

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 **28 June 2022**

Name	Subject/Comments
Public Forum – 9.30am	
Deborah Stevenson	PSR22/017 Conservation of the Yellow-bellied Glider Policy in the Broulee Area
Helmut Delrieux	PSR22/018 Draft Mogo Village Place Activation Plan
Richard Adams	PSR22/018 Draft Mogo Village Place Activation Plan
Phil Mayberry	PSR22/018 Draft Mogo Village Place Activation Plan
Steve Shields	PSR22/018 Draft Mogo Village Place Activation Plan

Agenda item PSR22/017 Conservation of the Yellow-bellied Glider Policy in the Broulee Area

In March this year I presented to Council on the draft Policy for Conservation of the Yellow-bellied Glider in the Broulee Area and associated 2009 Code of Practice. I urged Councillors to delay public exhibition of this draft policy until it had been reviewed and updated to take account of the impact the 2019-20 Black Summer bushfires on the habitat for the Yellow-bellied Glider in Eurobodalla and the recent listing of the species at the Commonwealth level. However, Councillors voted to publicly exhibit the draft policy unchanged.

Following submissions, Council staff are now recommending that the draft policy be adopted as is with only minor administrative changes. I believe that this is unacceptable for both environmental and legal reasons.

Some background

The policy **originated in 2001** as a management document for the Yellow-bellied Glider required by the NSW National Parks and Wildlife Service (NPWS) as a condition of consent for the clearing of 11 ha of habitat for this threatened species to build St Peters Anglican College in Broulee. At the time, **this loss of habitat was judged to be significant by the NPWS** based on a Species Impact Statement prepared by Gaia Research which involved an extensive study of the Yellow-bellied Gliders in the Broulee area. This study found that there were at least 43 Yellow-bellied Gliders within the area between the Tomago River, the Moruya River and an electricity easement just to the west of the Princes Highway. It developed **a set of minimum standards** that had to be applied to any development in this area, including the retention of feed trees and hollow-bearing trees used by the gliders, controls on the clearing of vegetation around these trees and the retention of vegetation to allow for the movement of gliders throughout the area. It also placed restrictions on the clearing of multi-aged forest patches in the Broulee area. The policy aimed to:

1. define development that would not significantly impact of the Yellow-bellied Glider and its habitat thereby providing certainty for developers;
2. ensure the long term persistence of Yellow-bellied Glider in Broulee through protecting suitable habitat and other development controls;
3. provide the model for a similar approach that could be applied across the whole shire to protect this species

Despite Council committing to the **development of a more comprehensive shire-wide policy** for the conservation of Yellow-bellied Glider in the Eurobodalla' based on existing forest and fauna habitat mapping plus detailed survey and analysis, **this never eventuated**. Instead, in **2009** Council produced a 4 page **Code of Practice** to provide certainty for future development proposals in Broulee and cut costs for the development industry by reducing the need for Species Impact Statements for development impacting on glider habitat. It identified a 40m strip of land along George Bass Drive between Train St and Broulee Rd as a retained habitat area for Yellow-bellied Glider, but allowed all land outside of this to be cleared without requiring a Species Impact Statement.

Since then there has been extensive clearing and urban development in the Broulee area which has removed a substantial amount of Yellow-bellied Glider habitat. In 2014, urban expansion in Broulee (Broulee Beach Estate), development at Moruya Airport and works at Moruya racecourse became possible through the Biodiversity Certification of these areas. This allowed for the clearing of a further 69ha of Yellow-

bellied Glider habitat which will indirectly impact on the 40m strip of land that was identified as a movement corridor for Yellow-bellied Glider in the Code of Practice.

More recently, the Eurobodalla, and the Broulee area in particular, were badly impacted by the Black Summer bushfires which decimated 80% of the forested areas across the shire. Much of this was habitat for the Yellow-bellied Glider. Consequently, in March this year, the Yellow-bellied Glider (south-eastern) was listed as Vulnerable to extinction under the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act. The Commonwealth Scientific Committee's reasons for this listing are population reduction and habitat destruction following the 2019-20 bushfires and continuing population decline due to land clearing, fragmentation, severe fires and climate change.

Recommendation

Given the cumulative losses to Yellow-bellied Glider habitat, as well as the likely reduction in the population of this species in the Eurobodalla since the draft Policy for Conservation of the Yellow-bellied Glider in the Broulee Area and Code of Practice were produced, I believe that the minimum standards of protection they offer **will not be sufficient to avoid a significant impact** on the Yellow-bellied Glider from development or other activities resulting in the further clearing or modification of their habitat. Under NSW legislation this would require the preparation of a Biodiversity Development Assessment Report (BDAR) to accompany a development proposal and under Commonwealth legislation, a referral to the Federal Environment Minister to decide whether their approval is required and, if so, what conditions should be imposed. Failure to comply with these State and Commonwealth legislative requirements exposes Council and proponents to legal challenge. Consequently I recommend the draft Policy for Conservation of the Yellow-bellied Glider in the Broulee Area **not be adopted** and that **a revised and extended 'best practice' conservation policy and code of practice be developed** that brings them into line with current State and Commonwealth legislation and takes account of the cumulative impacts of development, continued logging and wildfire on the Yellow-bellied Glider, as well as recent scientific research.

Comments on the Agenda paper

The Biodiversity Strategy currently under preparation by Council with funding from the Commonwealth is a **high level policy document** that cannot and will not provide guidance to development proponents on specific matters related to the requirements and potential impacts of their proposals on a particular species, such as the Yellow-bellied Glider. It is disingenuous of Council staff to rely on the Biodiversity Strategy and pretend that this high level document will address the short-comings of their policy and code of practice.

I made a submission on the draft Policy for Conservation of the Yellow-bellied Glider in the Broulee Area but **contrary to the claims by Council staff in the agenda paper**, I was not 'invited to attend a workshop and help inform the development of the current Biodiversity Strategy'. I attended a workshop for rural landholders (which I found out about from the Beagle) during which there was no discussion of anything to do with Yellow-bellied Gliders or relevant legislation.

A comprehensive review of the draft Policy for Conservation of the Yellow-bellied Glider in the Broulee Area would take time and resources, but it has been around for **over 20 years**. I assume that each time it has come up for review, nothing has changed and it has been kicked down the road until the next new Council is elected, when it has again been exhibited and approved again without change. Is this symptomatic of the way that Council staff does business? It makes a mockery of the

statement under the heading Review at the end of the draft policy – ‘*This policy will be reviewed every 4 years. It may also be reviewed and updated as necessary if legislation requires it*’

The Biodiversity Certification **does not negate the need** for a Policy for Conservation of the Yellow-bellied Glider. The biocertification was to offset the biodiversity losses resulting from a specific development at Broulee, as well as the expansion of Moruya airport and works at Moruya racecourse. The Yellow-bellied Glider was **not** the trigger. The White-footed Dunnart and the endangered Sand Bangalay Forest were the red flags for these developments that required biocertification. In fact the Yellow-bellied Glider is only mentioned 3 times in passing in the 100+ page Biodiversity Certification Assessment Report and it was not surveyed for across either the development sites or the conservation area. Consequently, it is misleading of Council staff to state that it strategically identified areas that can be developed and areas that must be retained to protect Yellow-bellied Gliders.

The agenda paper states that there have been changes to legislation since 2006 and talks about the 2014 Biocertification of development at Broulee and the Biodiversity Offset Scheme yet **none of this is reflected in the draft Policy and Code of Practice** that went to the new Councillors for review and approval to exhibit. Why?

Why is it not necessary to mention the Federal species listing in the draft policy given that the Yellow-bellied Glider is listed under Commonwealth legislation that applies in NSW? **The NSW planning framework does not override Commonwealth legislation** in relation to Matters of National Environmental Significance such as nationally listed threatened species like the Yellow-bellied Glider.

Why was the exhibited version of the draft policy based on the superseded 2013 version and not the current 2017 version? Was this just sloppy work by Council staff because they didn't think anyone would bother to read it?

The statement in the policy (Policy details point 4) that ‘a Species Impact Statement will not be required for development or activities performed in accordance with this policy’ could be challenged. Firstly because Species Impact Statements have now been replaced by Biodiversity Development Assessment Reports (BDARs) and secondly because the minimum standards of protection outlined in the Policy and the Code of Practice are no longer sufficient to avoid a significant impact on the Yellow-bellied Glider from development or other activities resulting in the further clearing or modification of their habitat.

Eurobodalla Woodies

To:

Eurobodalla Shire Council

From:

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Presentation to Council's Public Forum, 28 June 2022

Dear Councillors

My name is Helmut Delrieux, and I am pleased to address you again, in my capacity as President of the Eurobodalla Woodcraft Guild, about the Mogo Village Place Reactivation Plan and our club's search for a new home following the loss of our workshop at the Original Gold Rush Colony in the bushfire of New Year's Eve 2019 – 2 ½ years ago now.

We would like to thank Council for acknowledging our concerns by raising the priority of action 3.2 – to investigate a community facility on the corner of Tomakin Road and Princes Highway – to make it now a high priority action.

We would like to go quickly beyond just 'investigating a community facility' and to make the facility a reality as soon as possible. It would bring a stable future for our club and hope to our members.

We would like to develop with Council a time frame over which we can progress this project, as this will provide further hope and certainty to our members.

We recognise that there are many processes to go through before we, and the other community groups involved, will have our new premises operational. We are up for the challenge – and we appreciate Council's offer of support and guidance in navigating these processes.

In particular, we would be grateful for Council's early assistance in developing appropriate leasing arrangements – as these need to be secured before planning for building can go very far.

We have retired professional people in our guild who can design, develop and build a workshop that will meet our requirements. We would appreciate meeting with Council's planning personnel to help us incorporate Council's expectations and aesthetic requirements to fit Mogo's village atmosphere and heritage.

We also have some funds to advance the project, but recent heavy increases in building costs mean that we will need to rely on additional grants to complete the project.

We believe we have good prospects of raising further funds through grants – because of our circumstances as the only Men's Shed to have burnt down in the bushfires. But we also note that these new grants for building come with the caveat that the project must be shovel-ready.

This is another reason why progressing the project quickly is so important to us.

We greatly appreciate Council's efforts to date to develop the idea of a community facility for Mogo. We would be grateful for your further assistance with leasing and planning to realise this community facility.

Again, thank you for this opportunity.

I would like to speak about the following points at the meeting in person.

1. The inclusion of community feedback has been a positive outcome and is represented in the amended plan.
2. The flood study being a long term priority however the flood mitigation for the swale is a high priority.
3. The timing of this revised plan and the ability to access the plan to make comments and consider all other plans being implemented to date i.e Transport NSW.
4. What is the process for comment for the community on the revised plan.

Concerns raised by community to speak on their behalf if possible

Hi Richard

Could you please pass on this email to ESC in regards to the Mogo Activation plan, I understand that you are attending this meeting today.

Please advise what the community centre

Dear Nardi/Angie

I thank you both for sending me councils intentions of considering the approval of the activation plan for the Mogo Community. I understand changes have been made including the preferred changes to the relocation of the toilets back to John Street which is needed in the best location by choice from the community.

Could you please advise the reference to a community centre to be investigating a community facility on the corner of Tomakin Road and the Princes Hwy, was this the conversation I had with you Angie in regards to an opportunity to support the Aboriginal Community with a workshop meeting facility that could potentially be used by our people to make wooden artefacts Boomerangs etc and a place to conduct painting workshops and include other opportunities with business.

The bike hub will be discussed in greater length for employment opportunities for the community with ESC and Mogo LALC.

I feel this is much needed for the community.

Thank you

Richard Adams

MVBC

Hi

I would like to address council re adoption of draft activation plan for Mogo Village.

Re:

- Treatment of creek system and drainage swale between rear of shops and Charles St. carpark on Eastern side of highway.
- Difficulty of finding plan on ESC website and very short period of time to deliver submission on adoption of plan
- Commendation on prioritising of pathway along western side of Cabbage Tree creek, and pedestrian bridge over creek , to connect residents and visitors safely to the commercial precinct.
- Residents and business people, in majority, oppose any bus depot being established on property adjacent to Cnr of Tomakin Rd. and the hwy.

Regards

Phil Mayberry

Mogo

SUBMISSION TO COUNCIL RE ADOPTION OF THE DRAFT MOGO VILLAGE DEVELOPMENT PLAN.

- Firstly we support the adoption of the Draft Mogo Village Development Plan.
- MATAMA built a shed at Old Mogo Town in the late 1990's to house our collection of engines and farm machinery. The shed was open to the public 364 days a year and we would run engines on Tuesdays or whenever large groups were visiting. As such, we have been an integral part of the Mogo community for well over 20 years.
- Several years ago, the Eurobodalla Woodcraft Guild acquired about 25% of our shed to open their workshop and meeting place. As you all know the entire complex was lost in the New Year's Eve fires of 2019.
- Shortly after, we put together a proposal to rebuild not only our shed, but incorporating a Community Pantry and community meeting place for use of other groups without a place of their own. Plans were drawn and costed, with a submission lodged with Council, in October, 2020, for the granting of a lease on Crown land on the corner of Tomakin Road and the Princes Highway, Mogo. We finally received a reply from the then Mayor in November, 2020. Nothing further was heard from them until May 2021, after a follow-up request from us, acknowledging our submission and pledging support.
- In support of our submission, meetings were held with and copies were forwarded to the local member, Andrew Constance, the then Premier, Ethos Urban, the consultants doing the redevelopment plan for Mogo, The President of The Upper House of The Legislative Assembly of NSW Parliament, the Mogo Business Chamber and Fiona Kotvoj, a candidate for election to Parliament.
- When we submitted our original proposal, we realised that we were unlikely to receive the help we needed on our own, so we included other community based groups who could benefit from having a base of their own. At this time we were not aware that the Car Club was considering their own premises. However since being made aware of the clubs desire, we have include them in our all submissions and have held several meetings with the sub-committee. They have since submitted their proposal to Council.
- In section 3.2 of the Draft Plan it indicated that the land on the corner of Tomakin Road and the Princes Highway, Mogo would be investigated to be developed for Community Space in the long term 5 to 10 years. In the proposed version, that decision is to be elevated to High Priority Action.
- As our proposed development incorporates community space, a community pantry and is an integral part of the mental health of our members, we ask that our submission receive favourable consideration in the short term.

Steve Shields

President

Moruya Antique Tractor and Machinery Association Inc.

27 June, 2022.