



# **AGENDA**

**Ordinary Meeting of Council**

**23 May 2017**



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

**ON TUESDAY 23 MAY 2017**

**COMMENCING AT 10.00AM**

**AGENDA**

(Proceedings of this meeting will be recorded as per Eurobodalla Shire Council's Code of Meeting Practice)

- |  |                 |
|--|-----------------|
| <b>1. WELCOME, ACKNOWLEDGEMENT OF COUNTRY &amp; EVACUATION MESSAGE</b>   |                 |
| <b>2. APOLOGIES</b><br>Nil   |                 |
| <b>3. PUBLIC FORUM (AGENDA ITEMS ONLY)</b>   |                 |
| <b>4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING</b><br>4.1 Ordinary Meeting held on 9 May 2017   |                 |
| <b>5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA</b><br>(Declarations also to be made prior to discussions on each item)          |                 |
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| <b>8. QUESTIONS ON NOTICE FROM COUNCILLORS</b><br>Nil  |                 |
| <b>9. GENERAL MANAGER'S REPORTS</b><br>Nil   |                 |
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**DR CATHERINE DALE**  
**GENERAL MANAGER**

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**NOM17/008      NAROOMA OYSTER FESTIVAL**

E08.2294

Responsible Officer: Lindsay Brown - Councillor

Attachments:          Nil

Councillor Lindsay Brown has given notice that at the Ordinary Meeting of Council on 23 May 2017, he will move the following motion.

**MOTION**

THAT Council congratulate the Narooma Chamber of Commerce, and those associated with event, on the success of the Narooma Oyster Festival.

**BACKGROUND**

The Narooma Oyster Festival has been a major event on the calendar in Narooma and the Eurobodalla for over ten years and is the premiere local produce event in the region.

The festival was a vision of the Narooma Chamber of Commerce with the primary purpose to promote Narooma, and the region, at a time when accommodation houses and businesses in were entering the winter period.

The “point of difference” was the Oyster and it was desired for Narooma to be recognised as the home of Australia’s premier oyster growing region.

The Narooma Oyster Festival was the impetus for the launch of Australia’s Oyster Coast (AOC), which was driven by passionate local oyster growers. During the last term of Eurobodalla Shire Council, ESC was able to convince both Shoalhaven and Bega councils to invest in the fledgling organisation and now AOC is selling product internationally, which has resulted in financial investment that has stimulated the economy.

Over the years the festival has experimented in multiple days, conducted an Oyster Ball, and has moved through a phase of being a smaller, locally focused event in recent years.

The current Narooma Chamber of Commerce, under the leadership of Niels Bendixsen, decided only less than five months ago to return the festival to its original roots, and purpose, and to be conducted with the highest possible level of professionalism.

With an extraordinarily talented and resourceful, yet small, group of supporters and volunteers, Niels was able to bring together what can only be described as an outstanding event. Accommodation was heavily booked, local businesses received increased turnover, and more than twenty three thousand oysters were sold.

The Friday night fireworks and music event was extraordinarily well-received by families with some estimates of well over one thousand people enjoying possibly the best ever fireworks in Narooma.

Attendance at the Saturday of the festival was approximately two thousand five hundred, with online ticket purchases at record levels, the Ultimate Oyster Experience was fully pre-booked, and whilst wine and beer sales were the highest recorded, I understand the event did not have a single incident of unsociable behaviour.

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**NOM17/008 NAROOMA OYSTER FESTIVAL**

**E08.2294**

Of particular importance was the feedback by the national press and representatives from Destination NSW which was glowing, with negotiations currently under way with those representatives on how best to maximise that response.

The local producers' dinner event, showcasing the best the Eurobodalla has to offer and promoting local produce to people of influence, for the invited guests was a huge success held at the Whale Restaurant, as was their trip to Montague Island along with the return sea plane flight from Sydney, kindly donated by one of our new property owners in Narooma.

The event organisers worked well with Council, and are appreciative of the support they received. The organisers displayed an independence and professionalism that should be a template for other events in the shire that see Council as a backstop. The organiser's reliance on internally generated funding, sponsorship from Narooma businesses, astute marketing and skilled support meant a professional event organiser was engaged, thus removing some "heavy lifting" by volunteers. The event will hopefully break even, such was the challenge of running the festival and Council has an opportunity to assess its level of support, noting the long running history and its secure place on the Eurobodalla event calendar.

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
CONTRACT VARIATION**

**E12.6442**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

### **EXECUTIVE SUMMARY**

The purpose of this report is to consider a recommendation by the Batemans Bay Mackay Park Precinct Sunset Committee to consider preparing additional concept plan and business case options for the redevelopment of the precinct.

The options that the Committee propose to have considered include:

- Option 2 – the ‘de-coupling’ of the arts and cultural facility from the aquatic and recreation centre and placing it on the northern part of the precinct, and
- Option 3 – reconfigure the 500 seat performance/theatre space with a 1000 seat capacity multi-purpose event space.

The concept plan and business case is being prepared to:

- Demonstrate a financially sustainable development (ie it is affordable to operate)
- Support grant funding applications
- Satisfy requirements for submission to the NSW Office of Local Government as a formal project proposal for a public private partnership

The additional options proposed by the Committee are a variation to the work the consultant was engaged to undertake. Council has requested a quote from the consultant to undertake consideration of Options 2 and 3 along with the preparation of the required business cases to support each option. The quote received from the consultant for Option 2 is \$21,500 and for Option 3 is \$27,500, plus travel costs.

It is considered that there is merit in engaging the consultant to consider Option 2 as this option will enable a financial comparison of combining community facilities in one location and separating the over two locations within the precinct.

Whilst there may be some merit in considering Option 3, if Council determined not to, it would not compromise the process nor limit the potential for such a facility to be included in the ultimate development. The approach to market, as part of the Public Private Partnership process, will determine the level of private sector interest in the site and the nature of development options proposed, which could include such a facility as proposed by Option 3, or something similar.

The report recommends that council consider the recommendation of the Committee and determine if it wishes to proceed with consideration of the options proposed.

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
CONTRACT VARIATION**

**E12.6442**

**RECOMMENDATION**

THAT Council determine if it wishes to proceed with the consideration of Option 2, the 'de-coupling' of the arts and cultural facility from the aquatic and recreation centre and placing it on the northern part of the precinct, and Option 3, reconfiguring the 500 seat performance/theatre space with a 1000 seat capacity multi-purpose event space as recommended by the Batemans Bay Mackay Park Precinct Sunset Committee.

**BACKGROUND**

In April 2016, Council purchased the former Batemans Bay Bowling Club site. This strategic purchase resulted in all of the land to the west of the Princes Highway across from the Batemans Bay Town Centre, being in public ownership.

Following the purchase of the land, Council asked the community for their ideas for the future use of the land. 187 community submissions were received and 114 Facebook comments were recorded. Submissions were overwhelmingly positive and generally consistent with the development outcomes envisaged by Council. The most popular development outcomes in community submissions were for an aquatic centre and an arts and cultural facility.

Council at its Ordinary Meeting held on 22 November 2016, considered a report on the options for proceeding with the redevelopment of the precinct and resolved:

*THAT Council:*

- 1. Prepare formal project proposal documents, in accordance with the Office of Local Government guidelines on Public Private Partnerships, for the redevelopment of the Batemans Bay Mackay Park Precinct to commence.*
- 2. Proceeds with preparation of concept plan and business case documents for the preferred mix of development outcomes, including an aquatic strategy to guide aquatic centre development in the context of Eurobodalla aquatic centres and a background document outlining what an arts and cultural facility for the broader precinct could include, also in the context of arts and cultural facilities throughout Eurobodalla.*
- 3. Obtain an estimated costing for the demolition of the club building including the costing of establishing a temporary car parking facility on the resultant greenfield site.*

Following this resolution, a request for quotation was prepared and advertised in December 2016 and Otium Planning Group (the consultant) were contracted in January 2017. The consultant appointed to prepare the concept plan and business case, have offices throughout Australia and are a contemporary sport and leisure consultancy service provider that delivers planning, management, funding and stakeholder engagement services. The consultant has delivered a number of concept plans and feasibility studies in relation to aquatic and recreation/leisure facilities throughout Australia. Adding to the experience on their team are specialist sub-consultants Outside the Square Creative Consulting, a specialist arts and cultural planning and management consulting firm.



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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
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The consultancy brief specified that the redevelopment of the Batemans Bay Mackay Park Precinct is being planned within two overarching principals:

- To deliver a financially sustainable development
- To stimulate broader economic growth within the Batemans Bay CBD.

Within these two overarching principals, Council's specific objectives for the redevelopment are to:

- Increase activity in the Batemans Bay CBD and subsequently the Eurobodalla through the introduction of a mix of tourism, recreation and arts/cultural developments in the precinct.
- Enhance the recreational, social and cultural life of the Batemans Bay CBD.
- Provide public car parking on the site sufficient to satisfy future demands created by the development, as well as providing some space for long vehicle parking.
- Achieve high quality design outcomes which enhance levels of amenity of the Batemans Bay CBD and achieves Green Star Communities certification to 6 star (Green Building Council of Australia).
- Provide a sustainable financial outcome.

The brief also specified that the outputs of the consultancy are to meet the requirements of a formal project proposal in accordance with the requirements of the NSW Office of Local Government for a Public Private Partnership (PPP) and the outputs would be used as a business case to support grant funding applications.

The scope of services specified that a strategic concept plan is to be prepared showing the mix of preferred development outcomes being:

- new aquatic and recreation centre
- arts and cultural facility
- conference and event space
- tourist accommodation
- residential accommodation
- restaurant and cafes
- gateway visitor centre and
- the integration of existing sporting fields into the future development of the precinct.

Specific outputs required from the consultancy include:

- Eurobodalla Aquatic Strategy
- Assessment of preferred arts and cultural facilities within the precinct
- Concept plan

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
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- Business case

A timeline of events related to the Batemans Bay Mackay Park Precinct (the precinct) is shown below.

- April 2016 – Council purchases former Batemans Bay Bowling Club site
- May/June 2016 – initial community consultation to enable the community to share ideas on the future use of the site
- July 2016 – open day
- August 2016 – called for expressions of interest to establish a Sunset Committee
- August 2016 – call for submissions for the interim short term use of the building and site
- October 2016 – Sunset Committee appointed
- November 2016 – first meeting of the Sunset Committee
- November 2016 - Council resolved to proceed with preparation of concept plan and business case for the precinct
- December 2016 – quotations called for preparation of concept plan and business case
- January 2017 – Otium Planning Group contracted to prepare concept plan and business case
- January/February 2017 – Otium Planning Group discussions with Sunset Committee members
- March 2017 – second Sunset Committee meeting – preliminary analysis presented by Otium Planning Group
- April 2017 – Otium Planning Group prepare preliminary draft concept plan
- May 2017 – third Sunset Committee meeting – preliminary draft concept plan presented by Otium Planning Group

**CONSIDERATIONS**

The consultants commenced work in January 2017 with an inception meeting and site inspection. Discussion with Sunset Committee members took place in January/February 2017. The consultants then presented their preliminary work on the aquatic strategy and assessment of preferred arts and cultural facilities within the precinct to the Sunset Committee in March 2017. Following this meeting, the consultants prepared a preliminary draft concept plan in April and presented this to a briefing of Council on 2 May 2017 and to the Sunset Committee on 3 May 2017.

In preparing the preliminary draft concept plan, based on the key objectives of a financially sustainable development and stimulating broader economic growth yet also providing all of Council's stated preferred development outcomes, the consultant's approach has been:

- Crown land to be used for shared community facilities

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
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- Capital yield from freehold land will contribute toward provision of community facilities on Crown land
- Reduced operating costs from shared management/staffing
- Community/social hub with cross sell/promotion of activities
- Shared infrastructure/services/plant/storage

The principles of a sustainable facility used by the consultant are:

- Cluster and connect facilities
- One stop shop for all activities
- Shared management/staffing
- All age and interest centre
- Mix of community and commercial
- Programmable/changeable spaces

Key features of the preliminary draft concept plan are:

- Shared foyer space including gateway visitor centre and associated retail, café, arts and cultural centre entrance, aquatic and recreation centre entrance
- Arts and cultural facility
  - 500 seat purpose built performance theatre with retractable seating
  - Gallery space
  - Theatrette
  - Dance studio
  - Music studio
  - Green room
  - Meeting rooms
  - Storage space
- Aquatic and recreation centre
  - 25m x 20m pool
  - Warm water treatment pool
  - Leisure and learn to swim pool (incorporating toddler pool)
  - Splash deck
  - Water slide
  - Gymnasium
  - Change room amenities

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During consideration of the preliminary draft concept plan at the Sunset Committee meeting held on 3 May 2017, the committee requested two further options be prepared by the consultants (Option 2 and Option 3).

Option 2 was recommended to be a “de-coupling” of the arts and cultural facility from the aquatic and recreation centre. This would involve placing the arts and cultural facility on the northern part of the precinct (ie where the former bowling club building is). Depending on private sector interest in a potential PPP, this could result in a development incorporating conference and event space/accommodation/arts and cultural facilities. Concern has been expressed by some members of the community about co-locating entertainment (ie arts and cultural facility) and accommodation, however there are numerous examples around Australia and internationally of accommodation and entertainment facilities being co-located. This is simply a design and construction issue.

Option 3 requested by the Sunset Committee, was to reconfigure the option presented by the consultant to include a 1000 seat capacity multi-purpose event space, instead of a purpose built 500 seat performance theatre. The consultants have completed benchmarking against arts and cultural facilities in similar size towns to Batemans Bay and concluded that the 500 seat theatre would be the most cost effective option. It has been stated within the Sunset Committee that larger venues, commercially operated, can be successful. However only 9% of performing arts centres in NSW are managed by an association or company limited by guarantee (*Report Australian Performing Arts Centres Association Economic Activity Report 2016*). It would be difficult to promote this model in a business case to government funding sources as a successful management model. The consultant could however prepare a concept plan with this reconfiguration and accompanying business case.

While it is possible to prepare concept plans for these two additional options, a contract variation will be required to undertake this additional work. The consultant has advised that professional fees will be \$21,500 for Option 2 and \$27,500 for Option 3.

In considering whether to proceed with a contract variation, it is worth noting that the purpose of preparing the concept plan and business case is:

- To demonstrate a financially sustainable development (ie., it is affordable to operate)
- To support grant funding applications
- To satisfy requirements for submission to the NSW Office of Local Government as a formal project proposal for a PPP

Previous briefings and reports to Council have also outlined the various options for the redevelopment proceeding, including:

1. Secure grant or other funding (in part or in full), build and operate
2. A formal PPP
3. A mix of options

On 15 November 2016, Council received a presentation from the NSW Office of Local Government on the process for undertaking a PPP. Regardless of whether the redevelopment

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
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of the precinct progresses to being in the form of a formal PPP, or a secure grant or other funding, build and operate model, the information required to proceed with the redevelopment is the same (eg., concept plan, business case, risk management plan, probity plan, etc).

As Council proceeds with the potential PPP, it will be less important to include the exact detail of the concept plan in a future approach to market as the private sector will have ideas on what a feasible development could be for the site. It will not be solely up to the private sector to propose what is constructed, as Council will specify minimum deliverables (eg., aquatic and recreation centre, arts and cultural facilities, etc). Therefore the location of each facility and whether it contains a 500 seat theatre or 1000 seat multi-use event space can be determined at a later stage after considering any response from the private sector. Proceeding with Option 2, looking at a concept and business case of how the redevelopment could proceed with community facilities provided in both the north and south of the precinct, is considered worthwhile. Having this option will also enable a financial comparison of combining community facilities in one area and separating them over two locations within the precinct.

**Environmental**

Any future redevelopment of the precinct will consider environmental impacts. Concern has been expressed by some in the community that the construction of anything on this site will be problematic and expensive due to the geology of the site. The consultants have noted this in the preliminary draft concept plan and will incorporate this into the business case that is developed. There are engineering solutions to overcome the environmental building constraints of the site. Similar constraints exist on other sites capable of accommodating development of this size and scale.

**Social Impact**

The community facilities that can be constructed at the precinct will have significant positive social impacts. Social impact will be assessed further as the redevelopment of the precinct proceeds.

**Economic Development Employment Potential**

Proceeding with the recommendation of this report will progress the concept planning and business case preparation. The business case being prepared by the consultants will assist in quantifying the economic development and employment benefits which will be used to assist in applying for state and federal grant funding and to progress through the PPP process.

**Financial**

The redevelopment is expected to be financed through a combination of state and federal government funding, Council funding and equity in the former bowling club site and private sector funding through their involvement in the redevelopment, through a PPP. A key principle of the redevelopment is a financially sustainable development in that whatever outcome is arrived at it must be affordable to Council and the community. An important part of this principal will be the ongoing operating costs for any future Council owned facilities. As detailed concept plans and business cases are prepared, this financial information will become available and will form part of the planning and Council decision making process.

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The consultant has advised that professional fees will be \$21,500 for Option 2 and \$27,500 for Option 3. An amount will also be provided for additional travel.

**Community Engagement**

Council's overarching goal for community and stakeholder engagement for this project is to ensure that stakeholders are aware of and have the opportunity, to participate in the planning for the re-development of the Batemans Bay Mackay Park precinct. The project will progress in stages and various community and stakeholder engagement activities will achieve this goal. Council's Community Engagement Framework and Planning Tool will continue to be used to guide and plan engagement.

Council is keeping the community informed about this project through its website and other communications.

Soon after the site was purchased in April 2016, Council asked community members interested in the future use of the Mackay Park Precinct to share their ideas and this feedback has been considered in the development of preliminary draft concept plans.

In August 2016, we sought expressions of interest from the community for eight people who could represent the community or a community or business group that was related to the following potential development outcomes of the project. These outcomes included conference or convention facilities, tourism accommodation, arts and culture, seniors living, tourism and recreational facilities and an aquatic centre.

This led to the Batemans Bay Mackay Park Precinct Sunset Committee being established. The committee is chaired by Mayor Liz Innes and its role is to assist Council investigate opportunities for the development of the precinct, and to develop and oversee the community engagement process during the investigation of opportunities for the development of the Batemans Bay Mackay Park Precinct.

The committee has formally met three times and minutes of these meeting and the committee's Terms of Reference are available on Council's website. In addition to these meetings there is ongoing communication between Council and committee members. The committee are currently assisting Council with the concept plan and business case detailed in this report. Committee members and the groups they represent are:

- David Maclachlan - Batemans Bay Chamber of Commerce
- Jeannie Brewer - PerFex
- Jean Baker - Batemans Bay U3A
- Lyn Woolridge - South Coast Pastel Society
- Carolyn Harding - Batemans Bay Indoor Aquatic Centre
- Jason Funnell - businessman/community representative
- Brad Rossiter - community representative
- Alan Russell - community representative
- Mathew Hatcher - community representative.

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**PSR17/024 BATEMANS BAY MACKAY PARK PRECINCT CONCEPT PLAN -  
CONTRACT VARIATION**

**E12.6442**

**CONCLUSION**

Following presentation of a preliminary draft concept plan to the Batemans Bay Mackay Park Sunset Committee at their meeting held on 3 May 2017, the Sunset Committee requested that Council consider having the consultants prepare two additional concept plan options. The first additional option (Option 2) would look at concepts and business case of how the redevelopment could proceed with community facilities provided in both the north and south of the precinct and is considered worthwhile. Having this option will enable a financial comparison of combining community facilities in one area and separating them over two locations within the precinct. This option will require an increase in contract value of \$21,500 plus travel costs.

The second additional option (Option 3) would look to reconfigure the preliminary draft concept plan to include a 1000 seat capacity multi-use event space rather than a 500 seat purpose built theatre. Benchmarking work undertaken by the consultant indicates that such a space is unlikely to be financially sustainable. Whether such a space is financially sustainable or not, the concept plan, at this stage, is about preparing a strong business case to support progressing with the PPP process and grant funding applications.

Based on the advice of the consultant this option is unlikely to strengthen the business case for grant funding applications. This option may be considered by the private sector and presented to Council in response to a future approach to market through the PPP process.

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**PSR17/025 AMENDMENT TO WHARF ROAD COASTAL ZONE MANAGEMENT PLAN**

**E12.6263**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Letter to Minister Roberts  
2. OEH response  
3. Under Separate Cover - Wharf Road Coastal Zone Management Plan

Focus Area: Sustainable Communities

Delivery Program Link: S5.5 Plan for the impact of climate change on settlement including coastal hazard, flood impacts, bushfire

Operational Plan Link: S5.5.1 Eurobodalla Coastal Hazard Management Plan

### **EXECUTIVE SUMMARY**

This report presents the amended Wharf Road Coastal Zone Management Plan (CZMP) and seeks endorsement from Council to re-submit the plan to the Minister for final certification.

The Wharf Road Coastal Zone Management Plan (CZMP) was submitted to the Minister for Planning and Environment (then Minister Stokes) for final certification in November 2016.

Subsequently, concern was expressed some members of the community in relation to actions within the CZMP regarding title over submerged lands and the acquisition of private properties.

Following receipt of more recent advice from the Office of Environment and Heritage on behalf of The Honorable Anthony Roberts, Minister for Planning (Minister Roberts), changes have been made to the CZMP to address these concerns. Certification was placed on hold while Council was seeking this advice.

### **RECOMMENDATION**

THAT:

1. Council adopts the amended Wharf Road Coastal Zone Management Plan 2017.
2. Council forwards the Wharf Road Coastal Zone Management Plan to the Minister for Planning for final certification.
3. Following certification, Council request the NSW Government commences negotiations to purchase land in private ownership.



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**PSR17/025 AMENDMENT TO WHARF ROAD COASTAL ZONE MANAGEMENT  
PLAN**

**E12.6263**

**BACKGROUND**

The Wharf Road Coastal Zone Management Plan was first adopted on 28 June 2016 and forwarded to the Minister for Planning and Environment seeking certification.

In his response dated 20 Oct 2016, the Minister for Planning and Environment (then Minister Stokes) advised Council that the CZMP will be suitable for certification following minor amendments being made in relation to the role of Government agencies. In addition, the NSW Coastal Panel provided advice that was attached to the Minister's letter.

The advice from the Panel included making reference to a Court ruling on the Wharf Road land that stated all submerged tidal lands belong to the Crown. A member of the community challenged the validity of the court ruling and expressed concern in relation to the precedent the Wharf Road CZMP would set, if certified by the Minister.

Council wrote to The Honorable Anthony Roberts, Minister for Planning on 21 February 2017 seeking his view on removing reference to land below Mean High Water from the CZMP. Certification of the CZMP was placed on-hold while Council was seeking this advice.

The Office of Environment and Heritage responded on behalf of Minister Roberts and as a result, an amended CZMP is attached seeking adoption by Council.

**CONSIDERATIONS**

Following the response from the Office of Environment and Heritage on behalf of Minister Roberts, changes have been made to the Wharf Road CZMP. The changes simply remove reference to land below mean high water and recommend that the NSW Government acquire the land without any reference to lands below Mean High Water. It will be the responsibility of the NSW Government to negotiate with land owners and work through the legal issues.

Specifically, changes have been made to the actions table, mapping and text to reflect the advice offered by the Office of Environment and Heritage on behalf of Minister Roberts.

**Legal**

In 2011, the Minister for the Environment issued Council with a Directive under section 55B of the Coastal Protection Act 1979 to commence preparation of a Coastal Zone Management Plan for the area of beach at Wharf Road which was identified as a coastal erosion hot spot. Certification of the Wharf Road Plan, when finally achieved, will meet the conditions of the Ministerial Directive.

**Policy**

The Eurobodalla Coastal Hazards Adaptation Code 2015 precludes development at sites considered at immediate risk from coastal erosion.

**Asset**

If the land is purchased by the NSW Government, it is likely that Council will take final possession and be responsible for ongoing management and maintenance.

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**PSR17/025 AMENDMENT TO WHARF ROAD COASTAL ZONE MANAGEMENT  
PLAN**

**E12.6263**

**Community Engagement**

Details of the consultation program delivered during the preparation of the CZMP are outlined under Section 1.8 on Page 5 of the attached CZMP.

More recently, the CZMP was presented to the Coast and Environment Management Advisory Committee on 13 February 2017. Recommendations from that meeting included writing to the Minister seeking his views on removing reference to the submerged land from the CZMP.

**CONCLUSION**

This report presents to council with the final Wharf Road Coastal Zone Management Plan. The most recent amendments to the Plan address concerns raised at a meeting of the Coast and Environment Management Advisory Committee and are consistent with advice offered by the Office of Environment and Heritage on behalf of the Minister for Planning.

This reports recommends Council adopts the Wharf Road Coastal Zone Management Plan prior to re-submission to the Minister for Planning seeking final certification.



Our Reference: E12.6263

21 February 2017

The Honourable Anthony Roberts MP  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister

**Wharf Road Coastal Zone Management Plan**

Congratulations on your appointment as the Minister for Planning. Eurobodalla Shire Council looks forward to developing a strong relationship with you to progress land use planning initiatives that will benefit our community.

Council has been working to resolve land use planning issues at a coastal erosion hot spot site at Wharf Road in Batemans Bay. This process was near completion when a final draft of the Wharf Road Coastal Zone Management Plan (the plan) was forwarded for certification to your predecessor, the Hon Rob Stokes. The plan had been reviewed by the Coastal Panel and all recommendations from the Panel and former Minister have been adopted by Council in the final draft.

We understand you may not have had the opportunity to review and certify the Plan during the transition to your new role. You may however, have been made aware of recent objections and concern from some members of the community in relation to land below high water and the statement in the plan that land below high water becomes property of the crown. From Council's point of view, this is a matter between the NSW Government and the affected landholders. A key action of the plan, for which we are grateful for the government's support, is the NSW Government's purchase of land above high water. This action has the potential to resolve long standing problems at this location and return the land to public ownership.

Following from this, I seek your view on removing reference to land below high water altogether from the plan. If this were to happen and a revised plan submitted for certification, it may allay concerns of some community members, while still allowing the NSW Government to work through legal issues regarding land below high water. Your advice on this approach would be appreciated. In this regard your office may contact our Director of Planning and Sustainability Services, Mr Lindsay Usher on 4474 1306 or via email on [lindsay.usher@esc.nsw.gov.au](mailto:lindsay.usher@esc.nsw.gov.au).

Yours sincerely

A handwritten signature in dark ink, appearing to read "Liz Innes", written over a light blue wavy line.

Clr Liz Innes  
**Mayor**

cc The Hon. Andrew Constance MP, Member for Bega,  
Minister of Transport and Infrastructure

89 vulcan street Moruya  
po box 99 moruya nsw 2537  
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Office of  
Environment  
& Heritage

MD17/672

Councillor Liz Innes  
Mayor  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

EUROBODALLA SHIRE COUNCIL	
FILE No:	ER 6263
ACTION OFFICER:	L. Usher
DATE:	28 MAR 2017
FOLLOW UP CODE:	W
DOC. No:	ENT:

Dear Councillor Innes

I refer to your letter dated 27 February 2017 on behalf of Eurobodalla Shire Council to the Minister for Planning, the Hon Anthony Roberts MP, about Wharf Road Coastal Zone Management Plan (CZMP). Your letter was referred to the Office of Environment and Heritage (OEH) and I have been asked to reply.

Further to your letter, I understand that OEH staff have had discussions with council staff on the matter. I acknowledge council's suggested approach to revising wording in the Wharf Road CZMP and advise that OEH supports any revisions that better clarify the strategic intent to acquire private lands in the subject precinct and to consolidate these into public ownership.

Pending council's decision to revise the wording in the CZMP to reflect the above, I have placed the current CZMP on hold awaiting re-submission of a suitably updated version. OEH staff are available to assist with drafting proposed changes.

If council has any further questions about this issue, please contact Mr John Bucinkas, Acting Senior Team Leader, Water, Floodplains and Coast, South East Branch, on 4224 4153 or at [john.bucinkas@environment.nsw.gov.au](mailto:john.bucinkas@environment.nsw.gov.au).

Yours sincerely

23-03-17

**MICHAEL SAXON**  
Director South East  
Regional Operations Division

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: Nil  
Focus Area: Productive Communities  
Delivery Program Link: P1.1 Facilitate growth and development of our business community  
Operational Plan Link: P1.1.4 Promote Eurobodalla as the place to invest and do business

Applicant: Architects North  
Land: Lot 2 (No.13A) DP1166711 Orient Street Batemans Bay  
Area: 702.1m<sup>2</sup>  
Setbacks: Zero Setbacks  
Height: 12m-15m  
Zone: B4 Mixed Use  
Current Use: Vacant  
Proposed Use: Shop top housing, kiosk and strata subdivision  
Description: Kiosk, 11 Residential Apartments and strata subdivision  
Permitted in Zone: Permitted with consent  
DA Registered: 19 April 2017  
Reason to Council: Exception to a development standard  
Recommendation: Approval subject to conditions

**EXECUTIVE SUMMARY**

The purpose of this report is to consider a proposed modification to approved development application 577/15 at Batemans Bay.

The development of the construction drawings has identified some design changes are necessary in order to comply with Australian standards and provide better amenity for the future occupants. These include;

- Increase in height of ground floor car park by 600mm to provide for a building height of 15 metres plus roof mounted service infrastructure that includes solar collectors
- Provision of obscure fire rated glass block to side elevations (south and north)
- Minor realignment of setback to the Walkway to allow for existing footings
- Provision for traffic management plan to deal with access for larger trucks such as construction and removalist trucks
- Contributions to be paid at subdivision stage and inclusion of strata subdivision as part of application
- Allow fit out of kiosk as a separate stage
- Amendment of conditions 29 and 34 to allow for changes in design of stormwater and adaptable housing provisions.

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

The proposed amendments include a variation to the height limit prescribed by Clause 4.3 Height of Buildings of the Eurobodalla Local Environmental Plan (LEP) 2012. The proposal includes an additional height of 600mm above what Council has previously approved. In accordance with NSW Government requirements, a variation to a LEP standard beyond 10% must be considered by Council.

The proposal is consistent with the requirements of the Environmental Planning and Assessment Act 1979 (EP & A Act), SEPP 65 – Design Quality of Residential Apartment Development and the Batemans Bay Development Control Plan (DCP).

This report recommends approval of the modified development application subject to conditions.

**RECOMMENDATION**

THAT pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979, Application No. 577/15-M2 in relation to Lot 2 DP1166711 No.13A Orient Street, Batemans Bay be **APPROVED** subject to the conditions set out below.

**GENERAL CONDITIONS**

1. **Approved plans**

The development must be carried out in accordance with the plans stamped and numbered **577/15-M2** and supporting specifications and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

Council Stamp No.	Plan No.	Date of Plan	Prepared by
577/15-M2 Sheets A01-A11	A01-A11 Rev 7 Job 1606	6/12/16	Architects North
Sheets SP01-SP05	SP01-SP05 Rev A Job No. 1502	April 2017	Architects North

*Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under S96 of the Environmental Planning and Assessment Act (EP&AA) 1979, or a fresh development application. Your Principal Certifying Authority (PCA) should be consulted prior to any works contrary to this consent being carried out. Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

2. **Building Code of Australia**

All building work must be carried out in accordance with the requirements of the Building Code of Australia.

3. **Vehicle Direction**

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP 85.2226.D  
TOP HOUSING - ORIENT STREET - BATEMANS BAY**

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All vehicles to enter and exit the development in a forward direction to avoid possible conflict with through traffic on Orient Street. Where a vehicle cannot do this due to its size (removal and construction vehicles), a Traffic Management Plan shall be developed to aid reversing vehicles and provide pedestrian safety.

**4. *Loading and Unloading***

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times. A private waste contractor shall be engaged as kerb side garbage disposal is not available.

**5. *Water & Sewer Inspections***

All plumbing and drainage works (water supply, sanitary plumbing and drainage, and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of Interim or Occupation Certificate. The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council's Compliance Unit:

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

**6. *Protection of Adjoining Areas***

If site or building works will cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or involve the enclosure of a public place; or have the potential to damage adjoining private land by way of falling objects then a temporary hoarding, fence or awning must be erected between the work site and the adjoining area before the works begin. Any such hoarding, fence or awning must be removed when the work has been completed.

**7. *Colours and Materials***

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

**8. *Safer by Design in Business Areas***

Windows fronting the pedestrian walkways on each elevation shall use and maintain transparent clear glass and not be covered with any medium that prevents surveillance and visibility.

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9. ***Sewerage Manhole***

Any alterations to the ground surface adjacent to the sewerage manhole in the vicinity or within the property will require application and payment to Council for alterations to the manhole level to match the new ground surface level. Manholes within driveways will require provision of a trafficable lid at the applicants cost.

10. ***Waste Management***

Removal of excess waste from the site shall be in accordance with the 'Site Waste and Waste Minimization Plan' by Architects north stamped and received in Council 11 June 2015. into Council's sewerage system without application and approval by Council. The application for approval must be in accordance with Council's Liquid Trade Waste Regulation.

11. ***Kiosk Requirement – Discharge of Liquid Trade Waste and Factory Waste***

Liquid trade and factory waste or chemicals or other impurities from any business, trade or manufacturing process other than domestic sewage is not permitted to be discharged into council's sewerage system without application and approval of council. The application for approval must be in accordance with Council's Liquid Trade Waste Regulation.

12. ***Kiosk Requirement - Floor Level***

The minimum floor level of the kiosk shall be at or above 2.64m AHD. This level is to be certified by a registered surveyor at pouring of concrete for the slab/footings.

13. ***Kiosk Requirement - Power Outlets***

All power outlets are to be constructed as high as practical or at a minimum height of 900mm above the floor level.

14. ***Storm water Disposal***

Storm water from the development is to be connected directly into Council's existing storm water infrastructure under the Murra Mia Walkway. Contact for an inspection is to be made with Council's Plumbing and Drainage Certifier on telephone 02 4474 1231, two (2) working days prior to the expected time of backfilling.

15. ***Fire Hydrant.***

Access to the fire hydrant must be maintained in accordance AS2419.1-2005. Access is not to be obstructed or obscured by obstacles, stored goods, vehicles, vegetation, etc.

16. ***Water Meter/s***

Written advice shall be obtained from a suitably qualified hydraulic engineer/consultant on the recommended water main connection and water meter sizes required for the development, in accordance with AS3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose Reels, where required. Each unit is to be individually metered. Council fees are applicable for water meters to suit the development.



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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP 85.2226.D  
TOP HOUSING - ORIENT STREET - BATEMANS BAY**

Note: All fire hose reels must be supplied through the metered supply.

Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken by Eurobodalla Shire Council (as the Water Supply Authority) at full cost to the applicant.

**17. *Outdoor Furniture and Dining Areas***

Separate approval is required from Council for any use of any area on the Murra Murra Mia Walkway in accordance with Council's Footpath Trading Code. Please contact Council's Property Section on 02 4474 1217.

**18. *Vehicle Access***

To avoid possible conflict with vehicles entering and existing the development, convex mirrors are to be provided at both ends of the driveway in accordance with the recommendations of the Parking and Traffic Impact Assessment Report.

**18A. *BASIX Certification***

The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No(s) 629214M\_02, and any updated certificate(s) if amendments are made. The BASIX Certificate must be submitted to the Certifying Authority with all commitments clearly shown on the Construction Certificate plans. [23.26]

19. Deleted

20. Deleted

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

**21. *Stage 2 - Kiosk Requirement - Design of Food Premises***

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Food Standards Australia New Zealand Act 1991 and AS4674-2004 Design, Construction and Fit-Out of Food Premises. Prior to the issue of the Construction Certificate for stage 2, plans and specifications showing compliance with the above, which include details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, cool room and storage areas, shall be submitted to and approved by the Principal Certifying Authority (PCA).

**22. *Requirements for Telecommunications and Electrical Provision***

The development is to be provided with adequate access to telecommunications and electricity in accordance with the requirements of Telstra and Essential Energy. Demonstration of suitable arrangements shall be submitted to the PCA prior to the issue of the Construction Certificate.

**23. *Acid Sulfate Soil***

The development site is within an area classified as Class Three on maps marked "Acid Sulphate Soil Planning Map" in accordance with the Eurobodalla LEP 2012 (available on

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the Legislation website ([www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au)). If excavation is proposed below one metres of natural ground level, soil samples are to be assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Principal Certifying Authority prior to the release of the Construction Certificate. If acid sulphate materials are identified no excavation shall take place until an Acid Sulphate Soils Management Plan has been prepared by a suitably qualified person in accordance with the NSW Acid Sulphate Soils Manual. The Plan is to be submitted to the Principal Certifying Authority for approval and the development carried out in accordance with the recommendations of the Plan.

**24. *Sealed Traffic Areas***

Prior to the issue of the Construction Certificate submission to and approval by the PCA of plans for sealed car parking spaces, manoeuvring areas and access driveways all conforming to AS2890.1 and 2 and the Building Code of Australia. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements.

**25. *Long Service Levy***

Long Service Levy is to be paid to the NSW Long Service Corporation prior to the issue of the Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more.

**26. *Surrender of Consent***

The applicant/owner of the land is required to surrender Development Consent No: 695/03 prior to the issue of the Construction Certificate. In accordance with Clause 97 of the Environmental Planning and Assessment Regulations, the consent of all land owners is required before the surrender can be authorised by Council.

**27. *Structural (Dilapidation) Reports***

A Structural Report detailing the existing condition of the adjoining buildings, infrastructure and roads in the vicinity shall be prepared and endorsed by a qualified Structural Engineer. The Report shall be submitted to Council prior to the issue of the Construction Certificate. A second Structural Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads in the vicinity. The report shall compare its findings to the original report and be submitted to Council.<sup>[23.07]</sup>

**28. *Construction Management Plan***

A Construction Management Plan shall be submitted to and approved by the PCA prior to the issue of the Construction Certificate. The Plan shall address, but not be limited to, the following matters:

- (a) hours of work
- (b) contact details of site manager
- (c) arrangements for site deliveries and removal of material from site

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TOP HOUSING - ORIENT STREET - BATEMANS BAY**

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- (d) details of hoardings
- (e) details of demolition works and the presence of any asbestos or other hazardous waste
- (f) traffic and/or pedestrian control measures
- (g) dust control measures
- (h) noise control measures
- (i) screening from adjoining properties
- (j) site rubbish enclosure

**29. *Adaptable Housing***

Access and facilities for persons with disabilities are to be provided in accordance with the Batemans Bay Regional Centres DCP that requires a minimum of 25% of the dwellings able to demonstrate that it can satisfy the requirements of Australian Standard AS4299- Adaptable Housing. Complete details of compliance with these instruments for three units is to be provided to the PCA prior to the issue of the Construction Certificate. Compliance with the DCP & AS 4299 also requires three of the 15 parking spaces to be capable of being adaptable. Post adaptation of all three units will result in a net provision of 13 spaces.

**30. *Flood***

All building materials used below the 5% (AEP) minimum habitable floor level, including the floor, are to be of flood compatible materials, ie. the structural integrity of the materials must not be adversely be affected by repeated immersion in flood water. These materials are to be consistent with Council's Guidelines for Flood-Compatible Materials. The flood planning level for the site is 2.64m AHD.

**31. *Ocean/Flood - Footings***

A report and design by a professional engineer experienced in soil mechanics is to be provided to the PCA prior to the issue of the Construction Certificate that demonstrates the footings can sustain the building load as the foundations transform with subsurface water inundation and the bearing capacity of the foundations diminish with projected sea level rise. The report shall also assess the effect of rising salinity to account for the degradation of concrete quality if this type of footing is selected.

**32. *Ocean/Flood***

Prior to issue of the Construction Certificate, submission to and approval by the PCA of designs by a suitably qualified and experienced structural/civil engineer that the development will be capable of withstanding the impact of the flood hazard applicable to the location. The designs shall consider coastal inundation to 3.14m AHD and wave run up to 3.79m AHD. The designs shall include flood doors and window shutters to cater for the design inundation and wave run up.

**33. *Soil and Water Management Plan***

Prior to issue of the Construction Certificate the applicant shall prepare a Soil and

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

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Water Management Plan (SWMP) to be incorporated in engineering design plans. The SWMP is to be prepared in accordance with Managing Urban Storm water: Soils and Construction – Volume 1, Landcom 2004.

34. ***Storm water Management and Water Quality***

Prior to the issue of the Construction Certificate, a Storm water Management Plan (SMP) shall be submitted to the PCA. Plans are to be certified by a qualified drainage consultant or a suitably qualified engineer for compliance with AS/NZ3500 and discharge to meet the ANZECC 2000 Guidelines on water quality. All storm water works required by the SMP are to be carried out prior to the issue of the Occupation Certificate.

35. ***Easement Creation***

Construction of drainage or sewerage works over intervening private property for this development is dependent on the applicant negotiating a permit to enter that land and acquiring an easement or right to use the land under the surface for construction, and for future maintenance of works by Council. Proof of registration of legal access is to be submitted to Council prior to the issue of the Strata Certificate.

36. ***Relocate Sewer Main and Build Over Sewer***

The development requires a sewer main to be relocated as part of the project and building over an existing sewer main. A Construction Certificate and associated plans are to be lodged and approved by Council as the Water Supply Authority, prior to the works commencing.

The plans are to incorporate the proposed footing design, traversing the new and redundant mains, designed in accordance with Build in the Vicinity of Sewer Mains Policy. The location of the proposed and existing sewer main, and proposed building, are to be verified by a registered surveyor. All levels are to be shown in Australian Height Datum (AHD) and are to include the top of sewer main and bottom of footings along the alignment of the sewer mains.

37. ***Promenade Reconstruction***

To ensure the streetscape is maintained, the removal of street trees is limited to two trees in accordance Plan No. A01 Rev B stamped and received by Council on 21.7.2015. All additional trees shall be protected at all times during construction.

Prior to the issue of the Construction Certificate, Council must receive and approve a detailed plan for reconstruction of Murra Mia Walkway for the full frontage of the property and the disturbed area. The reconstruction is to be at or above the standard of the existing construction and where possible, trees replaced to the satisfaction of Council. All promenade reconstruction works are to be carried out prior to the issue of the Occupation Certificate

Clear directional signage and protective barricades shall be installed in accordance with Australian Standard AS1742-3.

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TOP HOUSING - ORIENT STREET - BATEMANS BAY**

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**PRIOR TO COMMENCEMENT OF WORKS**

38. ***Construction Certificate***

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

- (a) Detailed plans/specifications of the building have been endorsed with a Construction Certificate by an accredited certifier, and
- (b) The person having the benefit of the development consent has appointed a PCA and has notified Council of the appointment, and
- (c) The person having the benefit of the development consent has given at least two days' notice to Council of the person's intention to commence the erection of the building; and
- (d) Builders name and license number has been supplied to the PCA; and
- (f) Home Building Compensation Fund has been paid and a copy of the Certificate supplied to the PCA; and
- (g) A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) and (3) of the Environmental Planning and Assessment Regulations being the name, address and telephone number of the PCA for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed.

39. ***Boundary and Height Check***

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

**DURING CONSTRUCTION**

40. ***Shoring and Adequacy of Adjoining Property***

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.

41. ***Approved Plans to be On-Site***

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

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TOP HOUSING - ORIENT STREET - BATEMANS BAY**

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**42. *Hours of Operation – NOISE***

Construction work on the site shall only be carried out between the hours of 7.00am and 6.00pm on Monday to Friday inclusive, and 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays if audible at any residential premise or other sensitive noise receptor.

**PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

**43. *Kiosk Requirement - Food Premises***

The food premises shall be registered with the NSW Food Authority. A copy of the shop registration shall be supplied to Council prior to occupation.

**44. *Road Damage***

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

**45. *Landscape Plan***

Completion of landscaping in accordance with the approved Landscape Plan prior to issue of an Interim or Final Occupation Certificate and such landscaping is to be continuously maintained in accordance with the approved Plan. Maintenance is the landowner's responsibility.

**46. *Occupation Certificate***

The development shall not be used or occupied until an Occupation Certificate has been issued by the PCA.

**47. *Building Over Sewer Mains***

Construction of the footings over Council's sewer main are to be supervised by an engineer and certified as being constructed in accordance with the approved design prior to issue of the Interim or Final Occupation Certificate for the building, whichever is the earliest.

**48. *Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to the issue of the Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the PCA prior to issue of an Interim or Final Occupation Certificate.

**49. *Annual Fire Safety Statement***

- a. A final Fire Safety Certificate shall state that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the Certificate relates:

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

- (i) has been assessed by a properly qualified person; and
  - (ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current Fire Safety Schedule for the building for which the Certificate is issued.
- b. The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.
- c. The choice of person to carry out the assessment is up to the owner of the building.
- d. The person who carries out the assessment:
  - (i) must inspect and verify the performance of each fire safety measure being assessed; and
  - (ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.
- e. As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates must provide a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to the Commissioner of Fire and Rescue NSW; and must prominently display a further copy of the Certificate (together with a copy of the current fire safety schedule) in the building.

**PRIOR TO ISSUE OF STRATA CERTIFICATE**

**50. Section 94 Contributions**

Payment to Council pursuant to Section 94 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

a.	Plan preparation and administration	\$508.25
b.	Waste disposal	\$489.13
c.	Roads	\$10,339.50
d.	Open space and recreation	\$5,196.00
e.	Community and cultural	\$301.25
f.	Paths and cycleways	\$962.75

The above contributions are to be paid prior to the release of the Construction Certificate and will be payable at the rate applicable at the time of payment.

*Note: Contributions have taken into account 2 x 3 bedroom and 4 x 2 bedroom site credits. The above contributions are reviewed annually and may be subject to increases as a result of CPI.*

**51. Water/Sewer Developer Contributions - Development**

Prior to the issue of a Construction Certificate, for compliance under the Water Management Act 2000. The developer/consent holder will have to contribute:

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

- a. \$35,045.50 (2.975 ETs) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$11,780.
- b. \$48,943.75 (4.775 ETs) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10,250

The contribution shall be paid to Council. Evidence of the payment shall be submitted to the PCA prior to the issue of the Construction Certificate.

*Note: Contributions have taken into account 4.225 ET water and 4.225 ET sewer Head works site credits. The above contributions are reviewed at least annually and may be subject to increase as a result of indexation or other forces. Contributions can be paid prior to each stage of the development.*

**52. Strata Subdivision**

Prior to the issue of Strata Certificate and in accordance with Clause 17 of the *Strata Schemes Development Regulation 2016* and Clause 57 of the *Strata Schemes Development Act 2015*, the applicant must verify to Council that each building and the common property areas around each building shown on the Strata Plan are compliant with development consent no. 577/15 (as modified). In particular, it must be verified, that:

- (a) the floors, external walls and ceilings depicted in the proposed Strata Plan for the building correspond to those of the building as constructed; and
- (b) the floors, external walls and ceilings of the building as constructed correspond to those depicted in the building plans that accompanied the Construction Certificate for the building; and
- (c) any facilities required by the relevant development consent (such as parking spaces, terraces and courtyards) have been provided in accordance with those requirements.
- (d) whether the following will be appropriate to the proposed use of the building the subject of the plan or notice:
  - (i) the structural strength and load-bearing capacity of the building,
  - (ii) the measures to protect persons using the building, and to facilitate their egress from the building, in the event of fire,
  - (iii) the measures to restrict the spread of fire from the building to other buildings nearby, and
  - (iv) whether the building complies, or will comply when completed, with the Category 1 fire safety provisions applicable to the building's proposed use.

Note: If the development has been issued with a recent Final Occupation Certificate this should be sufficient verification of the above.

**53. Electricity Supply**



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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

Prior to issue of Subdivision Certificate the developer/consent holder shall provide to Council written confirmation from the electricity supply authority that all relevant requirements for supply of electricity to all lots have been satisfied including provision for street lighting (where applicable).

54. ***Telecommunications Cabling***

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra that arrangements have been made for telecommunication cabling to all lots including the provision of NBN cabling and conduits.

55. ***Strata Certificate***

A Strata Certificate is to be obtained once any works required by this consent are complete. Submission of a completed subdivision/strata certificate application form together with all required documents and fees is required to be made to Council. The application form, checklist and fee detail can be found at [www.esc.nsw.gov.au](http://www.esc.nsw.gov.au)

**ADVISORY NOTES**

i. ***Disclaimer – s88B Restrictions on the Use of Land***

The applicant should note that there may be covenants/easements in favour of persons, other than Council, restricting what may be built or done upon the subject land. The applicant is advised to confirm whether the development affects any of these covenants/easements before commencing any work.

ii. ***Disability Discrimination Act 1992***

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia, which references AS1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 and 4.

iii. ***Kiosk Awning***

A lease shall be obtained from the NSW Department of Lands for any structure over Crown land.

iv. ***Discovery of Historical Relics***

Should any historical relics be discovered during excavation processes then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the Heritage Act 1977.

v. ***Discovery of Archaeological Relics***

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environment Protection and Regulation Group of the Office of Environment and Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

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vi. ***Sea Level Rise Liability***

This land may be subject to sea level rise and flooding. This development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (eg., sewer, water, storm water and roads) may also be subject to sea level rise or flooding. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise or flooding in the future. If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent.

vii. ***Use of Mobile Cranes***

The applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works.

For special operations including the delivery of materials, hoisting of plant and equipment, and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes, permits must be obtained from Council:

- (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions; and
- (b) at least four (4) weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.

The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council. [0243]

viii. ***Underground Utility Services Check***

The applicant shall contact the Dial Before You Dig service on telephone (02) 1100, fax number 1300-652-077 or email mocsinfo@mocs.com.au, prior to the commencement of excavation, to ascertain the presence and type of underground utility services in the vicinity of the development.

ix. ***Ocean Location***

The land is located within a corrosive environment, being within 100m of salt water. Materials used in construction may require a higher level of corrosion protection in accordance with relevant Australian Standards and the Building Code of Australia.[10.06]

x. ***Section 94 Payments***

The applicant should contact Council prior to the payment to determine the rate of contribution as such rates are revised at least annually. Staging of payments is permitted if staging of development is approved by the terms of this consent.

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP 85.2226.D  
TOP HOUSING - ORIENT STREET - BATEMANS BAY**

Section 94 plans are available for inspection at Council's offices, Vulcan Street, Moruya. Council will hold the money payable under this condition in trust and utilise these funds to upgrade amenities or services.

xi. **Fire Protection**

The development must provide fire protection in accordance with requirements of the BCA. Any modifications to Council's water supply infrastructure and hydrant requires prior approval by Council. All modification works to be at full cost to the applicant. Council can provide a water pressure enquiry for a fee as set by Council's Fees and Charges.

**BACKGROUND**

The property is located on a battle axe allotment with street access to Orient Street and pedestrian access to the Murra Mia Walkway (the Promenade).

Council approved the development application at its meeting on 28 August 2015. The applicant has engaged Council as the certifier for the development and the preparation of the construction drawings has identified some design changes that require amendments to the conditions contained in the original development consent.

The development incorporates 11 dwellings, a ground floor kiosk and car park. The development is five stories in height with three units on the first, second and third floor and two units on the fourth floor.

The proposed amendments include the following:

- Increase in height of ground floor car park by 600mm to provide for a building height of 15 metres plus roof mounted service infrastructure that includes solar collectors
- Provision of obscure fire rated glass block to side elevations (south and north)
- Minor realignment of setback to the Walkway to allow for existing footings
- Provision for traffic management plan to deal with access for larger trucks such as construction and removalist trucks
- Contributions to be paid at subdivision stage and inclusion of strata subdivision as part of application
- Allow fit out of kiosk as a separate stage
- Amendment of conditions 29 and 34 to allow for changes in design of stormwater and adaptable housing provisions.

**POLICY**

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

*NSW Coastal Policy*

Section 92 of the *Environmental Planning and Assessment Regulation 2000* requires the consideration of the *NSW Coastal Policy*. The proposed development does not affect public

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP 85.2226.D  
TOP HOUSING - ORIENT STREET - BATEMANS BAY**

access to the foreshore and has demonstrated that shadow cast by the building is acceptable. The building has been designed according to projected sea level rise and frequency of ocean inundation. The development consent will be conditioned to ensure any ground water disturbance or drainage from the site does not impact on the terrestrial or marine environmental. The development is considered as satisfactory with regard to the requirements of the Policy.

*State Environmental Planning Policy (SEPP) 71 – Coastal Protection*

The proposal has been assessed against the aims and considerations of SEPP 71 and is deemed as satisfactory. Public access will not be impacted rather improved through utilization of the promenade to access the residential accommodation and the kiosk. The proposal will contribute to the scenic qualities of the interface of the commercial precinct adjoining the estuary. Any potential adverse effects regarding the environment will be managed satisfactorily through conditions of the consent.

*State Environmental Planning Policy (SEPP) 55 – Remediation of Land*

The subject site is not identified as potentially contaminated land and there is no indication that the land has been used for a purpose which would require remediation prior to the construction. The proposal is satisfactory with regard for the provisions of SEPP 55.

*State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Flat Development*

SEPP 65 contains ten design principles that apply to residential flat buildings. The SEPP refers to the guidelines *Apartment Design Guide*. The policy requires that an application for residential development under SEPP 65 be supported by a design verification statement prepared by a registered architect against the ten design principles. This statement was provided with the original application.

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

The applicant has provided a compliant BASIX Certificate for a Multi Dwelling and Nationwide House Energy Rating Scheme Certificate. The development consent will be conditioned requiring such commitments to be fulfilled.

*Australian Standard AS4299 – Adaptable Housing*

Access and facilities for persons with disabilities are to be provided in accordance with Councils Development Control Plan Clause 4.6 that requires a minimum of 25% of dwellings are able to demonstrate that it can satisfy the requirements of Australian Standard AS4299-Adaptable Housing.

Amendments are proposed to the design to ensure compliance with this standard.

*South Coast Regional Strategy*

The site is located within the CBD that is designated by the NSW Government as a major regional centre in the South Coast Regional Strategy. The strategy encourages mixed use and higher density living to strengthen the CBD as the major residential, commercial and tourism centre for the middle part of the region. The proposal introduces both a residential and

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP TOP HOUSING - ORIENT STREET - BATEMANS BAY 85.2226.D**

commercial component that activates the town centre increasing interaction with the promenade both aesthetically and functionally.

*Eurobodalla Local Environmental Plan 2012(LEP)*

The subject site is zoned B4 - Mixed Use under the Eurobodalla Local Environmental Plan. The proposed development is permissible in this zone with consent as "shop top housing" and "commercial premises" of which "retail premises (Kiosk)" is a subset.

The objectives of the B4 zone are met through the provision of a mix of residential and commercial uses compatible with the CBD. The site location is in close proximity to a main bus stop, major road network and with access to areas of employment, entertainment and open space reinforces the role and function of the major regional centre and adds to the vitality of the CBD.

*Clause 4.3 Height of Buildings*

The site is provided with a split building height limit of 12m for the majority of the site and 15m for part of the site. The proposed development seeks a variation to this development standard for a portion of the building with a building roof height of 15m above natural ground level (NGL) and a maximum height of 15m plus roof mounted service infrastructure that includes solar collectors.

It should be noted that Council has already resolved to approve a height of 14.4 metres with the original application. This application seeks to increase the height by a further 600mm to a total height of 15m.

The site is located on a battle axe allotment and therefore there is minimal impact on the streetscape. The building fronting the Promenade has been designed to recess away from the waterfront and therefore does not dominate the public space or waterfront. As a result of the articulation demonstrated on each building level, overshadowing by the new development is reduced and there is minimal perception of bulk so that it compliments adjoining buildings.

*Clause 4.6 Exceptions to development standards*

The objectives of clause 4.6 is to provide appropriate degree of flexibility in applying certain development standards and to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Further, the Department of Planning Circulars PS08-003 and PS 08-014 requires all development, where there is a variation greater than 10% to a development standards, to be determined by the Council.

A variation to the development standard is sort based on the proposals ability to adhere to the LEP (2012) and precinct statement of both the *South Coast Regional Strategy* and the *Batemans Bay Regional Centre Development Control Plan (DCP)*.

The variation is supported due to its design response. The building is set well back from Orient Street and recesses away from the waterfront and Promenade so it will not be visually prominent.

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**PSR17/026 DEVELOPMENT APPLICATION 577/15-M2 MODIFICATION TO SHOP 85.2226.D  
TOP HOUSING - ORIENT STREET - BATEMANS BAY**

*Eurobodalla Interim Coastal Hazard Adaptation Code*

The amended proposal does not alter the previous assessment or affect any related conditions of consent.

*Parking and Access Code*

The proposed development seeks confirmation that the 15 spaces to be provided on site can be reduced to 13 spaces, should all required adaptable units be taken up. This is because the standard for an adaptable car space is wider than a standard space and therefore there is insufficient room to provide all spaces.

It is considered that this can be supported as it is a decision of the unit owner to either have access to the spaces or convert to an adaptable unit. There is also no guarantee that any or all of the units will be converted to adaptable units as the standard is there simply to provide flexibility.

**ENVIRONMENTAL**

The proposed amendments do not significantly alter any of the environmental impacts.

**CONSULTATION**

The application was publicly advertised in accordance with Council's Advertisement and Notification Code.

The advertising period commenced on 26 April 2017 and concluded on 10 May 2017. No submissions were received.

**CONCLUSION**

It is considered that the proposal is consistent with the requirements of the Environmental Planning and Assessment Act 1979, SEPP 65 – Design Quality of Residential Apartment Development, Eurobodalla LEP 2012 and the Batemans Bay Development Control Plan (DCP)

The proposal will deliver a high urban standard and architectural outcome that will supplement and promote the function of the local centre and provide greater diversity close to the existing retail and recreational facilities. The CBD is currently in transition and the building has been designed with a focus on modern urban planning principles that provide a building that gives interest and activation in the precinct and promenade. The mix of apartment types provides a range of affordable accommodation that will benefit local residents, visitors and local businesses.

Having regard to the above assessment, the proposal is deemed as satisfactory and approval is recommended subject to conditions of consent.

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**PSR17/027 QUARRY - EXTENSION OF EXTRACTION PERIOD - RIFLE RANGE  
ROAD NAROOMA**

**83.8116.D**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments: 1. Confidential - Public submissions  
2. Agency responses

Focus Area: Productive Communities

Delivery Program Link: P4.1 Provide development assessment services

Operational Plan Link: P4.1.1 Assess and determine development applications

Applicant: Eurobodalla Shire Council

Land: Lot 174 DP 752162 Bodalla State Forest

Area: 199.3 hectares

Zone: RU3 Forestry

Current Use: Quarry

Proposed Use: Quarry

Description: Extension of extraction period

Permitted in Zone: Yes

DA Registered: 15 January 2016

Reason to Council: Council application

Recommendation: Approval

## **EXECUTIVE SUMMARY**

The purpose of this report is to consider the proposed modification of development application 230/95, namely to increase the period for the extraction of gravel from 20 years to a maximum of 25 years. This increase will extend the operation of the quarry until 23 January 2021. Development Application 230/95 approved the operation of the quarry for a period of 20 years from 23 January 1996.

The Rifle Range Quarry has an area of 8ha and is situated within the Bodalla State Forest.

A number of submissions were received during the exhibition period and Council's Infrastructure Services carried out works to address the issues raised by nearby residents.

The application has been considered against the requirements of the Environmental Planning and Assessment Act 1979 and the recommendation is for approval with amended conditions of consent.

## **RECOMMENDATION**

THAT Council approve application MD230/95 to allow continuation of quarrying operations at Lot 174 DP 752162, Bodalla State Forest and notice of determination dated 23 January 1996 is

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**PSR17/027 QUARRY - EXTENSION OF EXTRACTION PERIOD - RIFLE RANGE  
ROAD NAROOMA**

**83.8116.D**

amended as follows:

Condition (a) is amended to read:

- (a) This consent will cease upon any of the following events occurring:
  - i. **25** years from the date of the notice
  - ii. The area depicted as Stages 1 and 2 on the approved plan is extracted

Condition (f) is amended to read:

- (f) An Environmental Management Plan shall be prepared and submitted for approval by Council. The Environmental Management Plan is to include, but not limited to, the following information:
  - i. Erosion and sediment control
  - ii. Water quality
  - iii. Noise and vibration control
  - iv. Air quality
  - v. Vegetation control
  - vi. Dangerous good and contaminants
  - vii. Complaints procedure

## **BACKGROUND**

Rifle Range Quarry, located west of Princes Highway in North Narooma, has been operating under licence from NSW State Forest and the Environmental Protection Authority (EPA) since 1988.

In 1993 State Environmental Planning Policy 37 (SEPP 37) became effective allowing existing quarries to continue operation for a period of two years pending the lodgement and approval of a development application. Rifle Range Quarry was registered under SEPP 37 and then subsequently approved by Development Application 230/95 on 23 January 1996.

At the time of approval in 1996, it was estimated approximately 640,000m<sup>3</sup> of suitable material lay within the 8ha quarry site, separated into five stages of extraction. DA 230/95 approved quarrying operations within Stage 1 and 2 only with an average annual extraction of 10,000m<sup>3</sup> over a 20 year period. For the 20 year period to 2015, 102,430m<sup>3</sup> or an average of 5,121m<sup>3</sup> per annum of gravel has been extracted from the site. The proposed modification application seeks only to extend the life of the quarry within Stages 1 and 2 and does not alter operation of the quarry or the annual extraction limits.

## **POLICY**

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



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**PSR17/027 QUARRY - EXTENSION OF EXTRACTION PERIOD - RIFLE RANGE  
ROAD NAROOMA**

**83.8116.D**

*Eurobodalla Local Environmental Plan 2012 (ELEP)*

Lot 174 DP 752162 is zoned RU3 – Forestry under ELEP 2012. Extractive Industries are permitted with consent.

*State Environmental Planning Policy (SEPP) 71 – Coastal Protection*

The property is situated within the Coastal Zone and in close proximity to the tributaries that flow into Kianga Lake. In consideration of the high conservation value of the receiving environment and working in conjunction with the NSW Environmental Protection Authority (EPA), Council has recently improved pollution control infrastructure within the quarry.

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

Development Applications for Extractive Industry are subject to assessment of the matters for consideration listed under Part 3 of the SEPP. The proposed amendment to the life of the quarry approval is considered to be consistent with the considerations provided within Part 3 of the SEPP.

**ENVIRONMENTAL**

To effectively manage the environmental impacts of the quarry an Environmental Management Plan has been prepared for the ongoing operation. Significant works have also been carried out as part of the development, to mitigate against any environmental impacts from the quarry. These include:

- Additional widening of the local road network (Hillcrest Avenue)
- Sealing of the access to the quarry to reduce dust impacts
- Redirecting, enlarging and improving the sediment ponds onsite, in consultation with EPA, to mitigate impacts on downstream properties.

**CONSULTATION**

The modified application was placed on public exhibition for the period 15 January 2016 to 8 February 2016 and during this period seven (7) opposing submissions were received. The submissions raised the following issues:

- Stormwater overflow from the quarry impacts private land and Kianga Creek
- Sharp bend in Hillcrest Avenue is dangerous and requires widening to allow vehicles to pass trucks
- Dust nuisance at entrance to quarry and intersection of Appleby Road

In response to the submissions, Council's Infrastructure Services have completed the following works:

- In consultation with the EPA, the sediment pond has been increased in size to 6,242m<sup>3</sup>. The existing spillway has been closed and a new discharge point installed to allow water to flow at a slower rate across a flatter grade into an existing gully. The new discharge

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**PSR17/027 QUARRY - EXTENSION OF EXTRACTION PERIOD - RIFLE RANGE  
ROAD NAROOMA**

**83.8116.D**

point directs water further from privately owned land along a gully that is more distant from Kianga Creek.

- The inside corner of the sharp bend in Hillcrest Avenue has been widened to increase the carriageway width and improve the turning path.
- Rifle Range Road has been sealed to the entrance of the quarry and intersection with Appleby Road.

The application was referred to Roads and Maritime Services, the Environmental Protection Agency and the Office of Environment and Heritage. Agency responses support the continued operation of the quarry subject to ongoing environmental management practices.

NSW Forestry Corporation support the application and have provided consent as landowner.

**CONCLUSION**

The quarry is regarded as a valuable and extensive gravel resource that has not been fully extracted within the 20 year period of the initial approval. The Modification Application seeks only to extend the life of the quarry and does not alter operating hours or annual limits.

The application has been considered against Section 79C of the Environmental Planning and Assessment Act and can be supported.



DOC16/28098-1

The General Manager  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537  
Attention: Bryan Netzler

Dear Mr Netzler

**MD230/95 – Modification of Development Consent for continued gravel extraction operation –  
Lot 174 DP 752162 Rifle Range Road, North Narooma**

I refer to your letter, received by the Office of Environment and Heritage (OEH) on 20 January 2016, in relation to the modification of development consent for Rifle Range Pit, North Narooma. OEH understands that this proposal has been referred to OEH pursuant to Clause 79B of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

OEH has reviewed the information provided and notes that the proposed modification is to only increase the life of the development consent from 20 to 25 years, limited to the stage 1 and 2 extraction areas, so as to allow time for the preparation and submission of a new development application for the overall continued operation of gravel extraction. As such, OEH is satisfied that the proposed modification to the development consent is not outside the scope of the original development consent.

OEH reminds the proponent that while the modification relates to the extension of time for the existing operation of gravel extraction in the areas of Stages 1 and 2; if Aboriginal objects are later found when the proponent is carrying out their activity, they must stop work, notify OEH and apply for an Aboriginal Heritage Impact Permit (AHIP) if they intend to harm those objects.

In relation to any new development application, OEH advises that there has been changes to both the *National Parks and Wildlife Act 1974* and the *EP&A Act* since the original development consent was granted on 25 January 1996, which will affect the way that future assessments are carried out. They are as follows;

**Aboriginal Cultural Heritage**

While an archaeological assessment of the gravel extraction operation was undertaken in May 1995; amendments occurred to the *National Parks and Wildlife Act 1974* in October 2010 which now require proponents to exercise 'due diligence' to determine whether a proposed activity could harm Aboriginal objects or declared Aboriginal places.

OEH recommend that the potential impacts to Aboriginal cultural heritage values be reconsidered as part of the preparation of the new development application due to the changes in legislation and differing requirements for due diligence and archaeological assessment.

Page 2

Further information about the changes in Aboriginal heritage regulation in NSW can be found on the OEH website at: <http://www.environment.nsw.gov.au/licences/achregulation.htm>

**Threatened species**

OEH understands that Lot 174 DP 752162 is land identified as Extant Native Vegetation on the Terrestrial Biodiversity Map pursuant to clause 6.6 of the *Eurobodalla Local Environmental Plan 2012*, and as such any future expansion of the quarry will need to consider any adverse impact of the proposed development on;


- (a) native ecological communities,
- (b) the habitat of any threatened species, populations or ecological community,
- (c) regionally significant species of fauna and flora or habitat,
- (d) habitat elements providing connectivity.

In addition, Clause 5A of the *EP&A Act* was amended in 2008 to ensure that the focus on likely impacts to threatened species is local rather than regional. Further information about the assessment of significance for threatened species can be found on the OEH website at: <http://www.environment.nsw.gov.au/resources/threatenedspecies/tsaguide07393.pdf>.

The proponent should also consider that there may be additional flora and fauna listed as threatened species in the time since the original consent of 25 January 1996.

OEH is happy to discuss or clarify the above matters further with you or the proponent. Please contact Lyndal Walters on (02) 6229 7157 if you require any further information.

Yours sincerely

 3 February 2016  
for ALLISON TREWEEK  
Senior Team Leader, Planning - South East  
Regional Operations Group  
OFFICE OF ENVIRONMENT AND HERITAGE

**Myree Mcilveen**

**From:** Richard Rienstra <Richard.Rienstra@fcnsw.com.au>  
**Sent:** Monday, 25 January 2016 1:16 PM  
**To:** Council  
**Cc:** Brendan Grimson; Greg Knight; Mark Cutting; Tony Swallow; Zarik Biglia  
**Subject:** Modification of Development Consent for Continued Gravel Extraction Operation -  
DA A234/95 - Rifle Range Pit - Narooma - Bodalla State Forest  
**Attachments:** ESC\_FCNSW\_DA Support.pdf

Hi!

Please find attached a submission in support of the above DA.

Regards

Richard Rienstra | Senior Land Administrator | Forests Stewardship  
Forestry Corporation of NSW | Hardwood Forests Division

Maier Street | Wauchope NSW 2446  
PO Box 168 | Wauchope NSW 2446  
T: 02 6586 9733 | F: 02 65862392 | M: 0427 255 293 | E: [richard.rienstra@fcnsw.com.au](mailto:richard.rienstra@fcnsw.com.au) | W: [www.forestrycorporation.com.au](http://www.forestrycorporation.com.au)

EUROBODALLA SHIRE COUNCIL	
FILE No:	83.8116.D.
ACTION OFFICER:	Bryan
DATE:	27 Jan 2016
FOLLOW UP CODE:	ao
DOC. No:	ENT:

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Forestry Corporation of NSW ABN 43 141 957 613

Hardwood Forests Division  
Maher Street Wauchope NSW 2446  
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22/01/2016

FCNSW Ref No.: 2013/00718

ESC Ref No.: DA No.MD230/95

The General Manager  
Eurobodalla Shire Council  
PO Box 99  
MORUYA NSW 2537

[council@eurocoast.nsw.gov.au](mailto:council@eurocoast.nsw.gov.au)

Dear Sir or Madam,

**Modification of Development Consent for Continued Gravel Extraction Operation  
Development Application A230/95 - Rifle Range Pit – Narooma  
Bodalla State Forest No. 606**

Reference is made to the above development application, and your invitation to make a submission. Forestry Corporation of NSW (FCNSW) supports the Application.

As previously advised in correspondence to Council dated 17<sup>th</sup> December 2015, FCNSW is the manager of Bodalla State Forest, within which the proposed quarry will be located, and FCNSW has consented to the submission of the Eurobodalla Shire Council development proposal.

The geological resource situated on the subject land is both extensive and good quality. FCNSW is keen to achieve the best possible "Return on Assets" in relation to the land managed by us in conjunction with facilitating community access to valuable resources. In this regard, we have negotiated a favourable royalty agreement and operating conditions with Eurobodalla Shire Council.

The proposed development has clearly been designed to comply with all relevant criteria adopted by FCNSW, including environmental controls, access requirements, sediment and erosion control measures, bush fire management, and management of relevant habitat.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Richard Rienstra".

**Richard Rienstra**  
**Senior Land Administrator – Forests Stewardship**





Department of  
Primary Industries

OUT16/12120

Mr Bryan Netzler  
Development Assessment Officer  
Eurobodalla Shire Council  
PO Box 99  
Moruya NSW 2537



EUROBODALLA SHIRE COUNCIL  
FILE No: 83-8116-D  
ACTION OFFICER: B Netzler  
DATE: 27 May 2016  
FOLLOW UP CODE: 00  
DOC. No: ENT:

Dear Mr Netzler,

**Re: DA M230/95 - Modification of Development Consent 230/95 for Continued Gravel Extraction Operation - Lot 174 DP752162 Rifle Range Pit NAROOMA**

Please excuse the lateness of this response. Even though we missed the defined consultation period for the above mentioned DA, we thought it would be worth contacting you due to some concerns brought to our attention by a concerned member of the public.

The responsibilities of Fisheries NSW include ensuring that;

- fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, Fisheries NSW ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)*. In addition, Fisheries NSW is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture and marine protected areas within NSW.
- within marine parks marine biological diversity and marine habitats are conserved and ecological processes are maintained. With regard to land use planning and approvals the Department ensures that development activities comply with or are consistent with the requirements of the *Marine Estate Management Act 2014*, *Marine Estate Management Regulation 2009* and the *Marine Estate Management (Management Rules) Regulation 1999*.

Fisheries NSW has reviewed the DA M230/95 to allow for continued gravel extraction at the site from the current approved 20 years to a maximum of 25 years from the date of the consent notice. The site is located in close proximity to tributaries of the Kiangra River which in turn flow into Kiangra Lake, a sanctuary zone within Batemans Marine Park.

We are concerned about the impact of stormwater discharge from the quarry during high rainfall events on the receiving waters of the Kiangra Lake catchment. We have no objections to this proposal proceeding, however encourage the Eurobodalla Shire Council to take the following matters are taken into consideration during the assessment, approval process and final approval conditions:

**Stormwater management** - We note that during a storm event on the 14 October 2014 high volumes of stormwater laden with rock and gravel flowed onto an adjacent property and into the Kiangra River. As the quarry operator, Eurobodalla Shire Council should ensure

that adequate measures have been utilised to ensure these events do not occur or are mitigated to a point where they do not lead to 'dirty' stormwater entering the Kianga River.

As outlined in "*Appendix C - Environmental Improvements Assessment Report*", we note that a number of controls and modifications have been made at the site to mitigate stormwater impacts including -

- Increasing the volume of the main sediment basin by building a new basin to adjoin the old
- Construction of a new spill way
- Installation of additional sediment controls at the base of the spill way
- Closing the discharge pipe from the sediment basin and using for controlled discharges only

We support the above mentioned modifications and encourage the Eurobodalla Shire Council implement and actively manage those measures to minimise stormwater impacts at the site. Every effort should be made to ensure that any water discharged from the sediment basins contains no flocculants and that the water quality is equal to that of the receiving water once it enters those waters. This is of particular importance given that Kianga Lake has been afforded the highest level of protection (sanctuary zone) due to its high conservation value.

Furthermore, "*Appendix C - Environmental Improvements Assessment Report*" mentions the '*possible treatment of water within the quarry is currently being tested*'. We encourage Eurobodalla Shire Council to continue to improve water quality monitoring and treatment at the site through this approval process and into the future.

We strongly recommend that the direct discharge of 'dirty' stormwater into the Kianga River is avoided and that the water within the sediment basins is managed appropriately to ensure this outcome. Any stormwater leaving the site should comply with the water quality benchmarks for estuaries of the catchments within the Batemans Marine Park (Clyde River and Jervis Bay) as expressed in the NSW Water Quality Objectives (WQOs) developed in accordance with the ANZECC 2000 Guidelines on water quality as required under the *Protection of the Environment and Operations Act 1997*. (Further info is available on the OEH website at ([www.environment.nsw.gov.au/ieo/Clyde/index.htm](http://www.environment.nsw.gov.au/ieo/Clyde/index.htm))).

If you have any queries regarding this matter please contact our Ranger by phone (02 4476 0804) or email ([sham.eichmann@dpi.nsw.gov.au](mailto:sham.eichmann@dpi.nsw.gov.au)).

Yours sincerely



Justin Gilligan  
A/Manager  
Batemans Marine Park

21 March 2015



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**PSR17/028 POLICY REVIEW - COLLECTION DOMESTIC WASTE BINS**

**E16.0297**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services

Attachments:

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Collection Domestic Waste Bins policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Collection Domestic Waste Bins policy.
2. The draft Collection Domestic Waste Bins policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

This policy defines the size of waste bins allocated by Council for domestic waste collection services.

**Changes**

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**PSR17/028 POLICY REVIEW - COLLECTION DOMESTIC WASTE BINS**

**E16.0297**

The Collection Domestic Waste Bins policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Collection Domestic Waste Bins policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Collection Domestic Bins policy will be presented to Council for consideration to adopt.

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**PSR17/029 POLICY REVIEW - WASTE MINIMISATION**

**E16.0297**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: 1. Under Separate Cover - Waste Minimisation Policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Waste Minimisation policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Waste Minimisation policy.
2. The draft Waste Minimisation policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

This policy was developed to reinforce Council's promotion of waste minimisation as opposed to waste disposal.

This policy is to ensure compliance with legislative requirements under the *Waste Avoidance and Resource Recovery Act 2001*.

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**PSR17/029 POLICY REVIEW - WASTE MINIMISATION**

**E16.0297**

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Waste Minimisation policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Waste Minimisation policy will be presented to Council for consideration to adopt.

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**PSR17/030 POLICY REVIEW - NATIONAL CLEAN UP DAY CAMPAIGN**

**E16.0297**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: 1. Under Separate Cover - National Clean Up Day Campaign policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The National Clean Up Day Campaign policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft National Clean Up Day Campaign policy.
2. The draft National Clean Up Day policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

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**PSR17/030 POLICY REVIEW - NATIONAL CLEAN UP DAY CAMPAIGN**

**E16.0297**

This policy was developed to reinforce Council's support of the National Clean Up Day Campaign. Council promotes the National Clean Up Day locally, facilitates and supports volunteers and provides for the disposal of waste generated from clean up operations.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft National Clean Up Day Campaign policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft National Clean Up Day Campaign policy will be presented to Council for consideration to adopt.

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**PSR17/031 POLICY REVIEW - COLLECTION LITTER BINS**

**E16.0297**

Responsible Officer: Lindsay Usher - Director, Planning and Sustainability Services  
Attachments: 1. Under Separate Cover - Collection Litter Bins policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Collection Litter Bins policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Collection Litter Bins policy.
2. The draft Collection Litter Bins policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Littering of public places is managed by providing litter bins. Litter bins have been provided at sports grounds, foreshore locations, parks, town and villages centres to ensure compliance with the requirements of the Protection of the Environment Operations Act 1997.

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**PSR17/031 POLICY REVIEW - COLLECTION LITTER BINS**

**E16.0297**

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Collection Litter Bins policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Collection Litter Bins policy will be presented to Council for consideration to adopt.



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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY  
20 APRIL 2017**

**E16.0002**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: Nil

Focus Area: Productive Communities

Delivery Program Link: P3.1 Undertake advocacy activities to further the development of transport infrastructure and support future growth

Operational Plan Link: P3.1.2 Coordinate the Local Traffic & Development Committees

### **EXECUTIVE SUMMARY**

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

The minutes of the Eurobodalla Local Traffic Committee meeting are included in this report for the Councillor's review. The main issues covered at the Eurobodalla Local Traffic Committee meeting of 20 April 2017 were as follows:

- Signage – Princes Highway Service Road adjoining the Bodalla Arms Hotel, Bodalla
- Special Event Application – Moruya Town to Surf Fun Run
- Special Event Application – Narooma Forest Rally
- Special Event Application – Rally of the Bay
- Public Parking Review – Batemans Bay CBD.

### **RECOMMENDATION**

THAT:

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 6 of 2016-17 held on 16 March 2017 be received and noted.
2. Council Plan No.5156 Set E Sheet 02 detailing the proposed regulatory signage on the service road adjoining the Bodalla Arms Hotel be approved.
3. The Local Traffic Committee supports the proposed Batemans Bay CBD Public Parking Review documentation to be used for consultation on the time limits applied to public parking areas within the Batemans Bay CBD.
4. The need to run the Batemans Bay CBD Public Parking Review as part of the investigation of a local mobility parking scheme be noted, with a report to be provided to the Local Traffic Committee prior to presentation to Council.

### **BACKGROUND**

The Eurobodalla Local Traffic Committee Meeting No 7 for 2016-17 was held on 20 April 2017 in Council's Meeting Room. The meeting was attended in person by Dave Hunter (Traffic Officer and Chairperson), Senior Constable Scott Britt (NSW Police Force), Heidi Hanes (Road Safety

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY 20 APRIL 2017 E16.0002**

Officer) and Matt Cormick (Minute Taker). Danielle Brice (representative for the Hon Andrew Constance MP) and Amy Thomson (Roads and Maritime Services).

Apologies were received from Councillor Anthony Mayne and Mayor Liz Innes.

**MINUTES OF PREVIOUS MEETING**

The Minutes of the Eurobodalla Local Traffic Committee Meeting No 6 for 2016-17 held on Thursday 16 March 2017 were confirmed and accepted.

**OUTSTANDING ITEMS FROM PREVIOUS MEETING**

There were no outstanding items discussed.

**ROAD TRANSPORT (SAFETY AND TRAFFIC MANAGEMENT) ACT FOR DETERMINATION**

**2017.RT.010 Signage – Princes Highway Service Road adjoining the Bodalla Arms Hotel, Bodalla**

Council has received feedback from several people on road safety concerns at the front of the Bodalla Arms Hotel. This property that adjoins the Princes Highway also contains other retail outlets.

The concerns raised were:

- Vehicles driving past the front of the hotel are a safety risk to hotel patrons who walk out the front doors onto the street.
- Vehicles exiting from the private carpark, located at the southern end of the hotel property onto the Princes Highway, do so, at a location where sight lines are limited.

The owner of the hotel has requested that the area at the front of the building be permanently blocked off to vehicles. This area, which is within the road reserve under Council's control, is currently used as a vehicular access to solely service the southern (private off-street) carpark. This access is referred to as the service access road. Council Rangers have recently received several complaints that vehicles park at the front of the hotel, within the service access road, blocking traffic.

There are at least three other businesses operating separately from the hotel on the property, including antique and home décor retail outlets and a real estate agent. This entire adjoining property is Lot 1 DP 1194082. Several of these businesses require vehicles to load and unload. These businesses use the southern carpark as part of their business operations.

The southern carpark is accessed directly from the Princes Highway. The sight line from this carpark looking south to oncoming (northbound) traffic is limited. Austroads 2010 – Guide to Road Design Part 4A requires safe intersection sight distance (SISD) for a vehicle travelling at 50km/h to be 97 metres. The sight distance from a vehicle standing at the carpark exit

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY  
20 APRIL 2017**

**E16.0002**

looking toward approaching northbound vehicles was measured at 55 metres. The view is blocked by the front of adjoining shops.

If the service road were blocked off, the crash risk at the southern carpark driveway exit onto the highway would increase significantly, particularly when trucks and large service vehicles drive out of the carpark.

The owner of the hotel has advised that vehicles drive along the service access road, approaching from the north at excessive speeds and expressed a concern that this is a potential risk to hotel patrons who walk from the front of the building onto the service access road. The front of the hotel structure is on the road reserve boundary with no buffer available to separate vehicles and pedestrians.

To reduce the road safety risk to drivers, passengers and pedestrians, it is proposed to keep the service road open to traffic but make it one way from the south. Installing regulatory NO ENTRY, NO STOPPING and LEFT ONLY signs will reduce the crash risk from the southern carpark exit.

The hotel owner uses the service road as a standing point for delivery vehicles. To allow this to continue, a 25 metre long section of NO PARKING signage is proposed, on the northern section of the service road.

The Committee reviewed Plan No. 5156 Set E Sheet 02 detailing the proposed regulatory signage on the service access road adjoining the Bodalla Arms Hotel.

Recommendation:

That Council Plan No.5156 Set E Sheet 02 detailing the proposed regulatory signage on the service access road adjoining the Bodalla Arms Hotel be approved.

**INFORMAL ITEMS FOR DISCUSSION**

**2017.SE.010 Special Event Application – Moruya Town to Surf Fun Run**

A special event application has been received for the Moruya Fun Run to be conducted by Moruya Surf Club on Sunday 10 September 2017.

This proposed fun run is the major annual fundraiser and is also a great way for competitors and their families to enjoy the beautiful autumn weather that is usually on offer at this time of year. While there are prizes for competitors, the organisers have not lost sight that the event is still a fun, family orientated event.

The run will commence at Riverside Park, Moruya and proceed via John Street and then along South Head Road to a finishing point at the Surf Club at Moruya Heads. The route is primarily on shared paths with the middle section run on the road shoulder, between Keightley Street and The Anchorage.

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY  
20 APRIL 2017**

**E16.0002**

The Committee reviewed the Moruya Fun Run Event Management Plan, Traffic Management Plan and Traffic Control Plans.

Recommendation:

That the proposed Moruya Fun Run Event to be conducted by Moruya Surf Life Saving Club on Sunday 10 September 2017 be approved based upon the submitted Traffic Management Plan and associated Traffic Control Plans.

**2017.SE.011 Special Event Application – Narooma Forest Rally**

A special event application has been received for the Narooma Forest Rally car rally to be conducted within state forests to the west of Narooma on Saturday 22 July 2017.

This proposed car rally has been conducted successfully in previous years. The service area will be located on NATA Oval, Narooma. The competition sections of the rally are to be solely on State Forest roads and no public roads under Council's control are proposed to be closed.

The Committee reviewed the Traffic Management Plan for the 2017 Narooma Forest Rally.

Recommendation:

That the 2017 Narooma Forest Rally on 22 July 2017 to be conducted on State Forest roads be approved based upon the submitted Traffic Management Plan.

**2017.SE.012 Special Event Application – Rally of the Bay**

A special event application has been received for the Rally of the Bay car rally to be conducted primarily within State Forests, located in the area from the south west to the north west of Batemans Bay, on Saturday 12 August 2017.

This car rally has been conducted successfully in previous years. The service area will be located at MacKay Park, Batemans Bay. The rally involves several stages using a mixture of Council public roads and State Forest roads.

Locations are within both the Eurobodalla Shire and also the Shoalhaven City Council local government areas. The Council public roads which are proposed to be closed (within the Eurobodalla) are sections of River Road, Buckenbowra Road, Bolaro Mountain Road and Old Nelligen Road. These public road closures will be advertised by Council. The location of the various stages is similar to the 2016 event with the only variations being on State Forest roads.

The proposal also includes a *ceremonial start* to be conducted on Clyde Street, Batemans Bay. This will require the closure of Clyde Street from 7am to 11am on Saturday 12 August. This *ceremonial start* was conducted successfully in 2016, however last year the road closure was

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY 20 APRIL 2017 E16.0002**

between 10.00am and 2.00pm. As in previous years, an inflatable arch will be installed at the North Street intersection.

The Committee reviewed the Traffic Management Plan and associated Traffic Control Plans for the 2017 Rally of the Bay.

Consultation is underway between the event organiser and the local Chamber of Commerce and shop owners / managers. Once approved by the Committee, the event organisers will notify bus and taxi operators.

Recommendation:

That the 2017 Rally of the Bay to be conducted on 12 August, 2017 be approved based upon the submitted Traffic Management Plan.

**2017.IN.009 Public Parking Review - Batemans Bay CBD**

In recent times, Council has worked to provide additional parking in Batemans Bay Central Business District (CBD) in the Camp Street off-street car park, in Orient Street south and by securing overflow parking at the Mackay Park precinct. Also, parking has been removed from Perry Street and Clyde Street off-street car parks.

At the local traffic committee meeting held on 14 April 2016 it was recommended that:

1. Item No 2016.RT.021: Council Plan No 3866 Set D Sheet 01 detailing the relocation of the marked pedestrian (zebra) crossing on Orient Street, Batemans Bay from its existing location to approximately 38m north be approved.
2. Item No 2016.IN.017: The Committee supports the proposed Batemans Bay Streetscape Project based on the concept plans displayed for public consultation between 16 March and 6 April 2016.

At the Ordinary Meeting Council held on 10 May 2016 as part of Motion 16/133 for the adoption of the Batemans Bay CBD Streetscaping concept plan, in relation to loading zones, it was recommended that *"the Local Traffic Committee be requested to investigate parallel parking being provided in front of No 13 Orient Street, with timing restrictions to enable a dedicated loading zone at non-peak times in same location, including undertaking appropriate consultation with businesses on this specific proposal"*.

The Streetscaping work in Orient and North Streets' commenced in 2016 and is expected to be finished by early 2017-18. This will result in an additional six on-street parking spaces. Also, another 80 private car spaces have been recently provided in the Bridge Plaza development.

The proposed changes to the loading zone and bus zone area as a result of the streetscaping project will need to be approved by the Committee. Also, Council wishes to review the time allowed for parking in the various streets and Council off-street car parks in the CBD.

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY  
20 APRIL 2017**

**E16.0002**

There is a balance required between shorter timed parking to allow a great turnover of vehicles, meaning more people can access their favourite shops and services and having parking available for longer periods. Typically, high use on-street parking areas are kept to a shorter time limit (30-60 minutes) whilst other areas have longer time limit (2 – 3 hours).

Buses and taxis need to access the CBD area to encourage greater use of public transport. This helps reduce the number of vehicles on our streets, and consideration for the provision of loading zones is necessary.

In the coming weeks, Council proposes to go out to the community to seek their views on how long they think people should be able to park in the Batemans Bay CBD.

A survey form has been designed and this is formatted with a series of questions and “tick box” answers. There is also some written text in the survey, including asking where people live or work and an option to tell us what they would like to see change in the CBD parking.

Maps of the area will also be provided. The first map showing the current timed on-street parking arrangements as well as in Council car parks. The second map shows the proposed changes to the loading zone, bus and parking arrangements that need to be modified as part of the streetscape project.

The Committee discussed the draft survey forms, maps and letters for the public parking review.

The community, including the CBD business operators, property owners, transport providers and emergency services will be sent a hard copy of the survey. The survey will also be available online for the greater community.

Once consultation is completed and the results analysed, plans will be presented to the Committee seeking approval.

Note by Director Infrastructure Services:

At the Ordinary Meeting of Council held 14 February 2017, Council resolved that a report be presented to Council on 28 March 2017 outlining investigations into the establishment of a local mobility parking scheme. This proposal would be in addition to the current NSW Government Mobility Parking Scheme (which already allows approved permit holders to park for double the sign posted time limit for areas sign posted with a time limit of 1 hour or less).

Investigation and research into a local mobility scheme for people in need but unable to get either a permanent or temporary permit under the current Mobility Parking Scheme, is currently being undertaken including:

- i) Legal ability to implement such as scheme

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**IR17/029 MINUTES OF THE LOCAL TRAFFIC COMMITTEE HELD ON THURSDAY 20 APRIL 2017 E16.0002**

- ii) Willingness of medical professionals to support such a scheme and undertake the required medical assessments and administrative work
- iii) Likely cost of such a scheme
- iv) Resource implications of such as scheme

The outcome of the investigations into a local mobility parking scheme may potentially be impacted by the recommendations of the Public Parking Review for Batemans Bay CBD as this may impact the time available within current time limited spaces. Therefore the survey of community members is being undertaken concurrently before reporting back to Council.

Recommendation:

That:

1. The Local Traffic Committee supports the proposed Batemans Bay CBD Public Parking Review documentation to be used for public consultation on the time limits applied to public parking areas within the Batemans Bay CBD.
2. The need to run the Batemans Bay CBD Public Parking Review as part of the investigation of a local mobility parking scheme be noted, with a report to be provided to the Local Traffic Committee prior to presentation to Council.

**GENERAL BUSINESS**

There were no general business items brought up for discussion.

**NEXT MEETING**

The next meeting of the Eurobodalla Local Traffic Committee is to be held on Thursday 18 May 2017 in the Council's Committee Room commencing at 9.30am.

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**IR17/030 POLICY REVIEW - ASSET MANAGEMENT**

**E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Asset Management - draft policy

Focus Area: Productive Communities

Delivery Program Link: P3.2 Develop, renew and maintain the road network

Operational Plan Link: P3.2.1 Deliver capital and renewal works program

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Asset Management policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Asset Management policy
2. The draft Asset Management policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the Local Government Act 1993, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Eurobodalla Shire Council's policy was developed to ensure that:

- Council's assets are managed effectively to deliver the level of service our community is prepared to pay for in the short, medium and long term taking account of the social, economic and environmental consequences of Council's decisions.



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**IR17/030 POLICY REVIEW - ASSET MANAGEMENT**

**E16.0297**

- Costs are reasonably shared between those using and consuming the assets today and those who will be required to renew, replace, upgrade or dispose of those assets in the future (providing inter-generational equity).
- There is continuous improvement in asset management and service delivery.

**Changes**

The policy has been reviewed and updated to reflect Fit for the Future requirements, otherwise no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Asset Management policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Asset Management policy will be presented to Council for consideration to adopt.

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**IR17/031 POLICY REVIEW - PATHWAYS AND SHARED PATHWAYS RISK  
MANAGEMENT**

**E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services  
Attachments: 1. Under Separate Cover - Pathways and Shared Pathways Risk  
Management Policy  
Focus Area: Liveable Communities  
Delivery Program Link: L5.3 Provide and develop Council's shared pathway and cycleway  
network  
Operational Plan Link: 5.3.1 Deliver capital and renewal works program

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Pathways and Shared Pathways Risk Management policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Pathways and Shared Pathways Risk Management policy.
2. The draft Pathways and Shared Pathways Risk Management policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the Local Government Act 1993, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

This Policy provides for the management of risks associated with Council's formed pathway network.

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**IR17/031 POLICY REVIEW - PATHWAYS AND SHARED PATHWAYS RISK  
MANAGEMENT**

**E16.0297**

Council has a duty of care to take reasonable measures within the limitations of its budget to manage the risks arising from defects on Council's formed footpath and shared pathway networks.

The Civil Liability Act 2002 (the Act) provides special nonfeasance protection for roads authorities such as Council. Section 45 of the Act stipulates that a roads authority is not liable for harm arising from a failure to act in respect of maintenance of its roads and road reserves, unless at the time of the alleged failure the roads authority had actual knowledge of the particular risk which resulted in the harm. The importance of this defence is that a roads authority, such as Council, can in some circumstances avoid liability for injuries or damage related to the state of repair or maintenance of its roads and road reserves.

Section 42 of the Act also makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its pathway networks.

It is accepted that the removal of all risk is not practically achievable. The systems implemented by Council to provide the management of risks will be based on prioritising works within the limited budgets available to Council.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates and a title change from "Pathways Risk Management" to "Pathways and Shared Pathways Risk Management" policy.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Pathways and Shared Pathway Risk Management policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Pathways and Shared Pathway Risk Management policy will be presented to Council for consideration to adopt.

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**IR17/032 POLICY REVIEW - LOCAL AND REGIONAL ROADS RISK MANAGEMENT E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Local and Regional Roads Risk Management Policy

Focus Area: Productive Communities

Delivery Program Link: P3.2 Develop, renew and maintain the road network

Operational Plan Link: P3.2.1 Deliver capital and renewal works program

### **EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Local and Regional Roads Risk Management policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

### **RECOMMENDATION**

THAT

1. Council endorses the draft Local and Regional Roads Risk Management policy.
2. The draft Local and Regional Roads Risk Management policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

### **BACKGROUND**

In accordance with section 165(4) of the Local Government Act 1993, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

The purpose of this Policy is to provide a framework for the risk management of Council's road network in order to demonstrate an appropriate duty of care to road users and to reduce the exposure to potential public liability claims relating to the condition of roads.

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**IR17/032 POLICY REVIEW - LOCAL AND REGIONAL ROADS RISK MANAGEMENT E16.0297**

Eurobodalla Shire Council, as a roads authority under the Roads Act 1993, must take reasonable steps to protect the public from any foreseeable dangers on its road network via construction, erection, installation, maintenance, inspection, repair, removal and/or replacement of roads and to take action as resources allow, to adequately address risks of which it is aware.

The Civil Liability Act 2002 (the Act) provides special nonfeasance protection for roads authorities such as Council. Section 45 of the Act stipulates that a roads authority is not liable for harm arising from a failure to act in respect of maintenance of its roads, unless at the time of the alleged failure the authority had actual knowledge of the particular risk which resulted in the harm. The importance of this defence is that a roads authority, such as Council, can in some circumstances avoid liability for injuries or damage related to the state of repair or maintenance of its roads.

Section 42 of the Act also makes allowance for Council's ability to carry out its duty of care as being limited by the financial and other resources which are reasonably available to exercise its functions. To rely on this defence, Council is required to show evidence of its compliance with the general procedures and applicable standards for the exercise of its functions, such as risk management of its road network.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Local and Regional Roads Risk Management policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Local and Regional Roads Risk Management policy will be presented to Council for consideration to adopt.

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**IR17/033 POLICY REVIEW - CEMETERIES MANAGEMENT**

**E16.0279**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Cemeteries Management Policy

Focus Area: Liveable Communities

Delivery Program Link: L5.2 Manage and maintain a safe, sustainable and accessible range of community spaces

Operational Plan Link: 5.2.1 Undertake maintenance program

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Cemeteries Management policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Cemeteries Management policy.
2. The draft Cemeteries Management policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

This Policy provides the framework for the sustainable management, maintenance and future planning of cemeteries under Council's control.

Council is the Crown Reserve Trust Manager of eight operational cemeteries located at:

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**IR17/033 POLICY REVIEW - CEMETERIES MANAGEMENT**

**E16.0279**

- Runnyford Road, Nelligen
- Princes Highway, Batemans Bay
- Princes Highway, Mogo
- Dwyers Creek Road, Moruya
- Laidley Street, Bodalla
- Glasshouse Rocks Road, Narooma
- Nerrigundah Mountain Road, Nerrigundah and
- Haxstead Road, Central Tilba.

Council also maintains three non-operational cemeteries located at:

- MacLean Place, Moruya
- Corner Dwyers Creek Road and Bergalia Street, Moruya
- Point Parade, Congo.

This Policy and associated Code of Practice align with industry standards and current practices of other local government areas in New South Wales, and will assist Council in meeting the needs of the community.

Council provides for the efficient and sustainable management, planning and maintenance of cemeteries within its control by ensuring:

- relevant parties are treated with empathy, respect, dignity and cultural sensitivity, in a consistent and fair manner
- provision of clear guidelines to the community, Councillors, Council staff; funeral directors and monumental masons
- compliance with relevant legislative requirements
- burials, inurnments and monumental works are conducted in a safe and sustainable manner
- monuments are constructed to Australian Standards where applicable, will not hinder future maintenance operations, and will not pose a risk to the public
- monuments are constructed in keeping with other monuments in the cemetery (this is of particular importance in cemeteries of cultural and heritage significance, as listed in the Eurobodalla Local Environmental Plan 2012).

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on

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**IR17/033 POLICY REVIEW - CEMETERIES MANAGEMENT**

**E16.0279**

Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Cemeteries Management policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Cemeteries Management policy will be presented to Council for consideration to adopt.



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**IR17/034 POLICY REVIEW - WATER RESTRICTIONS**

**E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services  
Attachments: 1. Under Separate Cover - Water Restrictions Policy  
Focus Area: Sustainable Communities  
Delivery Program Link: S2.2 Operate and maintain Council's water supply systems  
Operational Plan Link: S2.2.1 Identify and implement innovative water conservation and sustainable water usage practices

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Water Restrictions policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Water Restrictions policy.
2. The draft Water Restrictions policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

It is normal practice in NSW to design water supply systems so that water restrictions should not be applied in more than 10% of years or for more than 5% of the time. That is, water supply headworks should be sized so that water restrictions are only necessary on average once every ten years and when applied should not be needed on average for longer than six months.

This is in recognition of the fact that:

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**IR17/034 POLICY REVIEW - WATER RESTRICTIONS**

**E16.0297**

- It is neither practical, economic nor environmentally responsible to provide 'restriction free' water supply systems; and
- A trade-off is necessary between the security of supply ie: the relative severity of restrictions, and the associated capital and operating costs.

Council's water supply system has been designed in accordance with these parameters, and therefore we will need to implement water restrictions to secure supply during drought periods. There may also be times when, due to operational faults, the available stored water or the available capacity of supply is so limited that restrictions are necessary in isolated catchments of the water supply system.

Clause 137 of the *Local Government (General) Regulation 2005* allows for restrictions to be imposed if Council deems it necessary.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Water Restrictions policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Water Restrictions policy will be presented to Council for consideration to adopt.

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**IR17/035 POLICY REVIEW - WATER CARTING**

**E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services  
Attachments: 1. Under Separate Cover - Water Carting Policy  
Focus Area: Sustainable Communities  
Delivery Program Link: S2.2 Operate and maintain Council's water supply systems  
Operational Plan Link: S2.2.1 Identify and implement innovative water conservation and sustainable water usage practices

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Water Carting policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Water Carting policy.
2. The draft Water Carting policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Section 68 of the *Local Government Act 1993* requires that a person may draw water from a Council water supply or a standpipe or sell water so drawn only with the prior approval of the Council, except in so far as a local policy adopted under Chapter 7, Part 3 of the Act allows the activity to be carried out without an approval.

**Changes**

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**IR17/035 POLICY REVIEW - WATER CARTING**

**E16.0297**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Water Carting policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Water Carting policy will be presented to Council for consideration to adopt.

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**IR17/036 POLICY REVIEW - WATER SUPPLY BACKFLOW PREVENTION AND  
CROSS CONNECTION CONTROL**

**E16.0297**

Responsible Officer: Warren Sharpe OAM - Director Infrastructure Services

Attachments: 1. Under Separate Cover - Water Supply Backflow Prevention and Cross Connection Control Policy

Focus Area: Sustainable Communities

Delivery Program Link: S2.1 Provide and renew water infrastructure

Operational Plan Link: S2.1.1 Deliver capital and renewal works program

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Water Supply Backflow Prevention and Cross Connection Control policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Water Supply Backflow Prevention and Cross Connection Control policy.
2. The draft Water Supply Backflow Prevention and Cross Connection Control policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Council is responsible for ensuring that drinking water supplied from Council's water supply system is safe to use. To achieve this, Council treats water to a standard that meets the

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**IR17/036 POLICY REVIEW - WATER SUPPLY BACKFLOW PREVENTION AND  
CROSS CONNECTION CONTROL**

**E16.0297**

*Australian Drinking Water Guidelines* and manages the water supply system to prevent the water from being contaminated in the distribution and reticulation network.

**Containment Protection**

There is a risk that activities at premises connected to Council's water supply system can contaminate the water at the premises. Also, unless there is a barrier preventing contaminated water from returning to Council's water supply system, there is a risk that those activities will contaminate the public water supply.

To ensure the protection of the public water supply, Council requires that all premises connected to Council's water supply system are provided with a backflow prevention device for containment at the property boundary.

Backflow prevention devices that are required for protection against medium or high risk hazards, as assessed by Council, must be registered with Council. These devices must be tested regularly by a certified party ensure that they remain effective. The test results must be forwarded to Council for record keeping.

Backflow prevention devices that are required for protection against low risk hazards, such as at residential premises, are not required to be testable nor registered with Council.

**Cross-Connection Control**

Many premises connected to Council's water supply system have an alternative water supply e.g. rainwater, that provides water to internal fixtures such as irrigation systems, washing machines and toilets.

There is a risk that non-potable water supplies cross-connected to Council's water supply system within premises will contaminate the public water supply. Where another water source is connected to Council's water supply system, the internal plumbing must meet the particular requirements of Australian Standard 3500 Plumbing and Drainage.

Where a cross-connection is identified, Council will request the landowner arranges for the internal plumbing to be altered to meet the Australian Standard or for the cross-connection to be removed. If the landowner does not take the necessary actions within required timeframes, then Council will restrict or disconnect the property from the Council's water supply system to protect the integrity of the Council's water supply system. The time provided to undertake the necessary action will be assessed dependent on the risk.

This policy ensures Eurobodalla Shire Council's compliance with Section 17 of the Plumbing and Drainage Act 2011.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on

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**IR17/036 POLICY REVIEW - WATER SUPPLY BACKFLOW PREVENTION AND  
CROSS CONNECTION CONTROL**

**E16.0297**

Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Water Supply Backflow Prevention and Cross Connection Control policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Water Supply Backflow Prevention and Cross Connection Control policy will be presented to Council for consideration to adopt.

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**FBD17/029 MARCH QUARTERLY REVIEW**

**E05.9535**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments:

1. Under Separate Cover - Attachment 1(a) - Fund Flow Statement
2. Under Separate Cover - Attachment 1(b) - Consolidated Income Statement
3. Under Separate Cover - Attachment 1(c) - Capital Program Statement
4. Under Separate Cover - Attachment 1(d) - Projected Fund Balances Statement
5. Under Separate Cover - Attachment 1(e) - Budget Amendments Report
6. Under Separate Cover - Attachment 1(f) - SRV
7. Under Separate Cover - Attachment 2 - Contractors, Consultants and Legals
8. Under Separate Cover - Attachment 3 - Ratios
9. Under Separate Cover - Attachment 4 - Mayor and Councillors Expenditure

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial reporting

## **EXECUTIVE SUMMARY**

This Budget Review reports on Council's performance against the current Operational Plan budget for the quarter ending 31 March 2017. Major variations are highlighted.

The original Operational Plan budget, on a consolidated basis (which includes all of Council's funds), for 2016/17 forecast:

- Income Statement deficit, before capital revenue, of \$(0.11) million
- Income Statement surplus, after capital revenue, of \$12.67 million
- Deficit cash/fund flows of \$(2.90) million

The revised annual budgets for the quarter ending 31 March 2017 are:

- Income Statement deficit, before capital revenue, of \$(0.55) million
- Income Statement surplus, after capital revenue, of \$13.50 million
- Surplus cash/fund flows of \$1.23 million

The revised, consolidated annual budget for 2016/17 has been impacted during the March quarter through amendments to the current operational and capital works program and also the deferral (revoting) of some projects to the 2017/18 financial year.

The result of deferring works and funding from this financial year into the 2017/18 year at the March review is:

- Favourable income statement impact of \$0.06 million before capital revenue



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**FBD17/029 MARCH QUARTERLY REVIEW**

**E05.9535**

- A reduction in the capital program of \$5.86 million in expenditure, partially offset by a reduction in capital revenues of \$0.59 million
- A reduction of \$3.90 million of unrestricted funds to be utilised in 2016/17

The budgets were adjusted this quarter due to additions or reductions in the current works and operational programs. The result of these adjustments is:

- Unfavourable income statement impact of \$0.16 million before capital revenue
- Capital program adjustments reducing proposed expenditure by \$1.89 million, and recognition of an additional \$0.08 million in capital contributions.
- A reduction of \$0.35 million of unrestricted funds will be utilised in 2016/17.

**RECOMMENDATION**

THAT

1. The budget review report for the quarter ended 31 March 2017 be received and noted.
2. The unfavourable variation for the Income Statement after capital revenue of \$0.60 million and favourable variations of \$4.24 million as per the Consolidated Fund Flow Statement for the quarter ended 31 March 2017 be adopted.
3. Council is compliant with best practice pricing and proposes to transfer dividends from the Water and Sewer Funds of up to \$0.60 million and \$0.54 million respectively, based upon 2015/16 results and subject to an audit of compliance with Best Practice Guidelines and approval from the NSW Office of Water.
4. Loans of up to \$14.8 million (new loans of \$12.12 million and renewals of \$2.62 million) be raised in accordance with the Council's borrowing policy and the Council seal be affixed to the loan agreement documentation.

**BACKGROUND**

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

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

**The attachments to this report are as follows:**

**Financial reports (Attachment 1)**

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

Financial reports include:

- a) Consolidated Fund Flow Statement – This report shows the impact of operating, financing and investing activities on Council's unrestricted working capital.

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**FBD17/029 MARCH QUARTERLY REVIEW**

**E05.9535**

- b) Consolidated Income Statement – Provides sources of income and expenditure, including depreciation, in the program areas and associated services.
- c) Consolidated Capital Program Statement – Provides capital expenditure information for each program area and associated services.
- d) Projected Fund Balance Statement – Provides information on the balances and movements in both unrestricted and restricted fund accounts.
- e) Budget Amendment Report – Provides details of proposed significant adjustments to budgets.
- f) Special Rate Variation Projects Schedule – Provides capital expenditure information for each of the projects in the SRV program of works for 2016/17.

**Consultancy, Legals and Contractors Expenses Report (Attachment 2)**

This attachment provides information on major contracts entered into, legal fees incurred and consultancy costs for the quarter ended 31 March 2017.

**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 for the quarter ended 31 March 2017.

**CONSIDERATIONS**

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

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

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

The net fund flow shows the amount of unrestricted funds that will be used to deliver the agreed Operational Plan outcomes for 2016/17. The consolidated original budget forecast a \$2.9 million decrease in unrestricted funds. The impact of previous reviews revised this to a \$3.01 million decrease in unrestricted funds. The items revoted to 2017/18 and the March review adjustments reduce the projected fund flows by \$4.24 million dollars to forecast an increase in unrestricted funds of \$1.23 million by the end of the financial year (per Tables 1.1 and 1.2 below).

The full projected fund balances are represented by the Projected Fund Balances Statement in Attachment 1(d). Information on the balances and movements in both unrestricted and restricted fund accounts can be seen in this attachment.

*Table 1.1 Net fund flow*

**FBD17/029 MARCH QUARTERLY REVIEW**

**E05.9535**

Fund	2016/17 Original Budget '\$000	Annual Revised Budget '\$000
Water	4,103	3,780
Sewer	2,322	2,252
General (incl. Environment & Waste )	(9,321)	(4,804)
<b>Consolidated</b>	<b>(2,896)</b>	<b>1,228</b>

*Table 1.2 Net fund flow (unrestricted) per fund*

	2016/17 Original Budget '\$000	Previous Reviews '\$000	March Review '\$000	March Revotes '\$000	Annual Revised Budget '\$000
Environment	(96)	(68)	2	-	(161)
General	(5,296)	(424)	(5)	860	(4,864)
Sewer	2,322	185	(415)	160	2,252
Waste	(3,930)	(222)	1,497	2,876	222
Water	4,103	410	(733)	-	3,780
<b>Consolidated</b>	<b>(2,896)</b>	<b>(119)</b>	<b>346</b>	<b>3,897</b>	<b>1,228</b>

\*Waste and Environment form part of the General Fund but have been listed separately in this table to show how much unrestricted cash is being utilised in each area.

**Consolidated Income Statement (Attachment 1(b)):**

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

The original budget for 2016/17 predicted an income statement deficit of \$(0.11) million before allowing for capital grants and contributions. The proposed 2016/17 budget incorporating previous reviews, the proposed March review amendments and revotes to 2017/18, is a deficit of \$(0.55) million (per Table 1.3 and Graph 1.1 below).

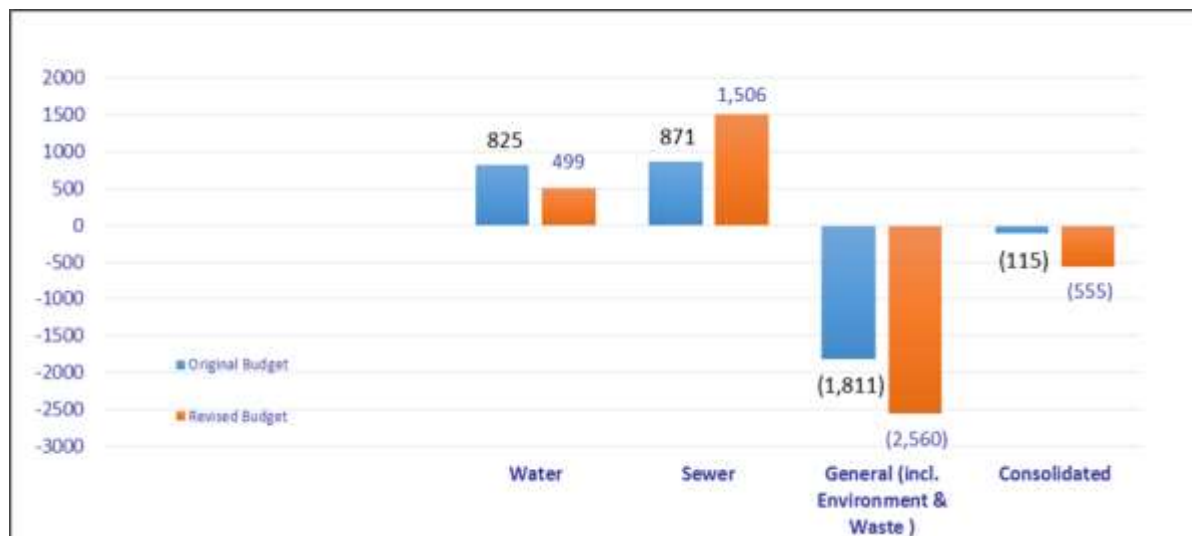
*Table 1.3 Net surplus/ (deficit) before capital revenue*

Fund	2016/17 Original Budget '\$000	Previous Reviews '\$000	March Review '\$000	March Revotes '\$000	Annual Revised Budget '\$000
Water	825	407	(733)	-	499
Sewer	871	678	(43)	-	1,506
General (incl. Environment & Waste )	(1,811)	(1,428)	619	60	(2,560)
<b>Consolidated</b>	<b>(115)</b>	<b>(343)</b>	<b>(157)</b>	<b>60</b>	<b>(555)</b>

*Graph 1.1 Net surplus/ (deficit) before capital revenue*

**FBD17/029 MARCH QUARTERLY REVIEW**

**E05.9535**



**Revotes to 2017/18 (operational)**

The impact of the operational works or projects deferred (during the March quarter) from this financial year into 2017/18, result in a favourable impact on the income statement of \$0.06 million. These operational revotes relate mainly to adjustments in program timing of various Natural Environment Planning grant funded projects.

**Operational budget adjustments**

The following items are a summary of significant operational budget adjustments (during the March quarter) to the originally adopted Operational Plan budget for 2016/17. The impact of these changes is unfavourable to the operating statement before capital revenue of \$0.16 million. Net unfavourable revenue and expense adjustments are \$0.33 million and \$(0.49) million respectively.

Significant operational revenue adjustments include:

- Increased tipping, hardwaste and recycling revenues at Surf Beach and Brou Waste Management Facilities (\$0.30 million favourable).
- Recognition of development certificate revenues in line with current development conditions. (\$0.14 million favourable).
- The receipt of new grants and contributions, including \$0.59 million for flood recovery funding and an additional \$0.04 million for King's Highway maintenance.
- The above favourable adjustments are partially offset by a reduction in the anticipated Southern Phone dividend of \$0.15 million, and the recoupment of unexpended grant funding received in prior years (\$0.53 million unfavourable).

The overall net effect of the operational revenue adjustments this quarter is unfavourable with no material affect.

Significant net unfavourable operational expenditure adjustments include:

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- Recognition of grant funded flood recovery and maintenance works (\$0.59 million unfavourable).
- Additional Children's Services expenditure in line with previously recognised grant revenues (\$0.01 million unfavourable), offset by a reduction in budgeted expenditure as a result of returning unexpended prior period grant funds (\$0.53 million favourable).
- Expenditure relating to additional water exploratory testing and bores drilled (\$0.13 million unfavourable).
- Capital costs for research and planning for the upgrade to the Corporate Information system have been reclassified as operational (\$0.18 million unfavourable).

The overall net effect of the operational expenditure adjustments this quarter is unfavourable with no material affect.

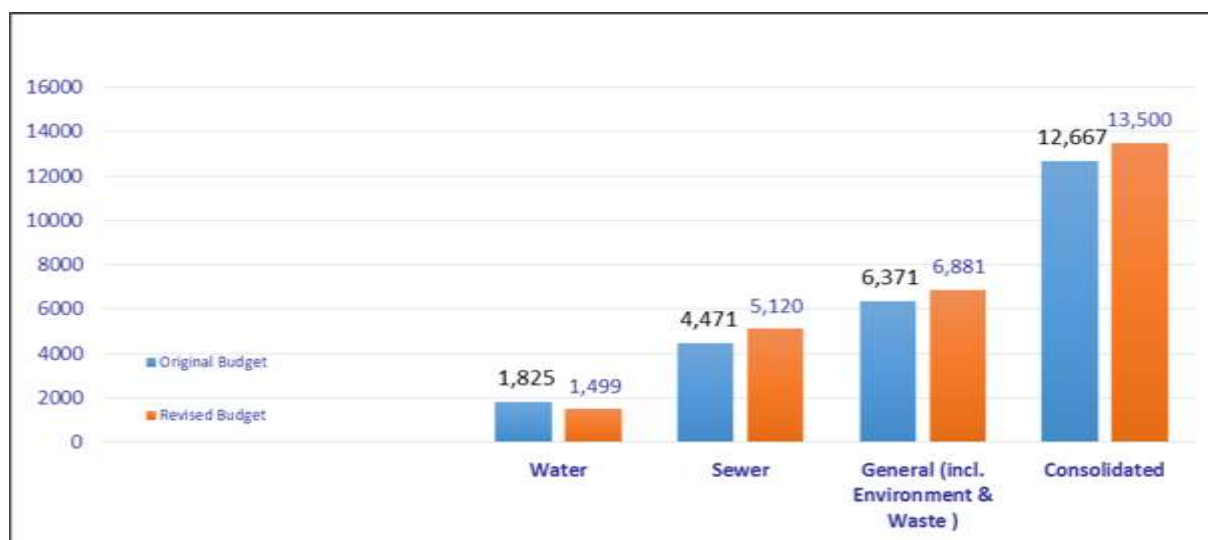
**Net surplus/(deficit) after capital revenue**

The original budgeted operating result after capital revenues, for the consolidated entity, was a surplus of \$12.67 million. The revised budget, incorporating the March review amendments and approved revotes to 2017/18, is a surplus of \$13.50 million (per Table 1.4 and Graph 1.2 below).

*Table 1.4 Net surplus/(deficit) after capital revenue*

Fund	Annual Original Budget '\$000	Previous Reviews '\$000	March Review '\$000	March Revotes '\$000	Annual Revised Budget '\$000
Water	1,825	407	(733)	-	1,499
Sewer	4,471	692	(43)	-	5,120
General (incl. Environment & Waste )	6,371	332	708	(530)	6,881
<b>Consolidated</b>	<b>12,667</b>	<b>1,431</b>	<b>(69)</b>	<b>(530)</b>	<b>13,500</b>

*Graph 1.2 Net surplus/(deficit) after capital revenue (\$'000)*



Net capital revenue adjustments in the March quarter are \$0.50 million unfavourable, largely as a result of the revote of expected grants corresponding to deferred works at the airport (pending archaeological works of \$0.09 million) and Tyrone Bridge (in line with contractor's

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works program of \$0.59 million). The above are partially offset by the recognition of an additional \$0.09 million in donations and contributions towards the Botanic Gardens pavilion.

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

**Capital Program**

The original capital budget for 2016/17 was \$59.03 million. The revised budget incorporating previous and current review adjustments and the revote of works to 2017/18 is \$56.17 million (per Table 1.5 and Graph 1.3 below).

*Table 1.5 2016/17 Capital Program per fund*

Fund	Annual Original Budget '\$000	Previous Reviews '\$000	March Review '\$000	March Revotes '\$000	Annual Revised Budget '\$000
General	39,239	2,680	(78)	(1,933)	39,907
Sewer	10,136	880	(28)	(160)	10,827
Waste*	6,406	1,186	(1,782)	(3,770)	2,040
Water	3,245	115	(1)	-	3,360
Environment	-	36	-	-	36
<b>Consolidated</b>	<b>59,026</b>	<b>4,897</b>	<b>(1,889)</b>	<b>(5,863)</b>	<b>56,170</b>

*\*Waste and Environment Funds form part of the general fund but have been shown separately to highlight the large capital works forecast this year.*

*Graph 1.3 Capital Works Program 2016/17*



**Revotes to 2017-18 and other future period capital works programs**

Capital works of \$5.86 million have been deferred from this financial year into future capital works programs (\$5.06 million to 2017/18 and \$0.80 million to 2018/2019).

Significant capital projects revoted include:

- Grant funded airport electrical, lighting and navigation works to allow for completion of archaeological works (\$0.90 million).
- Energy Performance Contract works in order to realign with the current programmed timing of works (\$0.40 million).
- Grant funded Tyrone bridge renewal works (currently underway) reallocated to meet the contractor's programmed works (\$0.50 million).

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- Extension of the Malua Bay Community Centre deferred to align with Development Application approval requirements (0.12 million).
- Portion of grant funded works on the Batemans Bay Link Road reallocated to 2018-19 to align with the current program of works (\$0.80 million).
- Grant and developer contribution funded works at Ridge Road, Tilba to continue in 2017/18 (\$0.16 million).
- New cell works at the Surf each Landfill continuing in 2017/18. Design work underway and significant changes to scope being investigated (\$3.77 million).

**Current year budget adjustments (capital)**

The following items are a summary of significant capital budget adjustments identified during the March quarter (nett \$1.89 million favourable).

- Changes in scope for the new cell works at the Surfbeach Landfill works resulting in funding (\$1.75 million favourable) not being required as part of the current phase. Funds will be reintroduced into a future works program once future requirements have been fully identified.
- Reclassification of costs for various software investigations and assessments to operations from capital (\$0.18 million favourable).
- Recognition of Botanic Garden pavilion works as per donations received (\$0.09 million unfavourable).
- Reclassification of small Information Technology devices (smartphones, tablets etc.) from operations to capital assets. (\$0.10 million unfavourable).

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

2016/17 is the second year of the SRV program and approximately \$9.5 million of infrastructure works for the year are underway. \$6.0 million of SRV designated funds are being utilised on these works. The majority of the projects have commenced with a due date for completion by the end of the fourth quarter. *Attachment 1 (f)* reports the detailed progress of the capital program showing individual project budgets and expenses with updates as at 27 April 2017. Total expenditure on the SRV designated projects as at 27 April 2017 is \$7.5 million (per Table 1.5 and Graph 1.4 below).

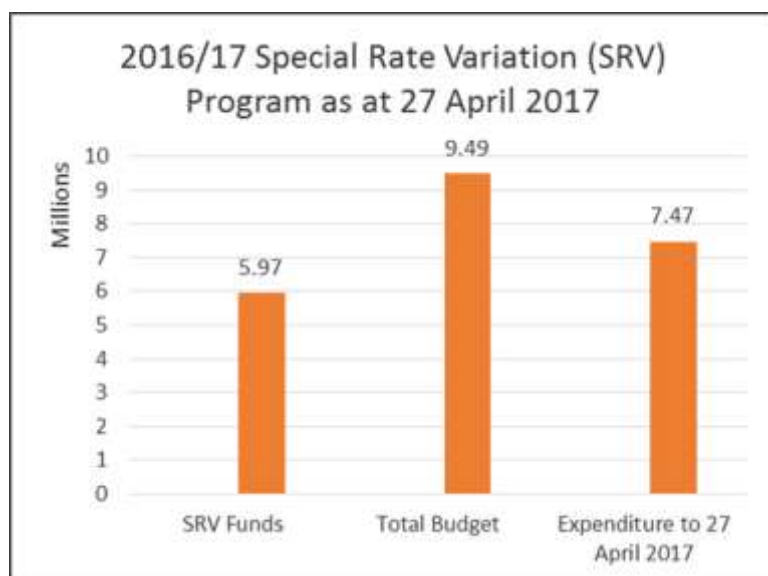
*Table 1.5 2016/17 Special Rate Variation Capital Program*

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**E05.9535**

<b>2016/17 Special Rate Variation (SRV) Capital Program</b>	<b>\$</b>
SRV Funds	5,965,558
Total Budget	9,493,886
Expenditure to 27 April 2017	7,474,618
Percentage spent	79%

*Graph 1.4 2016/17 Special Rate Variation Capital Program*



**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 2016.

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

**Financial**

Interest rates continue to remain at low levels. The Reserve Bank statements suggest that the rate will continue to be on hold.

Based upon 2015/16 audited results in the Water and Sewer Funds, and subject to a satisfactory compliance of best practice audit and approval from the NSW Office of Water,



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**E05.9535**

Council will be in a position to transfer dividends of \$0.60 million and \$0.54 million from the abovementioned funds respectively to the General Fund.

Council's 2016/17 borrowing program will be completed in the final quarter and will be based upon the revised projected capital spend as per the results of the March Quarterly Budget Review. Loans of up to \$14.81 million (new loans of \$12.19 million and renewals of \$2.62 million) will be raised in accordance with the Council's borrowing policy and, depending upon the needs of the loan provider, the Council seal may be required to be affixed to the loan agreement documentation.

**CONCLUSION**

There are no material concerns at this quarterly review about meeting budget targets for 2016/17.

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulation 205:

*As the Responsible Accounting Officer, it is my opinion that the March Quarterly Budget Review for Eurobodalla Shire Council indicates that Council's projected financial position as at 30 June 2017 will be satisfactory, having regard to the projected estimates of income and expenditure for the 2016/17 financial year.*

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**FBD17/030 INVESTMENTS MADE AS AT 30 APRIL 2017**

**E99.3517**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial 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 that the investments as at 30 April 2017 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**

**Legal**

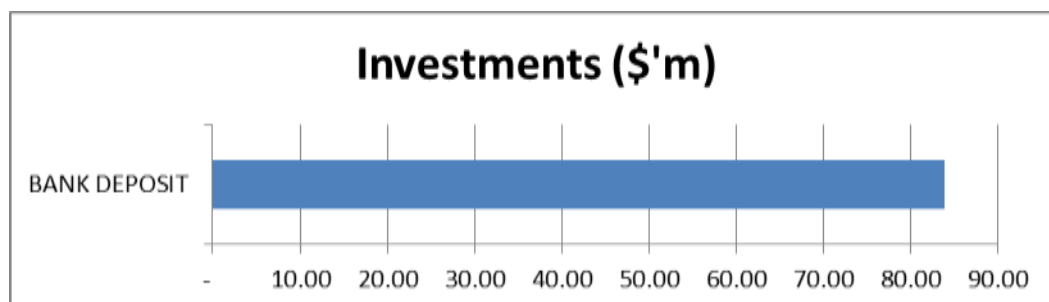
Budgeted legal fees for 2016-17 are \$0.035m and it is expected that future credit crisis legal costs will not be material.

**Policy**

Investments comply with Council's Investment policy.

**Financial**

Council Investing Overall



Council has 100% (\$83.90m) invested in bank deposits. The bank deposits are in banks rated A or greater or covered by the AAA rated Government Guarantee (except \$9.25m with IMB (Rated BBB+) and \$4.25m with ME Bank (Rated BBB+)). Investment in Government Guaranteed Deposits is \$2.25m and represents 2.69% of the portfolio.

**FBD17/030 INVESTMENTS MADE AS AT 30 APRIL 2017**

**E99.3517**

The weighted average return for all investments for the month is 2.57% which is above the Council policy benchmark of Bank Bill Swap rate (BBSW) + 0.25% (2.02%).

Collateralised Debt Obligation (CDO)

Funded legal action against one financial institution is in the early stages and is likely to continue for some time, although any return is not expected to be material.

Summary Investment Information

The following table summarises investment categories and balances at month end.

<b>CATEGORY</b>	<b>(\$)</b>
At Call Deposit Government Guaranteed	250,000
At Call Deposit	3,655,808
Term Deposits	78,000,000
Term Deposits Government Guaranteed	2,000,000
	<b>83,905,808</b>
<i>Weighted average Interest %:</i>	2.57%
<i>Average 90 day BBSW + 25%</i>	2.02%

Policy and Liquidity Risk

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

<b>Policy Risk</b>	<b>Low Liquidity Risk %</b>	<b>Total %</b>	<b>Policy Risk</b>
<b>Remote Risk</b>	2.69	2.69	100.00
<b>Near Risk Free</b>	81.22	81.22	100.00
<b>Some Limited Risk</b>	16.09	16.09	30.00
<b>At Risk</b>	0.00	0.00	0.00
<b>Grant Total</b>	<b>100.00</b>	<b>100.00</b>	

The unrestricted current ratio is the amount of unrestricted current assets compared to each dollar of current liability. The Office of Local Government suggests a minimum 1.5:1 and the audited unrestricted current ratio as at 30 June 2016 is 2.68:1. Council therefore has approximately \$2.68 of current assets for each \$1 of current liabilities.

**CONCLUSION**

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

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**FBD17/031 MANAGEMENT CONTRACT - BATEMANS BAY BEACH RESORT**

**E80.2575.T**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Confidential - Tender Evaluation

Focus Area: Support Services

Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates

Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

### **EXECUTIVE SUMMARY**

Council advertised Request for Tender (RFT) No. 2017/FBD059 for the management and operation of the Batemans Bay Beach Resort (BBBR) on 15 March 2017 with a closing date of 12 April 2017.

Council was notified in February 2017 that the current contractor would not be going forward with an extension of the current contract for management beyond 30 June 2017.

This provided Council with an opportunity to review the contract, seek best value for the community and test the market for the management of BBBR.

This report outlines the evaluation of offers submitted in response to the RFT and provides a recommendation for the preferred tenderer for the management of the BBBR.

### **RECOMMENDATION**

THAT

1. Council endorses the selection of the preferred tenderer listed for Request for Tender No. 2017/FBD059 within the confidential attachment to this report, and
2. Accordingly approves the entering into of a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender No. 2017/FBD059 unless otherwise varied in accordance with this report.

### **BACKGROUND**

Council was notified in February 2017 that the current contractor would not be going forward with an extension of the current contract for management of the BBBR beyond 30 June 2017.

This provided Council with an opportunity to review the contract, seek best value for the community, and test the market for the management of BBBR.

RFT No. 2017/FBD059 was advertised on 15 March 2017 with a closing date of 12 April 2017. Two conforming tenders were received from the following tenderers:

1. KDH Management PTY LTD
2. P.R.O. Management PTY LTD

Each was assessed in accordance with the Tender Evaluation Plan.

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**FBD17/031 MANAGEMENT CONTRACT - BATEMANS BAY BEACH RESORT**

**E80.2575.T**

A summary of the evaluation, including each Tender score against the evaluation criteria is provided at the Confidential Attachment to this report.

A requirement exists for the provision of services for the management of the BBBR to include day to day operations, customer service and revenue generation.

### **CONSIDERATIONS**

#### **Legal**

Request for Tender (RFT) No. 2017/FBD059 was advertised in accordance with the *Local Government (General) Regulation 2005* REG 167 and the *Local Government Act 1993*.

The tender was advertised on Council's noticeboard page in two local newspapers, in the Sydney Morning Herald and at Council's Tenderlink web portal ([www.tenderlink.com/eurobodalla](http://www.tenderlink.com/eurobodalla))

Upon release of the RFT, tender evaluation details were distributed amongst the Tender Evaluation Board (TEB). Declarations of Confidentiality and Interest Forms were completed and signed by the TEB.

The offer submitted by the preferred tenderer has been assessed as representing best value for money for Council due to appropriate pricing, demonstration of plans for future business growth and achieving consensus in best scores from the TEB.

#### **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 2005* and the *Local Government Act 1993*.

#### **Asset**

The BBBR is on a reserve owned by the NSW Government (ie: Crown land) and managed by Council as Trust Manager. It is a five star tourism asset which includes cabins, common amenities, internal roads and leisure activity equipment. It achieves excellent reviews from customers as demonstrated by Trip Advisor reviews and its own customer feedback system.

#### **Economic Development Employment Potential**

Providing quality accommodation is an important part of any tourism destination. An updated set of operational guidelines will ensure this is maintained and with a management contract designed to maximise visitor numbers and profitability, the BBBR will attract even more visitors to Eurobodalla.

#### **Financial**

Improved trading performance is expected at the BBBR as the management contract provides a strong incentive for maximising profitability and forms the basis of the contractor's remuneration under the new contract.

The new management contract is designed to maintain this reputation whilst improving the financial performance of BBBR

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**FBD17/031 MANAGEMENT CONTRACT - BATEMANS BAY BEACH RESORT**

**E80.2575.T**

**Communication/Consultation**

Council provided information regarding the tender process via media releases, web page, Council's noticeboard and advertising.

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 tender as identified in the Confidential Attachment to this report is therefore recommended for the awarding of a contract for the requirement.

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**FBD17/032 LICENCE TO NATURE COAST DRAGON BOAT CLUB**

**E06.0475**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: Nil

Focus Area: Support Services

Delivery Program Link: SS3.3 Provide administrative, technical, professional and trade services

Operational Plan Link: SS3.3.4 Manage Council property to achieve best value to the community

### **EXECUTIVE SUMMARY**

The Nature Coast Dragon Boat Club (the Club) has a five-year licence that commenced on 1 February 2016 to use an area within Crown Reserve 82377 being the Moruya War Memorial Swimming Pool for storage of its dragon boats. The current alignment has created some safety issues when the dragon boat patrons remove the boats from storage, across a pedestrian footpath and into a number of marked carparking spaces.

The Club agreed that there was an access issue and it was proposed to change the access arrangements to resolve this issue. It is proposed to realign the dragon boat area so that the boats are moved to the boat ramp without having to cross the footpath and any carparking areas. Part of this realignment will be to include a covered area for the storage of the dragon boats to increase the life of the boats.

This proposal will require the Club surrendering the existing licence and the granting of another five-year licence over the new area once the storage shed has been constructed.

Moruya War Memorial Swimming Pool is within Crown Reserve R82377 under the care and control of the Eurobodalla (Central) Reserve Trust for which Council is Trust Manager.

As Trust Manager, Council cannot grant a licence for use of the reserve for a period of greater than twelve months without the consent of the Minister administering the *Crown Lands Act 1989*, in accordance with Section 108 of that Act.

Council as Trust Manager for Eurobodalla (Central) Reserve Trust is proposing to lodge a development application for construction of the storage shed.

This report recommends that, subject to Minister's consent, Council consent be given to the lodgement of a development application for construction of the storage shed, the granting of a five-year licence to the Nature Coast Dragon Boat Club over the new area and surrender of the existing licence once the shed has been completed.

### **RECOMMENDATION**

THAT:

1. Subject to consent of the Minister administering the *Crown Lands Act 1989*, Council as Trust Manager of the Eurobodalla (Central) Reserve Trust lodge a development application for the construction of a shed for recreation storage within Crown Reserve 82377 being the Moruya War Memorial Swimming Pool.

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**FBD17/032 LICENCE TO NATURE COAST DRAGON BOAT CLUB**

**E06.0475**

2. Upon completion of the construction of a storage shed, subject to Minister's consent, Council as Trust Manager of the Eurobodalla (Central) Reserve Trust grant a five-year licence to the Nature Coast Dragon Boat Club to store club equipment within Crown Reserve R82377 with an annual licence fee in line with the Crown Statutory Minimum and conditions in line with the current licence.
3. The existing licence to Nature Coast Dragon Boat Club be surrendered at the commencement of the new licence.

**BACKGROUND**

Council as Trust Manager for Eurobodalla (Central) Reserve Trust is proposing to lodge a development application for the construction of a shed for recreation storage within Crown Reserve 82377 being the Moruya War Memorial Swimming Pool.

The Nature Coast Dragon Boat Club has a five-year licence that commenced on 1 February 2016 to use an area within the existing fence line of the pool area which is separated by another internal fence for storage of its dragon boats.

This current alignment has created some safety issues when the dragon boat patrons remove the boats storage and crossing over a pedestrian footpath and blocking a number of marked carparking spaces, and into the carpark maneuvering areas. This issue is particularly highlighted on Saturday mornings when the dragon boats are moved from the storage area to the boat ramp. Saturday morning is peak time for this area as it is the carparking location for the Moruya Country Markets as well as the swimming pool. The Dragon Boat Club meetin 2-3 timer per week.

The new proposal provides the same amount of space but realigns the dragon boat area so that the boats are moved into an open green-space area, then directly to the boat ramp without having to cross the footpath and any carparking areas. This will improve the safety of the dragon boat patrons, the pedestrians and users of the carpark. Part of this realignment will be to include a covered area for the storage of the dragon boats to increase the life of the boats.

This will require the Club surrendering the existing licence and the granting of another five-year licence over the new area once the storage shed has been constructed.

**CONSIDERATIONS**

The location of the existing and proposed licence areas are shown in the diagrams below.



FBD17/032 LICENCE TO NATURE COAST DRAGON BOAT CLUB

E06.0475



*Existing licence area within Crown Reserve R82377, Moruya Memorial Swimming Pool*



*Proposed licence area within Crown Reserve R82377, Moruya Memorial Swimming Pool*

**FBD17/032 LICENCE TO NATURE COAST DRAGON BOAT CLUB**

**E06.0475**



***Existing access for the Dragon Boat Club***

**Legal**

Council has been appointed Trust Manager for the three Crown Reserve Trusts covering the Shire, Eurobodalla (North), Eurobodalla (Central) and Eurobodalla (South) Reserve Trusts. Council manages these reserve trusts in accordance with the provisions of the *Crown Lands Act 1989*. [www.austlii.edu.au/au/legis/nsw/consol\\_act/cla1989134/s108.html](http://www.austlii.edu.au/au/legis/nsw/consol_act/cla1989134/s108.html)

Moruya Memorial Swimming Pool is within Crown Reserve R82377 under the care and control of the Eurobodalla (Central) Reserve Trust for which Council is Trust Manager.

As Trust Manager, Council cannot grant a licence for use of the reserve for a period of greater than twelve months without the consent of the Minister administering the *Crown Lands Act 1989*.

Council as Trust Manager for the Eurobodalla (Central) Reserve Trust can lodge a development application within Crown Reserve R82377 subject to concurrence of the Minister administering the *Crown Lands Act 1989*.

Crown Lands has advised there are no objections to the lodgement of a development application for the construction of a storage shed and no objections in principle to the granting of a new licence.

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**FBD17/032 LICENCE TO NATURE COAST DRAGON BOAT CLUB**

**E06.0475**

**Asset**

A condition of the licence includes that the Licensee will be responsible for maintaining the asset in a satisfactory condition.

**Social Impact**

The activities of the Club benefit the social and physical well-being of its members. It also encourages recreational activities on the Eurobodalla waterways and supports Objective 1 of the Community Strategic Plan "We are Healthy and Active".

**Financial**

The construction of the storage shed will be part funded by a grant received by the Dragon Boat Club of \$6,700 (Community Building Partnership) and \$18,000 funded by Council from Minor Sporting Renewals funding. Estimated total value of the project is \$24,700.

The licence fee should be the statutory minimum charged by the Crown Lands Division of the Department of Industry - Lands for Crown Licences, currently \$479 plus GST pa which is in line with other licences for use of Crown Reserves under Council's care and control.

**Community Engagement**

Both the Swimming Club and the Dragon Boat Club have been engaged with in these minor revisions to the Dragon Boat Club licence. Under the *Crown Lands At 1989*, consent from the Minister is also required.

**CONCLUSION**

The Nature Coast Dragon Boat Club provides a social and physical benefit to the community and support for the construction of a storage shed and granting a new licence once the shed is constructed is recommended.

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**FBD17/033 POLICY REVIEW - COMPLAINTS POLICY**

**E16.0297**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development  
Attachments: 1. Under Separate Cover - Complaints Policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Complaints Policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. Council endorses the draft Complaints Policy for public consultation.
2. The draft Complaints Policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, the draft policy and any public submissions be presented back to Council for adoption.

**BACKGROUND**

Eurobodalla Shire Council is an organisation which exists to assist its customers and stakeholders consistent with the common good and within legal and statutory responsibilities. Dealing with complaints about Council's decisions, actions or procedures and analysing their causes is a positive process as it allows Council the opportunity to improve policy, procedures and services.

Council treats complaints seriously. Every complaint received by Council is given attention by appropriate staff in order to resolve the issues which are raised. Complaints should be resolved in a timely and cost effective manner.

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**FBD17/033 POLICY REVIEW - COMPLAINTS POLICY**

**E16.0297**

The purpose of this policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

This policy:

- Provides a framework for receiving and responding to complaints from the public, as a means of improving customer service in all areas of Council's operations.
- Ensures that issues which are the subject of complaints are addressed promptly, and in a manner which, as far as possible, ensures that such issues will not be the subject of future complaints.
- Ensures the validity of the complaint or request is ascertained and the principles of enquiry are applied.
- Provides transparency and awareness to the community regarding Council's policy and procedure regarding complaints and requests from the public.

**CONSIDERATIONS**

The Complaints Policy has been reviewed and the following changes have been made.

- The purpose of the policy has been amended to make it clear it is about complaints regarding Council's decisions, actions or procedures, not the delivery of services.
- The Customer Service Request (CSR) section is utilised by staff to record a customer's request for assistance regarding a council service, function, facility or to report a problem. The CSR section is not the mechanism to report a complaint about a Council decision, action or procedure.
- Minor referencing updates.

**Legal**

Council complies with relevant legislation such as the *Local Government Act 1993*, *Government Information (Public Access) Act 2009*, *Independent Commission Against Corruption Act 1998*, *Ombudsman Act 1974*, *Public Interest Disclosures Act 1994*, *State Records Act, 1998* and *The Model Code of Conduct for Local Government Councils in NSW 2013*.

Council is guided by the NSW Ombudsman's *Effective complaint handling guidelines* (Dec 2010) and Australian Standard *AS ISO 10002:2004, MOD: Customer satisfaction – guidelines for complaints handling in organisations*.

**Policy**

This policy is to facilitate a consistent, fair and equitable resolution to customer complaints at the earliest opportunity and in the most efficient, prompt and professional manner.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

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**FBD17/033 POLICY REVIEW - COMPLAINTS POLICY**

**E16.0297**

**CONCLUSION**

The draft Complaints Policy should be publicly exhibited for 28 Days. At the end of the public exhibition period the draft Complaints Policy will be presented to Council for consideration to adopt, along with a report to consider any submissions received during the exhibition period.

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**FBD17/034 NEW POLICY - RELATED PARTIES DISCLOSURES**

**E16.0297**

Responsible Officer: Anthony O'Reilly - Director Finance and Business Development

Attachments: 1. Under Separate Cover - Related Parties Disclosures Policy

Focus Area: Support Services

Delivery Program Link: SS1.1 Manage Council's financial assets and obligations

Operational Plan Link: SS1.1.2 Undertake forward budgeting and financial reporting

**EXECUTIVE SUMMARY**

The new draft Related Parties Disclosure Policy has been developed to provide guidance in complying with the *Local Government Act 1993*, section 413 (3) which requires Council to prepare its General Purpose Financial Statements in compliance with Australian Accounting Standards.

Effective 1 July 2016, *Australian Accounting Standards Board 124 (AASB 124) Related Party Disclosures* was expanded to cover the local government sector. Related parties include Councillors, the General Manager, Directors, and their close family members. Any transactions between Council and these parties, whether monetary or otherwise, will need to be identified and may need to be disclosed.

The new draft Related Party Disclosures has been created and the draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT

1. The draft new Related Party Disclosures Policy be placed on public exhibition for a period of 28 days.
2. At the conclusion of the public exhibition period, a further report be presented to Council advising any submissions received and recommending the new policy be adopted.

**BACKGROUND**

The purpose of the policy is to ensure that the existence of certain related party relationships, related party transactions, necessary for the users to understand the potential effects on the Financial Statements, are properly identified. They should be recorded in Council's systems, and disclosed in Council's General Purpose Financial Statements in compliance with *AASB 124 July 2015*, the *Privacy and Personal Information Protection Act 1998 (PPIPA)* and the *Government Information (Public Access) Act 2009 (GIPA)*.

Council, in complying with the disclosure requirements in AASB 124, will;

- identify related party relationships, related party transactions and ordinary citizen transactions;
- identify information about the related party transactions for disclosure;

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**FBD17/034 NEW POLICY - RELATED PARTIES DISCLOSURES**

**E16.0297**

- establish systems to capture and record the related party transactions and information about those transactions;
- identify the circumstances in which disclosure of the items in the first two points above are required and;
- determine the disclosures to be made about those items in the General Purpose Financial Statements for the purpose of complying with AASB 124.

**CONSIDERATIONS**

This policy applies to people that have authority and responsibility for planning, directing and controlling the activities of Council and entities controlled by Council, including elected Councillors, the General Manager, Directors, and close family members who can be expected to influence or be influenced by the aforementioned key management persons.

To comply with AASB 124, for annual periods on or after 1 July 2016, Council will make the following disclosures in its General Purpose Financial Statement:

- a) Relationships between Council and its subsidiaries, irrespective of whether there have been transactions between them.
- b) Key management personnel (KMP) compensation in total and for each of the following categories:
  - i. Short-term employee benefits
  - ii. Post-employment benefits
  - iii. Other long term benefits, and
  - iv. Termination benefits.
- c) The information specified in Section 1.2 for related party transactions with the following persons during the period covered by the Financial Statement:
  - i. Council subsidiaries
  - ii. Entities who are associates of Council or of a Council subsidiary
  - iii. Joint ventures in which Council or a Council subsidiary is a joint venture
  - iv. Council KMP
  - v. Other related parties, comprising:
    - A close family member of a KMP of Council
    - Entities controlled or jointly controlled by a KMP of Council
    - Entities controlled or jointly controlled by a close family member of a KMP of Council

**Legal**

This policy was developed to give guidance in complying with AASB 124. The Australian Accounting Standards Board 'Agenda Decisions' April 2017 gives guidance upon the legal application after numerous enquiries regarding its implementation.



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**Policy**

Automatic revocation of the policy is provided for by section 165(4) of the *Local Government Act 1993*. The next general local government election is expected to be held in September 2020.

This policy may also be reviewed and updated as necessary when legislation requires it; or Council's functions, structure or activities change; or when technological advances or new systems change the way that Council manages related party disclosure as determined by AASB 124 *Related Party Disclosures*, July 2015.

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Related Party Disclosures Policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Related Party Disclosures Policy will be presented to Council for consideration to adopt.

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**CAR17/012 POLICY REVIEW - DISABILITY SERVICES**

**E16.0297**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: Under Separate Cover - Disability Services Policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Disability Services policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Disability Services policy.
2. The draft Disability Services policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

Council provides Disability Services as a registered provider of the National Disability Insurance Scheme (NDIS) and until 30 June 2018 under a funding agreement with NSW Department of Family and Community Services, Ageing, Disability and Home Care.

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**CAR17/012 POLICY REVIEW - DISABILITY SERVICES**

**E16.0297**

Council is responsible for delivering these services consistently, in line with the Disability Inclusion Act 2014, NSW Disability Standards, National Disability Insurance Agency (NDIA) Terms of Business and funding requirements as prescribed by the NSW Department of Family and Community Services, Ageing, Disability and Home Care.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Disability Services policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Disability Services policy will be presented to Council for consideration to adopt.

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**CAR17/013 POLICY REVIEW - SPORTING AND RECREATIONAL FACILITIES  
SEASONAL HIRE**

**E16.0297**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: Under Separate Cover  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Sporting and Recreational Facilities Seasonal Hire policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Sporting and Recreational Facilities Seasonal Hire policy.
2. The draft Sporting and Recreational Facilities Seasonal Hire policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

The purpose of the Sporting and Recreational Facilities Seasonal Hire policy is to allow the users of Council's sporting facilities to better understand the process guiding the allocation of facilities by clearly identifying:

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**CAR17/013 POLICY REVIEW - SPORTING AND RECREATIONAL FACILITIES  
SEASONAL HIRE**

**E16.0297**

- Council's requirements from clubs and users;
- responsibilities of the user groups;
- responsibilities of Council; and
- by providing a framework that is equitable and easily administered.

**Changes**

The policy has been reviewed and no substantive changes are recommended at this time, apart from minor referencing updates.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Sporting and Recreational Facilities Seasonal Hire policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Sporting and Recreational Facilities Seasonal Hire policy will be presented to Council for consideration to adopt.

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**CAR17/014 POLICY REVIEW - YOUTH SERVICES**

**E16.0297**

Responsible Officer: Kathy Arthur - Director Community, Arts and Recreation Services  
Attachments: Under Separate Cover - Youth Services Policy  
Focus Area: Support Services  
Delivery Program Link: SS1.2 Maintain a sound governance framework within which Council operates  
Operational Plan Link: SS1.2.2 Ensure transparency in council dealings

**EXECUTIVE SUMMARY**

Council's policies are reviewed within the first 12 months of a new Council term for the reasons set out under the following sections of the *Local Government Act 1993*:

- *Section 223 (1)(e) Role of governing body – 'to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council'.*
- *Section 232 (1)(f) The role of a councillor – 'to uphold and represent accurately the policies and decisions of the governing body'.*
- *Section 165 (4) Amendment and revocation of local policy – 'a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election'.*

The Youth Services policy has been reviewed. The draft policy is recommended to be placed on public exhibition before being presented to Council for adoption.

**RECOMMENDATION**

THAT:

1. Council endorses the draft Youth Services policy.
2. The draft Youth Services policy be placed on public exhibition for a period of 28 days and, following the expiration of this period, any public submissions be presented back to Council with the draft policy for consideration to adopt.

**BACKGROUND**

In accordance with section 165(4) of the *Local Government Act 1993*, a local policy (other than a local policy adopted since the last general election) is automatically revoked at the expiration of 12 months after the declaration of the poll for that election.

This policy reflects Council's commitment to addressing barriers and promoting opportunities for young people aged 12-25 years in the shire, and indicates the types of services provided to young people by Council. The policy aims to:

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**CAR17/014 POLICY REVIEW - YOUTH SERVICES**

**E16.0297**

- Promote an integrated framework for providing strategic support for local youth development
- Ensure consistency and fairness in the manner in which the council deals with current and emerging youth issues
- Ensure compliance with legislative requirements under the *Commission for Children and Young People Act 1998*, the *Child Protection (Working with Children) Act 2012*
- Make the council's policies and requirements for youth readily accessible and understandable to the public.

**Changes**

The Youth Services policy has been reviewed with minor referencing updates and a revision of the standards and objectives to align with the 2016 – 2018 Youth Action Plan.

**CONSIDERATIONS**

**Community Engagement**

Council will place the draft policy on public exhibition for a period of not less than 28 days commencing on 31 May 2017 until 27 June 2017. Copies will be available for viewing on Council's website, at the Batemans Bay, Moruya and Narooma libraries and Moruya customer service centre.

**CONCLUSION**

The draft Youth Services policy should be publicly exhibited for 28 days. At the end of the public exhibition period Council will be advised of any submissions received during the exhibition period and the draft Youth Services policy will be presented to Council for consideration to adopt.

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## **16. 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?

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@eurocoast.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
Local Government Department	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	8286 1000 Toll Free 1800 451 524	nswombo@ombo.nsw.gov.au	www.ombo.nsw.gov.au

Reports to Committee are presented generally by 'exception' - that is, only those items that do not comply with legislation or policy, or are the subject of objection, are discussed in a report.

Reports address areas of business risk to assist decision making. Those areas include legal, policy, environment, asset, economic, strategic and financial.

### Reports may also include key planning or assessment phrases such as:

*Setback* Council's planning controls establish preferred standards of setback (eg 7.5m front; 1m side and rear);

*Envelope* taking into account the slope of a lot, defines the width and height of a building with preferred standard of 8.5m high;

*Footprint* the percentage of a lot taken up by a building on a site plan.

Acronym	Meaning	Description
ACR	Australian Capital Region	The political and strategic grouping of the ACT government and 17 adjacent councils.
AEP	Annual Exceedance Probability	For floods expressed as a % eg 1% = 1:100 year event. The NSW Flood Guidelines nominate types of development and controls.
AHD	Australian Height Datum	Floor levels for buildings set to remain at or above flood level (expressed as 'freeboard').
APZ	Asset Protection Zone	Area to be cleared and maintained around habitable buildings in bushfire prone areas.
AS	Australian Standard	Standards set by national body as minimum construction, service, system, planning or design requirements.

Acronym	Meaning	Description
BCA	Building Code of Australia	Prescribes minimum standards or performance base for building construction.
CAMP	Companion Animal Management Plan	Required by state law, plan nominating management of dogs and cats and areas for access for the exercise of dogs (eg beaches and reserves).
CC	Construction Certificate	Floor plans approved by council or private certifier in compliance with development conditions and BCA.
COPW	Condition of Public Works Report	Required by state law to define the condition of infrastructure assets, the cost to upgrade to defined standards, the current costs of maintenance and desired levels of maintenance.
CP	Cultural Plan	A cultural plan enables identification of cultural assets, identity and needs as well as providing a framework to develop cultural initiatives to increase opportunities for residents.
CSR	Complaint and Service Request	Requests received from public by phone, letter, email or Councillor to attend to certain works (eg pothole) or complain of certain service or offence (eg dogs barking).
DA	Development Application	Required by state law to assess suitability and impacts of a proposed development.
DAP	Disability Action Plan	Council plan outlining proposed works and services to upgrade facilities to progressively meet Disability Discrimination Act.
DCP	Development Control Plan	Local planning policy defining the characteristics sought in residential, commercial land.
DECCW	Department of Environment, Climate Change and Water (formerly EPA, NPWS, DEC)	State agencies (former Environment Protection and National Parks), DNR managing state lands and natural resources and regulating council activity or advising on development applications.
DWE	Department of Water and Energy	State agency managing funding and approvals for town and country water and sewer services and State energy requirements.
DoP	Department of Planning	State agency managing state lands and regulating council activity or advising on development applications or strategic planning.
DLG	Department of Local Government	State agency responsible for regulating local government.
DoL	Department of Lands	State agency managing state lands and advising on development applications or crown land management.
DoC	Department of Commerce	State agency (formerly Public Works) managing state public water, sewer and buildings infrastructure and advising/supervising on council infrastructure construction.

Acronym	Meaning	Description
DoH	Department of Health	State agency responsible for oversight of health care (community and hospital) programs. Also responsible for public warning of reportable health risks.
DOTAR	Department of Infrastructure, Transport and Regional Development and Local Government	Federal agency incorporating infrastructure, transport system, and assisting regions and local government.
EBP	Eurobodalla Bike Plan	Strategic Plan identifying priorities and localities for cycleways in the Shire.
EIS	Environmental Impact Statement	Required for designated and state developments researching and recommending solutions to social, economic and environmental impacts.
EMP	Estuary Management Plan	Community based plan, following scientific research of hydrology and hydraulics, recommending actions to preserve or enhance social, economic and environmental attributes of estuary
EMS	Environmental Management System	Plans prepared by council (such as waste management and strategic planning) around AS14000.
EOI	Expressions of Interest	Often called in advance of selecting tenders to ascertain capacity and cost of private sector performing tasks or projects on behalf of council.
EP&A	Environment Planning & Assessment Act	State law defining types of development on private and public lands, the assessment criteria and consent authorities.
ESC	Eurobodalla Shire Council	
ESD	Ecologically Sustainable Development	Global initiative recommending balance of social, economic and environmental values in accord with 7 ESD principles.
ESS	Eurobodalla Settlement Strategy	Council strategy prepared with assistance of government to identify best uses and re-uses of urban lands, the appropriate siting of private and public investment (eg institutions, employment areas or high density residential) based on current and planned infrastructure and land capacity.
ET	Equivalent Tenement	Basis of calculation of demand or impact of a single dwelling on water and sewer system.
FAG	Financial Assistance Grant	Federal general purpose grant direct to local government based on population and other 'disability' factors.

Acronym	Meaning	Description
FSR	Floor Space Ratio	A measure of bulk and scale, it is a calculation of the extent a building floor area takes up of an allotment.
GIS	Geographic Information System	Computer generated spatial mapping of land and attributes such as infrastructure, slope, zoning.
IPART	Independent Pricing & Regulatory Tribunal	State body that reviews statutory or government business regulatory frameworks and pricing levels.
IPWEA	Institute Public Works Engineers Australia	Professional association.
IWCMS	Integrated Water Cycle Management Strategy (or Plan)	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation to water, sewer and stormwater systems.
IWMS	Integrated Waste Management (Minimisation) Strategy	Council plan identifying risk and social, economic and environmental benefit of proposed augmentation of waste (solids, effluent, contaminated, liquid trade waste).
LEP	Local Environment Plan	The statutory planning instrument defining the zones and objectives of urban and rural areas.
LGAct	Local Government Act	State law defining the role of Mayor, Councillors, staff, financing, approvals etc.
LGMA	Local Government Managers Australia	Professional association.
LGNSW	Local Government NSW	Representative advisory and advocacy group for councils in NSW.
MOU	Memorandum of Understanding	Agreement in principle between parties (eg council and agency) to achieve defined outcomes.
NPWS	National Parks & Wildlife Service	Now merged into DECCW.
NRM	Natural Resource Management	
NVC	Native Vegetation Act 2003	State law defining means of protection of threatened legislation and approval processes to clear land.
OC	Occupation Certificate	Issued by council or private certifier that building is safe to occupy and in compliance with development conditions and BCA.
OSMS	On site sewage management system	Includes septic tanks, aerated systems, biocycles etc.
PCA	Principal Certifying Authority	The person or organisation appointed by applicant to inspect and certify structures.

Acronym	Meaning	Description
PIA	Planning Institute of Australia	Professional association.
POEO	Protection of the Environment Operations Act	State law outlining standards for emissions and discharges and penalties for pollution.
PoM	Plan of Management (usually for community land)	Council plan nominating type of uses for community land and range of facilities progressively to be provided on land.
PPP	Public Private Partnerships	
PTS	Public Transport Strategy	Council strategy to initiate mechanisms to promote and facilitate public transport (bus, taxi, community transport, cycles) in design of subdivisions, developments and council works.
REF	Review of Environmental Factors	Council examination of risk and social, economic and environmental benefit of proposed works, assessed against state planning, environment and safety laws.
REP	Regional Environment Planning Policy	Outlines compulsory state planning objectives to be observed in development assessment and strategic planning.
RFS	Rural Fire Service	State agency responsible for providing equipment and training for volunteer firefighter brigades, and the assessment and approval of developments in bushfire prone lands.
RLF	Regional Leaders Forum	The group of mayors and general managers representing the councils in the ACR.
RMS	Roads & Maritime Service	State agency responsible for funding, construction and maintenance of state roads, the approval of council works on arterial roads and development applications.
S64	S64 Contributions Plan	Developer contributions plan to enable, with council and state funds, the augmentation of water, sewer and stormwater infrastructure.
S94 S94A	S94 Contributions Plan S94A Contributions Plan Levy Plan	Developer contributions to enable construction of public infrastructure and facilities such as roads, reserves, carparks, amenities etc.
SCG	Southern Councils Group	Political and strategic grouping of councils along the NSW south coast from Wollongong to the border, lobbying government for assistance (eg highways) and resourcing sharing initiatives.
SCRS	South Coast Regional Strategy	Regional Strategy prepared by DoP for ESC, BVSC and part SCC to guide new LEPs.

Acronym	Meaning	Description
SEA	Strategic Environment Assessment	Spatial assessment of environmental constraints of land considered in design and assessment of subdivision and infrastructure.  Scientific research behind assessment of capacity of land and waterways in rural residential and urban expansion lands to sustain human settlement.
SEPP	State Environmental Planning Policy	Outlines compulsory state planning objectives.
SNSWLHD	Southern NSW Local Health Districts	State board commissioned with oversight of health care in Highlands, Monaro and Far South Coast.
SoER	State of the Environment Report	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social, economic and environmental features of the Shire and appropriate responses to address or preserve those issues.
SP	Social Plan	Required by state law, the comprehensive assessment (every four years) of the condition and the pressures on the social framework of the community, their services and facilities and economic interactions.
.....SP	Structure Plan	Plan promoting landuses and siting of infrastructure and facilities in towns (eg, BBSP – Batemans Bay Structure Plan).
SRCMA	Southern Rivers Catchment Management Authority	State agency commissioned with assessment and monitoring of health and qualities of catchments from Wollongong to the border, and determine directions and priorities for public and private investment or assistance with grants.
STP	Sewer Treatment Plant	Primary, secondary and part tertiary treatment of sewage collected from sewers before discharge into EPA approved water ways or irrigation onto land.
TAMS	Total Asset Management System	Computer aided system recording condition and maintenance profiles of infrastructure and building assets.
TBL	Triple Bottom Line	Commercial term coined to encourage business to consider and disclose social and environmental risk, benefit and costs in the conduct of business to guide investors as to the long term sustainability and ethics of a business. Taken up by Council to record the basis of prioritisation, the review of condition, the monitor of progress and the financial disclosure of preventative or maintenance investment in council based social and environmental activities.
ToR	Terms of Reference	
TSC	Threatened Species Conservation Act 1995	State law governing the protection of nominated species and relevant assessment and development controls.

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Acronym	Meaning	Description
WCF	Water Cycle Fund	Combination of water, sewer and stormwater activities and their financing arrangements.
WSUD	Water Sensitive Urban Design	Principle behind the IWCMS and council development codes requiring new developments to reduce demand and waste on water resources through contemporary subdivision and building design.