



# AGENDA

## Ordinary Meeting of Council

**21 May 2024**

### **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 21 MAY 2024**

**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 30 April 2024
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**  
(Declarations also to be made prior to discussions on each item)
- 6. PUBLIC FORUM**
- 7. MAYORAL REPORTS**  
Nil
- 8. NOTICES OF MOTION**  
Nil
- 9. QUESTIONS ON NOTICE FROM COUNCILLORS**  
Nil
- 10. PETITIONS**  
Nil

**Page No.**

**11. GENERAL MANAGER'S REPORTS**

GMR24/004 Mid-Point Review - Mogo Trails and Coastal Headlands Walking Trail .... 4

**12. PLANNING AND ENVIRONMENT REPORTS**

PSR24/008 Council Submission to Inquiry into historical development consents in NSW - Legislative Assembly Committee on Environment and Planning .. 9

PSR24/009 Draft Housing Strategy ..... 13

PSR24/010 Draft Eurobodalla Heritage Strategy ..... 19

**13. FINANCE AND CORPORATE SERVICES REPORTS**

FCS24/012 Quarterly Budget Review Statement for period ending 31 March 2024 23

FCS24/013 Investments made as at 30 April 2024..... 29

FCS24/014 Request for Tender No. 2324-112 Water Tanker Support ..... 33

FCS24/015 Nelligen Water Supply and Sewer Scheme Easements ..... 37

**14. INFRASTRUCTURE REPORTS**

IR24/010 Council Submission to Public Accounts Committee Inquiry into the assets, premises, and funding of the NSW Rural Fire Service ..... 43

IR24/011 Request for Tender No. 10064451 - Moruya Sewer Servicing Works .... 54

IR24/012 Local Traffic Committee No. 9 for 2023-24..... 58

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

CAR24/003 NAIDOC Week Grants program 2024..... 63

**16. URGENT BUSINESS**

**17. DEALING WITH MATTERS IN CLOSED SESSION .....65**

**18. CONFIDENTIAL MATTERS**

**WARWICK WINN  
GENERAL MANAGER**

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**GMR24/004 MID-POINT REVIEW - MOGO TRAILS AND COASTAL HEADLANDS  
WALKING TRAIL**

**S004-  
T00026**

Responsible Officer: Warwick Winn - General Manager

Attachments: 1. Under Separate Cover - Mid-point review – Mogo Trails and Coastal Headlands Walking Trail – Final report

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.2 Proactive, responsive and strategic leadership

Delivery Program Link: 5.2.2 Implement effective governance and long-term planning

Operational Plan Link: 5.2.2.3 Seek grants funds to support identified priority works and services

### **EXECUTIVE SUMMARY**

The purpose of this report is to present the *Mid-point review – Mogo Trails and Coastal Headlands Walking Trail – Final report*.

With the Mogo Trails and Coastal Headlands Walking Trails projects due for completion in December 2024, it was timely to undertake a review of the implications and impacts of both projects, both now and looking forward to the operation and maintenance of these assets.

In December 2023 Council staff engaged Morrison Low to undertake a mid-point review of both the Mogo Trails and Coastal Headlands Walking Trails projects. The scope of the review included:

- undertake a comprehensive review of all aspects of these projects, the risks and liabilities posed to Council
- provide recommendations for a preferred management model for the Mogo Trails, including options for potential transition away from Council management (trust, committee, commercial, etc) and review of the draft management plan
- assess the suitability of Council's existing project management approach and underlying systems and processes for both projects
- identify lessons and improvements for Council in the delivery of program and project management.

This is the second external review (*Bay Pavilions review, KPMG, August 2023*) to recommend Council establish a project management office function. This recommendation is under active consideration among the raft of other organisational changes underway, including the Finance and Grants strategies.

### **RECOMMENDATION**

THAT:

1. Council receive and note the attached *Mid-point review – Mogo Trails and Coastal Headlands Walking Trail – Final report*.
2. The General Manager investigate options to transfer Mogo Trails management and operations to a trust or similar, or a commercial operator.

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**GMR24/004 MID-POINT REVIEW - MOGO TRAILS AND COASTAL HEADLANDS  
WALKING TRAIL**

**S004-  
T00026**

**BACKGROUND**

The Mogo Trails Project comprises 130km of mountain bike trail in the state forests around Mogo. The project is being constructed using a \$5 million grant from the NSW and Australian Governments' Bushfire Local Economic Recovery Fund, and a \$3 million grant from the NSW Government's Growing Local Economies Fund (Restart NSW). Planning commenced in April 2019 and construction is expected to finish by the end of 2024.

The Coastal Headlands Walking Trail comprises 14.5km of natural trails linking the headlands between Batehaven and Mckenzie's Beach. The project, which includes Observation Point, is being constructed using \$6.5 million in grant funding from four different funds, predominantly \$5.25 million from the NSW and Australian Governments' Bushfire Local Economic Recovery Fund. Planning commenced in 2010 and construction is expected to finish by the end of 2024.

**CONSIDERATIONS**

The Mogo Trails and Coastal Headlands Walking Trail projects have been under construction for the past 24 months and are due for completion at the end of 2024. The purpose of the mid-point review was to examine strengths and weaknesses in the project process, including those that impact on delivery phases, and the operationalisation of the projects. The review also provides recommendations for steps that should be taken prior to Council undertaking major projects in the future.

**THE REVIEW**

In December 2023, Morrison Low was engaged by Council to undertake a mid-project review of both the Mogo Trails and Coastal Headlands Walking Trail projects. The objectives and deliverables for this review were:

- A comprehensive review of all aspects of these projects, the risks and liabilities posed to Council.
- The Mogo Trails review should provide recommendations for a preferred management model on completion, including options for potential transition away from Council management (trust, committee, etc) and review of the draft management plan.
- For both projects, assess the suitability of an existing project management approach, and underlying systems and processes.
- Identify lessons and improvements for Council in the delivery of program and project management.

**RECOMMENDATIONS**

**Project Management**

Eurobodalla Shire Council does not have an organisational wide approach to managing projects, supported by training and tools. Both Mogo Trails and Coastal Headlands Walking Trail projects are delivering significant budgets but the project management approach is one that has led to risks and challenges.

The review recommends that Council:

1. Adopt a standard Project Management Framework, templates and tools.

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**GMR24/004 MID-POINT REVIEW - MOGO TRAILS AND COASTAL HEADLANDS  
WALKING TRAIL**

**S004-  
T00026**

2. Adopt a formal governance model as part of the Project Management Framework to monitor projects, resolve escalated problems and resolve any internal conflicts and priorities.
3. Establish a 'hybrid' Project Management Office to oversee the framework, support project managers, provide training and project oversight. Project Managers would still be drawn from relevant directorate staff or contractors.
4. Provide project management training for key project delivery staff. This would include staff delivering major capital projects and other high-risk projects such as events or IT system projects as examples.
5. Have the Executive Leadership Team regularly monitor priority projects to resolve conflicts or remove barriers to projects to ensure organisational priorities are met.
6. Develop a number of shovel-ready projects that can be commenced immediately, with few risks, should grant funding become available.
7. As part of becoming approved as shovel-ready, the operational impacts and whole of life costs are understood and modelled in the Resourcing Strategy.

This is the second external review (*Bay Pavilions review, KPMG, August 2023*) to recommend Council establish a project management function. This recommendation is under active consideration among the raft of other organisational change underway, including the Finance and Grants strategies.

### **Mogo Trails**

The Mogo Trails project was thoroughly researched, scoped, master planned, and the construction costed and controlled. The project management controls are well documented and the project well planned. The main challenge for the Mogo Trails project and risk for Council is that the whole-of-life costs of the Trails are not understood and the governance, management and operational models have not been determined, including the operational budget.

Recommended project improvements include:

1. Adopt an interim Council-led governance model with a view to either seeking expressions of interests from a commercial operator to take over the Mogo Trails operation or transferring the Mogo Trails operation to an Association or similar. Council needs to be the driver of this change.
2. Prepare a full operational budget including whole of life costs and internal overheads.
3. Recruit and appoint an Operations Manager or Executive Officer to manage Mogo Trails. The first trails will be operational in July 2024, so this role is urgent. The role should:
  - a. Develop and implement the budget and management plan.
  - b. Maintain the relationships with key stakeholders including the Batemans Bay Mountain Bike Club (BBMTBC).
  - c. Develop and oversee the implementation of revenue opportunities.



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**GMR24/004 MID-POINT REVIEW - MOGO TRAILS AND COASTAL HEADLANDS  
WALKING TRAIL**

**S004-  
T00026**

- d. Undertake the reporting required for Council and Forestry Corporation NSW (FCNSW).
4. Appoint a marketing officer with specific responsibilities for Mogo Trail marketing, sponsorship and events.
5. Complete the Memorandum of Understanding with BBMTBC and be clear about accountabilities, responsibilities and processes.

The review estimates that Council will need a budget of approximately \$520,000 per year for the maintenance of Mogo Trails. This excludes management and marketing costs, and depreciation to fund renewals.

**Coastal Headlands Walking Trail**

The Coastal Headlands Walking trail was not fully scoped or designed prior to it being funded, and major challenges only became apparent at design. Some of these issues have delayed the project, others have not been actively managed.

The Project Manager is juggling a number of projects and therefore, has not had time to apply the same project rigor as is applied to Mogo Trails.

Recommended project improvements include:

1. Where projects are of a significant size and complexity such as the Coastal Headlands Walking Trail, ensure that the project manager's workload is such that they are able to devote sufficient time to manage the project. The Coastal Headlands Walking Trail project would have benefited with a sole project manager.
2. Investigate a community committee to partner in the operation of the Coastal Headlands Walking Trail.
3. Expedite the process to receive formal approval for the two Crown Land parcels to enable construction to commence as soon as possible.
4. Employ a sole project manager to complete the Coastal Headlands Walking Trail project.

**Financial**

Morrison Low were appointed after a RFQ process using an approved Council Panel. The cost of the mid-point review and preparation of the final report was \$28,297.50 (excluding GST) and was covered by the grant funding.

**CONCLUSION**

In December 2023 Council staff engaged Morrison Low to undertake a mid-point review of both the Mogo Trails and Coastal Headlands Walking Trails projects.

With the Mogo Trails and Coastal Headlands Walking Trails projects due for completion in December 2024, it was timely to undertake a review of the implications and impacts of both projects, both now and looking forward to the operation and maintenance of these assets.

The final report includes recommendations for both the Mogo Trails and Coastal Headlands Walking Trails projects, along with recommendations for the establishment of a Project Management Office within Council's structure.

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**PSR24/008 COUNCIL SUBMISSION TO INQUIRY INTO HISTORICAL  
DEVELOPMENT CONSENTS IN NSW - LEGISLATIVE ASSEMBLY  
COMMITTEE ON ENVIRONMENT AND PLANNING**

**S006-  
T00001**

Responsible Officer: Gary Bruce - Acting Director Planning & Environment

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

### **EXECUTIVE SUMMARY**

The purpose of this report is to outline Council's submission to the Legislative Assembly Committee regarding historical development consents (zombie developments). Councillors will be aware from recent and first-hand experience that these types of developments can be controversial in the community.

This is fundamentally because an approval can be quite dated (in this Shire's experience 40 years old) but enable development to occur without the assessment rigor that would occur with more contemporary assessments and approvals.

The legislation around seeking an approval and commencing a development is quite well known and although it has been altered, the fundamental rule is that if you commence your development through physical works, then the development consent will remain valid forever.

This does create problems for communities when they are caught unaware of historic (or zombie) development approvals, but it also provides certainty for developers seeking and maintaining their finance.

It is therefore recommended that Council submit that if the legislation is to be amended or reviewed, that more certainty could be provided in the *Environmental Assessment Act 1979* and *Regulations* about what constitutes physical works and commencement of an approval. This would benefit both the community and development industry.

### **RECOMMENDATION**

THAT Council:

1. Acknowledges that the NSW Government is responsible for the legislative framework that determines when a development consent is valid or lapses in accordance with the *Environmental Planning and Assessment Act 1979* and its associated Regulations.
2. Support amendments made to the *Environmental Planning and Assessment Act 1979* and its associated Regulations that provide greater certainty around when a development consent is said to have lapsed and conversely specifically what works, or extent of works need to occur for the consent to remain valid.

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**PSR24/008 COUNCIL SUBMISSION TO INQUIRY INTO HISTORICAL  
DEVELOPMENT CONSENTS IN NSW - LEGISLATIVE ASSEMBLY  
COMMITTEE ON ENVIRONMENT AND PLANNING**

**S006-  
T00001**

**BACKGROUND**

Local councils in New South Wales are regulated from a town planning perspective by legislation enacted by the NSW Government. The *Environmental Planning and Assessment Act* regulates all planning decisions in NSW. This includes provisions around when a development application/consent is considered to be operative and also when it is said to have lapsed.

Under the previous and current planning legislation, a development consent can be enacted or 'kept alive' by physical works. The legislation has changed over the years but in essence, works associated with the development consent that occur on the site and within the consent period (usually five years) constitute physical commencement and the consent will therefore last forever.

An example of an historic development consent (zombie development) occurred at Anderson Avenue, Tuross Head. The consent was issued in 1984 and physical works occurred within a year to extend the sewer to the development. This, in accordance with the cited legislation, means that the consent remains valid or "stays alive" for the landowner/developer to construct the subdivision. Under the current legislation, there is no end date to this scenario and the ability to carry out the activities authorised by the consent last forever.

The subdivision was approved at a time when ecological and cultural heritage were assessed but not with the same rigour as they are now. This means that the community's concerns with works occurring that impact on the environment today, but the assessment of that impact occurred 40 years ago, are fair and not ideal.

Whilst these concerns are real, it does not take away the legal reality that the consent has been commenced and the landowner/developer is entitled to carry out works in association with the consent. Much of our current real estate market and financing provisions are also reliant on this fact and any changes to the legislative framework may have consequences for financing.

Council will be aware that in 2020, and under the same provisions, the landowner/ developer had the ability to seek to modify the approval. In accordance with the planning legislation, Council can only assess the changes proposed and not what was originally approved but this modification did require the applicant to obtain an Aboriginal Heritage Impact Permit (AHIP) and did require additional environmental controls through consultation with the Batemans Marine Park Authority and the Natural Resource Access regulator (NRAR). The development was also brought up to conformity with current bushfire protection measures through consultation with the NSW Rural Fire Service.

In essence, the experiences of this Council with historic development consents (zombie developments) were not an ideal situation and councils are balancing the community's expectations (in 2024) with their functions as a planning authority. It must be said that there was a lot of angst, and a lot of time and resources were expended in dealing with the situation.

It does have to be pointed out that the legislative framework is a product of the NSW Government, and they are the only body that has the ability to change the situation.

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**PSR24/008 COUNCIL SUBMISSION TO INQUIRY INTO HISTORICAL  
DEVELOPMENT CONSENTS IN NSW - LEGISLATIVE ASSEMBLY  
COMMITTEE ON ENVIRONMENT AND PLANNING**

**S006-  
T00001**

## **CONSIDERATIONS**

### **Policy**

The *Environmental Planning and Assessment Act* is the overarching piece of legislation that controls planning and land use decisions in NSW. Acts are enacted by the NSW Parliament.

### **Environmental**

A further piece of legislation that affects planning and land use decisions in NSW is the *Biodiversity Conservation Act*. It is also enacted by the NSW Parliament and whilst it does not provide provisions around commencing and lapsing of development consents, it does have savings provisions that recognise older approvals. This was a determining factor in why the Anderson Avenue development was not required to provide updated ecological reports.

### **Community and Stakeholder Engagement**

Council is participating in an inquiry developed by the NSW Legislative Assembly Committee on Planning and Environment regarding historical developments. Council will provide a submission stating that if the legislation is to be amended or reviewed, more certainty could be provided in the *Environmental Planning and Assessment Act 1979* and *Regulations* regarding what constitutes physical works and commencement of an approval.

## **CONCLUSION**

The purpose of this report is to outline the submission to the Legislative Assembly Committee regarding historical development consents (zombie developments). Council will be aware from recent and first-hand experience that these types of developments can be controversial and difficult for the community to comprehend.

It is therefore recommended that Council submit that if the legislation is to be amended or reviewed, that more certainty could be provided in the *Environmental Planning and Assessment Act 1979* and *Regulations* about what constitutes physical works and commencement of an approval. This would benefit both the community and development industry.

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**PSR24/009 DRAFT HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

Responsible Officer: Gary Bruce - Acting Director Planning & Environment  
Attachments: 1. Under Separate Cover - Eurobodalla Housing Strategy 2024-2041  
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: 3.1.3 Work in partnership to encourage and facilitate greater housing diversity and affordability  
Operational Plan Link: 3.1.3.2 Finalise the housing strategy with a focus on addressing affordability

**EXECUTIVE SUMMARY**

The report seeks Council's endorsement to place the draft Housing Strategy on public exhibition for period of 28 days.

Preparing a Housing Strategy is part of the NSW Government's requirements for review of Council's planning framework. The framework and economic assessment are limited to understanding residential development's supply and demand structure.

The Eurobodalla, like much of Australia, faces a housing shortage. The key 'takeaway message' is that the Eurobodalla planning approvals process is not a problem. Eurobodalla has no land supply problem. More houses are approved than built and lots are available for development. Land is also zoned for residential use but not subdivided.

However, some planning regulations and complex structural issues combine to inhibit the provision of affordable housing. While the strategy does look into the sale of units and townhouses, these are a relatively small proportion of the Eurobodalla's households.

Significant structural issues must be addressed if large-scale housing is to be provided; some include raising financial investment, changing our delivery mechanisms, and encouraging additional housing format.

The strategy provides Council with a positive direction that focuses on delivering undersupplied housing forms.

**RECOMMENDATION**

THAT:

1. Council place the draft Housing Strategy on public exhibition for 28 days
2. Following the public exhibition period for the draft Eurobodalla Housing Strategy, a report be prepared for Council giving consideration to any submissions received, with a recommendation for adoption of the Strategy.

**BACKGROUND**

The NSW Government requires Council to review its housing supply and demand and adjust planning controls in line with recommendations and actions set out in the strategy. The

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**PSR24/009 DRAFT HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

strategy was written following a technical report and an audit of housing supply and demand in Eurobodalla.

The Eurobodalla Technical Report (JSA, 2023) suggested that the main issue affecting housing in the Eurobodalla is the sizeable absentee landowner base (27%). It proposed a requirement of 263 houses yearly to meet local housing needs and population growth.

The NSW Government Audit Report conducted by [Gyde, 2023] validates Council's long-term strategic planning targets through future land release areas identified in the *Eurobodalla Local Environmental Plan (2012)*. The land supply audit of the Eurobodalla's housing supply suggests that 310 dwellings a year can meet its housing needs.

The strategy adopted the more conservative dwelling supply target of 310 for evaluating supply and demand. However, the audit and the technical report focus on the supply and take-up of constructed low-density dwellings.

Medium and high-density areas such as residential flat buildings, townhouses, and terrace housing, represent a small proportion of the Eurobodalla's constructed infrastructure compared with other regional locations. When compared with metropolitan proportions, we are well behind. A significant issue is that low-density residential options are costly and sometimes well beyond the reach of first-home or low-income families.

The key 'takeaway message' is that contrary to widespread speculation, the Eurobodalla planning approvals process is not a problem. Eurobodalla has no land supply problem. More houses are approved than built and lots are available for development. Land is also zoned for residential use but not subdivided.

Planning regulations may inhibit some supply options. For instance, the town centres have low-rise height limits that might inhibit buildings that would be profitable and desirable to construct close to shops and services. Regulations are a component of a structural framework that is a barrier to some options. The strategy measures the supply and uptake of existing housing styles. Two things stand out:

- structural issues inhibit the creation of some housing options
- there is no measure or prediction of how the housing demand cycle might change.

Structural inhibitors include:

- the existing subdivision patterns
- the lack of construction of multi-story/ multi-unit structures
- banking and investment obstacles inhibit alternative residential options
- land-use planning regulations do not encourage multi-dwelling housing options
- height controls facilitate costly low-rise and dispersed residential living.

Existing subdivision patterns have created relatively small lots that inhibit the development of multi-story buildings. In Batemans Bay and many other town centres, less than 1000m<sup>2</sup> residential building blocks are too small for commercially viable medium-density residential flat buildings. Consequently, residential zones that allow for medium density and facilitate additional height require developers to consolidate several adjoining blocks to create a large



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**PSR24/009 DRAFT HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

enough building block. Alternatively, the creation of townhouses and terrace housing is limited by narrow frontages and long side boundaries.

Many towns have a height limit of 8.5m, which can limit terrace housing and other medium density housing options. Financial institutions are focused on developments that provide low-density housing or medium to high-density housing within existing town centres that have large enough development blocks. Consequently, the development of alternative residential forms face institutional, subdivision pattern, land-use regulation and building construction obstacles. Council can remove some but not all these obstacles, improving options for investment and development.

However, the strategy affirms the merit of the Council's investment in master plans for Batemans Bay, Moruya, Narooma and later others, as there is a need for diverse housing choices. Council can enable diversity through precinct-level master planning that clusters growth and re-examines height, function, and typology issues, while respecting heritage and settlement character.

The strategy aims to focus Council on improving the supply of affordable housing by focusing on its role in the housing supply and demand area, improving housing diversity, monitoring housing affordability and focusing on locations that will yield the best results for existing and future communities.

It develops a supply strategy, recognises the need to control housing typology and recommends mechanisms to monitor future delivery. The types of houses (urban morphology) and improved urban density to reduce costs, are the key objectives of housing diversity.

Under the theme of housing affordability, Council will focus on residential affordability. Affordability includes rental and purchase. The strategy also recommends making home ownership more affordable by reducing the development costs created through infrastructure development.

The strategy also recognises that Council has a significant role in providing growth nodes and improving activity centres under the theme of housing location. Under the nine objectives, there are 19 actions for Council's implementation.

## **CONSIDERATIONS**

### **Legal**

The strategy commits Council to 19 actions to deliver advocacy and improved policy.

### **Policy**

The strategy recommends changes to Council's existing policy framework. Development of master plans for existing town centres, changes to local environmental plans and development control plans are among the core recommendations.

The plan also recognises that the development control process within Council is relatively efficient and not a significant blockage in housing delivery.

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**PSR24/009 DRAFT HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

**Environmental**

The delivery of the draft Housing Strategy will focus more residential development into existing urban areas and increase residential density. The policy may impact urban environments in some areas but will also reduce the impact of low-density residential sprawl.

**Asset**

Increased density in some areas and some additional residential suburbs will add to increased demand for existing and proposed infrastructure, primarily for recreational space, roads, stormwater telecommunications and power infrastructure. Facilities are underutilised in some areas and require upgrades in others.

**Social Impact**

In common with other parts of Australia, the Eurobodalla faces difficulties providing housing for a diverse market. Affordable housing is in short supply, including dwellings for rent and purchase. Even expensive residential accommodation in many areas, is only available outside holiday seasons, creating demand for year-round rentals. The draft Housing Strategy identifies some possible solutions that Council can attend to but recognises that many are outside of Council's area of influence.

**Economic Development Employment Potential**

The draft Housing Strategy recommends changes in existing urban areas to allow for economic development and growth. Increased density, sometimes increased height and the creation of active villages and towns, especially in the larger town centres like Batemans Bay, Moruya and Narooma will help to alleviate the supply and demand pressures while growing our economy.

The strategy calls for a significant change in housing morphology, which will also require fundamental marketplace adjustment relying less on builders providing houses and more on developers providing medium to high-density options.

**Financial**

Commitment to future work will require the Council to continue to engage staff to prepare more detailed planning documentation.

**Community and Stakeholder Engagement**

Council will place the draft strategy on public exhibition for a period of not less than 28 days. A report will be presented to Council for determination following the exhibition period, incorporating community input.

**CONCLUSION**

Preparing a Housing Strategy is part of the NSW Government's requirements for review of Council's planning framework. The framework and economic assessment are limited to understanding residential development's supply and demand structure.

While the strategy does look into the sale of units and townhouses, these are a relatively small proportion of the Eurobodalla's households. Significant structural issues must be addressed if large-scale housing is to be provided; some include raising financial investment, changing our

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**PSR24/009 DRAFT HOUSING STRATEGY**

**S017-T00003;  
OP0076-S006**

delivery mechanisms, and encouraging additional housing format. The strategy provides Council with a positive direction that focuses on delivering undersupplied housing forms.

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**PSR24/010 DRAFT EUROBODALLA HERITAGE STRATEGY**

**E07.1407**

Responsible Officer: Gary Bruce - Acting Director Planning & Environment  
Attachments: 1. Under Separate Cover - Draft Eurobodalla Heritage Strategy  
Community Goal: 2 Our community that welcomes, celebrates, and supports everyone  
Community Strategy: 2.1 Acknowledge our beginnings, embrace our diversity  
Delivery Program Link: 2.1.2 Manage and promote our natural, cultural and historical heritage identity guided by the Heritage Strategy  
Operational Plan Link: 2.1.2.3 Review of the Eurobodalla Heritage Strategy

**EXECUTIVE SUMMARY**

This report seeks Council's endorsement to publicly exhibit the Eurobodalla Heritage Strategy (Strategy) for a period of not less than 28 days.

Councillors were provided with a briefing on the Strategy on 24 October 2023.

The Strategy will guide the Heritage Committee's direction and enable staff to focus on heritage conservation and management in the Eurobodalla Shire. The Strategy was developed in line with Heritage NSW guidelines.

The Strategy outlines seven key pillars with 32 actions.

Heritage NSW require adoption of the Strategy as a condition for the continuation of grant funding to support heritage management in the Eurobodalla Shire. Following the period of public exhibition, a report will be prepared for Council considering any submissions received, with a recommendation for adoption in order to comply with Heritage NSW's condition.

A copy of the draft Eurobodalla Heritage Strategy for Council's consideration is attached to this report.

**RECOMMENDATION**

THAT Council:

1. Endorse the public exhibition of the draft Eurobodalla Heritage Strategy for a period of not less than 28 days.
2. Following the public exhibition period for the draft Eurobodalla Heritage Strategy, a report be prepared for Council giving consideration to any submissions received, with a recommendation for adoption of the Strategy.

**BACKGROUND**

Council has conducted a successful heritage program over the last 27 years. As part of this program, the Strategy is reviewed every five years or with the election of a new Council.

**CONSIDERATIONS**

The staff, in consultation with the Committee, have reviewed the existing Heritage Strategy. The updated strategy outlines seven pillars for the heritage work in the Council.

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**PSR24/010 DRAFT EUROBODALLA HERITAGE STRATEGY**

**E07.1407**

The seven focal points are:

1. Identification and listing of heritage items, which includes removing items from current lists when they are no longer relevant
2. Providing a Heritage Advisory Service. The services are currently offered by a heritage architect and partly funded by the NSW Government
3. Manage local heritage. There are now six State-significant items on the list; the newest item is All Saints Church in Bodalla
4. Local Heritage Grants Program. Provide and manage a small grants scheme partly funded by the NSW Government
5. Run promotional programs for tourism and provide educational services throughout the shire
6. Manage Council-owned heritage places.

The strategy includes 32 actions divided between each of the focus areas.

**Legal**

Adoption of the draft Heritage Strategy is a requirement of Council's funding agreement with the Heritage Division, NSW Office for Environment and Heritage.

The responsibility for managing and regulating cultural heritage in NSW is split between the State and Local Governments.

Local government is responsible for local heritage through environmental planning instruments, heritage advisory services and community engagement.

**Policy**

The draft Heritage Strategy aligns with the aspirations in Council's Community Strategy Plan (the Plan) to value local heritage. The Heritage Strategy articulates how Council meets its statutory and community responsibilities while meeting the Plan's goals to respect our heritage and unique culture, acknowledging our beginnings and embracing our diversity.

**Environmental**

There are no specific environmental implications of the Strategy other than contributing to the conservation of the built and natural environment.

**Asset**

The Strategy helps guide the management of Council owned and/or operated heritage assets. It should also be highlighted that the Eurobodalla Shire has six State-significant heritage items.

**Social Impact**

Heritage will be valued and enjoyed by the community.

**Economic Development Employment Potential**

Employment and economic activity are enabled through the Local Heritage Places Grants program which supports the owners of local heritage to employ local tradespeople to conduct conservation works on their heritage items.

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**PSR24/010 DRAFT EUROBODALLA HERITAGE STRATEGY**

**E07.1407**

**Financial**

Council contributes \$14,000 per annum towards a Heritage Advisor to provide professional heritage advice to inform decision-making by staff and owners of heritage items in order to best manage, conserve and protect shared cultural heritage in Eurobodalla. Heritage NSW also contributes \$6,000 per annum for the Heritage Advisor.

Council contributes \$7,000 per annum towards a Museum Advisory Service. Museum and Galleries NSW also contributes \$7,000 per annum to this service.

Council contributes \$19,000 per annum towards a Local Heritage Grants fund to support the conservation and maintenance of heritage items. Heritage NSW also contributes \$6,500 per annum to this fund.

**Community and Stakeholder Engagement**

Council will inform the community through providing information on its website.

The Heritage Advisory Committee has been involved in the development of the draft Heritage Strategy. A number of workshops were held to facilitate the review by the Committee.

**CONCLUSION**

It is recommended that Council endorse the public exhibition of the draft Eurobodalla Heritage Strategy for a period of not less than 28 days.

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**FCS24/012 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 31  
MARCH 2024**

**S011-  
T00003**

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

Attachments: 1. Under Separate Cover - Quarterly Budget Review for period ending 31 March 2024

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 Quarterly Budget Review Statement (QBRs) reports on Council's performance against the Operational Plan for the quarter ending 31 March 2024. The QBRs acts as a barometer of Council's financial health during the year. It also discloses Council's forecasted financial position for the year end to assist with informed and transparent decision making.

Council's original budget for 2023-24, on a consolidated basis was an:

- operating result, before capital revenue, of (\$6.85 million) deficit
- operating result, after capital revenue, of \$75.93 million surplus
- decrease (usage) of \$27.18 million in unrestricted funds.

The proposed revised annual budget is an:

- operating result, before capital revenue, of (\$2.37 million) deficit.
- operating result, after capital revenue, of \$58.28 million surplus.
- decrease (usage) of \$26.52 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 that may be unsustainable in the longer term.

### **RECOMMENDATION**

THAT:

1. The Quarterly Budget Review Statement (including attachments) for the quarter ended 31 March 2024 be received and noted.
2. The revised budget be adopted based on the proposed adjustments as presented.

### **BACKGROUND**

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

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

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**FCS24/012 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 31  
MARCH 2024**

**S011-  
T00003**

**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, by Council service.
- 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 listing 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 for the March quarter.

**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 expenses as and when they fall due. The Fund Flow Statement shows the change in Council's freely available funds or working capital.

It includes all transactions that 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 consolidated original budget forecasted a \$27.18 million decrease in unrestricted funds. Adjustments to the March budget review result in a projected decrease to unrestricted funds of \$26.52 million.

**FCS24/012 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 31  
MARCH 2024**

**S011-  
T00003**

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

Fund	2023-24 Original Budget	Previous Reviews	March Review	2023-24 Proposed Revised Budget
Water	(19,918)	(6,793)	1,421	(25,290)
Sewer	(9,257)	(1,175)	4,720	(5,712)
Waste	3,100	(787)	(134)	2,179
Environment	128	(39)	-	89
General	(1,232)	1,345	2,107	2,219
<b>Consolidated</b>	<b>(27,181)</b>	<b>(7,449)</b>	<b>8,114</b>	<b>(26,517)</b>

**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) of delivering services to the community before considering its capital revenue.

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

The revised operating result is a deficit of \$2.37 million before capital revenue.

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

Fund	2023-24 Original Budget	Previous Reviews	March Review	2023-24 Proposed Revised Budget
Water	1,772	655	(9)	2,418
Sewer	264	(61)	398	601
Waste	1,980	1,330	(133)	3,177
Environment	42	(119)	-	(78)
General	(10,912)	2,540	(117)	(8,488)
<b>Consolidated</b>	<b>(6,854)</b>	<b>4,345</b>	<b>139</b>	<b>(2,370)</b>

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

**March Review Adjustments (Operating)**

The proposed March review adjustments see a \$0.14 million improvement from the operating deficit of \$2.51 million at December, resulting in a year end estimated operating deficit of \$2.37 million. The vast majority of this was the operating improvement in Sewer, specifically the reduced CCTV monitoring and employee costs.

**FCS24/012 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 31  
MARCH 2024**

**S011-  
T00003**

**March Review Adjustments (Capital)**

The proposed March review adjustments to the operating result after capital see a \$8.89 million decline from the December review, resulting in a year end estimated operating surplus of \$58.28 million. The vast majority of this relates to reprioritisation of carry forward works following a review of the capital works program. Significant adjustments to the capital expenditure budget include:

<b>(\$3.4m)</b>	Revised timing of Mogo Adventure Trails project
<b>(\$3.0m)</b>	Revised timing Moruya Hospital Sewer project
<b>(\$1.9m)</b>	Revised timing of capital works including Natural Disaster Recovery projects and pavement rehabilitations, and revised bridge replacement program
<b>(\$2.2m)</b>	Revised estimate of fleet purchases and disposals
<b>(\$1.9m)</b>	Revised timing of Surf Beach Emergency Precinct works and new grant funded works on Tuross Rural Fire Service station
<b>(\$1.4m)</b>	Revised timing of Nelligen Water Supply and Nelligen Sewage Treatment Scheme Project
<b>(\$1.0m)</b>	Revised timing of grant funded projects including Coastal Headlands Walk
<b>(\$0.7m)</b>	Local Urban - Roads Reconstruction Program
<b>(\$0.7m)</b>	Revised timing of Sewerage System renewal works

*Table 1.4 Capital program per fund, \$'000*

<b>Fund</b>	<b>2023-24 Original Budget</b>	<b>Previous Reviews</b>	<b>March Review</b>	<b>2023-24 Proposed Revised Budget</b>
Water	68,607	2,831	(1,622)	69,816
Sewer	27,943	1,097	(4,820)	24,220
General	51,262	3,664	(12,026)	42,900
<b>Consolidated</b>	<b>147,811</b>	<b>7,593</b>	<b>(18,468)</b>	<b>136,936</b>

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

2023-24 is the eighth year of the SRV program and over \$7.14 million of infrastructure works for the year are underway. \$1.31 million of SRV designated funds are being utilised for these works.

As at 31 March 2024, approximately 43% (\$3.07 million) of the programmed SRV works for this year have been expensed (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 2024.

**The Bay Pavilions Income Statement (Attachment 5)**

The March review of the 2023-24 budget forecasted a \$5.06 million operating deficit for The Bay Pavilions. There are no adjustments proposed for this quarter.

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**FCS24/012 QUARTERLY BUDGET REVIEW STATEMENT FOR PERIOD ENDING 31  
MARCH 2024**

**S011-  
T00003**

**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 2023.

“Adjustments” 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 the March Quarterly Budget Review for Eurobodalla Shire Council indicates that Council’s projected financial position, as at 30 June 2024, 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 continues to forecast an operating deficit for Council in the current year. Council continues to face financial challenges due to the limited ability to increase revenue, continued increases in CPI, wages and operating costs. Council has developed a Finance Strategy to mitigate these challenges that was presented at the ordinary Council Meeting 19 December 2023. The Finance Strategy 2024-28 aims to achieve and maintain the financial resilience of Council. The Strategy identifies 3 key themes of financial resilience, prudent asset management and accountability. Several actions included in the Finance Strategy are underway.

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**FCS24/013 INVESTMENTS MADE AS AT 30 APRIL 2024**

**S011-T00006,S012-  
T00025**

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

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 2024, 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**

Council's investment policy is divided into two categories of risk, credit risk (risk of not being able to redeem funds) and liquidity risk (risk of loss due to the need to redeem funds earlier than the investment term). Council's portfolio is 100% invested in bank deposits, maintaining a low liquidity risk across all credit risk categories.

In April 2024, S&P upgraded the long-term credit rating for the Bank of Queensland and Bendigo bank from BBB+ to A-. The changes are reflected in Table 1.

As at 30 April 2024, the portfolio is compliant with Council's Investment Policy adopted by Council on 9 August 2022 (Minute 22/190). A summary of holdings by risk category is summarised below in Table 1.

FCS24/013 INVESTMENTS MADE AS AT 30 APRIL 2024

S011-T00006,S012-T00025

**Table 1 – Policy Risk Categories**

S&P Long Term Category	S&P Short Term Category	Policy Risk Category	Current Holdings	Maximum Holdings
AAA (Government Guaranteed Deposits)	A-1+	Remote Risk	1.26%	100%
AAA to AA	A-1+	Near Risk Free	61.44%	100%
A	A-1 to A-2	Near Risk Free	37.30%	40%
BBB+	A-2	Some Limited Risk	0.00%	30%

## Financial

### Investment holdings summary

Table 2 provides a summary of cash and investment balances as at 30 April 2024. Fossil fuel free refers to institutions that have no exposure or no longer directly finance projects in the fossil fuel industry but still have some exposure from historical funding.

**Table 2 – Investment holdings by category**

Category	(\$)	% of Portfolio
At Call Deposit	7,757,111	5.59%
Term Deposits – Government Guaranteed	1,750,000	1.26%
Term Deposits – Fossil Fuel Free Institutions	45,000,000	32.43%
Term Deposits	84,270,000	60.72%
<b>Total Investments</b>	<b>138,777,111</b>	
Cash at Bank (Operating Account)	11,550,566	
<b>Total Cash and Investments</b>	<b>150,327,677</b>	

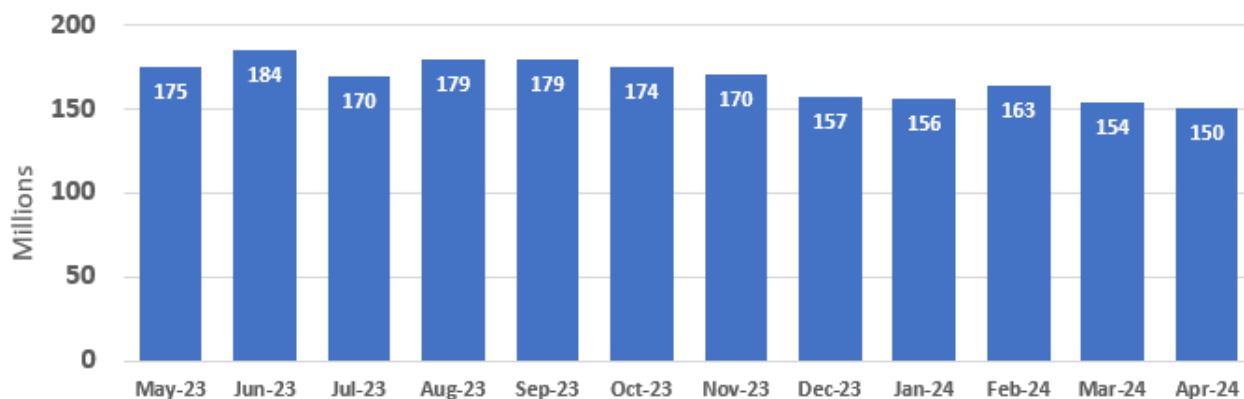
Cash and investments decreased by \$4m in April 2024, primarily due to expenditure on Water and Sewer infrastructure projects and normal variations in timing of cash flows. Graph 1 displays Council's cash and investments balances over a 12-month period.



FCS24/013 INVESTMENTS MADE AS AT 30 APRIL 2024

S011-T00006,S012-T00025

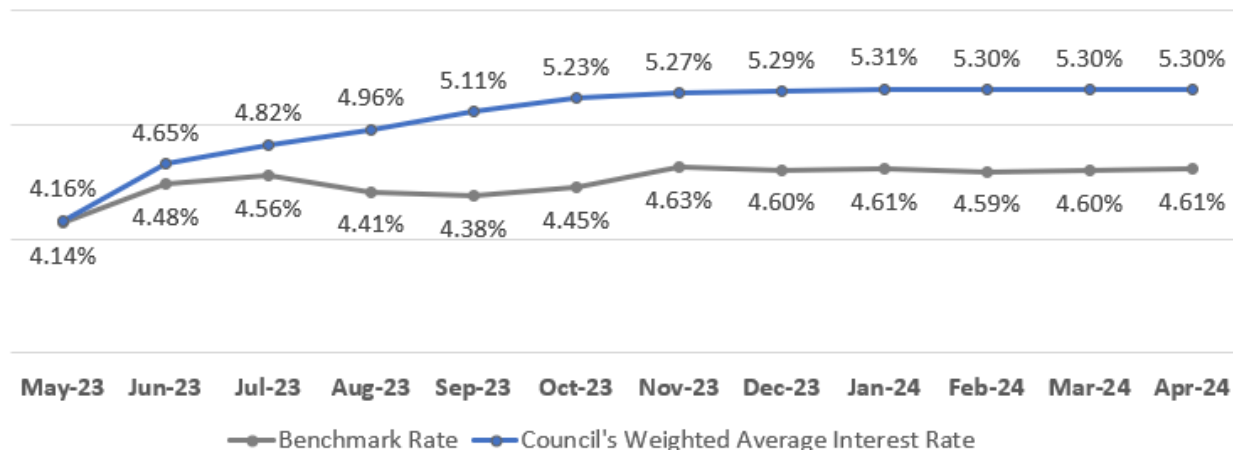
Graph 1 – Total Cash and Investment Balances (12 months)



Performance

The weighted average monthly return on Council’s investments for April 2024 is 5.30%, surpassing the Council policy benchmark of 4.61%, calculated using the bank bill swap rate (BBSW) plus 0.25%. Graph 2 compares Council’s weighted average return to the benchmark rate over a 12-month period.

Graph 2 – Investment performance over 12 months



**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.

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**FCS24/014 REQUEST FOR TENDER NO. 2324-112 WATER TANKER SUPPORT S004-T00004**

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

Attachments: 1. Confidential - RFT 2324-112 Water Tanker Support

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.3 Provide effective and professional administration, technical and trade services to support the delivery of services to the community

Operational Plan Link: 5.3.3.2 Undertake procurement that provides best value to the community

### **EXECUTIVE SUMMARY**

Tenders were called for the provision of Water Tanker Support for Council's Grading Team. The tender was advertised on the 13 February 2024 and closed 2pm 12 March 2024.

The proposed contract term is for period of 1 July 2024 until 30 June 2026, with an option to extend the agreement by a further two x 12 months by mutual agreement.

Six submissions for the request were received.

### **RECOMMENDATION**

THAT:

1. Council endorses the selection of the preferred supplier for RFT No. 2324-112 within the Confidential Attachment.
2. Accordingly approves the entering into a Deed of Standing Offer with the preferred supplier as detailed within the Confidential Attachment.

### **BACKGROUND**

Council's grading team has an on-going requirement for water tanker support to undertake their operational requirements successfully. Gravel roads within the Eurobodalla Shire are maintained according to the grading schedule developed by Council. To complete grading operations successfully, gravel roads must be dampened by a mobile water tanker.

Council does not have a dedicated water truck for this purpose within its own Fleet and is required to externally hire one.

The contract for the provision of a water cart to the grading team ensures that a resource is available to assist in delivering this service, the use of a singular primary supplier ensures familiarity with the requirements of the service over the contract life.

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**FCS24/014 REQUEST FOR TENDER NO. 2324-112 WATER TANKER SUPPORT**

**S004-  
T00004**

The list of Tenderers is as follows:

- A W Dummett Pty Ltd
- HMS INSKIP Pty Ltd T/As Di Earthworks & Land Clearing
- SR & BJ Sweeny Pty Ltd T/As Eurobodalla Water Tankers
- Hibbo Hire Pty Ltd T/As Hibbos Eathworks Solutions
- Reid Family Contracting Pty Ltd T/As Eurocoast Water Tankers
- Rollers Australia Pty Ltd

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

### **CONSIDERATIONS**

Request for Tender (RFT) No. 2324-112 Water Tanker Support for Council's Grading Team was advertised for the purpose of renewing an existing contract and on-going requirement.

Establishing a contract will provide the following benefits to Council:

- Meeting the tendering requirements of Section 55 of the Local Government Act.
- Providing a level playing field for local service providers to bid for work in the Local Government setting in general.
- Removing the need for costly and time-consuming individual quotation and compliance screening processes for every requirement.
- Given the need for strict safety, risk mitigation and quality management for each procurement activity, a pre-negotiated set of pricing and terms represents the best value for money.
- Better contract management by having a Deed of Standing Offer.

### **Legal**

Request for Tender No. 2324-112 was advertised in accordance *with Local Government (General) Regulation 2021 REG 167 and Local Government Act 1993.*

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla).

Prior to the request for tender closing, a tender evaluation plan was approved and distributed amongst the tender evaluation panel. Declarations of confidentiality and interest forms were completed and signed by the tender evaluation committee.

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**FCS24/014 REQUEST FOR TENDER NO. 2324-112 WATER TANKER SUPPORT**

**S004-  
T00004**

**Policy**

The tendering activity and associated evaluation for which this tender applies has been administered in compliance with

- Council's Procurement Policy,
- Council's Code of Practice – Procurement and tendering,
- OLG Tendering Guidelines for NSW Local Government,
- *Local Government (General) Regulation 2021* and
- *Section 55 of the Local Government Act 1993*.

**Financial**

The tender and contract established costs are facilitated by procurement.

After the first year of the contract, hire rates will be adjusted in accordance with the rise and fall clause of the contract. The rise and fall clause takes into account Consumer Pricing Index (CPI) – All Groups Sydney providing for a broader spread of economic factors, therefore minimising the risk of adverse price movement for both parties.

Funds have been allocated within the existing budget for the grading of the gravel road network across the Shire. These funds are sufficient to cover the cost of the water tanker operations.

**Community and Stakeholder Engagement**

The tender was advertised on Council's website and at Council's Tenderlink web portal [www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla), and all members of Council's previous panel members were informed of the new panel advertisement via email.

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

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the tenderers have been assessed. An extensive evaluation as representing best value for money and meeting the compliance and skills requirements of the tender has been undertaken. Deeds of standing offer will be entered into with the preferred tenderer as detailed within the confidential attachment.

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**FCS24/015 NELLIGEN WATER SUPPLY AND SEWER SCHEME EASEMENTS**

**S023-T00014**

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

Attachments: 1. Confidential attachment

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

### **EXECUTIVE SUMMARY**

The purpose of this report is to seek Council's approval for creation of easements for water and sewer purposes.

Construction of sewer rising main and water main within properties along Kings Highway, Nelligen is planned to be undertaken in 2024 as part of the Nelligen Water Supply and Sewer Scheme. These easements essentially follow an existing electricity easement. The construction work is well underway and Council has permits to undertake the work on all the land for which easements are being sought.

Acquisition for easements within Benandarah State forest including Lot 3 DP 836845, Lot 260 DP 1183295 and Lot 7308 DP 1149322 and within private properties being Lot 7 DP 827787; Lot 10 DP 1164869; Lot 1 DP 807450; Lot 2 DP 1169262 and Lot 142 DP 1216682 are required and will be in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy* and the provisions of the *Local Government Act 1993 and Land Acquisition (Just Terms Compensation) Act 1991*.

Acquisition by compulsory acquisition is required for Forestry Corporation land which requires application to be made to the Minister for Local Government and Governor to acquire the interest in the land for the easement from Forestry Corporation of NSW under section 186 (1) *Local Government Act 1993*. Public Works Advisory (PWA) are being engaged to manage the easement acquisition within Forestry Corporation land to assist in managing this.

Landowners' details are set out in the confidential attachment.

### **RECOMMENDATION**

THAT:

1. Council approve the acquisition of interest in land for creation of easements for water and sewer infrastructure within Benandarah State forest including Lot 3 DP 836845, Lot 260 DP 1183295 and Lot 7308 DP 1149322 and within private properties being Lot 7 DP 827787; Lot 10 DP 1164869; Lot 1 DP 807450; Lot 2 DP 1169262 and Lot 142 DP 1216682.
2. Council, or Public Works Advisory on behalf of Council, make application to the Minister for Local Government and the Governor for the compulsory acquisition of an interest in land for easement creation within Benandarah State Forest, Lot 3 DP 836845, Lot 260 DP 1183295 and Lot 7308 DP 1149322 in accordance with s187 of the *Local Government Act 1993* and in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

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**FCS24/015 NELLIGEN WATER SUPPLY AND SEWER SCHEME EASEMENTS**

**S023-  
T00014**

3. All actions necessary be taken for the easement acquisitions within private properties being Lot 7 DP 827787; Lot 10 DP 1164869; Lot 1 DP 807450; Lot 2 DP 1169262 and Lot 142 DP 1216682 in accordance with Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.
4. If the acquisition of interest in land for easements within Lot 7 DP 827787; Lot 10 DP 1164869; Lot 1 DP 807450; Lot 2 DP 1169262 and Lot 142 DP 1216682 cannot be negotiated by agreement, Council make application to the Minister for Local Government and the Governor to acquire those easements by compulsory process in accordance with Council's power under section 187 of the Local Government Act 1993.
5. All survey and reasonable legal costs associated with the easement acquisitions be borne by Council.
6. The General Manager be given delegated authority to execute all necessary documentation associated with the acquisition of interest in land for easements.

**BACKGROUND**

Council's Integrated Water Cycle Management Strategy (IWCMS) 2016 identified the existing on-site sewerage management systems in Nelligen as having a high risk on public and environmental health.

Council pursued funding for the project and was subsequently successful in obtaining a grant of \$3.5 million under the NSW State Government Safe and Secure Water Program to complete the design and construction of the Nelligen Water Supply and Sewer.

These easements will essentially follow an existing electricity easement and are to be created by way of survey plan and transfer.

The construction work is well underway and Council has permits to undertake the work on all the land for which easements are being sought.

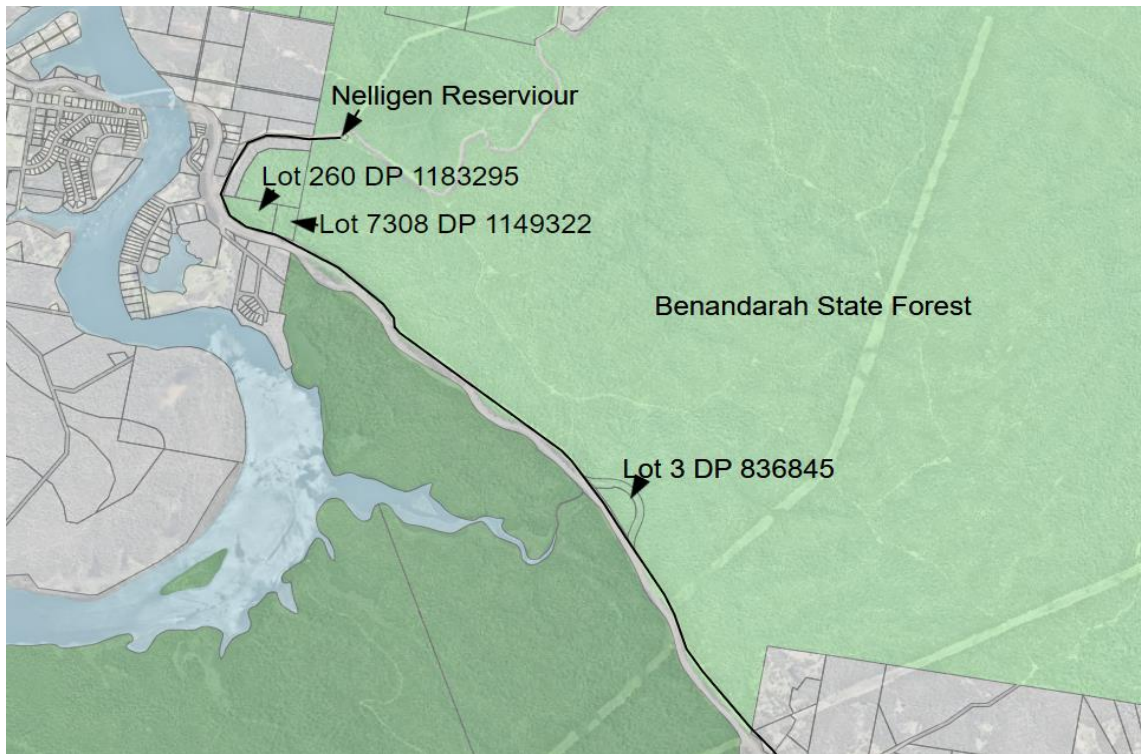
**CONSIDERATIONS**

Sketches of the area are set out below:

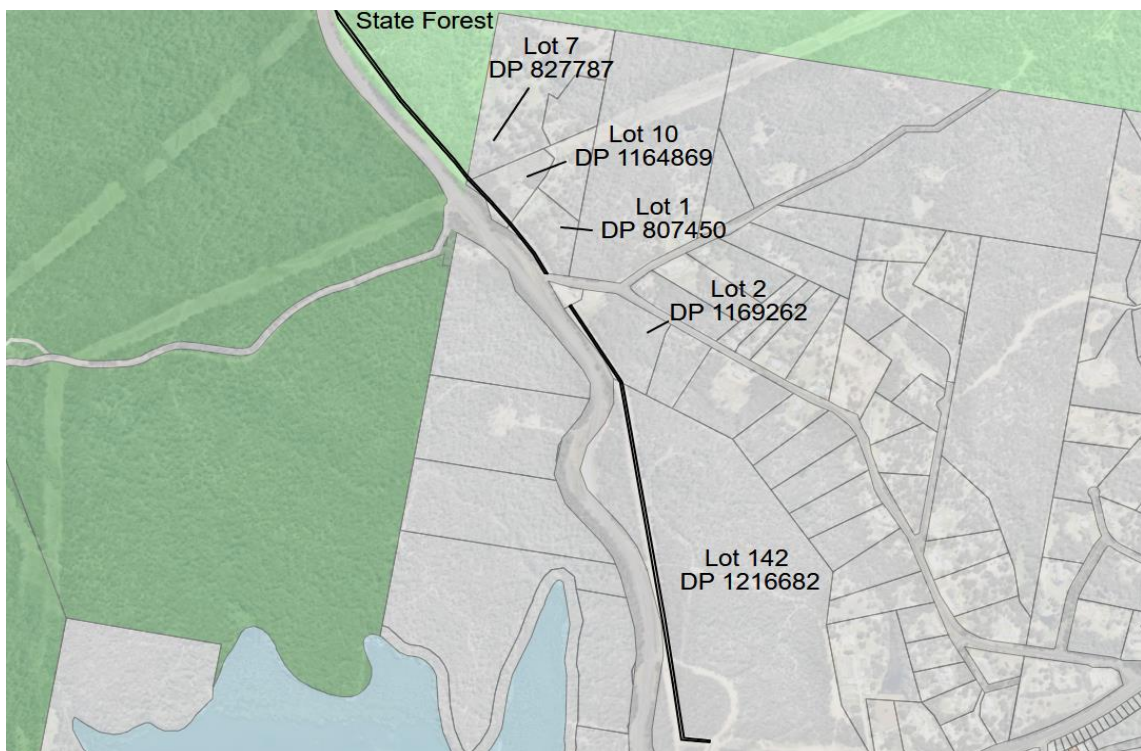


**FCS24/015 NELLIGEN WATER SUPPLY AND SEWER SCHEME EASEMENTS**

**S023-  
T00014**



*Diagram of Forestry lots*



*Diagram of private properties*

**Legal**

Public Works Advisory (PWA) are to facilitate all aspects of the compulsory easement acquisition from Forestry Corporation in accordance with the *Local Government Act 1993* and

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**FCS24/015 NELLIGEN WATER SUPPLY AND SEWER SCHEME EASEMENTS**

**S023-  
T00014**

the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. If necessary, Council will make application to the Minister for Local Government and the Governor for the compulsory acquisition of land within Benandarah State Forest, Lot 3 DP 836845, Lot 260 DP 1183295 and Lot 7308 DP 1149322.

PWA and Council are to comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests to ensure a valid acquisition. The acquisition of Forestry land could mean Council has a liability to compensate for Native Title if this is ever determined to have existed on the Land prior to Council's acquisition.

Acquisition of the interests in the land for easements over private property within Lot 7 DP 827787; Lot 10 DP 1164869; Lot 1 DP 807450; Lot 2 DP 1169262 and Lot 142 DP 1216682, will be in accordance with the provisions of the *Local Government Act 1993* and *Land Acquisition (Just Terms Compensation) Act 1991*.

If the acquisition of the easements within the private land cannot be negotiated by agreement, Council has power under section 187 *Local Government Act 1993* to acquire the interest in the land by compulsory process. Should the acquisition proceed by way of compulsory process Council must obtain consent from the Minister for Local Government and Governor.

[LG Act sec186](#)

[LG Act sec187](#)

[Land Acquisition \(Just Terms Compensation\) Act 1991 No 22 - NSW Legislation](#)

**Policy**

The acquisition of the interests in the land for easement purposes will proceed in accordance with the Council's Land Management - Acquisition, Disposal and Leasing/Licensing Policy (Land Policy).

[Land-Management-Acquisition-Disposal-and-Leasing-Licensing-Policy-final-for-adoption.pdf \(nsw.gov.au\)](#).

**Environmental**

The easements for sewer and water will minimize the impact that existing on-site sewage management system in Nelligen are having on the environment.

**Asset**

The easement will ensure access by Council to construct and maintain the water and sewer infrastructure.

**Social Impact**

The scheme is a priority project to improve the service to residents in Nelligen and better protect the environment.

**Financial**

The overall project cost is estimated at \$26M with \$3.5M grant funding provided through NSW State Government Safe and Secure Water Program. The remainder, including easement

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**FCS24/015 NELLIGEN WATER SUPPLY AND SEWER SCHEME EASEMENTS**

**S023-  
T00014**

acquisitions, is to be funded by the water and sewer fund capital budget and water and sewer fund reserves.

Compensation for the easements will be determined following valuations by registered valuers. Together with compensation, Council will be responsible for costs associated with the acquisition including survey and legal fees, and the landowners' reasonable legal costs.

**Community and Stakeholder Engagement**

Council has contacted the landowners and Permits to Enter have been received from the landowners which allows Council to proceed with the works pending acquisition of easements once the work is complete. This ensures the easement covers the extent of the pipes required.

**CONCLUSION**

This report recommends the acquisition of interests in land for water and sewer easements within part Benandarah State Forest and private properties, along Kings Highway, as part of the Nelligen Water Supply and Sewer Scheme.

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**IR24/010 COUNCIL SUBMISSION TO PUBLIC ACCOUNTS COMMITTEE INQUIRY INTO THE ASSETS, PREMISES, AND FUNDING OF THE NSW RURAL FIRE SERVICE** **S008-T00023**

Responsible Officer: Graham Attenborough - Director Infrastructure Services

Attachments: 1. ESC submission to Public Accounts Inquiry - RFS assets

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

Community Strategy: 2.4 Foster a safe community

Delivery Program Link: 2.4.4 Work with agencies and emergency services to support coordinated emergency management and improved resilience

Operational Plan Link: 2.4.4.2 Advocate for strategic review of emergency and recovery services including the transfer of the annual cost for the Rural Fire Service, State Emergency Service and NSW Fire and Rescue to the NSW Government

### **EXECUTIVE SUMMARY**

Council has provided a submission to the Public Accounts Committee Inquiry into the assets, premises, and funding of the NSW Rural Fire Service (RFS). The purpose of Council's submission is to formally identify the inequity in the funding arrangements whereby local government is required to account for the RFS (Red Fleet) assets, despite having no control over RFS fleet and property. Council is advocating for a revision of the Bush Fires Act 1949 to alleviate councils' financial responsibility for RFS assets, and to align the responsibilities of the NSW RFS with that of other state emergency service agencies.

### **RECOMMENDATION**

THAT Council **notes** Eurobodalla Shire Council's submission to the Public Accounts Committee Inquiry into the assets, premises, and funding of the NSW Rural Fire Service.

### **BACKGROUND**

The NSW Parliament's Public Accounts Committee Inquiry into the assets, premises and funding of the NSW Rural Fire Service, will scrutinise the funding, maintenance, accounting and operational management of RFS assets and premises.

In particular, the inquiry will consider arrangements between the NSW RFS and councils, in that the RFS assets are funded, purchased and managed by the NSW Government through the actions of the NSW RFS and then vested in Council in accordance with the arrangements first included in legislation with the creation of the Bush Fires Act of 1949.

This inquiry is an opportunity for Eurobodalla Shire Council to highlight the absurdity of the NSW Government's position that councils control these rural fire fighting assets and should recognise in our books the depreciation of the NSW Government's RFS built and mobile assets (the Red Fleet) and call for change.

Within the Eurobodalla LGA there are 22 brigades with stations, 2 support brigades housed in the Fire Control Centre, and 82 appliances.

Councillors have been briefed prior to Council's submission being lodged to the Inquiry.

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**IR24/010 COUNCIL SUBMISSION TO PUBLIC ACCOUNTS COMMITTEE INQUIRY  
INTO THE ASSETS, PREMISES, AND FUNDING OF THE NSW RURAL  
FIRE SERVICE**

**S008-  
T00023**

A copy of Council's submission is attached to this report.

**CONSIDERATIONS**

Council, through the vesting of RFS assets, is considered by NSW Treasury to have control of the assets and as such should record their existence and manage the regular maintenance and depreciation of the assets.

At no time in the life cycle of an RFS appliance does Council have any input into the type of appliance, location, deployment, or disposal of a vehicle. The Rural Fires Act of 1997 in Section 119 compels the RFS to vest assets in Council and prohibits the disposal of an asset without the written consent of the Commissioner of the Rural Fire Service.

Multiple RFS Service Standards, Standard Operating Procedures and Policies within the RFS dictate how the assets will be acquired, allocated, stored, used and disposed of suggesting the total control for the RFS assets sits with them.

In the development of the Bush Fires Act 1949 the NSW Government also compelled councils to employ a Fire Control Officer; in the following 75 years the RFS has grown to be the largest volunteer firefighting organisation in the world with a wider range of roles than was envisaged in 1949. This growth and change in roles resulted in all staff transferring from local government employment to state government employment in 2001. Unfortunately, the NSW Government chose to continue to cost shift the fixed and mobile assets by "vesting" assets on an ongoing basis.

**Financial**

For the 2022/2023 financial year the cost of depreciation of RFS assets was in the vicinity of \$800,000. Once the Moruya co-located emergency services precinct and the RFS station at Surf Beach are completed this will increase to approximately \$1.5 million per annum. This cost shifting reduces the ability for Council to fund other services to the community, for which Council is actually responsible for.

**CONCLUSION**

It is very apparent that the function of the RFS is no longer a responsibility of Council, yet the NSW Government continues to force Council to be financially encumbered by cost shifting.

The Rural Fires Amendment (Red Fleet) Bill 2023 [NSW] introduced by the Hon A J Marshall, MP sought to address the inconsistencies of compliance with the Act and the significant financial implications of vesting assets in councils.

Council's submission prepared for the inquiry is supportive of the objective of the Bill to vest in the Commissioner the assets of the RFS and urges the Parliamentary Accounts Committee to find that vesting in the NSW government is appropriate and necessary to relieve councils of a significant financial burden and place the resources into the organisation that controls and operates them in the same way in which NSW Police, Ambulance, SES, Fire and Rescue own and manage their assets.



# Public Accounts Committee Inquiry into the assets, premises, and funding of the NSW Rural Fire Service.

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Eurobodalla Shire Council  
Submission



# Public Accounts Committee Inquiry into the assets, premises, and funding of the NSW Rural Fire Service.

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## Contents

Executive Summary .....	2
Background .....	3
Ownership.....	3
Financial Implications .....	5
Efficient Utilisation of Public Money .....	5
Legislative Confusion .....	6
Conclusion .....	7





## Executive Summary

It is intended that this submission presents a convincing argument against the current arrangements which require councils to account for the NSW Rural Fire Service (RFS) assets.

The key issue is that councils have little control over the acquisition, utilisation, maintenance, and eventual disposal of those RFS assets, however, are expected to account for them on their balance sheet and profit and loss, either through direct (maintenance) or depreciation costs.

Whilst it could be argued that the local community benefits from these assets, this divided responsibility for the associated costs does not support single accountability for the efficient whole of life use and expenses associated with the assets.

Vehicles are purchased and constructed utilising funds from NSW Treasury then housed in stations as decided by the RFS, relocated, deployed to incidents, and eventually disposed of by the RFS. At no stage in the life cycle of an RFS vehicle does Council have any input into where it is located and what incidents it attends either within the LGA, neighbouring areas or interstate. Buildings used by the RFS are also constructed using state government funding and then vested in Council to manage the maintenance and wear the depreciation. At no time are the buildings used by anyone other than the RFS. They are not public access buildings and often Council does not even have keys to enter the buildings.

The argument that the RFS should be entirely accountable for all costs associated with the assets that they use for their activities is supported by the findings of the:

- GAAP Consulting Report commissioned by the Office of Local Government and titled *"Review of accounting for 'red truck' assets and other firefighting equipment"* (GAAP Report) which asserts that because the RFS, through its Service Standards and rural fire district service agreements, possesses all decision making powers over all equipment under the Act then the assets should be vested in the Commissioner of the RFS, and it should be noted that NSW Treasury's *"The Rural Fire Service – Consideration of the red fleet assets"* which continues the assertion that Council can control the deployment and disposition of the Red Fleet is incorrect.

The situation has arisen from arrangements made when the Bush Fires Act 1949 was written, but NSW is a markedly different place since then with the RFS having evolved into an entity that responds to multiple types of incidents and has administrative involvement in numerous areas of interaction with the community over the 75 years since those arrangements were imposed on councils.

The opportunity to adjust the unfair vesting of assets into councils was missed in 2001 when the RFS staff became state government employees. It is now time to bring the RFS into the 21<sup>st</sup> century by making them responsible for their assets in the same way as other



emergency services within NSW are. Councils are missing countless opportunities for service delivery to their ratepayers because of the cost of wearing depreciation of RFS assets on top of the contribution they make from rate funds to fund the RFS.

The RFS is no longer delivering firefighting services on behalf of councils as was the case in 1949 but is now a stand-alone emergency service that promotes itself as the largest volunteer fire fighting agency in the world; it is time that the asset ownership arrangements are modernised.

This view is shared by Michael Eburn PhD (who specialises in emergency law) when he made the comment on his blog that “It’s questionable whether the service is ‘on behalf’ of the Council. RFS is a state authority that provides rural fire services. Local governments don’t have the option of providing their own fire service or having an RFS brigade. Really the state provides fire services on behalf of the community. If there was no RFS (or F&R NSW) it’s not clear that a local government would have any obligation to provide fire services.”

## Background

The Eurobodalla Shire is located on the southeast coast of NSW and is approximately 280km from Sydney, 760 km from Melbourne and 150 km from Canberra. It is approximately 110 km in length and 50 km in width with an area of 342,173 hectares. Seventy two percent of the shire is vested in the management of Forestry Corporation NSW or NSW National Parks and Wildlife Service.

The population of the Eurobodalla Shire is approximately 39,179 people (2021 census figures) with a major tourist influx in the summer months.

The RFS has 22 brigade stations across the shire, a Fire Control Centre which also houses an additional 2 support brigades, a training centre with multiple training props, and an air base at the Moruya Airport. These brigades utilise a fleet of 82 vehicles across the shire.

## Ownership

NSW Treasury and the NSW Auditor General assert that the RFS Red Fleet of operational vehicles can be controlled, deployed, disposed of, and relocated by councils. Nothing could be further from the truth; this false assertion was used to support the current asset ownership arrangements.

The vehicles are purchased and constructed by the RFS, installed in a brigade station, deployed to local, out of area and interstate incidents without the knowledge or consent of Council. The deployment out of the shire regularly occurs during times of increased fire activity across the state and in doing so the resource is not available for the protection of

IR24/010 COUNCIL SUBMISSION TO PUBLIC ACCOUNTS COMMITTEE INQUIRY  
INTO THE ASSETS, PREMISES, AND FUNDING OF THE NSW RURAL FIRE SERVICEATTACHMENT 1 ESC SUBMISSION TO PUBLIC ACCOUNTS INQUIRY - RFS ASSETS

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the community in which it is housed and vested, and Council has no oversight of a reduction in service delivery when this occurs. If Council was able to make decisions on the deployment of out of area appliances vested within it a discussion would need to be had with the District Manager and Major Incident Co-Ordinator in RFS State Operations around the increase in risk and the reduction in fire protection. These out of area deployments often involve 5 appliances as well as a strike team leader.

Quite often the first that Council knows of a new RFS resource in the LGA is a social media post showing a member of the RFS Executive and the Local Member handing over the keys to the host brigade.

RFS Policy P8.1.0, RFS Service Standards and rural fire district service level agreements all assert that the decisions around fleet are purely those of the RFS. Policy P 8.1.0 section 8.2.3 also includes the intent that asset ownership has been marked for review in the Asset Management Policy Implementation Plan.

Service Standard 5.3.5 Fleet Insurance for the RFS Appliances (21 April 2021) says at (1.1) “as part of sound corporate governance practice and to ensure compliance with NSW Treasury Managed Fund (TMF) requirements, the NSW RFS operates a centrally managed comprehensive motor vehicle arrangement for appliances identified on the NSW RFS Fleet Program.”

Council does not set the training standards to utilise the RFS equipment or define the standard operating procedures for driving. This is described in the RFS document OMP 8.06.07.07 Safe Driving SOP’s. Section 119 of the Rural Fires Act 1997 (the Act) compels the RFS to vest assets in Council and prohibits Council from selling or disposing of assets without the written consent of the Commissioner of the RFS, thus clearly indicating that Council has no control of the assets.

Eurobodalla Shire Council recently appointed a full time Local Emergency Management Officer who was formerly the District Manager of the RFS, who can attest to the fact that at no time in the life of an RFS asset is Council consulted about its location, deployment, any relocations, or disposal. At no time is Council permitted to use the vehicles. The firefighting fleet vehicles are not registered and operate on road under Part 2 of Road Transport (Vehicle Registration) Regulation 2017 [NSW] and only for operational purposes, training, and maintenance, which further precludes Council from using them should they be able. The RFS determines the servicing schedule and level of servicing for each vehicle.

Within the Eurobodalla Shire the RFS stations, while vested in council, are not open for use by any person other than an RFS member, nor is the fire control centre, training facilities or air base.



## Financial Implications

The legal vesting of assets with Council as stipulated in section 119 of the Act has not changed since it was first included in the Bush Fires Act 1949 and remained in the rewriting of the Act in 1997, however Australian Accounting Standards have changed considerably since the current Act was written.

The RFS changed significantly from a responsibility of Local Government to a NSW Government Department in 2001 yet the State continues to argue that the single word “vesting” has maintained Council’s control over the management of RFS resources. As previously described, this is not how it works in 2024.

In the 2022/2023 Financial Year depreciation of RFS assets within the Eurobodalla Shire was more than \$800,000 which is a significant amount of service to the community that could not be delivered. In considering that the RFS is planning to build a new Fire Control Centre and office complex at an estimated cost of \$20 million that will add a further \$666,000 annually to the depreciation costs over the forecast 30-year life of the building. Of the estimated 88 personnel that will work within the building, 5 people will be supporting the residents of the Eurobodalla Shire, the remainder will be performing roles for Area Command, Planning and Environmental Services and Forestry Corporation at a NSW Government level. It is unreasonable to expect that Council should be financially liable for what is essentially a State Government Office complex and that rate payers will have even less service delivered as a result.

The RFS is planning to construct a new multimillion dollar station in the locality of Surf Beach which on completion will add another \$100,000 per annum to the depreciation costs resulting in a combined total of more than \$1.5 million dollars loss of services to the community.

This depreciation cost is in addition to the annual contribution assessed by the Minister for Emergency Services which sits just above \$1 million dollars for the current financial year.

## Efficient Utilisation of Public Money

Regardless of whether it is the NSW Government who purchases the assets of councils which fund their maintenance and depreciation, it is the community which funds the RFS and the services it provides, through either taxes or rates.

The division of financial responsibility for the whole of life costs of the assets does not promote the efficient use of those community funds in the same way that single accountability would. For example:

IR24/010 COUNCIL SUBMISSION TO PUBLIC ACCOUNTS COMMITTEE INQUIRY  
INTO THE ASSETS, PREMISES, AND FUNDING OF THE NSW RURAL FIRE SERVICEATTACHMENT 1 ESC SUBMISSION TO PUBLIC ACCOUNTS INQUIRY - RFS ASSETS

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- For a building funded by NSW Government, the investment decision by the RFS would not necessarily take into account significant maintenance and depreciation costs given the asset is vested to Council and those costs are borne by Council.

Similarly, for vehicles, investment decisions are potentially skewed given the spilt responsibility for costs, being that Council is wrongly responsible for the vehicles' maintenance over and above the Rural Fire Fighting Fund contributions. The legal vesting of assets with Council as stipulated in section 119 of the Act has not changed since it was first included in the Bush Fires Act 1949 and remained in the rewriting of the Act in 1997 however Australian Accounting Standards have changed considerably since the current Act was written.

*The Statement of Accounting Concepts: Definition and Recognition of Elements of Financial Statements (1995)* published by the Australian Accounting Standards Board says at [24] "The entity controlling an asset is the one that can, depending on the nature of the asset, exchange it, use it to provide goods or services, exact a price for others' use of it, use it to settle liabilities, hold it, or perhaps distribute it to owners. An asset is specific to an entity in that it cannot at the same time be an asset of another entity."

Thus, by vesting the asset in councils the RFS is creating a situation where there is a direct conflict with the standards.

## Legislative Confusion

Prior to 2001, councils were obligated to have in their employ a Fire Control Officer (FCO) and dependant on the size of the LGA a Deputy as well. In 2001 all council employed FCOs became employees of the NSW Government and are currently employed under the Government Sector Employment Act 2013 (NSW) effectively changing the RFS into a state managed combat agency, however in the current Act, Schedule 3, part 2, section 4 still refers to FCO under the Bush Fires Act 1949. This needs to be amended to accurately reflect their employment status as not being part of Council anymore.

The FCO is no longer employed by Council (Rural Fires Act 1987 (NSW) s10) and in accordance with the Rural Fires Act (s38(2)) "has the right to use any fire fighting apparatus in the rural fire district." Again, indicating that the RFS has sole control over their assets.

In the time since the transfer to State Government management the RFS has "teamed and zoned" the staff of multiple LGAs together to allow for a larger workforce to manage the various complexities of running an emergency service across multiple LGAs thus further removing Council from being involved in the decision-making process. In many cases multiple Fire Control Centres operate with a few staff in each resulting in a confusion of which cost centre is paying for a service shared across multiple LGAs.



## Conclusion

It is very apparent that the function of the RFS is no longer a responsibility of Council, yet the NSW government continue to force councils to be financially encumbered by cost shifting the depreciation of the fleet and buildings. This is not sustainable and directly impacts the ability of Councils to provide the services their rate payers expect and are entitled to.

The Rural Fires Amendment (Red Fleet) Bill 2023 [NSW] introduced by the Hon A J Marshall, MP sought to address the inconsistencies of compliance with the Act and the significant financial implications of vesting assets in councils.

Eurobodalla Shire Council is supportive of the objective of the Bill to vest in the Commissioner the assets of the RFS and urges the Parliamentary Accounts Committee to find that vesting in the NSW government is appropriate and necessary to relieve councils of a significant financial burden and place the resources into the organisation that controls and operates them.

It is time to bring the NSW RFS into the 21<sup>st</sup> Century and align their resources with their management in the same way as Fire & Rescue NSW, NSW State Emergency Service, NSW Ambulance, and the NSW Police operate.

The RFS has recently purchased several aircraft which are NSW State Government property for exclusive use of the RFS, and the Red Fleet should be treated in the same manner. The RFS State Operations and HQ building is not vested in Council with alternate arrangements in place via the developer and the NSW Government. This arrangement should be investigated and replicated for all fixed assets across the state.

The RFS can no longer intimate that they simply deliver firefighting services on behalf of Council as was the way it operated prior to 2001. The continued vesting of assets that are increasing in cost to buy and build is creating a significant financial imposition on ratepayers than cannot continue. Effectively it may result in an increase in rates charges to the residents consequentially impacting on the 900 or so RFS volunteers in the shire that are already facing the same financial stresses the rest of the community are facing but freely give their time in the protection of their communities.

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**IR24/011 REQUEST FOR TENDER NO. 10064451 - MORUYA SEWER SERVICING WORKS**

**S029-  
T00004**

Responsible Officer: Graham Attenborough - Director Infrastructure Services

Attachments: 1. Confidential - RFT 10064451 - Moruya Sewer Servicing Works

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

Community Strategy: 1.4 Work together in the management and use of our valuable resources

Delivery Program Link: 1.4.1 Provide safe, reliable and sustainable water and sewer services, guided by the Integrated Water Cycle Management Strategy

Operational Plan Link: 1.4.1.3 Deliver programmed capital works (build and renewals) for the sewerage network

### **EXECUTIVE SUMMARY**

A requirement exists for construction of new infrastructure works to provide water and sewage services to the expanding Moruya catchment area including the new Eurobodalla Regional Hospital.

Council sought tenders under Request for Tender (RFT) No. 10064451 for the following works:

- Existing Sewer Pumping Station (SPS) MO05 Augmentation
- Construction of new SPS MO22
- Construction of SPS MO22 Gravity Mains
- Construction of SPS MO22 Rising Main
- Construction of a new water trunk Main
- Construction of a new water reticulation Main
- Horizontal Directional Drilling (SPS MO22 Rising Main)
- Under bores under the Princes Highway (gravity sewer and watermains).

RFT No. 10064451 – Moruya Sewer Servicing Works - was advertised on 22 January 2024 with a closing date of 12 March 2024. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan:

- J Group Corporation PTY Ltd
- Quay Civil Pty Ltd
- Utilstra Pty Ltd.

This report outlines the evaluation of offers submitted in response to RFT No. 10063561 and provides a recommendation for the preferred tenderer.

### **RECOMMENDATION**

THAT Council:



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**IR24/011 REQUEST FOR TENDER NO. 10064451 - MORUYA SEWER SERVICING  
WORKS**

**S029-  
T00004**

1. Enters into a contractual arrangement with the preferred tenderer for the construction of the new sewage pumping station MO22 and upgrade works to sewage pumping station MO05 as well as new gravity sewer mains, rising main and water trunk and reticulation mains subject to the terms specified in Request for Tender No. 10064451– Moruya Sewer Servicing Works unless otherwise varied in accordance with this report.
2. Agrees that variations may be made in accordance with the relevant provisions of the contract, provided that the total value of variations does not exceed 10% of the approved tender price.

**BACKGROUND**

- Council engaged GHD to undertake detailed design of a new gravity sewer network, sewage pumping station (SPS), sewer rising main, trunk water mains and water reticulation mains to service the following developments in Moruya: New Eurobodalla Regional Hospital
- Future residential subdivision on the southern side of the Princes Highway
- TAFE NSW on the Princes Highway
- New residential subdivision north of the TAFE NSW site.

Council is now looking to undertake construction works of new infrastructure to provide water and sewage services to the expanding Moruya catchment area. Council sought tenders under RFT No. 10064451 for the following works:

- Existing Sewer Pumping Station (SPS) MO05 Augmentation
- Construction of new SPS MO22
- Construction of SPS MO22 Gravity Mains
- Construction of SPS MO22 Rising Main
- Construction of a new water trunk Main
- Construction of a new water reticulation Main
- Horizontal Directional Drilling (SPS MO22 Rising Main)
- Under bores under the Princes Highway (gravity sewer and watermains).

RFT No. 10064451 was advertised on 22 January 2024 with a closing date of 12 March 2024. Offers were received from the following tenderers and assessed in accordance with the Tender Evaluation Plan:

- J Group Corporation PTY Ltd
- Quay Civil Pty Ltd
- Utilstra Pty Ltd.

A summary of the evaluation including each tenderer's scoring against the evaluation criteria is provided at the Confidential Attachment to this report.

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**IR24/011 REQUEST FOR TENDER NO. 10064451 - MORUYA SEWER SERVICING  
WORKS**

**S029-  
T00004**

**CONSIDERATIONS**

**Legal**

RFT No. 10064451– Moruya Sewer Servicing Works was advertised in accordance with clause 167 of the Local Government (General) Regulation 2021 and Local Government Act 1993.

The tender was advertised through the NSW Government tendering website:  
(<https://tenders.nsw.gov.au>).

Before tender assessment was undertaken a formal Tender Evaluation Plan (TEP) was distributed amongst the Tender Evaluation Committee (TEC). Declarations of Confidentiality and Conflicts of Interest Forms were completed and signed by the TEC.

The offer submitted by the preferred tenderer has been assessed as the most advantageous tender which represents best value for money for Council due to the company’s demonstrated experience, quality of workmanship, and satisfactory price in comparison to the pre-tender estimate.

**Policy**

The procurement activity for which this report applies has been conducted in accordance with Council’s Procurement Policy, Code of Practice – Procurement, Code of Practice – Tendering, the Local Government Procurement Guidelines, Local Government (General) Regulation 2021 and the Local Government Act 1993.

**Social Impact**

The construction of the new sewage pumping station and associated works outlined in the tender will allow for water and sewer services to be provided to the new Eurobodalla Hospital and allow for servicing of new housing developments within the Moruya area.

**Financial**

The amount tendered by the preferred tenderer can be accommodated within the existing water and sewer fund capital budget and water and sewer fund reserves, in conjunction with a financial contribution from the Health Administration Corporation through its Health Infrastructure division.

**Community and Stakeholder Engagement**

The community will be informed of the tender outcome(s) via Council’s contract register found in Council’s ‘Public Access to Information’ web link.

**CONCLUSION**

The tender process has been conducted in accordance with mandatory Council and Local Government requirements and the preferred tenderer has been assessed, through an extensive evaluation as representing best value for money.

The preferred tenderer as identified in the Confidential Attachment is therefore recommended for the awarding of a contract for the construction of the Moruya Sewer Servicing Works.

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**IR24/012 LOCAL TRAFFIC COMMITTEE NO. 9 FOR 2023-24**

**S030-  
T00018**

Responsible Officer: Graham Attenborough - Director Infrastructure Services

Attachments: 1. Minutes LTC No.9  
2. Under Separate Cover - Minutes LTC No. 9 - Attachments

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.

Recommendations arising from the Local Traffic Committee meeting No. 9 held 11 April 2024, are as follows:

#### **RECOMMENDATION**

THAT Council approves:

1. The following acts for determination from Local Traffic Committee No. 9:
  - **2024.RT.030 Linemarking, centre linemarking, Burkes Way, Denhams Beach** That Council Plan 5490 Set O Sheet 01 - detailing centrelines from centre median to Give Way lines on Burke Way, Denhams Beach, be approved.
  - **2024.RT.034 Signage, No Stopping, Princes Highway Bodalla** that Council Plan 5490 Set Q Sheet 01 detailing relocation of No Stopping sign on Princes Highway, Bodalla, be approved.
  - **2024.RT.035 Signage, No Parking, David Avenue, Batehaven** that Council Project 5490, Set Q, Sheet 01 detailing No Parking 8am to 9:30am School days on David Avenue, Batehaven, be approved.
2. The following Special Events and Informal Items:
  - **2024.SE.014 Lazer Rally of the Bay 2024**, the submitted traffic management, safety plan and map for event held on the 27 July 2024.
  - **2024.SE.015 Narooma Oyster Festival**. The Parking and Pedestrian Management Plan has been prepared for the 2024 Narooma Oyster Festival which will be held on Friday 3 and Saturday 4 May 2024. The event precinct encompasses Quota Park, Riverside Drive Narooma, from Lynch Street south to the Inlet Restaurant.

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**IR24/012 LOCAL TRAFFIC COMMITTEE NO. 9 FOR 2023-24**

**S030-  
T00018**

**BACKGROUND**

The Eurobodalla Local Traffic Committee Meeting No 9 for 2023-24 was held on 11 March 2024. The meeting was attended by Councillor Amber Schutz, Andy Gaudiosi (Transport for NSW), Kate McDougall (Traffic Coordinator), Katherine Buttsworth (Road Safety Officer) and Sheree Ward (Infrastructure Support Officer).

**Apologies**

Amanda Alderman (representative for Michael Holland MP), Senior Sgt Scott Britt (NSW Police) and Thomas Franzen (Division Manager Technical Services)

**Notes**

The relocation of the No Stopping sign on Princes Highway, Bodalla will remove one car parking space to allow for appropriate sightlines for safer driveway egress.

**CONCLUSION**

The minutes of the Eurobodalla Local Traffic Committee meeting No. 9 for 2023-24 are attached to this report and provide further background for the recommendations.



**LOCAL TRAFFIC COMMITTEE  
REPORTS**

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<b>Meeting No:</b> 9-23/24	<b>File No</b> E16.0002
<b>Date:</b> Thursday 11 April 2024	<b>Time:</b> 9:30am
<b>Location:</b> Eurobodalla Shire Council – Classroom	

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**ROAD TRANSPORT (SAFETY & TRAFFIC MANAGEMENT) ACT ITEMS FOR DETERMINATION**

**5.1 2024.RT.030 Linemarking, centre linemarking, Burkes Way, Denhams Beach**

**RECOMMENDATION**

That Council Plan 5490 Set O Sheet 01 and 15 detailing centrelines from centre median to Give Way lines on Burke Way, Denhams Beach, be approved.

**BACKGROUND**

Residents of Burkes Way had notified Council of cars travelling at speed around the corner from Humes Road into Burkes Way, and on occasions mounting the centre island in Burkes Way. They were concerned that vehicles would deflect off the island and continue into their homes. The residents did not state to type of weather or time of day these actions were occurring. The Traffic Coordinator inspected the site and determined that more delineation would help in advising drivers where the centre island is, particularly at night and inclement weather.

**CONCLUSION**

The linemarking will provide more guidance for vehicles turning into Burkes Way, providing more visibility at night and during inclement weather and less conflict points with the centre island.

**5.2 2024.RT.034 Signage, No Stopping, Princes Highway Bodalla**

**RECOMMENDATION**

That Council Plan 5490 Set Q Sheet 01 detailing relocation of No Stopping sign on Princes Highway, Bodalla, be approved.

**BACKGROUND**

Council has been advised that exiting from a carpark at the rear of CJs Bathroom Supplies was difficult due to the proximity of the adjacent building to the roadway. Council's Traffic Coordinator and TfNSW Associate Community & Safety Partner inspected the site and determined that the No Stopping sign at the exit of the carpark could be relocated 3 metres to the south. This would allow more sight distance for vehicles exiting the carpark and provide a safer area for pedestrians to cross the highway to the other side, while not having to negotiate parked vehicles and vehicles exiting the driveway. As there are no formal crossing points in Bodalla.

**CONCLUSION**

The relocation of the No Stopping sign will provide a safer place for pedestrians to cross, while providing more sight distance for vehicles exiting the driveway.

**5.3 2024.RT.035 Signage, No Parking, David Avenue, Batehaven**

**RECOMMENDATION**

That Council Project 5490, Set Q Sheet 01 detailing No Parking 8am to 9:30am on David Avenue, Batehaven, be approved.



**LOCAL TRAFFIC COMMITTEE  
REPORTS**

<b>Meeting No:</b> 9-23/24	<b>File No</b> E16.0002
<b>Date:</b> Thursday 11 April 2024	<b>Time:</b> 9:30am
<b>Location:</b> Eurobodalla Shire Council – Classroom	

**BACKGROUND**

Council had been contacted by the principal of St Bernards Primary School asking for a safer road environment for those students who are dropped off by car in the morning. St Bernards has 383 students and of which a number are dropped off by parents and carers in David Avenue or Peter Crescent, on the opposite side of the road to the school. Due to the geometry of the roadway, there is no location to install a childrens crossing that would service the school. However, there is an option to create a kiss and drop off zone past the 50m of bus zone from the front gate of the school. The kiss and drop off zone will only be used for 8am to 9:30am as in the afternoon, parents pick their children up from the church carpark at the top of the hill.

**CONCLUSION**

The kiss and drop off zone will provide a safer space for parents and carers to drop off their children, with no need to cross the road. There is approximately 30m of No Parking zone which will service between 4 to 6 vehicles depending on size. No Parking meaning that cars cannot stay parked for longer than two minutes and drivers can not be more than three metres from the vehicle.

**ITEM 6 - INFORMAL ITEMS FOR DISCUSSION**

- 6.1 2024.SE.014 Lazer Rally of the Bay 20242024.
- 6.2 2024.SE.015 Narooma Oyster Festival
- 6.3 2024.RT.031 Perry Street, Batemans Bay, signage, Taxi and passenger vehicles
- 6.4 2024.RT.032 Orient Street, Batemans Bay, signage, Taxi and passenger vehicles
- 6.5 2024.RT.033 Clyde Street, Batemans Bay, signage, Taxi and passenger vehicles

**ITEM 7 - GENERAL BUSINESS**

- 7.1 B-double Narooma
- 7.2 Forestry Corp movements

**ITEM 8 - Development Applications****ITEM 9 - NEXT MEETING May 9, 2024**

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**CAR24/003 NAIDOC WEEK GRANTS PROGRAM 2024**

**S003-T00040**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: 1. Panel Recommendations 2024 Confidential  
Community Goal: 2 Our community that welcomes, celebrates, and supports everyone  
Community Strategy: 2.1 Acknowledge our beginnings, embrace our diversity  
Delivery Program Link: 2.1.1 Acknowledge and involve the traditional custodians of Eurobodalla and deliver the outcomes of the Aboriginal Action Plan  
Operational Plan Link: 2.1.1.4 Celebrate NAIDOC Week with events, activities and grant opportunities

**EXECUTIVE SUMMARY**

The purpose of this report is to advise Council of the recommended allocation of grant funds under the Eurobodalla NAIDOC Week Grants program for 2024.

**RECOMMENDATION**

1. This report to Council recommends funding be provided to 9 projects, as per the confidential attachment, for NAIDOC Week 2024.
2. The total grant amount available in the 2023-2024 budget for the Eurobodalla NAIDOC Week Grants program is \$5463, and grants totalling \$5500 are recommended.

**BACKGROUND**

Council's annual Eurobodalla NAIDOC Week Grants program aims to promote understanding of the history, culture and achievements of Aboriginal and Torres Strait Islander peoples within our community by providing funds to celebrate NAIDOC Week events and support participation in NAIDOC Week activities across the Eurobodalla.

Grants are usually valued up to \$500 to support community groups, schools and non-profits to deliver celebratory activities that promote understanding of Aboriginal history and culture, make a positive contribution to the community and demonstrate creativity, vision and originality.

Grant applications opened 5 February and closed 17 March 2024. Successful applicants will be notified and receive funds by 25 May, if approved at the Council meeting on 21 May for the delivery of events during NAIDOC Week which runs from 7 to 14 July 2024.

11 applications were received by the closing date, and 9 applications met the eligibility criteria.

**CONSIDERATIONS**

**Financial**

The total grant amount available in the 2023-2024 budget for the Eurobodalla NAIDOC Week Grants program is \$5463, and grants totalling \$5500 are recommended.

**Community and Stakeholder Engagement**

The Eurobodalla NAIDOC Week Grants program supports Council to positively and effectively collaborate with local not-for-profit groups and organisations to implement community focused

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**CAR24/003 NAIDOC WEEK GRANTS PROGRAM 2024**

**S003-  
T00040**

activities and events during NAIDOC Week. The successful applications will help our community to celebrate and promote Aboriginal and Torres Strait Islander history and culture.

**CONCLUSION**

Of the 11 applications submitted, 9 applications met the grant eligibility criteria. A grant review panel of 4, consisting of Clr Alison Worthington, and 3 staff from Community Development and Youth - Rhonnie South - coordinator, Jordan Nye - community development officer, and Cath Reilly - casual project officer. The panel met on Tuesday 26 March 2024 to review all eligible applications.

The panel has recommended that all 9 eligible applicants are allocated funds, including one application for partial funding. A confidential summary sheet with comments from the panel is attached to this briefing.

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### 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.

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## 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?

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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	olg@olg.nsw.gov.au	www.olg.nsw.gov.au
NSW Ombudsman	1800 451 524	info@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.