



AGENDA

Ordinary Meeting of Council

25 July 2023

Statement of Ethical Obligations

The Mayor and Councillors are reminded that they remain bound by the Oath/Affirmation of Office made at the start of the council term to undertake their civic duties in the best interests of the people of Eurobodalla Shire Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the *Local Government Act 1993* or any other Act, to the best of their skill and judgement. The Mayor and Councillors are also reminded of the requirement for disclosure of conflicts of interest in relation to items listed for consideration on the Agenda or which are considered at this meeting in accordance with the Code of Conduct and Code of Meeting Practice.

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

ON TUESDAY 25 JULY 2023

COMMENCING AT 12.30PM

AGENDA

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

- 1. WELCOME**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. APOLOGIES**
Nil
- 4. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**
4.1 Ordinary Meeting held on 27 June 2023
- 5. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA**
(Declarations also to be made prior to discussions on each item)
- 6. MAYORAL REPORTS**
Nil
- 7. NOTICES OF MOTION**
NOM23/002 Upgrades to Evacuation Centres..... 3
- 8. QUESTIONS ON NOTICE FROM COUNCILLORS**
Nil
- 9. PETITIONS**
Nil
- 10. GENERAL MANAGER'S REPORTS**
Nil

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11. PLANNING AND SUSTAINABILITY REPORTS
PSR23/025 Mogo Artisans Community Facility 5
PSR23/026 Land Acquisition for Road Widening, Hawkins Road, Tuross Head 9

12. FINANCE AND CORPORATE SERVICES REPORTS
FCS23/017 Investments made as at 30 June 2023 13

13. INFRASTRUCTURE REPORTS
Nil

14. COMMUNITY, ARTS AND RECREATION REPORTS
Nil

15. DELEGATE REPORT

16. URGENT BUSINESS

17. DEALING WITH MATTERS IN CLOSED SESSION17

18. CONFIDENTIAL MATTERS

WARWICK WINN
GENERAL MANAGER

NOM23/002 UPGRADES TO EVACUATION CENTRES

S012-T00026, S008-T00017

Responsible Officer: Anthony Mayne - Councillor

Attachments: Nil

Councillor Anthony Mayne has given notice that at the Ordinary Meeting of Council on Tuesday 25 July 2023, he will move the following motion.

MOTION

THAT

1. Council continues to advocate with relevant State Agencies for ensuring emergency preparedness.
2. Council writes to the NSW Government requesting upgrading of the Council facilities used for evacuation centres in the 3 major towns, to ensure that they have appropriate infrastructure (air conditioning etc.) and generators to service the facilities in the case of an emergency.
3. Council work with local communities and the responsible State Agencies to ensure all relevant emergency signage is clear and appropriate.

BACKGROUND

With the forecast of a dry summer, winter provides us with the opportunity to prepare our bush fire survival and emergency plans. At a recent community association meeting there was a very good discussion about preparing for summer and how planning together enhanced both resilience and vigilance. Following several wet years, including the impact of Covid, it was a timely reminder to ensure that we remembered the lessons of 19/20 and that we also applied those learnings on both a personal basis and as a community. Council has an important role to play but recognises the key roles and responsibilities of the state government agencies.

PSR23/025 MOGO ARTISANS COMMUNITY FACILITY

LAND ID 16304

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

Attachments: 1. Confidential - Submissions of support
2. Confidential - Submission of objection

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.2 Manage leases and licences

EXECUTIVE SUMMARY

The purpose of this report is to seek approval for Council to grant leases for a cultural community space at Mogo.

Community groups are working with Council to develop such a space as part of action 1.26 from the [Mogo-Village-Place-Activation-Plan](#) 'Investigate a multi-function cultural/community space on the corner of Tomakin Road and Princes Highway'. The groups currently interested in achieving a lease of part of the space are the:

- Eurobodalla Woodcraft Guild
- Moruya Antique Tractor and Machinery Association
- Batemans Bay Lapidary Club, and the
- Classic and Vintage Motor Club of Eurobodalla.

The subject property proposed for leasing to the groups is Lot 7300 DP1134456 being Crown land under Council management.

Public notification for the proposed lease was undertaken from 9 May to 5 June 2023.

Copies of the submissions may be perused in the confidential attachment to this report. There were 32 supportive submissions and one objecting.

RECOMMENDATION

THAT

1. Council as Crown land manager approve leases over part Lot 7300 DP 1134456 at Mogo for 20 years to community groups including Eurobodalla Woodcraft Guild, Moruya Antique Tractor and Machinery Association, Batemans Bay Lapidary Club and Classic and Vintage Motor Club of Eurobodalla including the following conditions:
 - (a) the provision of \$20 million public liability insurance
 - (b) Rental to be Crown Land Minimum for any community groups, currently \$574.00 per annum.
2. The General Manager be delegated to carry out all necessary actions to enter into leases within Lot 7300 DP 1134456.

PSR23/025 MOGO ARTISANS COMMUNITY FACILITY

**LAND ID
16304**

BACKGROUND

This report is in relation to Action 1.26 from the [Mogo-Village-Place-Activation-Plan](#) 'Investigate a multi-function cultural/community space on the corner of Tomakin Road and Princes Highway'.

To deliver on this action, Council staff have been working with community groups to assist them in developing such a space. Currently there are four groups being the Eurobodalla Woodcraft Guild, Moruya Antique Tractor and Machinery Association, Batemans Bay Lapidary Club and Classic and Vintage Motor Club of Eurobodalla.

On 24 November 2020 Council resolved to enter into a lease with the Eurobodalla Woodcraft Guild (Minute No: 20/220). Lot 7300 DP1134456 in Mogo was one of the potential sites endorsed in that report (CCS20/043).

Discussions have been held with the community groups, advising that the rental of the proposed 20-year leases will be at Crown Land minimum, currently \$574 per annum, on the basis that Council does not bear any costs on development of the space and all development fees and costs are paid by the groups.

CONSIDERATIONS

Legal

Lot 7330 DP1134456 is a Crown Reserve under the management of Council as Crown Land Manager.

The Crown Land Management Act 2016 commenced on 1 July 2018. A Crown Land Manager (CLM) is responsible for the care, control and management of appointed Crown Reserves on behalf of the people of NSW. CLMs oversee the appointed reserves, buildings, assets and infrastructure, along with administering the Crown leases and licences for these locations.

[Crown Land Management Act 2016](#)

Crown Lands have confirmed that the purpose of the building is consistent with the reserve purpose being Public Recreation.

Development approval would be required and this is the responsibility of the lessees.

The term of the leases to the community groups is 20 years.

Council will comply with any relevant legislation and procedures in relation to Native Title and Aboriginal land rights and interests.

Policy

The lease will be created in accordance with Council's Land Management- Acquisition, Disposal and Leasing/Licensing Policy (Land Policy).

[Land-Management-Acquisition-Disposal-and-Leasing-Licensing-Policy-final-for-adoption.pdf \(nsw.gov.au\)](#).

PSR23/025 MOGO ARTISANS COMMUNITY FACILITY

**LAND ID
16304**

Asset

Council will not own the assets but will achieve beneficial community facilities. Development approval will be required and discussions with the community groups about the design are ongoing. Council's approval of leases does not affect the need for development approval.

Social Impact

Community groups and the general community will benefit from this cultural community space.

Financial

Rental for the land for any community groups is to be the Crown Land minimum, currently \$574 per annum. No costs are proposed to be borne by Council.

Community and Stakeholder Engagement

Council, as Crown Land Manager under the Crown Land Management Act 2016, can issue a lease or licence after giving public notice and considering any submissions in accordance with Section 47 of the *Local Government Act 1993*.

Public notification for the proposed lease was undertaken from 9 May to 5 June 2023.

Thirty-two supportive submissions have been received together with one submission querying the traffic implications at the intersection of Tomakin Road and Charles Street. Copies of submissions are attached as a confidential attachment.

Advice has been received from Infrastructure Services regarding the intersection and a roundabout is proposed. Funding for that roundabout is not yet secured.

The concerns raised in the submission regarding traffic are noted and will be dealt with as part of the Development Application process for the facilities.

[s47 Local Government Act 1993- NSW Legislation](#)

CONCLUSION

It is recommended that Council support 20-year leases to community groups including Eurobodalla Woodcraft Guild, Moruya Antique Tractor and Machinery Association, Batemans Bay Lapidary Club and Classic and Vintage Motor Club of Eurobodalla, for the creation of a cultural community space.

**PSR23/026 LAND ACQUISITION FOR ROAD WIDENING, HAWKINS ROAD,
TUROSS HEAD**

**LI 3299,
3300**

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

Attachments: 1. Confidential - Hawkins Road widening

Community Goal: 5 Our engaged community with progressive leadership

Community Strategy: 5.3 Work together to achieve our collective vision

Delivery Program Link: 5.3.2 Manage land under Council control

Operational Plan Link: 5.3.2.1 Undertake strategic management of Council's operational land portfolio

EXECUTIVE SUMMARY

The purpose of this report is to seek Council's approval for the acquisition of land for road purposes.

Hawkins Road and Evans Road at Tuross Head are being upgraded with the construction of a shared public pathway. The shared pathway along Hawkins Road and Evans Road will link the existing shared pathway system, bounded by the shopping centre, Tuross Boulevard and Craddock Street.

The project requires the acquisition of approximately 31.1 square metres of private land in Hawkins Road for road purposes, being part Lot 22 and 23 DP 15425. The total area of land to be acquired is subject to a final survey.

All survey, valuation and legal costs associated with the acquisition will be borne by Council. The landowners' details are set out in the confidential attachment.

RECOMMENDATION

THAT:

1. Council approves the purchase of the land required for road purposes, being part Lot 22 and 23 DP 15425
2. All actions necessary be taken for the acquisition of part Lot 22 and 23 DP 15425 for road purposes in accordance with *Council's Land Management – Acquisition, Disposal and Leasing/Licensing Policy*.
3. If the acquisition of part Lot 22 and 23 DP 15425 cannot be negotiated by agreement, Council make application to the Minister for Local Government and Governor to acquire part Lot 22 and 23 DP 15425 by compulsory process for road widening pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991*.
4. Once acquired, the land be dedicated as public road in accordance with the provisions of the *Roads Act 1993*.
5. All costs associated with the proposed land acquisitions including landowners' reasonable costs, be borne by Council.
6. The General Manager be given delegated authority to execute all necessary documentation.

**PSR23/026 LAND ACQUISITION FOR ROAD WIDENING, HAWKINS ROAD,
TUROSS HEAD**

**LI 3299,
3300**

BACKGROUND

Hawkins Road and Evans Road at Tuross Head are being upgraded with the construction of a shared public pathway. The shared pathway along Hawkins Road and Evans Road will link the existing shared pathway system.

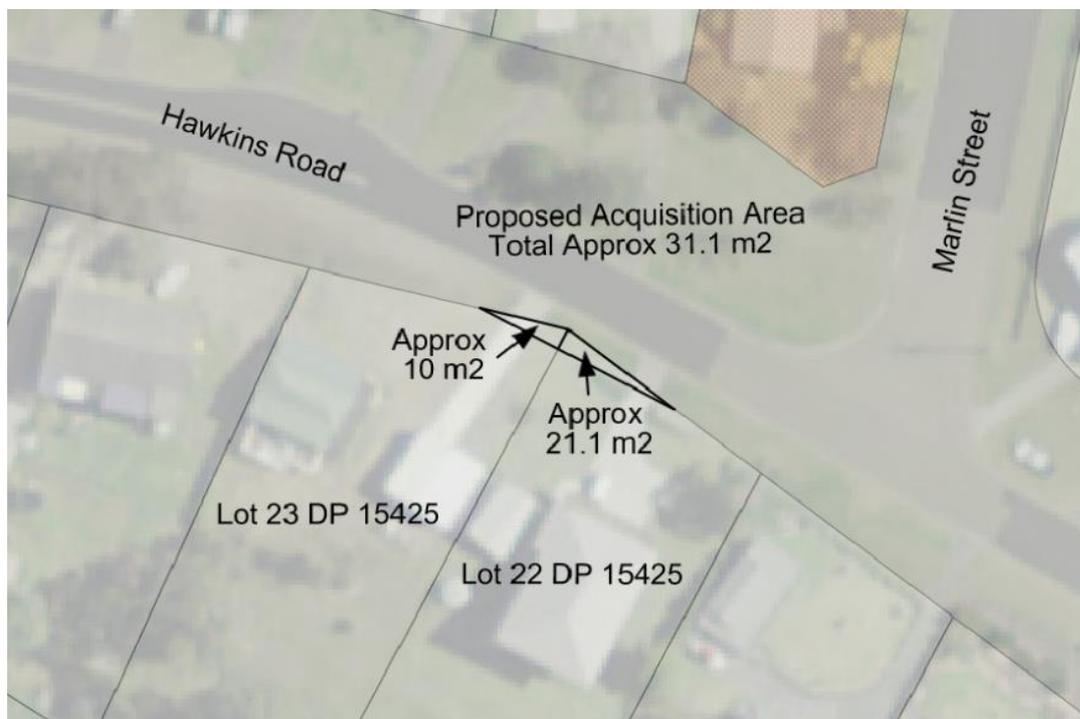
Preliminary construction has commenced. The pathway component of this project, including works at the front of Lot 22 and 23 DP 15425, will be completed by December 2023. There is also a pedestrian crossing to be constructed, which should be completed by June 2024.

As part of those works, acquisition of private property, being part Lot 22 and 23 DP 15425, is required and will be in accordance with the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*. A written agreement was obtained from the private landowners to allow the works currently in progress to be undertaken.

This project requires the acquisition of a total of approximately 31.1 metres of land for road widening, subject to a final survey.

CONSIDERATIONS

The acquisition areas are shown in the sketch below:



Land to be acquired for road widening - Part Lot 22 and 23, DP 15425

Legal

A plan of acquisition of land for road widening will be prepared and lodged at NSW Land Registry Services, and the parts of land acquired will be dedicated as public road.

**PSR23/026 LAND ACQUISITION FOR ROAD WIDENING, HAWKINS ROAD,
TUROSS HEAD**

**LI 3299,
3300**

Council will seek to complete the acquisition of the segments of privately-owned land, being part Lot 22 and 23 DP 15425, by agreement. If acquisition by agreement is not achieved, it may need to proceed by compulsory process.

Acquisition, whether by agreement or compulsory acquisition, will be in accordance with the provisions of *the Land Acquisition (Just Terms Compensation) Act 1991*.

[Roads Act 1993 s177](#)

[LAJTC Act 1991](#).

Policy

The acquisition of land for road purposes will proceed in accordance with the Council's *Land Management – Acquisition, Disposal and Leasing/Licensing Policy* adopted by Council on 22 November 2022.

Asset

Council's formed pathways are a Council asset. Pathways are managed in accordance with Council's *Pathways and Shared Pathways Risk Management Policy*.

Social Impact

The provision of shared pathways improves walkability and cycling in towns and neighbourhoods.

Financial

Compensation for the acquisition of the segments of private land will be determined following valuations by registered valuers.

Together with compensation, Council will be responsible for costs associated with the acquisition, including survey and legal fees, and the landowners' reasonable legal costs.

The project is funded through the Transport for Get NSW Active Program grant of \$330,000.00.

Community and Stakeholder Engagement

The landowners of the private land to be acquired, being part Lot 22 and 23 DP 15425, have each signed agreements prior to works commencing within their property, and discussions on the proposed acquisition are continuing.

CONCLUSION

The construction of the pathway at Hawkins Road Tuross Head requires the acquisition of approximately 31.1 metres in total for road widening (the final area is subject to a survey).

This report recommends approval of the acquisition of land for road purposes at Hawkins Road.

FCS23/017 INVESTMENTS MADE AS AT 30 JUNE 2023

S011-T00006,S012-T00025

Responsible Officer: Stephanie Speedy - Director of Finance and Corporate Services
Attachments: Nil
Community Goal: 5 Our engaged community with progressive leadership
Community Strategy: 5.3 Work together to achieve our collective vision
Delivery Program Link: 5.3.1 Provide strong corporate and financial management that is ethical, fair, transparent and accountable
Operational Plan Link: 5.3.1.1 Provide sound and strategic financial management and 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 of investments as at 30 June 2023, 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.

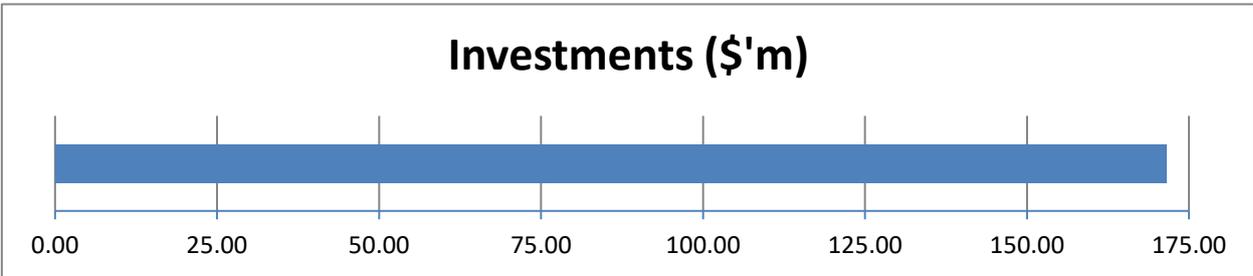
CONSIDERATIONS

Policy

The portfolio is compliant with Council’s Investment Policy adopted by Council on 9 August 2022 (Minute 22/190).

Financial

Council investing overall



Council has \$171.48M (100%) invested in bank deposits. The bank deposits are held in banks rated A or greater, or covered by the AAA rated Government guarantee, except for \$43.5M invested in banks rated below A, and in the ‘some limited risk’ category of the policy.

FCS23/017 INVESTMENTS MADE AS AT 30 JUNE 2023

S011-T00006,S012-T00025

The Federal Government announced payment for the 2023-24 Financial Assistance Grant of \$8,550,984 would be fully paid in advance during June 2023. Council also received loan proceeds of \$11,338,930 in June 2023. As a result, investments increased by \$15m at the end of June 2023.

The 'some limited risk' category is now restricted to BBB+ rating institutions which allows up to 30% of all investments. Currently, 25.37% invested in BBB+ rating category. Investment in Government guaranteed deposits is \$1.75M representing 1.02% of the portfolio.

There are \$67.0M (39.07%) of funds invested in institutions which either have no direct financing exposure to projects in the fossil fuel sector or no longer directly finance projects in the fossil fuel sector but still have some exposure from historical funding.

The weighted average return for all investments for the month is 4.65%, which is above the Council policy benchmark of bank bill swap rate (BBSW) + 0.25% (4.23%).

Summary investment information

The following table is a summary of investment categories and balances at month end.

CATEGORY	(\$)
At call deposit	12,219,898
Term deposits	157,510,000
Term deposits Government guaranteed	1,750,000
	171,479,898
<i>Weighted average interest %:</i>	4.65%
<i>Average 90 day BBSW + 0.25%</i>	4.23%

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.

Policy risk	Low liquidity risk %	Total % of investments	Policy risk % (max holdings)
Remote risk	1.02	1.02	100.00
Near risk free	73.61	73.61	100.00
Some limited risk (BBB+)	25.37	25.37	30.00

FCS23/017 INVESTMENTS MADE AS AT 30 JUNE 2023

S011-T00006,S012-T00025

Grand total	100.00	100.00	

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 2022 is 3.63:1. Council therefore has approximately \$3.63 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.

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.

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@esc.nsw.gov.au	www.esc.nsw.gov.au
ICAC	8281 5999	icac@icac.nsw.gov.au	www.icac.nsw.gov.au
The Office of Local Government	4428 4100	dlg@dlg.nsw.gov.au	www.dlg.nsw.gov.au
NSW Ombudsman	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.