

**EUROBODALLA SHIRE COUNCIL**

**PUBLIC FORUM**

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

Ordinary Meeting of Council on 11 October 2016

Name	Subject/Comments
<b>Agenda Items – 10.00am</b>	
Paul Bradstreet	GMR16/022 Declaration of Poll for Mayor GMR16/023 Declaration of Poll for Councillors
Peter Cormick	GMR16/026 Council Committees and External Bodies
Peter Bernard	NOM16/008 Recognition of Council Achievement

**ADDRESS TO EUROBODALLA SHIRE COUNCIL PUBLIC FORUM, 11 OCTOBER 2016  
BY PAUL BRADSTREET, 27 NEWTH PLACE, SURF BEACH**

Good morning Liz, councillors, ladies and gentlemen.

I'm Paul Bradstreet from Surf Beach. I'm on the committee of the Eurobodalla Ratepayers Association and I assisted the Community Action Alliance in its successful election campaign. I'm here today to talk to you about the management of the recent ESC election by the council and the NSW Electoral Commission. I believe there is a need for much improvement in the way this was done. Apart from saying I'm delighted with the outcome, I don't propose to comment on the result.

First, I must congratulate you all on your election. It's no easy task these days to get elected to council – it takes smarts, good organization, hard work and luck. Explicit policies directed to respond to carefully identified community concerns help, but as we've seen again on the hustings this year, most individual voters' knowledge of and concern about detailed council matters remain low.

I've been closely involved in a number of council elections and they are all different. All have inconsistencies and irregularities in their conduct and, given the hot house political atmosphere that surrounds them, these can quickly escalate into claims and counter claims of unfairness, even illegality. This election had more than the usual number of incidents and this puts a spot light on the adequacy of the processes to quickly deal with them.

It needs to be remembered that it is council's responsibility to arrange elections – the NSW electoral commission (NSWEC) is a contractor. I believe that you need to quickly review the adequacy of the arrangements made in the light of this year's experience with a view to making improvements in 2020.

My first concern is a housekeeping matter. The chosen venues for the Batemans Bay and Moruya pre-polls were not fit for purpose. Members of the public, voters and campaign workers were all inconvenienced by narrow lane way entrances which, inevitably led, at busy times, to the intimidatory crowding of voters. There was little shelter in wet weather. Better venues should have been chosen.

Second, you are aware that eight CAA candidates were refused registration after it was asserted by NSWEC officials that one of these candidates' sponsors was not on the electoral role. When evidence was provided to dispute this assertion the internal review by NSWEC was opaque, slow, legalistic and challengable. Clearly, a faster, more independent and transparent administrative process to appeal such critical pre-election decisions is required.

Similarly, an accessible and timely process to test public assertions that some candidates received favourable treatment by the Commission, particularly by its failure to question the disputed contents of statutory declarations, is required. The use of the police and the courts for this is over-kill.

Third, surely in 2016 the counting of the votes should be quicker? The final results of the mayoral election only became available on 15 September and the councillor results on 17 September. I understand that much of this delay was caused by the local NSWEC people waiting for access to the Commission's centralized computing facilities and the counting of Bega votes.

Also, I'm aware that paid casual staff and scrutineering volunteers were required to work excessively long hours, without meal breaks, on voting day and on some later days.

Council paid a large amount of money (some \$300,000, I understand) for the NSWEC to conduct the election and I would be interested to know whether any of the matters I have raised are dealt with explicitly in council's contract specification. And, if they are, do council's contract administrators consider the NSWEC met the requirements? And, if they conclude they didn't, what action is proposed?

Moreover, if there are viable alternative suppliers of the service, it puzzles me why would you contract with an organization that you know has taken on more than 100 similar jobs over the same period?

To address lingering concerns about the efficiency and integrity of the election process, I suggest you request the general manager to investigate the conduct of this election by talking to those involved, particularly those who claim to have been adversely affected, by inviting public comment and preparing a report on her conclusions and proposed improvements for next time.

Finally, let me say that now we have accumulated enough experience in popularly electing a mayor it is time to review the way we do it. While the matter is outside the direct control of council, to ensure that the will of the people is accurately reflected in the result I believe it's time to move to a first past the post system of voting. I understand that this time around many Eurobodalla voters deviated from how to vote advice and simply provided a single vote, clearly indicating a preference for one individual. While the optional preferential voting system is a reasonable means for sorting out voters' preferences for nine councilor positions, its use in the mayoral election introduces unnecessary complexity and invites gaming of the rules with the risk of a bizarre result. I suggest you start a conversation with the community on this and lobby the state government on rate payers' preference. ?

Once again congratulations on your election. I wish you well in your deliberations.

## Public Forum 11 October 2016 – Peter Cormick

### Item GMR16/026 Council Committees and External Bodies

I wish to address the matter of the recommended composition of the General Manager's Performance Review Panel. The recommendation is that the panel be comprised of the Mayor, Deputy Mayor, another councillor and possibly another still, nominated by the General Manager. That is, a panel of 3 or 4 members from the available 9 councillors.

#### Councillors' statutory obligations

In considering whether the recommended composition best serves the community – and that is surely the aim of any of council's actions - the best starting point is, I suggest, **section 232** of the LGA, which sets out "the role of a councillor". This recently amended section of the Act **requires each** councillor to be "accountable to the local community for the performance of the council." But how can each councillor and the governing body as a whole, best meet this requirement of accountability? Clearly, it is best met by monitoring and adjusting as necessary, the performance of council. The question then becomes: How can this monitoring be best done?

#### The General Manager and the performance of council

You will have no doubt been presented with the publication titled *Guidelines for the Appointment & Oversight of General Managers*, issued by the then Division of Local Government, in July 2011 – and which is still current. They are guidelines issued pursuant to section 23A of the LGA. The significance of reference to this section of the Act, as you know, is that "A council must take any relevant guidelines under this section into consideration before exercising any of its functions."

At the commencement of these guidelines, we are told that "The position of general manager is pivotal in a council. It is the interface between the governing body comprised of elected councillors, which sets the strategy and monitors the performance of the council, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body". Again, we see reference to the need for councillors, individually and together, to monitor the performance of council. Clearly, this task will involve the monitoring of the performance of the General Manager, the person who oversees council's operations.

The guidelines then provide advice on the establishment of a performance review panel and on its composition – being just as recommended to councillors today: namely the Mayor, Deputy Mayor, another councillor nominated by council and a councillor nominated by the general manager. As already stated, council is obliged to consider this advice, but it is under no obligation to adopt it. And then the guidelines state that "The panel should report back to the governing body of council in a closed session the findings and recommendations of its performance review ... [and then, significantly, states that] This should not be an

opportunity to debate the results ...". In other words, any of the councillors excluded from the review panel – and that would be the majority of you - who wish to discuss any objections that you might have to the findings, ought not to do so! This is what the OLG advises. Of course, the LGA's requirements prevail over such advice. And, to emphasis the point, the Act holds each and every councillor accountable, to the community, for the performance of the council – not just those councillors who might be on the review panel.

### **The options – as I see them**

**Option 1.** You can vote in support of the recommendation, to limit the number on the panel to 3 or 4. If you do, then you will be excluding between 5 or 6 councillors from being directly involved in the review of the General Manager's performance. I contend that such exclusion would frustrate, if not conflict with, the requirements of section 232 of the Act, as it applies to individual councillors; or

**Option 2.** You can vote to allow any councillor who wishes to be on the panel to do so. It may well be that there are councillors who feel that they can fulfil their statutory duties without directly communicating with the General Manager in the course of the review; or

**Option 3.** You can vote to defer your decision. This would allow you the opportunity to investigate the issues I have raised here.

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**Request:** I would be grateful for a copy of the General Manager's Performance Criteria.

*Recognition of council Achievement Item*

*NOM 16/008*

*Responsible Officer. Anthony Mayne – Councilor .  
October 11 -2016*

*If the Anthony Maine is the same Anthony Maine that has been been recently elected and is here tonight it is requested that he withdraw his proposed motion until a full Independent Auditors report is presented to the whole of this recently elected council for determination . For the benefit of all new Councilors I addressed this council on a number of occasions over a ten month period with respect to some financial figures displayed to the public during the “Fit for the Future Period “. These related to some figures disclosed to the public relating to Delivery Program 2013 -17 and operational Plan combined with the Budget 2015-16 including the special rate variation. It was not until the 12th July 2016 that the General Manager advised me that there had been an “error “. If the ‘error “had been disclosed earlier it may not have been legitimate for the council to introduce unjustified rate rises. This disclosure appeared just after final Government approval for the rate rise.*

*“The figure of \$30,185, 000 has been changed to \$695,000 for sale of assets.”*

*And*

*The figure of \$64, 444,000 has been changed to \$ 27.1 million. The latter figure, incidentally, is Approximately the same order as the depreciation costs for the same year.*

*The General Managers letter has not addressed why other million dollar figures were progressively changed during the "Fit for the Future" period. The latter changes were referred to in various addresses to council by the writer and "letters to the editor" The General Manager should furnish an explanation why other totally different figures were put on display before arriving at those now claimed to be correct. This Motion should not be passed or withdrawn until answers are received from the General Manager and The Minister for Local government. A motion of this nature if passed will compromise the truth being revealed and damage this newly elected council and damage the independence of IPart and role of Local government.*

*Madam General Manager did you advise the Local Member, Andrew Constance, Minister for Local Government, Paul Toole MP and IPART of these monetary changes? Ongoing discussions are continuing with Minister Paul Toole's Department and he has advised me they will be reviewing Councils audited statements which they are required to submit by 31st October 2016. Madam General Manager have these statements been completed and could I have a copy? Madam Mayor in view of widespread and ongoing public concern with respect to transparency of council finances "all", and I mean "All" books should be presented and examined by independent auditors. This is the right time in light of the changes to the New Local Government Act, phase one reforms and appointment of the Auditor - General as the auditor of all council's. The reasons why all "fit for the future" changes were progressively made must be examined independently and findings publicly revealed. How and why the above figures came to be has not been reported on by the General Manager and should have been. Why Not? This and other financial issues will hang around the neck of all new councilors until an independent forensic audit is carried out.*

*It is too premature for this council to suggest that a gold chain  
and watch be hung around its neck.*

*Peter Bernard - 11 the*

*October 2016*