect some of the NSW and Australian Government guidelines who are the major funders of the infrastructure.	No change
Strengthen install of E-bike chargers	See action 1.2. Manufacturers currently have differing plugs for charging (and different charger hardware). Riders would then have to bring their own chargers to plug into a standard outlet. This is not practical and requires further investigation.	No change
Council fleet to transition to EVs	This is an identified action in the Climate Action Plan 2.1.	No change

Legal

This draft Strategy ensures that where Council enters into lease arrangements with EVCI suppliers on Council managed public land, it will be in accordance with established lease, licence, procurement and planning regulations.

Policy

The draft Strategy sets the framework for how and when Council will consider enabling EVCI on Council managed lands.

Environmental

The draft Strategy addresses air and noise pollution created by internal combustion engine vehicles and helps to reduce Eurobodalla emissions by supporting a transition to EVs. This results in environmental and health benefits for the community and contributes to a suite of climate adaptation initiatives from Council.

Asset

The draft Strategy may result in the installation of EV charging infrastructure on public lands; impacts on asset maintenance and operations will be considered.

**PSR23/017 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE STRATEGY FOR
ADOPTION**

**S010-
T00037**

Social Impact

The draft Strategy will assist EV drivers, residents and visitors to be able to recharge their vehicles in a timely manner.

Economic Development Employment Potential

The provision of EV charging infrastructure will assist residents and visitors to the Eurobodalla and enhance those retail and tourism sites where the infrastructure may be located.

The suppliers of the EVCI may utilise local companies and services for the installation of the infrastructure.

Financial

The draft EVCI recommends that Council play a supporting rather than ownership role in EVCI. This reduces the impact on capital expenditure as costs will generally be the responsibility of EVCI suppliers and funding bodies. The ongoing maintenance costs for car parking spaces should remain relatively unaffected by the conversion from internal combustion engines to EV car parking, and EVCI maintenance and/or removal will remain the responsibility of suppliers.

Council staff resources will be required to navigate the planning, legal and infrastructure issues associated with leasing public land, however the standard avenues already established for doing so will be used for licences and leases on Council-managed lands.

Community and Stakeholder Engagement

The draft EVCI Strategy was reviewed by the Climate Change Advisory Committee and the following stakeholders were consulted, including:

- Local community group, South Coast Health and Sustainability Alliance
- Local solar and energy companies
- The Australian EV Council
- The Office of Environment and Climate Change, NSW
- Local energy distributor, Essential Energy
- Ultra-fast EVCI suppliers
- Relevant Council staff

During the public exhibition period a total of two submissions were received. The full submissions were provided to councillors and Table 1 above, provides the summary of the submissions, identified outcomes and changes to the EVCI Strategy.

The draft Strategy was advertised on Council's website and hard copies were available at the three libraries and at the Administration Office in Moruya.

CONCLUSION

The adoption of EVCI Strategy will enable Council to work with EVCI suppliers and stakeholders in a clear and consistent manner and assist in the provision of suitable chargers on Council managed public lands.

**PSR23/018 DA0411/23 - PROPOSED DWELLING HOUSE - 8 NOOROOMA CRES, DA0411/23
NAROOMA**

Responsible Officer: Deb Lenson - Acting Director, Planning and Sustainability Services

Attachments: Nil

Community Goal: 3 Our region of vibrant places and spaces

Community Strategy: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services

Operational Plan Link: 3.1.2.1 Assess and determine development applications

Applicant: Sandbox studio Pty Ltd

Land: Proposed lot 31 in subdivision of Lot 3 Sec 18 DP 858754

Area: 556m²

Setbacks: Front – 3.1 metres
Side – 0.73 metres/2.6 metres
Rear – 5.8 meters

Height: 11.6m (9m height limit)

Zone: R2 Low Density Residential

Current Use: Dwelling and vacant land

Proposed Use: Dwelling

Description: Dwelling (2 storey)

Permitted in Zone: Yes (subject to deferred commencement – registration of subdivision allotment)

DA Registered: 25/1/2023

Reason to F&S: Clause 4.6 Variation to Height of Buildings

Recommendation: Approval subject to conditions

EXECUTIVE SUMMARY

The purpose of this report is to seek Council's determination of Development Application (DA) 0411/23 for construction of a dwelling at 8 Noorooma Crescent, Narooma. The proposal is a two storey building including ground level car parking and two level residential area.

The development site is located within a residential area of Narooma adjacent to a mix of residential and commercial uses.

The DA seeks a variation from the Eurobodalla Local Environmental Plan (ELEP) 2012 Clause 4.3 Height of Buildings. The ELEP defines the maximum building height of the subject site as 9m,

**PSR23/018 DA0411/23 - PROPOSED DWELLING HOUSE - 8 NOOROOMA CRES, DA0411/23
NAROOMA**

taken from natural ground level. The proposal seeks a variation of 2.6m or 29% for the highest portion of the building.

The ELEP Clause 4.6 Exceptions to Development Standards and the Department of Planning Circulars PS08-003 and PS 08-014 requires that all developments having a variation greater than 10% to the development standards, must be determined by Council.

The proposal has considered the requirements of the *Environmental Planning and Assessment Act (the EPA Act) 1979*, relevant State Environmental Planning Policies (SEPPs), Eurobodalla Local Environmental Plan (ELEP) 2012 and the Narooma Township Development Control Plan (DCP).

The DA was exhibited in accordance with the Community Engagement and Participation Plan during which time, no objections were received.

This report recommends approval of the DA subject to conditions.

RECOMMENDATION

THAT

1. Development Application 0411/23 for the construction of a two storey dwelling at 8 Noorooma Crescent, Narooma be approved as a deferred commencement consent subject to the following conditions:

PART A

Deferred Commencement Consent

- A. Pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979 ("EP&A Act") this development consent is not to operate until the applicant satisfies Eurobodalla Shire Council ("Council") as to the following matter:

- The subdivision approved under DA0354/21 shall be registered with the NSW Land Registry Services.

The period within which the applicant must produce evidence to satisfy the Council as to all matters set out in condition A above is 12 months from the date of grant of this consent.

If the applicant satisfies the Council as to the matters set out in condition A above, within the time frame specified above, the Council will give notice to the applicant of the date from which the consent operates in accordance with the provisions of section 4.16(3) of the EP&A Act and the development consent shall then operate from that date subject to the conditions set out in Part B that follows.

PART B: CONDITIONS

Having regard to the Deferred Commencement Conditions in Part A, this consent cannot operate until such time as the Council has given written notice to the applicant of the date from which the consent operates in accordance with the provisions of section 4.16(3) of the EP&A Act.

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GENERAL CONDITIONS

1 **Approved plans**

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

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA0411/23 Sheet 1 of 15	(8 Noorooma cr) Dwg. A01 – Title Page	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 2 of 15	(8 Noorooma cr) Dwg. A02 – Finishes schedule	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 3 of 15	(8 Noorooma cr) Dwg. A03 – Site analysis	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 4 of 15	(8 Noorooma cr) Dwg. A04 – Site and Roof plan	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 5 of 15	(8 Noorooma cr) Dwg. A05 – First floor plan	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 6 of 15	(8 Noorooma cr) Dwg. A06 – Ground floor plan	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 7 of 15	(8 Noorooma cr) Dwg. A07 – Lower Level plan	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 8 of 15	(8 Noorooma cr) Dwg. A08 – Elevations	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 9 of 15	(8 Noorooma cr) Dwg. A09 – Elevations	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 10 of 15	(8 Noorooma cr) Dwg. A010 – Elevations	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 11 of 15	(8 Noorooma cr) Dwg. A11 – Elevations	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 12 of 15	(8 Noorooma cr) Dwg. A12 – Section	Rev. F 24.02.23	Sandbox Studio

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DA0411/23 Sheet 13 of 15	(8 Noorooma cr) Dwg. A13 – Sections	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 14 of 15	(8 Noorooma cr) Dwg. A14 – Rain Water Re-use Concept Plan	Rev. F 24.02.23	Sandbox Studio
DA0411/23 Sheet 15 of 15	(8 Noorooma cr) Dwg. A12 – Section	Rev. F 24.02.23	Sandbox Studio

Council Stamp No.	Document title	Date of document	Prepared by
DA0411/23 Document 1 of 3	BASIX Certificate No. 1362814S and stamped plans	9 January 2023	Energy Rating Group
DA0411/23 Document 2 of 3	Nathers Certificate No. O3YMOCGRQ4	12 Dec 2022	Sandbox Studio
DA0411/23 Document 3 of 3	Waste management plan	5.12.22	D McClure

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

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

2 Requirement to Notify about New Evidence

Any new information which comes to light during remediation, excavation or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Certifier. Remediation is at the full cost of the owner. [11.19]

3 Water & Sewer Inspections

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

The following inspections are required to be carried out by Council in regard to the

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installation of plumbing and drainage works. Inspections may be arranged by contacting Council:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
- (b) Hot and cold water plumbing under pressure test prior to covering;
- (c) Internal stackwork under hydrostatic test prior to covering; and
- (d) The installation of the septic tank and any sillage trenches prior to backfilling or covering.
- (e) Issue of final satisfactory inspection. [2.16]

4 *Siting, Height and View Loss*

To ensure that siting, height and view loss objectives are achieved, all wall locations, finished floor levels and ridge levels must be in accordance with that approved under this consent.

Note: *The Principal Certifier may require certification from a registered surveyor prior to the pouring of a concrete floor or the fixing of roof cladding to verify compliance.*
[0217]

5 *Earthworks, retaining walls and structural support*

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that if fill brought to the site - must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and
- (d) that if excavated soil is to be removed from the site - it must be disposed of in accordance with any requirements under the Protection of the Environment Operations (Waste) Regulation 2005. [11.16]

6 *Protection of Street Trees*

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced to the satisfaction of Council. [16.10]

7 *Retaining Walls*

If the approved plans do not include retaining walls, further consent is required to be obtained from Council for any retaining walls within 1 metre of a lot boundary or more than 600mm in height, or in the vicinity of a sewer main. Further consent is obtained by submitting a development application or a s4.55 modification of consent to Council for approval.

Note: *There are other development standards other than those specified above which*

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apply to retaining walls which require prior approval and certification. Please refer to Subdivision 15 of Part 2 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 for requirements at <https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572#pt.2-div.1-sdiv.15> <<https://legislation.nsw.gov.au/view/html/inforce/current/epi-2008-0572%23pt.2-div.1-sdiv.15>>. [23.08]

8 Colours and Materials

The external roof cladding shall have a solar absorbance rating of 0.421 or greater (e.g. Zinalume, Galvanised Iron, Colourbond Surfsmist, Classic Cream and Whitehaven do not qualify). [24.01]

9 Stormwater disposal (Interallotment)

Stormwater is to be connected to the interallotment drainage system (pit, pipe), in accordance with AS AS/NZS3500.3:2003 and Section 7.12.2 of the [Council's Infrastructure Design Standard](#).

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (eg Essential Energy, NBN, ESC, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Principal Certifier prior to the issue of the Construction Certificate. [0240]

11 Long Service Levy

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. [2.03]

12 Water Meter

Prior to issue of construction certificate, payment to Council the standard fee (for the current financial year) for a water meter to suit the development. The meter is to be located so as to be accessible to Council's Water Meter Reader at all times. Any work required to Council's infrastructure to extend the main or allow installation of the meter is to be undertaken at full cost to the applicant. [5.05]

PRIOR TO COMMENCEMENT OF WORKS

13 Erosion and Sediment Controls - Installation

The Principal Contractor or Owner-builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;

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- b) "Do it Right On Site, Soil and Water Management for the Construction Industry" published by the Southern Sydney Regional Organisation of Councils, 2001; and
- c) "Managing Urban Stormwater - Soils and Construction" 2004 published by the NSW Government (The Blue Book).

Where there is any conflict, The Blue Book takes precedence. [11.20]

14 Construction Certificate

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

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by a registered certifier, and
- (b) The person having the benefit of the development consent has appointed a Principal Certifier, and has notified the Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and
- (d) Builders name and licence number has been supplied to Council or the Principal Certifier; and
- (e) Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifier; or
- (f) Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifier; and
- (g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifier for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed. [2.06]

15 Site Waste Management

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

16 Certification Height of Building

The dwelling must be constructed in accordance with the maximum finished levels outlined below:

- roof ridge (parapet) level RL 24.495m

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The roof (building height) level must be certified by a registered surveyor. Evidence is to be submitted to the satisfaction of the Principal Certifier, prior to continuing construction. Construction is not to continue until the Principal Certifier has signed off that the floor level or ridge level is in accordance with the approved levels outlined in this condition. [23.33]

DURING CONSTRUCTION

17 *Responsibility to Changes to Public Infrastructure*

While building works are being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits or infrastructure, street trees, or any other infrastructure) in the street footpath/road reserve area. [02.10]

18 *Shoring and Adequacy of Adjoining Property*

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

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage. [11.04]

19 *Spoil Removal*

No spoil to be deposited on public roads during the cartage of materials from or to the site. The deposition spoil shall cease, as directed by Council, if the Council determines that excessive deposition of spoil onto the road is taking place. [11.12]

20 *Excess Fill*

Any excess clean fill (inert clean waste) removed from the site is to be taken to either:

- (a) a public waste disposal facility or
- (b) a site approved by Council.

If option (b) is to be used the persons enacting this consent are to advise Council, in writing, of the chosen site and are not to commence any dumping until written approval is granted.

Note: Council may carry out random inspections and take photographic records to ensure the integrity of the fill. [11.14]

21 *Public Way to be Unobstructed*

The public way shall not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances at any time during construction. [14.10]

22 *Approved Plans to be On-Site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifier. [2.22]

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23 Construction Hours - NOISE

If audible at any residence or other sensitive noise receiver, construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and 8.00am to 5.00pm Saturdays. No construction can be carried out on a Sunday or public holiday if audible at any residence or other sensitive receivers. [20.01]

24 Boundary Check

The building shall be set out by a registered surveyor to verify the correct position in relation to property boundaries and the approved plans. A plan prepared by a registered surveyor shall be submitted to the Principal Certifier certifying that the works have been located in accordance with the approved development application prior to proceeding past the relevant stage of construction. [23.05]

25 Protection of Adjoining Areas

If site or building works will:

- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
- involve the enclosure of a public place; or
- have the potential to damage adjoining private land by way of falling objects

then a temporary hoarding, fence or awning must be erected between the work site and the adjoining area before the works begin. Any such hoarding, fence or awning must be removed when the work has been completed. [23.17]

26 Implementation of BASIX commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with commitments listed in BASIX certificate(s) approved by this consent, for the development to which the consent applies, and any updated certificate(s) if amendments are made. [23.26]

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

27 Public Utility Adjustments

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

28 Batter stabilisation

Prior to the issue of any Occupation Certificate, all exposed embankments must be stabilised by the installation of vegetation or similar materials to the satisfaction of the Principal Certifier. Measures for stabilisation of embankments must be contained wholly within the property boundaries and prevent erosion and soil movement onto the adjoining land. [11.18]

29 Road Damage

The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to issue of any Occupation Certificate. [14.15]

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30 *Sealed Driveway*

Prior to issue of any Occupation Certificate, construction of a sealed driveway in accordance with [Councils Infrastructure Design Standards](https://www.esc.nsw.gov.au/data/assets/pdf_file/0010/143983/Infrastructure-Design-Standard-IDS.pdf) [\[14.19\]](https://www.esc.nsw.gov.au/data/assets/pdf_file/0010/143983/Infrastructure-Design-Standard-IDS.pdf)

31 *Occupation Certificate*

Prior to the use or occupation of the development an inspection will be required to ensure formal compliance with the conditions of this consent. In this respect the Principal Certifier, or if no building work is required then Council should be contacted to arrange for an inspection. [2.15]

32 *Works as Executed Plans and any other Documentary Evidence*

Before the issue of the Occupation Certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- a) All stormwater drainage systems and storage system
- b) The following matters that Council requires to be documented - survey plans

The principal certifier must provide a copy of the plans to Council with the occupation certificate. [6.06]

ADVISORY NOTES

1 *Disclaimer - s88B Restrictions on the Use of Land*

The applicant should note that there could be covenants in favour of persons, other than Council, restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under the Eurobodalla Local Environmental Plan, Agreements, Covenants or Instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved. [0113]

2 *Street Numbering*

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages, prior to the occupation of the building(s) or commencement of the use. If street numbers or a change to street numbers are required, a separate application shall be made to Council. [0246]

3 *Australia Post*

Australia Post to be contacted regarding the location of letterboxes. Contact the Delivery Manager Batemans Bay on 4475 3614. [0262]

4 *Underground Utility Services Check*

The applicant shall contact the "Dial Before You Dig" service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of

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excavation, to ascertain the presence and type of underground utility services in the vicinity of the development. [0263]

5 Property Identification

Property identification must be clearly displayed at the primary point of access to the site. [0266]

6 Ocean Location

Council is of the opinion that the land is located within a corrosive environment, ie. that it is located within 1km from breaking surf, within 100m of salt water not subject to breaking surf or heavy industrial areas. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia. [10.16]

7 Tree Preservation Code

The land is within an area over which a Tree Preservation Code applies and this prohibits the ring barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or native vegetation without the consent of Council. There are some exemptions identified in the Code and the applicant/consent holder should contact Council's Development Helpdesk on (02) 44741231, or view the document on Council's website at <https://www.esc.nsw.gov.au/> [16.01]

8 NCC/BCA Compliance

This Development Application has been subject to a merit-based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA. [2.23]

BACKGROUND

Deferred commencement - The site contains an existing dwelling and is the subject of an approved subdivision (1 in to 2 lots under DA0354/21). The subdivision works certificate is currently under assessment therefore a deferred commencement condition is recommended to allow for construction of a single dwelling on a single allotment once the registration of the subdivision has occurred.

The application was not referred to any external agencies.

The proposed development seeks a variation to Clause 4.6 of the *Eurobodalla Local Environmental Plan 2012*, and a number of variations to the Narooma Township Development Control Plan including:

- 2.2 Setbacks
- 2.3 Garages, Carports & Sheds
- 2.4 Private open space
- 2.6 Car parking and access
- 4.1 Bulk and scale

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- 4.2 Street Frontage and Façade Treatment

- 7.2 Earthworks

The application has been assessed and found to be acceptable in the locality. The application is recommended for approval.

POLICY

The application has been assessed in accordance with the provisions of the Environmental Planning and Assessment Act, 1979 and the following relevant legislation, planning instruments and policies.

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

The proposed development is supported by a BASIX Certificate. The plans and conditions reference the BASIX commitments which will be installed during construction. The proposed development is compliant with the SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in non-rural areas

The land is not mapped on the Biodiversity Values Map. The land is zoned R2 Low Density Residential. The proposed area of clearing (a single tree) does not exceed the applicable threshold of 2500m². As such, a Biodiversity Development Assessment Report is not required for this development.

State Environmental Planning Policy (Resilience & Hazards) 2021

Chapter 2 – Coastal Management

The land is not located in the coastal wetlands, littoral rainforest or proximity areas.

The land is located within a coastal use area and a coastal environment area as defined by the *Coastal Environment Area Map* and *Coastal Use Area Map*.

The proposed development is not located near the foreshore or beach area and would not result in over shadowing of the beach on the summer solstice. It is considered the development can be managed to minimise potential impacts.

Chapter 4 – Remediation of Land

The land has been used for the purposes of residential accommodation for a number of years and there is no evidence of any other use. It is considered that the proposed use is consistent with the existing use and therefore Council is satisfied that there is minimal risk from contamination.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Part 2.3 - Division 5 – Electricity transmission or distribution

The proposed development has a recommended condition of consent requiring the proposal be constructed to meet Essential Energy requirements.

Chapter 2 – Part 2.3 – Division 17 – subdivision 2 – Development in or adjacent to road corridors and road reservations

The proposed development is not subject to this provision. Noorooma Crescent is not a classified road. As such, the provisions do not apply.

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Eurobodalla Local Environmental Plan 2012 (ELEP)

Clauses 2.1 Land Use Zones

The site is zoned R2 Low Density Residential. The objectives of the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage residential development that is consistent with the character of the neighbourhood.*

The proposed development is defined as a dwelling, which is permitted in the R2 Low Density zone with development consent. The objectives of the R2 zone are met through the provision of residential accommodation within a residential zoned area that is consistent with the character of the area.

The proposed development is compliant with the provisions of the ELEP and seeks to rely on Clause 4.6 to support a variation to Clause 4.3, the height of buildings development standard.

Clause 2.7 Demolition

Not proposed.

Clause 4.3 Height of buildings

Pursuant to Clause 4.3, the maximum height of buildings is 9m. The proposed development seeks to construct a building height of 11.6m, when measured from natural ground level. The variation to the building height occurs at the rear of the proposed dwelling within a steeply sloping portion of the allotment.

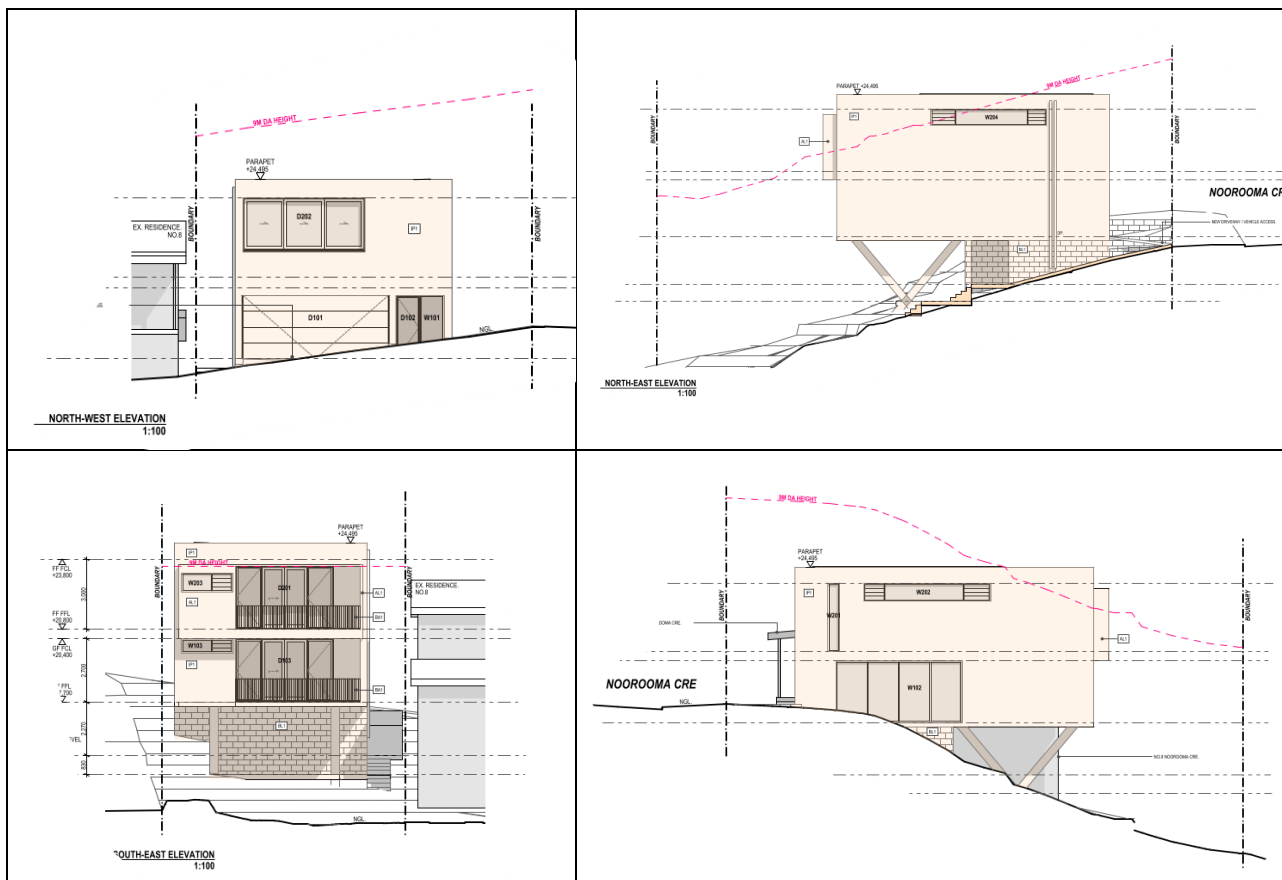
The proposed development is consistent with the objectives of this Clause which are:

- to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.

Clause 4.6 – Exceptions to development standards

The proposed development requests a variation to the Clause 4.3 height of buildings development standard.

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The above images depict the extent of the proposed height variation. The parts of the roof which are visible above the pink dotted line exceed the 9m height of buildings maximum limit.

The proposed development seeks a variation to the roof height proposed and seeks a 29% variation to the 9m height of buildings standard. The proposed maximum height variation is 2.6m higher than the 9m development standard at the highest point.

Clause 4.6 of the LEP is intended to provide flexibility to a consent authority to approve a development which exceeds a development standard. In this case, building height.

The NSW Land and Environment Court in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118 and *Four2Five Pty LTD v Ashfield Council* [2015] NSWLEC 90 listed 5 matters to consider when assessing whether compliance of a development standard was unreasonable or unnecessary, as established in *Wehbe v Pittwater Council* (2007) NSWLEC 827.

This includes five tests that can be used as a basis to answer the question in relation to a particular application, noting that all five methods may not be needed to demonstrate compliance.

Test 1: Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: *Wehbe v Pittwater Council* at [42] and [43].

Comment: The proposed development does not conflict with the intent of Clause 4.3 which is to ensure that buildings are compatible with the character of the area (height, bulk and scale) of the existing and desired future character of the locality and minimise visual impacts, view

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loss, loss of privacy and loss of solar access to existing development. The proposed development achieves this outcome. It has been designed to limit the extent of the proposed building height variation to the area at the rear of the building where the site slopes away from the street. The additional height does not impact on the character at the street frontage at the public domain, which retains a 2 storey built form.

Test 2: The underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary: Wehbe v Pittwater Council at [45].

Comment: The underlying objective of the Building Height control is relevant to the development.

Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable: Wehbe v Pittwater Council at [46].

Comment: The underlying objective of the building height standard is to manage the scale and type of development in relation to built form in the context of existing and developing future character. It also seeks to minimise the potential adverse impacts of the development on the amenity of residential areas.

The character of the surrounding area is described as containing a mix of residential and commercial land uses. The site immediately adjoins an unformed road (Angle Street) which contains a mix of car parking and landscaped areas and is unlikely to be developed as a connecting street due to the steeply sloping topography.

The area of Narooma is undergoing redevelopment in residential and commercial areas to provide a mix of built form, of increasing density. The proposed development is compatible with the height and scale of surrounding built form (2 storeys at the streetscape) and the commercial character of nearby development (nil building setbacks and buildings that utilise the required height limit).

The variation to the development standard is limited to an area of the building at the rear of the built form which will not be highly visible in the streetscape and in this case strict compliance with Clause 4.3 of the LEP is considered to be both unnecessary and unreasonable.

The exceedance relates to a habitable floorspace area immediately above a steeply sloping part of the site at the rear of the building and it is considered strict compliance with the height control is unnecessary in this instance.

Test 4: The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47]

Comment: It is not considered that the development standard has been virtually abandoned or destroyed by the Council's own actions, as height variations are typically less than 10%, assessed on site specific merit basis in accordance with legislation, with no variations to development standards occurring within Narooma locality within the last 3 years (2019 – to date 2023).

Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That

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is, the particular parcel of land should not have been included in the zone: Wehbe v Pittwater Council at [48]

Comment: The site is zoned low density residential (R2) and provides a land parcel that is adjoined to the south-west by land zoned B2 and to the north by land zoned R3. Compliance with this test is not being sought.

It is therefore considered that compliance with the standard (building height) is both unreasonable and unnecessary. The variation can therefore be supported.

Narooma Township Development Control Plan (DCP)

The proposed development seeks a number of variations to the Narooma Township Development Control Plan including:

- *2.2 Setbacks*
- *2.3 Garages, Carports & Sheds*
- *2.4 Private open space*
- *2.6 Car parking and access*
- *4.1 Bulk and scale*
- *4.2 Street Frontage and Façade Treatment*
- *7.2 Earthworks*

The development has been assessed in accordance with both the acceptable solution and performance criteria of the DCP and found to be acceptable. The site is particularly challenging considering the steep gradient and its location in close proximity to the business centre provides a more urban character where reduced setbacks and bulk and scale can be accentuated. The proposed development does not appear out of place and is considered appropriate to the context of the Narooma Township.

ENVIRONMENTAL

Ecological

The development is unlikely to result in any significant environmental or ecological impact to the surrounding locality. The site has been zoned for residential purposes and adjoins residential areas to the north-east and adjoins an unformed road (Angle St) to the south-west. No works are proposed within the riparian areas of the site. The proposed 2 storey dwelling does not result in any detrimental impact to the biodiversity or significant environmental features in the locality.

Cultural/Heritage

The proposed development is supported by an Aboriginal Heritage Information Management System (AHIMS) desktop search which has determined that there are no aboriginal sites previously recorded within 50m of the site.

The subject site is not listed as a heritage item or in close proximity to a heritage item.

**PSR23/018 DA0411/23 - PROPOSED DWELLING HOUSE - 8 NOOROOMA CRES, DA0411/23
NAROOMA**

CONSULTATION

The proposed development was exhibited to the local community between 27 January 2023 until 13 February 2023 including written letters to adjoining owners. No submissions were received.

CONCLUSION

This report seeks Council's determination of an application for the construction of a two storey dwelling house located on a proposed lot at 8 Noorooma Crescent, Narooma.

The application seeks to vary the building height for the site by 29% and due to the requirements of the NSW Department of Planning and Environment, any variation above 10% must be reported to Council for determination.

The application has been assessed in accordance with the Environmental Planning and Assessment Act 1979 and found to be appropriate for the site. The assessment has concluded that there is minimal impact on adjoining properties or the locality and can be supported.

The application is put to the Council with a recommendation for approval.

**PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

Responsible Officer: Deb Lenson - Acting Director, Planning and Sustainability Services

Attachments: 1. Draft Conflict of Interest Policy

Community Goal: 3 Our region of vibrant places and spaces

Community Strategy: 3.1 Balance development between the needs of people, place and productivity

Delivery Program Link: 3.1.2 Provide receptive and responsive development assessment services

Operational Plan Link: 3.1.2.1 Assess and determine development applications

EXECUTIVE SUMMARY

This report seeks Council adoption of the draft Conflict of Interest Policy (draft Policy) in compliance with the NSW Department of Planning and Environment's (DPE) introduced changes to the planning system in 2022.

This draft Policy primarily deals with development applications whereby Council is, and can be seen as, both the applicant/developer and the regulatory authority.

The policy has also been drafted to deal with staff and councillor applications where they are lodging an application as an individual (private self) and the interaction with Council as the regulator.

The draft Policy defines each of these types of applications and provides specific risk management practices for each of these applications.

It is recommended that Council adopt the draft Policy as exhibited, as no submissions were received during the public consultation period.

RECOMMENDATION

THAT Council adopt the draft Conflict of Interest Policy relating to Council-related development applications.

BACKGROUND

The NSW Department of Planning and Environment introduced changes to the planning system in 2022. This was in response to a report by the NSW Ombudsman, *An inherent conflict of interest councils as developer and regulator* (Dec. 2020).

The proposed changes are intended to deal with situations where Council is the regulatory authority and may also be a developer/applicant/landowner of an application that is lodged with the Council for assessment.

The purpose of the amendments to the *Environmental Planning and Assessment Regulation 2021* requires councils to:

1. have a policy that sets out how they propose to manage any potential conflicts of interests that may arise in these circumstances,

**PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED
DEVELOPMENT APPLICATIONS**

**S004-
T00021**

2. consider this policy before determining any development applications that are council-related,
3. publicly communicate any management approach(es) that the council proposes to implement (if any) for each development by publishing a management statement, together with the development application when it is exhibited.
4. council-related development applications need to be exhibited for at least 28 days.

The draft Policy has been prepared to ensure compliance with the above requirements but also to deal with the perceived conflict of interest associated with individual staff and councillors.

A report was submitted to the Council Meeting of 28 March 2023 seeking endorsement to publicly exhibit the draft Policy (Min No: 23/24):

THAT:

1. *Council endorse the exhibition of the draft Conflict of Interest Policy relating to Council-related development applications, for period of not less than 28 days in accordance with schedule 1 of the Environmental Planning and Assessment Act 1979.*
2. *A report be prepared for Council post exhibition of the draft Conflict of Interest Policy to seek adoption or adopt and amend the draft Policy following consideration of any submissions received during community consultation.*

The draft Policy was exhibited for a period of 28 days and during this time, no submissions were received.

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CONSIDERATIONS

The draft Policy defines each of these types of applications and provides specific risk management practices for each of these applications.

The draft Policy provides for six different categories of Council-related development and Council staff/councillor related development. It is considered best practice to include both types and reflects current practices for staff related development.

The six (6) categories are:

- land development – Council acting as a developer
- operational development – development required for a Council function
- third party development – development by another party on Council-controlled land
- councillor/General Manager/Director development – development application lodged by individual who is a councillor/General Manager/Director of Council
- Development Services staff – development application lodged by individual who is employed by Council within the Development Services team
- general staff – development application lodged by individual who is employed by Council.

The management practices around the perceived risk vary from the above examples to no specific actions being undertaken. All categories require, as a minimum, that the relationship to Council is noted on the Planning Portal.

Legal

The proposed Conflict of Interest Framework developed by the NSW Department of Planning and Environment (DPE) required amendments to the *Environmental Planning and Assessment Act 1979* and a new regulation, the *Environmental Planning and Assessment Regulation 2021*. The new legislation requires councils in NSW to have a policy and prescribe risk management controls to how they deal with different types of applications.

It is important to note that the legislative requirements only require Council to have a policy dealing with Council-related applications, ie., Council as an entity. This draft Policy seeks to go further and deal with applications by individuals who are either employed by Council or a councillor.

It should also be noted that Council was required to have the policy adopted and in place by 3 April 2023.

Council sought advice from the DPE regarding a discrepancy which meant that any application seeking to build a driveway, stormwater connection or other infrastructure over a road reserve would be affected by this draft Policy.

Council was advised by the DPE that the issue could be dealt with by prescribing no management controls to these types of applications. Ultimately, the DPE published an amendment on 2 March 2023 which specifically excluded public roads from the definition of Council owned land which addressed the concerns raised by Council.

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The effect of the delay in adopting the draft Policy is not considered to be significant because the legislation is not retrospective, ie., it only affects applications lodged after 3 April 2023.

Policy

Council is required by an amendment to Schedule 1 of the *Environmental Planning and Assessment Act 1979* to publicly exhibit the draft Policy for a period of not less than 28 days.

The adopted Policy will be displayed by Council on the Council website and the individual management statement (for each application) would need to be exhibited with the development application.

Social Impact

The draft Policy upon adoption, will provide Council with a more detailed response and framework for dealing with conflicts of interest. This is likely to provide greater confidence within the community of probity around Council-related and/or Council staff applications.

Financial

The costs associated with peer reviews and/or the independent assessment of applications by consultants would need to be considered and born by Council. There is no ability to pass on this cost through development application fees, etc.

Where Council is seeking a peer review from a neighbouring Council, this cost is usually absorbed by the council undertaking the peer review. This is done on the basis that the council will in turn, be requesting a peer review of their applications.

Council has in the past, undertaken and requested peer reviews from neighbouring councils on an informal basis.

Community and Stakeholder Engagement

Council sought feedback from the community through a 28 day public exhibition process whereby the draft Policy was available on Council's website. No submissions were received.

CONCLUSION

The draft Policy would provide clarity around how Council-related development applications and councillor/staff related applications are assessed by Council. The purpose of having such a policy is to manage the potential and/or perceived conflict of interest associated with these types of applications.

It is recommended that Council adopt the draft Policy as a policy of Council.

PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Policy title	Conflict of interest policy – dealing with council related development applications
Responsible manager(s)	Divisional Manager Development Services
Contact officer(s)	Development Assessment Coordinator
Directorate	Planning and Sustainability Services
Approval date	
Focus area	3.1 Balance development between the needs of people, place and productivity
Delivery Program link	3.1.2 Provide receptive and responsive development assessment services
Operational Plan link	3.1.2.1 Assess and determine development applications

Purpose

Eurobodalla Shire Council's policy was developed to provide clarity as to how Eurobodalla Shire Council deals with development applications where it is both the developer and the consent authority. The policy also deals with applications lodged by Council staff and Councillors.

The *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* requires councils to manage conflicts of interest arising in relation to 'council-related development applications', and amends Schedule 1 of the EP&A Act to make provision for community participation requirements concerning such applications.

Clause 9B(2) of Schedule 1 to the EPA Act defines 'council-related development application' to mean:

'... a development application, for which a council is the consent authority, that is—

(a) made by or on behalf of the council, or

(b) for development on land of which the council is an owner, a lessee or a licensee, or otherwise vested in or under the control of the council.'

Aim of Policy

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development and development applications lodged by Council staff or Councillors.

Policy details

1	<p>Application</p> <p>This policy applies to Eurobodalla Shire Council as the applicant and/or the landowner for a development application and as the consent authority for such an application.</p> <p>The policy also applies to Council staff and Councillors (in their private capacity) who lodge development applications where Eurobodalla Shire Council is the consent authority.</p>
2	<p>Legislation</p>



Policy

	<p>This policy ensures Eurobodalla Shire Council’s compliance with the Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022 and Schedule 1 of the Environmental Planning and Assessment Act 1979.</p>
<p>3</p>	<p>Definitions</p> <p>(1) In this policy:</p> <p>application means an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent,</p> <p>council means Eurobodalla Shire Council</p> <p>council-related development means development for which the council is the applicant, developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority</p> <p>Council staff/Councillor related development means a development application for which a Council staff member or Councillor has a commercial interest in the land the subject of the application, where Council is also the regulator or consent authority</p> <p>development process means application, assessment, determination, and enforcement</p> <p>the Act means the Environmental Planning and Assessment Act 1979.</p> <p>Land development means a development for which Council is the applicant/ developer/ landowner and the development is for the purposes of commercial gain, i.e., a residential subdivision.</p> <p>Operational development means a development for which Council is the applicant/ developer/ landowner and the development is for the purposes of carrying out a council related function, i.e., an extension to a works depot, community facility.</p> <p>Third party development means a development for which Council is the landowner only and the development is for the purposes of a surf club, markets, golfclub, etc where Council is the landowner or Crown land manager.</p> <p>Councillor development means a development for which a Councillor of the Eurobodalla Shire is the applicant/ developer/ landowner.</p> <p>General Manager/Director development means a development for which the General Manager or a Director of the Eurobodalla Shire is the applicant/ developer/ landowner.</p> <p>Development Services staff development means a development for which a staff member of the Development Services Division of Eurobodalla Shire Council is the applicant/ developer/ landowner.</p> <p>Council staff development means a development for which a Council staff member of the Eurobodalla Shire is the applicant/ developer/ landowner and is not elsewhere defined.</p> <p>(2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.</p> <p>(3) Notes included in this policy do not form part of the policy.</p>



Policy

Implementation

Management controls and strategies	Responsibility
<p>4</p> <p>a. Land development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • report to full council meeting • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>b. Operational development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>c. third party development (Council related applications) The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Public exhibition of council related applications for 28 days • peer review or assessment by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). • Note – Development consistent with an approved plan of management are excluded. <p>d. Councillor/General Manager/ Director The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • peer review by neighbouring council/ independent consultant • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). • Note – see Part 5 – applications relating to the primary residence are excluded. <p>e. Development Services Staff The following management controls apply to the assessment of an application for council-related development</p>	<p>Divisional Manager Development Services/ Development Assessment Coordinator</p>



Policy

	<ul style="list-style-type: none"> • peer review by neighbouring council/ independent consultant • determination by Divisional Manager or Director Planning and Sustainability Services • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). • Note – see Part 5 – applications relating to the primary residence are excluded. <p>f. Council staff - general The following management controls apply to the assessment of an application for council-related development</p> <ul style="list-style-type: none"> • Noted on the Planning Portal (the portal provides a question if you have any relationship with staff or a Councillor). <p>g. Regulation and enforcement of approved council-related development</p> <ul style="list-style-type: none"> • Engagement of a private certifier • Shared services arrangement with a neighbouring council • Use of an independent lawyer/ legal firm <p>h. Construction/ Complying Development Certificates of approved council-related development with a capital investment value greater than \$2,000,000.00</p> <ul style="list-style-type: none"> • Engagement of a private certifier (as per the Building and Development Certifiers Regulation) <p>i. Construction / Complying Development Certificates of approved council staff/councillor related development with a capital investment value greater than \$2,000,000.00</p> <ul style="list-style-type: none"> • Engagement of a private certifier (as per the Building and Development Certifiers Regulation) 	
<p>5</p>	<p>Development where no management control/strategy required</p> <ul style="list-style-type: none"> • Internal alterations where no change of use • Minor additions to a residential dwelling (deck, shed) • commercial fit outs and minor changes to the building façade • advertising signage (related to an approved development) • minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services) • staff/ councillor applications where the proposal relates to the dwelling and/or associated structures of their primary address. • Development on Council land by a third party where it is consistent with an approved Plan of Management. 	<p>Divisional Manager Development Services/ Development Assessment Coordinator</p>
<p>6</p>	<p>Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls</p>	<p>Responsibility</p>

PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

	<p>Development applications lodged with the council that are council-related development or council staff/councillor related development are to be assessed in accordance with this policy and a management strategy prepared. The management strategy is to be publicly exhibited with the application (if public exhibition occurs) and kept on the file/register associated with this policy.</p> <p>The management strategy must state the following:</p> <ul style="list-style-type: none"> • assess whether the application is one in which a potential conflict of interest exists, • identify the phase(s) of the development process at which the identified conflict of interest arises, • assess the level of risk involved at each phase of the development process, • apply Part 4 of this policy – Management control and strategies, • document the proposed management approach for the proposal in a statement that is publicly exhibited with the application. 	<p>General Manager</p>
<p>7</p>	<p>Concerns</p> <p>Public concerns communicated to Council in relation to this policy will be recorded on Council’s records system and handled in accordance with Council’s Customer Service or Complaints policy. These records will be used to determine any follow-up actions and analyse the history of reported public concerns.</p>	<p>General Manager</p>
<p>8</p>	<p>Consultation</p> <p>The draft policy is required to be publicly exhibited for a period of 28 days in accordance with Schedule 1, Community Participation of the Environmental Planning and Assessment act 1979.</p>	<p>Divisional Manager Development Services</p>

PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Review

The policy will be automatically revoked at the expiration of twelve months after the declaration of the poll for the next general NSW local government election, unless Council revokes it sooner.

Note: Automatic revocation of the policy is provided for by section 165(4) of the Local Government Act 1993. The next general local government election is expected to be held in September 2024.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages conflict of interest in the development process.

Reviews of the effectiveness of this policy could include the following:

Performance indicator	Data source(s)
Number of conflict-of-interest risk assessments versus number of council related applications	ECM
Delivery Program/ Operational Plan outcomes achieved	Council reporting
Concerns or complaints registered	Council records
Internal or external review	Audit

Governance

This policy should be read in conjunction with any related legislation, codes of practice, relevant internal policies, and guidelines.

Related legislation and policies

Name	Link
Related Council Policy or Code of Practice	Council policies Eurobodalla Council (nsw.gov.au)
Local Government Act 1993	Local Government Act 1993 No 30 - NSW Legislation
Environmental Planning and Assessment Act 1979	Environmental Planning and Assessment Act 1979 No 203 - NSW Legislation
Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022	sl-2022-579 (nsw.gov.au)

Related external references

Name	Link
Office of Local Government	www.olg.nsw.gov.au
Department of Planning and Environment	NSW Dept of Planning and Environment

Supporting documents

Name	Link
Risk Assessment	.

PSR23/019 CONFLICT OF INTEREST POLICY - DEALING WITH COUNCIL RELATED DEVELOPMENT APPLICATIONS

ATTACHMENT 1 DRAFT CONFLICT OF INTEREST POLICY



Policy

Change history

Version	Approval date	Approved by	Min No	File No	Change
1		Council			
2		Council			
3		Council			

Internal use

Responsible officer	Director Planning and Sustainability Services			Approved by	Council
Minute #		Report #		Effective date	
File	E16.0297	Review date	Sep 2025	Pages	6

DRAFT

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

**S011-
T00003**

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services (Acting)

Attachments: 1. Under Separate Cover - Under Separate Cover - Quarterly Budget Review for period ending 31 March 2023

Outcome: 5 Our engaged community with progressive leadership

Focus Area: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable

Operational Plan Link: 5.3.1.1 Provide sound and strategic financial management and reporting

EXECUTIVE SUMMARY

This Budget Review reports on Council's performance against the current Operational Plan budget for the quarter ending 31 March 2023. The quarterly budget review acts as a barometer of Council's financial health during the year. It also discloses Council's forecasted financial position for the year end in order to make informed, transparent decision making.

The original Operational Plan budget, on a consolidated basis (which includes all of Council's funds), for 2022-23 forecasts were:

- Operating result, before capital revenue, of (\$1.23 million) deficit
- Operating result, after capital revenue, of \$41.62 million surplus
- Increase of \$1.30 million in unrestricted funds.

The proposed revised budgets for the quarter ending 31 March 2023 are:

- Operating result, before capital revenue, of (\$2.49 million) deficit
- Operating result, after capital revenue, of \$53.99 million surplus
- Decrease (usage) of \$19.12 million in unrestricted funds

Council remains concerned with the impact of decisions on cash and operating deficits in the current year with trends of ongoing operating deficits which may be unsustainable in the longer term.

RECOMMENDATION

THAT:

1. The budget review report (including attachments) for the quarter ended 31 March 2023 be received and noted.
2. The revised budget be adopted based on the proposed adjustments as presented.
3. New loans of up to \$11,788,930 be raised in accordance with Council's borrowing policy and the Council seal be affixed to the loan agreement documentation.

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

**S011-
T00003**

BACKGROUND

Council reviews its performance and financial results against the adopted Operational Plan quarterly, authorises adjustments to budget items, and highlights variations from its original budget strategy.

It should be noted that the results referred to in this report are unaudited.

The attachments to this report are as follows:

Financial reports (Attachment 1)

These reports provide information on Council's performance against its financial objectives contained in the Operational Plan, presented for the consolidated entity.

Financial reports include:

- a) Consolidated Fund Flow Statement – This report shows the impact of operating, financing and investing activities on Council's unrestricted working capital.
- b) Consolidated Income Statement – Provides sources of income and expenditure, including depreciation, per Council service areas.
- c) Consolidated Capital Program Statement – Provides capital expenditure information for each program area and associated services.
- d) Projected Funds Balance Statement – Provides information on the movements in both unrestricted and restricted fund accounts.
- e) Budget Amendment Report – Provides details of proposed significant adjustments to budgets.
- f) Special Rate Variation (SRV) capital program – Provides capital expenditure information for each of the projects in the SRV program of works.

Consultancy, Legals and Contractors Report (Attachment 2)

This attachment provides information on major contracts entered into, legal fees incurred and consultancy costs.

Key Financial Indicators (Attachment 3)

This attachment provides information about key financial indicators designed to assist in monitoring Council's financial sustainability. The indicators are for the consolidated entity.

Mayoral and Councillor Expenses (Attachment 4)

Provides information about Mayoral and Councillor expenditure.

The Bay Pavilions Income Statement (Attachment 5)

Provides income and expenditure, including depreciation for the Bay Pavilions.

CONSIDERATIONS

Consolidated Fund flow Statement (Attachment 1(a)):

Council requires sufficient funds to pay for its debts as and when they fall due. The Fund Flow Statement shows the change in Council's freely available funds or working capital.

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

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It includes all transactions having an impact on Council's funds i.e. income and expenses from its operating activities, capital program and borrowing activities. It also includes the transfer into or use of restricted funds for capital or non-recurrent projects. Depreciation is not included as it does not represent a cash flow.

The net fund flow shows the amount of unrestricted funds that will be used to deliver the agreed Operational Plan outcomes for 2022-23. The consolidated original budget forecast a \$1.30 million increase to unrestricted funds. The impact of quarterly review amendments result in a projected decrease to unrestricted funds of \$19.12 million for 2022-23.

Table 1.1 Net Increase (decrease) in unrestricted funds, per fund, \$'000

Fund	2022-23 Original Budget	Previous Reviews	March Review	2022-23 Proposed Revised Budget
Water	(1,077)	(17,584)	352	(18,309)
Sewer	1,126	(422)	354	1,058
Waste	1,903	(151)	480	2,233
Environment	235	(12)	7	230
General	(887)	(4,151)	710	(4,328)
Consolidated	1,300	(22,320)	1,903	(19,117)

Consolidated Income Statement (Attachment 1(b)):

The Consolidated Income Statement shows the types of income, and expenditure per council service areas. This result can indicate whether Council is able to raise sufficient revenue to cover the operational cost (including depreciation which measures the wear and tear of Council assets) of delivering services to the community before considering its capital revenue.

The result can be impacted by the timing of project funding, where funds are received in a different year to the expenditure taking place.

The proposed revised budget, incorporating all quarterly budget adjustments is an operating deficit of \$2.49 million before capital revenue.

Table 1.2 Net Surplus/ (deficit) before capital revenue, \$'000

Fund	2022-23 Original Budget	Previous Reviews	March Review	2022-23 Proposed Revised Budget
Water	2,520	(76)	495	2,939
Sewer	726	(262)	452	916
Waste	1,221	(6)	480	1,693
Environment	179	(237)	96	38
General	(5,878)	(5,297)	3,102	(8,074)
Consolidated	(1,233)	(5,879)	4,624	(2,488)

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Operating deficits in General Fund have a significant impact on the consolidated operating deficit.

March Review Adjustments (Operating)

The proposed March review adjustments see a \$4.62 million improvement from the operating deficit of \$7.11 million at December, resulting in a year end estimated operating deficit of \$2.48 million.

Significant operational adjustments this quarter relate primarily to General fund and include:

- \$0.61m improved revenue at Council’s Caravan and Camp grounds
- \$2.44m increased investment income across all funds (being \$1.01m in General Fund)
- \$2.06m receipt of grant funds for pothole repair works to be undertaken
- \$0.26m revised transport reseal renewal works
- \$0.43m operational savings identified across the organisation including vacant positions
- \$0.78m recognition of increased depreciation expense for the Bay Pavilions
- \$0.26m increased IT licence costs

March Review Adjustments (Capital)

The proposed March review adjustments to the operating result after capital see a \$7.25 million improvement from the December review, resulting in a year end estimated operating surplus of \$53.99 million.

Table 1.3 Net Surplus/(deficit) after capital grants and contributions \$'000

Fund	2022-23 Original Budget	Previous Reviews	March Review	2022-23 Proposed Revised Budget
Water	22,620	5,624	1,221	29,465
Sewer	2,926	37	2,043	5,006
General	16,073	(540)	3,983	19,516
Consolidated	41,619	5,121	7,247	53,987

A budget variation of \$3.52 million for developer contributions resulting from increased development activity in the Shire improves the net surplus after capital grants and contributions.

Capital grants received this quarter include Stronger Country Communities funding of \$787,000 for works at Eurobodalla Regional Botanic Gardens, Batemans Bay BMX Carpark, Malua Bay and Captain Oldrey Park, Get NSW Active grants of \$450,000 for pathways works and other capital grants for Moruya Airport, gravel resheet projects and disaster recovery works. Revised timing

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

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of grant funds received for significant works including Surf Beach Emergency Services Precinct, Coastal Headlands Walk construction, South Batemans Bay Stormwater Upgrade also impact the net surplus after capital grants and contributions.

Consolidated Capital Program Statement (Attachment 1(c)):

Capital Program

The original capital expenditure budget for 2022-23 was \$96.50 million. The proposed revised budget, incorporating quarterly variations is \$129.44 million.

Table 1.4 Capital Program per fund, \$'000

Fund	2022-23 Original Budget	Previous Reviews	March Review	2022-23 Proposed Revised Budget
Water	30,390	29,982	-	60,372
Sewer	23,720	(1,951)	-	21,769
General	42,390	11,381	(6,468)	47,303
Consolidated	96,500	39,412	(6,468)	129,443

Capital budget adjustments totaling \$6.47 million have been made during the March quarter and affect the current year's capital program. In recognition of a large capital program, Council's program has been reviewed and some works staged this year and into next financial year. Revised timing of capital projects include:

- \$2.30m Surf Beach Emergency Services Precinct
- \$2.36m Fleet Procurement to recognise additional delivery lead times
- \$0.94m South Batemans Bay Stormwater Upgrade
- \$0.70m Coastal Headlands Walk construction
- \$0.66m Brierley's Boat ramp
- \$0.25m Araluen Road disaster recovery works

Special Rate Variation (SRV) – progress update (Attachment 1 (f)):

2022-23 is the seventh year of the SRV program and over \$8.28 million of infrastructure works for the year are underway. \$1.47 million of SRV designated funds are being utilised on these works. As at 31 March 2023, approximately 41% of the programmed SRV works for this year have been expensed. Total expenditure on the SRV designated projects as at 31 March 2023 is \$3.37m (per attachment 1(f)).

Attachment 1 (f) reports the detailed progress of the capital program showing individual project budgets and expenses with updates as at 31 March 2023.

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

**S011-
T00003**

The Bay Pavilions Income Statement (Attachment 5)

The original 2022-23 budget forecast a \$3.24 million operating deficit for The Bay Pavilions. The September review included budget variations for revenue and variations relating to insurance and increased electricity expenditure. There were no variations for the December quarter. This March review includes adjustments for depreciation. As a result of the quarterly budget variations, the forecast operating deficit is now \$4.69 million. A review of the Bay Pavilions, now in its second year of operation, is currently underway. This review will help guide a more sustainable financial future for the facility.

Legal

This review is based on the Quarterly Budget Review Statement Guidelines issued December 2010, pursuant to the provisions of the *Local Government Act 1993* relating to integrated planning.

Policy

The accounting policies being used are based on those detailed in the financial statements for the year ended 30 June 2022.

“Variations” in the Fund Flow Statement are changes in the funding requirements where “funds” are net current assets (working capital) excluding both internal and externally restricted funds.

CONCLUSION

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 2005:

As the Responsible Accounting Officer, it is my opinion that the March Quarterly Budget Review for Eurobodalla Shire Council indicates that Council’s projected financial position, as at 30 June 2023, will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

The March Quarterly Budget Review Statement projects an operating deficit for Council in the current year. Like many Councils across New South Wales, Eurobodalla is facing financial challenges due to the limited ability to increase revenue, continued increases in CPI, wages and operating costs. This means services delivered by Council to the community are becoming more expensive.

The new General Manager has outlined several actions to mitigate these challenges which include:

- A review of Council’s operating income and expenditure to minimise the impact of cost increases on operating performance
- Development of a finance strategy
- Review of the capital works program to deliver and meet priorities identified in our Community Strategic Plan – Our Eurobodalla 2042
- Reprioritise existing work programs and consider Council’s approach to grant funded works

**FCS23/003 QUARTERLY BUDGET REVIEW FOR PERIOD ENDING 31 MARCH
2023**

**S011-
T00003**

- A review of Council's existing internal reserves.

FCS23/004 INVESTMENTS MADE AS AT 30 APRIL 2023

S011-T00006,S012-T00025

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services (Acting)

Attachments: Nil

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable

Operational Plan Link: 5.3.1.1 Provide sound and strategic financial management and reporting

EXECUTIVE SUMMARY

The purpose of this report is to:

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

RECOMMENDATION

THAT the certification of investments as at 30 April 2023, made in accordance with the *Local Government Act 1993*, Council's Investment Policy and the provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, be received.

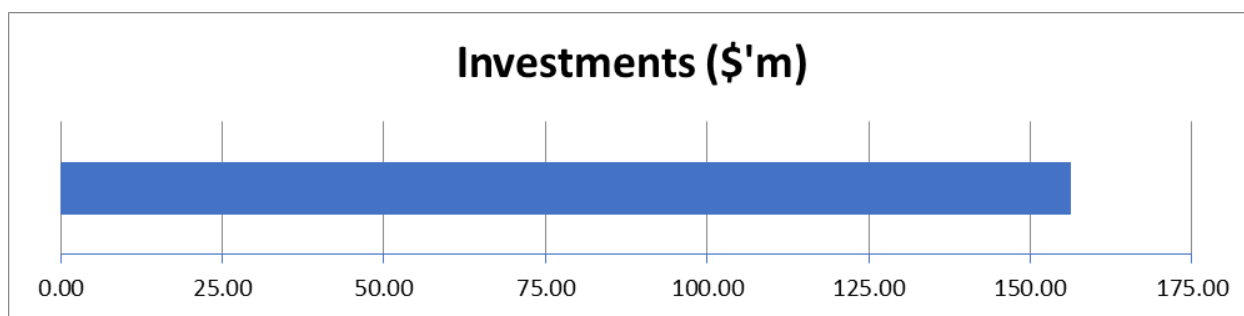
CONSIDERATIONS

Policy

The portfolio is compliant with Council's Investment Policy adopted by Council on 9 August 2022 (Minute 22/190).

Financial

Council investing overall



FCS23/004 INVESTMENTS MADE AS AT 30 APRIL 2023

S011-T00006,S012-T00025

Council has \$158.41M (100%) invested in bank deposits. The bank deposits are held in banks rated A or greater, or covered by the AAA rated Government guarantee, except for \$34.5M invested in banks rated below A, and in the 'some limited risk' category of the policy.

Investments decreased by \$8M during April 2023 due to normal variations in timing of cash flows.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently there is 21.78% invested in BBB+ rating category. Investment in Government guaranteed deposits is \$1.75M representing 1.10% of the portfolio.

There are \$58.0M (36.61%) of funds invested in institutions which either have no direct financing exposure to projects in the fossil fuel sector or no longer directly finance projects in the fossil fuel sector but still have some exposure from historical funding.

The weighted average return for all investments for the month is 3.98%, which is above the Council policy benchmark of bank bill swap rate (BBSW) + 0.25% (3.92%).

Summary investment information

The following table is a summary of investment categories and balances at month end.

CATEGORY	(\$)
At call deposit	12,147,038
Term deposits	144,510,000
Term deposits Government guaranteed	1,750,000
	158,407,038
<i>Weighted average interest %:</i>	3.98%
<i>Average 90 day BBSW + 0.25%</i>	3.92%

FCS23/004 INVESTMENTS MADE AS AT 30 APRIL 2023

S011-T00006,S012-T00025

Policy and liquidity risk

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

Policy risk	Low liquidity risk %	Total % of investments	Policy risk % (max holdings)
Remote risk	1.10	1.10	100.00
Near risk free	77.12	77.12	100.00
Some limited risk (BBB+)	21.78	21.78	30.00
Grand total	100.00	100.00	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1, and the audited unrestricted current ratio as at 30 June 2022 is 3.63:1. Council therefore has approximately \$3.63 of current assets for each \$1 of current liabilities.

CONCLUSION

Pursuant to provision of Clause 1 (Reg. 212) of the *Local Government (General) Regulation 2005*, I hereby certify that these investments have been made in accordance with *the Local Government Act 1993* and related regulations.

IR23/010 LOCAL TRAFFIC COMMITTEE NO 9 FOR 2022-23

S030-T00018

Responsible Officer: Tony Swallow - Acting Director Infrastructure Services
Attachments: Nil
Community Goal: 4 Our connected community through reliable and safe infrastructure networks
Community Strategy: 4.1 Provide integrated and active transport networks to enable a connected and accessible Eurobodalla
Delivery Program Link: 4.1.1 Plan for an integrated and active local transport network, guided by the NSW Government's Future Transport 2056 Strategy
Operational Plan Link: 4.1.1.3 Coordinate the Local Traffic Committee

EXECUTIVE SUMMARY

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

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report. The main issues covered at the Eurobodalla Local Traffic Committee meeting held 4 May 2023, are as follows:

- Signage and Line Marking – Shared pathway George Bass Drive Lilli Pilli.

RECOMMENDATION

THAT:

1. Council Plan 3455 Q Sheet 1-6 detailing shared pathway on George Bass Drive from Beach Road to Carramar Drive Lilli Pilli be approved.
2. Moruya HPAA work order detailing signage and line marking for Queen Street and Church Street Moruya be approved.
3. The Traffic Management Plan and Traffic Control Plans for the Narooma Oyster Festival, to be conducted on Riverside Drive between Thursday 4 May to Saturday 6 May 2023 be approved.

IR23/010 LOCAL TRAFFIC COMMITTEE NO 9 FOR 2022-23

S030-T00018

BACKGROUND

The Eurobodalla Local Traffic Committee Meeting No 9 for 2022-23 was held on 4 May 2023. The meeting was attended by Councillor Amber Schutz (Chair), Senior Sgt Scott Britt (NSW Police), Emma Pietruska (Transport for NSW), Kate McDougall (Traffic Officer), Geoff Armstrong (Design Coordinator), Sheree Ward and Lexus Croser (Infrastructure Support Officer), Sian Dyce (representative for Michael Holland MP).

APOLOGIES

Nil

DEPUTATIONS

Nil

MINUTES OF PREVIOUS MEETING

The minutes of the Eurobodalla Local Traffic Committee Meeting No 8 for 2022-23 held on 6 April 2023 were confirmed and accepted.

OUTSTANDING ITEMS FROM PREVIOUS MEETING

Nil

ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION

2023.RT.029 Signage and Line marking Shared pathway George Bass Drive Lilli Pilli

Council was successful in securing \$750,000 in funding under the NSW Government's Transport for NSW (TfNSW) Active Transport Grant Program for Walking and Cycling infrastructure. This program is a joint effort to encourage people to walk or cycle as part of their everyday commute. Council was also successful in securing \$106,250 in funding under the NSW Stronger Country Communities Fund. This program aims to boost the wellbeing of communities in regional areas by providing funding for new and upgraded social and sporting infrastructure.

Both grants support work identified in the Northern Area Transport Network Plan, and complement Councils adopted 'Eurobodalla Pathways Strategy June 2017, A strategy for safe walking and cycling pathways in Eurobodalla Shire'.

A multi-faceted approach is taken to determine suitable sites, based on both the Eurobodalla Pathways Strategy and TfNSW guidelines. Other practicalities are also considered such as tying in with other construction projects like kerb and gutter or pavement rehabilitation works.

LTC Recommendation:

That Council Plan 3455 Set Q Sheet 1-6 detailing shared pathway on George Bass Drive from Beach Road to Carramar Drive, Lilli Pilli, be approved.

INFORMAL ITEMS FOR DISCUSSION

6.1 2023.IN.010 Moruya HPAA 30km/h zone

Council was successful in securing \$15,000 under the NSW Government 2022/2023 High Pedestrian Activity Area (HSPAA) Speed Management Program. The funding covers the project

IR23/010 LOCAL TRAFFIC COMMITTEE NO 9 FOR 2022-23

S030-T00018

of HPAA in Queen Street and Church Street, Moruya, speed zone review (TNSW) and related line marking and signage.

Funds for HPAA are consistent with the Moruya East Street Revitalisation project. This project is aimed at helping make our community a better, safer, and more inclusive community in which to live, work, visit and invest.

The original signage and line marking safety and traffic management program was brought to the LTC meeting held 12 April 2022 approving Council Plan No. 5156 Set BQ Sheets 03,19,20 and 21 detailing the signage and line marking associated with the Moruya CBD east Church Street and Queen Street raised pedestrian crossings, Ford Street median and 2-hour parking restrictions adjusted.

Relevant minutes relating to Moruya HPAA determination at LTC meeting of 12 April 2022 are attached.

LTC Recommendation:

That Moruya HPAA work order detailing signage and line marking for Queen Street and Church Street Moruya be approved.

6.2 2023.SE.012 Special Event Application — Narooma Oyster Festival

Traffic Management and Control Plans have been received for the 2023 Narooma Oyster Festival to be conducted around Wagonga Inlet foreshore in the vicinity of Quota Park on Riverside Drive, Narooma.

Road closures and detours will be in place between 7am on Thursday 4 May and 11.30pm on Saturday 6 May. A section of Riverside Drive will be closed with a detour in place around Bettini Lane, Fosters Bay Road, and Lynch Street.

This special event submitted to Council is comprised essentially of stalls and fun events. It is estimated that there will be about 100 participants/organisers and 4000 spectators/customers.

In the past parking was available in the various on-street and off-street areas in the vicinity of Quota Park and beyond with a relatively short walk from the 'Narooma Flat' CBD area that will service the needs of attendees of the event.

The Traffic Control Plan indicates there are ample traffic control staff to arrange entry and exit of delivery vehicles for businesses when required at the road closure points.

LTC Recommendation:

That the Traffic Management Plan and Traffic Control Plans for the Narooma Oyster Festival, to be conducted on Riverside Drive between Thursday 4 May to Saturday 6 May 2023 be approved.

IR23/010 LOCAL TRAFFIC COMMITTEE NO 9 FOR 2022-23

S030-T00018

GENERAL BUSINESS

7.1 South Head Road speed zone review

It is proposed, due to the increasing cyclist and pedestrian activity east past Halyard Drive, sight distance concerns around the intersection and relatively short extension length, that the 60km/h zone be extended west by 600m to capture the intersection. This marks a change in the rural to urban roadside development, with shared pathways, school children and bus stop activity and the street lighting.

There is an approximate plan for installation of this speed zone for early May.

BACKGROUND

Late 2021 a preliminary speed zone triage was done on the eastern end of the 80km/h zone on South Head Road, at the intersection with Halyard Drive. This is approximately 250-300m from the changeover with the 60km/h zone, which was moved west in 2018.

As there was no crash history and Council undertook vegetation maintenance at the intersection following customer enquiries, Transport for NSW monitored this section of South Head Road. Following a request from Marshall's Bus Company, a site inspection was undertaken in July 2022. A petition was circulated last year by local residents, and a full speed zone review was undertaken.

Council previously had concerns with non-compliance regarding the speed zone, but considering the extension is only 500m and includes a curve and intersection, it is suitable and desirable for road users to be 'slowing down' as they head into the 60km/h zone. It will also improve stopping sight distance for road users travelling along South Head Road.

NEXT MEETING

The next meeting of the Eurobodalla Local Traffic Committee will be held on Thursday 1 June 2023 in Council's Glass Meeting Room and via MS Teams, commencing at 9.30am.

CAR23/008 COMMUNITY DEVELOPMENT FUNDING

S003 T00040

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services
Attachments: Nil
Community Goal: 2 Our community that welcomes, celebrates, and supports everyone
Community Strategy: 2.3 Provide rich learning opportunities and experiences
Delivery Program Link: 2.3.3 Develop and provide early education services and programs that promote learning and development
Operational Plan Link: 2.3.3.3 Deliver grant funded child and family development programs

EXECUTIVE SUMMARY

This report seeks approval from Council to accept of the offer of grant funds of \$6,500 via the Inger Rice Foundation for Children's Services and \$10,000 of funding from the Department of Education (Training Services NSW) via the Regional Industry Education Partnership program for the Employment Projects team.

The Children's Services project will serve to connect families across the shire and support early childhood development.

The Employment Project's funding will support local high school students with WHS training to prepare for construction and trade employment opportunities that will be needed to support major local infrastructure projects.

RECOMMENDATION

THAT Council:

1. Accept the offer of \$6,500 from the Inger Rice Foundation for the Embracing and Connecting Families project; and
2. Accept the offer of \$10,000 from the Department of Education for the *Building Health Pathways Moruya Hospital* project.

CONSIDERATIONS

Children's Services

Children's Services successfully implemented a round of activities recently for families to connect in support of recovery from Covid and bush fires. The activities were well patronised indicating that the community has an appetite for these types of activities which simultaneously enable services to connect and build awareness of their availability.

Activities planned will target wellbeing and reconnecting activities for parents and babies to pre-school aged children. Disadvantaged and hard-to-reach families will be targeted.

These will be offered in small community groups across the shire offering soft entry into community in May and June 2023 including national Families Week.

The aim is to strengthen community engagement, wrapping supportive activities around our existing programs and offering opportunities for vulnerable families to engage in activities whilst also raising awareness of support available and connecting with others.

CAR23/008 COMMUNITY DEVELOPMENT FUNDING

S003 T00040

The project will also aim to increase awareness of the important role parents play in the development of early literacy and numeracy and improve skills and access to resources to engage with their children.

Employment Projects

The impending large infrastructure projects for the shire, such as the new hospital, will require workforce to support construction and implementation. The Employment Projects team have been working with stakeholders and industry to develop skill sets and pathways to help feed workforce and skill requirements. The Regional Industry Education Partnership (REIP) program will support local high school students to upskill for future career pathways in construction or trade industries.

The funding will be used to train 15 school students from local high schools to work safely in the construction industry and work as a safety observer/spotter. Student participants will receive WHS training and will be offered additional supports via the Employment Projects service to ensure they are work ready for upcoming employment opportunities in the construction of the new Moruya Hospital.

Social Impact

These two programs are responding to community need by providing support and connection to the services and outcomes required in our community.

We now have successfully implemented programs of similar nature for various industries and projects that link job seekers and students with emerging workforce needs that have real employment opportunities attached to the outcomes.

Developing a local workforce for jobs and industry growth in the shire helps maintain our young population whilst growing our local infrastructure.

Connecting families and services that are still recovering from natural disasters will be required for some time to come. Gaining support to continue connection of services with families who need them is invaluable. It is vitally important to ensure the support of children at this point in time of our history to reduce the longer term impacts of trauma and strain on our systems in the future.

Economic Development Employment Potential

The Employment Project funding is directly linked to ensuring local young people will be embarking on a pathway for employment when the successful tenderers start work and are seeking junior and local workers to supplement their trade teams.

Local training providers will be used resulting in the funds being expended locally.

Financial

The NSW Department of Education (Training Services NSW) has offered \$10,000 to support the *Building Health Pathways Moruya Hospital project* via the Regional Industry Education Partnership program.

The Inger Rice Foundation has resulted in an offer of \$6,500 to offer the 'Embracing and Connecting Families' program across the shire.

CAR23/008 COMMUNITY DEVELOPMENT FUNDING

S003 T00040

Community and Stakeholder Engagement

We will inform the community through providing information on Council's website; Online News; Living in Eurobodalla residents newsletter; posting on Council's Facebook and Twitter and distributing a media release.

We have collaborated with the community through seeking advice, ideas, and recommendations from industry group meetings and networks, training services, local services and participatory decision making at the Children's Services forum.

CONCLUSION

Council services have been supporting the community through innovative and collaborative activities and events that respond to emerging community needs and gaps in service. Particularly taking the initiative to work in with new initiatives or supporting our community with recovery, funding bodies are receptive to relevant and effective programs and Council's reputation for delivering community development initiatives.

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@esc.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
The Office of Local Government	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	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.