



Minutes

Ordinary Meeting of Council

25 August 2015

ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 25 AUGUST 2015

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**MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN THE COUNCIL CHAMBERS, MORUYA
ON TUESDAY 25 AUGUST 2015
COMMENCING AT 10.05AM**

PRESENT: Councillor Lindsay Brown, Mayor (in the Chair)
Councillors Danielle Brice, Neil Burnside, Gabi Harding, Liz Innes, Rob Pollock OAM and Peter Schwarz

Staff: Dr Catherine Dale, General Manager
Mr L Usher, Director, Planning and Sustainability Services
Mr W Sharpe OAM, Director, Infrastructure Services
Mr A O'Reilly, Director, Finance and Business Development
Ms K Bush, Acting Director, Community, Arts and Recreation
Mrs C Hodges, Minute Secretary

1. WELCOME AND EVACUATION MESSAGE

The Mayor welcomed everyone to the meeting, acknowledged the Traditional Owners and advised of the Evacuation Procedure.

2. APOLOGIES

APOLOGY

15/53 MOTION Councillor Innes/Councillor Burnside

THAT apologies be received from Councillor Milton Leslight and leave of absence be granted.
(The Motion on being put was declared **CARRIED**)

3. QUESTIONS FROM PUBLIC GALLERY (AGENDA ITEMS ONLY)

(Minutes of Questions from the Public Gallery are a summary only and do not purport to be a complete transcript of the proceedings.)

PF15/011 GMR15/025 Proposed Dargues Gold Mine Project Modification 3

E15.9042; E10.4422

Mr Richard Roberts, representing Coastwatchers, addressed Council in relation to item GMR15/025 Proposed Dargues Gold Mine Project Modification 3. A copy of Mr Roberts' submission is available on Council's website.

3. QUESTIONS FROM PUBLIC GALLERY (AGENDA ITEMS ONLY) (contd)

(Minutes of Questions from the Public Gallery are a summary only and do not purport to be a complete transcript of the proceedings.)

PF15/012 GMR15/025 Proposed Dargues Gold Mine Project Modification 3

E15.9042; E10.4422

Mr Matt Darwon, representing the Majors Creek Catchment Guardians, addressed Council in relation to item GMR15/0235 Proposed Dargues Gold Mine Project Modification 3. A copy of Mr Darwon's submission is available on Council's website.

PF15/013 GMR15/025 Proposed Dargues Gold Mine Project Modification 3

E15.9042; E10.4422

Mr Peter Cormick addressed Council in relation to item GMR15/0235 Proposed Dargues Gold Mine Project Modification 3. A copy of Mr Cormick's submission is available on Council's website.

PF15/014 GMR15/025 Proposed Dargues Gold Mine Project Modification 3

E15.9042; E10.4422

Dr Emmett O'Loughlin addressed Council in relation to item GMR15/0235 Proposed Dargues Gold Mine Project Modification 3. A copy of Dr O'Loughlin's submission is available on Council's website.

PF15/015 GMR15/025 Proposed Dargues Gold Mine Project Modification 3

E15.9042; E10.4422

Mr Andrew McIlwain, Uniting Mining Managing Director and CEO, addressed Council in relation to item GMR15/0235 Proposed Dargues Gold Mine Project Modification 3. A copy of Mr McIlwain's submission is available on Council's website.

4. PRESENTATIONS

Nil

5. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

15/54 MOTION Councillor Harding/Councillor Pollock

THAT the minutes of the Ordinary Meeting held on 11 August 2015 be confirmed.

(The Motion on being put was declared **CARRIED**)

6. DECLARATIONS OF INTEREST OF MATTERS ON THE AGENDA

E87.6800; E99.3060; 10.4128.S

Councillor Schwarz declared a non-significant, non-pecuniary conflict of interest in IR15/036 Tender for Establishment of bulk Materials Supply Panel – Tender No 2015-ISD057, and CON15/013 Property Matter and stated that he would leave the Chamber during discussions and voting on these matters.

Reason: Councillor Schwarz declared an interest as he has a friendship with the parties involved.

E87.6800; E99.3060; 10.4128.S

Councillor Innes declared a non-significant, non-pecuniary conflict of interest in IR15/036 Tender for Establishment of bulk Materials Supply Panel – Tender No 2015-ISD057, and CON15/013 Property Matter and stated that she would leave the Chamber during discussions and voting on these matters.

Reason: Councillor Innes declared an interest as she has a working relationships with one of the parties involved.

7. MAYORAL REPORTS

Nil

SUSPENSION OF STANDING ORDERS

15/55 MOTION Councillor Burnside/Councillor Pollock

That Standing Orders be suspended in order to deal with item GMR15/025 Proposed Dargues Gold Mine Project Modification 3.

(The Motion on being put was declared **CARRIED**)

GMR15/025 PROPOSED DARGUES GOLD MINE PROJECT MODIFICATION 3

File Ref: E10.4422

15/56 MOTION Councillor Harding/Councillor Brice

THAT Council:

1. not support the proposed Modification 3 for the Dargues Gold Mine project;
2. lodge a submission, generally in accordance with the draft submission attached to this report, recommending that the Department of Planning and Environment refuse the application, including the following amendments:
 - (a) additional dot point on the last page: "The proponent's Environmental Assessment report assumes that engineering design of the Tailings Storage facility is adequate and that construction is sound, and therefore does not consider the risk of a catastrophic failure. However, the Tailings Storage facility poses a significant long term hazard to the downstream drinking water catchment that will need monitoring, management and if necessary mitigation, long after the mine has ceased operations."
 - (b) Additional final paragraph: "Alternatively, in light of the significant additional environmental risk identified in the GHD report, Council contends that the Minister does not have the power to modify the Project Approval under section 75W of the Environmental Planning and Assessment Act 1979, as section 75W can only be used for changes that have 'limited environmental consequences' beyond those approved in the original project assessment."
 - (c) Council's submission includes the final GHD report.
3. forward a copy of the submission to the Hon Andrew Constance MP, Member for Bega, and the Hon John Barilaro MP, Member for Monaro.

(The Motion on being put was declared **CARRIED**)

8. NOTICES OF MOTION

NOM15/005 PAID PARKING IN BATEMANS BAY CBD

File Ref: E00.4623; E00.4089

15/57 MOTION Councillor Innes/Councillor Harding

THAT a report be prepared for Council consideration that examines the impacts, both positive and negative, of removing paid parking in the Batemans Bay CBD.

(The Motion on being put was declared **CARRIED**)

**NOM15/006 JOINT MEETING - DISABILITY, TOURISM AND BUSINESS DEVELOPMENT
ADVISORY COMMITTEES**

File Ref: E00.4623; E14.8206; E80.1470; E12.6216

15/58 MOTION Councillor Innes/Councillor Brice

THAT three representatives from Council's Disability, Business Development and Tourism Advisory Committees be nominated by those Committees, to attend a joint meeting three times a year, to discuss and workshop items and topics of common interest.

(The Motion on being put was declared **CARRIED**)

9. QUESTIONS ON NOTICE FROM COUNCILLORS

**QON15/001 DELEGATE'S REPORTS FOLLOWING ATTENDANCE AT SEMINARS AND
CONFERENCES**

File Ref: E15.9041; E08.2108; E91.3255

15/59 MOTION Councillor Pollock/Councillor Burnside

THAT the response to the question regarding Delegate's reports raised by Councillor Schwarz be received and noted with the following amendments:

1. in relation to the Australian Coastal Councils Conference in Ballina, note that Councillor Pollock was unable to attend and was replaced by Councillor Leslight, with a report being required from Councillor Leslight;
2. in relation to the Australian Local Government Women's Conference in Gosford, note that Councillor Innes withdrew and did not attend.

(The Motion on being put was declared **CARRIED**)

10. PETITIONS

Nil

11. GENERAL MANAGER'S REPORTS

GMR15/024 MEMORANDUM OF UNDERSTANDING WITH BEGA VALLEY SHIRE COUNCIL

File Ref: E12.6443

15/60 MOTION Councillor Harding/Councillor Pollock

THAT a Memorandum of Understanding be developed by the General Managers of Eurobodalla and Bega Valley and that a report be presented to Council at its meeting on 22 September 2015 outlining the areas for cooperation and joint initiatives.

(The Motion on being put was declared **CARRIED**)

12. PLANNING AND SUSTAINABILITY REPORTS

PSR15/034 DEVELOPMENT APPLICATION 577/15 SHOP TOP HOUSING AND KIOSK - ORIENT STREET, BATEMANS BAY

File Ref: 85.2226.D

15/61 MOTION Councillor Schwarz/Councillor Burnside

THAT pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act 1979, Development Application No. 577/15 in relation to Lot 2 DP 1166711, No.13A Orient Street, Batemans Bay be **APPROVED** subject to the conditions set out below.

- Ensure that the proposed development:
 - (a) achieves the objectives of the Environmental Planning and Assessment Act, 1979;
 - (b) complies with the provisions of all relevant Environmental Planning Instruments;
 - (c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
- To ensure that the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities.
- To meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979 and Section 64 of the Local Government Act 1993.
- To ensure the protection of the amenity and character of land adjoining, and in the locality of the proposed development.
- To minimise any potential adverse environmental, social or economic impacts of the proposed development.
- To ensure that all traffic, carparking and access requirements arising from the development are addressed.
- To ensure the development does not conflict with the public interest.

GENERAL CONDITIONS

1. **Approved plans**

The development must be carried out in accordance with the plans stamped and numbered 15/577 and 15/577 A1 and supporting specifications and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

Council Plans	Applicant's Plans	Date of Plan	Prepared by
Stamped and received 21.7.15 Plan No. 15/577 A1	A01, A04, A08, A016 Rev B - Job 0706	22.3.15	Architects North
Stamped and received 11.6.15 Plan No. 15/577	A02, A03, A05, A06, A07, A09, A10, A18 Rev A - Job 0706	22.3.15	Architects North
Stamped and received 11.6.15	Sewer Concept Drawing No. 267-01	21.5.15	Southeast Engineering and

Plan No. 15/577	Sheet 2 of 3; Sheet 3 of 3		Environment
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Council Plans	Document Title	Date of Document	Prepared By
Stamped and received 11.6.15 - Plan No. 15/577	BASIX Certificate No. 629213M Multi Dwelling	11.5.15	Don Edgar Pty Ltd
Stamped and received 11.6.15 - Plan No. 15/577	Site Waste and Waste Minimization Plan (SWMMP)	11.6.15	Architects North

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under S96 of the Environmental Planning and Assessment Act (EP&AA) 1979, or a fresh development application. Your Principal Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency.

Building Code of Australia

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

3. ***Vehicle Direction***

All vehicles to enter and exit the development in a forward direction to avoid possible conflict with through traffic on Orient Street.

4. ***Loading and Unloading***

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

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

All plumbing and drainage works (water supply, sanitary plumbing and drainage, and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of Interim or Occupation Certificate.

The following inspections are required to be carried out by Council for the installation of plumbing and drainage works. Inspections may be arranged by contacting Council's Plumbing and Drainage Certifier on 4474 1231:

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

covering

(e) Issue of final satisfactory inspection

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

If site or building works will:

- cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient or unsafe; or
- involve the enclosure of a public place; or
- have the potential to damage adjoining private land by way of falling objects

then a temporary hoarding, fence or awning must be erected between the work site and the adjoining area before the works begin. Any such hoarding, fence or awning must be removed when the work has been completed.

7. ***Colours and Materials***

The external roof cladding shall have a solar absorbance rating of 0.421 or greater.

Zincalume, galvanised iron, Colorbond Surfsmist, Classic Cream and Whitehaven do not qualify.

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

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

9. ***Sewerage Manhole***

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

10. ***Waste Management***

Removal of excess waste from the site shall be in accordance with the Site Waste and Waste Minimization Plan by Architects North, stamped and received by Council on 11 June 2015.

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

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

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

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

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

All power outlets are to be constructed as high as practical or at a minimum height of

900mm above the floor level.

14. **Stormwater Disposal**

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

15. **Fire Hydrant.**

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

16. **Water Meter/s**

Written advice shall be obtained from a suitably qualified hydraulic engineer/consultant on the recommended water main connection and water meter sizes required for the development, in accordance with AS3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose Reels, where required.

Each unit is to be individually metered. Council fees are applicable for water meters to suit the development.

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

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

17. **Outdoor Furniture and Dining Areas**

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

18. **Vehicle Access**

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

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

19. **Section 94 Contributions**

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

Roadworks	\$8,271.60
Open Space and Recreation	\$4,156.80
Community Cultural	\$542.25
Shared Pathways	\$770.20

Administration	\$406.60
Waste	\$364.48

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

Note: The above contributions are reviewed annually and may be subject to increases as a result of CPI.

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

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

- (a) \$25,621.50 (2.17 ET) for the augmentation of water supply mains and storage within Eurobodalla Shire where 1.0 ET = \$11,780.00
- (b) \$38,693.75 (3.77 ET) for the augmentation of sewerage works within Eurobodalla Shire where 1.0 ET = \$10,250.00

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

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

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

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Food Standards Australia New Zealand Act 1991 and AS4674-2004 Design, Construction and Fit-Out of Food Premises.

Prior to the issue of the Construction Certificate, plans and specifications showing compliance with the above, which include details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, coolroom and storage areas, shall be submitted to and approved by the Principal Certifying Authority (PCA).

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

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

23. **Acid Sulfate Soil**

The development site is within an area classified as Class Three on maps marked "Acid Sulphate Soil Planning Map" in accordance with the Eurobodalla LEP 2012 (available on the Legislation website (www.legislation.nsw.gov.au)). If excavation is proposed below one metres of natural ground level, soil samples are to be assessed for content of acid sulphate material by a suitably qualified person and the results lodged with Principal

Certifying Authority prior to the release of the Construction Certificate.

If acid sulphate materials are identified no excavation shall take place until an Acid Sulphate Soils Management Plan has been prepared by a suitably qualified person in accordance with the NSW Acid Sulphate Soils Manual. The Plan is to be submitted to the Principal Certifying Authority for approval and the development carried out in accordance with the recommendations of the Plan.

24. ***Sealed Traffic Areas***

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

Disabled parking is to be designed in accordance with AS2890.6:2009 and constructed prior to release of the Occupation Certificate.

25. ***Long Service Levy***

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

26. ***Surrender of Consent***

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

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

A Structural Report detailing the existing condition of the adjoining buildings, infrastructure and roads in the vicinity shall be prepared and endorsed by a qualified Structural Engineer. The Report shall be submitted to Council prior to the issue of the Construction Certificate.

A second Structural Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads in the vicinity. The report shall compare its findings to the original report and be submitted to Council.^[23.07]

28. ***Construction Management Plan***

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

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

- (e) details of demolition works and the presence of any asbestos or other hazardous waste
 - (f) traffic and/or pedestrian control measures
 - (g) dust control measures
 - (h) noise control measures
 - (i) screening from adjoining properties
 - (j) site rubbish enclosure
29. **Adaptable Housing**
Access and facilities for persons with disabilities are to be provided in accordance with the Batemans Bay Regional Centres DCP that requires a minimum of 25% of the dwellings able to demonstrate that it can satisfy the requirements of Australian Standard AS4299-Adaptable Housing. Complete details of compliance with these instruments for three units is to be provided to the PCA prior to the issue of the Construction Certificate.
30. **Flood**
All building materials used below the 5% (AEP) minimum habitable floor level, including the floor, are to be of flood compatible materials, ie. the structural integrity of the materials must not be adversely be affected by repeated immersion in flood water. These materials are to be consistent with Council's Guidelines for Flood-Compatible Materials. The flood planning level for the site is 2.64m AHD.
31. **Ocean/Flood - Footings**
A report and design by a professional engineer experienced in soil mechanics is to be provided to the PCA prior to the issue of the Construction Certificate that demonstrates the footings can sustain the building load as the foundations transform with subsurface water inundation and the bearing capacity of the foundations diminish with projected sea level rise.

The report shall also assess the effect of rising salinity to account for the degradation of concrete quality if this type of footing is selected.
32. **Ocean/Flood**
Prior to issue of the Construction Certificate, submission to and approval by the PCA of designs by a suitably qualified and experienced structural/civil engineer that the development will be capable of withstanding the impact of the flood hazard applicable to the location. The designs shall consider coastal inundation to 3.14m AHD and wave run up to 3.79m AHD. The designs shall include flood doors and window shutters to cater for the design inundation and wave run up.
33. **Soil and Water Management Plan**
Prior to issue of the Construction Certificate the applicant shall prepare a Soil and Water Management Plan (SWMP) to be incorporated in engineering design plans. The SWMP is to be prepared in accordance with Managing Urban Stormwater: Soils and Construction – Volume 1, Landcom 2004.

34. ***Stormwater Management and Water Quality***

Prior to the issue of the Construction Certificate, a Stormwater Management Plan (SMP) shall be submitted to the PCA. Plans are to be certified by a qualified drainage consultant or a suitably qualified engineer for compliance with AS/NZ3500.3 2003. The Plans are to be consistent with the Stormwater Management Plan by Southeast Engineering and Environmental, Drawing Number 267-01, including a 225mm diameter overland flow outlet. Plans are to include provision for water quality devices for the discharge to meet the ANZECC 2000 Guidelines on water quality. All stormwater works required by the SMP are to be carried out prior to the issue of the Occupation Certificate.

35. ***Easement Creation***

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

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

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

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

37. ***Promenade Reconstruction***

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

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

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

PRIOR TO COMMENCEMENT OF WORKS

38. **Construction Certificate**

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

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

39. **Boundary and Height Check**

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

DURING CONSTRUCTION

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

If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage.

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

A copy of the approved and certified plans, specifications and documents incorporating

conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the PCA.

42. **Hours of Operation – NOISE**

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

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

43. **Kiosk Requirement - Food Premises**

The food premises shall be registered with the NSW Food Authority. A copy of the shop registration shall be supplied to Council prior to occupation. [0232.1]

44. **Road Damage**

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

45. **Landscape Plan**

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

46. **Occupation Certificate**

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

47. **Building Over Sewer Mains**

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

48. **Fire Safety Certificate**

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

49. **Annual Fire Safety Statement**

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

- (i) has been assessed by a properly qualified person; and
 - (ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current Fire Safety Schedule for the building for which the Certificate is issued.
- (b) The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.
- (c) The choice of person to carry out the assessment is up to the owner of the building.
- (d) The person who carries out the assessment:
- (i) must inspect and verify the performance of each fire safety measure being assessed; and
 - (ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.
- (e) As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates:
- (i) must provide a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to the Commissioner of Fire and Rescue NSW; and
- must prominently display a further copy of the Certificate (together with a copy of the current fire safety schedule) in the building. [8.02]50.

51. ***Maintenance Bond***

Prior to issue of any Occupation Certificate the applicant shall pay to Council a maintenance bond for water and sewer service construction works performed by private contractor, being 5% of the contract price and applicable for six months from the date of issue of the Occupation Certificate.

ADVISORY NOTES

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

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

53. ***Disability Discrimination Act 1992***

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

54. ***Kiosk Awning***

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

55. ***Discovery of Historical Relics***

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

56. ***Discovery of Archaeological Relics***

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

57. ***Sea Level Rise Liability***

This land may be subject to sea level rise and flooding. This development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (eg., sewer, water, stormwater and roads) may also be subject to sea level rise or flooding. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise or flooding in the future.

If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent.

58. ***Use of Mobile Cranes***

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

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

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

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

59. ***Underground Utility Services Check***

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

vicinity of the development.

60. ***Ocean Location***

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

61. ***Section 94 Payments***

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

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

62. ***Fire Protection***

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

(The Motion on being put was declared **CARRIED**)

Division

For the Motion: Clrs Brice, Brown, Burnside, Harding, Innes, Pollock and Schwarz.

Against the Motion: Nil.

PSR15/035 BROULEE SURFERS SURF LIFE SAVINGS CLUB - WAIVING OF WASTE DISPOSAL CHARGES

File Ref: E07.1091

15/62 MOTION Councillor Innes/Councillor Burnside

THAT Council waive waste disposal charges for waste and separated timbers up to \$1,500 excluding GST for the demolition and rebuild of the Broulee Surfers Surf Life Savings Club gear shed.

(The Motion on being put was declared **CARRIED**)

13. INFRASTRUCTURE REPORTS

IR15/034 LOCAL TRAFFIC COMMITTEE MEETING NO 1 FOR 2015-16

File Ref: E15.9002

15/63 MOTION Councillor Brice/Councillor Burnside

THAT

1. The minutes of the Eurobodalla Local Traffic Committee Meeting No 1 of 2015-16 held on 16 July 2015 be received and noted.
2. Council Plan No 5156 Set E Sheet 01 detailing the signage for the bus zone extension on the Princes Highway, Bodalla be approved.
3. Council Plan No 5156 Set W Sheet 03 detailing the signage for the bus zone relocation on Beach Road, Batehaven be approved.
4. Council Plan No 5156 Set W Sheet 01 detailing the signage and linemarking associated with the relocation of on-street accessible parking spaces in Corrigan Crescent, Batehaven to a new location within the nearby off-street car park be approved.

(The Motion on being put was declared **CARRIED**)

**IR15/035 TENDER FOR ESTABLISHMENT OF CONCRETE SUPPLY PANEL - TENDER NO
2015-ISD056**

File Ref: E00.4061

15/64 MOTION Councillor Harding/Councillor Brice

THAT:

1. Council establish a Concrete Supply Panel for a period of two years consisting of the following:
 - Boral Country Concrete
 - Cadgee Quarry Concrete
 - Coastal Concrete & Quarry
 - Eurobodalla Quarry & Concrete;
2. Council enter into Deeds of Standing Offer with the Panel Suppliers under which materials shall be ordered for the duration of the agreement.

(The Motion on being put was declared **CARRIED**)

**IR15/036 TENDER FOR ESTABLISHMENT OF BULK MATERIALS SUPPLY PANEL - TENDER
NO 2015-ISD057**

File Ref: E99.3060

15/65 MOTION Councillor Burnside/Councillor Harding

THAT:

1. Council establish a Bulk Materials Supply Panel for a period of two years consisting of the following:
 - Batemans Bay Sand & Soil
 - Cadgee Quarry Concrete
 - Coastal Concrete & Quarry
 - Eurobodalla Quarry & Concrete
 - JM Beashel
 - Narooma Sand Soil and Gravel
 - Schmidt Quarries
 - Shepherd Quarries
 - Soilco;
2. Council enter into Deeds of Standing Offer with the Panel Suppliers under which materials shall be ordered for the duration of the agreement.

(The Motion on being put was declared **CARRIED**)

E87.6800; E99.3060

Councillor Schwarz declared a non-significant, non-pecuniary conflict of interest in IR15/036 Tender for Establishment of bulk Materials Supply Panel – Tender No 2015-ISD057, and left the Chamber during discussions and voting on this matter.

Reason: Councillor Schwarz declared an interest as he has a friendship with the parties involved.

E87.6800; E99.3060

Councillor Innes declared a non-significant, non-pecuniary conflict of interest in IR15/036 Tender for Establishment of bulk Materials Supply Panel – Tender No 2015-ISD057, and left the Chamber during discussions and voting on this matter.

Reason: Councillor Innes declared an interest as she has a working relationships with one of the parties involved.

At 11.39am Councillors Schwarz and Innes left the Chambers.

At 11.42am Councillors Schwarz and Innes returned to the Chambers.

**IR15/037 TENDER FOR CRUSHING OF ROAD BASE MATERIALS AT RIFLE RANGE
QUARRY - TENDER NO 2015-ISD062**

File Ref: E08.2462

15/66 MOTION Councillor Harding/Councillor Pollock

THAT:

1. The tender from Divall's Earthmoving & Bulk Haulage be accepted for Crushing of Road Base Materials at Rifle Range Quarry.
2. Council approves the entering into a contractual arrangement with the preferred tenderer, subject to the terms specified in the Request for Tender, unless otherwise varied in accordance with this report.

(The Motion on being put was declared **CARRIED**)

14. FINANCE AND BUSINESS DEVELOPMENT REPORTS

FBD15/062 INVESTMENTS MADE AS AT 31 JULY 2015

File Ref: E99.3517

15/67 MOTION Councillor Burnside/Councillor Harding

THAT the certification that the investments as at 31 July 2015 made in accordance with the Act, Council's investment policy and the provision of Clause 1 (Reg 212) of the Local Government (General) Regulation 2005, be received.

(The Motion on being put was declared **CARRIED**)

FBD15/063 LICENCE FOR CARAVAN AND CAMPING EXPO - MACKAY PARK

File Ref: E05.9612

15/68 MOTION Councillor Pollock/Councillor Burnside

THAT Council as Trust Manager for the Eurobodalla (North) Reserve Trust grant a temporary licence to the Caravan and Camping Industry Association NSW to stage the South Coast Caravan, Camping and Holiday Expo on the Mackay Park Reserve at Batemans Bay subject to terms and conditions in the previous licence excepting:

1. The licence period be from 1 to 12 November 2015 inclusive.
2. The fee be the greater of:
 - (a) Three thousand five hundred dollars (\$3,500) plus GST; or
 - (b) Eight percent (8%) of gross ticket sales for the event plus GST.

(The Motion on being put was declared **CARRIED**)

FBD15/064 EXTINGUISHMENT OF EASEMENT - WRAY STREET, BATEMANS BAY

File Ref: 81.2097.B

15/69 MOTION Councillor Pollock/Councillor Innes

THAT Consent be given to the extinguishment of the existing drainage easement 3.05 metres wide within Lot 15 DP 26299 in Wray Street, Batemans Bay subject to:

1. The creation and dedication of an alternate easement to drain water 1.5 metres wide and variable width as shown on the plan within report.
2. All costs associated with the extinguishment of the existing easement and dedication of an alternate easement including Council's administrative costs in the amount of \$1,100 including GST be borne by the registered proprietor of Lot 15 DP 26299.
3. The registered proprietor constructing a suitably sized sump and drainage line within part of the proposed easement at his cost.

(The Motion on being put was declared **CARRIED**)

FBD15/065 DEDICATION OF CORS PARADE AS PUBLIC ROAD

File Ref: 96.0536.B

15/70 MOTION Councillor Innes/Councillor Pollock

THAT

1. Council enter into a Deed of Agreement with the Registered Proprietors of Lot 3 DP 873309, Lot 2 DP 1130746 and Lot 1 DP 1130746 providing for Council to accept the dedication of the rights of carriageway with the aforementioned lots as public road subject to the Registered Proprietors:
 - (a) Completing an agreed schedule of works at the Registered Proprietors' cost with certification by a Council Engineer,
 - (b) Meeting all costs associated with:
 - (i) the preparation of a survey plan,
 - (ii) registration of the plan, and
 - (iii) Council's legal and administrative costs with respect of the plan of subdivision and dedication of right of carriageway being \$1,100.
 - (c) Dedicating the right of carriageway free of land costs.
2. Consent be given to affix the Common Seal of Council to the Deed of Agreement for the dedication of the rights of carriageway within Lot 3 DP 873309, Lot 2 DP 1130746 and Lot 1 DP 1130746.

(The Motion on being put was declared **CARRIED**)

15. COMMUNITY, ARTS AND RECREATION REPORTS

Nil

16. DELEGATE REPORT

DR15/033 AUSTRALIAN COASTAL CONFERENCE - BALLINA

File Ref: E91.3255

15/71 MOTION Councillor Burnside/Councillor Pollock

THAT Councillor Burnside's delegate's report on the Australian Coastal Councils Conference held in Ballina in March 2014 be received and noted.

(The Motion on being put was declared **CARRIED**)

DR15/034 AUSTRALIAN COASTAL CONFERENCE 2015

File Ref: E04.8493; E91.3255

15/72 MOTION Councillor Pollock/Councillor Burnside

THAT Councillor Pollock's delegate's report on the Australian Coastal Councils Conference held on the Mornington Peninsula in March 2015 be received and noted.

(The Motion on being put was declared **CARRIED**)

17. QUESTIONS/URGENT BUSINESS

Nil

18. DEALING WITH MATTERS IN CLOSED SESSION

In accordance with Section 10A(4) of the Local Government Act 1993, the General Manager invited members of the public to make verbal representations to the Council on whether the meeting should be closed to consider confidential reports.

The report is classified confidential under Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following:

- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

It was noted that there were no public verbal representations on whether the meeting should be closed to consider the report.

15/73 MOTION Councillor Harding/Councillor Brice

THAT pursuant to Section 10A of the Local Government Act, 1993 the following items on the agenda for the Ordinary Council meeting be dealt with in Closed Session for the reasons specified below:

CON15/013 Property Matter

Item CON15/013 is confidential in accordance with s10(A)(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business and discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

(The Motion on being put was declared **CARRIED**)

At 11.45am the Ordinary Meeting of Council moved into Closed Session.

At 11.49am the Ordinary Meeting of Council resumed.

E87.6800; 10.4128.S

Councillor Schwarz declared a non-significant, non-pecuniary conflict of interest in CON15/013 Property Matter and left the Chamber during discussions and voting on this matter.

Reason: Councillor Schwarz declared an interest as he has a friendship with the parties involved.

Councillor Innes declared a non-significant, non-pecuniary conflict of interest CON15/013 Property Matter and left the Chamber during discussions and voting on these matters.

Reason: Councillor Innes declared an interest as she has a working relationships with one of the parties involved.

The General Manager advised the following recommendation was declared carried in Closed Session.

19. CONFIDENTIAL MATTERS

CON15/013 PROPERTY MATTER

File Ref: 10.4128.S

THAT a Deed of Agreement be entered into with the Registered Proprietors of Lots 155, 159 and 274 in DP 752137 in respect of the dedication of land for road purposes for Congo Road (South).

THE MEETING CLOSED AT 11.52AM

CHAIRPERSON

Chairperson of the Ordinary Council Meeting held on Tuesday 8 September 2015 at which meeting the signature hereon was subscribed.