

## EUROBODALLA SHIRE COUNCIL

### PUBLIC FORUM

All members of the community who have registered have been advised that they have a **maximum of seven minutes** to put their case.

Ordinary Meeting of Council on **24 September 2019**

Name	Subject/Comments
<b>Public Forum – 9.30am</b>	
Charles Stuart	PET19/002 Provision for a low-impact splashpad within the Plan of Management for Corrigans Reserve, Batehaven
Lei Parker	PET19/002 Provision for a low-impact splashpad within the Plan of Management for Corrigans Reserve, Batehaven PSR19/027 Draft Community Engagement Framework and Participation Plan - exhibition CCS19/046 Dividends from Water and Sewer Funds CCS19/048 Sale of Moruya Racecourse
Marlies Straub	PSR19/022 Draft Rural, R5 and E4 Zones Development Control Plan Post Exhibition
Ken Dumpleton	PSR19/022 Draft Rural, R5 and E4 Zones Development Control Plan Post Exhibition
David Grice	PSR19/022 Draft Rural, R5 and E4 Zones Development Control Plan Post Exhibition
Deborah Stevenson	PSR19/022 Draft Rural, R5 and E4 Zones Development Control Plan Post Exhibition
Kathryn Maxwell	Emissions Reduction Plan and sustainability progress report
Warren Stubbs Lighthouse Charters, Narooma	CCS19/042 Licence to conduct business operations near Narooma Wharf
Scott Kennedy	CCS19/048 Sale Of Moruya Racecourse
Peter Atkinson	CCS19/048 Sale Of Moruya Racecourse

## **ESC ADDRESS TO COUNCIL 0930, Tuesday, 24 September 2019.**

I am Charles Stuart, president of The Bay Push, a not-for-profit organisation, the driver for the now complete, Variety Inclusive Playground.

The issue I address today is a petition signed by 794 residents and which I had much delight in presenting to Councillor Rob Pollock recently. The petition calls for approval to a low impact kiddies splashpad at Corrigans Reserve.

The petition is a little unique in that the content of the petition was explained in person to each and every signatory, mainly conducted in the Batehaven area, because my organisation, The Bay Push wanted to make this a meaningful petition and not a tick-a-box exercise.

The vision for the splashpad design is one that comprises only ground level water jets and it specifically features components that will not compete with the splash park proposed for the new aquatic centre. For those of you have seen the splash pad at Narooma Pool, you will have some idea of the scope of our proposal.

It is envisaged that the splashpad will be installed adjacent to and compliment the highly popular Variety Inclusive Playground, Batemans Bay.

The splashpad will be fenced, be accessible to all and free of charge.

In the past it has been stated by council that facilities such as these should be spread around the shire. And in other circumstances that is a fair call, but recognition must be given to families of special children who have mobility issues. It is not practicable for these families to shuttle between attractions, unloading and reloading mobility aids at each stop.

In stressing the importance of such a facility to families with a child with a disability, I quote from a letter sent to my organisation from Sally Minato, mother of son Frankie who some of you know was born with a raft of challenges. Sally writes: -

### **TEXT OF EMAIL DATED 25 JULY 2019**

For reference I am the mother of a profoundly intellectually disabled 8-year-old boy who has complex medical needs. He is incontinent and suffers dangerous tonic seizures daily. And I am also the mother to a thriving two-year-old who is healthy. Every day is a balancing act and I spend my life trying to get onto the same path as all the 'normal' families out there, and I fail. That's because society is only just beginning to recognise that families like mine exist. Thanks to Charles' hard work we have an incredible resource in the accessible playground at Corrigan's Reserve, which is where I spend much of my time.

I understand that there is a proposal being put for a water-play area. I cannot support this enough. My 8-year-old doesn't know how to 'play' at the park. He enjoys being there, he spins the blocks, I work on his core strength using the balance beams, however the only thing he really enjoys is sensory play - everything else is just therapy really. He loves water play, but not the swimming pool. He likes to splash, touch, make mud.

I understand we are having an aquatic centre built, however this will not cater to us because his immune system cannot cope with the germs that kids pick up at pools. At Ulladulla they have a splash area at their playground and when Frankie goes there with his special school, Budawang, I am told the kids genuinely enjoy themselves. They know that this is 'free' fun where they can get wet, not be held back, or told 'no', which sadly we spend most of our lives doing to these vibrant, happy little beings.

To close I hope Charles gets the support and funds he needs to keep this project moving forward. There is so much I want to do and can't, because I am parenting and it's high-stakes and exhausting. Thankfully we live in a community where people such as Charles and his committee are prepared to take the load for us, and ensure we are seen and our stories heard.

Parenting a child with special needs is a constant battle against isolation. Having services that help to make our families feel less alien in this world are essential.

Best wishes,

Sally Minato

It is in the vein of this correspondence that I seek the support of councillors and council staff in making some children's dreams come true.

Charles Stuart  
President  
The Bay Push Inc.

Presentation by Lei Parker – Sept 24<sup>th</sup> 2019

PET19/002 Provision for a low-impact splashpad within the Plan of Management for Corrigans Reserve, Batehaven

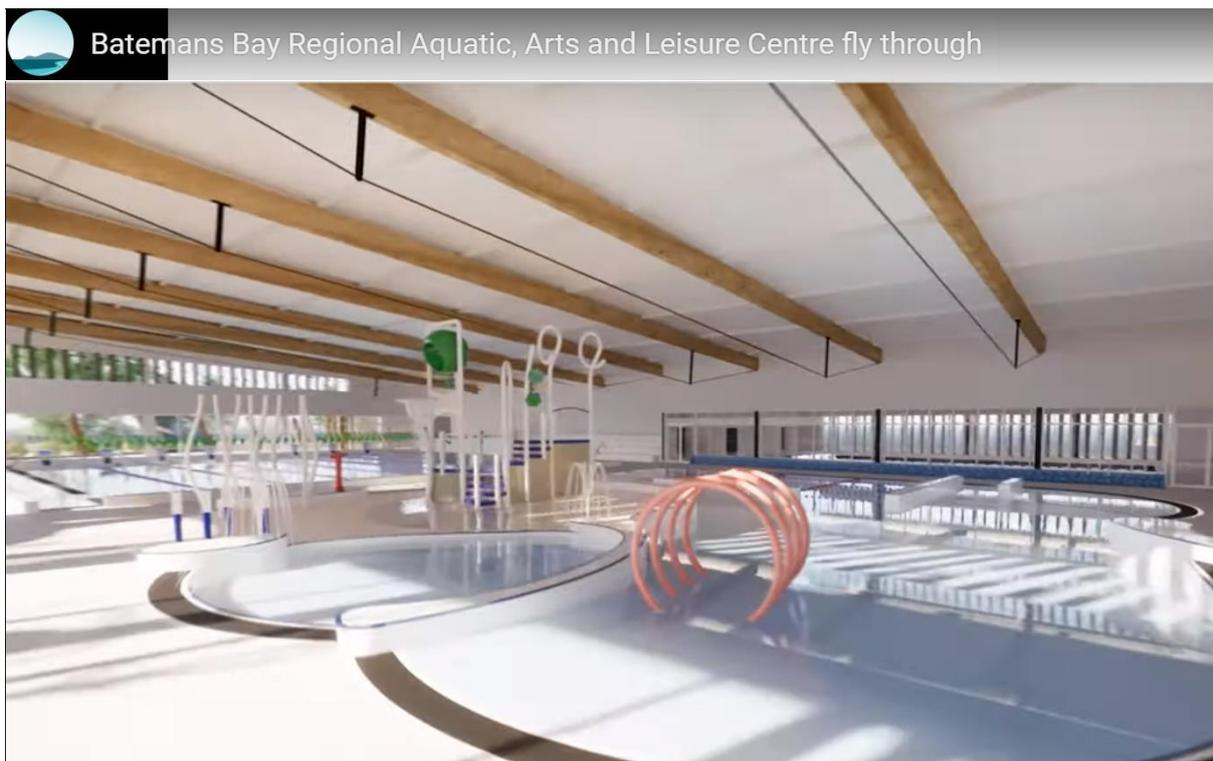
Council is being asked to consider this petition in the development of a Plan of Management for Corrigans Reserve with the petition stating that “community support exists for the provision of a ‘Splashpad’ adjacent to the recently completed and highly successful Variety Inclusive Playground, Batemans Bay.

It is advised that The Splashpad is designed to appeal to all levels of ability and will be free to all and compliment the inclusive elements available at Corrigans Reserve’.

On Tuesday 27 August 2019 a Council media release stated:

“The concept approved by council is the result of extensive community feedback. It takes the best from three alternate designs we put to the public earlier this year.” Mr Usher said.

“The aquatic centre will include a heated eight-lane 25 metre lap pool, and water-program, leisure and learn-to-swim pools, plus a waterslide



Might I remind Councillors that Council was successful in achieving a grant through the Department of Infrastructure and Regional Development, announced by Peter Hendy’s office on 2 June 2016.

This commitment of \$350,000 was to upgrade Narooma pool including removal of asbestos roofs, minor internal works and providing a children’s waterplay area designed to provide access for children with disabilities.

A council spokesperson told *the Beagle* the removal of asbestos roofs and internal works were completed in 2017/18.

"The splashpad work was awarded to [Parkequip Waterplay](#) in late 2018. Work is currently underway with an expected completion date at the end of March 2019. The cost of the waterplay component of the grant is \$280,000."

"The new waterplay space at Narooma pool will bring another dimension of activity to the centre at no extra cost to standard pool entry fees," the spokesperson said



The Otium business plan for the Mackay Park Leisure centre identifies a collective projected net income for the aquatic centre at \$1.09m with a projected loss of \$1,506,594 in the first year building to over \$2m in year 10.

No doubt some of that income will be from public entry to the splashpad by those not necessarily accessing the pools.

Table 3: Option 1 Integrated Facility Southern Precinct Operating Performance

CATEGORY	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	YEAR 8	YEAR 9	YEAR 10
<b>Income by Area</b>										
Aquatic area	\$1,090,349	\$1,175,563	\$1,265,237	\$1,320,353	\$1,377,736	\$1,437,474	\$1,499,661	\$1,564,394	\$1,631,773	\$1,701,902
<b>Expenditure by area</b>										
Aquatic area	\$1,506,594	\$1,557,905	\$1,611,038	\$1,661,967	\$1,737,396	\$1,792,526	\$1,849,470	\$1,916,732	\$1,977,785	\$2,040,852

Otium had identified a splash pad of 10.5 x 11.7m = 118m<sup>2</sup> =estimate to build \$1m

<b>Internal Aquatics</b>					
Turquoise Pool	Allow		\$	300,000	\$ 300,000
Learn to Swim Pool / Leisure Pool	Allow		\$	1,600,000	\$ 1,600,000
Splash Pad	Allow		\$	350,000	\$ 350,000
Splash pad fixtures	Allow		\$	750,000	\$ 750,000
Program Pool incl Spa with ramp access	Allow		\$	1,400,000	\$ 1,400,000
25m pool incl ramp access	Allow		\$	1,500,000	\$ 1,500,000
Water slides and flumes	Allow	2 No	\$	1,000,000	\$ 1,000,000
Water slide tower	Allow		\$	150,000	\$ 150,000
Allowance for pile / pier foundations	Allow		\$	300,000	\$ 300,000
Allowance for BWTG incl excavation, trenching, grates etc	Allow		\$	150,000	\$ 150,000
Preliminaries on Pools	Allow		\$	765,000	\$ 765,000

- Questions:

1. Can Councillors explain why there is a \$720,000 difference to build the splash pad at Mackay Park compared to the one recently installed at Narooma Pool

2. Bay Push advise that Andrew Constance supports the grant funding for a Splash Pad. This requires a DA or a letter of exclusion from a DA from council. Inevitably this will be endorsed. Have Council considered the financial impact such a free open access facility will have on their own pay-to-use facility.

3. Will Councillors reconsider the need for the splash pad if they will vicariously inherit the one for Bay Push as they have with the inclusive playground?

### **PSR19/027 Draft Community Engagement Framework and Participation Plan - exhibition**

This draft that includes the new Community Participation Plan raises the question of why Council did not use the current endorsed Community Engagement Framework for Mackay Park.

The original Community Engagement Framework as adopted by Council on 16 February 2017

From Council's own timeline

November 2016: First Sunset Committee meeting.

January – February 2017: Otium Planning Group discussions with Sunset Committee members.

March 2017: Second Sunset Committee meeting – preliminary analysis presented by Otium Planning Group.

May 2017: Third Sunset Committee meeting – preliminary draft concept plan presented by Otium Planning Group.

August 2017: Fourth Sunset Committee meeting – draft business cases and concept plans for two options presented by Otium Planning Group.

December 2017: Fifth Sunset Committee meeting – discussed next steps for design of aquatic and arts facility.

December 2017: Council submits grant application to Australian Government.

February 2018: Sixth Sunset Committee meeting.

February 2018: Council holds information kiosks in Batemans Bay to update **the community**.

September 2018: Seventh Sunset Committee meeting.

December 2018: NBRS Architecture provides three design concepts with different layouts for Council and **community** feedback.

January 2019 to February 2019: **Community consultation** is undertaken across Eurobodalla to seek feedback on three concept design options, including an opportunity to participate in a survey

It is stated in the draft Eurobodalla Shire Council Community Engagement Framework that is before Council that it has “responsibility for coordinating, planning, designing, implementing and evaluating community engagement activities”.

“Eurobodalla Shire Council is committed to including its community in decisions that affect it.

“Eurobodalla’s Community Strategic Plan identifies the importance of building and maintaining an engaged and connected community that works together to achieve common goals, where thoughts and ideas are valued and community members are empowered with knowledge and have the opportunity to participate.

Engage early and provide information that is clear

- Engage the community early in a project, wherever practical.
- Clearly communicate the goals of the engagement process.
- Communicate any limitations of the engagement process to participants from the start; including legislative or policy requirements, conflicting community views, budget constraints and any non-negotiable aspects.
- Provide staff and the community with all the information they need to participate meaningfully.

The above was adopted by Council on 16 February 2017

Question:

Why wasn’t the Community Engagement Framework adopted in Feb 2017 used for the Mackay Park project?

### **CCS19/046 Dividends from Water and Sewer Funds**

in June (2018) Councillor McGinlay managed to have the Director of Finance admit that they budget for the "dividend" and that the "dividend" has been going on for a long time and that it is now factored into annual, four year and 10 year plans.

The Director of Infrastructure joined in by supporting the process and saying that Eurobodalla pursues best practice pricing guidelines with the intent of making a small surplus every year.

Note that the small surplus this year is \$611,900 (Water) and \$566,440 (Sewer) being transferred to the General Fund.

This basically means that Council knowingly overcharge the community on Water and Sewer every year to get around the rate pegging that constrains the General Fund income.

I repeat Councillor McGinlay's question: "Do we put up the water and sewer every year as a way of topping up the General Fund above the allowable 1.5% increase to cover the costs of the ever increasing overheads like wages and the ever mounting infrastructure maintenance and renewal shortfalls?"

CCS19/048 Sale of Moruya Racecourse

Question: How will Council spend the expected \$1.3m to \$1.5m from the sale? Will it be directed to the Mackay Park project?

Draft Rural R5 and E4 Zones Development Control Plan ( DCP) Item Number 9 on Agenda Planning and Sustainability Reports

Marlies Straub  
Lot 5 Horse Island Road, Bodalla

23. September 2019

Dear Councillors,

Our property Lot 5 Horse Island Road is in category 5 of the Rural DCP Plan, stating the property is unlikely to achieve adequate bushfire protection for new dwellings and/or subdivision.

We have followed councils recommendation to get in touch with the RFS, but RFS won't meet with individual landowners. They say any comments on this matter should be sought from the Eurobodalla Shire Council.

We are seriously questioning, why our property should be a higher fire danger then properties in category 4.

We have no intention to subdivide and develop our property, we love nature and really care for the environment. But we would love to eventually be able to put a small environmentally appropriate building on our block.

We bought the property last year and got in touch with the RFS in summer this year discussing a controlled back burning on our block. Unfortunately, we had a very dry winter and the back burning didn't happen, but RFS put our property as high fire danger then, in order to instigate the backburning.

So, we are aware of the fire danger on our property and we are very responsible people.

We have 2 fire stations within 4km ( Bodalla and Potato Point ) With some Exit clearing, we have 3 street accesses ( Blackfellows Road, Horse Island Road and sealed Potato Point Road) Once the DCP Draft Plan becomes Policy, we will have real difficulties to ever get a building entitlement, that's why we are trying to be moved to category 4 now.

Thank you

Marlies Straub

Presentation before Council 24.09.2019

Draft Rural R5 and E4 Zones Development Control (DCP)

Item No. 9 on Agenda Planning and Sustainability Reports.

Good morning, Thank you for receiving us. I'm addressing item 9 on the council agenda – Planning and Sustainability Reports – and specifically the placement of our property in Category 5 – Land Unlikely to achieve adequate bushfire protection for a building entitlement.

To find we have been placed in Category 5 has been a shock to us. Before purchasing the property last year we were given to understand from the selling agent and council that in due course we would enjoy the right to a building entitlement with the reduction of minimum property size from 40 hectares to 20 hectares. Ours is 32 hectares. There was no mention of a category 5 at that time.

We consider there are mitigating circumstances with regard to our property that may make it less of a risk than some properties in category 4 and are asking council move our property to Category 4.

We are within 4kms of 2 fire stations – Bodalla and Potato Point – and I have applied to join Potato Point RFS.

We have a council water pipeline running through our property with a valve on the boundary. We currently have 25,000 litre water storage capacity on the property and we have a bore licence to drill for a sustainable water supply on the property.

We are currently tidying up overgrown logging tracks on the property which give us access/exit tracks to 3 public roads – Horse Island Rd., Blackfellows Rd., and sealed Potato Point Road.

We were to have had an RFS controlled burn this winter but dry conditions prevented this. We're on a priority list to carry out the burn next winter.

On the advice of Nathan Farnell, we approached the RFS to discuss the situation. We sought to meet with them last Friday and again this morning and they responded by email saying they do not meet with individual property owners.

We seem to have no recourse but to appeal to councillors to move our property to Category 4 allowing us to negotiate conditions to reduce the fire risk to an acceptable level.

We've had extensive experience in living in off-grid, fire risk areas.

We are responsible nature lovers and have bought the property with the intention of making it our home and becoming responsible members of the Eurobodalla community.

I ask you to support us in this endeavour by placing our property in Category 4.

Thank you.

## ***Risking Lives and our Future***

My name is David Grice and I will address item PSR19/022, the draft rural Development Control Plan (DCP).

I need to stress from the start that the many good professional Council staff have a passion for serving the public and they fully understand they are there for the public and not for the debateable agendas of council managers. The draft DCP is so clumsy and inadequate it cannot be adopted. The DPI and OEH advice has not been included in the draft DCP. The Rural Fire Service (RFS) has **not** commented on the draft DCP and I assure you the RFS will **not** endorse it because much of their advice never made it into the draft DCP (as detailed on p10-16 of my submission). It cannot be adopted ... the risk to numerous human lives alone is severe and real. You will be shown up as willing to sacrifice public safety.

It was recently suggested by Council managers, that negotiations relevant to the draft DCP have resulted in the majority of the objections from the RFS and OEH being withdrawn. (<https://aboutregional.com.au/planning-department-continues-review-of-eurobodalla-rural-lands-rules/> and in ESC Agenda 13 August 2019)

This will be news to those agencies – Councillors need to just ask them.

Let us drill down into the facts as a way of understanding the weakened fire and environmental protections in the draft DCP.

For the OEH a tiny, 4 out of 51 objections on Lots have been withdrawn. 47 original objections **remain** (92%) and/or, I repeat, **and/or** are strictly conditional on Council adhering to specific detailed planning commitments. Their advice is not included in the draft DCP. 66 Lots were never objected to in the original Planning Proposal, so they cannot be classified as being withdrawn.

For the RFS, none of 50 original “Area”-wide objections in the Planning Proposal have been withdrawn in the draft DCP. There were never any objections for 19 “Areas” based on the Council assurance there were no additional ‘**dwelling**’ entitlements. What is ignored here is the RU land use zones potentially allow for a vast number of ‘**non-dwellings**’ such as the following and much, much more: Health Services Facility; Educational Establishment; Child Care Centre; Seniors Housing; Respite Centre, Function Centre; etc., etc. Special Fire Protection Purposes facilities and the people in them have not been considered in Schedule 4 of the draft DCP. What are the consequences of all this special APZ clearing? Council response: nothing, silence.

The **basis** of the 50 original RFS “Area”-wide objections remain and are only moderated **if** and only **if**, I repeat, **if** and only **if**, the Council adheres to strict detailed specific planning commitments for each Lot (in many cases, almost prohibitively strict conditions) and **only** in terms of ‘**dwellings**’. Much of this advice is not included in the draft DCP. Saying the majority of objections have been withdrawn is bunkum and insulting to the professional integrity of these agencies. The Council comments insinuate that the agencies had unsubstantiated objections. The fact is Council applied their own personal filters and refused to accept any of the advice and recommendations of the subject-matter experts before they forced the proposal through to the NSW Department of Planning and Environment. Council simply

called it a “professional disagreement” and suggested the Council did not have the narrow focus of agencies and had to consider all aspects. However, the RFS staff are the ones that actually have to consider all aspects. The RFS are the people on the front line. These are the people that know what it takes to protect property and people. They do not advise lightly or in ignorance. OEH staff are also well skilled at considering multiple aspects, as is always demanded in the study of ecology.

Council has refused to accept the RFS advice for a strategic bushfire study which would have allowed sensible zoning rather than trying to rely on a clumsy and inadequate draft DCP to mitigate fire risks. Council suggested the study would map the entire shire as fire prone and defiantly pushed ahead with weak protections. It is important to note that the RFS has **not**, I repeat **not**, provided comment on the draft DCP so it cannot be said that RFS concerns have been addressed. The draft DCP cannot be adopted. The threat to the public of inadequate protections is far too dangerous.

It beggars belief that in a time of drought, heightened bushfire threat, when emergency services are stretched, and it is predicted that this will be the more common situation into the future, that this Council does not ensure that the draft DCP is endorsed by the RFS. The Council insisted on zoning which encourages developments and dwellings in amongst heavily forested areas that cannot be defended.

After the fires of Black Saturday, Canberra 2003, and Tarthra 2018 there have been numerous investigations into what contributed to the loss of lives and property. Sighting of buildings in defendable positions is one of the key findings. Having access to the fire front is critical. Having access to escape routes is critical. All of this was ignored by Council until they were forced to start to compromise by the Department of Planning. Unfortunately, the Council solution with the combined draft DCP and DA process is obviously clumsy and inadequate. Several agencies warned Council about this. Agencies have strongly suggested to Council that sensible zoning and minimum lot size is the better planning instrument. How can this council be prepared to ignore expert advice and put the tourist attracting environment, the lives of firefighters and citizens at risk? The reality is that fires are already becoming more catastrophic due to the consequences of climate change and this clumsy and inadequate draft DCP only increases the risks. As Margaret Thatcher stated in 1989: “It is mankind and his activities that are changing the environment of our planet in damaging and dangerous ways.” (call for United Nations treaty to combat climate change).

Agencies suggest that relying on the DA and a DCP will inevitably result in land owners having unrealistic development expectations from an ambiguous environmental planning instrument. The DA and DCP are the wrong planning instruments at the wrong time. The RFS, OEH and Council will be swamped by inappropriate proposal just because the council obstinately refuses to provide appropriate planning zones. The rejection and subsequent challenging of expensive DA's will lead to numerous legal battles because of the unrealistic development expectations suggested by the 84 RU1 land use possibilities and 75 RU4 land use possibilities. As a result, inappropriate DA's could be forced through. An obscure “Note” in a DCP Schedule is not going to solve this. There are numerous examples around the shire where DA's weaker guidelines and controls have not stopped

excessive and destructive clearing in Endangered Ecological Communities; as can be seen at Broulee, Mossy Point, and Long Beach.

I am a scientist and I have worked in the ecology field for over 30 years. However today I want to emphasise the risk to human lives as nobody seems to care about the risk to our endangered species and habitats. The Council has refused to accept any of the OEH serious concerns as I have documented in specific detail in my extensive submission to council.

Now is the time for Council to accept the advice of the 6 state agencies subject-matter experts and to listen to the community and amend the Planning Proposal (ERLPP) to allow for a more sensible LEP. Now is the time to allow the many good professional staff within Council to express their valid concerns about the draft DCP. The permanent long-term consequences on the shire are far too great for them to remain silent. The risk to numerous human lives alone is severe and real. The draft DCP is so clumsy and inadequate it cannot be adopted.

The ESC failure to response to some parts of the public submissions helps to expose what filters the council managers are viewing things through when developing the dDCP.

- The ESC has failed to provide a response to any of Submission 73's comments on specific Area by Area concerns about "the ESC only partially addressing the RFS concerns within the dDCP. In many cases the dDCP has omitted the RFS concerns about specific Lots. The vast majority of OEH and other agencies concerns have been completely omitted." 32 specific detailed Area by Area concerns and concerns about specific Lots have been ignored by the ESC. How can the dDCP be adopted when concerns in public submissions have not even received a response from ESC?
- The ESC has failed to provide a response to: "The concerns raised by the government agencies and the community about the Eurobodalla Rural Lands Planning Proposal are too important to be put into a DCP which is a non-statutory guidance document that can be varied or ignored by ESC."
- The ESC has failed to provide a response to concerns about a draft vegetation map and a limited "biodiversity values map" simply placed in a DCP where it will have only an advisory/"guidance" role.
- The ESC has failed to provide a response to concerns about the exclusion of data on Corridors and Endangered Ecological Communities within the "biodiversity values map".
- The ESC has failed to provide a response to: "Have the concerns raised by other government agencies such as DPI Agriculture, DPI Water, DPI Fisheries and Local Land Services been similarly addressed [in the dDCP]?"

The summarised ESC response to the public submissions was provided in Table 1 in dDCP Agenda 24 September 2019. The responses also exposes what filters the council managers are viewing things through when developing the dDCP. The following critique of the ESC response is dealt with by each row of that table, starting from row 1 through to row 16 of that Table.

- Row 1. ESC suggests a negotiated outcome. This is non-sensical as the RFS has not provided a comment on the dDCP hence no outcome has been obtained since negotiations have not concluded.
- Row 1(b). The ESC response to concerns about producing a dDCP pre-ELEP 2012 are based on a flawed assumption that the ELEP 2012 will be put in place without change. This is not true according to what the Department of Planning states in any of their correspondence or their public media statements. Instead the Department insists it has definitely not made a decision and are still considering the merits of the RLPP.
- Row 3. ESC suggests that locating the biodiversity clause and subsequent map in the dDCP will achieve the same outcome as having the provisions in the ELEP 2012. This begs the question ... why change it then if it is the same, particularly when it ignores all the agencies advice who advise it is definitely not the same?
- Row 4. ESC suggest Council has not observed any patterns of issues related to land use conflicts. Other agencies definitely suggest otherwise. Why not accept their advice and the need for sensible zoning? Planners need to plan ahead rather than blindly waiting for issues to occur which is then too late. Why does ESC not accept the other agencies professional opinion?
- Row 5. ESC states feedback from OEH and RFS was used to inform the dDCP. This vital information needs to be automatically provided to the public by ESC as the public also needs this advice as part of the Agenda package so they can also use it to inform their assessment of the dDCP. If ESC need it to inform the dDCP then the public also needs to be automatically provided with it.
- Row 6. ESC's flimsy response about the word "Ignored" vs "addressed" plays with semantics as it is blatantly obvious the ESC has not accepted other agencies advice. ESC virtually admitted that when it repeatedly stated it was a simple "professional disagreement". If they were genuinely "addressed" please provide the examples of where ESC has changed their plan because of the subject-matter experts.
- Row 7. Schedule 4 does not address all the land identified by the RFS that requires additional bushfire protection. RFS specifically indicated they were identifying only '**dwelling**' related activity and not major infrastructures filled with people. RFS specifically state that the lack of objections are conditional on "no increased density". The vast number of new land uses available on these same Areas/Lots breaks that conditional approval. Those Lots have not been identified in the Schedule 4.  
The fact is the RFS required a strategic bushfire study which was rejected by ESC. RFS wanted sensible zoning not piecemeal DA by DA assessment.
- Row 8. ESC pretends Schedule 4 addresses 'developments'. This is not true and in fact the word 'dwelling' is the only word used in the original RFS submission table. Many of the proposed new land use developments are in fact prohibited by the RFS in RU zoned land and many are SFPP uses which would not receive approval with the conditions applied in the Schedule 4 table. Remember that the RFS has not approved the dDCP because it has not commented on it. ESC is verging on being criminally negligent by encouraging such uses in areas that cannot be defended from fire.
- Row 9. ESC is ignoring reality. ESC would be well aware that significant clearing occurs despite any "biodiversity and tree preservation" controls. ESC

just needs to look around at the many examples including at Broulee, Mossy Point, Long Beach. It is obvious controls are not enforced and they are ineffective at preventing significant clearing.

- Row 10. Finally, ESC admits that their ridiculous use of “Areas”-identifiers rather than specific “Lots” with “Suburb”-identifiers in the RLPP was very unclear. They admit that is why they changed from “Area” to “Suburb”. ESC has ignored the concern that this change was not cross linked by including the “Area” identifier with the new “Suburb” identifier so any proposal changes could be tracked. Many agencies found the use of the vague “Area”-identifier very frustrating and unclear -- maybe that is what ESC wanted?
- Row 12. ESC suggesting rural setbacks have been appropriate, completely ignores that some of the vast number of **new** land use will have very different large structures and a disturbing visual and physical presence in the rural landscape.
- Row 13. ESC directs responsibility for a user-unfriendly Biodiversity Values Map to OEH. ESC needs to address this as they are directing proponents to the site. How do they expect proponents to use it without some assistance from ESC?
- Row 14. ESC admits their native vegetation map is not user friendly. How was the public expected to assess the adequacy of the dDCP if the public could not examine it to investigate the adequacy of the dDCP?
- Row 15. The ESC response misrepresented my concern. The “Note” is an inadequate way of ensuring the consultation ESC acknowledges is best practice. In fact ESC admits the “Note” is only effective “to some extent” in one of their response in Attachment 2. It is far more effective to first provide the correct land use zoning in the first place and this was the strong advice from multiple agencies. Of course the ESC did not accept any of that advice.
- Row 16 ESC pretends there is only a small number of lots and dwellings involved in the RLPP. This is bunkum as the dual occupancy changes will eventually allow over 1,800 dwellings as well as a vast number of new facilities and extensive constructions because of those new land uses spread across the Rural zone. This appears to have been deliberately ignored and hidden in an attempt to force the RLPP through.

My concern now is that because of pressure (from the ESC Director of Planning, the Mayor and most unusually the involvement of the Local Member Andrew Constance in intricate details best left to the RFS and OEH), the RFS and OEH position could be eventually watered down somewhat resulting in flow-on consequences. There will be an increase in what resources (personal and equipment) the RFS and OEH will have to invest to deal with the workload consequences of the ESC refusing to use appropriate zoning. More RFS staff will be put at unnecessary risk because the ESC refuses to use appropriate zoning.

Several State agencies have strongly suggested to ESC that sensible zoning and minimum lot size is the better planning instrument. Agencies suggest that relying on the DA and a DCP will inevitably result in land owners having unrealistic development expectations from an ambiguous environmental planning instrument. The DA and DCP are the wrong planning instruments at the wrong time. The RFS, OEH and ESC will be swamped by inappropriate proposal just because the council obstinately refuses to provide appropriate planning zones. The

rejection and subsequent challenging of expensive DA's will lead to numerous legal battles because of the unrealistic development expectations suggested by the 84 RU1 land use possibilities and 75 RU4 land use possibilities. As a result, inappropriate DA's could be forced through.

The dDCP does very little to diminish the unrealistic development expectations or strengthen the enforcement of the DCP guidance document. ESC has a poor record in following up non-compliance by landholders and developers who do not cooperate, as many recent examples demonstrate. The bushfire risk and environmental impacts of all these additional land use constructions and facilities in these existing zones have not been included in the dDCP. The dDCP need for very large 10kw APZ's in HCV land will undermine one of RFS and OEH key objectives of protection of environmental assets.

There are 247 new dwellings (or eventually as many as 494 dwellings with new dual occupancy provisions) eventually added to the existing housing stock. These new dual occupancy provisions would also permit an eventual doubling in existing dwellings by 1,330 new dwellings, which in total equates to over 1,800 new dwellings (137% increase) spread across the landscape including steep forested areas that have a high bushfire risk. Each of the 1800 new dwellings could have 2 or more lives in them. It will be of no exaggeration to say, that the resultant coronial inquiry will be shocking to watch as council puts the last nails into the coffins of the many victims resulting from their obstinate extreme position.

If the dDCP requires 100m clearing for 10kw APZ's , then 3.3 ha of clearing for a NSW average sized new home. With sheds on it then it would be 4.6 ha. This will eventually result in large areas cleared in many of the heavily forested areas of the shire.

The number of dwellings is not the final extent of changes in the ERLPP. What seems to have been not fully appreciated is the RU land use zone potentially allows for an increased large range of facilities and constructions such as the following and much, much more: Health Services Facility; Group Home; Educational Establishment; Child Care Centre; Seniors Housing; Respite Centre, Tourist accommodation facility, Function Centre; Entertainment Facility; Place of Public Worship. None of these concerns about inappropriate land uses have been addressed by the dDCP.

What seems to have been not fully appreciated is that Schedule 4 (Land Requiring Additional Bush Fire Protection Measures) within the dDCP completely ignores the large areas of the Shire that have always had a "Rural" zoning and will remain as "Rural" zoning. What has been ignored is that **existing** "Rural" zoned land will dramatically increase the number of land uses permitted on these rural lands through the use of open land use tables with a multitude of facilities/constructions possible (e.g. land already zoned RU1 will have a 60% increase in land uses and RU4 land will have a 142% increase).

The bushfire risk of all these additional constructions and facilities in these existing zones have not been included in the Schedule 4. The RFS has made no objection to 19 Areas based on there supposedly being no increased 'dwelling' density. What is ignored is the RU land use zone potentially allows the following and much, much more: Health Services Facility; Group Home; Educational Establishment; Child Care

Centre; Seniors Housing; Respite Centre, Tourist accommodation facility, Function Centre; Entertainment Facility; Place of Public Worship. How are these facilities going to be protected? What are the consequences of all this APZ clearing? **ESC** response: nothing, silence. Nothing to alert any unrealistic expectation proponents. ESC needs to alert proponents with unrealistic expectations that these land uses and more are not allowed on these Lots. A clumsy ineffective way of doing this would be to put a list all the prohibited facility-generating land uses into the DCP. A much more sensible way would be to zone it appropriately rather than obstinately persisting with inappropriate zoning.

The Schedule 4 only deals with the changed-zone or changed-lot-size “Areas” identified in the previous Rural Lands Strategy (RLS) and the ERLPP documents. The Schedule totally ignores the multitude of facility constructions possible that are not strictly “dwellings” but are where people will congregate and need bushfire protection. The ESC has only partially addressed some of the RFS concerns within the dDCP. In many cases the dDCP has omitted the RFS concerns about specific Lots. The vast majority of OEH concerns have been completely omitted.

We need to insist that the specific concerns of the 6 State agencies are accepted. The dDCP fails to resolve the concerns of the RFS and the OEH and makes no attempt to address the concerns of DPI Fisheries, DPI Agriculture, DPI Water, Local Land Services, the oyster industry or the community. The permanent long-term consequences on the shire are too great to allow this ill-conceived dDCP and ERLPP to proceed.

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## **Presentation to Eurobodalla Council on item PSR19/022 Draft Rural, R5 and E4 zones Development Control Plan Post Exhibition by the Nature Coast Alliance (NCA)**

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### **The NCA**

- who we are and what we stand for

### **Our concerns:**

#### **1. Exhibiting and approving the DCP before the LEP has been signed off**

- the Rural Lands Planning Proposal endorsed by Council in August last year makes far-reaching changes to the Eurobodalla LEP. It was highly controversial and was strongly opposed by six government agencies and large sections of our community. As a result, it has been with the Minister for Planning and his department since December 2018. We have been advised that they are looking very closely at the changes it proposes and taking on board the concerns of the government agencies and the community. To date there is no final, signed-off LEP.
- the role of a DCP is to support the LEP and provide guidance on how to implement its statutory planning controls. A DCP therefore needs to be read in conjunction with the LEP. Council has prepared this draft DCP and put it on public exhibition expecting the community to comment on it without there being a final approved LEP in place.

**Comment: this is highly irregular and unreasonable. The concerns raised by the state agencies and the community are far too important to be put in a DCP, which is a guidance document that can be varied or even ignored by Council.**

#### **2. Piecemeal approach to bushfire risk**

- the Rural Fire Service had major concerns about the increased bushfire risk that will result from the additional dwellings and land uses that the Rural Lands Planning Proposal permits in remote forested country.
- the DCP attempts to deal with these concerns by identifying over 300 sites which are subject to extreme bushfire risk. The risk at 282 of these sites is so high that future development will be required to adopt bushfire protection measures far beyond those normally specified by the RFS. The risk at a further 25 sites is so extreme, that although the Rural Lands Planning Proposal zones them for further subdivision and/or new dwellings, the RFS advises that they cannot safely be developed.
- the bushfire protection measures at each of these sites will need to be negotiated between Council and the individual owners at the development assessment stage, a lengthy process with an uncertain outcome.

**Comment: this is an irresponsible approach to bushfire planning which should be dealt with more strategically through an enforceable LEP that zones these high risk lands appropriately and restricts the land uses allowed on them.**

#### **3. Extremely poor outcome for the Nature Coast's biodiversity**

- despite strong opposition from the Office of Environment and Heritage, Council intends to remove the Biodiversity Clause from the LEP which requires them to consider and then avoid or mitigate adverse impacts of development on biodiversity. Instead it will be placed in the DCP, which is a discretionary document that is not legally binding and can be varied by Council.
- in addition, the Terrestrial Biodiversity Map in the Eurobodalla LEP will be replaced with a simplified draft Native Vegetation Map that no longer shows biodiversity corridors or endangered vegetation and which will also be placed in the DCP.
- the DCP fails to address any of the outstanding concerns raised by OEH in relation to over 35 sites which support significant biodiversity values and which are proposed for further development.

**Comment: This is a watering down of the protections afforded to important biodiversity values in the Eurobodalla and is at odds with the planning approach of all other Councils in our region. It demonstrates Council's complete contempt for the natural environment of our shire.**

**4. Failure of the DCP to address a whole range of other government agency and community concerns with the Rural Lands Planning Proposal such as:**

- increasing land-use conflict and fragmentation/alienation of productive agricultural land which will result from the huge increase in allowable land uses, together with a reduction in minimum lot sizes, on all rural lands across the Eurobodalla (Department of Primary Industries – Agriculture).
- this will lead to further clearing for development and associated bushfire protection in steep, forested country which will have downstream impacts on water quality from increased runoff and pollution, particularly from remote dwellings with unsealed access roads and on-site sewage systems (Department of Primary Industries - Water).
- deteriorating water quality will threaten Eurobodalla's important oyster industry and adversely impact on recreational fishing, as well as our tourism industry, which rely on the pristine rivers and lakes associated with the Eurobodalla's 'Nature Coast' (Department of Primary Industries - Fisheries).
- this situation will be made even worse because the Rural Lands Planning Proposal allows grazing in wetlands and on riparian lands which currently serve as local fish nurseries and filters that reduce run-off into our waterways (SE Local Land Services).
- this surge in development facilitated by the Rural Lands Planning Proposal will lead to a growing demand for water at a time when the Eurobodalla is experiencing unprecedented drought (Department of Primary Industries - Water).

**Eurobodalla Council will be the only South Coast council to:**

- **deal with extreme bushfire risk in a DCP and not through enforceable zoning controls in the LEP;**
- **weaken biodiversity protections by removing biodiversity mapping from the LEP and eliminating Environmental Management zones from some of our shires most biodiverse lands;**
- **open the zoning tables on rural lands, which is essentially the same as rezoning them for a whole range of inappropriate and conflicting uses (examples);**
- **allow grazing in sensitive Environment Protection zones, effectively undoing the restoration works undertaken on these lands over the years by our Landcare groups;**
- **permit development in steep, remote, forested areas without requiring sealed access roads.**

## **EUROBODALLA COUNCIL – TIME TO HELP THE COMMUNITY ADAPT TO CLIMATE CHANGE**

- I am presenting this paper on behalf of the Southcoast Health and Sustainability Alliance.
- We have a climate crisis to deal with. The last few years has seen a significant increase in extreme climate events including stronger storms, more severe droughts, stronger winds, less water runoff into rivers and dams, and longer and more severe heat waves.
- The Eurobodalla is not immune to these impacts. We have seen a significant decline in rainfall in the last three years, hotter and more humid summers, with the sun's rays being much stronger. Over 60% of Eurobodalla's residents are over 60 compared to 27% for the rest of regional NSW. Older people are much less able to cope with temperature extremes and their health is already being adversely impacted by the changing climate.
- We are told by the Mayor and Deputy Mayor and the majority of Councillors that the Council does not need to declare a climate emergency because they are already taking climate action. However, their actions are pretty much restricted to reducing emissions for the Council. Very little is being done to help the community reduce emissions or adapt to the rapidly changing climate.
- Last year the Southcoast Health and Sustainability Alliance prepared a budget submission to the Councillors where we asked for a number of climate adaptation measures. These were ignored by the majority of Councillors. Only Patrick McGuinlay and Anthony Mayne responded positively to the submission.
- The Council needs to urgently prioritise funding for the following:
  - shade trees on all streets in the town centres and areas of high pedestrian traffic
  - awnings on all shops to provide protections from the weather, particularly the heat

- 24 hour public access cool venues in each town centre for people to escape the heat waves. These would include kitchen facilities, tables, seating, reverse cycle air conditioning, solar with batteries that work when the power goes down. An example of a building that would be able to perform these functions with an upgrade is the Moruya Parish Red Door Hall.
- Swimming pools kept open to 10pm on high temperature days to provide an opportunity to cool off and escape the late afternoon heat.
- Building shelters which cover car parking spaces and fitting them with solar panels. Ballina Shire has installed these at Byron Bay, and a number of Council's in QLD have also installed them. These car parks are dark bitumen colour and as a result are heat sinks. Moruya would be transformed if the Council covered its car parks in building shelters.
- Bus shelters that actually protect people from the weather. It is often low income, children and the elderly waiting at bus stops for public transport.
- Many more water fountains so that people can easily stay hydrated. The one at Riverside Park is great but we need many more.
- As well as the various infrastructure implementation Council needs to also work on social infrastructure and education. Such as:
  - Develop a comprehensive strategy to engage the Eurobodalla community on climate change matters and to provide integrated information, advice and support on reducing energy bills and cutting emissions."
- These measures would not only make the Eurobodalla safer for its residents but also for our tourists, the majority who visit during the summer months – December and January.
- SHASA and the rest of the community would like to know why the release of the Council's Adaptation Plan has been delayed indefinitely.

Request to speak at Public Forum – Tuesday 24 September 2019

Warren (Wazza) Stubbs – Montague Island Discovery Tours

CCS19/045      Licence to conduct business operations near Narooma Wharf.

We would like to raise/discuss the following in relation to item of business ‘Licence to conduct business operations near Narooma Wharf’

- Thank and appreciate council working with Montague Island Discovery Tours in regard to this issue.
- Financial – we would like to request a review of the fee/rate structure for the proposed licence. The proposed rate is excessive and would seriously impact our business. Currently there is no paid parking or time restrictions in place at Narooma Town Wharf.



18 September 2019

Dr Catherine Dale  
General Manager  
Eurobodalla Shire Council

By email: [council.meetings@esc.nsw.gov.au](mailto:council.meetings@esc.nsw.gov.au)

Dear Dr Dale

### **Submission to Council Regarding Proposed of Moruya Racecourse by Racing NSW**

I would appreciate the opportunity to make a brief presentation to Council at its meeting on Tuesday 24 September 2019 in favour of the proposed sale of the Moruya Racecourse to Racing NSW.

My verbal submission will focus on the matters raised below.

#### **Proposed Acquisition of Moruya Racecourse**

Thoroughbred racing is very important in country regions of NSW both as a social outlet and also as an economic driver.

Racing NSW is looking to invest in racing throughout regional NSW, with the Racing NSW Strategic Plan providing an outline of this intent.

Racing NSW wishes to acquire the Moruya racecourse as this will provide security and certainty for further investment in racing infrastructure.

#### **Moruya as a Training Centre**

A 2014 report by International Event Resources estimated the economic value of thoroughbred racing in the South Coast and Illawarra at approximately \$84 million p.a. and equating to 2500 FTE jobs.

Moruya has attracted the interest of racehorse trainers as an excellent location to train permanently or as a coastal 'satellite' location. This includes trainers with horses set to run in the \$1.3 million Kosciuszko Race (country trained only) at Royal Randwick on 19 October 2019.

The Moruya Jockey Club has approached Racing NSW seeking funding support for projects that it has included in its future plans for the racecourse.

Acquisition of the racecourse will provide security and certainty for Racing NSW to invest in racing infrastructure, specifically that which will enable an increase in the number of horses trained from Moruya.

It is Racing NSW's expectation that further investment will grow the scale of racehorse training at Moruya. An increase in the number of horses trained at Moruya will directly boost the week to week economic contribution of thoroughbred racing to the Eurobodalla Shire. It

will also improve race meetings staged at Moruya and in turn improve the economic returns to the Club and Shire.

### **Development of Racing in the Eurobodalla Shire and South East NSW**

Racing NSW has a demonstrated track record of taking action to support and grow thoroughbred racing at Moruya and in the South East region.

Over the past ten years the number of race meetings at Moruya has increased from eight, to 13 in the current racing season. Further, the number of race meetings between Nowra and Sapphire Coast has been increased to 38 each season from 28 per annum.

Being the most central racecourse on the South Coast, Moruya has been a pivotal part of this growth and remains an important part of Racing NSW's plans.

In addition to growing the number of meetings held each year, Racing NSW has also boosted funding to increase the quality of these meetings.

Since Racing NSW commenced staging 'Showcase' race meetings (minimum prizemoney \$30,000 per race) from August 2016, Moruya has been allocated these meetings in each season, with two being staged each year from 2017/18.

In July, the Chairman of Racing NSW announced that it would increase the prizemoney for the Moruya Cup by \$70,000 as part of a Carnival and Cups program in country NSW. The 2020 Moruya Cup will be run for prizemoney of \$75,000.

Inclusion of the Moruya Cup in early January, is in line with Racing NSW viewing racing as playing a role in the broader tourism mix in regional NSW, supported by Destination NSW.

The increases in prizemoney improves the attractiveness of Moruya as a location to train, for visiting horses to race and also improves the recognition of the region from racing enthusiasts.

### **Use of the Racecourse**

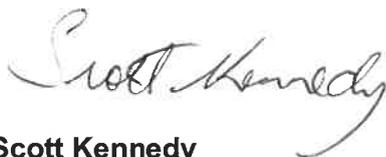
Racing NSW considers itself to have an excellent relationship with the Board and management of the Moruya Jockey Club. Racing NSW intends that the racecourse will continue to be used for the training of racehorses and staging of race meetings by the Club.

Racing NSW has no plans to try and alter the land use of the racecourse.

### **Summary**

I believe the sale of the racecourse to Racing NSW will prove beneficial to racing in Moruya and broader region, as well as to the Eurobodalla Shire.

Yours faithfully  
**Racing NSW**



**Scott Kennedy**  
**General Manage Industry & Analytical**

# MORUYA JOCKEY CLUB LTD

ABN 51 003 266 260

*Where the Turf Meets the Surf*

Purchase by RacingNSW of Moruya Racecourse.

The Board of the Moruya Jockey Club strongly supports the purchase by RacingNSW of the Moruya Racecourse. The Board received overwhelming written support for the purchase from members, other patrons, trainers and connections.

In many meetings with senior managers and the CEO. of RacingNSW, it was explained that the purchase of the Moruya Racecourse by RacingNSW would guarantee the future of Thoroughbred racing in Moruya and the certainty of investment in racing infrastructure and upgrades where necessary.

Moruya Racecourse has benefitted from significant financial and intellectual support from RacingNSW over many years and is recognised by trainers, connections, industry experts and the public as one of the best country racecourses in NSW.

Members of the Board of Moruya Jockey Club bring a range of skills, experience and contacts to the table and together we present a united, progressive management group which works very successfully with RacingNSW, ensuring that the transition to new ownership will be smooth and mutually beneficial.

Mr. Kennedy has provided information on recent developments in Thoroughbred racing in Moruya and in the south east more generally. These are impressive figures and show the commitment of RacingNSW to increase the significance of the Moruya Racecourse as a racing and training complex.

Mr. Gandy in his previous presentation to you said that the Board had identified essential works totalling \$1,500,000 required in the next 18 months. Moruya Jockey Club cannot fund this under existing arrangements, and the Board began discussions with RacingNSW which had released its Strategic Plan outlining its vision and financial support for country race clubs.

The Board has positioned the Moruya Jockey Club as a community club, making our facilities available to community groups for non-racing functions. On our own and in partnership with Rotary, we have donated over \$120,000 to charities and worthy groups in the Eurobodalla over the past five years.

Our race day crowds are well above those of comparable country clubs and even some larger centres, and it is interesting to note that all age groups are well represented. Many seniors are regular attendees at race meetings in Moruya, using the races as a great social occasion at which they meet friends and relatives. Whole family groups can be seen enjoying the day and this ensures that young people will grow up with a love of racing and the social opportunities it provides.

To continue our contributions to the community and to provide modern suitable facilities for all demographics of our society the Moruya Jockey Club needs ongoing financial support and the Board believes that this will come with the purchase by RacingNSW of the Moruya Racecourse.

Peter Atkinson. Chairman, Moruya Jockey Club.