

## EUROBODALLA SHIRE COUNCIL

### PUBLIC FORUM

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

Ordinary Meeting of Council on **8 June 2021**

Name	Subject/Comments
Max Castle	GMR21/029 Coopers Island Road Bodalla
Cathy Milliken	GMR21/029 Coopers Island Road Bodalla
Jo Starling	GMR21/029 Coopers Island Road Bodalla
Lei Parker	GMR21/029 Coopers Island Road Bodalla
Phil Bugden/David Motbey	GMR21/029 Coopers Island Road Bodalla
DPI - Fisheries	GMR21/029 Coopers Island Road Bodalla
Sue Dunk	GMR21/029 Coopers Island Road Bodalla
Tuross Head Fishing Club	GMR21/029 Coopers Island Road Bodalla
Bernie O'Neil ABE	GMR21/029 Coopers Island Road Bodalla
Garmon Brennan	GMR21/029 Coopers Island Road Bodalla
Claire McAsh	GMR21/029 Coopers Island Road Bodalla
Anne Parker OBO Heide Smith	GMR21/029 Coopers Island Road Bodalla
Chris Jones	GMR21/029 Coopers Island Road Bodalla
Andrew/Jade Hart	GMR21/029 Coopers Island Road Bodalla



**Coopers Is Road (CIR) Presentation to Council – 8<sup>th</sup> June**  
**2021**

**Presentation requesting access being retained at Coopers Island Road to allow recreational activities (fishing, water sports, photography, bird watching, kayaking, picnics, etc)**

**Good morning my name is Max Castle I live at Tuross Head, I am a member of 5 local groups/organizations.**

**I would like to speak to you in a collective capacity offering comments from all those groups.**

*The Men's Shed  
Tuross Head Progress Association (THPA),  
Local Fishcare Group,  
Tuross Head Fishing Club (LM)  
Member of the South Coast Maritime Advisory Committee.  
ANSA-Angel Ring Volunteer.*



(Photo by Beagle)

Tuross Progress Association Meeting June 2021 – response when asked who supported C.I.R. remaining open for public access to the waterway (fishing/boating/swimming)

**My presentation cover four sections. – if time permits**

***\*Background.   \*Comments from community   Comments on the report  
\*Community Recommendation***

### **BACKGROUND:**

**The Coopers Rd. Road (abbreviation CIR) has a long-standing history of community use. The previous owners welcomed the community to visit Coopers.**

**The river system (Bowns and Trunketabella) is part of the Tuross Recreational Fishing Haven (RFH) initiated by the State Government.**

**I have received many complaints from the community about being confronted, told to leave, [REDACTED]**

**[REDACTED] advised it was the owners land [REDACTED] [REDACTED]  
[REDACTED] police have had to attend.**

**Following complaints from a local fisher/boater an inspection of CIR was arranged between Warren Sharp and myself. Warren suggested funding be sought for a fishing platform. Also, to remove fencing on Crown Land, the gate and the sign facing the highway which is located to misleading the public. This was an encouraging start and initially indicated Council support.**

**The community hold the view that Council has offered the road for sale to the current owner. They also believe a bigger picture is on the horizon. They are frustrated that Council has done nothing to address the ongoing conflict over a long period of time.**

**Unfortunately, it seems that the above MOU and Councils Community Engagement Framework has been ignored.**

**It took a complaint from a recreational fisher/boater, [REDACTED]  
[REDACTED] to bring this issue to the Councils attention.**



**The following comments have come for the community.**

**“Why did the owner purchase the property when they were aware that a public and or crown road went through the property”?**

**“Were they advised by Council they could purchase the road”?**

**[REDACTED]**

**“Why has access to the water been blocked off, the water is not the owners property”**

**“Why can’t I fish off the bank or weir”**

**“When will it be safe to visit the area? “I want to take my children there to teach them to fish with their grandparents.**

**“Has Council instructed the owner to remove fences/gate”? If not, why not?**

### **COMMENTS ON REPORT**

**\* I note there was no public notification or advertising of Council considering selling Coopers Is Road.**

**\* I note there has been no mention that there is an area of Crown Land on both sides of the river bank**

**\* I note there is no comment about our indigenous fishers who have traditionally fished the area.**

**\* I also note there is little comment about [REDACTED] that the community has been experiencing over many years. The report is one sided in that regard!**

**\* I notice that there has been no mention that if access is closed off Trunketabella Lake effectively becomes a "private lake ".**

**\* There has been no value placed on the possible loss of part of the RFH and the potential for compensation.**

**\* NSW Fisheries views have not been included in the report. I understand they do NOT support closure.**

**\* A MoU between NSW Fisheries and Crown Lands re property leading to water was provided to Council but is not in the report.**

**\* There is no advice in the report as to why Council has not been able to move quickly, to address community conflict and bad feeling.**

**COMMUNITY RECOMMENDATIONS/REQUESTS:**

- 1. Request Council DO NOT sell the Coopers Is Rd. or close off access. (*To the waterway for recreational activities.*)**
- 2. Request Council seek 100% funding from NSW Fisheries to provide a Fishing Platform. (*Off the edge of the weir catering for wheelchair access.*)**
- 3. Considering Tuross is a RFA suggest Council seek 100% funding from NSW Fisheries (Trust Fund license fees) for kayak infrastructure. (*Each side bridge western side*)**
- 4. Suggest Council seek funding support for weir works from our MP Andrew Constance, as required by Council to provide employment.**
- 5. Request unauthorized works be immediately removed.**
- 6. Please support the Crown Land Commissioners advice, which is to NOT close access to a public waterway.**
- 7. Please do not defer the decision. Please vote today to retain Coopers Island Road access for community use.**

**I thank you all for your time today.**



**Max Castle**

## Coopers Is Road Presentation to Council

8<sup>th</sup> June 2021

Good Morning Councilors

I stand before you representing all of the members of the Tuross Head Progress Association (THPA) in regard to our opposition to sell Coopers Island Road. Councilors are well aware that this well used thoroughfare has been traditionally used by the wider public for nearly 90 years in order to access Bowns Creek and Trunketabella Lake and the upper reaches of the Tuross Lake waterways for pursuits such as recreational fishing, crabbing, launching and retrieval of Kayaks small craft and picnics etc.

In order to prevent unfettered access to these waterways by the public, some 2-years ago now, the current Owners of Coopers Island took it upon themselves to install new stock fencing and a farm gate at the entrance to this council-owned road on the Princes Highway.

In the immediate vicinity of the gate the Owners have erected a warning sign *"PRIVATE PROPERTY – NO TRESSPASSING" TO DETER ENTRY*. Although this farm gate is not locked, the displayed signage has discouraged the majority of people from entering through this gate to use Coopers Island Road to reach the Crown waterways, indeed those who have proceeded through the gate have often found themselves [REDACTED] (questioned) by the Owners as to why they were there. Because of this [REDACTED] and duly reinforced by the unwelcoming "NO TRESPASSING" sign, the recreational fishing community, along with the wider community in general, have been advised to stay away for their own safety until the issue of public access along Coopers Island Road is finally resolved. Of course, nobody knew this matter would be so protracted.

The THPA has worked tirelessly with Mr. Carlyle Ginger who has been very helpful and we thank him for his report. Numerous documents have been provided to Council to make our case to retain the current access and to explore options.

It has been the THPA position to find a compromise so the road can continue to be shared and the river can be accessed by the fishers/boaters/swimmers and the farmer can proceed with his business. **An offer was put to the owners recently to discuss how this potentially could occur, but was not accepted.**

The report to Councillors states "In October 2019, Council wrote to the owners requesting the fencing near the causeway be removed as it had been erected across/on the public road reserve, and because the position of the fencing creates a danger for visitors attempting to park in the road reserve, effectively limiting access to the waterway. The fencing has not yet been removed." **We the community have been asking why Council has not removed the fencing? The community has had no response.**

The report to Councillors also states “The gate on Coopers Island Road, while not locked, still requires a public gate permit under the *Roads Act*. The owners were advised by Council in October 2019 to apply to Council as the roads authority for a permit to authorize the gate. A public gate permit application was received on 17 February 2021.” **We the community have been asking why the gate has not been taken down by Council since no application for permit was received until February of this year? The community has had no response.**

The report to Councillors also states “The owners have advised Council that in their view any public visitation to Coopers Island Road is incompatible with farming activities, will affect the landowners’ legislated responsibility to protect the riparian zone from damage, and will encourage conflict between the property owners/workers and visitors to the area.” **We the community have been asking why would the owners purchase a property with a public road on it if it is incompatible to farming activities? The community has had no response.**

The report to Councillors also states “The sale or closure of Coopers Island Road would permanently prevent public fishing access to Bowns Creek” Therefore **making Trunketabella Lake a private waterway for the Owners of the Coopers Island property.**

The report to Councillors clearly states” Representation has been received from the Office of the NSW Crown Land Commissioner on 31 May 2021 regarding public access to Crown Waterways over Council owned or Crown Roads which states: *‘Please be advised that the Commissioner is of the view that, as a matter of principle, it is of the utmost importance to retain public access to Crown Waterways over Council owned or Crown Roads, and that those roads should not be privatised to exclude that public access’.*”

**The THPA membership and the Tuross Head Community strongly agree with this statement from the NSW Commissioner for Crown Lands and has the very strong viewpoint that Coopers Island Road should remain as a Public road, and the water ways be made accessible once again by removing the current obstructive fencing and gate.**

Thank you for your attention.

Cathy Milliken – (JP)

President THPA 6.6.21

To Whom It May Concern:

#### COOPERS ISLAND ROAD — ANGLER ACCESS TO TUROSS LAKE RFH

Thank you for the opportunity to provide perspective and advice to Council regarding the potential sale of Coopers Island Road to a private landowner.

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#### Key Points

- Recreational fishing is a strong tourism attracting activity for the Eurobodalla
  - Many Eurobodalla businesses benefit from fishing tourism
  - Coopers Island Road provides land-based fishing access to viable waters
  - Coopers Island Road provides kayak fishing access to Bowns Creek
  - Successful applications for Recreational Fishing Trust Fund Grants could help resolve concerns by funding projects that guarantee ongoing access in a way that reduces impact on the adjacent landowner's business.
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I am an avid recreational fisher. My entire life revolves around recreational fishing... my income stream, my community work, my recreation, and the maintenance of my physical and mental wellbeing. I may be on the extreme end of the spectrum, but I'm not alone... and there are tens of thousands of Eurobodalla residents between myself and those who couldn't care less about this issue.

As part of my community work, I volunteer my time to advocacy and representation for recreational fishing in NSW and nationally. Today, I'm here to represent myself as a recreational fishing rate payer AND the fishers I represent as the Region 5 – South Coast member on the NSW Recreational Fishing Advisory Council (RFNSW).

I would like to start by expressing my empathy for the "new" landowner, whose property is dissected by Coopers Island Road, which provides access to one of our local land-based fishing spots. I recognize that the change in herd and produce of the property raises biosecurity concerns for the owner. However, I believe that with effective dialogue and strategic thinking, compromises could be found that will be a better outcome for the Council than selling a crown road.

Our communities have been through hell over the past two years and recreational fishing is one constant that has hung in there. For many of us, it remains a stalwart for our wallets and our happiness. There are many rate-paying businesspeople who don't fish but depend on our tourism... and fishing is a big drawcard!

In the covid era, where the threat of hard borders and regional restrictions hang over our heads, access to local fishing spots becomes doubly important. In my opinion, Council would be neglectful to restrict the activity in any way. In fact, I am pushing for MORE access at a government level, to help bolster our region's appeal as a domestic tourism destination.

I note that the landowner has submitted concerns about the protection of salt marshes. I would like to applaud this concern as the saltmarshes are vital to the health of our valuable waterways. I also note that the saltmarshes are not protected from the herd, which is possibly the worst threat to the fragile ecosystem. Again, I'd like to suggest that there are recreational fishing organisations that would happily work with the Council, community groups and/or the landowner to protect the saltmarshes for the benefit of the ecosystem.

It is therefore my strong recommendation and request that the Council retain ownership of Coopers Island Road. I am happy to work with the landowner to develop grant applications for projects that will protect the saltmarshes and enhance fishing access in a way that mitigates concerns over biosecurity risks, by corralling access and providing controlled kayak launching infrastructure.

With community effort, resourcefulness and some maturity, I am certain this important relationship can be healed and outcomes developed that will provide a win for all parties.

Jo Starling  
DIRECTOR  
River & Sea Pty Ltd

DATED: 7 June, 2021

## **Presentation by Lei Parker, June 8<sup>th</sup>, 2021**

### **GMR21/029 Coopers Island Road Bodalla**

Councillors,

When you were elected you were given delegations by the State Government. One of these delegations was Road Authority for Council controlled Public roads.

You handed that delegation down, through the General Manager, to Council staff with expectation that they would act on your behalf and ensure the legal instrument of the Roads Act was complied with.

Coopers Island Road is a Public Road that currently consists of the causeway and the bridge and the road reserves, owned by the community with a replacement value of its assets estimated at \$389,000. The sale or closure of Coopers Island Road would permanently prevent public fishing access to Bowns Creek. The withdrawal of access to cultural and recreational fishing from this site will have an immeasurable impact on our community, especially given that there has been no public consultation.

Coopers Island Road comes under the Roads Act 1993 and as such, under delegation that the council of a local government area is the roads authority for all public roads within the area, you are responsible for ensuring the laws within that Act apply.

The law around erecting gates on a public road is very simple. You can NOT erect a gate on a public road WITHOUT a gate permit. To do so is illegal.

Fact: There is an illegal gate across Coopers Island Road that has been there for nearly two years.

Fact: The staff, under your delegation, have allowed this gate to remain. Therefore, you have allowed it to remain.

Fact: The staff and yourselves have received multiple complaints from the public regarding the illegal gate yet you have failed in your delegated duty to remove it.

This is not a complex matter. The gate is illegal. You have failed to remove it.

The question has to be asked "Why didn't Council, when first advised, request the gate to be removed.

Council was first made aware of the illegal erection of the gate in mid-2019. Two years ago. Council staff were advised and given absolute references to various Acts regarding gates, permits, cattle grazing and access to waterways. The references given were all to relevant Acts of which Council had delegated duty to enforce. Yet Council did nothing.

Council has witnessed this issue festering like a boil for two years. Hostilities between the community and the farmer have flared up. Yet the Council still chose to do nothing



In the report before you today it says:

*“Council has received complaints from the owners who advise they are suffering significant stress from conflict with visitors, including trespass, blockage of the roadway and vandalism. Council acknowledges the difficulties faced by the landowners and farm workers regarding the alleged behaviour of some members of the public.”*

What it doesn't say however is that the community were presented with a gate across a public road. Their public road.

It doesn't advise of the conversations between the public and the landowners regarding the illegal fencing of the foreshore that the report suggests, by way of excuse, that “prevents stock from entering Bowns Creek and enable unhindered stock and stock truck movements.”

The staff report however, accurately confirms that *“The fencing erected by the property owner near the causeway is not on the road reserve boundary, is narrower than the road reserve near the causeway and presents a barrier across the road reserve.”*

Option 2 in front of you today recommends:

*Write to the owners of Lot 2 DP 12290 requesting that the gate and fence near the causeway across the road reserve be removed within 28 days from the date of the letter or after such time has elapsed, Council remove such*

This removal is allowed under your authority. It is not a new authority. It is in fact the very same authority you had two years ago but failed to enact.

Councillors, you have failed to enact your delegated obligations to remove the gate for two long years. In the report today you offer neither explanation nor apology of your inaction.

The report before you states:

*“The fencing erected by the property owner near the causeway is not on the road reserve boundary, is narrower than the road reserve near the causeway and presents a barrier across the road reserve. The physical road is partially outside of the public road reserve.”*

Having worked with Eurobodalla Council for 21 years in the capacity the Roads Register Officer I can advise councillors that the intent to adjust the road boundary to address the minor encroachments has been on Council's to surveying do list for more than 30 years when it was first identified along with Clouts Road and the many other cadastral anomalies that still linger.

The report before you today states:

*“In October 2019, Council wrote to the owners requesting the fencing near the causeway be removed as it had been erected across/on the public road reserve, and because the position of the fencing creates a danger for visitors attempting to park in the road reserve, effectively limiting access to the waterway. The fencing has not yet been removed.”*

Can the Councillors advise why their directive, under delegation, was ignored by the owner and why no follow-up action was carried out? Note that this was long before the Bushfires, yet on February 18<sup>th</sup>, 2021, Council had the temerity to say in a media release *“The landowner has raised concerns about public use of this area, and initial discussions have been held with the owner, as well as local fishers. Progress was delayed, however, as Council’s focus switched to bushfire and flood repairs.”*

The report before you offers the owner’s view that there is an overriding public benefit in closing the road being *“The overriding public benefit is in the reduced cost to Council in maintaining the road and associated infrastructure, and avoidance of the risk for which Council is liable under its duty of care to the users of the road.”*

Councillors, you have been advised that the road reserve is 10 metres wide and that the owners claim that it does not meet the road standards. You are advised by the report that the owners have also raised the issue of road maintenance.

The report states that Council staff consider that the road reserve is fit for purpose, considering its usage saying *“Vehicles can turn around within a 10-metre road reserve. At present this is restricted due to the fencing, erected without Council approval by the property owner, that does not align with the road reserve.”*

Staff also advise *“Maintenance has not been able to be carried out since April 2019 because the turning space for graders has been restricted due to the fencing near the causeway. Maintenance crews will be ready to undertake maintenance works as soon as a way forward is implemented that permits the required movements by the grader.”*

It is understood that an estimated saving of \$32,000 has been made to date. This might explain to the public the alternate recommendation to you today that allocates up to \$40,000 from the 2020-21 budget to realign the road back onto the road reserve and other associated works to improve safety and the operational management of the property to ensure minimising conflict between livestock and road users.

The report before you suggests that the owners maintain that cattle could jump the cattle grid and for safety reasons the gate is required. The Cattle Grid is located on a Public Road and the cattle should not be on this road unless supervised and only to pass from one side of the road to the other. As it is a Public Road cattle are not allowed to graze unless there is a Grazing Stock Permit. Required for any owner who intends to graze livestock on a travelling stock reserve or public road.

Council now finally accepts the gate on Coopers Island Road, while not locked, still requires a public gate permit under the Roads Act.

The owners were advised by Council in October 2019 to apply to Council as the roads authority for a permit to authorize the gate. A public gate permit application was received on 17 February 2021.

Council incorrectly advised the owner to apply under Section 128 of the Road Act 1993 that states:

*‘(1) A roads authority may permit the occupier of any land through which an unfenced public road passes to erect a gate across the road at any place at which the road intersects a boundary fence’.*

Council now concedes, two years after being advised of its error by the public, (with extracts of the Act provided for clarity and reference) that *“Therefore, as the road has been fenced, Council is not permitted to approve a public gate, should Coopers Island Road remain a Council road. The owners will be advised of this most recent legal advice obtained by Council.”*

The fact remains that the gate has been illegal for two years and that Council only now accepts the fact having received “Legal advice”. Had they read the Road Act 1993 they would not have required “legal advice” as the Act is very clear.

The staff prepared report further advises Councillors:

*“Given that the owner has now fenced both sides of Coopers Island Road, Council is unable to approve a public gate across Coopers Island Road. Council should therefore give the landowner the opportunity to remove the gate.*

*Council has sought advice regarding the application of the Right to Farm Act 2019, in these circumstances in response to views expressed by the owners.*

*The legal advice to Council is as follows: ‘The Right to Farm Act does not grant any right to the landowner to use the road for farming activities free from alleged interference by the fishers or the public. There is nothing in the Roads Act or any other legislation giving the landowner rights to use the road in connection with farming activities that are superior to those of other members of the public, including the fishers.’*

The report states that public complaints have been investigated and confirm that visitors are unable to park near the causeway in the road reserve because the public road reserve has been fenced off.

In 2019 a correspondence with Council advised:

*“some of the new fencing has been erected on the Crown Land, this has been confirmed by a site visit with Warren Sharp last year. The fencing has been extended to join the bridge thus preventing access to the water. This was not the case previously. The new fence has prevented the launching of kayaks/canoes or other small car toppers from the bank. Some fishers including my self-frequented this*

*upper area of the river as it is a long way to paddle from Tuross Head. Prior to the fence changes there was ample area for a few cars to park - the new fence line has also made it more difficult to turn around."*

*"Warren confirmed the fence was constructed on Crown Land and would have to be moved. Previous parking on Crown Land would need to be restored so cattle trucks could pass parked vehicles if needed. The front gate was not needed."*

This correspondence forms part of Council's corporate knowledge that it was aware and had confirmed, in 2019, that there were fencing encroachments. As such it required an action in 2019.

Councillors, that action, under your delegation, never happened.

The report before you states:

*"The owners claim that access to the waterway could conflict with the environment and would potentially damage the saltmarsh near the bank."*

Council staff however have countered *"It is noted that the likely areas for access are unlikely to impact the saltmarsh as the designated saltmarsh areas are not in the vicinity of this access."*

The report also states *"The owners maintain that public access along Coopers Island Road is a potential biosecurity issue, compromising their Wagyu beef export business"*

The report further offers:

*"The property owner has raised the conflict between the recreational fishing activities and the operation of their farm. This includes concerns that Wagyu beef production requires adherence to biosecurity controls, and part of their concern with visitation on the property is the risk of biosecurity breaches which could compromise the beef production method and adversely impact the agricultural enterprise."*

Councillors, are you aware that adherence to biosecurity controls first requires a Biosecurity Plan?

Of interest is the fact that the mention of a Biosecurity Plan. The first the community heard of any suggestion of biosecurity risk was when Councillor Liz Innes spoke with Simon Lauder of ABC South East Radio on February 17th, 2021. It is understood that the owners concern around biosecurity have also been mentioned in subsequent briefings to Councillors.

Councillors, from the 1<sup>st</sup> of August 2019, people entering properties where a Biosecurity Management Plan applies must comply with the measures outlined in the plan.

DPI strongly advises that anyone engaged in commercial agricultural or horticultural activity, including processing and education, develops, and actively follows, a biosecurity management plan.

Having moved from Moree to the South Coast and having been a successful cattle breeder with more than 800 head the landowner would be aware of the requirements and benefits of a formal Biosecurity Management Plan. The foremost benefit being control of visitors to the property via endorsed signage.

With a biosecurity management plan in operation, it becomes a legal requirement to obey relevant signs, procedures and measures outlined in the biosecurity management plan. Under a biosecurity management plan signs must be displayed at the entrance to the management area to which the plan applies.

Failure to comply with these arrangements when dealing with biosecurity matter, such as animals or produce, may be an offence under the Biosecurity Act 2015. Penalties can include an on the spot fine of \$1000 or a court ordered fine of \$220,000 for individuals and \$440,000 for corporations.



# VISITORS

**A Biosecurity Management Plan (the Plan) applies to this place. Failure to comply with the Plan may be an offence under the *NSW Biosecurity Act 2015*.**

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Please phone or visit the office before entering to obtain a copy of the Plan or to discuss your obligations.



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**DO NOT ENTER WITHOUT PRIOR APPROVAL**  
**Vehicles, people and equipment may carry weed seeds, pests and diseases**

*Signs must:*

- *advise that a biosecurity management plan is in place.*
- *outline that it may be an offence under the Biosecurity Act 2015 for a person to fail to comply with the measures set out in the biosecurity management plan.*
- *tell visitors how they can contact you (or a property manager), for purposes of inspecting the biosecurity management plan and understanding their biosecurity obligations on your property*

**Again, the report before you states:**

*“The property owner has raised the conflict between the recreational fishing activities and the operation of their farm. This includes concerns that Wagyu beef production requires adherence to biosecurity controls, and part of their concern with visitation on the property is the risk of biosecurity breaches which could compromise the beef production method and adversely impact the agricultural enterprise.”*

The question to be asked is:

*“Given their concern that Wagyu beef production requires adherence to biosecurity controls with visitation on the property risking biosecurity breaches why do they not already have a Biosecurity Management Plan that requires endorsed Biosecurity signs to be displayed at the entrance to the management area to which the plan applies?”*

The report before you states that the owners have also raised several issues including that visitors fish from the bridge preventing access by trucks, leave rubbish, damage infrastructure, impede stock movements and interfere with farm operations.

Staff have now correctly advised you in this report that:

*“The bridge, causeway and culvert are classified as part of the public road under the Roads Act 1993. There is no specific provision of the Roads Act or any regulation under the Roads Act which provides that a person may not stand or fish off a single lane road. In response to people fishing from the bridge, there is no provision in the Roads Act or any other legislation giving the landowner rights to use the road in connection with farming activities that are superior to those of other members of the public, including fishers.*

*The rural zoning of the farmland does not preclude fishers or other members of the public accessing Bowns Creek via Coopers Island Road. The landowner, the fishers, and the public alike, must obey the relevant road rules made under the Roads Act and any signs or notices that may be erected by Council with respect to the use of the road.*

*These rules make it clear that the users of public roads must behave in a way that accommodates the rights of all other users of the road, subject to any specific requirement to the contrary in the legislation. Hence, the landowner must accommodate the fishers’ right to use the road to gain access to, and to stop and fish on or near, the crossing, and, similarly, the fishers and the public must accommodate the landowner’s right to pass along the road, move machinery along the road and drive stock along the road. Due to safety concerns of multiple users of the bridge, Council may restrict fishing off the timber bridge by placing signs on that structure*

The report says:

*“Coopers Island Road was converted to a public road in the 1930s and is currently a public road. The road is used by the owners to access their property and has been used by the public to access the Tuross Lake system for recreational fishing.*

*The report adds “Historically, the area adjacent to Coopers Island Road has been visited by fishers and campers via the public road, who have parked cars, launched kayaks and small craft, and fished from the creek bank, the causeway and the bridge over Bowns Creek.”*

Historically the land was squatted on by John Hawdon in 1848 when he applied for, and received, a Crown Lease of 30,000 acres bounded on the North and East by Coila Lake, on the west by Bodalla Mountains and south by Wagonga River.

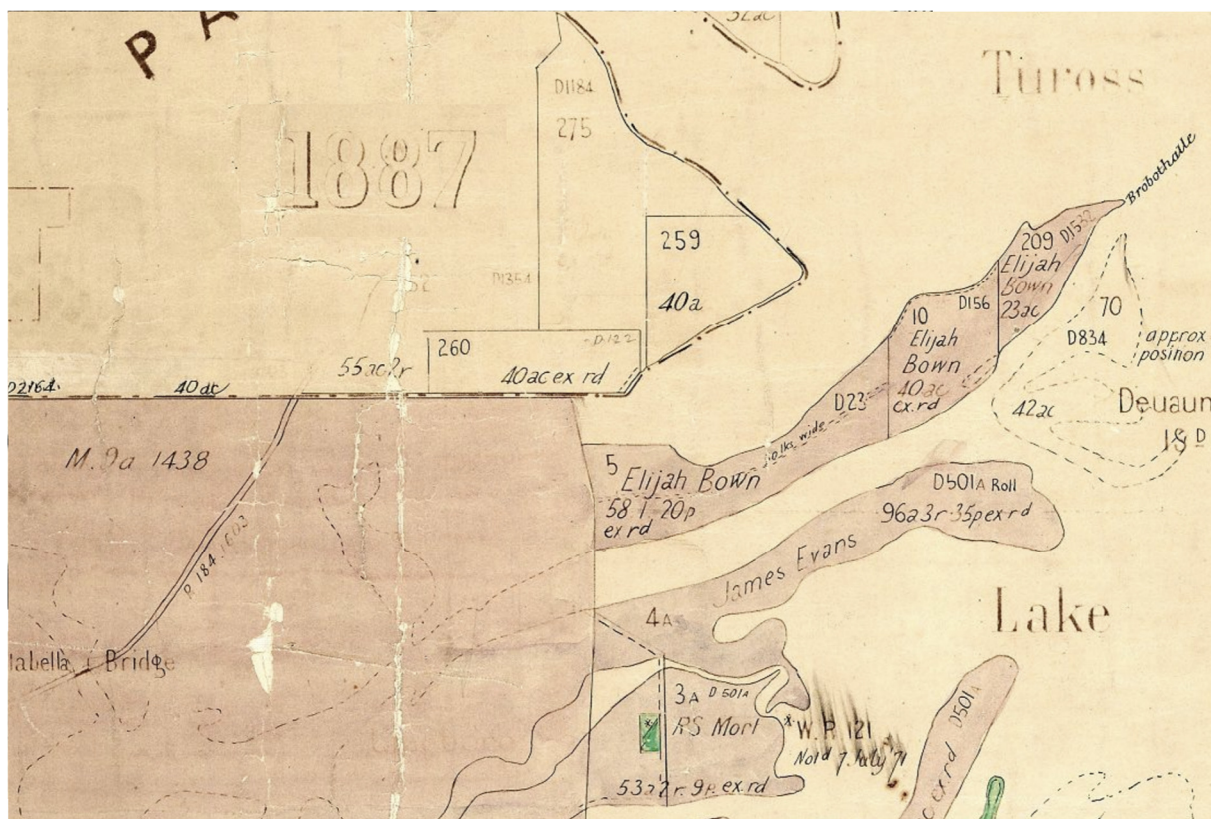
What the history books fail to say is that long before John Hawdon the area was the home of the Yuin and that Coopers Island was known as Umeboro Island.

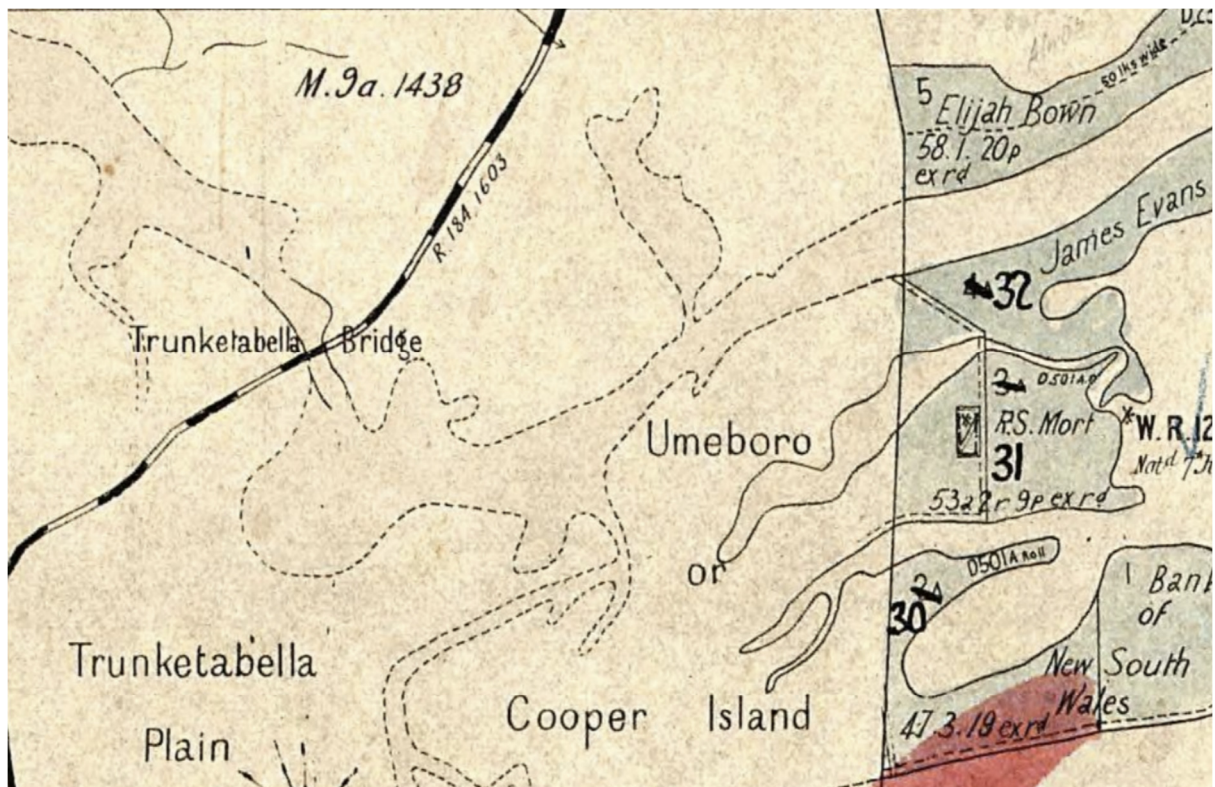
Umeboro Island has long been of significance to the local First Nation people. It has served as a fishing haven for countless generations and in more recent years was the site of considerable First Nation activity as over 100 families lived on the island and cropped beans and peas for market.

In all the engagement that Council has had to date with the community via letters of protest, emails of frustration, public meetings generating petitions and on-site visits with councillors and staff NOT ONCE were the local First Nation community contacted, included, or consulted regarding the proposed sale that would see them lose access to a traditional fishing area and access to the upper reaches of Tuross Lake.



The following Parish Plans track the history of the road from 1887.

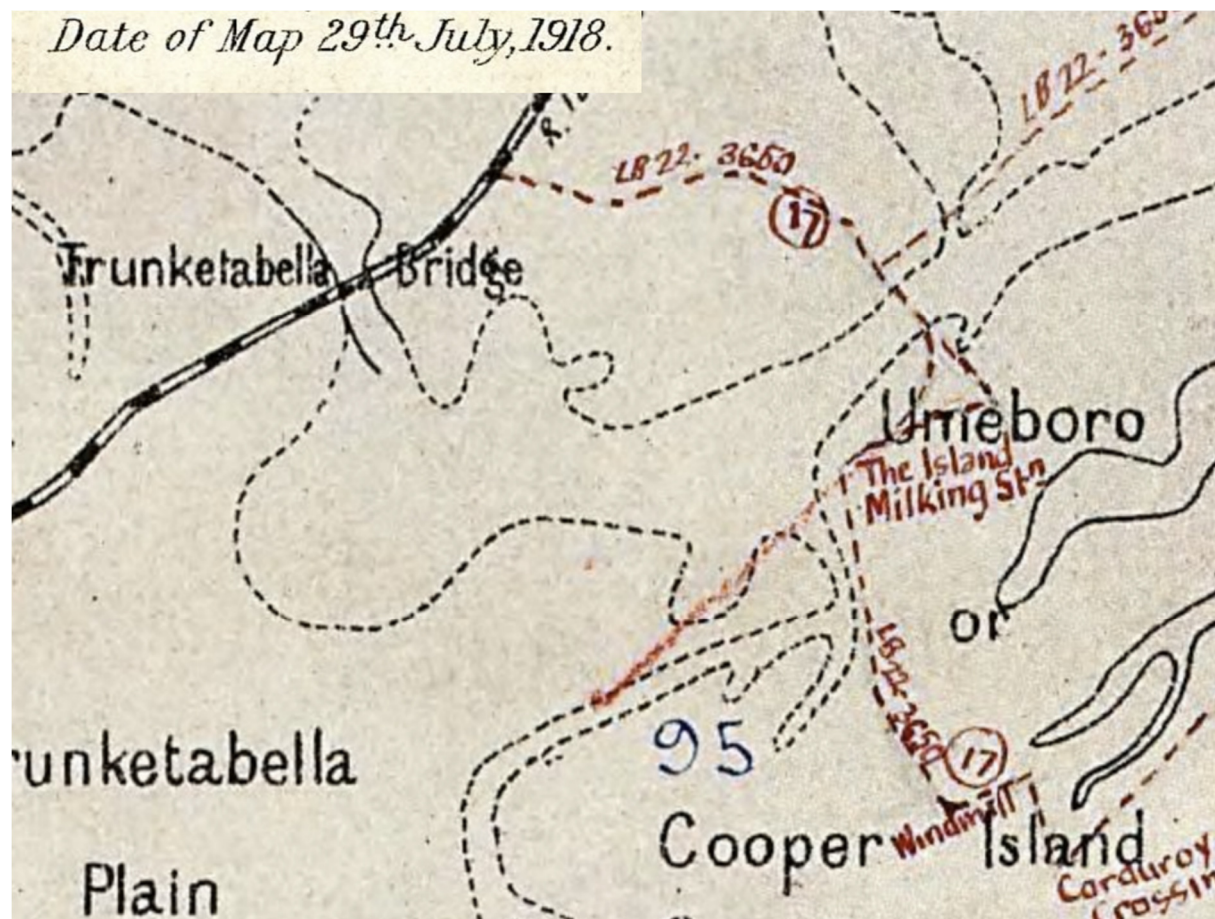




Compiled, Drawn and Printed at the Department of Lands, Sydney, N.S.W. 1898

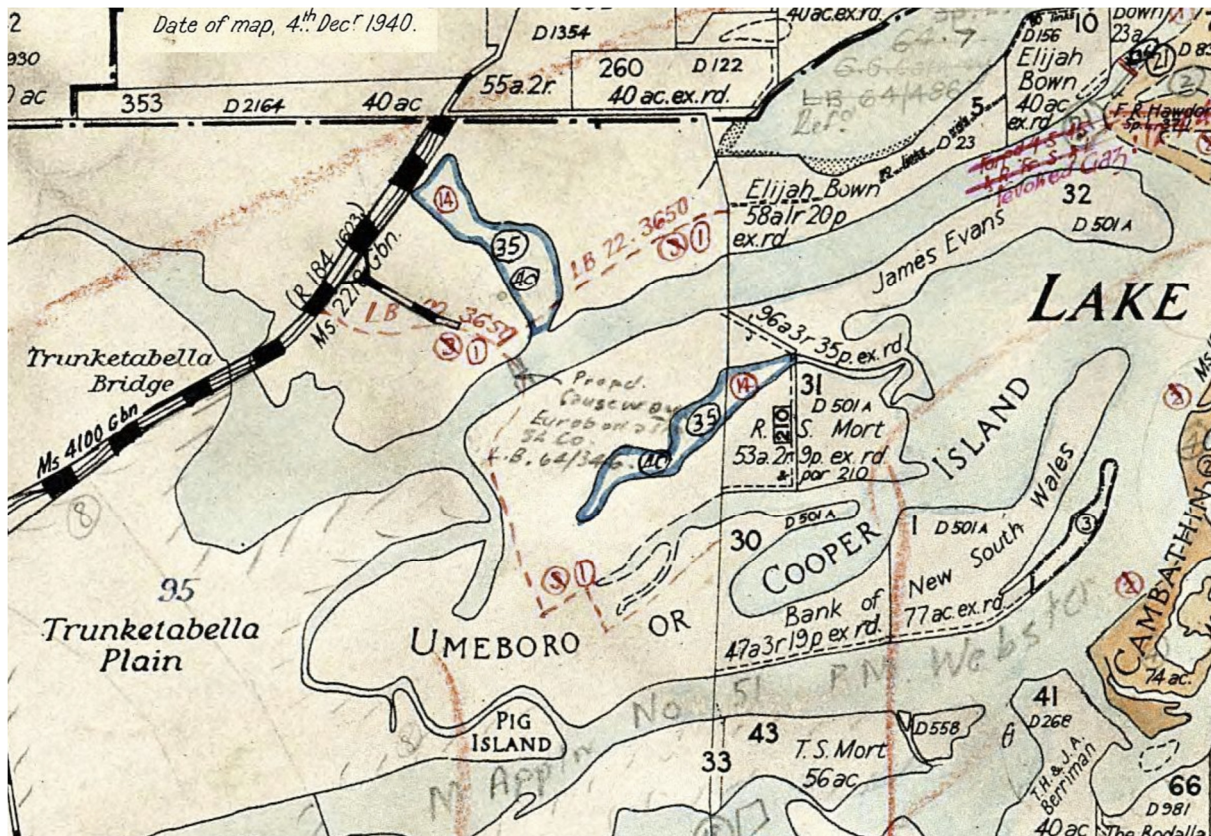
**EUROBODALLA SHIRE**



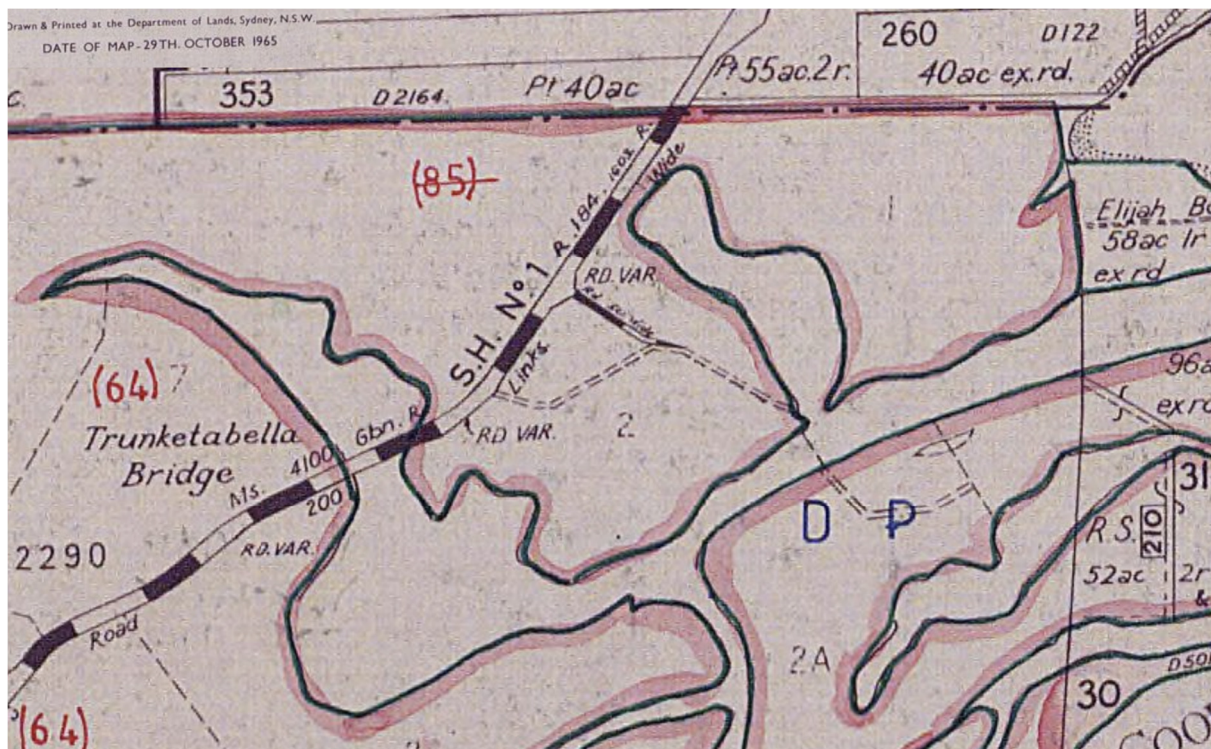


Note the above is a Land Board notation to indicate a recognised track for consideration to become a Public Road.

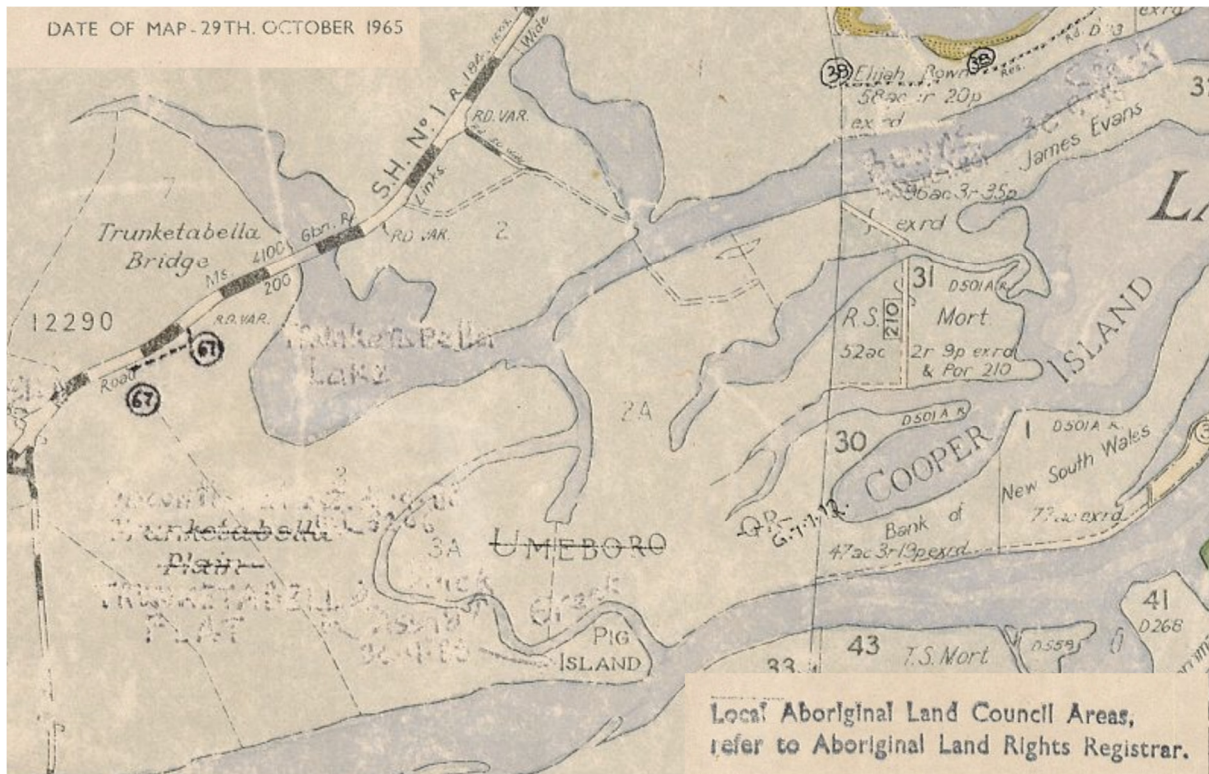




Note the proposed Causeway by Eurobodalla Council in 1964. The Causeway is Public Road. Note also the track remains however a Public Road has been created over the property perpendicular to the highway to intersect the track.







The Parish Plans above offer an insight into why there is a paper road across Lot 2 DP12290. This was the original road and was superseded by the new Public Road that runs perpendicular to the highway to meet the original LB. 22.3650 continuing to and crossing the causeway.



From Council's GIS system showing Public Road Reserves

The report before you states that owner's solicitors suggest:

*Council now has the power under the Roads Act 1993 to close a public road. Section 38A of that Act enables a council to close a "council public road" for which it is the roads authority under certain conditions. Some of the conditions for closure include:*

- The road is not reasonably required as a road for public use (whether for present or future needs), and*
- The road is not required to provide continuity for an existing road network. The owners consider that the closure of Coopers Island Road satisfies these requirements.*

Following the 300 signature petition and the other presentations today you will find that the community strongly believe that the road IS considered "reasonably required" as a road for public use for present or future needs and that the road is required to provide continuity for an existing road network that connects the community to a Crown foreshore and to cultural fishing and public recreation.

While councillors may have been briefed by a senior staff member suggesting "getting rid of the road" was a good idea they failed to ask staff what the Crown thought of their backroom intent. Had they done so, two years ago, it would have saved so much time, effort, needless community friction and eventual anger combined with sheer frustration and exasperation that has once again tarnished Council's reputation.

Councillors, the report before you advises that *"Representation has been received from the Office of the NSW Crown Land Commissioner on 31 May 2021 regarding public access to Crown Waterways over Council owned or Crown Roads which states: 'Please be advised that the Commissioner is of the view that, as a matter of principle, it is of the utmost importance to retain public access to Crown Waterways over Council owned or Crown Roads, and that those roads should not be privatised to exclude that public access'.*

This entire issue has been poorly handled from the outset. Once again Council's failure (and reluctance) to communicate has let them down. It has left a taste of distrust of Council for failing to represent the public while appearing to empathise with a landowner who is, in the opinion of the community, clearly in breach of the law by way of the illegal erection of a gate and of illegally erecting encroaching fences on public land.

The issue has also shone a light on the short comings of Councillors to oversee their delegated authority.

Councillors, my questions to you:

“Who in Council, delegated with your authority, failed to act in a timely fashion on removing the illegal gate on first hearing of the offence in 2019?”

“Why would a staff member, given the trust of your delegated authority, take it upon themselves to disregard their obligation and duty under the Act to remove the gate and the fencing, especially given the disrepute that they have now brought to Council, and to your own reputations, for having failed to act?”

“And why didn’t you, as Councillors, and as the delegated body, step in as soon as you heard the first protests from your community of a failure by staff to act and represent your community and the authority given to you?”

Given that the owner is a known developer and given that Coopers Island and adjacent lands are able to be developed for housing and tourism the opportunity to own the only access from the highway would benefit the owner while the sale or closure of Coopers Island Road would permanently prevent public fishing access to Bowns Creek.





**1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the visual impact of development on the rural landscape.
- To provide for recreational and tourist activities that support the agricultural, environmental and conservation value of the land.

**2 Permitted without consent**

Environmental protection works; Extensive agriculture; Forestry; Home occupations

**3 Permitted with consent**

Agriculture; Animal boarding or training establishments; Aquaculture; Camping grounds; Cellar door premises; Dual occupancies; Dwelling houses; Eco-tourist facilities; Extractive industries; Farm buildings; Funeral homes; Home industries; Intensive livestock agriculture; Intensive plant agriculture; Landscaping material supplies; Open cut mining; Plant nurseries; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Any other development not specified in item 2 or 4

That being the case I believe you have no option but to ensure Coopers Island Road remains a Public Road and vote today on Option 2.

*THAT Council:*

*1. Does not close or sell Coopers Island Road to the property owner of Lot 2 DP 12290 as noted in the confidential attachment.*

*2. Allocates up to \$40,000 from the 2020-21 budget to realign the road back onto the road reserve and other associated works to improve safety and the operational management of the property to ensure minimising conflict between livestock and road users.*

*3. Write to the owners of Lot 2 DP 12290 requesting that the gate and fence near the causeway across the road reserve be removed within 28 days from the date of the letter or after such time has elapsed, Council remove such.*

*4. Thank all submitters for their input.*

I would like to talk about my experience of driving on coopers island rd driving over the river and parking I got out of my truck to have a look at the waterway to be confronted with load noises and dog barking and excitement noises and then a bike being started, then to my surprise a dog not on a lead running towards me I quickly got back in my truck to see the person in charge of the dog ride a trail bike with the dog in front and the rider having a gun rifle across his back I found this very intimidating and I left the area very quickly never to return to this public place again, I thought maybe I have upset the owner being on his ground and also that farmer's can also have guns maybe that was it ,the truth was I was being [REDACTED] Thanking you

Phil bugden

## Coopers Island Road

I wish to present at Council meeting on Tuesday 8<sup>th</sup> June

### *Presentation to be read by Phillip Bugden (Mems Shed)*

Good morning Councilors.

I **DO NOT** support the sale or closure of Coopers Island Road. Public access should continue

I live in Tuross Heads and I have a long history of the area.

I first came to Boballa in 1962 and lived at LONG POINT FARM – adjacent to Coopers Island.

Coopers Island Road has always been a public road.

I frequently fished, with my friends, off the banks and off the weir/bridge leading to the island.

In 1971 the whole area went under water. I believe work done to prevent this occurring again was insufficient as limited drainage pipes were installed under the highway. Coopers Island Road went under water as did parts of the highway. In a serious flood this is likely to occur again. I believe potential flood land should not be sold to the farmer.

Coopers Island Road has always been available to fish – I visited the area frequently as a boy and I want to continue to do so.

If a gate is required it should be located on the far side of the bridge.

If a gate is required at the highway, it should remain open. It could be closed only if cattle are being relocated across the bridge. Then the gate should remain open.

I don't support any closure or sale; nobody owned the water edge.

David Motbey. 5.6.21



## Department of Primary Industries

Coopers Island Road Determination, 8th June – Presentation Submission.

To Whom it May Concern,

DPI Fisheries appreciates the opportunity to provide advice to Eurobodalla Shire Council on angler access issues at Coopers Island Road adjoining the Tuross Lake Recreational Fishing Haven.

An objective of the Fisheries Management Act 1994 is for DPI Fisheries, as administrators of the Act, to provide for quality recreational fishing opportunities.

DPI's Recreational Fishing Access program has been working closely with other government agencies, local councils and relevant stakeholders to maintain and enhance fishing access in coastal and inland waters across NSW.

Provision of safe and convenient access to fishing locations is key to maximising the socio-economic benefits provided by the recreational fishing sector and for promoting associated tourism opportunities.

State-wide survey data by researchers has shown recreational fishing is very popular with residents and visitors to the Eurobodalla Shire. Given the diverse recreational fishing opportunities, the region remains a significant tourism drawcard for people visiting the South Coast.

The Tuross Lake Recreational Fishing Haven, created in 2002, remains recognised as a very popular recreational fishery with significant importance to both locals and visitors.

On consideration of the social and economic importance of the Tuross fishing haven, and the need to maintain a variety of access opportunities across different locations within the system, DPI Fisheries' supports the maintenance of current fishing access in the estuary. Cooper's Island Road provides important access to the relevant upper arm of the Tuross system, including kayak fishing opportunities and fishers targeting key species such as flathead.

DPI has continued to liaise with Council officers on the Coopers Island Road issue over the past two years

Going forward, DPI Fisheries Access Officers remain committed to working with council and other stakeholders to develop workable solutions that meet the objectives of all parties, including landowners, but which also continues to facilitate access to our fisheries resources.

DPI Fisheries also reiterates funding opportunities available from the Recreational Fishing Trust for access related fishing infrastructure projects e.g. kayak launching platforms.

If you wish to discuss the matter further with you and can be contacted on 0400 858 791 or by email [chris.cleaver@dpi.nsw.gov.au](mailto:chris.cleaver@dpi.nsw.gov.au).

Yours Sincerely,

Chris Cleaver

Recreational Fisheries Manager

4th June 2021.

DPI Fisheries  
5 O'Keefe Avenue, NOWRA NSW 2541  
Tel: 02 4424 7400  
[www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au) ABN: 72 189 919 072

## Coopers Island Rd Presentation to Eurobodalla Shire Council

### Meeting 8<sup>th</sup> June 2021

Presentation supporting public access being retained at Coopers Island Road to allow fishing, water sports and recreational activities. I strongly oppose the sell off / closure of this land.

Good morning, my name is Sue Dunk. I have been a resident of this area for the past 49 years. I am a passionate fishing lady & I enjoy fishing in various areas all through the shire.

I would like to share with council my personal experience and difficulties that I have had accessing Coopers Island Rd and Trunketabella Creek and my dealings with Eurobodalla Shire Council as well as the adjacent landowner, [REDACTED], on this matter.

I have been fishing Coopers Island Rd for many years. I first reported an incident to ESC on 29<sup>th</sup> March 2018 regarding an altercation I had with the new adjacent landowner. I was fishing with a friend on the eastern side of the bridge on the riverbank, when the farmhand approached me and told us we were trespassing and that we were on private property.

After this incident, I wrote to ESC asking for clarification on where the Mean High Water Mark was and where it is located. This information was never forthcoming from ESC. I was told by [REDACTED] that the road had been surveyed by ESC surveyors and not the riverbank. [REDACTED] also stated the due to erosion on the riverbank any records that ESC has are not accurate. I was instructed that if I sought more information, I could take the matter up with NSW Dept of Lands.

From the information I have obtained from NSW Dept of Lands, the Crown foreshore located on the eastern boundary stretches approx. 211 mtrs in length. At its widest point it is 15mtrs and at the junction of the bridge it is 5 mtrs in width. The area of this Crown foreshore is a staggering 1284square mtrs

In the ESC report presented by Carlyle Ginger, there was no mention of the Mean High Water Mark on the Crown foreshore, when I clearly asked for this information to be sought. [REDACTED]

[REDACTED] Regarding the fencing and gate on both the public road and crown foreshore why hasn't ESC exercised their power and removed these illegal structures?

On the 16-17<sup>th</sup> February 2021 I visited Coopers Island Rd. [REDACTED]

[REDACTED] The farmhand insisted that I could not park on the public road and had to park the car out on the Princes Highway. [REDACTED] called the Police. I gave the Police a statement of events, produced the paperwork I had received from ESC stating its public land and the Police advised I was not trespassing and to continue fishing.

[REDACTED] What would happen if he was to hit a member of the public on this road!! It seems rules for one and rules for others. Why does [REDACTED] think he is so privileged and entitled?

The following day I phoned ESC staff member Mr Carlyle Ginger to report the incident. He asked if I would refrain from visiting the area for 2 weeks to which I refused. ESC has done absolutely nothing over the past 3 years, so how was there going to be a resolve in 2 weeks. Four months on and still no resolution in site. I also advised Mr Carlyle Ginger about a huge bolt that has been strategically placed, on the western corner of the bridge. This is vandalism at its best. It is an extremely dangerous trip hazard or penetrate a car tyre should they drive over the bridge. [REDACTED]

[REDACTED] This issue needs to be address immediately.

This area provides great joy to a broader community. My late father who was wheelchair bound loved to sit by the creek and watch the mullet jump. I also witnessed a grandfather teaching his 4-year-old grandson how to fish. When the little boy caught his first ever fish the expression on his face was priceless. I often saw a Eurocare worker bring his teenage client here every fortnight and I am told it was the young man's favourite activity. I am sure local residents could provide you with many more stories, but they now refrain from visiting due to the intimidation, and harassment they have to endure.

Councillors, I ask for you to take a moment and reflect on my comments thus far and ask yourself you will be happy with your decision if you decide to close/ sell off this road. [REDACTED] would have exclusive access to Trunketabella Creek making this prime real estate with the value of his land increasing enormously. It begs to ask if this paves the way to potential subdivision. Will [REDACTED] be paying compensation for the loss of a Recreation Fishing Haven? We, the general public need transparency and answers. The adjacent landowner purchased this property knowing full well that a public road ran through the middle of the farm. If [REDACTED] was ill advised at the time of purchase, why should it be to the detriment of the general public.

[REDACTED] claims that his farm is subject to biosecurity issues. By law, signage must be displayed advising that it is Biosecurity farm, so where are the signs? Where is his Biosecurity Plan? [REDACTED] knew the constraints when he purchased the property in 2017, and did he think he could achieve a biosecurity farm with a public road running through the middle. Surely not! [REDACTED]

[REDACTED] Why hasn't [REDACTED] lodged a DA to build his own bridge on the southern end of Bowns Creek to connect both farms. This would alleviate his concerns about so called biosecurity and the cattle would have exclusive use of the bridge.

Moving forward I recommend that the Mean High-Water Mark and boundaries be identified, signposted and fenced to avoid any further confrontations and disputes. As per the NSW Dividing Fence Act 1991 [REDACTED] will be liable to contribute to the cost of this. (See Annexure A Crown Foreshore)

In closing if this road is to be sold, it should be listed for sale/ auction with a Licensed Real Estate Agent and advertised with such due notice. This would allow community groups or individuals an opportunity to purchase the said property so that the property can continue to be used by the general public.

Mayor Inness, and fellow Councillors, do you realise, each and every one of you have done nothing and I mean nothing for over 75 % of the time you have been in office. If this matter was addressed 3 years ago when I brought it to the attention of ESC, it would never have escalated to this level. There are so many questions that need answering. Why hadn't ESC acted sooner? What are you hiding? Who has a vested interest? Get out from behind your desks, make a decision and stop procrastinating. You should all hang your heads in shame. In the real world, if it took an employee 3 years plus to make a decision you would be performance managed and then sacked, so why are you

any different. All I can say is, I cannot wait for the upcoming elections. Let us see who here will survive and be in this room in October. We need to get rid of the spineless creatures with hidden agendas and elect people with a backbone. We need change and we need change NOW. Bring on September. It cannot come soon enough!

Thank you.

Sue Dunk





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Max Castle  
Tuross Head NSW 2537

6 June 2021

Dear Max,

The Tuross Head Fishing Club (THFC) would appreciate it if you could speak on behalf of the THFC supporting the motion to not privatise Coopers Island Road at the council meeting on 8 June.

As you are aware the THFC, which currently has approximately 85 members, has already sent individual letters to all Councillors outlining the reasons Coopers Island Road should remain a public road. The THFC appreciates those Councillors who responded.

Several members have commented that they find the following comment on page 11 of the Council report as either misleading and/or incorrect - "The withdrawal of access to recreational fishing from this site **MAY** have a negative impact on the community". Many community members, and certainly not limited to those from the fishing club, have been very vocal re this issue. Members understand even a petition has been arranged and sent to Council. So, there can be no confusion – selling the land **WILL** have a negative impact on the community.

It is not only fishing club members that access this unique water way. Indigenous people, kayakers, photographers, fishers etc would frequently visit this area, and leave no trace of their visit. It was created as a public road for a reason.

Generations of residents and visitors have enjoyed a harmonious visit to Bowns Creek over the years, noting that there are very limited access points to Bowns Creek. Fishing Club members struggle to understand how the new property owner, who purchased the property fully aware of the public road, now has his own agenda re privatisation. Fishing Club members have always respected the business interests and privacy of the landowner and in the past an amicable relationship existed. Why shouldn't future generations have the opportunity to visit Bowns Creek as previous generations have?

If you have any questions please contact myself on 0417 280 580 or email [gavrob2202@gmail.com](mailto:gavrob2202@gmail.com).

Yours sincerely

Gavin Robertson  
President – Tuross Head Fishing Club

## **ABE Public Forum Presentation 8/6/21 Regarding GMR21/029 Coopers Island Road**

Good morning. Thank you for the opportunity to address Council and the community this morning on Item GMR21/029, dealing with the sale of Coopers Island Road to the adjoining landholder.

I am presenting as Co-Convenor of A Better Eurobodalla (ABE), a community forum dedicated to having open and inclusive government in our region. ABE expects that before governments, at any level, make decisions that will impact their communities, they will undertake broad and meaningful consultation, listen to and share expert advice, and proceed using a transparent decision-making process so that the community understands who makes decisions, when and why.

ABE has applied these principles to the issue of the possible sale of Coopers Island Road, which leads it to **strongly support Option 2** that Council should **not** sell Coopers Island Road, and instead maintain the road as a public asset, with the illegal gate removed and appropriate signage erected on-site.

ABE presented to Council at Public Access session on the 4 May on alienation of public assets, citing examples of the premature closure and leasing of the Batemans Bay Community Centre, the closure of its Visitor Information Centres and the illegal gate on Coopers Island Road.

That presentation indicated that the extended delay in taking any regulatory action regarding the illegal gate on Coopers Island Road had fuelled community unease and speculation that Council's lack of action was the result of ongoing negotiations for the purchase of the public road by the adjoining landowner. Today's Council *meeting/paper* unfortunately confirms that this speculation was justified.

ABE notes that Council has claimed that, despite being aware of the illegal gate in October 2019, compliance was not pursued because of a focus on "bushfires and flood repairs". This is curious reasoning, given that extensive fires were already occurring in northern NSW in October with the fires forecast to spread south. It would be been in the community and wider public safety interest that an illegal gate be removed from a public road. This would facilitate ready access to a potential local watering point for use by any fire fighting units should the need arise. in the approaching fire season. An illegal gate could have literally had "life or death" consequences for emergency responders under bushfire conditions.

ABE noted in its 4 May presentation that sale of Coopers Island Road would remove public access to this valuable community asset and have significant implications for many other public roads and assets throughout the Eurobodalla Shire. ABE has reviewed the information provided in today's agenda papers, and sees no cogent reason to amend its position. ABE notes:

- The Eurobodalla community have been significantly impacted by natural disasters of bushfire, drought and flooding, as well as the COVID-19 pandemic, meaning that Council's community service and support responsibilities are now more important than ever. Council has been aware of public concern about the road for nearly two years, with a significant public petition urging Council not to sell the road being formally received at today's meeting. Any move to sell Cooper's Island Road would be at odds with the "community led" recovery approach which Council professes to be at the core of its own Eurobodalla Bushfire Recovery Action Plan.
- Expert advice tells us that strong community connections are a key to recovering from disasters such as the bushfires and COVID-19. The sale and public alienation of a significant public asset such as Coopers Road will directly impact a wide range of community groups and individuals who have used the site for decades. It will also cast a shadow over the security of other similar community assets throughout the Eurobodalla Shire, generating ongoing community concerns and unease.
- Council needs to recognise the long-term Aboriginal connection to Coopers Island, including local Aboriginal families who have cultural fishing links to the site going back for many generations. If Council has sought any advice on this issue from its own Aboriginal Affairs Advisory Committee, there is no mention of this group in today's agenda papers. If this is the case, why not?
- The owner of the adjoining land made a commercial decision in 2017 purchase the block "as is", with existing public use and access rights. This owner is now raising 'biosecurity' concerns as a reason for taking over the road. Today's agenda papers do not disclose any evidence that the owner actually has a valid biosecurity management plan in place or that they have fulfilled requirements of the relevant Act, including public signage. The community should not be expected to lose its existing use rights to such a valuable public asset in order to ameliorate an imperfect commercial decision made by a private entity under a smokescreen of unverified biosecurity concerns.
- ABE also draws to Council's attention advice it received on 31 May 2021 regarding public access to Crown Waterways over Council owned or Crown Roads which states:  
*'Please be advised that the Commissioner is of the view that, as a matter of principle, it is of the utmost importance to retain public access to Crown Waterways over Council owned or Crown Roads, and that those roads should not be privatised to exclude that public access'.*

ABE supports this advice from the Office of the NSW Crown Lands Commissioner.

The current situation reflects poor administrative practice, lack of transparency and meaningful consultation, and is at odds with informed advice regarding effective post-disaster community recovery practices.

As a consequence, ABE strongly supports Option 2 that Council should **not** sell Coopers Island Road, and instead maintain the road as a public asset, with the

illegal gate removed and appropriate signage erected on-site to facilitate ongoing public access to this valuable public asset. This is an opportunity for elected Councillors to prove their commitment both to the community and to good public administration.

Thank you for your attention.

Bernie O'Neil

Monday, 7 June 2021

Good morning councillors of the Eurobodalla Shire, ladies and gentlemen. My name is Garmon Brennan, aka 'Gwarpo,' Tuross local, and I am the sole creator responsible for the Garfish Petition to keep Coopers Island Rd. public, with continued free access to Bowns Creek.

I can speak for the 400 + people who all share the same view to keep this location public. That's why I started the petition. 291 signatures in only a four-day period. There have also been over 100 comments on a Facebook post in support of the petition. Due to COVID-19, the pandemic, the number of signatories would no doubt be far greater than the significant numbers we already have.

Recent visits to the area by various people have all followed a similar path -



Rubbish from human negligence is always a huge problem for our waterways and highways. Most fishos are decent. I know a lot of rubbish is flushed up into the backwaters during floods. There have been a fair few floods since the Coopers Island property was last purchased. The illegally erected fencing on and around the causeway that inhibits public access to the water will collect debris in future floods and end up in our waterways as it can flood up to 1m over the causeway. That same fencing prevents cars and emergency vehicles being able to pass or turn around safely. There are obvious liability issues here. There is no other access to the waterway west of Bowns creek causeway, meaning that, if the public road were sold, access would be eliminated altogether and it would become the land owner's personal waterway and property.

Historical and cherished memories for hundreds of families, hobbyists and sportspeople from the community and afar, canoeing, birdwatching, family picnics, photography, relaxation / meditation and a top fishing spot would all be lost, severely impacting what the community has to offer to both locals and those who visit the area. For this reason I strongly support retaining Coopers Island Road with continued free public access to the waterway.

Please don't sell our road.

Thank you for your time and consideration,  
Garmon Brennan



Regarding- GMR21/029 Coopers Island Road Bodalla

Coopers Island Road is a public road that gives the only access to locals for fishing, prawning and kayaking on Bowns Creek, which connects Trunketabella Lake to the Tuross River. Everyone has enjoyed this lovely area for many years until the new owners put a gate across the road and a fence across the bank to the water.

This illegal gate and fence was erected in mid 2019, 2 years ago. The gate is illegal because it is a public road. The only permissible way to gate a public road is via a permit which would be issued by the Council but this has not been done. The Council were informed many times of the gate and the fence by the community. Yet strangely staff have not removed the gate and fence as per normal procedure.

When will this gate be removed? It is against the law to erect a gate across a public road. If the owner wants to legally put a gate up, they must apply for a Gate Permit. That requires not only an application but also community consultation. Only after an application is lodged and the community agrees to the erection can the gate be installed.

Why have Council staff not carried out their duties in this instance? I have the utmost respect for our Council staff which makes me curious about what directions they were given about this gate, and who they were getting directions from. I'm also curious about why the Minister for Roads, and our local member Andrew Constance has not appeared to have taken an interest in this matter. As Minister for Roads, he has ultimate responsibility for ensuring that public roads are accessible, and he has ultimate responsibility for ensuring illegal acts such as blocking a public road are dealt with. What has Minister Constance done with regard to this matter?.

To be frank, I don't care who ordered who to do something or nothing. We know it was someone who cares little for the community. We know it shows yet again how little community opinion matters to these Councillors and this Mayor. We know the whole situation stinks like a bucket of old prawns we now can't get from this area!

The community do not agree that this gate should be installed. The community do not agree to a fence prohibiting their access to a public waterway. The community are baffled, frustrated and downright angry at the lack of Council action on this very clear and simple matter.

Along with the Bay Pavilions creating a 25m pool in place of a perfectly good 50 metre pool, the bowling club site being sold privately, the tourist information centres being closed to name a few this is yet another major disappointment and huge let down for our Shire. Yet another embarrassing, sad outcome.

The councillors in front of us have a choice today. The report on Coopers Island road, provides them with the opportunity to show that they are in fact listening to the community they serve, and endorse option 2 of the report in front of them.

The community is watching you very carefully today, and will remember very clearly how you voted when they make decisions about who will sit around the Council table from September.

Please make this blatant disrespect of our community stop. Take the gate and the fence down, let our community have one small win just for once during this Council's reign.



My name is Heide Smith. I am 83 years old and have been a professional photographer most of my life. I am a FELLOW of the AIPP, the Australian Institute of Professional Photographers.

My husband and I retired from Canberra to the coast in 1998. Though retired from the everyday work in our Studio, I have never stopped photographing people and landscapes, producing books- 11 to date- and exhibitions. (Amongst others 'Australia's Oyster Coast' in 2014)

A couple of years ago I tried to access the waterways off Coopers Island. But I was stopped by an unfriendly- [REDACTED] person, telling me not to go any further. Here I was, hoping to get some exiting new images for a new project.

I cannot understand that a compromise between the company producing Wagyu beef and recreational visitors cannot be reached.

These waterways should be accessible to the public without posing a threat to the beef industry.

Heide Smith

[www.heidesmith.com](http://www.heidesmith.com)

My comments address issues appearing on page 12 of the Report, under the sub headings of Economic and Social and Environmental Impact. I mingle the three issues in this comment.

I regard the responsibility for assessing the likely disruptive affects of Cooper Island Public Road as cited in the report lies solely with the Owner. I presume that an assessment of these affects was made prior to purchase. The decision to proceed therefore is a considered decision, very probably taken with the hope and expectation of purchasing and closing the roadway to the public at some future date. Such a course of action must surely be regarded as “a speculative venture” to which the axiom *Caveat emptor* applies. Let the buyer beware.

The issue is now about to be decided, in this place. It is being made under the culture, customs and law that have evolved from those being practised in England in the late 18th century. This has a basis in proprietorial and exclusive possession of property. This is mine, therefore it is not yours, so I can fence you out and do as I wish with it.

Aboriginal culture, custom and law derives from starkly different concepts which I must say I find very difficult to describe. My understanding, expressed simply, and in no way comprehensively, is that to be “on Country” is to be free to move without restriction, to be intimately familiar with every tangible constituent of the landscape while simultaneously being in the presence of everything spiritual that is now past. “Country” provides for all their needs: it nurtures them, and is nurtured in return. To be separated from “Country” is akin to a form of amputation and mental torture.

These concepts are alive still in the hearts of the many members of our community who acknowledge and revere their Aboriginal forbears, whose families lived and worked on the farms that usurped their “Country” but who, through their work on the land maintained some semblance of connection. There are many accounts about Aboriginal families harvesting and crop picking on Coopers Island farm, even until the 1950's. But even this connection has dwindled as itinerant and casual farm work has become mechanised.

Fishing in the waters of ancestral “Country” is about the only possible connection remaining. To have that severed after so many millennia, six thousand, seven thousand years, would be truly devastating. This severance is described in the Report to Council as ‘The withdrawal of access to recreational fishing from the site may have a negative impact on the community’. How utterly inadequate to say the least. It demonstrates a total lack of understanding, and a shocking indifference to another culture which is entirely unwarranted.

This remnant connection to “Country” must be maintained. The road must not be sold.

The last sighting of Australian Grayling fish in the Tuross River was in 2004. The species can be regarded as locally extinct. It survived in association with the local Aboriginal community over many millennia, but declined to local extinction in less than two hundred years after European settlement. It is one of a number of species of fish that spend a part of their life cycle in the salty ocean: an early part of that cycle in this species. They then return to the freshwater river and tributaries to live out the rest of their lives. The significance of this behaviour is its involvement with all features of the catchment. Where lies the problem? Is it with the estuary, or the lake, the river, or on the adjacent farmland, or the forests above. Probably there are multiple causes.

I would like to understand the reason. I think it should be of concern to everyone who lives, works and plays and who manage things, in the Eurobodalla. It could, it should provide a compelling motive for combining expertise and energy, and uniting disparate interests throughout the whole Tuross River catchment. There may be a warning message for us all in the reasons for its demise.

So I close with a plea: anglers, farmers, and others, please unite. A common problem needs a combined response. Local communities are at their best and are formidably effective when working together. Differences should not be exploited and expanded into rifts. Respect for the legitimate rights of others must always be observed.

Attachment: Anglers Association Code of Access to Waterways.

# Access rights and privileges in NSW - NSW Angler Access -

AGREED BY THE ASSOC<sup>n</sup>

## Fishing access to the sea, rivers and creeks

At common law, the public has a right to fish in the sea, the arms of the sea and in the tidal reaches of all rivers and estuaries.

The public has no common law right to fish in non-tidal waters—the right to fish in those waters belongs to the owner of the soil under those waters. The public may also fish in non-tidal waters if the soil under those waters is Crown land. However in order to allow for angling access in NSW rivers and creeks, section 38 of the NSW Fisheries Management Act 1994 declares that the public has a right to fish *despite the private ownership of the bed of the river or creek*.

The NSW Fisheries Management Act 1994 No 38

Part 2, Division 5, Section 38

Right to fish in certain inland waters

(1) A person may take fish from waters in a river or creek that are not subject to tidal influence despite the fact that the bed of those waters is not Crown land if, for the purpose of taking those fish, the person is in a boat on those waters or is on the bed of the river or creek.

(2) The right conferred by this section is subject to the other provisions of this Act.

(3) In this section, bed of a river or creek includes any part of the bed of the river or creek which is alternatively covered and left bare with an increase or decrease in the supply of water (other than during floods).

This legislation ranks above anything you may have heard about 'old title' and 'Queen's chain' access.

Under this legislation you can legally access streams by entering from public land such as road crossings and some types of reserves.

### **Access across private land**

There is no automatic legal access across private land in NSW to reach angling locations. You cannot walk across a paddock or yard to reach the river without permission of the land owner.

If you are granted permission to walk or drive across private land, make sure you leave gates as you find them, don't drive across crops, disturb stock, interfere with farm machinery, light fires or create any other nuisance, risks or damage. Do not take dogs or guns unless you have specifically negotiated this with the land

owner. If you see injured stock or other problems when you are on a farm, immediately alert the farmer.

## **Negotiating access across private land**

Owners of properties adjacent to popular fishing locations are often wary of giving access to anglers. They have quite reasonable concerns about fires and other risks, damage to their properties, disturbance of their stock and crops, presence of dogs, use of firearms and so on. Some anglers also fail to recognise that the land is private property, just as a suburban front yard is, and that the land owner and his family is entitled to privacy and security.

However fishing access across private property can usually be negotiated by a courteous approach to the land owner, giving all due recognition to the owner's privacy, rights and concerns. We suggest you visit, phone or write to the property owner, asking for the privilege to enter their property to fish.

You should clearly state your name, address and phone number, the date you hope to fish at the location, description and registration of your car and the number of people in your party. You should promise to stay as close as possible to the stream and not cross the property unnecessarily, not to take dogs or guns onto the property and not to light fires unless agreed by the landowner.



You should try and make contact personally when you visit the property, even if access has been negotiated by phone or letter. If you visit the property to request access, make sure you offer to leave the landowner with your details (name, address, phone number, etc written out) so that they know they can contact you if they discover any problems after you have left.

Remember that if you have negotiated access for yourself, it does not mean you have negotiated it for all your mates. They should get their own permissions.

Being granted access once does not mean you have some sort of perpetual permission... if you intend to visit the property again always make contact beforehand. The situation may have changed, eg at certain times of the year a farmer may not want stock disturbed, or the landowner may have invited someone else to visit the property that day. Be courteous and flexible and ask if access on another occasion might be possible.

*Access laws vary from state to state. The advice above applies to NSW. Other parts of Australia have different property laws. For information contact your state's fisheries department.*

Good morning, Madam Mayor, Councillors and local community members

Coopers Island Farm is historically a working farm. Coopers island Road was originally a private right of way to access the island portion of the holding.

It became a public road on compassionate grounds when council purchased the road from the farm's widower, after her husband drowned building the bridge.

The road corridor is only 10 metres wide. It was never built or designed for the purpose of public use. Hence the narrow width. This explains why there is no council or crown reserve adjoining the road or anywhere at this location.

The public use has been facilitated by the previous owners, allowing the public to park on private land. We understand the public are not aware of this. We do not dispute the right of members of the public to use Coopers Island Road but we do object to the general public preventing us from exercising the same right to pass along and to use the property for its intended purpose. Zoned agriculture.

We obviously knew it was a public road when we purchased the property. We did not foresee the public restricting our business operations. We were met with resentment by the small minority in regard to change of ownership and farming practices. The online and public smear campaign against us deserves no comment. We would however like to thank those fisher people who have approached us, embarrassed by this minority, hoping it did not reflect badly on the wider fishing community. They have been nothing but understanding and welcoming.

We have had and continue to have significant problems with theft, malicious damage and trespass. Cutting of water pipes, fences and rubbish left behind.

We were told by council staff via letter on the 31st of May 2018 that appropriate measures should be undertaken to secure our property, including fencing. We fenced the entrance to the causeway for practical purposes, to funnel cattle and drive stock across and stop them escaping either side of the bank. Fencing was also erected for environmental obligations, narrowed on private property. Access still exists to the water, contrary to the views of some community members.

There were half a dozen incidents where black cattle were jumping the cleaned out cattle grid onto the Princes HWY. Not only once, as stated in the council report. This was documented by the council ranger, police and neighbours. It was suggested we erect the gate urgently to avoid a potential fatality. The planning department gave verbal approval to erect the gate under section 128 of the roads act provided we obtained a survey to ensure the gate was correctly located. The gate is not locked and never has been. The public gate signs that were attached were stolen on two occasions.

The council report is incorrect in stating that the road is fenced. It has never been fully fenced. Therefore there should be no further delay in obtaining approval in writing.

The private property sign is there to obviously deter people from walking through paddocks, excreting and trespassing on private property which has occurred, this is documented in several police reports and is a biosecurity risk to the farm operations. There is a biosecurity plan in place. The signs were stolen along with the Public Gate signage.

Detective Senior Constable Steven Heffernan south coast rural crime investigator has met with council staff directly, warning them someone will be killed at this location with pedestrian access continuing amongst a commercial cattle operation. This meeting with council and Constable Heffernan has not been included in the council report.

An independent road safety audit conducted on Coopers island rd states that the current risk level with pedestrians on the causeway and bridge is 'intolerable' meaning a high risk of death and serious injury. The council has a common law duty of care to take all reasonable steps to prevent harm from occurring. The audit clearly states No stopping No fishing along Coopers Island Rd.

We have confirmation there are two threatened ecological communities adjacent to the causeway. Under the fisheries management act 94 it is illegal to allow trampling by people and uncontrolled stock access. This underpins the necessity of current fencing along certain areas of riverbank

The council report states the closure of Coopers Island Road will permanently prevent public fishing access to Bown's Creek. This is false. Many people access Bowns Creek by the RMS waterways access points in the Tuross Lake system or, at the Trunketabella Bridge 150 metres away. This was evident at the recent annual Tuross Lake fishing competition. Fishing from boats and kayaks either side of the causeway and bridge. Boats and Kayaks also pass under the bridge. Not one of these fishers entered from Coopers Island Road. Stating that fishing access to Bown's Creek is lost, is incorrect.

Our current investment in this local agricultural enterprise is \$6m and a further expansion of an additional \$10m is in jeopardy. We have voluntarily fenced 17km of foreshore, sacrificing over 100 acres of grazing country. Planting 3200 trees and making significant personal investment in conjunction with the LLS. This was done to enhance water quality for both fishers and local oyster farming industries, as well as safeguard protected species and reduce erosion.

Financial costs of road realignment and urgent resurfacing which is overdue to be done was quoted by Cleary Bros as \$220,000.00. Council staff estimates of \$40,000 to realign the road is unrealistic. The suggestion that it is just the section approaching the causeway that needs to be moved into the road reserve is false. There are 3 other points along the road that need to be

moved and major culvert and drainage works undertaken. This is wasted money that will not resolve anything if the road is moved into the road reserve.

This is a land use conflict. There is no crown land reserve. It is not gazetted for public recreation. If it was, we could understand why we are all here today. As it stands the situation is untenable.

This issue is not going away. Nor will it change by moving the road. Council can spend a significant amount of rate payers money on this and the problems will still exist. It will only appease a handful of fisher people and not the 37,000 members of the wider community that council represent.

We are willing to negotiate a fair price. An outcome that equates to everyone's benefit. Money that can be reinvested to fund better facilities for fishers and all rate payers in our local community.

Thank you